

ILLINOIS POLLUTION CONTROL BOARD
January 22, 1987

NESCO STEEL BARREL COMPANY,)
)
 Petitioner,)
)
 v.) PCB 84-81
)
 ILLINOIS ENVIRONMENTAL)
 PROTECTION AGENCY,)
)
 Respondent.)

RICHARD W. COSBY, ESQ. APPEARED ON BEHALF OF PETITIONER.

WILLIAM D. INGERSOLL, ESQ. APPEARED ON BEHALF OF RESPONDENT.

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

This matter comes before the Board on the June 20, 1984 petition for variance; the August 31, 1984 amended petition for variance and the May 12, 1986 second amended petition for variance filed by Nesco Steel Barrel Company ("Nesco"). Supplementary information was also supplied on April 12, 1985 and July 3, 1986. Petitioner seeks variance from the requirements of 35 Ill. Adm. Code 215.204(j), 215.212, and 215.211(a)(1) until December 31, 1987.

The Illinois Environmental Protection Agency ("Agency") filed motions to dismiss on July 3 and September 17, 1984 and May 23 and July 10, 1986 and filed its recommendation to deny variance on May 17, 1985. Hearing was held in Granite City on September 18, 1986. Petitioner's brief was filed on October 30, 1986; Respondent's brief was filed on November 26, 1986 with Petitioner's reply filed on December 4, 1986.

Nesco is primarily engaged in the manufacture of fifty-five (55) gallon steel industrial shipping containers ("drums") at a plant located in Granite City, Madison County, Illinois. This area is designated as non-attainment for ozone. The barrels are made from coiled steel which is cut, shaped, cleaned, spray coated, and then assembled. Nesco uses five separate coating lines, however, only three are affected by this petition; the first coat lacquer booth, the second coat lacquer booth, and the head and bottom lacquer booth. These lines are operated without pollution control equipment. Petitioner applies both exterior and interior coatings to the drums in accordance with directions from its customers. While it has some latitude with regard to which exterior coatings should be applied, rarely does such latitude exist with respect to interior coatings, since customers

almost always specify coatings in accordance with particular packaging needs and/or government regulations.

The allowable emissions of volatile organic matter (VOM) for these lines are 4.3 lb/gal. for interior coating and 3.5 lb/gal for exterior coating. 35 Ill. Adm. Code 215.204(j). Between July 1984 and June 1985 the average VOM content of the interior coatings applied by Nesco was 5.33 lbs/gal and of the exterior coatings was 4.36 lbs/gal (May 1986 Pet. at 15). Based on usage of 2,312 gallons of interior coatings and 12,573 of exterior coatings the VOM emissions produced for each coating type totaled 6.2 tons and 27.4 tons respectively for this same period. While Petitioner originally asserted that its emissions were thus approximately 35 tons of VOM per year the Agency has concluded that the emissions are closer to 40 tons per year. Petitioner did not contest this conclusion.

The Petitioner states that it is unable to comply with the numerical emission limitations of 215.204(j) at its lacquer coating lines because there are presently no commercially available coatings with sufficiently low solvent content to comply with the regulations. The existing method of control employed by Petitioner involves the use of high solid paints at the main Paint Booth and Open Hood Cover Paint Booth. The high solid paints currently average approximately 2.95 lbs VOM/gal. In its June 1984 petition, Reliable-Nesco, Inc. indicated that in addition to its intention to investigate the expanded use of compliance coatings, it also intended to install two fume incinerators. Estimates for the purchase and installation of three incinerators were in the \$100,000 range with annual operating costs of \$135,000. (June 25, 1984 Pet. Exh. G). However, in the interim, Reliable-Nesco, Inc. was sold to its employees with the help of a \$150,000 grant from the Illinois Department of Commerce and Community Affairs. Because of subsequent financial problems, Nesco now states that it is unable to represent that if the variance petition is granted it will be able to go through with its plan to install incinerators on its two interior coating lines. (May 1986 Pet. at 7-8). However, Nesco states that it is continuing in its efforts to achieve compliance by pursuing the use of high solids exterior coatings. Nesco believes that its program to substantially decrease VOM emissions from its exterior coating line will allow it to comply with the limitations for the interior coating lines by use of the internal offset provision of 35 Ill. Adm. Code 215.207. During 1985, eighteen (18) high solids exterior coatings were tested on the Nesco paint lines with VOM contents ranging from 2.52 to 3.2 lbs/gal. However, problems concerning the incompatibility of the paints with other products used by Nesco, the increase in maintenance costs and the generation of unpleasant odors still needed to be overcome.

Additionally, in early 1986, Nesco was informed that certain features of its spray equipment made it difficult, if not impossible, to apply high solids, low VOM exterior coatings in a satisfactory manner. Also, certain additional equipment was necessary in order to apply the high solids coatings successfully with its system. July 1986 Supp. at 1-2. Nesco undertook these necessary adjustments at a cost of \$7,615.40. With these adjustments completed, Nesco was to begin a testing program on August 4, 1986 and to continue testing for high solids, low VOM exterior coatings until all of the enamels it presently uses are replaced with compliant exterior coatings. Nesco intended to concentrate on high volume colors first so as to result in compliance with the standards for exterior coatings and for internal coatings by use of internal offsets by December 31, 1987.

Nesco states that other compliance options such as carbon absorption, electrostatic spraying and powder coatings do not appear to be technologically feasible. Aside from the costs associated with the size of carbon adsorption units necessary to control its emissions, Nesco is concerned that the pigments from the coatings will clog the carbon filters and that additional problems will be generated because of the different solvents used in the various coatings. Electrostatic spraying is allegedly infeasible because of unresolved color separation problems especially concerning multicolor exteriors. Finally, according to Nesco, powder coating technology is not likely to meet the minimum requirements of its customers, assuming it could be introduced at the facility. Nesco states that it has expended substantial efforts in its testing of high solids exterior coatings but as yet has met with mixed success. Nesco contends that to require compliance immediately with 35 Ill. Adm. Code 215.204(j) will probably mean the end of Nesco as a viable economic entity. May 1986 Pet. at 14.

The Agency does not dispute that Nesco has been in financial difficulty. However, the Agency argues that the variance provisions of the Environmental Protection Act were not intended to support marginal companies by allowing the environmental quality of the air to subsidize those companies. Additionally, the Agency maintains that Nesco has failed to meet its burden of demonstrating that the variance will not interfere with the attainment or maintenance of the National Ambient Air Quality Standards (NAAQS) for ozone in the Granite City Metro-East area. The Agency also objects to the Petitioner's compliance plan as being "nothing more than a dream" since there is no assurance that Petitioner will be able to achieve compliance during the variance period. Resp. Brief at 3. The Agency notes that since Section 215.204(j) has not yet been approved as part of the Illinois State Implementation Plan (SIP), technically the proposed variance, if granted, would not be required to be submitted as a SIP revision. However, the Agency argues that

RACT II is under review by USEPA and that the State "will be courting disaster" if unapprovable revisions to RACT II are submitted to USEPA at this late date. The Agency believes this variance is unapprovable as a SIP revision since (a) there is no showing that compliance will be achieved by December 31, 1987 as required by the Clean Air Act and (b) there is no significant evidentiary support demonstrating that grant of the variance will not interfere with the attainment or maintenance of the NAACS for ozone in the Metro-East area.

Turning to the question of the environmental impact of the variance, Nesco admittedly did no formal modeling studies to determine the impact its 40 tons of annual VOM emissions have on the air quality of the Metro-East area. Nesco asserts that the utility of such studies is questionable given the difficulties associated with determining one source's contributions to ozone exceedances in light of the effect other sources of hydrocarbons, including motor vehicles, have on ozone concentrations in the area. These difficulties have been previously recognized by the Agency in other variance proceedings concerning similar VOM emission sources. See e.g., Trilla Steel Drum Corp. v. IEPA, PCB 86-9, Agency Variance Recommendation at 10. The Board has previously acknowledged the lack of a precise understanding of the dynamics of hydrocarbon transport and ozone formation. However, Nesco has provided information demonstrating that at the monitor closest to Nesco's facility ozone exceedances have dropped from six (6) in 1983 to zero (0) in 1985. The Board finds that considering that Nesco's total VOM emissions are 40 tons/yr that grant of the variance will have a minimal environmental impact on the air quality in the Metro-East area.

However, the Board does share the Agency's concern that Nesco's may be over-optimistic in its belief that it will be able to achieve compliance by use of internal offsets. However, it was only just recently that Nesco was able to begin its testing program for over-compliant exterior coatings in earnest because of the adjustments necessary to its spray equipment -- adjustments which Nesco was unaware were necessary through no fault of its own. While the Board believes Nesco should be allowed to continue with this testing program, it also believes that Nesco must be required to render a decision concerning the viability of this compliance plan in sufficient time to provide for the installation of add-on controls by January 1, 1988 should the use of internal offsets appear to be infeasible. Therefore, the Board will require Nesco to determine whether to install add-on control equipment by August 31, 1987 unless it appears with reasonable certainty that it can achieve compliance without such controls by December 31, 1987.

The Board concludes that Nesco has demonstrated that the denial of variance would cause an arbitrary or unreasonable hardship and accordingly will grant the requested variance subject to conditions.

ORDER

Nesco Steel Barrel Company, Inc. is hereby granted variance from 35 Ill. Adm. Code 215.204(j), 215.211 and 215.212 until December 31, 1987, subject to the following conditions.

1. By August 31, 1987, Nesco shall commence the installation of add-on control equipment unless it appears with a reasonable certainty that such controls will be unnecessary to achieve compliance with 35 Ill. Adm. Code 215.204(j) by December 31, 1987.
2. By February 22, 1987 and every month thereafter, Nesco shall submit to the Agency written reports detailing all progress made in achieving compliance with Section 215.204(j). Said reports shall include information compiled on a monthly basis on coating materials usage; amount of reformulated coating in use; actual and allowable VOM emissions, the quantity of VOM reductions during the reporting period; and actual operating hours. Such reports shall also describe the progress made in developing and testing reformulated exterior and interior coatings, including product quality and customer acceptance; and shall include any other information requested by the Agency. The reports shall be sent to the following address:

Environmental Protection Agency
Division of Air Pollution Control
Control Programs Coordinator
2200 Churchill Road
Springfield, Illinois 62706

3. Within 45 days of the date of this Order, Nesco shall execute a Certificate of Acceptance and Agreement to be bound to all terms and conditions of the variance. Said Certification shall be submitted to the Agency at the address in paragraph 2 and to the Illinois Pollution Control Board at:

Illinois Pollution Control board
State of Illinois Center
100 West Randolph Street
Suite 11-500
Chicago, Illinois 60601

The 45-day period shall be held in abeyance during any period that this matter is being appealed. The form of said certification shall be as follows:

CERTIFICATION

I, (We), _____, having read the Order of the Illinois Pollution Control Board in PCB 84-81 dated January 22, 1987, understand and accept said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

By: Authorized Agent

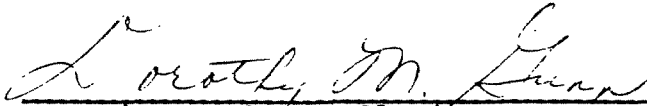
Title

Date

IT IS SO ORDERED.

Board Member E. Forcade dissented.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 22nd day of January, 1987, by a vote of 5-1.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board