UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

SEP 27 2013

REPLY TO THE ATTENTION OF:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michael Cannon, Esq.
Refinery Attorney
ExxonMobil Refining and Supply Company
P.O. Box 874
Joliet, Illinois 60434

Re: Notice and Finding of Violation
ExxonMobil Refining and Supply Company
Channahon, Illinois

Dear Mr. Cannon:

This is to advise you that the U.S. Environmental Protection Agency has determined that ExxonMobil Refining and Supply Company's (ExxonMobil) Joliet Refinery, located near I-55 and Arsenal Road in Channahon, Illinois (facility), is in violation of the Clean Air Act (the Act) and associated federal and state pollution control regulations. We are issuing this Notice and Finding of Violation (NOV/FOV) for violations of the regulations summarized below.

Section 111 under Title I of the Act, 74 U.S.C. 7411, requires EPA to promulgate Standards of Performance for New Stationary Sources (NSPS). Pursuant to Section 111 of the Act, EPA promulgated NSPS General Provisions (40 C.F.R. Part 60, Subpart A); NSPS for Petroleum Refineries (40 C.F.R. Part 60, Subpart J); NSPS for Volatile Organic Liquids Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction or Modification Commenced after July 23, 1984, (40 C.F.R. Part 60, Subpart Kb); NSPS for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006 (40 C.F.R. Part 60, Subpart VV); and, NSPS for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006 (40 C.F.R. Part 60, Subpart GGG). ExxonMobil owns and operates certain process equipment at its facility that is subject to the NSPS provisions identified above, 40 C.F.R. Part 60, Subparts A, J, Kb, VV and GGG.

Section 112 under Title I of the Act, 42 U.S.C. § 7412, requires EPA to promulgate National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories. Pursuant to Section 112 of the Act, EPA promulgated NESHAP General Provisions (40 C.F.R. Part 63, Subpart A) and NESHAP from Petroleum Refineries (40 C.F.R. Part 63, Subpart CC). ExxonMobil owns and operates certain process equipment at its facility that is subject to the NESHAP provisions identified above, 40 C.F.R. Part 63, Subparts A and CC.

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Sections 110(a) under Title I of the Act, 42 U.S.C. § 7410(a), requires each state to adopt a State Implementation Plan (SIP) containing regulations for the implementation, maintenance, and enforcement of each primary National Ambient Air Quality Standard (NAAQS). On March 23, 2004, the Illinois SIP incorporated Rule 218. ExxonMobil is subject to Illinois SIP Rule 218.

Section 165 under Title I of the Act, 42 U.S.C. § 7475, requires, prior to constructing a major modification, that major emitting facilities located in areas designated as attainment or unclassifiable to obtain a preconstruction permit that meets the requirements of Section 165, including the requirement that the facility is subject to the best available control technology. The federal permitting program for Prevention of Significant Deterioration (PSD program), as codified at 40 C.F.R. § 52.21, was incorporated into the Illinois SIP on August 7, 1980. Section 52.21(r)(4) of that program requires a source to comply with the requirements of the PSD program where a source relaxes enforceable limitations that cause a modification to become a major modification. The Illinois Environmental Protection Agency (IEPA) issued a construction permit to the facility on March 11, 2003 that included limits to prevent the permitted project from being considered a major modification.

Title V of the Act, 42 U.S.C. §§ 7661-7661f, and its implementing regulations at 40 C.F.R. Part 70, establish an operating permit program for certain sources, including "major sources." EPA fully approved the Illinois Title V Permit program, effective March 7, 1995. IEPA issued a Title V Permit to the facility on August 15, 2000.

As detailed in the enclosed NOV/FOV, EPA finds that ExxonMobil has violated the regulatory provisions and permits listed above. In violating the provisions and permits listed above, you have also violated Titles I and V of the Act. Section 113 of the Act gives us several enforcement options to resolve these violations, including: issuing an administrative compliance order, issuing an administrative penalty order, bringing a judicial civil action, or bringing a judicial criminal action.

We are offering you the opportunity to request a conference with us about the violations alleged in the NOV/FOV. A conference should be requested within 10 days following receipt of this notice. A conference should be held within 30 days following receipt of this notice. This conference will provide you a chance to present information on the identified violations, any efforts you have taken to comply and the steps you will take to prevent future violations. Please plan for your facility's technical and management personnel to take part in these discussions. You may have an attorney represent and accompany you at this conference.

The EPA contacts in this matter are William Wagner and Michael Berman. You may call them at 312.886.4684 and 312.886.8637, respectively, if you wish to request a conference. EPA hopes that this NOV/FOV will encourage ExxonMobil's compliance with the requirements of the Act.

Sincerely,

George T. Czerniak
Director
Air and Radiation Division

cc: Ray Pilapil, Illinois Environmental Protection Agency

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:	)	
	)	
ExxonMobil Refining and Supply Company	)	**NOTICE OF VIOLATION and**
Channahon, Illinois	)	**FINDING OF VIOLATION**
	)	
	)	**EPA-5-13-IL-46**
Proceedings Pursuant to	)	
the Clean Air Act	)	
42 U.S.C.§ § 7401 et seq	)	

NOTICE AND FINDING OF VIOLATION

ExxonMobil Refining and Supply Company (you or ExxonMobil) owns and operates a petroleum refinery located at I-55 and Arsenal Road, Channahon, Illinois (facility or refinery). The refinery consists of a number of pieces of equipment that generate air pollution and are subject to provisions of the Clean Air Act (the Act). The equipment includes flares, storage vessels, a fluidized catalytic cracking unit (FCCU), and other emission units.

The U.S. Environmental Protection Agency is sending this Notice and Finding of Violation (NOV/FOV) to notify you that we have found that you have violated certain provisions of the Clean Air Act, 42 U.S.C. §§ 7401 – 7671q (Act or CAA), and certain federal and State regulations promulgated thereunder, including, New Source Performance Standards (NSPS) (40 C.F.R. Part 60); NSPS General Provisions (40 C.F.R. Part 60, Subpart A); NSPS for Petroleum Refineries (40 C.F.R. Part 60, Subpart J); NSPS for Volatile Organic Liquids Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction or Modification Commenced after July 23, 1984 (40 C.F.R. Part 60, Subpart Kb); NSPS for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006 (40 C.F.R. Part 60, Subpart VV); NSPS for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006 (40 C.F.R. Part 60, Subpart GGG); the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Source Categories (40 C.F.R. Part 63); NESHAP for Source Categories General Provisions (40 C.F.R. Part 63, Subpart A); NESHAP from Petroleum Refineries (40 C.F.R. Part 63, Subpart CC); the Prevention of Significant Deterioration program under the Act, Title I, Part C, 42 U.S.C. §§ 7470 – 7492, the Illinois State Implementation Plan, a construction permit and the facility's operating permit issued under Title V of the Act and the approved State Title V permit program.

Explanation of Violations

I. Statutory and Regulatory Background

Clean Air Act

1. The Clean Air Act is designed to protect and enhance the quality of the nation's air so as to promote the public health and welfare and the productive capacity of its population. Section 101(b)(1) of the Act, 42 U.S.C. § 7401(b)(1).

Section 111 of the Act, New Source Performance Standards

2. Section 111(b) of the Act, 42 U.S.C. § 7411(b), requires EPA to publish a list of categories of stationary sources and, within a year after the inclusion of a category of stationary sources in the list, to publish proposed regulations establishing Federal standards of performance for new sources within the source category.

3. Section 111(f) of the Act, 42 U.S.C. § 7411(f), requires the promulgation of standards of performance for new stationary sources.

4. Section 111(e) of the Act, 42 U.S.C. § 7411(e), prohibits the operation of a new source in violation of any applicable standard of performance.

NSPS General Provisions, 40 C.F.R. Part 60, Subpart A

5. EPA proposed General Provisions to the New Source Performance Standards (NSPS Subpart A) on August 17, 1971. *See* 36 Fed. Reg. 15704. EPA promulgated NSPS Subpart A on December 23, 1971. *See* 36 Fed. Reg. 24877. The subpart has been subsequently amended. NSPS Subpart A is codified at 40 C.F.R. §§ 60.1 – 60.19.

6. 40 C.F.R. § 60.2 defines modification as "any physical change in, or change in the method of operation of, an existing facility which increases the amount of any air pollutant (to which a standard applies) emitted into the atmosphere by that facility or which results in the emission of any air pollutant (to which a standard applies) into the atmosphere not previously emitted."

7. 40 C.F.R. § 60.7(a)(1) requires that any owner or operator subject to the provisions of this part shall furnish the Administrator written or electronic notification "of the date construction (or reconstruction as defined under § 60.15) of an affected facility is commenced postmarked no later than 30 days after such date."

8. 40 C.F.R. § 60.7(a)(3) requires that any owner or operator subject to the provisions of this part shall furnish the Administrator written or electronic "notification of the actual date of initial startup of an affected facility postmarked within 15 days after such date."

9. 40 C.F.R. § 60.7(a)(4) requires that any owner or operator subject to the provisions of this part shall furnish the Administrator written or electronic "notification of any physical

or operational change to an existing facility which may increase the emission rate of any air pollutant to which a standard applies, unless that change is specifically exempted under an applicable subpart or in § 60.14(e). This notice shall be postmarked 60 days or as soon as practicable before the change is commenced and shall include information describing the precise nature of the change, present and proposed emission control systems, productive capacity of the facility before and after the change, and the expected completion date of the change."

10. 40 C.F.R. § 60.11(d) requires that "at all times, including periods of startup, shutdown, and malfunction, owners and operators shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with good air pollution control practice for minimizing emissions."

11. 40 C.F.R. § 60.14(a) provides that "[e]xcept as provided under paragraphs (e) and (f) of this section, any physical or operational change to an existing facility which results in an increase in the emission rate to the atmosphere of any pollutant to which a standard applies shall be considered a modification within the meaning of section 111 of the Act. Upon modification, an existing facility shall become an affected facility for each pollutant to which a standard applies and for which there is an increase in the emission rate to the atmosphere."

12. 40 C.F.R. § 60.18(d) provides that "[o]wners or operators of flares used to comply with the provisions of this subpart shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs."

NSPS for Petroleum Refineries, 40 C.F.R. Part 60, Subpart J

13. EPA proposed Standards of Performance for Petroleum Refineries on June 11, 1973 (NSPS Subpart J). *See* 38 Fed. Reg. 15406. EPA promulgated NSPS Subpart J on March 8, 1974. *See* 39 Fed. Reg. 9308. NSPS Subpart J has been subsequently amended. The subpart is codified at 40 C.F.R. §§ 60.100 – 60.109.

14. 40 C.F.R. § 60.100(a) provides that NSPS Subpart J is applicable to certain listed affected facilities in petroleum refineries, including fuel gas combustion devices. 40 C.F.R. § 60.100(b) provides that fuel gas combustion devices that are flares that have commenced construction, reconstruction, or modification after June 11, 1973, and on or before June 24, 2008, are subject to the requirements of NSPS Subpart J.

15. 40 C.F.R. § 60.101(d) defines "fuel gas" to mean "any gas which is generated at a petroleum refinery and which is combusted. Fuel gas includes natural gas when the natural gas is combined and combusted in any proportion with a gas generated at a refinery. . . ."

16. 40 C.F.R. § 60.101(g) defines "fuel gas combustion device" to be "any equipment, such as process heaters, boilers and flares used to combust fuel gas, except facilities in which gases are combusted to produce sulfur or sulfuric acid."

17. 40 C.F.R. § 60.104(a)(1) prohibits the owner or operator of a petroleum refinery subject

to the provisions of NSPS Subpart J to "[b]urn in any fuel gas combustion device any fuel gas that contains hydrogen sulfide (H_2S) in excess of 230 mg/dscm (0.10 gr/dscf). The combustion in a flare of process upset gases or fuel gas that is released to the flare as a result of relief valve leakage or other emergency malfunctions is exempt from this paragraph."

18. 40 C.F.R. § 60.105(a)(3) requires that "continuous monitoring systems shall be installed, calibrated, maintained, and operated by the owner or operator subject to the provisions of this subpart as follows: . . . [f]or fuel gas combustion devices subject to § 60.104(a)(1), either an instrument for continuously monitoring and recording the concentration by volume (dry basis, zero percent excess air) of SO_2 emissions into the atmosphere or monitoring as provided in paragraph (a)(4) of this section. . . ."

19. As an alternative to the monitoring required by 40 C.F.R. § 60.105(a)(3), 40 C.F.R. § 60.105(a)(4) allows for a continuous monitoring system that uses "an instrument for continuously monitoring and recording the concentration (dry basis) of H_2S in fuel gases before being burned in any fuel gas combustion device."

NSPS for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage vessels), 40 C.F.R. Part 60, Subpart Kb

20. EPA proposed Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction or Modification Commenced after July 23, 1984 (NSPS Subpart Kb) on July 23, 1984. *See* 49 Fed. Reg. 29698. EPA promulgated NSPS Subpart Kb on April 8, 1987. *See* 52 Fed. Reg. 11420. NSPS Subpart Kb has been subsequently amended. The subpart is codified at 40 C.F.R. §§ 60.110b – 60.117b.

21. 40 C.F.R. § 60.113b(b)(1) requires the owner or operator of a facility subject to NSPS Subpart Kb to "[d]etermine the gap areas and maximum gap widths, between the primary seal and the wall of the storage vessel and between the secondary seal and the wall of the storage vessel" within 60 days of the initial fill with volatile organic liquids (VOL).

22. 40 C.F.R. § 60.113b(b)(5) requires the owner or operator of a facility subject to NSPS Subpart Kb to "[n]otify the Administrator 30 days in advance of any gap measurements required by paragraph (b)(1) of this section to afford the Administrator the opportunity to have an observer present."

23. Each time a vessel is emptied and degassed, following the required inspection, 40 C.F.R. § 60.113b(b)(6)(ii) requires the owner or operator of a facility subject to NSPS Subpart Kb to notify the Administrator in writing at least 30 days prior to the filling or refilling of each storage vessel, or, if advance notice is not possible, at least 7 days beforehand.

24. 40 C.F.R § 60.115b(b)(1) requires that the owner or operator of a facility subject to NSPS Subpart Kb "[f]urnish the Administrator with a report that describes the control equipment and certifies that the control equipment meets the specifications of § 60.112b(a)(2) and § 60.113b(b)(2), (b)(3), and (b)(4)" as an attachment to the

notification required by § 60.7(a)(3).

25. 40 C.F.R. § 60.115(b)(2) requires that within 60 days of performing the seal gap measurements required by § 60.113b(b)(1) the owner or operator of a facility subject to NSPS Subpart Kb furnish the Administrator with a report containing specified information.

NSPS for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry (SOCMI), 40 C.F.R. Part 60, Subpart VV

26. On October 18, 1983, EPA promulgated the Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction, or Modification Commenced After January 5, 1981, and on or Before November 7, 2006 (NSPS Subpart VV). *See* 48 Fed. Reg. 48335. NSPS Subpart VV has been subsequently amended. The subpart is codified at 40 C.F.R. § 60.480 – 60.489.

27. NSPS Subpart VV, at 40 C.F.R. § 60.482-6(a)(1), provides that "[e]ach open-ended valve or line shall be equipped with a cap, blind flange, plug, or a second valve, except as provided in § 60.482–1(c) and paragraphs (d) and (e) of this section."

28. NSPS Subpart VV, at 40 C.F.R. § 60.482-4, allows pressure relief valves to be controlled by a closed vent system releasing to a flare in lieu of leak monitoring via Method 21.

29. NSPS Subpart VV, at 40 C.F.R. § 60.482-10(d), provides that flares used to comply with Subpart VV must comply with 40 C.F.R. § 60.18 of Part 60, Subpart A, General Provisions.

30. NSPS Subpart VV, at 40 C.F.R. § 60.482-10(e), provides that owners of control devices, including flares, that are used to comply with the requirements of Subpart VV, "shall monitor these control devices to ensure that they are operated and maintained in conformance with their designs."

NSPS for Equipment Leaks of VOC in Petroleum Refineries, 40 C.F.R. Part 60, Subpart GGG

31. On May 30, 1984, EPA promulgated the Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and on or Before November 7, 2006 (NSPS Subpart GGG). *See* 49 Fed. Reg. 22606. NSPS Subpart GGG has been subsequently amended. The subpart is codified at 40 C.F.R. §§ 60.590 – 60.593.

32. 40 C.F.R. § 60.592 requires that owners or operators subject to NSPS Subpart GGG comply with certain requirements of NSPS Subpart VV.

Section 112 of the Act, NESHAP for Source Categories

33. Section 112(b) of the Act, 42 U.S.C. § 7412(b) lists 188 Hazardous Air Pollutants (HAPs) that cause adverse health or environmental effects.

34. Section 112(d)(1) of the Act, 42 U.S.C. § 7412(d), requires EPA to promulgate regulations establishing emissions standards for each category or subcategory of major and area sources of HAPs that are listed for regulation pursuant to subsection (c) of Section 112.

35. Section 112(d)(2) of the Act requires that emission standards promulgated under Section 112(d)(1) require "the maximum degree of reduction in emissions of the hazardous air pollutants . . . that the Administrator, taking into consideration the cost of achieving such emission reduction, and any non-air quality health and environmental impacts and energy requirements, determines is achievable for new or existing sources in the category or subcategory to which such emission standard applies . . ." (hereinafter, "MACT").

NESHAP for Source Categories, General Provisions, 40 C.F.R. Part 63, Subpart A

36. On March 16, 1994, U.S. EPA promulgated the General Provisions to Part 63 at 40 C.F.R. Part 63, Subpart A, §§ 63.1 - 63.16. *See* 59 Fed. Reg. 12408.

37. 40 C.F.R. § 63.6(e)(1)(i) requires that "[a]t all times, including periods of startup, shutdown, and malfunction, the owner or operator must operate and maintain any affected source, including associated air pollution control equipment and monitoring equipment, in a manner consistent with safety and good air pollution control practices for minimizing emissions."

NESHAP from Petroleum Refineries, 40 C.F.R. Part 63, Subpart CC

38. EPA promulgated National Emission Standards for Hazardous Air Pollutants from Petroleum Refineries (the Refinery MACT) on August 18, 1995. *See* 60 Fed. Reg. 43244. The subpart has been subsequently amended. The Refinery MACT is codified at 40 C.F.R. §§ 63.640 – 63.656.

39. 40 C.F.R. § 63.640(c) provides that for "the purpose of this subpart, the affected source shall comprise all emission points, in combination," listed at 40 C.F.R. § 63.640(c)(1) through (c)(7). These emission points include miscellaneous process vents and all equipment leaks.

40. 40 C.F.R. § 63.641 defines Group 1 storage vessel as "a storage vessel at an existing source that has a design capacity greater than or equal to 177 cubic meters and stored-liquid maximum true vapor pressure greater than or equal to 10.4 kilopascals and stored-liquid annual average true vapor pressure greater than or equal to 8.3 kilopascals and annual average HAP liquid concentration greater than 4 percent by weight total organic HAP; a storage vessel at a new source that has a design storage capacity greater than or equal to 151 cubic meters and stored-liquid maximum true vapor pressure greater than or

equal to 3.4 kilopascals and annual average HAP liquid concentration greater than 2 percent by weight total organic HAP; or a storage vessel at a new source that has a design storage capacity greater than or equal to 76 cubic meters and less than 151 cubic meters and stored-liquid maximum true vapor pressure greater than or equal to 77 kilopascals and annual average HAP liquid concentration greater than 2 percent by weight total organic HAP."

41. 40 C.F.R. § 63.640(n)(1) provides that "[a]fter the compliance dates specified in paragraph (h) of this section, a Group 1 or Group 2 storage vessel that is part of an existing source and is also subject to the provisions of [NSPS Subpart Kb], is required to comply only with the requirements of [NSPS Subpart Kb], except as provided in paragraph (n)(8) of this section."

42. 40 C.F.R. § 63.640(n)(2) provides that "[a]fter the compliance dates specified in paragraph (h) of this section a Group 1 storage vessel that is part of a new source and is subject to [NSPS Subpart Kb] is required to comply only with this subpart."

43. 40 C.F.R. § 63.640(n)(8) provides that "[s]torage vessels described by paragraphs (n)(1) and (n)(3) of this section are to comply with [NSPS Subpart Kb] except as provided for in paragraphs (n)(8)(i) through (n)(8)(vi) of this section." Section (n)(8)(v) states that "[o]wners and operators of storage vessels complying with [NSPS Subpart Kb] may submit the inspection reports required by §§ 60.115b(a)(3), (a)(4), and (b)(4) of [NSPS Subpart Kb] as part of the periodic reports required by this subpart, rather than within the 30-day period specified in §§ 60.115b(a)(3), (a)(4), and (b)(4) of [NSPS Subpart Kb]."

44. 40 C.F.R. § 63.648(a) provides that "[e]ach owner or operator of an existing source subject to the provisions of this subpart shall comply with the provisions of [NSPS Subpart VV] . . .."

45. Table 6 to the Refinery MACT, titled "General Provisions Applicability to Subpart CC," specifically provides that Section 63.6(e) of the General Provisions applies to affected sources under the Refinery MACT (except for "Group 2 emission points").

Illinois State Implementation Plan Background and Certain Provisions

46. On March 23, 2004, EPA approved the incorporation of Illinois rule 218 into the Illinois State Implementation Plan (SIP). *See* 69 Fed. Reg. 13474.

47. Illinois SIP Rule 218.441 requires that organic emissions in waste gas streams from any petroleum or petrochemical manufacturing process be limited to 100 ppm as equivalent methane, or meet the standards in Illinois SIP Rules 218.301 or 218.302.

48. Illinois SIP Rule 218.301 limits organic emissions from any emissions unit to 8 lbs/hr.

49. Illinois SIP Rule 218.302 limits organic emissions to 10 ppm as equivalent methane or requires that they be reduced by 85%.

Title I, Part C, of the Act, Prevention of Significant Deterioration

50. Section 108(a) of the Act, 42 U.S.C. § 7408(a), requires EPA to identify and prepare air quality criteria for each air pollutant, emissions of which may endanger public health or welfare. For each such "criteria" pollutant, Section 109 of the Act, 42 U.S.C. § 7409, requires EPA to promulgate national ambient air quality standards (NAAQS) necessary to protect the public health and welfare.

51. Pursuant to Sections 108 and 109 of the Act, 42 U.S.C. §§ 7408 and 7409, EPA has identified sulfur dioxide (SO_2), nitrogen dioxide (NO_2), a form of nitrogen oxides (NO_x), ozone, and particulate matter with a diameter of less than or equal to 10 micrometers (PM_{10}) as criteria pollutants, and, as of 2003, had promulgated NAAQS for these pollutants. 40 C.F.R. §§ 50.4 – 50.7, 50.9, and 50.11.

52. Under Section 107(d) of the Act, 42 U.S.C. § 7407(d), each state is required to designate those areas within its boundaries where the air quality is better or worse than the NAAQS for each criteria pollutant or where the air quality cannot be classified due to insufficient data. An area that meets the NAAQS for a particular pollutant is termed an "attainment" area with respect to such pollutant. An area that does not meet the NAAQS for a particular pollutant is termed a "nonattainment" area with respect to such pollutant.

53. Part C of Title I of the Act, 42 U.S.C. §§ 7470-7492, sets forth requirements for the prevention of significant deterioration of air quality in those areas designated as attainment or unclassifiable for purposes of meeting the NAAQS. These requirements are designed to protect public health and welfare, to assure that economic growth will occur in a manner consistent with the preservation of existing clean air resources, and to assure that any decision to permit increased air pollution is made only after careful evaluation of all the consequences of such a decision and after public participation in the decision making process. 42 U.S.C. § 7470. These provisions are referred to herein as the "PSD program."

54. Section 165(a) of the Act, 42 U.S.C. § 7475(a), prohibits the construction and operation of a "major emitting facility" in an area designated as attainment or unclassifiable unless a permit has been issued that comports with the requirements of Section 165 and the facility employs the best available control technology (BACT) for each pollutant subject to regulation under the Act that is emitted from the facility.

55. Pursuant to Section 169 of the Act, 42 U.S.C. § 7479(1), a "major emitting facility" is defined to include any petroleum refinery which emits, or has the potential to emit, 100 tons per year or more of any air pollutant.

56. Sections 110(a) and 161 of the Act, 42 U.S.C. §§ 7410(a) and 7471, require each state to adopt a SIP containing regulations implementing the PSD program as provided in the PSD provisions of the Act set forth at 42 U.S.C. §§ 7470-7492.

Prevention of Significant Deterioration Program, 40 C.F.R. Part 52, Section 52.21

57. Pursuant to 40 C.F.R. § 52.21(a), if a state does not have PSD regulations that EPA has approved and incorporated into its SIP, EPA may incorporate the federal PSD regulations set forth at 40 C.F.R. § 52.21 into the SIP. On August 7, 1980, EPA incorporated the PSD regulations of 50 C.F.R. § 52.21(b) through (w) into the Illinois SIP. 40 C.F.R. § 52.738(b). EPA delegated to the Illinois Environmental Protection Agency (IEPA) the authority to review and process PSD permit applications and to implement the federal PSD program. 40 C.F.R. § 52.738(c).

58. Pursuant to 40 C.F.R. § 52.21(b)(2)(i), a "major modification" is defined as any physical change in or change in the method of operation of a major stationary source that would result in a "significant emissions increase" and a "significant net emissions increase" of any regulated PSD pollutant.

59. A "significant emissions increase" is defined as "an increase in emissions that is significant" for a regulated PSD pollutant. 40 C.F.R. § 52.21(b)(40).

60. "Significant" means a rate of emissions that would equal or exceed any of the following rates for the following pollutants: 40 tons per year of NO_x; 40 tons per year of SO_2; 25 tons per year of PM; and 15 tons per year of PM_{10}. 40 C.F.R. § 52.21(b)(23)(i).

61. Pursuant to 40 C.F.R. § 52.21(b)(3)(i), a "net emissions increase" means the amount by which the sum of the following exceeds zero: (1) any increase in emissions from a particular physical change or change in the method of operation at a stationary source; and (2) any other increases and decreases in emissions at the source that are contemporaneous with the particular change and are otherwise creditable.

62. Pursuant to 40 C.F.R. § 52.21(j)-(r), to construct a major modification in an attainment area, a major stationary source subject to the PSD program must, among other things, perform an analysis of source impacts, perform air quality modeling and analysis, obtain a PSD permit, and install and operate BACT controls for each regulated PSD pollutant for which the modification would result in a significant net emissions increase.

63. BACT means an emissions limitation reflecting the maximum degree of reduction of each regulated PSD pollutant which the permitting authority determines is achievable for a facility on a case-by-case basis, taking into account energy, environmental and economic impacts and other costs. Section 169(3) of the Act, 42 U.S.C. § 7479(3).

64. "Emission limitation" is defined at section 302(k) of the Act, 42 U.S.C. § 7602(k), as a requirement which "limits the quantity, rate, or concentration of emissions of air pollutants on a continuous basis, including any requirement relating to the operation or maintenance of a source to assure continuous emission reduction . . . ."

65. Pursuant to 40 C.F.R. § 52.21(r)(4), when a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation on the capacity of the source or modification otherwise to emit a

pollutant, such as a restriction on hours of operation, then the requirements of PSD shall apply to the source or modification as though construction had not yet commenced on the source or modification.

Title V of the Act, Permits, and 40 C.F.R. Part 70, Operating Permit Program

66. Section 502(a) of the Clean Air Act, 42 U.S.C. § 7661a(a), states that "[a]fter the effective date of any permit program approved or promulgated under this subchapter, it shall be unlawful for any person to violate any requirement of a permit issued under this subchapter, or to operate...a major source...except in compliance with a permit issued by a permitting authority under this subchapter."

67. 40 C.F.R. § 70.7(b) states that, with minor exceptions inapplicable to the violations alleged herein, "no part 70 source may operate after the time that it is required to submit a timely and complete application under an approved permit program, except in compliance with a permit issued under a part 70 program."

68. EPA gave final interim approval the Illinois Title V Permit program, effective March 7, 1995. 60 Fed. Reg. 12478 (March 7, 1995). EPA fully approved the Illinois Title V Permit program, effective November 30, 2001. 66 Fed. Reg. 62946 (December 4, 2011). Illinois' Title V Permit program requirements are codified at IAC Title 35, Part 270.

69. The Illinois Environmental Protection Agency (IEPA) issued a Title V Permit to the facility on August 15, 2000.

70. Paragraph 7.28.3(a) of the Title V Permit requires compliance with the equipment leak requirements of the Refinery MACT by complying with the provisions of NSPS Subpart VV, pursuant to 40 C.F.R. § 63.648(a).

71. Paragraph 7.28.5(c) of the Title V Permit requires flares being used to comply with the requirements of NSPS Subpart VV comply with the requirements of 40 C.F.R. § 60.18.

72. Paragraph 7.28.8(e)(i) of the Title V Permit states that "[t]he Permittee shall monitor the flare(s) used to comply with [NSPS Subpart VV] to ensure that they are operated and maintained in conformance with their designs [40 C.F.R. § 60.482-10(e)]."

II. Factual Background

73. ExxonMobil owns and operates a petroleum refinery located at I-55 and Arsenal Road, Channahon, Will County, Illinois. The refinery consists of a number of pieces of equipment that generate air pollution and are subject to provisions of the Act and are described in further detail below.

Flares

NSPS Subpart J

74. On November 9, 2010, ExxonMobil provided information to EPA in response to a Section 114 Information Request that details a number of projects that ExxonMobil has undertaken since June 11, 1973 through 2008, which resulted in new or larger streams going to a flare.

75. These projects constituted "modifications," as that term is defined at 40 C.F.R. § 60.2, because they caused increases in the amount of SO_2 emitted into the atmosphere from the flares.

NSPS Subpart VV, NESHAP Subpart CC, Illinois SIP and Title V

76. The South Flare and the East Flare at the Joliet Refinery control emissions from the refinery's process units. Studies such as the one in Paragraph 77, below, show that properly operated flares can achieve an efficiency of 98% or greater.

77. In July 1983, EPA released report EPA 600/2-83-052, titled Flare Efficiency Study (1983 Flare Study). This study, partially funded by EPA and the Chemical Manufacturers Association (CMA), included various tests to determine the combustion efficiency and hydrocarbon destruction efficiency of flares under a variety of operating conditions. Certain tests were conducted on a steam-assisted flare provided by John Zink Company. The tests performed included a wide range of steam flows and steam-to-vent gas ratios. The data collected showed decreasing combustion efficiencies when the steam-to-vent gas ratio was above 3.5. The tests showed the following efficiencies at the following steam-to-vent gas ratios:

Pounds of Steam to One Pound of Vent Gas	Combustion Efficiency (%)
3.45	99.7
5.67	82.18
6.86	68.95

The report concluded that excessive steam-to-vent gas ratios caused steam quenching of the flame during the tests which resulted in lower combustion efficiency.

78. On January 18, 2008, ExxonMobil provided information to EPA in response to a Section 114 Information Request. One of the documents was the operating instructions for the flares. These operating instructions, written by the flare manufacturer, prescribe adding enough steam to the flare tip to prevent the formation of visible smoke while maintaining a flame that is a yellow-orange color. It further provides the amount of steam that is expected to achieve this, as pounds of steam per pound of waste hydrocarbon (steam-to-vent gas ratio).

79. On January 18, 2008, ExxonMobil also supplied to EPA an excerpt from a Mobil Engineering Guide as well as an email dated January 13, 1998. The documents relate to the addition of steam for smokeless operation and state the "operating requirements" for gases that ExxonMobil flares as a certain amount of steam per pound of flare gas.

80. EPA performed an inspection of the ExxonMobil facility on October 19, 2010. During this inspection, EPA representatives observed the South Flare while it was in operation. The representatives observed periods where there was only steam and no "yellow-orange color" flame visible, in contradiction of the flare system's Operating Instructions. Furthermore, when ExxonMobil's representatives reduced the steam rate to the flare at EPA's request, a flame appeared.

81. ExxonMobil provided EPA with steam and vent gas flow rates for the period from September 1, 2008, to October 4, 2010. These records show that ExxonMobil regularly exceeded the steam-to-vent gas ratio recommended by the flare manufacturer and its own Engineering Guide.

82. Publicly available documents such as the one identified in Paragraph 77 show that operating flares with excessive steam-to-vent gas ratios will cause flare efficiency to drop below that which it was designed to achieve. ExxonMobil added more steam than is necessary for proper operation and is recommended, thereby reducing the flares' efficiency. Furthermore, available flare performance data demonstrates that the destruction efficiency of the flares has been less than 85% over periods of the flares' operating time.

Storage Tanks

Tank 319

83. According to ExxonMobil's Title V Operating Permit, ExxonMobil installed Tank 319 in 1997, and it was thus a new source under NSPS Subpart Kb and under the Refinery MACT upon startup.

84. On December 18, 2010, ExxonMobil emptied and degassed Tank 319 in order to undertake a project to add a slotted guidepole to it. This project is considered a modification under 40 C.F.R. § 60.2.

85. On December 30, 2010, ExxonMobil filled Tank 319 with volatile organic liquids (VOL) after modifying it to add a slotted guidepole.

86. On January 4, 2011, ExxonMobil tested the primary and secondary seals on Tank 319; including taking primary and secondary seal gap measurements.

87. Pursuant to 40 C.F.R. § 60.7(a)(1), ExxonMobil should have submitted a notification of commencement of construction of the project by January 17, 2011.

88. Pursuant to 40 C.F.R. § 60.7(a)(3), ExxonMobil should have submitted a notification of initial startup by January 14, 2011.

89. Pursuant to 40 C.F.R. § 60.7(a)(4), ExxonMobil should have submitted a notification of the planned project by October 19, 2010.

90. Pursuant to 40 C.F.R. § 60.113b(b)(5), ExxonMobil should have submitted a notification of the planned seal gap measurements for Tank 319 by December 5, 2010.

91. Pursuant to 40 C.F.R. § 60.113b(b)(6)(ii), ExxonMobil should have submitted a notification of the refilling of Tank 319 by November 30, 2010.

92. Pursuant to 40 C.F.R. § 60.115b(b)(2), ExxonMobil should have submitted a report detailing the results of the seal gap measurements on Tank 319 by March 5, 2011.

Tank 205

93. According to ExxonMobil's Title V Operating Permit, ExxonMobil installed Tank 205 in 1980, and it was thus an existing source under NSPS Subpart Kb and under the Refinery MACT when those rules were promulgated.

94. On July 28, 2010, ExxonMobil emptied and degassed Tank 205 in order to undertake a project to add a slotted guidepole to it. This project is considered a modification under 40 C.F.R. § 60.2.

95. On April 30, 2011, ExxonMobil filled Tank 205 with VOL after modifying it to add a slotted guidepole.

96. Pursuant to 40 C.F.R. § 60.7(a)(1), ExxonMobil should have submitted a notification of commencement of construction of the project by August 27, 2010.

97. Pursuant to 40 C.F.R. § 60.7(a)(3), ExxonMobil should have submitted a notification of initial startup by May 15, 2011.

98. Pursuant to 40 C.F.R. § 60.7(a)(4), ExxonMobil should have submitted a notification of the planned project by May 29, 2010.

99. Pursuant to 40 C.F.R. § 60.113b(b)(1)(i) and (ii), ExxonMobil should have tested the primary and secondary seals on Tank 205, including taking gap measurements, by June 29, 2011.

Tank 402

100. According to ExxonMobil's Initial Notification of Compliance Status, Tank 402 was an existing source under NSPS Subpart Kb. This means that it was installed prior to 1984, making it an existing source under the Refinery MACT.

101. On January 22, 2010, ExxonMobil emptied and degassed Tank 402 in order to undertake a project to add a slotted guidepole to it. This project is considered a modification under 40 C.F.R. § 60.2.

102. On September 16, 2011, ExxonMobil filled Tank 402 with VOL after modifying it to add a slotted guidepole.

103. Pursuant to 40 C.F.R. § 60.7(a)(1), ExxonMobil should have submitted a notification of commencement of construction of the project by February 21, 2010.

104. Pursuant to 40 C.F.R. § 60.7(a)(3), ExxonMobil should have submitted a notification of initial startup by October 1, 2011.

105. Pursuant to 40 C.F.R. § 60.7(a)(4), ExxonMobil should have submitted a notification of the planned project by November 23, 2009.

106. Pursuant to 40 C.F.R. § 60.113b(b)(1)(i) and (ii), ExxonMobil should have tested the primary and secondary seals on Tank 402, including taking gap measurements, by November 15, 2010.

Tank 101

107. According to ExxonMobil's Title V Operating Permit, Tank 101 was installed in 1971, and was thus an existing source under NSPS Subpart Kb and under the Refinery MACT when those rules were promulgated.

108. On March 19, 2011, ExxonMobil emptied and degassed Tank 101 in order to undertake a project to add a slotted guidepole to it. This project is considered a modification under 40 C.F.R. § 60.2.

109. On January 7, 2012, ExxonMobil filled Tank 101 with VOL after modifying it to add a slotted guidepole.

110. Pursuant to 40 C.F.R. § 60.7(a)(1), ExxonMobil should have submitted a notification of commencement of construction of the project by April 18, 2011.

111. Pursuant to 40 C.F.R. § 60.7(a)(4), ExxonMobil should have submitted a notification of the planned project by January 18, 2011.

112. Pursuant to 40 C.F.R. § 60.113b(b)(1)(i) and (ii), ExxonMobil should have tested the primary and secondary seals on Tank 101, including taking gap measurements, by March 7, 2012.

Submitted Reports

113. On October 12, 2011, ExxonMobil submitted a Notification of Initial Startup for Tanks 205, 319 and 402 pursuant to 40 C.F.R. § 60.7(a)(3). The Notification provided start-up dates of each tank, though the start-up dates for Tanks 319 and 205 were incorrectly reported as January 2, 2011 and May 3, 2011, respectively.

114. On October 25, 2011, EPA and ExxonMobil discussed the October 12, 2011 Notification. EPA requested ExxonMobil submit the report describing the control equipment and

certifying that the control equipment meets the specifications of § 60.112b(a)(2) and § 60.113b(b)(2), (b)(3), and (b)(4), pursuant to 40 C.F.R § 60.115b(b)(1).

115. On October 28, 2011, ExxonMobil submitted an Addendum to the Notification. This Addendum addressed the compliance status of the tanks and the type of control used on each tank. It also provided additional information about the modifications that were made to each tank.

116. On June 28, 2012, ExxonMobil submitted a response to a Section 114 Information Request. In the response, ExxonMobil notified EPA of the correct start-up dates for Tanks 319 and 205.

June 2012 Leak Detection and Repair (LDAR) Inspection

117. From June 11 – 14, 2012, EPA conducted an on-site inspection at the Joliet Refinery located in Channahon, Illinois. During the inspection EPA representatives performed comparative monitoring to evaluate the LDAR program. During the inspection, EPA identified at least 8 open-ended lines.

PSD Program

118. The Joliet Refinery is located in Will County, Illinois. In 2003, Will County was designated severe-17 nonattainment for one-hour ozone and attainment or unclassifiable for all other criteria pollutants. *See* 56 Fed. Red. 56694. A NO_x waiver was in place for the ozone nonattainment area. *See* 61 Fed. Red. 2428. On April 30, 2004, Will County was designated moderate nonattainment for eight-hour ozone. The one-hour ozone standard was revoked, effective June 15, 2005. *See* 69 Fed. Reg. 23898.

119. On March 11, 2003, ExxonMobil received Construction Permit 03030025 from the IEPA for installation of a main air blower rotor to replace the existing FCCU main air blower rotor.

120. Permit 03030025 was explicitly based on the "project not constituting a major modification subject to the federal rules for Prevention of Significant Deterioration" because the permit required ExxonMobil to install a mechanical stop and computer stop on the main air blower for flow rate to ensure that "no increase in the amount of air to the regenerator will occur compared to the existing main air blower configuration." ExxonMobil Oil Corporation Construction Permit 03030025, pages 1 and 2 (March 11, 2003). These stops constituted enforceable limitations on the capacity of the source and were used to prevent the main air blower replacement project from being a "major modification" under the PSD program.

121. Permit 03030025 provides that, "[i]t should be noted that the Permittee has indicated that they are currently evaluating projects that could increase the feedstock available to be processed by the FCCU. In conjunction with any such project, the Permittee will apply for an appropriate permit to allow the removal of the mechanical and computer stops on the main air blower of the FCCU."

122. On April 6, 2009, ExxonMobil received a construction permit for "NSR Controls Phase II and Other Construction" that authorized "removal of the mechanical and computer stops on the Main Air Blower of the FCC Unit." ExxonMobil Oil Corporation Construction Permit 09040008, page 4 (April 6, 2009).

123. Based on information provided by ExxonMobil in response to an information request issued pursuant to Section 114 of the Act, EPA calculated that projected increases in emissions associated with increased air flow capacity to the regenerator and attendant increased throughput capacity at the FCCU exceed the significance thresholds for SO_2, NO_x, PM and PM_{10}, and ozone.

III. Violations

40 C.F.R. Part 60, Subpart A

Storage Tanks

124. ExxonMobil failed to submit the notification of commencement of construction within 30 days of commencing construction on each project at Tanks 101, 205, 319 and 402, in violation of 40 C.F.R. § 60.7(a)(1).

125. ExxonMobil failed to submit notifications of initial startup for Tanks 205 and 402 within 15 days of initial startup, in violation of 40 C.F.R. § 60.7(a)(3).

126. ExxonMobil failed to submit notifications of the planned projects at Tanks 101, 205, 319 and 402 at least 60 days before commencement of the projects, in violation of 40 C.F.R. § 60.7(a)(4).

Flares

127. ExxonMobil failed to submit the notification of commencement of construction within 30 days of commencing construction for each of several projects identified by ExxonMobil in response to EPA's Section 114 Information Request which were modifications to one or more flares, in violation of 40 C.F.R. § 60.7(a)(1).

128. ExxonMobil failed to submit notifications of initial startup for its flares within 15 days of initial startup for any of these projects, in violation of 40 C.F.R. § 60.7(a)(3).

129. ExxonMobil failed to submit notifications for these projects at least 60 days before commencement of the projects, in violation of 40 C.F.R. § 60.7(a)(4).

40 C.F.R. Part 60, Subpart J

130. Since the completion of the first project on each flare which constituted a "modification" under 40 C.F.R. § 60.2, ExxonMobil has failed to comply with the requirements of NSPS Subpart J at that flare, including, but not limited to, emission limitations and monitoring requirements set forth at 40 C.F.R. §§ 60.104(a)(1) and 60.105(a)(3).

40 C.F.R. Part 60, Subpart Kb

131. For Tanks 205 and 402, ExxonMobil failed to submit reports that describe "the control equipment and certifies that the control equipment meets the specifications of § 60.112b(a)(2) and §§ 60.113b(b)(2), (b)(3), and (b)(4)" as attachments to the Notification required under 40 C.F.R. § 60.7(a)(3), in violation of 40 C.F.R § 60.115b(b)(1).

132. ExxonMobil did not test the primary seal during hydrostatic testing or within 60 days of initial fill of VOL for Tanks 101, 205 or 402, in violation of 40 C.F.R. § 60.113b(b)(1).

133. ExxonMobil did not test the secondary seal within 60 days of initial fill of VOL for Tanks 101, 205, or 402, in violation of 40 C.F.R. § 60.113b(b)(1).

134. ExxonMobil failed to submit a notification to EPA 30 days in advance of performing the gap measurements on Tank 319, in violation of 40 C.F.R. § 60.113b(b)(5).

135. ExxonMobil failed to submit a notification of the refilling of Tank 319, in violation of 40 C.F.R. § 60.113b(b)(6)(ii).

136. For Tank 319, ExxonMobil failed to submit reports to EPA containing the results of the gap measurements within 60 days of completing the measurements, in violation of 40 C.F.R. § 60.115b(b)(2).

40 C.F.R. Part 60, Subparts VV and GGG

LDAR Program

137. ExxonMobil failed to cap, blind flange, plug or install a second valve on at least 8 open-ended lines, in violation of 40 C.F.R. §§ 60.482-6(a)(1) and 60.592(a).

Flares

138. ExxonMobil failed to follow the flare manufacturer's operating instructions and operate the flares at their design efficiencies, in violation of 40 C.F.R. § 60.482-10(e).

40 C.F.R. Part 63, Subpart A

139. ExxonMobil failed to follow the flare manufacturer's operating instructions and operate the flares at their design efficiencies, in violation of 40 C.F.R. § 63.6(e)(1)(i).

40 C.F.R. Part 63, Subpart CC

140. ExxonMobil failed to follow the flare manufacturer's operating instructions and operate the flares at their design efficiencies, in violation of 40 C.F.R. § 63.648(a).

Illinois SIP

141. ExxonMobil did not operate the flares at a destruction efficiency of at least 85%, in violation of Illinois SIP Rule 218.441.

PSD Program, including 40 C.F.R. § 52.21(r)(4)

142. Because the projected increases in SO_2, NO_x, PM and PM_{10} emissions associated with the increased air flow capacity to the FCCU regenerator exceed the relevant significance thresholds, the removal of the mechanical and computer stops caused the main air blower replacement project to become a major modification.

143. Pursuant to 40 C.F.R. § 52.21(r)(4), relaxation of the mechanical and computer stops as enforceable limitations in ExxonMobil's permits required ExxonMobil to comply with paragraphs (j) through (r) of 40 C.F.R. § 52.21, including the requirement to apply BACT for SO_2, NO_x, PM and PM_{10}, and the requirement to perform a source impact analysis to demonstrate that allowable emission increases from the modification would not cause or contribute to a violation of the NAAQS or PSD increment.

144. ExxonMobil failed to comply with the requirements of paragraphs (j) through (r) of 40 C.F.R. § 52.21 as of the date that the above-described enforceable limitations were relaxed, April 6, 2009, in violation of 40 C.F.R. § 52.21(r)(4).

IEPA Construction Permit #03030025

145. ExxonMobil failed to apply for a PSD permit for the removal of the mechanical and computer stops on the air blower at the FCCU, in violation of IEPA Construction Permit 03030025.

Title V Permit

146. ExxonMobil failed to follow the flare manufacturer's operating instructions and operate the flares at their design efficiencies, in violation of Paragraphs 7.28.3(a), 7.28.5(c), and 7.28.8(e)(i) of the facility's Title V Permit.

147. By violating the conditions of its Title V Permit, ExxonMobil also violated 40 C.F.R. § 70.7(b) and Title V of the Act.

Enforcement Provisions

148. Sections 113(a)(1) and (3) of the Act, 42 U.S.C. § 7413(a)(1) and (3), provide that the Administrator may bring a civil action in accordance with Section 113(b) of the Act, 42 U.S.C. § 7413(b), whenever, on the basis of any information available to the Administrator, the Administrator finds that any person has violated or is in violation of any requirement or prohibition of Title I of the Act, *inter alia*, the PSD requirements of Section 165(a) of the Act, 42 U.S.C. § 7475(a), the NSPS requirements of Section 111 of the Act, 42 U.S.C. § 7411, the NESHAP requirements of Section 112 of the Act, 42 U.S.C. § 7412, and any regulation or permit issued thereunder; Title V of the Act, 42

U.S.C. §§ 7661-7661f, and any regulation or permit issued thereunder; or the PSD provisions of the Illinois SIP. *See also* 40 C.F.R. § 52.23.

149. Section 113(b) of the Act, 42 U.S.C. § 7413(b), authorizes the Administrator to initiate a judicial enforcement action for a permanent or temporary injunction, and/or for a civil penalty of up to $25,000 per day for each violation occurring on or before January 30, 1997; up to $27,500 per day for each such violation occurring on or after January 31, 1997 and up to and including March 15, 2004; up to $32,500 per day for each such violation occurring on or after March 16, 2004 through January 12, 2009; and up to $37,500 per day for each such violation occurring on or after January 13, 2009, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended by 31 U.S.C. § 3701, 40 C.F.R. § 19.4, and 74 Fed. Reg. 626 (Jan. 7, 2009) against any person whenever such person has violated, or is in violation of, *inter alia,* the requirements or prohibitions described in the preceding paragraph.

150. Section 167 of the Act, 42 U.S.C. § 7477, authorizes the Administrator to initiate an action for injunctive relief, as necessary to prevent the construction, modification or operation of a major emitting facility which does not conform to the PSD requirements in Part C of the Act.

9/27/13

Date

George T. Czerniak
Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Loretta Shaffer, certify that I sent a Notice and Finding of Violation, No. EPA-5-13-IL-46, by Certified Mail, Return Receipt Requested, to:

Michael Cannon, Esq.
Refinery Attorney
ExxonMobil Refining and Supply Company
P.O. Box 874
Joliet, Illinois 60434

I also certify that I sent a copy of the Notice of Violation and Finding of Violation by first-class mail to:

Ray Pilapil, Manager
Compliance and Enforcement Section
Illinois Environmental Protection Agency
1021 North Grand Avenue East
Springfield, IL 62702

On the 30th day of September 2013.

for

Loretta Shaffer
Office Automation Assistant
Planning and Administration Section

CERTIFIED MAIL RECEIPT NUMBER: 7009 1680 0000 7676 1406