## ILLINOIS POLLUTION CONTROL BOARD August 14, 1975

OLIN CORPORATION (Joliet), Petitioner,	) )		
V.	)	PCB	75-214
ENVIRONMENTAL PROTECTION AGENCY Respondent.	, )		

INTERIM ORDER OF THE BOARD (by Mr. Goodman):

This matter comes before the Pollution Control Board (Board) on Olin Corporation's (Olin) peititon for variance from Rules 204(c)(1)(A) and 203(c)(1)(A) and (C) of the Air Pollution Control Regulations for their manufacturing facility in Joliet, Illinois.

Olin presents a novel approach in its petition for variance, requesting that the variance be granted until such time as the Illinois Supreme Court acts on the Illinois Environmental Protection Agency's (Agency) appeal of the First District Illinois Court of Appeals Decision in Commonwealth Edison Company v. Pollution Control Board of the State of Illinois No. 57487. Olin alleges that the status of the sulphur oxide limitations of Rule 204(c)(l)(A) is substantially in doubt in view of the decision of the Illinois Appellate Court in the Commonwealth Edison case, supra, and that it would be an arbitrary and unreasonable hardship to require Olin to comply with the Rule before the Supreme Court acts on the appeal.

By its very nature, this petition cannot have a compliance schedule as it is Olin's intent not to comply until such time as the Supreme Court acts on the appeal. It is well established that the Board may not grant a variance unless some positive plan for compliance is included in the petition. The purpose of the variance procedure is to enable the Board to allow a Petitioner enough time to develop and institute a compliance program without working an arbitrary or unreasonable hardship upon him.

Since a compliance schedule is a necessary part of the petition for variance and since Olin's petition is not only devoid of such compliance schedule but indeed requests variance from the need to develop such compliance schedule, we must therefore strike the petition for inadequacy.

On July 30, 1975, the Environmental Protection Agency (Agency) filed its Motion for a Hearing in this matter. As Olin's petition is striken, the Agency motion is moot and, therefore, must be denied. Olin has filed a waiver, pursuant to Procedural Rule 408, until November 15, 1975.

This Opinion constitutes the finds of fact and conclusions of law of the Board in this matter.

## ORDER

It is the Order of the Pollution Control Board that Olin Corporation's peititon for variance for their Joliet facility be and is hereby stricken with leave granted to Petitioner to file an amended petition herein, and that the Agency's motion for hearing be and is hereby denied.

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Opinion and Order were adopted on the day of day of the second of the seco

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Illinois Pollution Control Board