

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
NITROGEN OXIDES EMISSIONS,)	
AMENDMENTS TO 35 ILL. ADM.)	R11-24
CODE 217)	
)	
IN THE MATTER OF:)	
)	
ILLINOIS ENVIRONMENTAL)	
REGULATORY GROUP'S)	R11-26
EMERGENCY RULEMAKING,)	(Rulemaking-Air)
NITROGEN OXIDES EMISSIONS:)	(Cons.)
AMENDMENTS TO 35 ILL.)	
ADM. CODE PART 217)	

NOTICE OF FILING

TO: Mr. John T. Therriault	Daniel Robertson
Assistant Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
100 W. Randolph Street	James R. Thompson Center
Suite 11-500	100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601	Chicago, Illinois 60601
(VIA ELECTRONIC MAIL)	(VIA U.S. MAIL)

(SEE PERSONS ON ATTACHED SERVICE LIST)

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board EXXONMOBIL OIL CORPORATION'S POST-HEARING COMMENTS copies of which is herewith served upon you.

Respectfully submitted,

EXXONMOBIL OIL CORPORATION,
Petitioner,

Dated: July 18, 2011

By: /s/ Monica T. Rios
Monica T. Rios

Katherine D. Hodge
Monica T. Rios
HODGE DWYER & DRIVER
3150 Roland Avenue
Post Office Box 5776
Springfield, Illinois 62705-5776
(217) 523-4900

CERTIFICATE OF SERVICE

I, Monica T. Rios, the undersigned, hereby certify that I have served the attached
EXXONMOBIL OIL CORPORATION'S POST-HEARING COMMENTS upon:

Mr. John T. Therriault
Assistant Clerk of the Board
Illinois Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois 60601

Kathleen C. Bassi, Esq.
Schiff Hardin, LLP
6600 Willis Tower
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via electronic mail on July 18, 2011; and upon:

Daniel Robertson
Hearing Officer
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph Streets,
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One Natural Resources Way
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by depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois
on July 18, 2011.

/s/ Monica T. Rios
Monica T. Rios

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EXXONMOBIL OIL CORPORATION'S POST-HEARING COMMENTS

NOW COMES EXXONMOBIL OIL CORPORATION ("ExxonMobil"), by and through its attorneys, HODGE DWYER & DRIVER, and submits the following POST-HEARING COMMENTS in the above-referenced matter.

I. BACKGROUND

On April 4, 2011, the Illinois Environmental Protection Agency ("Illinois EPA") filed a rulemaking to amend the general compliance date of the rule for implementing Reasonably Available Control Technology for nitrogen oxides ("NOx RACT Rule" or "Rule") from January 1, 2012 to January 1, 2015. Statement of Reasons, *In the Matter of: Nitrogen Oxides Emissions, Amendments to 35 Ill. Admin. Code 217*, R11-24 (Ill.Pol.Control.Bd. Apr. 4, 2011) (rulemaking hereafter cited as "R11-24"). However, Illinois EPA's proposed amendments to the NOx RACT Rule do not include an extension of the compliance deadline for ExxonMobil's Appendix H units, but rather the proposed amendments delete ExxonMobil's emission units from Appendix H, subjecting them to the proposed January 1, 2015 compliance date. In the simplest terms, the Rule is no

longer federally required, and accordingly, compliance with the Rule at this time, and or by January 1, 2015, is unnecessary. Therefore, ExxonMobil is requesting that the Illinois Pollution Control Board (“Board”) amend the Rule, as set forth in Exhibit 1, which shows ExxonMobil’s proposed revisions to Appendix H to replace the December 31, 2014 compliance date with a May 1, 2019 date for ExxonMobil’s emission units.

At the core of ExxonMobil’s concerns with the current Rule are the following four facts:

1. The NO_x RACT Rule is not federally required;
2. The current NO_x RACT Rule is not approvable by USEPA as RACT;
3. Neither Illinois EPA nor the regulated community know whether RACT will be required under a future ozone standard; and
4. The next scheduled Joliet Refinery (“Refinery”) turnaround beyond the current December 31, 2014 deadline is slated for Spring 2019.

As discussed in more detail below, each of the facts above overwhelmingly justify an extension of the Rule’s compliance date to May 1, 2019 for the Refinery’s emission units listed in Appendix H. In the end, the issue is simply whether it is reasonable to mandate that ExxonMobil incur approximately \$25 million in costs to comply with a non-federally required, non-approvable Rule. ExxonMobil merely requests to delay its investment until its next scheduled turnaround in Spring 2019, by which time more certainty will exist as to the RACT controls required, if any, for the Appendix H emission units at the Refinery.

II. THE NO_x RACT RULE IS NOT REQUIRED BY THE CLEAN AIR ACT (“CAA”).

In February 2011, when the United States Environmental Protection Agency (“USEPA”) approved Illinois EPA’s request for a waiver of the NO_x RACT requirements, USEPA stated that based on the three most recent years of data, the

Chicago area had attained the 1997 8-hour ozone standard, and USEPA further explained that “[a]lthough Illinois has adopted NOx RACT rules for the ozone nonattainment areas, the 1997 8-hour standard has been attained in the two ozone nonattainment area[s] prior to the implementation of Illinois’ NOx RACT rules.” 76 Fed. Reg. 9655 (Feb. 22, 2011). With the approval of the NOx RACT waiver, USEPA acknowledged Illinois EPA’s position that NOx RACT is not required to attain the 1997 8-hour ozone standard, which was the original basis for the promulgation of the NOx RACT Rule. Further, Illinois EPA stated as much at hearing in this matter. During the first hearing, Mr. Rob Kaleel, Manager of Illinois EPA’s Air Quality Planning Section, testified, on behalf of Illinois EPA, that “for the time being, there is not a federal mandate for NOx RACT.” Hearing Transcript, R11-24 at 20 (Ill.Pol.Control.Bd. June 2, 2011) (hereafter cited as “Tr.”). In addition, Mr. Kaleel made the following statements in response to ExxonMobil’s questions:

MS. RIOS: Is the NOx RACT rule currently required by the Clean Air Act?

MR. KALEEL: It is not currently required.

MS. RIOS: Have the Chicago and Metro East areas attained the 1997 ozone standard?

MR. KALEEL: Yes, they are still designated non-attainment, but they have attained.

MS. RIOS: Was the NOx RACT rule required for the attainment of the 1997 ozone standard?

MR. KALEEL: At the time we proposed it, we thought it would help with attainment, but we achieved attainment without full implementation of these requirements.

* * *

MS. RIOS: Let me see if I can clarify it. US EPA, as you previously testified, approved a NOx RACT waiver for the 1997 ozone standard. How has that waiver changed the basis for the promulgation of the original rule?

MR. KALEEL: The waiver removes the federal obligation for NOx RACT. The waiver is based on a finding by US EPA that the standard was, in fact, met by the 2009 deadline for attainment of the standard. So it was based on a clean data finding, but I presume that if we had a real bad ozone season and the area has not been redesignated, before that happens that the waiver could be removed.

Tr. at 21-23. (Emphasis added.)

ExxonMobil has clearly established, through its own testimony and the questioning of Illinois EPA, that the NOx RACT Rule is no longer required by the CAA. However, without an extension of the compliance deadline for Appendix H units, ExxonMobil will continue to spend substantial resources, including an additional \$25 million to comply with a Rule that USEPA and Illinois EPA both agree is not required to attain the 1997 8-hour ozone standard for which it was originally promulgated. It is unreasonable to require ExxonMobil to invest approximately \$25 million at this time for compliance with a non-required rule when one of the main goals of Governor Quinn's Economic Recovery Plan is to aid Illinois companies in competing for business. In fact, requiring compliance with non-federally mandated rules places Illinois companies at a disadvantage since competitors in other states, which are not mandating compliance with non-required rules, can invest resources into growing their companies rather than in projects to comply with non-required rules.

III. THE NOx RACT RULE IS NOT APPROVABLE AS RACT.

On March 9, 2011, USEPA sent a letter to Illinois EPA noting "certain deficiencies or problems with the rules that would prevent us [USEPA] from approving

these rule revisions as a revision to the Illinois State Implementation Plan fully meeting the CAA and EPA NOx RACT Requirements.” Letter from C. Newton, USEPA Region V, to L. Kroack, Illinois EPA, R11-24 (Ill.Pol.Control.Bd. June 3, 2011) (hereafter “March Letter”). At hearing, Mr. Kaleel acknowledged that USEPA “has indicated that we [Illinois EPA] would need to revise the Part 217 regulations to be federally approvable.” Tr. at 11. Mr. Kaleel further testified that this rulemaking does not resolve the issues USEPA identified in the March Letter and stated that he anticipated a future rulemaking to address the issues raised in the March Letter. *Id.* at 13.

ExxonMobil has serious concerns with investing substantial resources in projects to comply with a non-required Rule, that even if it was required, would not be approved as RACT by USEPA. It is clear from the testimony at hearing and USEPA’s March Letter that there are additional, substantive issues that will need to be addressed in a future rulemaking should RACT be required under a future ozone standard. If Illinois EPA intends to propose another rulemaking to amend substantive provisions of the Rule, the scope of the compliance projects for the Refinery to meet the Rule will likely change, and thus, the non-approvability of the Rule serves as yet another justification for extending the Refinery’s compliance deadline to May 1, 2019, by which time any revisions proposed by Illinois EPA should long be completed.

At hearing, ExxonMobil provided a clear example of how USEPA’s comments can impact the scope of the RACT compliance project that the Refinery has already designed and started to implement. Hearing Transcript, R11-24 at 45-47 (Ill.Pol.Control.Bd. June 28, 2011). USEPA commented in its March Letter that the Rule’s emissions averaging provisions did not include a 10% environmental write-off and

allowed for averaging over an entire ozone season rather than over a period of thirty (30) days or less. March Letter Attachment at 2. ExxonMobil has designed its RACT compliance project so that the emission units in its averaging plan meet the current Rule's standards as averaged over the ozone season. However, USEPA's comments indicate that the standards for boilers and process heaters could be 10% lower than stated in the Rule, and the averaging time period would be, at its longest, thirty (30) days. Such a difference in the emission standards and averaging period would likely prompt ExxonMobil, as well as other facilities planning on using averaging to comply with the Rule, to re-evaluate the entire scope of its project, and could require that the Refinery change how it chooses to comply with the Rule, including using different emissions units as part of its averaging plan.

If an extension of the compliance deadline until May 1, 2019 is not obtained, ExxonMobil will move forward with implementing a NOx RACT project to comply with a Rule that is not required and that could significantly change in the near future. A \$25 million investment at this time would not be economically reasonable and would be an inefficient use of resources since the very project that is being implemented may not be sufficient to meet the Rule's requirements once USEPA's comments are taken under consideration.

In addition, since Illinois EPA intends to propose another rulemaking to address the issues raised by USEPA, ExxonMobil will, at that time, discuss any proposed amendments with Illinois EPA and participate in the Board rulemaking. The requested extension to May 1, 2019 is an extension of the compliance deadline for this Rule.

IV. **THERE IS UNCERTAINTY REGARDING THE NEW OZONE STANDARD.**

USEPA is expected to issue a revised 8-hour ozone standard by the end of July 2011, and at the same time, USEPA intends to issue a proposed implementation schedule for the revised standard. Pre-Filed Testimony of Doug Deason on Behalf of ExxonMobil Oil Corporation, R11-24 at 3 (Ill.Pol.Control.Bd. June 20, 2011). As discussed in detail in Mr. Deason's testimony, as well as in the Petition for Variance that ExxonMobil has filed with the Board, there is uncertainty as to what the revised ozone standard will be, whether RACT will be required for the Chicago area, and if so, what will RACT be and when will it be required to be implemented at sources. *Id.* at 5-9; Petition for Variance, *ExxonMobil Oil Corporation v. Illinois EPA*, PCB No. 11-86 (Ill.Pol.Control.Bd. May 18, 2011) ("Petition"). In fact, Mr. Kaleel stated at hearing that "[w]e believe the date that NOx RACT would ultimately be required is uncertain right now. The date of implementation of NOx RACT is dependent on several actions on the part of US EPA and none of those actions have happened yet." Tr. at 6.

As discussed at hearing and in a recent letter from ExxonMobil to Illinois EPA, USEPA has indicated that the date for implementation of NOx RACT at sources, if required by the revised standard, could be late 2017, which means that the controls would be in place at the source prior to the 2018 ozone season. *Id.* at 32; Exhibit 2 at 2. ExxonMobil's request for an extension of the compliance date for its Appendix H units to May 1, 2019, means that controls will be in place prior to the 2019 ozone season, which is only a single ozone season beyond what appears to be an aggressive schedule on the part of USEPA to implement RACT at sources. Further, as noted in testimony and at hearing, RACT is not required for areas designated marginal nonattainment, and even as

the 75 ppb ozone standard has been under reconsideration, ozone levels in the Chicago metropolitan area have attenuated substantially, and consequently, there is a likelihood of a marginal or better designation for the Chicago area. Based on this information, surely, an extension of the compliance date for ExxonMobil is warranted given: 1) the proposed extension is only one ozone season beyond USEPA's possible deadline; 2) the Rule is not required; 3) it is not approvable as RACT; 4) the uncertainty as to the ozone standard, implementation schedule, and whether RACT will even be required under the revised standard; and 5) a \$25 million investment at this time is an inefficient use of resources.

V. **THE REFINERY'S NEXT TURNAROUND BEYOND 2014 IS IN 2019.**

In the initial proceeding to adopt the NOx RACT Rule, Illinois EPA acknowledged that refineries are in a unique situation given the nature of their operations and turnaround schedules. Post-Hearing Comments of the Illinois EPA, *In the Matter of: Nitrogen Oxides Emissions From Various Source Categories, Amendments to 35 Ill. Adm. Code Parts 211 and 21*, R08-19 at 12 (Ill.Pol.Control.Bd. Mar. 23, 2009) (rulemaking hereafter cited as "R08-19"); Second Motion to Amend Rulemaking Proposal, R08-19 at 2, 5, 6-7, and 13-14 (Ill.Pol.Control.Bd. Mar. 23, 2009) (discussing the addition of Section 217.152(c) and Appendix H); and Pre-filed Testimony of Robert Kaleel, R08-19 at 1 (Ill.Pol.Control.Bd. Jan. 20, 2009) (where Illinois EPA stated "recognizing the unique role of petroleum refineries in the region's economy, the Illinois EPA is recommending that the compliance date for refineries coincide with already planned maintenance turnarounds to avoid unplanned shut-downs and potential disruptions to the region's fuel supply"). At hearing, in response to a question regarding why Appendix H was added to the Rule, Mr. Kaleel stated:

I do recall Appendix H and the basis—the basis was an attempt to accommodate the turnaround schedules for two of the three refineries, petroleum refineries, that were affected by the rulemaking and by accommodating I mean providing later compliance dates than January 1st, 2012.

Tr. at 44-45. The unique situation, i.e. the nature of the Refinery's operations, has not changed since the promulgation of the NOx RACT Rule. The Refinery still operates 24 hours a day, processing millions of gallons of gasoline each day. It is a crucial link in the fuel supply to the Midwest, and any unplanned disruption to the Refinery's operations can have significant repercussions.

The Board should note that in the initial NOx RACT proceeding, Appendix H included deadlines for the refineries that were up to four years beyond the general January 1, 2012 compliance date. As noted above, these extended deadlines were based on the refineries' turnaround schedules. In this case, ExxonMobil is requesting a four-year extension from the proposed 2015 deadline (which is itself an arbitrary deadline) to May 1, 2019 (an extension of only one ozone season beyond USEPA's possible 2017 deadline, an aggressive schedule for implementation of RACT), in order for required controls to be installed at the Refinery during the Spring 2019 turnaround. ExxonMobil's situation in this current proceeding is similar to the refineries' situations during the initial NOx RACT proceeding that warranted an extended deadline, and thus, a similar extension of the compliance deadline is justified for ExxonMobil in this case.

ExxonMobil's next scheduled turnaround beyond the 2014 deadline is planned for Spring 2019, which as discussed above, means that required controls will be installed at the Refinery prior to the 2019 ozone season—only one season beyond USEPA's possible deadline. Given the fact that Illinois EPA supported the extended deadlines for refineries

in the initial rulemaking and the fact that the Rule is not even required at this time, it is reasonable to allow an extension to the compliance deadline for the Appendix H emission units, since installation of required controls is simply being delayed until Spring 2019. Allowing required controls to be installed during the Spring 2019 turnaround is consistent with Illinois EPA's past practice of accommodating refineries' turnaround schedules, and thus, an extension of compliance deadline to May 1, 2019 is reasonable.

VI. EXXONMOBIL'S EFFORTS TO OBTAIN RELIEF

ExxonMobil has had ongoing discussions with Illinois EPA regarding the compliance deadline for Appendix H units and appreciates the time Illinois EPA has spent discussing and meeting on these issues. As recently as last week, ExxonMobil sent a detailed letter, attached hereto as Exhibit 2, to Interim Director Lisa Bonnett, and met with Director Bonnett and other Illinois EPA representatives to continue discussions regarding the NOx RACT Rule and compliance deadline. As a result of ExxonMobil's numerous calls and meetings with Illinois EPA, ExxonMobil has pursued two other options, in addition to its participation in this rulemaking, in order to obtain relief from the Rule at this time.

ExxonMobil has submitted a construction permit application to Illinois EPA that requests authorization to implement an alternate NOx Control Strategy, pursuant to 35 Ill. Admin. Code § 217.125(c), in lieu of compliance with the Rule's requirements for the Appendix H units. The NOx Control Strategy includes significant reductions resulting from the installation of a Selective Catalytic Reduction Unit ("SCR") at the Refinery's Fluid Catalytic Cracking Unit/CO Boilers. The NOx reductions achieved by the SCR starting in 2011 will be in excess of 1,300 tpy as compared to the approximate 370 tpy

NOx reduction achieved by compliance with NOx RACT Rule, which are not scheduled to occur until after the December 31, 2014 deadline. At this time, however, the construction permit has not been issued, and thus, the expenditure of resources to comply with the 2014 compliance deadline continues.

ExxonMobil also has filed a Petition for Variance from the Rule requesting an extension of the compliance deadline to May 1, 2019, which allows for the installation of controls during the next planned turnaround. Although the Petition is before the Board and a hearing has been scheduled, the Board has the authority in this rulemaking to extend the compliance deadline for the Refinery's Appendix H units based on the justification that ExxonMobil has provided in this proceeding. It is economically unreasonable to require compliance with the non-federally required Rule and the expenditure of millions of dollars at this time, when an extended compliance date until the May 1, 2019 provides the relief ExxonMobil needs and merely delays compliance until the Refinery's next turnaround in Spring 2019.

VI. CONCLUSION

ExxonMobil has participated in this rulemaking in order to bring these issues regarding the impact of the NOx RACT waiver and current compliance deadline, as well as USEPA's comments on the Rule, to the Board's attention, and accordingly, asks that the compliance deadline for the Refinery's Appendix H emission units be extended until May 1, 2019. ExxonMobil does not intend to delay this rulemaking for other facilities subject to the Rule that need relief now in order to halt the expenditure of substantial resources on projects needed to comply with the Rule's 2012 deadline. ExxonMobil would like to see this rulemaking proceed expeditiously in order to provide some

certainty for itself and the regulated community regarding the applicable compliance deadline, and in doing so, ExxonMobil asks the Board to take under consideration the following facts, as discussed in detail above:

1. The NO_x RACT Rule is not federally required;
2. The current NO_x RACT Rule is not approvable by USEPA as RACT;
3. Neither Illinois EPA nor the regulated community know whether RACT will be required under a future ozone standard; and
4. The next scheduled Refinery turnaround beyond the current December 31, 2014 deadline is slated for Spring 2019.

Based on these facts and the significant \$25 million investment at stake, ExxonMobil respectfully requests that the Board extend the compliance date for the Refinery's Appendix H units to May 1, 2019. ExxonMobil greatly appreciates the opportunity to participate in the rulemaking and provide testimony to the Board on these important issues.

Respectfully submitted,

EXXONMOBIL OIL CORPORATION,

Dated: July 18, 2011

By: /s/ Monica T. Rios
Monica T. Rios

Katherine D. Hodge
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MOBO:027/Fil/R11-24 Rulemaking/Post-Hearing Comments

EXHIBIT 1

Section 217.APPENDIX H Compliance Dates for Certain Emission Units at Petroleum Refineries

ExxonMobil Oil Corporation (Facility ID 197800AAA)

Point	Emission Unit Description	Compliance Date
0019	Crude Vacuum Heater (13-B-2)	May 1, 2019 December 31, 2014
0038	Alky Iso-Stripper Reboiler (7-B-1)	May 1, 2019 December 31, 2014
0033	CHD Charge Heater (3-B-1)	May 1, 2019 December 31, 2014
0034	CHD Stripper Reboiler (3-B-2)	May 1, 2019 December 31, 2014
0021	Coker East Charge Heater (16-B-1A)	May 1, 2019 December 31, 2014
0021	Coker East Charge Heater (16-B-1B)	May 1, 2019 December 31, 2014
0018	Crude Atmospheric Heater (1-B-1A)	May 1, 2019 December 31, 2014
0018	Crude Atmospheric Heater (1-B-1B)	May 1, 2019 December 31, 2014

* * *

(Source: Added at 33 Ill. Reg. 13345, effective August 31, 2009)

ExxonMobil
Refining & Supply Company
Joliet Refinery
P.O. Box 874
Joliet, Illinois 60434-0874

EXHIBIT 2

July 13, 2011

ExxonMobil
Refining & Supply

VIA HAND DELIVERY

Ms. Lisa Bonnett
Interim Director
Illinois Environmental Protection Agency
1021 North Grand Avenue East - MC #1
Post Office Box 19276
Springfield, Illinois 62794-9276

RE: NOx RACT Compliance Deadline
ExxonMobil Oil Corporation
Joliet Refinery
Facility I.D. No. 197800AAA

Dear Ms. Bonnett:

It was a pleasure to meet with you recently, and I sincerely appreciate the opportunity to discuss with you my concerns regarding the proposed compliance schedule for the NOx RACT Rule. As you know, ExxonMobil Oil Corporation ("ExxonMobil") has been engaged in discussions with the Illinois Environmental Protection Agency ("Illinois EPA") for more than six (6) months regarding the proposed compliance deadline for installation of NOx RACT controls at the Joliet Refinery. The Illinois EPA's proposal to extend the deadline until January 1, 2015 simply provides no relief from the NOx RACT Rule's requirements for the Refinery.

Like other regulated facilities, ExxonMobil seeks to determine the most efficient and economical means of complying with federal and state regulatory requirements and, thus, it is unreasonable to require that ExxonMobil invest approximately \$25 million to comply with a Rule that is no longer necessary. During these economic times, especially when a key point of Governor Quinn's Economic Recovery Plan is to help Illinois companies compete for business and to bring business investment to Illinois, it seems difficult to justify requiring Illinois companies to invest in compliance projects that are not necessary. Imposing regulatory requirements that are not necessary to meet a federal air quality standard places Illinois companies, such as ExxonMobil, at a competitive disadvantage with facilities located in other states, where unnecessary control requirements are not being imposed. In addition, mandating compliance with a non-federally required rule discourages companies from investing in new facilities in Illinois.

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In this case, since there is no federal basis for the Rule at this time, ExxonMobil asks that your Agency reconsider its current proposal and support ExxonMobil's request for an extension of the compliance deadline until Spring 2019, which is consistent with the Refinery's turnaround schedule. For your consideration, please note the following:

- In February 2011, USEPA approved Illinois EPA's request for a waiver from the NOx RACT requirements for the Chicago area because the area had attained the 1997 8-hour standard. The approval of the waiver request voided the original basis for the NOx RACT Rule and makes installation of controls and the expenditure of resources to comply with the Rule unnecessary at this time.
- The current NOx RACT Rule is not approvable by USEPA as RACT. USEPA has found several deficiencies with the Rule, including identifying an issue with the emissions averaging provisions of the Rule. Another rulemaking will be necessary to resolve the issues raised by USEPA.
- ExxonMobil and Illinois EPA agree that there is uncertainty as to when NOx RACT (if it is required by the future revised ozone standard for the Chicago area) will be required to be implemented at sources. USEPA has indicated, at least informally to Illinois EPA, that the deadline for installation of RACT at sources under the forthcoming revised ozone standard could be late 2017, i.e. installation of controls would be required prior to the 2018 ozone season, which is an aggressive timeline for implementation of RACT at sources. Thus, for practical purposes, ExxonMobil's request to install controls in early 2019, prior to the 2019 ozone season, is merely one ozone season later than USEPA's most aggressive anticipated deadline.
- There is also uncertainty as to whether NOx RACT will even be required. NOx RACT is not required for areas designated attainment or for areas classified as marginal nonattainment. It is possible that the Chicago area will be designated attainment or classified as marginal nonattainment. In either scenario, NOx RACT is not required, which, again, makes the investment in control technology at this time for a non-required Rule arbitrary and unreasonable.
- ExxonMobil's Refinery is in a unique situation. It processes 10.4 million gallons a day of gasoline and is a crucial link in the fuel supply line feeding the Midwest. It is vital that the Refinery remain operating at all times, unless a planned turnaround¹ initiates a shut down of the Refinery or limits operations. Planned turnarounds take several years to plan

¹ As is common in the petroleum refining industry, ExxonMobil typically schedules turnarounds on a five to six year cycle. During turnarounds, the Refinery undertakes maintenance activities and/or installs new equipment or controls at a time that has been planned for well in advance and coordinated with other ExxonMobil facilities in order to make the most efficient and economical use of the Refinery's shut down period and/or limited operations.

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and require large lead time to properly prepare and procure for the event. An unplanned shut down will cause a disruption to the fuel supply and could result in increased gasoline prices.

- The Illinois EPA acknowledged the Refinery's special circumstances in the original NOx RACT rulemaking, which is why the original December 14, 2014 extended deadline for Appendix H units was included in the Rule. Illinois EPA and the Illinois Pollution Control Board ("Board") justified an extension of the compliance deadline then, and for the same reasons, it should agree to an extension of the compliance deadline now, in the pending rulemaking, given the critical nature of the Refinery's operations and its turnaround schedule.

These issues, as briefly discussed above, have serious implications for the Refinery, including, but not limited to, the following:

- USEPA's comment on the emissions averaging provisions of the Rule has significant repercussions for ExxonMobil, as well as any other facilities that intend to use emissions averaging to comply with the Rule's requirements. In ExxonMobil's case, the implications of USEPA's comment could change the entire scope of the compliance project and, should the emissions averaging provisions be revised to incorporate USEPA's comments, ExxonMobil's compliance strategy would have to be re-evaluated.
- Planning is already underway and substantial costs, approximately \$2.1 million will be incurred during the second half of 2011 in order to meet the 2014 compliance date, and ExxonMobil has already spent an estimated \$1.2 million towards compliance with the 2014 deadline. Further, in the first half of 2012, the Refinery will spend an additional \$6.5 million towards compliance, if an extension of the deadline is not received.
- In the case of NOx RACT, the controls to comply with the Rule were scheduled to be installed during a planned turnaround prior to 2014; however, now that those controls are not mandated by the Clean Air Act ("CAA"), ExxonMobil should not be required to incur an additional approximately \$25 million in what could be deemed a misappropriated investment.
- It is reasonable and justified to extend the compliance date for ExxonMobil because investing a significant amount of resources at this time to comply with a non-federally required and non-approvable Rule is arbitrary, and poses an unreasonable hardship on ExxonMobil, as detailed in its Petition for Variance ("Petition").²

² *ExxonMobil Oil Corporation v. Illinois EPA*, PCB No. 11-86 (Ill.Pol.Control.Bd. May 18, 2011).

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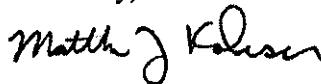
In order to alleviate the hardship posed by compliance with the NOx RACT Rule by the December 31, 2014 deadline for Appendix H units, ExxonMobil has actively sought multiple avenues of relief. ExxonMobil is participating in the pending rulemaking before the Board and will ask the Board to include a May 1, 2019 compliance deadline in its adopted rule. In addition, ExxonMobil filed the Petition with the Board requesting a variance from the 2014 deadline because the Rule is arbitrary and poses an unreasonable hardship on the Refinery. Finally, pursuant to 35 Ill. Admin. Code § 217.152(c), ExxonMobil submitted a construction permit application for approval of an alternate NOx Control Strategy, which includes the NOx reductions resulting from the installation of the Selective Catalytic Reduction Unit ("SCR") at the Refinery's Fluid Catalytic Cracking Unit/CO Boilers. The SCR reductions are significantly greater than the NOx reductions from compliance with NOx RACT Rule.

Although Illinois EPA has general authority to propose regulations to improve air quality, such authority was not the basis for the adoption of the NOx RACT Rule. Due to the approval of the NOx RACT waiver, the Rule is not necessary for CAA purposes. In these economic times, it is a misuse of resources to require the Refinery to incur an additional estimated \$25 million in costs to install controls that may not even be needed, and/or that may be insufficient under the future revised standard. Extending the compliance deadline for the Refinery will allow ExxonMobil to delay its investment until the next scheduled turnaround, and know with more certainty whether controls will be required and, if so, that the compliance strategy will, in fact, be sufficient under the future revised standard.

ExxonMobil requests that the Illinois EPA propose amendments in the current rulemaking to retain Appendix H, and revise the compliance date for ExxonMobil's units to May 1, 2019. Should Illinois EPA decline to revise the pending rulemaking proposal, ExxonMobil requests that Illinois EPA issue the construction permit authorizing the alternate NOx Control Strategy. Finally, if Illinois EPA does not support revising the pending rulemaking or approving the construction permit application, ExxonMobil requests that Illinois EPA submit a recommendation to the Board in the Petition proceeding, recommending that the Board grant ExxonMobil's variance request.

I look forward to discussing this matter with you in more detail in our meeting set for July 14, 2011. Should you have any questions prior to our meeting, please do not hesitate to contact me.

Sincerely,



Matthew J. Kolesar
Safety, Health and Environment Manager