

ILLINOIS POLLUTION CONTROL BOARD
November 15, 1989

FEDDERS NORTH AMERICA, INC.,)
)
 Petitioner,)
)
 v.) PCB 89-185
) (Provisional Variance)
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by J. Marlin):

This matter comes before the Board on a recommendation filed by the Illinois Environmental Protection Agency ("Agency") on November 13, 1989 recommending that the Board grant a 45-day provisional variance to the Fedders North America, Inc. Fedders North America, Inc. requests this variance from 35 Ill. Adm. Code 215.204(h) to allow it to use its flow coater with noncompliant coating for the repair painting of metal exterior covers for air conditioning units manufactured at its Effingham, Illinois plant. The Board granted prior variances from this rule in PCB 83-47 and PCB 86-47.

Fedders North America, Inc. has installed an electro-deposition painting system in compliance with the relief granted in PCB 86-47. This system has resulted in a higher than expected rate of painting defects, and it cannot effect repairs. Fedders North America, Inc. will complete a spray booth capable of making those repairs on or about February 1, 1990. Since October 1, 1989 Fedders North America, Inc. has stockpiled defective parts until it can effect those repairs. However, Fedders North America, Inc. anticipates that it will run out of storage space in mid-November.

Fedders North America, Inc. asserts that its short-term alternatives are to scrap the accumulating defective parts or effect the repairs using an existing flow-coater and a non-compliant coating. Scrapping the defective parts would result in a \$180,000 loss in Fedders North America, Inc.'s estimation. Therefore, Fedders North America, Inc. requests a provisional variance for 45 days (from November 15 until December 31, 1989-- actually 46 days) from 35 Ill. Adm. Code 215.204(h) so that it can operate its flow-coater. Fedders North America, Inc. intends to effect repairs on all incoming and stockpiled defective covers until December 30, 1989, then it will cease using its flowcoater and again stockpile defective parts until its spray booth is operational. Fedders North America, Inc. estimates that it will

emit 15 tons of VOM from the flow-coater during the term of this provisional variance.

The Agency asserts that a denial of this provisional variance would cause an arbitrary and unreasonable hardship to Fedders North America, Inc.

The Board, having received notification from the Agency that compliance on a short term basis with 35 Ill. Adm. Code 215.204(h) would impose an arbitrary or unreasonable hardship on Fedders North America, Inc., will grant Fedders North America, Inc. a provisional variance, subject to the conditions suggested by the Agency.

This Opinion constitutes the Board's findings of fact and conclusions of law in this matter.

ORDER

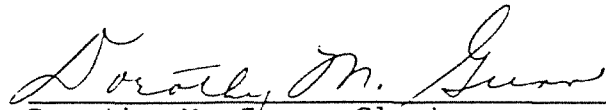
Fedders North America, Inc. is hereby granted a provisional variance from 35 Ill. Adm. Code 214.204(h), subject to the following conditions:

- a) Variance shall commence on November 15, 1989 and continue for 45 days, until December 30, 1989, when it will expire.
- b) During the period of this variance, Fedders North America, Inc. shall use its flow coater with a noncompliant coating only to repair paint metal exterior air conditioning unit covers defectively painted in its electro-deposition coating system.
- c) The emissions shall not exceed 6.75 pounds of VOM per gallon of coating delivered to the applicator, excluding water and exempt solvents, for a total of 15 tons during the entire term of the variance.
- d) Fedders shall render its existing flow coater inoperable before April 1, 1990 by, at a minimum, removing the nozzles and paint tank.

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1987 ch. 111 $\frac{1}{2}$ par. 1041, provides for appeal of final Orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 15th day of November, 1989, by a vote of 7-0.



Dorothy M. Gunn, Clerk,
Illinois Pollution Control Board