

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF:)

NITROGEN OXIDES EMISSIONS)

AMENDMENTS TO 35 ILL. ADM. CODE)

217,)

R11-24

IN THE MATTER OF:)

R11-26

ILLINOIS ENVIRONMENTAL)

(Rulemaking -

REGULATORY GROUP'S EMERGENCY)

Air)

RULEMAKING, NITROGEN OXIDES)

EMISSIONS: AMENDMENTS TO 35)

(Cons.)

ILL. ADM. CODE PART 217,)

TRANSCRIPT FROM THE PROCEEDINGS

taken before HEARING OFFICER DANIEL ROBERTSON
by LORI ANN ASAUSKAS, CSR, RPR, a notary public
within and for the County of Cook and State of
Illinois, in Room 203 at the Madison County
Administration Building, Edwardsville, Illinois,
on the 28th day of June, 2011, A.D., at 1:00
o'clock p.m.

1 A P P E A R A N C E S:

2

3 ILLINOIS POLLUTION CONTROL BOARD,

4 100 West Randolph Street

5 Suite 11-500

6 Chicago, Illinois 60601

7 (312) 814-6983

8 BY: MR. DANIEL L. ROBERTSON,

9

10

11 ILLINOIS POLLUTION CONTROL BOARD MEMBERS PRESENT:

12

13 Mr. Gary L. Blankenship, Board Member

14 Mr. Anad Rao, Technical Unit

15

16 ILLINOIS ENVIRONMENT PROTECTION AGENCY,

1021 North Grand Avenue East

17 P.O. Box 19276

Springfield, Illinois 62794-9276

18 (217) 782-5544

19 BY: MS. GINA ROCCAFORTE,

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22

23

24

25

1 A P P E A R A N C E S: (Continued)

2

ALSO PRESENT:

3

Ms. Monica T. Rios, Hodge, Dwyer & Driver

4

Ms. Kathy Hodge, Hodge, Dwyer & Driver

Mr. Robert J. Kaleel, IEPA

5

Mr. Alec M. Davis, IERG

Mr. Alec Messina, IERG

6

Mr. Bradford S. Kohlmeyer, ExxonMobil

Mr. Robert Elvert, ExxonMobil

7

Mr. Daniel J. Stockl, ExxonMobil

Mr. Douglas Deason, ExxonMobil

8

Ms. Christine Favilla, Sierra Club

Ms. Jeanine Kelly

9

Ms. Amy Funk

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1 HEARING OFFICER ROBERTSON: Good
2 afternoon all. My name is Daniel Robertson
3 and I have been appointed by the Board to
4 serve as hearing officer in this proceeding
5 entitled, "In the matter of: Nitrogen Oxides
6 Emissions, Amendments to 35 Illinois Administrative
7 Code 217," listed as R11-24 in the Board's docket.

8 This case has been consolidated
9 with Docket R11-26, which is titled, "In the matter
10 of: Illinois Environmental Regulatory Group's
11 Emergency Rulemaking, Nitrogen Oxides Emissions:
12 Amendments to 35 Illinois Administrative Code
13 Part 217."

14 With me today is the presiding
15 Board member, Gary Blankenship, and also from the
16 Board's technical unit, we have Anad Rao.

17 MR. RAO: If you want, you can use
18 the microphone. It works.

19 HEARING OFFICER ROBERTSON: Can
20 everybody hear me okay?

21 All right. The purpose of
22 today's hearing is twofold. First, this rulemaking
23 is subject to Section 27(b) of the Environmental
24 Protection Act. Section 27(b) of the act requires

1 the Board to request the Department of Commerce
2 and Economic Opportunity to conduct an economic
3 impact study on certain proposed rules before
4 adoption. If the DCEO chooses to conduct an
5 economic impact study, the DCEO has 30 to 45 days
6 after the Board's request to produce a study of
7 the economic impact of the proposed rules.

8 The Board must then make the
9 economic impact study or the DCEO's explanation
10 for not conducting the study available to the
11 public at least 20 days before a public hearing
12 on the economic impact of the proposed rules.

13 In accordance with Section 27(b)
14 of the act, the Board requested by letter dated
15 April 13, 2011, that the DCEO conduct an economic
16 impact study before these rulemakings.

17 On May 23, 2011, the DCEO
18 responded stating that they are unable to
19 undertake such a study. The Board's letter
20 and the DCEO's response have both been made
21 available on the Board's website. Later, we
22 will be accepting any comments concerning
23 these letters.

24 The second part of today's

1 hearing is to hear testimony from the proponents.
2 Pre-filed testimony was submitted by the proponent
3 R11-26, the Illinois Environmental Regulatory
4 Group, on June 20, 2011.

5 On the same day, the Board
6 received the pre-filed testimony of Robert Elvert,
7 Dan Stockl and Doug Deason, all on behalf of
8 ExxonMobil Oil Corporation. These four
9 testimonies have been made publicly available
10 on the Board's website. To date, no other
11 testimony has been filed for this hearing.

12 Unless there is any objection,
13 all testimony will be taken as if read and we
14 will begin with questions immediately. I will
15 ask if you wish to ask a question please put
16 your hand up and wait for me to acknowledge you.
17 After I have acknowledged you, please state your
18 name and whom you represent before you begin your
19 questions.

20 It is important to only speak
21 one at a time to ensure that the court reporter
22 is able to get all of your questions on the
23 record.

24 Please also note that any

1 question asked by a Board member or staff is
2 intended to help build a complete record for
3 the Board's decision and not to express any
4 preconceived notion or bias.

5 We will begin today with
6 IERG's testimony and any questions based on
7 that and will then follow the same procedures
8 for ExxonMobil's testimony. If there is time
9 at the end of the day, the Board will allow any
10 person who did not pre-file testimony to have
11 an opportunity to testify if they so wish to.

12 At this point, I would like
13 to introduce the first witness for the record.

14 MR. DAVIS: Thank you,
15 Mr. Robertson. My name is Alec Davis. I am
16 representing the Illinois Environmental Regulatory
17 Group or IERG.

18 On behalf of the IERG,
19 I would like to thank the Board for providing the
20 opportunity for us to be here today.

21 On June 20, 2011, IERG pre-filed
22 the testimony of Robert A. Messina. I would like
23 to move to enter that into the record as if read
24 at this time. I have additional copies of that

1 for anyone who might need that.

2 HEARING OFFICER ROBERTSON: Are there
3 any objections to admitting the pre-filed testimony
4 of Robert A. Messina as read?

5 Seeing none, I will enter this
6 as Exhibit 2 to the proceeding and to the pre-filed
7 testimony. This is Exhibit 2.

8 (Document marked as
9 Hearing Exhibit No. 2
10 for identification, 6/28/11.)
11 (Hearing Exhibit No. 2
12 admitted as evidence.)

13 HEARING OFFICER ROBERTSON: Do you
14 have any opening statement before we proceed with
15 testimony?

16 MR. DAVIS: Mr. Messina is with me
17 here today and he would like to offer an opening
18 statement after being sworn in and he can answer
19 any questions.

20 HEARING OFFICER FOX: Will the court
21 reporter please swear in the witness?

22 (Witness sworn.)

23 MR. MESSINA: Thank you very much.
24 I appreciate it again. My name is Alec Messina.

1 I'm the executive director for the Illinois
2 Environmental Regulatory Group. I will certainly
3 make myself available for any questions the Board
4 or anyone else may have.

5 I just wanted to make, I think,
6 two points since the pre-filed testimony has been
7 entered into the record already. One, I know that
8 there was some discussion at the previous hearing
9 when the 2015 date was arrived at and so given that
10 discussion, IERG felt it was necessary to provide
11 some additional insight to the Board as to what
12 IERG's position was in those discussions with the
13 Agency.

14 There were a number of different
15 options which -- all of which we felt were
16 appropriate to one level or another, but given
17 that, in those discussions, the Agency felt very
18 strongly about the option that we have before us
19 today, the 2015 compliance date. That was the
20 IERG's rationale for concurring and that was
21 that the Agency -- that was their favorite
22 option.

23 I think that, amongst our
24 membership, there was support for a number of

1 different options, which we laid forth in my
2 pre-filed testimony.

3 Second of all, and again, I
4 think this is also laid out in more detail in
5 the pre-filed testimony, but I think that IERG's
6 position is primarily focused on the policy
7 issue that we feel is presented by this particular
8 matter and that is that given the significant
9 amount of uncertainty that the state of Illinois
10 and the Illinois EPA and the regulating community
11 face, given the NOx waiver that was recently
12 approved by USEPA at the end of this year, and
13 the standards that it is important to our members
14 that, and to the regulating community as a whole,
15 that they not be expending dollars that may or
16 may not be sufficient for whatever requirements
17 they may need to meet in the future.

18 So given that uncertainty, we
19 feel very strongly that it would behoove all of
20 us to push back that compliance deadline until
21 certainty is present.

22 With that, if there are any
23 questions, I would be happy to do my best to
24 answer those.

1 HEARING OFFICER ROBERTSON: Do any
2 members of the public have any questions regarding
3 that testimony?

4 Seeing none, I believe the Board
5 has a question?

6 MR. RAO: Yes. I have just one
7 clarification question. The emergency rule that
8 they proposed pretty much, does it parallel what
9 the Agency has proposed in terms of the compliance
10 dates?

11 MR. MESSINA: I believe it's
12 identical.

13 MR. RAO: Okay. The question I
14 have is in Appendix H of Part 217 --

15 MR. MESSINA: Could you give me
16 just one moment so I could pull that?

17 MR. RAO: Yes.

18 MR. MESSINA: Thank you. Go ahead.
19 Thank you.

20 MR. RAO: In Section 217, Appendix H,
21 the compliance dates for certain emission units at
22 petroleum refineries, the compliance date for
23 ExxonMobil Corporation and Conoco-Phillips, some
24 of those dates have been deleted. Would you clarify

1 whether -- would the deletion of the dates,
2 will they be subject to the proposed compliance
3 date of January 1, 2015?

4 MR. MESSINA: I think that is the
5 case.

6 MR. RAO: That's the case? Is
7 it possible for you to identify where in the
8 rules there is a provision requiring those units
9 to comply with the January 1, 2015 date? And I
10 throw this question to the Agency also because
11 there is perhaps similar language. If you can
12 answer it, that's fine.

13 MS. ROCCAFORTE: I'm Gina Roccaforte
14 with the Illinois Environmental Protection Agency.
15 I don't know if Mr. Davis wants to answer that or
16 provide confirmation. Section 217.152 is the
17 compliance provision and generally Subsection A
18 governs the units that are subject to the compliance
19 date of January 1, 2015, and Subsection C is
20 another provision specifically for these units at
21 refineries.

22 MR. RAO: See, that's what -- when
23 I was reading Subsection C, it was not very clear
24 because of the exception language in Subsection C.

1 MS. ROCCAFORTE: That would now refer
2 to the Conoco-Phillips units that are still subject
3 to the chart.

4 MR. RAO: So ExxonMobil units will be
5 completely removed from that appendix section? That
6 exception does not apply to them anymore, is that
7 what you are saying?

8 MS. ROCCAFORTE: Correct. It's one
9 day beyond the date set forth in Appendix H,
10 January 1, 2015.

11 MR. RAO: Okay. Thanks.

12 HEARING OFFICER ROBERTSON: Do we have
13 some follow-up questions?

14 MR. KOHLMAYER: At ExxonMobil, we may
15 add clarity to our understanding to that.

16 HEARING OFFICER ROBERTSON: We will
17 have the court reporter swear in the witness.

18 MS. RIOS: If I could just take
19 a moment and introduce them and we will have
20 Mr. Kohlmeyer follow-up on that.

21 HEARING OFFICER ROBERTSON: Yes. Okay.
22 That's fine.

23 MS. RIOS: I'm Monica Rios. I'm here
24 on behalf of ExxonMobil Corporation, along with

1 Kathy Hodge. We pre-filed testimony in this
2 matter. With me here today from ExxonMobil is
3 Mr. Bob Elvert, Mr. Doug Deason, Mr. Dan Stockl
4 and also Mr. Brad Kohlmeyer is here. We did not
5 provide pre-filed testimony on his behalf, but
6 he is here to provide technical assistance.

7 So before we swear in these
8 witnesses, I would just like to have their testimony
9 entered into the record.

10 HEARING OFFICER ROBERTSON: Are there
11 any objections to having the pre-filed testimonies
12 entered at this time?

13 Okay. Seeing none, I
14 will entered the pre-filed testimony of Robert
15 Elvert on behalf the ExxonMobil Oil Corporation
16 as Exhibit 3.

17 (Document marked as
18 Hearing Exhibit No. 3
19 for identification,
20 6/28/11.)
21 (Hearing Exhibit No. 3
22 admitted as evidence.)

23 HEARING OFFICER ROBERTSON: And then we
24 will enter the pre-filed testimony of Dan Stockl

1 on behalf of ExxonMobil Oil Corporation as Exhibit 4
2 of these proceedings.

3 (Document marked as
4 Hearing Exhibit No. 4
5 for identification,
6 6/28/11.)
7 (Hearing Exhibit No. 4
8 admitted as evidence.)

9 HEARING OFFICER ROBERTSON: And
10 lastly, we will enter the pre-filed testimony of
11 Doug Deason on behalf of ExxonMobil Oil Corporation
12 as Exhibit 5.

13 (Document marked as
14 Hearing Exhibit No. 5
15 for identification,
16 6/28/11.)
17 (Hearing Exhibit No. 5
18 admitted as evidence.)

19 HEARING OFFICER ROBERTSON: Will the
20 court reporter please swear in the witnesses?

21 (Witnesses sworn.)

22 MR. KOHLMAYER: I think what
23 I was thinking is the way the rule is written,
24 it is written so that regulations would apply to

1 any particular units of this size, the building
2 threshold and the regulation would be subject on
3 the effective date, as proposed here, of January 1,
4 2015, unless they were specifically listed
5 in Appendix H.

6 By striking everything
7 in Appendix H, at ExxonMobil all -- of our units
8 become effective on January 1, 2015, as the rules
9 require.

10 MR. RAO: Okay. Thank you.

11 HEARING OFFICER ROBERTSON: Okay.
12 Did the Board have any more questions for either?

13 MR. RAO: No.

14 HEARING OFFICER ROBERTSON: Did
15 anyone else have any questions for the first
16 witness?

17 Okay. Seeing none, I thank you
18 both very much for your time today and we will now
19 move onto the testimony of ExxonMobil. We have
20 already entered those pre-filed testimonies as
21 exhibits to this hearing. So we will move on to
22 questions.

23 Do any members of the public
24 have any questions regarding ExxonMobil testimonies?

1 MS. RIOS: Mr. Elvert would like to
2 make an opening statement.

3 HEARING OFFICER ROBERTSON: Oh, I'm
4 sorry.

5 MR. ELVERT: Thank you,
6 Mr. Robertson and Board members. Good afternoon.
7 My name is Robert Elvert. I am the state regulatory
8 advisor for the midwest region at ExxonMobil. My
9 colleagues and I are here today to testify regarding
10 the impact of NOx RACT rules and Exxonmobil's Joliet
11 refinery.

12 As referenced in our pre-filed
13 testimony, ExxonMobil has filed a petition for
14 variance in the NOx RACT rules in order to obtain
15 relief from the rule requirements at this time.

16 The testimony today is not intended
17 to delay this ruling. ExxonMobil is aware that
18 other facilities need relief from the rule as soon
19 as possible in order to postpone our investments
20 until a time when the rule is federally required.

21 Exxonmobil's testimony
22 in this matter is intended to provide information
23 to the Board although the extension of the
24 compliance deadline is necessary.

1 For ExxonMobil, the Illinois
2 EPA's proposed deadline is not sufficient given
3 the refinery's turnaround schedule as well as
4 how the USEPA has identified deficiencies in their
5 March 9, 2011, letter could require redefining the
6 control products that are needed in order to comply
7 with the Joliet refinery.

8 HEARING OFFICER ROBERTSON: Thank you,
9 Mr. Elvert.

10 Were there any other opening
11 statements from ExxonMobil?

12 MS. RIOS: No.

13 HEARING OFFICER ROBERTSON: And did
14 anybody else have any opening statements regarding
15 Exxonmobil's testimony?

16 Seeing none, we will proceed to
17 questions. Are there any questions regarding either
18 of the Exxonmobil's testimonies? Ms. Roccaforte, go
19 ahead.

20 MS. ROCCAFORTE: Gina Roccaforte on
21 behalf of the Illinois Environmental Protection
22 Agency. Good afternoon, Mr. Elvert.

23 MR. ELVERT: Good afternoon,

24 MS. ROCCAFORTE: Isn't it true that

1 most sources subject to the rule are, in fact,
2 currently subject to a compliance date of January 1,
3 2012?

4 MR. ELVERT: I'm sorry. Could you
5 repeat that?

6 MS. ROCCAFORTE: Sure. Isn't it true
7 that most sources subject to the rule are, in fact,
8 currently subject to a compliance date of January 1,
9 2012?

10 MR. ELVERT: It's my understanding,
11 yes, they are except in Appendix H.

12 MS. ROCCAFORTE: Following up on that,
13 isn't it true that there are certain provisions in
14 the rule that extend the compliance date for certain
15 other sources?

16 MR. ELVERT: The sources -- I'm aware
17 of the ones in Appendix H.

18 MS. ROCCAFORTE: Okay. For example,
19 owners and operators of glass melting furnaces are
20 required to meet certain emission limits?

21 MR. ELVERT: I don't know.

22 MS. ROCCAFORTE: Or the provision
23 pertaining to owners and operators of industrial
24 boilers are located at petroleum refineries?

1 MR. ELVERT: If they are located in
2 Appendix H, yes.

3 MS. ROCCAFORTE: Okay. And more
4 specifically, isn't it true that the Agency and
5 ExxonMobil engaged in negotiations and agreed to
6 a December 31, 2014, compliance date for
7 Appendix H?

8 MR. ELVERT: Yes, we did.

9 MS. ROCCAFORTE: And isn't it true
10 that ExxonMobil had a scheduled turnaround prior to
11 that date?

12 MR. ELVERT: To meet the requirements
13 for the compliance date, yes.

14 MS. ROCCAFORTE: Okay.

15 MR. RAO: May I ask a follow-up?

16 MR. ELVERT: Yes.

17 MR. RAO: What is that turnaround date
18 that you have?

19 MR. ELVERT: It's confidential at this
20 point in time. We don't advertise or publicize when
21 our maintenance turnarounds are.

22 MR. RAO: Okay. In your pre-filed
23 testimony, you indicated that the next turnaround is
24 in 2019?

1 MR. ELVERT: The next scheduled one,
2 yes. Before 2014, yes. Right now, it's scheduled
3 2019. Maybe Brad can testify to that more.

4 MR. KOHLMAYER: It is indicated in the
5 pre-filed testimony -- I'm sorry. My name is Brad
6 Kohlmeyer. The pre-filed testimony indicated that
7 the next scheduled turnaround is being considered
8 for 2019 at this point in time. There is another
9 turnaround scheduled sometime before 2014 where
10 we were currently on a plan to implement controls
11 for this.

12 MR. RAO: Okay. So in the pre-filed
13 testimony, when you said, "next turnaround," there
14 is one more scheduled?

15 MR. ELVERT: One more that would
16 be scheduled after the original 2014 date.

17 MR. RAO: Okay. Thank you.

18 MS. ROCCAFORTE: I just want to
19 clarify, it is true that ExxonMobil does have
20 scheduled turnaround prior to December 31, 2014,
21 correct?

22 MR. ELVERT: Yes.

23 MS. ROCCAFORTE: Isn't it true that
24 after negotiations with the refineries, the Agency

1 proposed -- and the final rule promulgated and
2 included compliance dates accommodating planned
3 turnaround?

4 MR. ELVERT: Yes.

5 MS. ROCCAFORTE: And isn't it true
6 that if the compliance date is modified for this
7 rulemaking, then all sources would generally be
8 subject to the same date, January 1, 2015?

9 MR. ELVERT: As this proposal is
10 written, that's my understanding, yes.

11 MS. ROCCAFORTE: And isn't
12 it true that at the first hearing, there was
13 discussion about the deficiencies of Illinois
14 NOx RACT submittal as indicated by USEPA and
15 the Illinois EPA?

16 MR. ELVERT: I'm sorry. Could you
17 repeat that, please?

18 MS. ROCCAFORTE: Isn't it true that
19 at the first hearing, there was a discussion about
20 the deficiencies of the Illinois NOx RACT submittal
21 as indicated by USEPA and the Illinois EPA?

22 MR. ELVERT: Can you repeat that one
23 more time?

24 MS. ROCCAFORTE: Sure. Isn't

1 it true that at the first hearing, there was
2 discussion as to the deficiencies of Illinois
3 NOx RACT submittal as indicated by USEPA and
4 the Illinois EPA?

5 MR. ELVERT: Yes.

6 MS. ROCCAFORTE: So you are aware
7 of the letter?

8 MR. ELVERT: Yes.

9 MS. ROCCAFORTE: Are you aware that
10 in the absence of federal requirements, the state
11 still has regulatory authority to promulgate
12 regulations that improve air quality in Illinois?

13 MR. ELVERT: Yes.

14 MS. ROCCAFORTE: I'm sorry. One
15 more. Going back to the March 9, 2011, letter
16 that you mentioned regarding deficiencies in the
17 Illinois NOx RACT submittal, isn't it true that
18 one of the deficiencies related to the compliance
19 date?

20 MR. ELVERT: Yes.

21 MS. ROCCAFORTE: Okay.

22 MR. KOHLMAYER: Brad Kohlmeier with
23 ExxonMobil. Actually, the letter indicates there's
24 deficiencies with the date for all sources in

1 Illinois. It is nonspecific to any particular
2 company.

3 MS. ROCCAFORTE: So the deficiency
4 referred to -- the compliance date for all the
5 sources then were beyond the date that the USEPA
6 required in the submittal?

7 MR. ELVERT: The original submittal?

8 MS. ROCCAFORTE: Yes.

9 MR. ELVERT: Yes.

10 MS. ROCCAFORTE: And isn't it true
11 that on January 19, 2010, when USEPA proposed to
12 submit different primary and secondary standards
13 than those set in 2008, the USEPA indicated it
14 would issue final standards by August 31, 2010?

15 MR. ELVERT: Yes.

16 MS. ROCCAFORTE: And at that time,
17 meaning January 19, 2010, isn't it true that the
18 requirement under the Clean Air Act to adopt NOx
19 RACT was in effect?

20 MR. ELVERT: I don't know.

21 MS. ROCCAFORTE: Isn't it true
22 that at various seminars, including IERG's Title 5
23 seminar held on July 27, 2010, the Agency informed
24 attendees that the Agency was seeking to redesignate

1 Chicago and Metro east non-attainment areas to
2 attainment?

3 MR. ELVERT: I don't know. I was
4 not at that seminar.

5 MS. ROCCAFORTE: Were you at any
6 of the seminars that you presented any testimony?

7 MR. ELVERT: Yes. I was at all of
8 those.

9 MS. ROCCAFORTE: Did the Agency inform
10 attendees at any of those seminars that the Agency
11 was seeking to redesignate Chicago and Metro east
12 non-attainment areas to attainment?

13 MR. ELVERT: That they were -- not
14 specifically. It was part of their effort to, but
15 not specifically any mention of the fact that it
16 was being done.

17 MS. ROCCAFORTE: Do you agree that
18 designation to attainment for non-attainment areas
19 benefits the regulated community?

20 MR. ELVERT: Repeat that.

21 MS. ROCCAFORTE: Do you agree
22 designation to attainment for non-attainment areas
23 benefits the regulated community?

24 MR. ELVERT: Yes.

1 MS. ROCCAFORTE: Do you believe
2 that the Agency sought a NOx RACT waiver to support
3 efforts toward re-designation to Chicago and Metro
4 east non-attainment areas to attainment?

5 MR. ELVERT: I don't know.

6 MS. ROCCAFORTE: Isn't it true that
7 in its request for the NOx RACT waiver, the Agency
8 requested that USEPA approve the NOx RACT rules
9 as amendments to the Illinois state implementation
10 plan and intended that these rules will meet
11 Illinois NOx RACT requirements for the revised
12 ozone standard?

13 MR. ELVERT: Could you repeat that
14 please? I'm sorry.

15 MS. ROCCAFORTE: Sure. Isn't it
16 true that in its request for the NOx RACT waiver,
17 the Agency requested that USEPA approve the NOx
18 RACT rules as amendments to the Illinois state
19 implementation plan and intended that these rules
20 will meet Illinois NOx RACT requirements for the
21 revised ozone standard?

22 MR. ELVERT: I don't know.

23 MS. ROCCAFORTE: Can I direct your
24 attention to Exhibit 1 to Exxonmobil's position

1 for variance, which is Exhibit 1 to Doug Deason's
2 testimony?

3 MR. ELVERT: Okay.

4 MS. ROCCAFORTE: It's the July 29,
5 2010, letter.

6 MR. ELVERT: Okay.

7 MS. ROCCAFORTE: Exhibit 1.

8 MR. ELVERT: Just one moment, please.

9 MS. ROCCAFORTE: Sure.

10 MR. ELVERT: Okay.

11 MS. ROCCAFORTE: Are you on Page 3?

12 MR. ELVERT: Yes. Page 3?

13 MS. ROCCAFORTE: Yes, correct. I
14 was inquiring about the first paragraph on that
15 page.

16 But isn't it true that
17 in its request of the NOx RACT waiver, the Agency
18 requested that USEPA approve the NOx RACT rules
19 as amendments to the Illinois state implementation
20 plan and intended that these rules will meet
21 Illinois' NOx RACT requirements for the revised
22 ozone standard?

23 MR. ELVERT: Yes.

24 MS. ROCCAFORTE: How many industrial

1 boilers and process heaters are at the Joliet
2 refinery?

3 MR. KOHLMAYER: I can't answer
4 that exactly without sitting down and looking.

5 MS. ROCCAFORTE: If I direct your
6 attention to the petition for variance, which
7 is Exhibit 1, Page 28, does that help you?

8 MR. ELVERT: Let me see.

9 MS. ROCCAFORTE: Actually, I might
10 have said the wrong page.

11 MR. ELVERT: Twenty-five maybe?

12 MS. ROCCAFORTE: What are
13 the NOx emissions from all of these units combined?

14 MR. RAO: Are we talking about the
15 units on Pages 25 and 26?

16 MS. ROCCAFORTE: From Exhibit 1.

17 MR. RAO: The variance petition?

18 MS. ROCCAFORTE: Correct. Do you
19 know what the combined NOx emissions are from all
20 of these units?

21 MR. ELVERT: Just one moment, please.

22 MS. ROCCAFORTE: Oh, I'm sorry.

23 MR. KOHLMAYER: As reported in our
24 2010 annual emission report for process heaters

1 and boilers, it was 1,132.5 tons per liter NOx
2 emissions in 2010. That was heaters subject
3 to this regulation, heaters and boilers.

4 MS. ROCCAFORTE: Does that include
5 the FCCU?

6 MR. KOHLMAYER: That does not
7 include the FCCU. That is not a process heater
8 or a boiler.

9 MS. ROCCAFORTE: You are correct.
10 And what are the NOx emissions from the FCCU?

11 MR. KOHLMAYER: The 2010 emissions
12 on the FCCU are 1,497.4 tons of NOx emissions as
13 reported in the AAR.

14 MS. ROCCAFORTE: Thank you.
15 And other than utilities, can you name any other
16 sources in the Chicago non-attainment area that
17 emit NOx in an amount greater than 1,000 tons per
18 year?

19 MR. KOHLMAYER: Based on historical
20 analysis of IEPA annual emission report data, yes,
21 I can.

22 MS. ROCCAFORTE: Can you tell me,
23 please?

24 MR. KOHLMAYER: Quorum Products.

1 With that being said, they average those emissions.

2 I do not have the data to confirm that.

3 MS. ROCCAFORTE: What year is that
4 data from?

5 MR. KOHLMAYER: I believe around
6 2006.

7 MS. ROCCAFORTE: Would it surprise
8 you to know that in 2010, ExxonMobil, even including
9 the FCCU was the only one?

10 MR. KOHLMAYER: No.

11 MS. ROCCAFORTE: That would make
12 ExxonMobil the largest NOx emitter from the
13 Chicago non-attainment area other than these
14 emissions, correct?

15 MR. KOHLMAYER: Based on the
16 information you just provided, assuming that is
17 correct.

18 MS. ROCCAFORTE: Thank you. That's
19 all I have for Mr. Elvert.

20 HEARING OFFICER ROBERTSON: Does
21 anybody else from the public have any other
22 questions regarding the testimonies of ExxonMobil?

23 MS. ROCCAFORTE: Excuse me. I have
24 questions for Mr. Deason. I didn't know if we were

1 going in order of the testimony.

2 HEARING OFFICER ROBERTSON: Oh,
3 I'm sorry. We are taking them all as a panel.
4 Go ahead.

5 MS. ROCCAFORTE: Thank you.

6 MR. RAO: I have a couple of
7 questions specifically for Mr. Elvert, if I may
8 ask them right now.

9 HEARING OFFICER ROBERTSON: Okay.

10 MR. RAO: Mr. Elvert, on Page 6 of
11 your testimony, you talk about your negotiations
12 with IEPA and on the last sentence on Page 6, you
13 note that on May 9th, follow-up call, according
14 to Illinois EPA, ExxonMobil suggested the option
15 of using NOx emissions from the FCR project as an
16 alternate NOx control strategy and may not be an
17 option.

18 Did they tell you why that cannot
19 be an option?

20 MR. ELVERT: The reason is that the
21 SCR was part of a consent decree and, therefore,
22 not in the rule that they could not be used as an
23 option for replacement.

24 MR. RAO: Okay. So have

1 they --

2 MR. KOHLMAYER: I would like to add
3 to that as well. Actually, based on the questioning
4 of EPA previously, they were the highest emitter of
5 NOx emissions based on 2010 data at ExxonMobil. We
6 signed a consent decree in 2005 to add NOx controls
7 to that well beyond what would be required for RACT.
8 That was streamered at the end of 2010 so those
9 emissions that we advised you of just now included
10 two months of operation with that SCR in service.
11 The future emissions from the FCC are projected to
12 be on the order of 160 tons per year. So let's
13 get all the numbers on the table here. That's
14 a reduction of about 1,300 tons from ExxonMobil
15 with installation.

16 The consent decree specifically
17 includes provisions that precluded it from being
18 excluded for use at any state program to meet any
19 attainment area requirements. In discussions on
20 the record, there's many discussions in the
21 industry working to develop a RACT rule.

22 There was no discussion in
23 developing RACT where the single biggest emitting
24 stack at refineries in any of them because they

1 are all covered under consent decrees for those
2 reductions.

3 RACT would be less stringent
4 than an NSDS standard. What we actually submitted
5 in a permit application showed the over-compliance,
6 which would be always 500 tons per year beyond and
7 would be required in the NSDS standard. That is
8 what was proposed, an incremental 500 above and
9 beyond RACT standard.

10 So the example that was given was
11 a substantial reductions that you did not hear about
12 yet.

13 MR. RAO: Thank you for the
14 clarification.

15 And one more question. It's on
16 Page 9 of your pre-filed testimony concerning NOx
17 reductions. You stated based on the NOx reductions
18 required by refinery consent decrees, reductions
19 resulting from the facility shutdowns and upgrades
20 and reductions from mobile sources and other
21 regulatory requirements, the Chicago area could be
22 classified marginal and, thus, RACT would not be
23 required.

24 Could you please comment on

1 whether the statement is based on any preliminary
2 assessments made by the Agency or USEPA or is it
3 based on your own understanding of what of the
4 reductions -- potential reductions will be?

5 MR. ELVERT: I think it would be
6 hard to assess the -- based upon the firm's last
7 few years of clean data. I think it was mentioned
8 in the first hearing, this 73 or 74, based upon if
9 the new standard is at a 70, that it is possible
10 with the continuing reduction, we could have an
11 ozone marginal area.

12 In regard to the facility shutdown
13 and upgrades, reduction for mobile sources, we look
14 at information that's taken from USEPA's annual acid
15 rain program from cold powered power plants emission
16 rates from 2008 and 2010 that shows specific
17 reductions for outstanding facilities. We
18 collected this information later for the Chicago
19 area, the Midwest Generation Will County units 1
20 and 2. Benefits will be realized for the upcoming
21 2011 season, which we are already in. State line
22 energy units will be realized no later than 2013
23 and Vermillion Energy will be realized no later
24 than 2013 ozone season.

1 In addition to that, in USEPA's
2 presentation, it shows using the new moves modeling
3 from 2008 to 2015, there is a reduction of NOx
4 reductions in Cook County alone from 82,000 tons to
5 37,000 tons.

6 MR. RAO: Okay. Thank you very much.
7 That's all I have.

8 HEARING OFFICER ROBERTSON: Okay.

9 MS. ROCCAFORTE: Thank you. These
10 next questions these are for Mr. Deason. Good
11 afternoon.

12 MR. DEASON: Hi.

13 MS. ROCCAFORTE: Are you aware that
14 in the absence of federal requirements, the state
15 still has regulatory authority to promulgate
16 regulations that improve air quality in Illinois?

17 MR. DEASON: Yes.

18 MS. ROCCAFORTE: On Page 3 of your
19 testimony, you state that the waiver of the NOx
20 RACT requirements renders the rule unnecessary.
21 Do you mean unnecessary for purposes of the 1997
22 ozone standard, correct?

23 MR. DEASON: Yes.

24 MS. ROCCAFORTE: Furthermore, you

1 state that the Illinois EPA refers to the January 1,
2 2015, compliance deadline was premature. Isn't it
3 true that the Agency's rulemaking proposal and
4 IERG's rulemaking proposal, which have been
5 consolidated, are identical and they both accept
6 the compliance date as the same date, January 1,
7 2015?

8 MR. DEASON: Yes.

9 MS. ROCCAFORTE: On Page 6 of your
10 testimony, you mentioned the 2010 hearing three-year
11 design value of 62 parts per billion in Will County
12 where Exxonmobil's refinery is located. Why is that
13 value relevant in this rulemaking?

14 MR. DEASON: The value is relevant
15 when you look at actually determining how much and
16 how raw the geography is and which sources will
17 eventually be required to having in place the NOx
18 RACT to meet the upcoming ozone standard.

19 MS. ROCCAFORTE: Isn't it true that
20 determining the area's non-attainment status is
21 to monitor that the highest design value that is
22 relevant?

23 MR. DEASON: Or the counties that
24 are actually in the non-attainment area and those

1 counties have not yet been defined for the upcoming
2 ozone reconsideration.

3 MS. ROCCAFORTE: Isn't it true that
4 Will County has historically been in the Chicago
5 area non-attainment area?

6 MR. DEASON: Yes.

7 MS. ROCCAFORTE: So it's the 74 parts
8 per billion and not 62 parts per billion that is the
9 relative design value for the Chicago non-attainment
10 area?

11 MR. DEASON: At this time.

12 MS. ROCCAFORTE: And also Page 6,
13 you refer to Option 2-A as described on Slide 14
14 of Exhibit 3. Isn't it true that your scenario
15 one example is based on Option 2-A on Slide 14 of
16 Exhibit 3?

17 MR. DEASON: Excuse me while
18 I look through this.

19 MS. ROCCAFORTE: Sure.

20 MR. DEASON: Gina, if you could
21 restate.

22 MS. ROCCAFORTE: On Page 6, you refer
23 to Option 2-A as described on Slide 14 of Exhibit 3.
24 Isn't it true that your scenario one example is

1 based upon Option 2-A on Slide 14 of Exhibit 3?

2 MR. DEASON: Restate the question
3 one more time. I'm now looking at Slide 14.

4 MS. ROCCAFORTE: Is it true that
5 your scenario one example is based upon Option 2-A
6 on Slide 14 of Exhibit 3?

7 MR. DEASON: Option 2-A of scenario
8 one. 2-A is 70 parts per billion, option 2-A, yes.

9 MS. ROCCAFORTE: Has USEPA finalized
10 any of the options on Slide 14 of Exhibit 3?

11 MR. DEASON: No, they have not.

12 MS. ROCCAFORTE: So your examples are
13 just speculative then, right?

14 MR. DEASON: Yes.

15 MS. ROCCAFORTE: So according to
16 your example, if the Chicago area is designated
17 as non-attainment and classified as marginal and
18 designations are finalized in 2012, isn't it true
19 attainment date would be three years from final
20 designation, which would be in 2015?

21 MR. DEASON: If you could restate
22 your premise for when the designation occurs?

23 MS. ROCCAFORTE: Final designation
24 in 2012 and I'm inquiring about attainment date.

1 MR. DEASON: For marginal area, it
2 would be three years after designation.

3 MS. ROCCAFORTE: Which would be 2015?

4 MR. DEASON: Yes.

5 MS. ROCCAFORTE: And then the same
6 scenario for designation for finalizing 2013, the
7 attainment date would be in 2016, correct?

8 MR. DEASON: For a marginal area,
9 that's correct.

10 MS. ROCCAFORTE: And would NOx
11 reductions as a result of the requirements under
12 Part 217, if timely implemented, assist in the
13 Chicago area attaining the new standards even
14 classified as marginal?

15 MR. DEASON: To the extent that they
16 complete it before the attainment year.

17 MS. ROCCAFORTE: Moving on to your
18 scenario two, to your knowledge, has the Illinois
19 EPA ever requested a lower classification under
20 Section 181 of the Clean Air Act?

21 MR. DEASON: I don't know.

22 MS. ROCCAFORTE: So it's just
23 speculation in your example?

24 MR. DEASON: It's an option. It's in

1 front of every local area.

2 MS. ROCCAFORTE: And for purposes of
3 the design value of the new ozone standard, which
4 three-year consecutive area data will be utilized
5 when the USEPA finalizes designations in 2013?

6 MR. DEASON: They typically use the
7 three calendar years in advance of the designation
8 year. So that would be the full year information
9 from 2012, 2011 and 2010.

10 MS. ROCCAFORTE: And in January 2010,
11 the USEPA proposed that the level of the eight-hour
12 ozone standard should be then a lower level within
13 the range of 60 to 70 parts per billion. Your
14 testimony includes scenarios based upon a standard
15 of 70 parts per billion and 65 parts per billion.
16 However, isn't it true that your testimony doesn't
17 include a scenario at 60 parts per billion?

18 MR. DEASON: Yes.

19 MS. ROCCAFORTE: Isn't it possible
20 that the final standard could be even lower than
21 65 parts per billion?

22 MR. DEASON: Yes.

23 MS. ROCCAFORTE: Drawing your
24 attention now to Exhibit 2, Slide 3.

1 MR. DEASON: This is the slide for
2 the current schedule for the ongoing maximum use?

3 MS. ROCCAFORTE: Correct. When is the
4 next ozone review?

5 MR. DEASON: The next ozone review
6 that's currently underway has begun.

7 MS. ROCCAFORTE: The next one at the
8 bottom of the slide?

9 MR. DEASON: Oh, I'm sorry. This one
10 is with the proposal of June of 2013 and finally,
11 March of 2014.

12 MS. ROCCAFORTE: So it's possible that
13 USEPA will propose even further tightened standards
14 in 2013?

15 MR. DEASON: That's a possibility.

16 MS. ROCCAFORTE: To your knowledge,
17 has the USEPA ever relaxed an ozone standard?

18 MR. DEASON: Yes.

19 MS. ROCCAFORTE: When was that?

20 MR. DEASON: The original ozone
21 standard that was set back in the 1970s was relaxed
22 at one point. From memory, I can't provide you the
23 specifics, but I would be glad to find that and
24 provide that.

1 MS. ROCCAFORTE: Have they relaxed it
2 since then?

3 MR. DEASON: No.

4 MS. ROCCAFORTE: Drawing your
5 attention to Exhibit 2, Slide 4.

6 MR. DEASON: This is the slide
7 entitled, "Anticipated NOx Implementation
8 Milestones"?

9 MS. ROCCAFORTE: Correct. When
10 does USEPA anticipate designation to be effective
11 for ozone?

12 MR. DEASON: This slide suggests
13 that the designation will be no later than the
14 summer of 2013.

15 MS. ROCCAFORTE: It could be sooner,
16 though, correct?

17 MR. DEASON: Yes.

18 MS. ROCCAFORTE: And if USEPA
19 finalizes designations in the summer of 2013,
20 when would the state require they submit the
21 NOx RACT state implementation plan to USEPA?

22 MR. DEASON: I believe that's
23 27 months later.

24 MS. ROCCAFORTE: So that would be

1 late 2015?

2 MR. DEASON: Yes.

3 MS. ROCCAFORTE: And when would
4 implementation of RACT be required?

5 MR. DEASON: That's typically
6 30 months after the submission of the RACT plan
7 by the state.

8 MS. ROCCAFORTE: So early 2018?

9 MR. DEASON: If it's submitted in
10 the second half of 2015, two and a half years later,
11 yes, in 2018.

12 MS. ROCCAFORTE: Thank you. That's
13 all I have.

14 HEARING OFFICER ROBERTSON: Do any
15 other members of the public have any follow-up
16 questions?

17 MS. RIOS: I have a follow-up question
18 for Mr. Deason.

19 HEARING OFFICER ROBERTSON: Sure.

20 MS. RIOS: Illinois EPA was asking
21 questions regarding the attainment date for marginal
22 areas. If the Chicago area is designated marginal,
23 it's not then required?

24 MR. DEASON: No.

1 HEARING OFFICER ROBERTSON: Are
2 there anymore questions for ExxonMobil testimonies?

3 MR. KOHLMAYER: I would like to
4 clarify a statement that was provided earlier if
5 that's okay.

6 HEARING OFFICER ROBERTSON: That's
7 fine.

8 MR. KOHLMAYER: I believe
9 the question was posed that ExxonMobil agreed to
10 a December 31, 2014, deadline date to install
11 controls for a rule developed to support RACT.
12 Yes, we did agree to those based on that rule
13 meeting the requirements of RACT as it is written.

14 We designed our developed
15 projects and designed projects to meet
16 specifications in those regulations as they
17 have been designed.

18 As the IEPA mentioned earlier,
19 the March 9th letter from USEPA to the Illinois
20 identified deficiencies in that RACT submittal
21 and while they have indicated that IEPA has the
22 authority to develop regulations protecting the
23 environment for reasons other than the national
24 ambient air quality standards meeting RACT

1 requirements.

2 The letter from USEPA
3 to IEPA clearly states that IEPA requested
4 approval of those regulations to satisfy RACT
5 requirements to meet the Clean Air Act
6 requirements. That wasn't the intended focus
7 of those regulations.

8 The decision in the March 9th
9 letter included deficiency related to the emissions
10 averaging plan, which is a breath of fresh air, a
11 great idea that the Agency had in helping meet
12 compliance. USEPA has identified that deficiency
13 and that there should be a ten percent economic
14 incentive program to address that.

15 That would suggest that the
16 RACT requirements -- the technology standards that
17 the Agency has proposed has been put to satisfy
18 RACT requirements of USEPA and no further reductions
19 would be required, which would then potentially
20 change our design or we may not be able to meet
21 this rule or comply with this rule if they revise
22 that standard.

23 That's one reason we've asked
24 for an extension of the date because now we know

1 this rule is deficient to meet RACT requirements
2 regardless of whether or not it's going to be
3 pursued for other reasons.

4 RACT, for 1997 ozone standard
5 is no longer required because of the waiver. So
6 if they're going to use this as a future regulation
7 and it is deficient, we would like to develop what
8 the limits are going to be so that we don't double
9 invest to meet a standard or invest inefficiently.

10 There's millions of dollars
11 being invested and we're not sure if we can meet
12 the requirement. So it's fairly significant to
13 us then. We want to know what the standard
14 is going to be.

15 A good example was provided
16 earlier that the future RACT could end up with a
17 tighter standard. If that's the case, then, that
18 may drive this regulation to be even more stringent
19 considering -- without considering USEPA.

20 So we just need clearer
21 understanding what to design to. We're fearful
22 that the regulation will be revised and we will
23 not be able to meet that standard.

24 HEARING OFFICER ROBERTSON: Okay.

1 I believe I saw a hand up in the back. Did
2 anyone else have any questions?

3 MS. FAVILLA: I have been trying
4 to wrap my mind around all of this. I am most
5 interested to learn from all the industries why
6 this is. I do believe that cost of complying
7 with the NOx RACT rules will have to be incurred
8 soon. It's not just the environment, but the
9 Illinois air quality too. It's for my child and
10 children. My parents live in Madison and Jersey
11 County. Our air quality will be affected. So if
12 you are talking about a cost to the bottom line
13 for business, when you think about the cost to
14 health and the citizens and what that does to the
15 public health costs, which are rapidly increasing.

16 So I guess my question is it
17 sounds to me like you're trying to get Chicago
18 designated marginal so you don't have to follow
19 the rules because there won't be any rules. You
20 won't have the bottom line that you will have to
21 get to.

22 MR. KOHLMAYER: There are always
23 requirements that we will need to comply with.
24 RACT is a requirement if you are in a non-attainment

1 classification. The state needs to develop what
2 they consider to be a rule for control.

3 MS. FAVILLA: Would they be allowed
4 to put a NOx into the air without a minimum or
5 maximum?

6 MR. KOHLMAYER: Currently, standards
7 are already in place in the state of Illinois. This
8 is another type of standard.

9 MS. FAVILLA: Okay. Thank you.

10 HEARING OFFICER ROBERTSON: Do any
11 other members of the public have any questions for
12 ExxonMobil?

13 Seeing none, does the Board have
14 any follow-up questions of the ExxonMobil based on
15 that testimony?

16 MR. RAO: I have just one question
17 for Mr. Stockl.

18 MR. STOCKL: Yes.

19 MR. RAO: In your testimony, you have
20 provided some of the cost data for compliance with
21 the NOx RACT rule to meet the requirements of 2014
22 deadlines as approximately \$25 million.

23 MR. STOCKL: Yes.

24 MR. RAO: If compliance is delayed

1 by five years, is that going to affect the cost?

2 MR. STOCKL: If it's the same
3 compliance requirements, probably not. Marginally.
4 Only marginally, I should say.

5 MR. RAO: Okay.

6 HEARING OFFICER ROBERTSON: Anymore
7 questions?

8 Seeing none --

9 MR. RAO: I do.

10 HEARING OFFICER ROBERTSON: Okay.

11 MR. RAO: This is generally for the
12 panel. USEPA is expected to promulgate their new
13 ozone rules next month. That's what I gathered
14 from reading the testimony. Does the promulgation
15 of those rules give you any kind of specificity as
16 to what kind of standard you are looking at in terms
17 of compliance?

18 MR. DEASON: If I could speak to
19 that, when the USEPA said that they intend to
20 issue a reconsideration decision at the end of
21 this month, there are a number of steps that they
22 need to complete to actually do that and some of
23 them -- these have been started. They have
24 articulated that when they issue this ozone

1 reconsideration, at the request of many of the
2 states, the states have asked EPA to also lay
3 out how they intend to implement much better
4 than they have in the past.

5 In many cases, EPA has made
6 modifications to the standards and then left
7 hanging for the regulating community as well as
8 the industry, sometimes for multiple years,
9 exactly how to implement standards. So I think
10 maybe if you're trying to get at when would you
11 know precisely based on EPA's reconsideration
12 of this ozone standard assessment of the current
13 air quality designation step that actually
14 determines whether or not the area is attainment,
15 marginal or moderate non-attainment, that series
16 of decisions is probably a number of years in
17 front of us.

18 My speculation again
19 would be that somewhere in the 2013 time period
20 we will have had a series of EPA decisions,
21 implementation rules and an assessment of air
22 quality that will allow you to answer with some
23 certainty what the requirements for further NOx
24 reductions for this area will be.

1 MR. RAO: Okay.

2 MR. DEASON: Does that help?

3 MR. RAO: That kind of answers the
4 question, but I was more looking at the standard
5 itself once the revised standard comes out based
6 on that available information, can you estimate
7 what, you know, the situation would be for the
8 Exxon refinery?

9 MR. DEASON: What you can begin to
10 do is look at the standard and begin to take a
11 look at your current air quality data and speculate
12 where you might be in a couple years when you
13 actually have to do that designation, but at that
14 point, it's speculation.

15 When the Agency actually completes
16 the designation process, the use of current air
17 quality, they issue a decision that says based on
18 the state's recommendation for the geographic
19 non-attainment area and the consideration of that
20 recommendation and a look at the current air
21 quality, they will then issue that designation.

22 MR. RAO: Okay.

23 MR. KOHLMAYER: I could add to
24 that. One additional question could be when will

1 we know what we need to design to.

2 MR. RAO: Yes.

3 MR. KOHLMAYER: And from my
4 perspective, we would know what we need to design
5 to when IEPA and USEPA basically address the
6 deficiencies that were identified in the March 9th
7 letter from USEPA and IEPA and agree as to what
8 would meet RACT or what might lead to the future
9 rules. We would probably require that rule by the
10 USEPA as to the deficiency be addressed. Basically,
11 will that deficiency be .08 or .07 or something
12 else? So that's the number we need to design to.

13 MR. RAO: Thank you.

14 HEARING OFFICER ROBERTSON: Does
15 anybody else have anymore questions?

16 MS. KELLY: I just wanted to say that
17 we absolutely do not meet the 2012 deadline. We're
18 a small company. It's going to cost millions of
19 dollars to do what we're doing. We're looking at
20 options that will significantly reduce NOx. We
21 can't do that in the short run. By piecemealing
22 things to meet the 2012 deadline, we absolutely need
23 the extension.

24 HEARING OFFICER ROBERTSON: Did you

1 have a question?

2 MS. FUNK: Yes. I'm Amy Funk. I'm
3 with the public. I'm a resident of the Metro east
4 area. I came here actually to hear the industry
5 explain why they were looking for an extension and I
6 think I do understand where you are coming from.

7 I just have a few questions. I'm
8 not sure if my questions are for Exxon or for the
9 IEPA. I'm not sure who will answer it. How long
10 have you -- when did the initial RACT -- forgive my
11 ignorance here. When was it first written in stone?

12 MR. ELVERT: NOx RACT for
13 Illinois?

14 MS. FUNK: Yes.

15 MR. ELVERT: Gina, you may want to
16 explain.

17 MS. ROCCAFORTE: The rule was
18 initially promulgated in 2009.

19 MS. FUNK: And an extension was given
20 in 2012?

21 MS. ROCCAFORTE: Well, the state was
22 originally to make a submittal to USEPA by
23 December 2007. So we were late with that -- the
24 state was late with that and our 2012 deadline in

1 the original rule was beyond a 2009 date that
2 implementation of RACT was required by.

3 MS. FUNK: So Exxon, you were aware
4 that this was coming down and did you take any steps
5 for planning towards this?

6 MR. KOHLMAYER: We were actively
7 involved with discussions with the Agency during
8 rule development. RACT -- you have to go through
9 this development process so you don't know what
10 to design for until you have the final standard.
11 Right now, we still have to change our design.
12 Unfortunately, because we are a refinery, we run
13 24/7 except for plant turnaround, which doesn't
14 occur very often. We need to get all of our
15 engineering work done and any standards within
16 that turnaround. Otherwise, that shutdown disrupts
17 economics.

18 MS. FUNK: I understand. Based
19 off that, is it of your opinion that current
20 proposed NOx RACT standards would reduce NOx and,
21 therefore, contribute to decreasing ozone levels?

22 MR. KOHLMAYER: They will reduce NOx
23 emissions, correct.

24 MS. FUNK: Which could essentially be

1 in the best interest of the industry as I believe
2 the IEPA stated in terms of helping reach -- I mean
3 are you looking to reach attainment?

4 MR. KOHLMAYER: Actually, when this
5 rule was promulgated, the intent of this rule was to
6 meet the requirements as we were denied attainment.
7 However, there have been a lot of proactive steps in
8 this industry and the area actually has reached
9 attainment as a result of USEPA issuing a waiver
10 saying this requirement -- this RACT rule is not
11 required. We do not need it anymore to meet our
12 requirements because the state has demonstrated
13 attainment.

14 MS. FUNK: And that's 1997.

15 MR. KOHLMAYER: Based on the 1997
16 standard. Potentially on the RACT requirement in
17 the future for the 2008 standard, we don't know
18 what that standard is yet and that's our concern.

19 MS. FUNK: Just so I understand what
20 this means from a general public perspective, if you
21 get this extension, then, in the event say the new
22 standard that hopefully will come out at the end of
23 the month goes to 65 parts per billion and then IEPA
24 then will go to a new rulemaking procedure based on

1 that, is that correct?

2 MR. KOHLMAYER: Yes. That would be my
3 understanding.

4 MR. KALEEL: If I understood the
5 question properly -- my name is Robert Kaleel with
6 the Illinois EPA Bureau of Air.

7 HEARING OFFICER ROBERTSON: And I will
8 need the court reporter to swear you in.

9 MR. KALEEL: I did testify at the
10 first hearing.

11 (Witness sworn.)

12 MR. KALEEL: I guess that I ask that
13 you repeat the question.

14 MS. FUNK: Just so I understand, if
15 you get this extension, then, in the event say the
16 new standard that hopefully will come out at the end
17 of the month goes to 65 parts per billion, what's
18 the next step?

19 MR. KALEEL: Yes. Thank you for
20 repeating the question. Two parts to that the 2015
21 date that the Agency proposed, our intension with
22 that particular date, and it is a date that we
23 worked out in the discussions with IERG, the purpose
24 was to make sure that that date was expeditious as

1 is required by the Clean Air Act and also would
2 occur and prior to any deadline that USEPA may
3 impose for RACT for a revised standard.

4 I think I testified at
5 the first hearing we don't anticipate that that
6 deadline would be before 2015. More than likely, it
7 would be 2017 or 2018 as Bob testified to.

8 So that date should address NOx
9 RACT and, in fact, I testified on a number of
10 occasions and we have indicated in our letter USEPA
11 requested a waiver. We would intend for Part 217 to
12 be our NOx RACT submittal for the revised ozone
13 standard.

14 We are aware that there are
15 certain deficiencies that USEPA identified. We
16 expect that we would have to modify Part 217 at some
17 point once any uncertainties in regards to schedule
18 and regards to EPA policy are clarified. We always
19 intended that there would have to be another
20 rulemaking. Our goal here was to set the 2015 date
21 in a way to give some relief to the regulated
22 industry in light of the NOx waiver.

23 We never indicated that we
24 intended to withdraw this rule or that the rule was

1 unnecessary for air quality purposes. There has
2 been a lot of discussion here that this rule was
3 only necessary to meet NOx RACT requirements. The
4 Agency has never held that position.

5 MS. FUNK: Finally, the
6 RACT -- excuse my terminology. The NOx RACT rule
7 will result in some -- if it goes into effect,
8 result in some benefit from an air quality
9 perspective?

10 MR. KALEEL: It will absolutely help
11 improve air quality from an ozone perspective, from
12 a fine particle perspective, and also we talked
13 about it, but this rule will help address and
14 improve air quality for all those standards.

15 MS. FUNK: And the extension,
16 because there's been so much discussion of it, it
17 would take effect for the whole state, not just
18 limited to the Chicago area; is that correct?

19 MR. KALEEL: Part 217 requirements
20 apply to both Chicago and Metro east ozone
21 non-attainment area. It's not a state-wide
22 requirement.

23 MS. FUNK: It includes Metro east?

24 MR. KALEEL: It does include Metro

1 east, yes.

2 MS. FUNK: Thank you.

3 HEARING OFFICER ROBERTSON: Does
4 anyone else have anymore questions based on
5 ExxonMobil testimony?

6 Seeing none, I want to thank
7 you all for your time today. Would anybody else
8 like to testified on any other matter in this
9 proceeding?

10 Seeing none, before we close
11 today, did anybody wish to comment on the letters
12 submitted to the DCEO or DCEO response?

13 Seeing none, at this point I
14 would like to go off the record and set the next
15 set of dates for this proceeding.

16 (Whereupon, a discussion
17 was had off the record.)

18 HEARING OFFICER ROBERTSON: So we
19 are back on the record. We were just discussing the
20 dates of final comments. Final comments in this
21 rulemaking will due July 18th. That is a Monday.
22 July 18th, 2011.

23 With that -- and also
24 the mailbox rule will not be applying either to that

1 date, which means that comments must be received
2 by July 18th.

3 With that, I would like
4 to thank you all very much for your time in
5 attending this matter today and we are now
6 adjourned.

7 (Whereupon, the above-entitled
8 proceedings were adjourned.)
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1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF C O O K)
4
5

6 I, LORI ANN ASAUSKAS, CSR, RPR,
7 do hereby state that I am a court reporter doing
8 business in the City of Chicago, County of Cook,
9 and State of Illinois; that I reported by means
10 of machine shorthand the proceedings held in the
11 foregoing cause, and that the foregoing is a true
12 and correct transcript of my shorthand notes so
13 taken as aforesaid.

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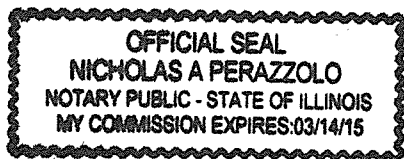
Lori Ann Asauskas CSR RPR

Lori Ann Asauskas, CSR, RPR.
Notary Public, Cook County, Illinois

20 SUBSCRIBED AND SWORN TO
21 before me this 31st day
of July, A.D., 2011.

22 *Nicholas Perazzo*
23 _____
Notary Public

24



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