ILLINOIS POLLUTION CONTROL BOARD August 30, 1983

)

)

)

)

OLIN CORP., Petitioner, v.

PCB 83-102

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,

Respondent.

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

This matter comes before the Board on the July 29, 1983 petition for variance from Rule 502(a) of Chapter 2: Air Pollution, filed by Olin Corporation (Olin). Olin seeks variance from June 23, 1983 to June 24, 1984 from this open burning rule to allow for testfiring of ammunition into fuel oil tanks with resulting combustion of the fuel therein, in fulfillment of a research and development contract with the Department of the Air Force. The test range is located two miles northwest of Marion, Williamson County.

At the time of filing this petition, Olin requested that Exhibit C of the petition, an Olin "Standard Operating Procedure" issued July 28, 1983 concerning "Special Procedure for Conducting Firestart Tests", be found subject to nondisclosure pursuant to 35 Ill. Adm. Code 101.107(c), because of the proprietary nature of the information therein. This request is hereby granted.

On August 29, 1983 the Agency filed its Recommendation in support of grant of variance, subject to conditions. No hearing has been held in this matter, since a) Olin has waived hearing, and b) none is required by the federal Clean Air Act, since Rule 502(a) is not part of the Illinois State Implementation Plan. This matter is being given expedited consideration pursuant to Olin's August 23, 1983 request, stating that Olin's tests must begin August 30 to comply with contractual requirements.*

Olin currently manufactures various propellant and pyrotechnic devices, as well as intermediate caliber ammunition, at a leased U.S. Army ordnance plant located in the Crab Orchard National Wildlife refuge west of Marion in Williamson County.

^{*}As a final procedural note, a companion provisional variance dealing with this proposed testing at this facility was today denied in PCB 83-123.

The subject matter of this variance is certain multipurpose ammunition (30 MM/20 MM MPC and 30 MM/20 MM HE1). Pursuant to Contract F08635-82-C-0301, Olin asserts that it is required to demonstrate the capability of the ammunition to pierce enemy vehicle fuel tanks and ignite the fuel which the tanks contain.

The contract is said to require that ammunition be fired at a maximum rate of 8 rounds per day into tanks containing 25 to 30 gallons of low sulfur (.025%) distillate fuel oil. Approximately 5 gallons of fuel oil will burn per firing, the remaining oil to be caught in a sump area and drained to an underground storage tank for reuse. Each burning is expected to last 5 minutes per firing, visible flames lasting for the first 2 minutes. During the life of the contract, Olin expects to expend 300 rounds of ammunition and 1250 gallons of distillate oil.

Olin alleges that denial of variance will impose an arbitrary or unreasonable hardship, as it knows of no other suitable method to conduct the subject tests required by the Air Force except open burning. Olin submits no financial data, but it asserts that it will suffer present economic loss if unable to meet current contractual requirements, and possible future loss of business opportunities to provide similar services. Olin states that the impact on human, plant and animal life in the test area will be minimized by the structures erected at the site pursuant to the plans contained in Exhibit D, by daylight-only testing, and by Olin's adherence to the test procedures contained in Exhibit C.

Olin further asserts that the emissions from these test firings will have no significant effect on air quality. Combustion of the fuel oil is expected to result in emissions of particulates, sulphur dioxide, carbon monoxide, nitrogen oxide, and volatile organics, while detonation of explosives will result in emissions of particulates, carbon monoxide, and ammonia. To demonstrate the emissions from these burnings, Olin conducted sample tests in June, 1983, which it videotaped. The Board was provided with still photographs of said tests, and the videotapes were viewed by the Agency.

The Agency states that, based on Olin's data and calculations as verified by the Agency, the proposed test firing will not significantly impact the air quality of the Region, which is considered attainment for all criteria pollutants. Assuming a total of 250 burns with 5 gallons of fuel oil per burn, annual emissions are calculated to be 0.00125 tons of particulates, 0.02225 tons of sulfur dioxide, 0.003125 tons of carbon monoxide, and 0.0125 tons of nitrogen oxide.

The Agency notes that it has contacted the residents of the home nearest the proposed test range, which is located about $\frac{1}{2}$ mile north-northwest of the proposed site. The residents had no

2

objection to grant of variance, provided that the "wind and its direction" cause no problems. The Agency therefore recommends grant of variance for a year, conditioned upon Olin's compliance with its Standard Operating Procedures, testing and reporting requirements, and cessation of testing under adverse meteorological conditions.

Given the insignificant air quality effects of the proposed emissions, the apparent adequacy of Olin's "Standard Operating Procedures", and Olin's allegations of harm, the Board finds that denial of variance would impose an arbitrary or unreasonable hardship. A one-year variance will be granted subject to the conditions outlined in the attached Order. The Board will not, however, grant the retroactive variance requested by Olin, as no justification has been given for this unusual relief other than the fact that the initial tests are a fait accompli. In this context, the Board notes that the Agency questions whether and when Olin knew of its need to obtain a variance from Rule 502(a) in order to legally perform its side of the Olin-Air Force contractual bargain. Olin is cautioned not to assume the automatic availability of variance relief to enable it to comply with any later-negotiated defense contracts.

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

ORDER

1. Petitioner, Olin Corp., is hereby granted a variance from Rule 502(a) of Chapter 2: Air Pollution, to allow test firings as required by its Contract FO8635-82-C-0301 until August 30, 1984, subject to the following conditions:

A. Olin shall conduct the open burning activities only in accordance with the Standard Operating Procedures attached to its July 29, 1983 petition as Exhibit C, which are incorporated herein by reference as if fully set forth.

B. Should Olin receive private complaints concerning its open burning practices, or should the Agency contact Olin concerning complaints it has received regarding the open burning which is the subject of this variance, Olin shall immediately discontinue testing until meteorological conditions are such that the open burning will not constitute a possible violation of Section 9(a) of the Act.

C. Olin shall keep available such records of the testing as may enable it to develop an ammunition testing procedure which does not constitute open burning as defined in the Act.

D. Olin shall submit quarterly reports of the testing to the Agency, the first such report due thirty (30) days

from the date of the Board order entered in this cause. Such reports shall be sent to:

Illinois Environmental Protection Agency Division of Air Pollution Control 115 A West Main Street Collinsville, IL 62234

Such reports shall include, as a minimim, time and place of each burning, identification of the quantity of oil burned, meteorological conditions in the vicinity, and complaints received by Olin and action taken thereon.

2. Within thirty-five (35) days after the date of the Board Order, the Petitioner shall execute and send to:

Mr. Joseph R. Podlewski, Jr. Enforcement Attorney Illinois Environmental Protection Agency 2200 Churchill Road Springfield, IL 62706

a certification of acceptance of this variance by which it agrees to be bound by its terms and conditions.

This thirty-five (35) day period shall be held in abeyance for any period during which this matter is being appealed. The form of the certification shall be as follows:

CERTIFICATE

I, (We), ______, having read the Order of the Illinois Pollution Control Board in PCB 83-102, dated ______, understand and accept the said Order, realizing that such acceptance renders all terms and conditions thereto binding and enforceable.

Petitioner

By: Authorized Agent

Title

Date

3. Olin's July 29, 1983 request that Exhibit C to its petition be given "nondisclosure" status pursuant to 35 Ill. Adm. Code 101.107(c) is granted.

IT IS SO ORDERED.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Opinion and Order was adopted on the 36^{n} day of fuguet , 1983 by a vote of 4-0.

herk Christan L. Moffett

Illinois Pollution Control Board