

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
RCRA DELISTING ADJUSTED) AS 2025-001
STANDARD EPTITION OF EXXONMOBIL) (Adjusted Standard – Land)
OIL CORPORATION)
)

NOTICE OF FILING

To:

Don A. Brown, Clerk
Illinois Pollution Control Board
600 E. Van Buren Street, Suite 630
Chicago, Illinois 60605

Brad Halloran, Hearing Officer
Illinois Pollution Control Board
600 E. Van Buren Street, Suite 630
Chicago, Illinois 60605

Persons included on the attached **Service List**.

PLEASE TAKE NOTICE that the United States Environmental Protection Agency Region 5 Office today filed a Response by the United States Environmental Protection Agency, which is not a Party, in the RCRA Delisting Adjusted Standard Petition of Exxon Mobil Oil Corporation in Adjusted Standard AS 2025-001, via the Clerk's Office On-Line electronic filing on January 22, 2026: and upon the attached service list by electronic mail on January 22, 2026.

Dated: 1/22/2026

Respectfully submitted,

1/22/2026



Stacy Meyers

Signed by: STACY MEYERS
Stacy Meyers, State Oversight Specialist
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Service List

January 22, 2026

Hearing Officer

Bradley P. Halloran
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Parties

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REGION 5

CHICAGO, IL 60604

The Honorable Bradley P. Halloran
Hearing Officer
Illinois Pollution Control Board
60 East Van Buren Street, Suite 630
Chicago, Illinois
Brad.Halloran@illinois.gov

Re: AS 2025-001

Dear Hearing Officer Halloran,

The U.S. Environmental Protection Agency (EPA) has received your November 13, 2025, Hearing Officer Order in Case #AS 2025-001, directing parties or their representatives to participate in a telephone conference on January 29, 2026. We appreciate your efforts to keep EPA informed of this Illinois Pollution Control Board (the IPCB) Adjusted Standards Adjudicatory proceeding in Case #AS 2025-001 (the Proceeding) and to provide an opportunity to comment. The November 13, 2025, Hearing Officer Order directs the parties or their legal representatives to participate in a telephonic status conference on January 29, 2026, at 10:30 a.m. As discussed below, we read the November 13, 2025, Hearing Officer Order not to require the attendance of EPA, which is not a party, or its employees; and request the record be clarified to reflect that EPA is not a party and that EPA attorneys have not participated in the Proceeding. EPA does not plan to attend the January 29, 2025, status conference in the Proceeding, or to submit comment on the Proceeding.

As a preliminary matter, I contacted the IPCB Clerk on January 7, 2026, about EPA's status in the Proceeding and the instructions and service in the Hearing Officer's Order, and procedures for responding. Based on that contact, I understand that EPA is not considered a party to the Proceeding, and that neither EPA nor its employees have been directed to attend the status conference. It is the parties or their legal representatives who are directed to participate; and the only parties to the Proceeding are the Petitioner and the Illinois Environmental Protection Agency. We understand EPA employees may have been listed in the service list as interested

parties because they asked about the opportunity for public comment, but are not considered parties to the Proceeding, and were listed for notice purposes.

This is an important distinction because EPA must consider the implications and authorities involved in participating as a party in a State proceeding, and because EPA has requirements governing requests for employee testimony in a proceeding where EPA is not a party, at 40 C.F.R. Part 2 subpart C. If EPA employees were directed to attend a State proceeding, for example, EPA may need to make a determination that it is in the Agency's interest before it could allow its employees to participate.¹

I also request that the record in this Proceeding be clarified to reflect that EPA attorneys have not participated in the Proceeding. In this matter, two EPA employees who are not attorneys, and who did not understand the limitations on EPA employee involvement in state proceedings, inquired about the opportunity for public comment on the hazardous waste delisting involved in the Proceeding, and EPA employees began receiving Orders directing party attendance at status conferences. The two non-attorney EPA employees may have misread a prior Hearing Officer Order that was emailed to them, when they attended a status conference in the Proceeding on September 11, 2025. The record inaccurately reflects that attorneys for EPA attended and called in to request an extension. Those employees were not attorneys and were not represented by counsel when they attended.

Thank you for your efforts to keep EPA updated on the Proceeding. I appreciate the opportunity to correct the record to reflect that no attorneys represented EPA at the September 11, 2025, hearing, and to clarify that EPA is not a party.

Sincerely yours,


Maria Gonzalez
Associate Regional Counsel

¹ An order requiring attendance by EPA employees could be viewed as a request to provide testimony in a State proceeding where EPA is not a party. Such a request might trigger EPA's *Touhy* regulations at 40 C.F.R. Part 2 subpart C. (The validity of federal agency regulations restricting the testimony of federal employees and the production of documents was upheld in *United States ex rel Touhy v. Ragen*, 340 U.S. 462 (1951).) The regulations at 40 C.F.R. Part 2 subpart C sets forth the standard for determining if an EPA employee can be allowed to comply with a request for testimony.

cc via email:

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