

ILLINOIS POLLUTION CONTROL BOARD
September 13, 1989

CAN-AM INDUSTRIES, INC.,)
)
 Petitioner,)
)
 v.) PCB 89-25
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

OPINION AND ORDER OF THE BOARD (by B. Forcade):

This matter is before the Board on the February 2, 1989 petition of Can-Am Industries, Inc. ("Can-Am"). That petition seeks relief from 35 Ill. Adm. Code 215.204(j) and 201.144 as they pertain to VOM (volatile organic materials) emission from various parts painting processes in Can-Am's facility in Adams County. Can-Am submitted its filing fee on February 16, from which date the statutory time period began to run. See Ill. Rev. Stat. ch. 111 $\frac{1}{2}$, par. 1038(a).

Two members of the public submitted objections on February 27, 1989. The Illinois Environmental Protection Agency ("Agency") filed its recommendation on April 3, 1989, requesting that variance be granted with certain conditions. One of the reporting conditions of the recommendation was slightly modified at hearing. R. 26-27. The public hearings occurred April 24 and July 17, 1989. No member of the public attended. R. 31. Neither Can-Am nor the Agency submitted post-hearing briefs.

Can-Am Operations

The Can-Am plant is located in Adams County, partially within the City of Quincy. Can-Am manufactures agricultural and off-road construction vehicle wheels. The plant is on about 69 acres, has a floor area of about 880,000 square feet, and employs about 650 people. It is within a short distance of residential and commercial properties.

Can-Am paints about 98 percent of its metal products. It uses about 61,000 gallons per year of various types of coatings in numerous colors, a very small portion of which are specified by military contracts upon which Can-Am is bidding. It also uses about 15,000 gallons per year of volatile solvent to clean its equipment. Can-Am applies these coatings by use of hand-held spray guns, automatic spray booths, direct application, and flow coaters. The coatings range in VOM content from 3.5 to 7.0 lbs/gal (pounds per gallon), Can-Am's daily emissions average 4.38 lbs/gal and range up to 6.0 lbs/gal.

The nearest ozone monitor is in Quincy. The 1987 and 1988 ozone data from that station indicate no excursions above the ambient air quality standard of 0.12 ppm (parts per million). The four highest of 1,500 1987 readings were 0.09, 0.089, 0.085, and 0.085 ppm. Adams County is an ozone attainment area. 40 CFR 81.314 (1988).

Can-Am submitted an air permit application to the Agency on July 13, 1988, which the Agency denied on August 22. This variance proceeding followed a December 13, 1988 compliance conference between the Agency and Can-Am.

The Regulations and Requested Relief

Section 215.204(j) of the Board's regulations would allow a maximum rate of 3.5 lbs/gal VOM emissions from Can-Am's miscellaneous metal parts coating operations. Section 201.144 prohibits operation of an emissions source without first obtaining a permit from the Agency. Can-Am requests a variance from these provisions until December 31, 1989, at which time it will have achieved compliance with the VOM limitation of Section 215.204(j). The Agency has recommended variance from the substantive provisions of Section 215.204(j) and from Section 215.211(b), which sets the date by which compliance with the substantive rules must be achieved.

The Board has been reasonably informed in this proceeding of the difficulties in achieving immediate compliance with the substantive requirements of Section 215.204(j); accordingly, the Board will evaluate relief from that provision. Neither party has articulated a rationale or supporting facts to justify relief from Section 215.211 or 201.144. Therefore, the Board will not evaluate relief from those sections.

Plan For Compliance

Can-Am states that it has spent two years studying ways to comply with the limitations of 35 Ill. Adm. Code 215.204(j)(4) and has been hampered by the fact it requires coatings in many different colors and the fact that it was unable to obtain compliant coatings to fulfill military contracts upon which it was bidding. The military contracts specify the coatings which it must use. Until recently, Can-Am has been unable to obtain coatings with VOM contents of less than 3.5 lbs/gal to offset the high-VOM coatings which are specified in contracts. In December, 1988, Can-Am was informed by its supplier that new technology was available which would produce coatings with a VOM content below the 3.5 lbs/gal, limit of 35 Ill. Adm. Code 215.204(j)(4).

Can-Am has converted three of its coatings to a high-solids formulation. Can-Am has considered the installation of a carbon absorption system to control VOM emissions. However, because of the configuration of its plant, it would take three such systems

to achieve compliance at a cost of \$480,000 each which Can-Am considers prohibitive and the Agency agrees.

In view of the fact that Can-Am has shown good-faith efforts to come into compliance and is constrained by military contract bidding, as well as that it employs 650 people, Can-Am believes that denial of the requested variance would result in the loss of its market and the consequent closing of its plant. The Agency believes that denial would constitute an arbitrary and unreasonable hardship.

Can-Am proposes to come into compliance with 35 Ill. Adm. Code 215.204(j)(4) through the internal offset provisions of 35 Ill. Adm. Code 215.207. 35 Ill. Adm. Code 215.207 states, in pertinent part:

- a) Owners or operators of coating lines subject to Section 215.204 may comply with this section rather than with Section 215.204. The methods or procedures used to determine emissions of volatile organic material under this Section shall be approved by the Agency in accordance with 35 Ill. Adm. Code 201. Emissions of volatile organic material from sources subject to Section 215.204 are allowable, notwithstanding the limitations in Section 215.204, if the combined actual emissions from selected coating lines at the coating plant, but not including coating lines or other emission sources constructed or modified after July 1, 1979, is less than or equal to the combined allowable emissions as determined by the following equations:...

Can-Am will convert 16 of its highest usage colors to high-solids coatings on the following schedule: three colors by April 1, 1989 and three additional colors every two months thereafter, with compliance achieved by December 31, 1989.

Can-Am proposes to limit its VOM emissions to 4.38 lbs/gal on a daily average during the term of the variance. To ensure VOM emissions are minimized, Can-Am states it will monitor its emissions on a daily basis; review its painting schedule in advance and revise the schedule to lower the daily average emissions whenever possible; and maintain and submit to the Agency emissions and usage reports.

Can-Am has begun testing and formulating high-solids coatings and has set up a painting area for the applications of compliance coatings. Can-Am also proposes to install, by April

1, 1989, devices to reclaim the solvent that is used to flush painting lines and equipment when coatings are changed.

The Agency believes that the requested variance need not be submitted as a SIP (State Implementation Plan) , but should be approvable as a SIP revision, particularly since Can-Am is located in a long-standing ozone attainment area.

Conclusion

Based on the facts contained in the record the Board finds that immediate compliance would impose an arbitrary and unreasonable hardship on Can-Am. Therefore, the Board will grant Can-Am a variance from 35 Ill. Adm. Code 215.204(j)(4) until December 31, 1989, subject to the requested conditions.

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

ORDER

The Board hereby grants Can-Am Industries, Inc. a variance from 35 Ill. Adm. Code 215.204(j)(4) until December 31, 1989, subject to the following conditions:

1. By April 1, 1989, Can-Am shall install on its coating lines a system for the recovery of solvents used to clean and flush paint lines and equipment;
2. By April 1, 1989, Can-Am shall convert 3 colors of its coatings to coatings with a VOM content of less than 3.5 lbs/gal;
3. By June 1, 1989, and every two months thereafter, Can-Am shall convert 3 additional coatings to coatings with a VOM content of less than 3.5 lbs/gal, such that on December 31, 1989, Can-Am's daily emission rates meet an average of 3.5 lbs VOM/gal, as required by 35 Ill. Adm. Code 215.207;
4. Can-Am shall maintain daily records detailing the VOM content (lb/gal) and solids content (vol %) of each coating, amounts of each coating used, and the actual and allowable VOM emissions (lb/day);
5. Can-Am shall, to the extent possible, schedule its use of coatings so as to keep the daily average emission rate for VOM at or below 4.4 lb/gallon;

- 6. Can-Am shall submit a quarterly report to Dick Jennings, IEPA, Air Division, 5415 North University, Peoria, Illinois 61614, beginning July 1, 1989 detailing the progress achieved in converting to high-solids coatings; and
- 7. Within 45 days after the date of this Opinion and Order, Can-Am Industries, Inc. shall execute and send to:

Illinois Environmental Protection Agency
 Attention: Thomas Davis
 Enforcement Programs
 2200 Churchill Road
 Springfield, IL 62794-9276

a certificate of acceptance of this variance by which it agrees to be bound by the terms and conditions contained herein. This variance will be void if Can-Am Industries, Inc. fails to execute and forward the certificate within the 45-day period. The 45-day period shall be in abeyance for any period during which the matter is appealed. The form of the certification shall be as follows:

CERTIFICATION

I, (We) _____, having read the Opinion and Order of the Illinois Pollution Control Board in PCB 89-25, dated September 13, 1989, understand and accept the said Opinion and Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

 Petitioner

 Authorized Agent

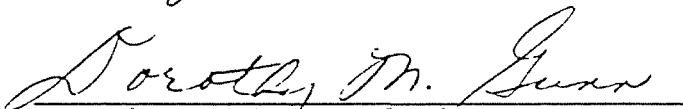
 Title

 Date

Section 41 of the Environmental Protection Act, Ill. Rev. Stat. 1985, 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 13th day of September, 1989, by a vote of 7-0.


Dorothy M. Gunn, Clerk
Illinois Pollution Control Board