ILLINOIS POLLUTION CONTROL BOARD May 16, 1985

MODINE MANUFACTURING CO.,)
Petitioner,)
v .) PCB 85-59
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,)
Respondent.)

ORDER OF THE BOARD (by J. Anderson):

This petition for extension of variance, filed May 3, 1985, is deficient and/or confusing in certain respects. First, there is no request for hearing or waiver thereof and accompanying affidavit as required by 35 Ill. Adm. Code 104. Second, paragraph 8 refers to the petition as one for site specific rule, while paragraph 5 indicates that such a petition has not yet been filed.

Importantly, to the extent the "compliance plan" in this variance involves only the anticipated filing of a site specific rule request "within one month", this petition is premature. Thirty or more days of the Board's decision period will elapse awaiting completion of the petition, while the Agency will be unable to timely file a recommendation for the same reason.

Modine has requested that, inter alia, the Opinion and Order in PCB 82-111 be incorporated into the record in this matter. In that Opinion (p. 1-2), the Board noted that the "subject matter of this proceeding is one decade old", and also noted the dismissal of a predecessor proceeding, PCB 79-112. In dismissing that case, the Board held that

"[c]ompliance plans are to be developed prior to and included in the variance petitioned (sic), not during its pendancy." (47 PCB 519).

This petition is accordingly dismissed. This does not preclude a subsequent filing of a complete petition which can be timely considered by the Board and the Agency.

IT IS SO ORDERED.

	I, Dorot	chy M. G	unn, Cler	k of th	e Illino	is Pollu	ıtion	Control
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Dorothy M. Gunn, Clerk
Illinois Pollution Control Board