

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

EXXONMOBIL OIL CORPORATION	)	
	)	
Petitioner,	)	PCB 11-86
	)	(Variance – Air)
v.	)	OR
	)	PCB 12-__
ILLINOIS ENVIRONMENTAL	)	(Variance – Air)
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

**NOTICE OF FILING**

TO: Mr. John T. Therriault	Bradley P. Halloran, Esq.
Assistant Clerk of the Board	Hearing Officer
Illinois Pollution Control Board	Illinois Pollution Control Board
James R. Thompson Center	100 West Randolph Street
100 West Randolph, Suite 11-500	Suite 11-500
Chicago, Illinois 60601	Chicago, Illinois 60601
<b>(VIA ELECTRONIC MAIL)</b>	<b>(VIA FIRST CLASS MAIL)</b>

PLEASE TAKE NOTICE that I have today filed with the Office of the Clerk of the Illinois Pollution Control Board **AMENDED PETITION FOR VARIANCE, OR IN THE ALTERNATIVE, NEW PETITION FOR VARIANCE, and MOTION TO CONFIRM FIVE-DAY NOTICE FOR HEARING PURSUANT TO SECTION 38(b) OF THE ILLINOIS ENVIRONMENTAL PROTECTION ACT**, a copy of which is herewith served upon you.

Respectfully submitted,

EXXONMOBIL OIL CORPORATION,  
Petitioner,

Dated: September 2, 2011

By: /s/ Monica T. Rios  
One of Its Attorneys

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

**CERTIFICATE OF SERVICE**

I, Monica T. Rios, the undersigned, hereby certify that I have served the attached AMENDED PETITION FOR VARIANCE, OR IN THE ALTERNATIVE, NEW PETITION FOR VARIANCE and MOTION TO CONFIRM FIVE-DAY NOTICE FOR HEARING PURSUANT TO SECTION 38(b) OF THE ILLINOIS ENVIRONMENTAL PROTECTION ACT upon:

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

via electronic mail on September 2, 2011; and upon:

Gina Roccaforte, Esq.  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
Post Office Box 19276  
Springfield, Illinois 62794-9276

Bradley P. Halloran, Esq.  
Hearing Officer  
Illinois Pollution Control Board  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601

by depositing said documents in the United States Mail, postage prepaid, in Springfield, Illinois on September 2, 2011.

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

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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Petitioner,	)	PCB 11-86
	)	(Variance – Air)
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ILLINOIS ENVIRONMENTAL	)	(Variance – Air)
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

**AMENDED PETITION FOR VARIANCE, OR  
IN THE ALTERNATIVE, NEW PETITION FOR VARIANCE**

NOW COMES ExxonMobil Oil Corporation (“ExxonMobil”), by and through its attorneys, HODGE DWYER & DRIVER, and, pursuant to Section 38(b) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/38(b), and 35 Ill. Admin. Code § 104.200(b), hereby petitions the Illinois Pollution Control Board (“Board”) for a variance from the January 1, 2015 deadline for compliance with the applicable requirements of 35 Ill. Admin. Code Part 217, Subparts A, D, E, and F (“NOx RACT Rule” or “Rule”) pursuant to the terms and conditions outlined in this Amended Petition for Variance, or in the alternative, a new Petition for Variance (“Petition”). As set forth below, on August 18, 2011, the Board adopted a final rule amending the NOx RACT Rule’s compliance deadline from January 1, 2012 to January 1, 2015, eliminating the December 31, 2014 deadline for ExxonMobil’s Appendix H emission units. 35 Ill. Admin. Code 217.152(c).ExxonMobil is requesting that the Board grant a four-year and four-month variance<sup>1</sup> from the deadline for compliance with the requirements of the NOx RACT Rule, which imposes a January 1, 2015 deadline for implementation of

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<sup>1</sup> While the full five-year variance from the January 1, 2015 deadline would extend the deadline to December 31, 2019, ExxonMobil is committing to comply with the applicable NOx RACT requirements of 35 Ill. Admin. Code Part 217 by May 1, 2019.

Reasonably Available Control Technology (“RACT”) at the Joliet Refinery in order to control emissions of nitrogen oxides (“NOx”) from certain boilers and process heaters. This variance from the applicable requirements of the Rule is necessary because the Rule is arbitrary and imposes an unreasonable hardship on ExxonMobil since the requirements of the Rule are neither mandated by federal nor state statutes or regulations.

ExxonMobil’s request stems from the approval by the United States Environmental Protection Agency (“USEPA”) of the Illinois Environmental Protection Agency’s (“Illinois EPA”) request that the NOx RACT requirements be waived because the Chicago area has attained the 1997 8-hour ozone standard. A variance is justified in this instance because compliance with the Rule, which is not required, will cost substantial resources, and due to the uncertainty regarding a future reconsidered or new National Ambient Air Quality Standard (“NAAQS”) for ozone, a variance is needed in order to extend ExxonMobil’s obligation to move forward with projects to implement the NOx RACT Rule requirements at this time.

Accordingly, ExxonMobil is requesting, a four-year and four-month variance, or until May 1, 2019, from the applicable requirements of the NOx RACT Rule as set forth at 35 Ill. Admin. Code Part 217, Subparts A, D, E, and F for those emission units subject to the January 1, 2015 deadline. A variance is warranted because the Rule poses an arbitrary and unreasonable hardship on ExxonMobil. Further, the requested variance is necessary in order to allow ExxonMobil additional time to install any control equipment needed to comply with the Rule during a regularly scheduled maintenance turnaround, i.e. a planned shut down of the ExxonMobil’s Joliet Refinery (“Refinery”). The next such scheduled turnaround in which NOx RACT controls for subject emission units could

be installed is slated for Winter 2018/Spring 2019, and as Illinois EPA recognized in the rulemaking to adopt the NOx RACT Rule, an extended compliance date to coincide with planned maintenance turnarounds “mitigate[s] the potential for unplanned shutdowns which may result in gasoline shortages in Illinois.” 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* (Ill.Pol.Control.Bd. Mar. 23, 2009). Finally, the variance will allow ExxonMobil to delay its approximately \$25 million investment in control technology until a time when Illinois EPA and ExxonMobil have a better understanding of applicable and federally required NOx RACT requirements.

**I. BACKGROUND**

On May 18, 2011, ExxonMobil filed a Petition for Variance (“Initial Petition”) from the NOx RACT Rule’s December 31, 2014 compliance deadline for Appendix H emission units. Petition for Variance, *ExxonMobil Oil Corporation v. Illinois EPA*, PCB No. 11-86 (Ill.Pol.Control.Bd. May 18, 2011) (hereafter matter cited as “PCB No. 11-86”). The Initial Petition requested a four-year and four-month variance or until May 1, 2019 to allow ExxonMobil to install required NOx RACT controls at the Refinery. Initial Petition at 1-3. On August 18, 2011, Illinois EPA filed its Recommendation stating that it neither objected to nor supported ExxonMobil’s request for a variance. Recommendation, PCB No. 11-86 (Ill.Pol.Control.Bd. Aug. 18, 2011). On September 1, 2011, ExxonMobil filed its Response to Illinois EPA’s Recommendation requesting that the Board grant the Initial Petition. ExxonMobil’s Response to Recommendation, PCB No. 11-86 (Ill.Pol.Control.Bd. Sept. 1, 2011). As

detailed in the Initial Petition, compliance with the NOx RACT Rule at this time poses and unreasonable and arbitrary hardship on ExxonMobil because the Rule is not federally required and not approvable as RACT, and it is a misappropriation of resources to incur approximately \$25 million in costs to comply with an unnecessary Rule.

While the Initial Petition has been pending, a rulemaking to amend the compliance date of the NOx RACT Rule was proceeding before the Board. *In the Matter of: Nitrogen Oxides Emissions, Amendments to 35 Ill. Adm. Code 217, R11-24 and 11-26 (consol.)* (Ill.Pol.Control.Bd. May 4, 2011) (rulemaking hereafter cited as “R11-24”). Illinois EPA proposed to revise the general compliance date of the NOx RACT Rule from January 1, 2012 to January 1, 2015, which eliminated the December 31, 2014 deadline for ExxonMobil’s Appendix H units and subjected them to the revised January 1, 2015 compliance date.

During the rulemaking proceeding, the Board held two hearings, which provided the opportunity for both Illinois EPA and ExxonMobil to present testimony on the proposed revised compliance date. Illinois EPA testified that there was uncertainty as to when a reconsidered or new ozone standard will be issued and implemented, and ExxonMobil provided testimony on the uncertainties surrounding such a standard, the technical implications of USEPA’s comments on the Rule, and on the costs of compliance with the Rule. Hearing Transcript, R11-24 (Ill.Pol.Control.Bd. June 2, 2011); Hearing Transcript, R11-24 (Ill.Pol.Control.Bd. June 28, 2011). ExxonMobil requested that the Board amend Appendix H of the Rule to include the May 1, 2019 deadline rather than subject ExxonMobil’s emission units to the January 1, 2015

deadline. ExxonMobil Oil Corporation's Post-Hearing Comments, R11-24 at 12 (Ill.Pol.Control.Bd. July 17, 2011).

On August 18, 2011, the Board issued its Adopted Rule and Final Opinion and Order. Board Order, R11-24 (Ill.Pol.Control.Bd. Aug. 18, 2011). The Board adopted the Illinois EPA proposal and amended the general compliance deadline to January 1, 2015. Board Order at 1-2. The Board in its Final Opinion declined to revise Appendix H as ExxonMobil requested stating as follows:

The Board noted that, upon Board adoption of rules in this consolidated docket and filing the rules with the Secretary of State, ExxonMobil's Refinery would be subject to the generally applicable January 1, 2015 compliance deadline. The Act provides that the filing of a petition for adjusted standard or for variance within 20 days of the effective date stays the effective date of any rule adopted in this docket as it applies to the petitioner. See 415 ILCS 5/28.1(h) and 38(b) (2010). The Board did not see that any harm will come to ExxonMobil if the Board proceeded to complete rulemaking in this docket to provide relief to other affected sources; while ExxonMobil and the Agency await USEPA action that may affect ExxonMobil's situation. The Board stated that it will make a determination on the issue of appropriate relief for ExxonMobil in the context of any appropriate later regulatory or adjudicatory petition.

*Id.* at 33. The effective date of the NOx RACT Rule was August 22, 2011 – the day on which it was filed with the Secretary of State. Accordingly, ExxonMobil is filing this Amended Petition, or in the alternative, a new Petition for Variance within the 20-day timeframe allowed by Section 38(b) of the Act, which stays the effectiveness of the Rule as to ExxonMobil.

## **II. INCORPORATION BY REFERENCE**

ExxonMobil, hereby, incorporates by reference the Initial Petition filed in this proceeding on May 18, 2011. The Initial Petition was accepted by the Board on June 2, 2011, and accordingly, this Petition is sufficient to meet the Board's requirements as it

incorporates the Initial Petition. Board Order, PCB 11-86 (Ill.Pol.Control.Bd. June 2, 2011). Further, ExxonMobil files this Petition as an Amended Petition in the PCB No. 11-86 proceeding, or in the alternative, should the Board determine that this Petition warrants a new docket, ExxonMobil files this Petition as a new Petition for Variance, which incorporates the Initial Petition. In addition, ExxonMobil hereby incorporates by reference Illinois EPA's Recommendation and ExxonMobil's Response to the Recommendation, should the Board determine open a new docket for this Amended or new Petition.

**III. REGULATIONS FROM WHICH VARIANCE IS SOUGHT**

The Initial Petition sought a four-year and four-month variance from the December 31, 2014 deadline to comply with the applicable requirements of the NOx RACT Rule, which is set forth at 35 Ill. Admin. Code Part 217, Subparts A, D, E, and F, and this Petition seeks the same four-year and four-month variance, except it seeks it from the January 1, 2015 compliance deadline in the revised Rule. Consequently, this section of the Petition regarding the regulations from which the variance is sought differs slightly when compared to the Initial Petition, since this Petition addresses the newly adopted Rule, which does not include Appendix H.

Section 217.150(a) states, in relevant part:

- 1) The provisions of this Subpart and Subparts E, F, G, H, I, and M of this Part apply to the following:
  - A) All sources that are located in either one of the following areas and that emit or have the potential to emit NOx in an amount equal to or greater than 100 tons per year:
    - i) The area composed of the Chicago area counties of Cook, DuPage, Kane, Lake, McHenry, and Will, the Townships of Aux Sable and Goose Lake in Grundy



County, and the Township of Oswego in Kendall County; or

ii) The area composed of the Metro East area counties of Jersey, Madison, Monroe, and St. Clair, and the Township of Baldwin in Randolph County; and

B) Any industrial boiler, process heater, glass melting furnace, cement kiln, lime kiln, iron and steel reheat, annealing, or galvanizing furnace, aluminum reverberatory or crucible furnace, or fossil fuel-fired stationary boiler at such sources described in subsection (a)(1)(A) of this Section that emits NOx in an amount equal to or greater than 15 tons per year and equal to or greater than five tons per ozone season.

2) For purposes of this Section, "potential to emit" means the quantity of NOx that potentially could be emitted by a stationary source before add-on controls based on the design capacity or maximum production capacity of the source and 8,760 hours per year or the quantity of NOx that potentially could be emitted by a stationary source as established in a federally enforceable permit.

35 Ill. Admin. Code § 217.150(a). The NOx RACT Rule is applicable to ExxonMobil's Joliet Refinery because it is located in Will County and has the potential to emit 100 tons of NOx per year. Pursuant to Section 217.152, sources subject to the Rule must comply as follows:

a) Compliance with the requirements of Subparts E, F, G, H, I and M by an owner or operator of an emission unit that is subject to any of those Subparts is required beginning January 1, 2015.

\* \* \*

c) Notwithstanding subsection (a) of this Section, the owner or operator of emission units subject to Subpart E or F of this Part and located at a petroleum refinery must comply with the requirements of this Subpart and Subpart E or F of this Part, as applicable, for those emission units beginning January 1, 2015, except that the owner or operator of emission units listed in Appendix H must comply with the requirements of this Subpart, including the option of demonstrating compliance with the applicable Subpart through an emissions averaging plan under Section 217.158 and Subpart E or F of this Part, as applicable, for the listed emission units beginning on the dates set forth in Appendix H. With Agency

approval, the owner or operator of emission units listed in Appendix H may elect to comply with the requirements of this Subpart and Subpart E or F of this Part, as applicable, by reducing the emissions of emission units other than those listed in Appendix H, provided that the emissions limitations of such other emission units are equal to or more stringent than the applicable emissions limitations set forth in Subpart E or F of this Part, as applicable, by the dates set forth in Appendix H.

35 Ill. Admin. Code § 217.152(a) and (c). (Emphasis added.) Since ExxonMobil is a petroleum refinery that owns or operates emission units subject to Subpart E (Industrial Boilers) or Subpart F (Process Heaters), it must comply with the January 1, 2015 compliance deadline, because it no longer has any emission units listed in Appendix H. ExxonMobil is requesting a four-year and four-month variance from the January 1, 2015 compliance deadline, and thus, ExxonMobil's deadline for implementing the requirements of the NO<sub>x</sub> RACT Rule for applicable emissions units will be May 1, 2019, should the Board grant this Petition.

**IV. AFFIDAVIT IN SUPPORT**

In support of this Petition, ExxonMobil is filing the Affidavit of Matthew J. Kolesar, which is attached hereto as Exhibit 1.

**V. CONCLUSION**

As detailed in the Initial Petition, which is incorporated by reference here, the NO<sub>x</sub> RACT Rule is arbitrary and imposes an unreasonable hardship on ExxonMobil. Illinois EPA has acknowledged that there is no federal mandate for the Rule at this time, that it is not approvable as RACT, and that there is uncertainty regarding the timeline for issuance and implementation of a reconsidered or new ozone standard. Given that Illinois EPA agrees with ExxonMobil on these issues and has taken a neutral position in

its Recommendation on the Initial Petition, the Board should grant ExxonMobil's request for a four-year and four-month variance from the January 1, 2015 compliance deadline.

WHEREFORE, Petitioner, ExxonMobil Oil Corporation, respectfully requests that the Board confirm the stay of the NOx RACT Rule pursuant to Section 38(b) of the Act and grant a four-year and four-month variance to May 1, 2019 from the January 1, 2015 compliance deadline for the NOx RACT Rule.

Respectfully submitted,

EXXONMOBIL OIL CORPORATION,  
Petitioner,

DATE: September 2, 2011

By: /s/ Monica T. Rios  
One of Its Attorneys

Katherine D. Hodge  
Monica T. Rios  
HODGE DWYER & DRIVER  
3150 Roland Avenue  
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MOBO:027/Filings/11-86/Amended Petition

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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v.	)	PCB 11-86
	)	(Variance – Air)
ILLINOIS ENVIRONMENTAL	)	
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

**AFFIDAVIT OF MATTHEW J. KOLESAR**

I, Matthew J. Kolesar, being first duly sworn on oath, depose and state as follows:

1. I am currently employed as the Safety, Health and Environment Manager for ExxonMobil Oil Corporation (“ExxonMobil”) in Joliet, Illinois, a position which I have held since August 2009.

2. I participated in the preparation of the Amended Petition, or in the alternative, New Petition for Variance dated September 2, 2011, to the extent it discusses ExxonMobil.

3. I have read the Amended Petition, or in the alternative, New Petition for Variance dated September 2, 2011, and based upon my personal knowledge and belief, the facts stated therein with regard to ExxonMobil are true and correct.

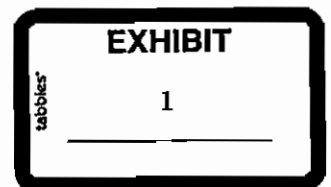
FURTHER AFFIANT SAYETH NOT.



*Matthew Kolesar*  
\_\_\_\_\_  
Matthew J. Kolesar

Subscribed and sworn to before me this 2 day of September, 2011.

*Deborah Robinson*  
\_\_\_\_\_  
Notary Public



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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	)	
Petitioner,	)	PCB 11-86
	)	(Variance – Air)
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	)	PCB 12-__
ILLINOIS ENVIRONMENTAL	)	(Variance – Air)
PROTECTION AGENCY,	)	
	)	
Respondent.	)	

**MOTION TO CONFIRM FIVE-DAY NOTICE FOR HEARING PURSUANT TO SECTION 38(b) OF THE ILLINOIS ENVIRONMENTAL PROTECTION ACT**

NOW COMES ExxonMobil Oil Corporation (“ExxonMobil”), by and through its attorneys, HODGE DWYER & DRIVER, pursuant to 35 Ill. Admin. Code § 101.500, and petitions the Illinois Pollution Control Board (“Board”) to confirm that a five-day notice period for hearing on the Amended Petition, or in the alternative, a new Petition for Variance (“Amended/New Petition”) is appropriate in this matter. In support of this Motion, ExxonMobil states as follows:

**I. BACKGROUND**

1. On May 18, 2011, ExxonMobil filed a Petition for Variance (“Initial Petition”) from the NOx RACT Rule’s December 31, 2014 compliance deadline for Appendix H emission units. Petition for Variance, *ExxonMobil Oil Corporation v. Illinois EPA*, PCB No. 11-86 (Ill.Pol.Control.Bd. May 18, 2011) (hereafter matter cited as “PCB No. 11-86”). The Initial Petition requested a four-year and four-month variance or until May 1, 2019 to allow ExxonMobil to install required NOx RACT controls at the Refinery. Initial Petition at 1-3. On August 18, 2011, Illinois EPA filed its Recommendation stating that it neither objected to nor supported ExxonMobil’s request

for a variance. Recommendation, PCB No. 11-86 (Ill.Pol.Control.Bd. Aug. 18, 2011).

On September 1, 2011, ExxonMobil filed its Response to the Recommendation.

ExxonMobil's Response to Recommendation, PCB No. 11-86 (Ill.Pol.Control.Bd. Sept. 1, 2011).

2. On August 18, 2011, the Board issued its Adopted Rule and Final Opinion and Order amending the compliance deadline of the NOx RACT Rule from January 1, 2012 to January 1, 2015, which eliminated the December 31, 2014 deadline for ExxonMobil's Appendix H emission units. Board Order, *In the Matter of: Nitrogen Oxides Emissions, Amendments to 35 Ill. Adm. Code 217, R11-24 and R11-26 (consol.)* (Ill.Pol.Control.Bd. Aug. 18, 2011). The Board in its Final Opinion declined to revise Appendix H as ExxonMobil requested stating as follows:

The Board noted that, upon Board adoption of rules in this consolidated docket and filing the rules with the Secretary of State, ExxonMobil's Refinery would be subject to the generally applicable January 1, 2015 compliance deadline. The Act provides that the filing of a petition for adjusted standard or for variance within 20 days of the effective date stays the effective date of any rule adopted in this docket as it applies to the petitioner. See 415 ILCS 5/28.1(h) and 38(b) (2010). The Board did not see that any harm will come to ExxonMobil if the Board proceeded to complete rulemaking in this docket to provide relief to other affected sources; while ExxonMobil and the Agency await USEPA action that may affect ExxonMobil's situation. The Board stated that it will make a determination on the issue of appropriate relief for ExxonMobil in the context of any appropriate later regulatory or adjudicatory petition.

*Id.* at 33. (Emphasis added.)

3. The effective date of the NOx RACT Rule was August 22, 2011 – the day on which it was filed with the Secretary of State. Notice of Adopted Amendments, R11-24 (Ill.Pol.Control.Bd. Sept 1, 2011). Accordingly, the Amended/New Petition filed today is filed within 20 days of the effective date of the Rule, as required by Section

38(b) of the Illinois Environmental Protection Act ("Act"), which stays the effectiveness of the NOx RACT Rule as to ExxonMobil. 415 ILCS 5/38(b).

**II. FIVE-DAY NOTICE AND SEPTEMBER 19 HEARING**

6. A hearing on the Initial Petition is currently scheduled in this matter for September 19, 2011. Hearing Officer Order, PCB 11-86 (Ill.Pol.Control.Bd. Aug. 15, 2011). ExxonMobil intends to proceed with the scheduled hearing on its request for a variance from the December 31, 2014 compliance deadline.

7. The Amended/New Petition filed today is a request for a variance from the same Rule, except that the compliance deadline has changed from December 31, 2014 to January 1, 2015. ExxonMobil's request for a variance from the compliance deadline until May 1, 2019 remains the same in the Initial Petition and the Amended/New Petition.

8. It would be an inefficient use of not only the Board's resources, but also the parties' resources, to hold two separate hearings on what is essentially the same Petition.

9. Section 38(b) of the Act provides, in relevant part,

If any person files a petition for variance from a rule or regulation within 20 days after the effective date of such rule or regulation, the operating of such rule or regulation shall be stayed as to such person pending the disposition of the petition . . . The Board may hold a hearing upon said petition 5 days from the date of notice of such hearing or thereafter.

415 ILCS 5/38(b). ExxonMobil requests that the Board confirm that a five-day notice period is appropriate for the Amended/New Petition filed today, and direct the Hearing Officer in this matter to issue the five-day notice as expeditiously as possible in order to hold the hearing on the Amended/New Petition on September 19, 2011. *See Alton Packaging Corporation v. Illinois EPA*, PCB Nos. 83-49 and 83-55 (Ill.Pol.Control.Bd.

Sept. 20, 1985) (where the Board stated that "Section 38(b) grants unusual relief which clearly contemplates an unusually expeditious proceeding.").

10. Typically, notices of hearings are required to be issued 21 or 30 days prior to the hearing date. 35 Ill. Admin. Code § 101.602. However, in this case, the Act specifically allows for expedited hearings for petitions filed pursuant to Section 38(b) of the Act. The five-day notice period, is therefore, appropriate in this matter because the Amended/New Petition was filed pursuant to Section 38(b) of the Act.

11. Because 1) the Initial Petition and the Amended/New Petition are the same, except for the change in compliance date, 2) the requested relief is the same, 3) the Act provides for an expedited notice period, and 4) it would be inefficient to hold two hearings on the same Petition, the Board should confirm that a five-day notice period is appropriate in this case.

12. Since time is of the essence in order to allow the Hearing Officer time to issue the notice to allow for the hearing on September 19, 2011, ExxonMobil respectfully requests that the Board rule on this Motion at its next scheduled Board meeting on September 8, 2011.

WHEREFORE, Petitioner, ExxonMobil Oil Corporation, respectfully requests that the Board confirm that the five-day notice period allowed pursuant to Section 38(b) of the Act is appropriate in this case, direct the Hearing Officer to issue the five-day



notice as soon as possible so as to allow the hearing scheduled for September 19, 2011 to serve as the hearing on the Amended/New Petition filed today with the Board.

Respectfully submitted,

EXXONMOBIL OIL CORPORATION,  
Petitioner,

DATE: September 2, 2011

By: /s/ Monica T. Rios  
One of Its Attorneys

Katherine D. Hodge  
Monica T. Rios  
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(217) 523-4900

MOBO:027/Filings/11-86/Motion to Confirm Five Day Notice