

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF: )  
)  
NITROGEN OXIDES EMISSIONS FROM ) R08-19  
VARIOUS SOURCE CATEGORIES: ) (Rulemaking – Air)  
AMENDMENTS TO 35 ILL. ADM. CODE )  
PARTS 211 AND 217 )


NOTICE

TO: John Therriault  
Assistant Clerk  
Illinois Pollution Control Board  
James R. Thompson Center  
100 West Randolph St., Suite 11-500  
Chicago, IL 60601

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S ANSWERS TO PRE-FILED QUESTIONS BY EXXONMOBIL OIL CORPORATION and APPEARANCE, a copy of which is herewith served upon you.

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
Dana Vetterhoffer  
Assistant Counsel  
Division of Legal Counsel

DATED: September 30, 2008

1021 North Grand Avenue East  
P. O. Box 19276  
Springfield, IL 62794-9276  
217/782-5544

**THIS FILING IS SUBMITTED  
ON RECYCLED PAPER**

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**THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY'S ANSWERS TO PRE-FILED QUESTIONS BY EXXONMOBIL OIL CORPORATION**

NOW COMES the Illinois Environmental Protection Agency ("Illinois EPA"), by its attorneys, and pursuant to the Hearing Officer's Order dated June 12, 2008, respectfully submits the Illinois EPA's Answers to the Pre-Filed Questions by ExxonMobil Oil Corporation:

1. On page 4 of its Statement of Reasons, the Agency states that in October 2006, the USEPA completed a review of the NAAQS for particulate matter and, as a result, strengthened the 24-hour standard (for PM<sub>2.5</sub>). Is it the intent of the Agency that the emission reductions sought under this proposed NO<sub>x</sub> RACT rule will result in attainment of the strengthened 24-hour standard for PM<sub>2.5</sub> in the Chicago area?

**The Illinois EPA has not made a determination of the control measures needed to attain the revised NAAQS for PM 2.5 or ozone. The Illinois EPA anticipates that the subject NO<sub>x</sub> RACT proposal will help to attain those standards.**

2. On pages 7 and 8 of its Statement of Reasons, the Agency states that States, such as Illinois, with non-attainment areas classified as moderate or above for the 8-hour ozone NAAQS were required to submit, by September 15, 2006, a SIP demonstrating that sources specified under the CAA were subject to RACT requirements. Was the required SIP submitted by the Agency to the USEPA by September 15, 2006?

No.

3. If the required SIP was not submitted by the Agency to the USEPA by September 15, 2006, when was it submitted?

**This proposal is intended to satisfy this federal requirement. It will be submitted to USEPA after the Illinois Pollution Control Board completes its rulemaking process.**

4. If the required SIP was not submitted by the Agency to the USEPA by September 15, 2006, what are the reasons why it was not submitted?

**USEPA published its implementation rule for 8-hour ozone in November 2005, less than a year before NO<sub>x</sub> RACT rules were due. The implementation rule for PM<sub>2.5</sub> was not published until March 2007. The Illinois EPA has developed this proposal**

**as quickly as resources allowed. It should also be noted that the Illinois EPA's process allowed considerable time for stakeholder review and comment.**

5. Are there SIP submittal dates for other federal rules that this proposed rule is intended to address for which the Agency has not made the required submittal?

**Yes.**

6. If so, what are those other federal rules, and what are the reasons that the required submittals were not made?

**The Illinois EPA has not yet submitted attainment demonstrations for the Chicago area for 8-hour ozone and PM2.5. The Illinois EPA has also not yet submitted the PM2.5 attainment demonstration for the Metro East area. These are federal requirements that are satisfied in part by this proposal. These submittals are late, in large part, due to the Illinois EPA's desire to address concerns expressed by stakeholders throughout the development of these plans.**

7. On page 8 of its Statement of Reasons, the Agency states that its regulatory proposal aims to achieve NO<sub>x</sub> reductions in Illinois from a number of source categories, while providing reasonable flexibility for the affected sources. In addition, proposed Section 217.152 requires affected sources to comply with the emission limitations to be established by the proposed rule by May 1, 2010. Please identify and specifically define the "flexibility" in the proposed rule that would enable an affected source to meet the May 1, 2010 compliance date?

**Pages 8 and 9 of the Statement of Reasons highlight the compliance option provided in the proposal which allows emissions averaging. Certain exemptions to the requirements are also discussed. These options were included based on the suggestions of stakeholders.**

8. Again, the Agency's proposal provides, in Subsection 217.152(a), that compliance with the requirements of Subparts D, E, F, G, H, and M is required beginning May 1, 2010. Is it true that, if the required SIP had been submitted by the Agency to the USEPA by September 15, 2006, the USEPA would have allowed up to 30 months for compliance to be achieved by the start of the first ozone season after the required SIP submission date?

**Yes.**

9. When does the Agency anticipate submitting the rules proposed here as a SIP revision to USEPA?

**The Illinois EPA will submit these rules to USEPA after the Board has completed rulemaking on this proposal.**

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10. In light of the anticipated date for submittal of this SIP revision, and the proposed compliance date of May 1, 2010, how many months would be allowed for compliance to be achieved by affected sources?

**The Board determines the schedule for completing the rulemaking process. The Illinois EPA can not predict how much time will be available for compliance after the rulemaking is completed.**

11. How does the Agency expect an affected source to meet this compliance date of May 1, 2010, especially if the affected source must install control equipment to meet the proposed emission limitations?

**The Illinois EPA acknowledges that the compliance deadline is imminent, and may need to be amended in some cases. It should be noted that stakeholders have been aware of this proposal for several years and had the opportunity to plan for compliance by the proposed deadline.**

12. Has the Agency planned for any expedited preconstruction permitting efforts for affected sources that may require construction permits to install control equipment to meet the proposed emission limitations?

**By statute, the Illinois EPA is required to issue or deny "minor" construction permits within 90 days. 415 ILCS 5/39. Currently, the Illinois EPA is processing permit applications of this type, i.e., those addressing installation of controls without significant emissions increases, in an average of 50-60 days. The increase in the number of permits expected due to this rulemaking may expand these times somewhat, however, companies seeking such construction permits can help insure quick turnaround by keeping their applications focused only on the controls necessary to comply.**

13. Has the Agency considered whether the delay in submitting a regulatory proposal to the Board, which also results in delay of submittal of the SIP revision, and still maintaining the May 1, 2010 compliance date, will result in undue hardship for affected sources that must plan, design, purchase, construct, and test the specialized control equipment according to strict OSHA and industry standards?

**It is not the Illinois EPA's intent to cause "undue hardship for affected sources." The Illinois EPA is willing to discuss with stakeholders approaches to alleviate "undue hardships" posed by tight compliance deadlines. It should be noted however that USEPA requires that RACT controls be implemented "as expeditiously as practicable." As mentioned, stakeholders have been aware of this proposal for several years and have had the opportunity to plan for compliance.**

14. If so, what factors were considered by the Agency and what rationale was used to maintain the May 1, 2010 compliance date?

**As the questioner has pointed out, RACT controls were to have been implemented by May 1, 2009. The Illinois EPA has proposed a later deadline in recognition of the**

**fact that we were late filing this proposal with the Board. The May 1, 2010 deadline is intended to ensure that controls are in place before the 2010 ozone season. Delaying implementation of emission reduction can adversely affect air quality, which could potentially cause the non-attainment area to be bumped-up to a serious classification. ExxonMobil has previously expressed to the Illinois EPA its desire to avoid bump-up of the Chicago area's non-attainment classification, so it is important for industries to respond quickly to the requirements of this proposal.**

15. Did the Agency consider the complexities involved for affected sources in meeting the May 1, 2010 compliance date?

**In most cases, the Illinois EPA believes that sources can comply with the proposed emission limitations with relatively simple combustion modifications or post-combustion controls. The Illinois EPA acknowledges that compliance may be more complex for some industries.**

16. Has the Agency considered extending the compliance date beyond May 1, 2010?

**The Illinois EPA has considered proposals for later compliance dates made by certain industries, in particular petroleum refineries and glass melting furnaces.**

17. Did the Agency consider, in proposing a compliance date of May 1, 2010, that certain industrial sectors have planned maintenance cycles of 3 to 5 years (or more)?

**The Illinois EPA is aware that petroleum refineries have planned maintenance cycles of 3 to 5 years. ExxonMobil has been aware however, of the Illinois EPA's intent to propose specific NOx reduction strategies affecting refineries for several years, and had the ability to plan compliant emission reduction measures within its normal maintenance schedules. As noted in Question 8, USEPA's schedule allowed no more than 30 months for implementation, which is less than the 3 to 5 year maintenance cycle mentioned here.**

18. Has the Agency considered and calculated the economic impact to Illinois and the region of an unplanned shutdown for industrial sectors that have such planned maintenance cycles?

**No.**

19. If so, what has the Agency determined to be the economic impact of the potential inability of affected sources to attain compliance in the amount of time anticipated to be available under the proposal?

**The Illinois EPA believes that the control measures needed to comply with this proposal are readily available and are economically reasonable. The Illinois EPA is willing to discuss options with affected industries to avoid unanticipated cost burdens should they occur.**

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20. Have any affected sources told the Agency that they cannot meet the May 1, 2010 compliance date without an unplanned shutdown?

**ExxonMobil and CITGO, both petroleum refineries, have expressed concerns about the compliance date.**

21. If so, has the Agency considered alternative options for such affected sources that are unable to meet the compliance date?

**The Illinois EPA has considered other options, and remains willing to discuss options to address specific concerns.**

22. Has the Agency determined, even with unplanned shutdowns, whether it is technically feasible for all affected sources to meet the May 1, 2010 compliance date?

**The Illinois EPA believes it is still technically feasible for most affected sources to comply by May 1, 2010, if they start planning now.**

23. In proposed Section 217.158, the Agency has proposed that an owner or operator of certain affected emissions units may demonstrate compliance with an applicable requirement through an emissions averaging plan. However, Subsection 217.158(a)(1)(A) of the proposal allows the inclusion in the averaging plan of emission units that commenced operation on or before January 1, 2002 (as well as those emission units that commenced operation after January 1, 2002 if they were replacements for emission units that commenced operation on or before January 1, 2002). How did the Agency set the January 1, 2002 date as a cutoff for new emission units allowed to be covered by an emission averaging plan?

**USEPA has established 2002 as the base year for planning purposes for implementation of the ozone and PM 2.5 NAAQS established in 1997. States are required to demonstrate continued progress towards attainment beginning in that year. The Illinois EPA is seeking emission reductions from emission units that were in existence in 2002.**

24. What factors did the Agency consider in establishing the January 1, 2002 date?

**See response to Question 23.**

25. Did the Agency consider allowing emission units that commenced operation after January 1, 2002, to be included in the averaging plan?

**No. Units that commenced operation after 2002 are not eligible for emissions averaging because emissions from such units are in addition to the emissions already existing in 2002. As mentioned in Question 23, the Illinois EPA is seeking net reductions from 2002 emission levels.**

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26. Is it true that certain NSPS, non-attainment NSR and PSD regulations may require NO<sub>x</sub> emission control measures that are equal to or more stringent than the proposed emission limitations here?

**Yes, so it is not necessary for new units to use averaging to comply with the proposed limits.**

27. Is it true that certain affected sources may have installed, pursuant to such NSPS, non-attainment NSR and PSD regulations, NO<sub>x</sub> control measures that are equal to or more stringent than the proposed emission limitations here?


**Yes. If such units were included in an averaging plan with units that existed in 2002, then the existing units may not need to reduce emissions. This is counter to the objective of achieving Reasonable Further Progress between 2002 and the attainment year, 2010.**

28. What factors did the Agency consider in excluding emission units that commenced operation after January 1, 2002, from inclusion in the emissions averaging plan?

**See response to Question 27.**

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By:   
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Division of Legal Counsel

DATED: September 30, 2008

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**APPEARANCE**

The undersigned hereby enters his appearance as an attorney on behalf of the  
Illinois Environmental Protection Agency.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: 

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