

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	R14-
EMERGENCY RULEMAKING REGARDING)	(Rulemaking-Air)
REGULATION OF COKE/COAL BULK)	
TERMINALS)	
35 ILL. ADM. CODE PART 213)	

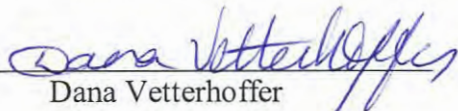
NOTICE

To: John Therriault, Clerk
 Illinois Pollution Control Board
 James R. Thompson Center
 100 West Randolph, Suite 11-500
 Chicago, Illinois 60601-3218

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the PROPOSAL AND MOTION FOR EMERGENCY RULEMAKING, ENTRY OF APPEARANCE, AFFIDAVIT OF DAVID BLOOMBERG, and AFFIDAVIT OF SANJAY SOFAT of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
 Dana Vetterhoffer
 Assistant Counsel
 Division of Legal Counsel

DATED: January 16, 2014

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THIS FILING IS SUBMITTED ON RECYCLED PAPER

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PROPOSAL AND MOTION FOR EMERGENCY RULEMAKING

The Illinois Environmental Protection Agency (“Illinois EPA” or “Agency”), by and through its attorneys, hereby requests that the Illinois Pollution Control Board (“Board”) adopt the proposal set forth in Exhibit A as 35 Ill. Adm. Code Part 213, pursuant to the Board’s authority to adopt emergency regulations under Section 27(c) of the Illinois Environmental Protection Act (“Act”), 415 ILCS 5/27(c), Section 5-45 of the Illinois Administrative Procedure Act (“Illinois APA”), 5 ILCS 100/5-45, and 35 Ill. Adm. Code 102.612. The Illinois EPA also requests that the Board grant this Motion immediately in order to prevent undue delay or material prejudice, pursuant to 35 Ill. Adm. Code 101.500(d). In support of its Motion, the Illinois EPA states as follows:

I. INTRODUCTION

1. Several bulk terminals located in Cook County process, transport, and handle large quantities of coke and/or coal, and store such materials in large outdoor storage areas. Emissions of fugitive particulate matter (“PM”) from these and similar operations are inadequately controlled, to such an extent that they cause or threaten to cause a public nuisance as well as violations of the Act and Board regulations. These emissions reasonably constitute a threat to the public interest, safety, or welfare, necessitating adoption of the emergency amendments set forth in Exhibit A. Additionally, the discharge of runoff from large, uncovered coke and coal piles into waters of the State is a violation of the Act and Board regulations and

reasonably constitutes a threat to the public interest or welfare, necessitating adoption of the emergency amendments set forth in Exhibit A.

II. BACKGROUND

2. Generally, “coke” refers to solid, carbonaceous material derived from the distillation of coal (including metallurgical coke or “metcoke”) or from oil refinery coker units or other cracking processes (including petroleum coke or “petcoke”). Along with high amounts of carbon, petcoke contains sulfur and can contain a variety of metals, including vanadium, nickel, chromium, and lead. It is primarily utilized as a replacement fuel or fuel blend for coal-fired power plants and cement kilns, and in other industrial processes. Metcoke is generally used as a fuel and as a reducing agent in smelting iron ore.

3. Dust from both coke and coal is a type of fugitive PM, subject to National Ambient Air Quality Standards. Exposure to PM can have serious health consequences, such as cardiovascular and respiratory effects and increased mortality. *See Proposed National Ambient Air Quality Standards for Particulate Matter, 77 Fed. Reg. 38890, 38947 (June 29, 2012).* Specific adverse effects include aggravated asthma, decreased lung function, increased respiratory symptoms such as difficulty breathing, irregular heartbeat, and nonfatal heart attacks. Several at-risk populations may be especially susceptible to PM-related effects, including those with preexisting heart or lung diseases and those with certain genetic disorders, as well as children and the elderly. *See Final National Ambient Air Quality Standards for Particulate Matter, 78 Fed. Reg. 3086, 3167 (Jan. 15, 2013).*

4. Coke and coal dust can be emitted into the environment during loading, unloading, transferring, handling, and transport of coke and coal, and when wind acts upon open

storage piles of such materials. The dust can be carried by the wind into surrounding areas, where it may be inhaled or deposited on persons and property, or in bodies of water.

5. Stormwater and wastewater associated with runoff from open storage piles of coke and coal can be discharged to waters of the State, including surface water and groundwater. Inadequately controlled discharges into surface waters can lead to excessive floating debris or bottom deposits that could adversely affect aquatic life. Additionally, inadequate storage of coke and coal poses a threat to groundwater contamination due to leaching of metals and other constituents associated with these large storage piles.

6. Several bulk storage terminals are located in Cook County. Generally, these facilities unload coal and coke from trucks, barges, and/or railcars, convey the materials to storage piles (where the materials remain for varying lengths of time), transfer the materials on site, convey the materials to loading operations, and load the materials for transport to end users. Outdoor storage piles of coke and coal vary in size by facility, but can be 75 or more feet high and several hundreds of feet long and wide.

7. Similar coke or coal bulk terminals may be operating in, or may come into operation in, other areas of the State as well.

III. AUTHORIZATION FOR EMERGENCY REGULATION

8. Section 27(c) of the Act authorizes the Board to adopt emergency regulations pursuant to and in accordance with Section 5-45 of the Illinois APA when the Board “finds that a situation exists which reasonably constitutes a threat to the public interest, safety or welfare.”

415 ILCS 5/27(c).

9. Similarly, Section 102.612 of the Board's regulations provides:

- a) *When the Board finds that a situation exists which reasonably constitutes a threat to the public interest, safety, or welfare, the Board may adopt regulations pursuant to and in accordance with Section 5-45 of the IAPA [415 ILCS 27(c)].*
- b) *When the Board finds that a severe public health emergency exists, the Board may, in relation to any proposed regulation, order that such regulation shall take effect without delay [415 ILCS 5/27(c)]. The Board will proceed with any required hearings while the regulation continues in effect.*

35 Ill. Adm. Code 102.612.

- 10. Section 5-45 of the Illinois APA provides, in pertinent part:
 - (a) "Emergency" means the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare.
 - (b) If any agency finds that an emergency exists that requires adoption of a rule upon fewer days than is required by Section 5-40 and states in writing its reasons for that finding, the agency may adopt an emergency rule without prior notice or hearing upon filing a notice of emergency rulemaking with the Secretary of State under Section 5-70. The notice shall include the text of the emergency rule and shall be published in the Illinois Register. . . Subject to applicable constitutional or statutory provisions, an emergency rule becomes effective immediately upon filing under Section 5-65 or at a stated date less than 10 days thereafter. The agency's finding and a statement of the specific reasons for the finding shall be filed with the rule. The agency shall take reasonable and appropriate measures to make emergency rules known to the persons who may be affected by them.
 - (c) An emergency rule may be effective for a period of not longer than 150 days, but the agency's authority to adopt an identical rule under Section 5-40 is not precluded.

5 ILCS 100/5-45.

11. The Board is authorized to rule upon a motion immediately, prior to expiration of the 14 day response period set forth in Section 101.500 of the Board's regulations, when doing so is necessary to prevent undue delay or material prejudice. Section 101.500 provides, in pertinent part:

- d) Within 14 days after service of a motion, a party may file a response to the motion. . . Unless undue delay or material prejudice would result, neither the Board nor the hearing officer will grant any motion before expiration of the 14

day response period except in deadline driven proceedings where no waiver has been filed. . .

35 Ill. Adm. Code 101.500.

IV. NECESSITY OF EMERGENCY REGULATION

12. Inadequately controlled fugitive PM emissions, along with inadequately controlled discharges of stormwater and wastewater to waters of the State, from handling, processing, transport, and storage operations at coke or coal bulk terminals reasonably constitute a threat to the public interest, safety, or welfare, necessitating immediate adoption of emergency regulations as set forth in Exhibit A.

13. Regarding bulk terminals located in Cook County, the Illinois EPA has become aware of complaints or observed that:

- a) Large clouds of black dust travel beyond facilities' property boundaries and into nearby neighborhoods, school yards, etc.;
- b) Coke/coal dust is deposited upon, and blown into, residences, schools, and businesses on a daily basis;
- c) Coke/coal dust accumulates on residents' lawns, pools, vehicles, residential siding and brick, and outdoor and indoor furniture;
- d) Residents are forced to avoid opening their windows or engaging in outdoor activities;
- e) Residents have respiratory conditions that have been aggravated by coke/coal dust emissions;
- f) Large, uncovered piles of coke/coal are being stored directly adjacent to water bodies;

- g) Through the use of inadequate berms and/or unlined sedimentation ponds, runoff from these coke and coal storage sites is being inadequately contained in a manner that allows stormwater and/or wastewater into waters of the State;
- h) Coke/coal has been deposited into off-site storm sewers, which ultimately discharge to waters of the State.

14. As enclosures may take a year or more to design and construct, they are incapable of providing immediate protection against the threats posed by these operations. Emissions of fugitive PM from coke or coal bulk terminals are inadequately controlled, and cannot be adequately controlled unless certain operations at the facilities, including storage, processing, handling, and transfer operations, are enclosed within a building or other structure. The proposed emergency amendments therefore require immediate measures, including road paving, use of dust suppression systems, setback requirements for storage piles from facilities' property lines and nearby water bodies, containment of contaminated stormwater and/or wastewater, and disposal of coke and coal that has been on-site for more than a year.

15. Other statewide coke or coal bulk terminals could encounter problems similar to those at Cook County bulk terminals and should be subject to the emergency rule to ensure consistent regulation throughout Illinois and to prevent a localized problem from simply relocating to otherwise unregulated parts of the State. It is also key that the proposed amendments are in place before the Agency is compelled to take action on any new permit applications for coke or coal bulk terminals.

16. The Board's current regulations generally address fugitive PM emissions and stormwater and wastewater runoff; however, the proposed emergency regulations are necessary

to establish more detailed control requirements specific to emissions and discharges from coke and coal bulk terminal operations.

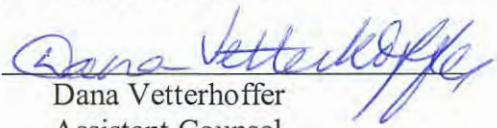
17. Undue delay or material prejudice would result if the control measures contained in the proposed emergency amendments are not implemented as soon as possible to address inadequately controlled emissions and discharges, necessitating immediate adoption of the amendments by the Board.

V. CONCLUSION

For the foregoing reasons, the Board should immediately adopt the attached Part 213 as an emergency rule pursuant to the Board's authority under the Act, regulations, and the Illinois APA.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By:



Dana Vetterhoffer
Assistant Counsel
Division of Legal Counsel

DATED: January 16, 2014
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Springfield, IL 62794-9276
(217) 782-5544

EXHIBIT A

ILLINOIS REGISTER

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF EMERGENCY RULES

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS FOR
STATIONARY SOURCES

PART 213
REGULATION OF COKE OR COAL BULK TERMINALS

SUBPART A: INTRODUCTION

Section

213.110 Purpose and Applicability

EMERGENCY

213.115 Definitions

EMERGENCY

213.120 Compliance Date

EMERGENCY

213.125 Incorporation by Reference

EMERGENCY

213.130 Other Provisions of the Illinois Environmental Protection Act

EMERGENCY

213.135 Public Comments

EMERGENCY

SUBPART B: FUGITIVE DUST CONTROLS

Section

213.210 Applicability

EMERGENCY

213.213 Definitions

EMERGENCY

213.215 Storage Limitation

EMERGENCY

213.220 Plan for Total Enclosure

EMERGENCY

213.225 Coke and Coal Fugitive Dust Plan

EMERGENCY

213.230 Property Boundary Setbacks

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213.235 Pile Height

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- 213.240 Wind Events
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- 213.245 Paving
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- 213.250 Roadways and Railways
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- 213.260 Transfer Points
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- 213.265 Dust Suppression System
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- 213.270 Vehicle Covers
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- 213.275 Transport
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- 213.280 Monitoring
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- 213.285 Recordkeeping and Reporting
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SUBPART C: WATER POLLUTION CONTROLS

- Section
- 213.310 Applicability
EMERGENCY
- 213.315 Definitions
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- 213.320 Water and Well Setbacks; Impermeable Barriers
EMERGENCY
- 213.325 Wastewater and Stormwater Runoff Controls
EMERGENCY

SUBPART D: HAZARDOUS WASTE DETERMINATIONS

- Section
- 213.410 Applicability
EMERGENCY
- 213.415 Hazardous Waste Determinations
EMERGENCY

AUTHORITY: Implementing and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/27].

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SOURCE: Emergency Rule adopted at 38 Ill. Reg. _____, effective _____, for a maximum of 150 days.

SUBPART A: INTRODUCTION

Section 213.110 Purpose and Applicability
EMERGENCY

The requirements in this Part apply to coke or coal bulk terminals. Subpart B sets forth controls for fugitive dust emissions from the storage, handling, blending, processing, transport, or other management of coke and coal from bulk terminals. Subpart C sets forth controls intended to prevent water pollution. Subpart D sets forth hazardous waste determination requirements applicable to coke. The requirements set forth in this Part are intended to supplement other applicable laws and regulations.

Section 213.115 Definitions
EMERGENCY

For purposes of this Part, the following definitions apply.

“100-Year, 24-Hour Precipitation Event” means the maximum 24-hour precipitation event with a probable recurrence interval of once in 100 years, as defined by NOAA Atlas 14; Precipitation Frequency Atlas of the United States, incorporated by reference in Section 213.125.

“Act” means the Illinois Environmental Protection Act.

“Board” means Illinois Pollution Control Board.

“Coke” means a solid carbonaceous material derived from the distillation of coal (including metallurgical coke) or from oil refinery coker units or other cracking processes (including petroleum coke).

“Coke or coal bulk terminal” means a source, site, or facility where coke or coal is stored, handled, blended, processed, transported, or otherwise managed, other than the source, site, or facility that produces or consumes the coke or coal. A coke or coal bulk terminal typically receives coke or coal from one type of vehicle – such as a truck, railcar, barge, or lake vessel – and transfers the coke or coal to another type of vehicle, often while temporarily storing the coke or coal between receipt and transfer.

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“Moist” means having a moisture content that is in no place less than 8.3% by weight for coke, and 7.6% by weight for coal.

“Operator” means the operator of a coke or coal bulk terminal.

“Owner” means the owner of a coke or coal bulk terminal.

“Restricted Area” means the area within the boundaries of any “municipality” as defined in the Illinois Municipal Code (Ill. Rev. Stat. 1981, ch. 24, par. 1-1-2), plus a zone extending one mile beyond the boundaries of any such municipality having a population of 1,000 or more according to the latest federal census.

“Separation pond” means a container for separating coke or coal from water by gravity, which has a liquid water surface at all points.

“Transfer point” means any point where material being moved, carried, conveyed, or transported is dropped or deposited, other than points where material is being loaded to or unloaded from railcars or marine vessels.

“Vehicle” means any car, truck, railcar, off-road mobile heavy equipment, or marine vessel.

“Water spray system” means a dust suppression technique that uses water or water-based solutions delivered through pipes, tubes, or hoses that are fitted with one or more nozzles and operated at pressures ranging from 1 to 2000 psi.

Section 213.120 Compliance Date
EMERGENCY

The effective date of this Part is the date such Part is filed with the Illinois Secretary of State.

Section 213.125 Incorporation by Reference
EMERGENCY

The Board incorporates the following material by reference:

“NOAA Atlas 14: Precipitation-Frequency Atlas of the United States,” United States Department of Commerce, National Oceanic and Atmospheric Administration, National Weather Service, Volume 2, Version 3.0 (2004), revised 2006. Available from NOAA, NWS, Office of Hydrologic Development, 1325 East West Highway, Silver Spring, MD 20910 (Available online at http://www.nws.noaa.gov/oh/hdsc/PF_documents/Atlas14_Volume2.pdf).

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Section 213.130 Other Provisions of the Illinois Environmental Protection Act
EMERGENCY

- a) These rules apply in addition to any other laws and regulations, including but not limited to Section 34 of the Act.
- b) Any violation of the provisions of this Part may result in enforcement action pursuant to Title VIII of the Act, and/or penalties pursuant to Title XII of the Act.

Section 213.135 Public Comments
EMERGENCY

- a) The Agency must post all plans submitted to the Agency pursuant to Sections 213.220, 213.225, 213.265(c), 213.275(b), or 213.325 of this Part on the Agency's website for at least thirty (30) days.
- b) The Agency must accept written comments regarding a plan described in subsection (a) of this Section for thirty (30) days, beginning on the date the plan is posted on the Agency's website. The Agency must take such comments into consideration.
- c) The Agency may, in its sole discretion, respond to comments received pursuant to subsection (b) of this Section, but a response is not required.

SUBPART B: FUGITIVE DUST CONTROLS

Section 213.210 Applicability
EMERGENCY

This Subpart is intended to supplement other requirements in 35 Ill. Adm. Code Part 212 to add detail to specific aspects of coke and coal storage, handling, blending, processing, transport, and other management.

Section 213.213 Definitions
EMERGENCY

Except as otherwise provided in this Part, the definitions of 35 Ill. Adm. Code 201 and 211 apply to this Subpart.

Section 213.215 Storage Limitation

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EMERGENCY

- a) No later than sixty (60) days after the effective date of this Part, the owner or operator must remove all coke and coal that have been at the source for more than one year, and transfer such material to a location that complies with the requirements of the Illinois Environmental Protection Act and applicable regulations.
- b) Except as provided under subsection (a) of this Section, the owner or operator must remove coke and coal from the source no later than one year after the date such materials were received at the source.

Section 213.220 Plan for Total Enclosure
EMERGENCY

No later than forty-five (45) days after the effective date of this Part, the owner or operator must submit to the Agency a plan for total enclosure of all coke piles, coal piles, conveyors, transfer points, truck loading and unloading areas, screening areas, crushing areas, and sizing areas at the source as quickly as possible, but in no event later than two years after the effective date of this Part. Such plan must include design specifications for the enclosure(s), which, at minimum, must comply with the following requirements. Any plan deficiencies noted by the Agency must be corrected within forty-five (45) days of written notification by the Agency:

- a) Structures or buildings must be equipped with, maintain, and use as needed a water spray system or permitted air pollution control equipment sufficient to control fugitive dust emissions at designed vents and at entrances and exits for material or vehicles;
- b) The pad, base, or flooring area of the structures or buildings must be impermeable;
- c) All entrances and exits must have overlapping flaps, sliding doors, or other equivalent device(s) approved in writing by the Agency, which must remain closed except to allow entry or exit. Any device approved by the Agency pursuant to this subsection must be capable of achieving the same level of fugitive dust control provided by overlapping flaps or sliding doors;
- d) Structures or buildings must comply with all applicable building code requirements; and
- e) The owner or operator must utilize best practices to minimize the risk of fire or explosion within the enclosure.

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Section 213.225 Coke and Coal Fugitive Dust Plan
EMERGENCY

No later than (45) days after the effective date of this Part, the owner or operator must prepare, submit to the Agency (directed to the Manager of the Bureau of Air's Compliance Section), and follow a Coke and Coal Fugitive Dust Plan. The plan must contain all of the information specified in 35 Ill. Adm. Code 212.310 and demonstrate compliance with all of the requirements set forth in this Subpart. The plan must be updated on at least a semi-annual basis, or within 30 days after any change in transfer equipment or controls, and be submitted to the Agency on or before January 31 and July 31 of each year. Any plan deficiencies noted by the Agency must be corrected within forty-five (45) days of written notification by the Agency.

Section 213.230 Property Boundary Setbacks
EMERGENCY

In Cook County and Restricted Areas, beginning sixty (60) days after the effective date of this Part, coke piles, coal piles, and transfer points that are not totally enclosed at a source must be located at least 200 feet inside the property line of the source.

Section 213.235 Pile Height
EMERGENCY

Beginning sixty (60) days after the effective date of this Part, the vertical distance from grade immediately adjacent to a pile to the highest point of that pile must not exceed thirty (30) feet.

Section 213.240 Wind Events
EMERGENCY

The owner or operator must suspend disturbance of coke piles and coal piles that are not totally enclosed, including but not limited to loading, unloading, transferring, and blending activities, when wind speeds at the source exceed twenty-five (25) miles per hour. No later than five (5) days after the effective date of this Part, the owner or operator must install and maintain a weather station or other device to monitor wind speed at the source. Determination of wind speed for the purposes of this Section shall be by a one-hour average or hourly recorded value at the nearest official station of the U.S. Weather Bureau or by wind speed instruments operated on the site. In cases where the duration of operations subject to this Section is less than one hour, wind speed may be averaged over the duration of the operations on the basis of on-site wind speed instrument measurements.

Section 213.245 Paving
EMERGENCY

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No later than ninety (90) days after the effective date of this Part, the owner or operator must pave, in a manner sufficient to handle the expected level of traffic at the source, and maintain as paved all roads used within the source and discontinue use of non-paved roads.

Section 213.250 Roadways and Railways
EMERGENCY

The owner or operator must comply with the following:

- a) Use a street sweeper equipped with a water spray and vacuum system equipped with a filter collection device, system, or equivalent to clean all roads used to transport coke or coal at the source and within one quarter mile of the perimeter of the source. Street sweeping must take place at least once every four hours or after every 100 truck material receipts or dispatches, but not less than once per calendar day when the source is open for business;
- b) Record on a daily basis the date and time(s) when street sweeping is performed and the truck count between sweepings, and provide such records to the Agency upon request; and
- c) Maintain railways at railcar loading and unloading stations free of loose and spilled material.

Section 213.260 Transfer Points
EMERGENCY

Beginning thirty (30) days after the effective date of this Part, the owner or operator must comply with the following for each transfer point that is not totally enclosed:

- a) Transfer only moist material;
- b) Install and operate water spray bars, a misting system, water hoses, or similar devices sufficient to prevent visible fugitive dust during operations; or
- c) When transferring coke or coal into vehicles and piles, utilize choke-feeding to minimize fugitive dust emissions.

Section 213.265 Dust Suppression System
EMERGENCY

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Beginning thirty (30) days after the effective date of this Part, the owner or operator must comply with the following for all coke piles and coal piles that are not totally enclosed to meet the criteria set forth in Section 213.220(a) through (e) of this Part:

- a) Apply chemical dust suppressant agents and/or maintain and operate water spray bars, a misting system, water hoses, and/or water trucks to control fugitive dust emissions;
- b) The dust suppression system described in subsection (a) of this Section must be operated such that coke and coal at the surface of the pile is moist at all times; and
- c) Develop and implement a plan containing measures, such as water heating systems, that adequately ensure that dust suppression continues when temperatures fall below 32 degrees Fahrenheit. No later than seven (7) days after the effective date of this Part, submit such plan to the Agency (directed to the Manager of the Bureau of Air's Compliance Section). Any plan deficiencies noted by the Agency must be corrected within seven (7) days of written notification by the Agency.

Section 213.270 Vehicle Covers
EMERGENCY

The owner or operator must not load material into any truck trailer, unless it is subsequently and immediately covered before leaving the source in one of the following manners sufficient to prevent material from escaping from the trailer:

- a) A solid sliding cover on the top of the truck that is kept completely closed; or
- b) A continuous tarp that completely covers the trailer and does not contact the material within the trailer. In addition, the tarp must be installed, or the trailer constructed, to prevent wind from entering over the leading edge of the rim of the trailer and into the interior of the trailer. The tarp must not contain any rips or tears that allow fugitive dust emissions during transport.

Section 213.275 Truck Transport
EMERGENCY

- a) The owner or operator must ensure that:
 - 1) All trucks adhere to the posted speed limit within the source, which must be no more than 8 miles per hour; and

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- 2) All outgoing coke or coal transport trucks, whether loaded or empty, are cleaned so that:
 - A) All parts of any tractor, trailer, or tire exterior surface, excluding the inside of the trailers, are free of all loose material;
 - B) The material removed by the truck cleaning operation is collected and properly disposed of so that it does not result in fugitive dust emissions; and
 - C) All outgoing coke or coal transport trucks, whether loaded or empty, pass through a wheel wash station, and pass over rumble strips that will vibrate the trucks and shake off loose material and dust.
- b) No later than forty-five (45) days after the effective date of this Part, the owner or operator must submit to the Agency (directed to the Manager of the Bureau of Air's Compliance Section) and follow a plan to minimize the impact of truck traffic upon residential areas near the source. Any plan deficiencies noted by the Agency must be corrected within forty-five (45) days of written notification by the Agency.

Section 213.280 Monitoring
EMERGENCY

- a) The owner or operator must conduct monitoring of the coke and coal that is stored and handled at source. Each calendar week the owner or operator must collect representative samples of the coke and coal, as described below, and test the moisture content of such samples using ASTM Procedure D 3302 for coal and ASTM Procedure D 3172 and D 4931 for coke. The owner or operator must conduct sampling until three consecutive tests at the source, taken at least 24 hours apart, show moisture contents of 8.3% by weight or greater for coke and 7.6% by weight or greater for coal;
- b) The owner or operator must install, maintain, and operate a master metering device on the equipment used for dust suppression by equipment type (i.e., processing and conveying equipment (including breakers and crushers), and coke or coal storage, transfer, and loading systems); and

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- c) At least once per calendar week the owner or operator must inspect all dust suppression equipment for proper operation (i.e., maintaining adequate flow, clogging of flow lines, etc.) when this equipment is being utilized.

Section 213.285 Recordkeeping and Reporting
EMERGENCY

- a) The owner or operator must keep and maintain records containing the following information:
 - 1) The type and amount, in tons, of all coke and coal delivered to the source each day; the name and address of the person or company from which the material was received; the type and amount, in tons, of all coke and coal transported from the source each day; and the name and address of the recipient of the material transported from the source;
 - 2) The total quantity of coke and coal, in tons and cubic yards, at the source at the end of each month;
 - 3) All cleaning and street sweeping performed pursuant to Section 213.250 of this Part;
 - 4) The date and time of the application of water and chemical dust suppressant agent pursuant to Section 213.265 of this Part, indicating any instances when such application is suspended for any reason, including but not limited to weather conditions;
 - 5) The dust suppression system manufacturer's recommended maintenance procedures and the date and time of any maintenance and inspection activities and the results of those activities. Any variance from the manufacturer's recommendations must be noted;
 - 6) The date and time of periodic visual observations of the coke and coal at the source, noting the areas with visible emissions and the corrective actions taken to reduce visible emissions;
 - 7) Monthly certification that the dust suppression systems were operational at all times during the processing of coal and coke, and that the system manufacturer's recommendations were followed for all control systems. Any variance from the manufacturer's recommendations must be noted;

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- 8) Monthly certification that the Coke and Coal Fugitive Dust Plan required under Section 213.225 of this Part was followed during the month. Any variance from the plan must be noted;
 - 9) Information regarding the master metering device on the equipment used for dust suppression, including dates and hours of usage, total amount of water applied each month, malfunctions (type, dates, and measures to correct), records of each inspection conducted in accordance with Section 213.280 of this Part, amount of rainfall during the preceding 24 hours, and daily observations of coke and coal conditions (wet or dry) and other controls as may be present (e.g., coverage by snow or ice);
 - 10) Results of moisture analyses from samples of the coke and coal collected at the source pursuant to Section 213.280 of this Part, including date, time, individual or laboratory performing test, and location of sample (e.g., prior to screening, stockpiles, etc.); and
 - 11) All times when activities are suspended due to winds in excess of twenty-five (25) miles per hour.
- b) Unless otherwise specified, all required records must be kept and maintained at the source for a minimum of three (3) years from the date the record is created, and provided to the Agency upon request.
 - c) No later than seven (7) days after the end of each month, the owner or operator must provide the Agency (directed to the Manager of the Bureau of Air's Compliance Section) records containing the information specified in subsections (a)(1), (7), and (8) of this Section.
 - d) All information submitted to the Agency, other than certifications, must be submitted in table summary format.

SUBPART C: WATER POLLUTION CONTROLS

Section 213.310 Applicability
EMERGENCY

This Subpart is intended to supplement requirements in the Clean Water Act, the Illinois Environmental Protection Act, and Board regulations.

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NOTICE OF EMERGENCY RULES

Section 213.315 **Definitions**
EMERGENCY

Except as otherwise provided in this Part, the terms used in this Subpart have the same meaning as those used in the Illinois Environmental Protection Act and 35 Ill. Adm. Code: Subtitles C and D.

Section 213.320 **Water and Well Setbacks; Impermeable Barriers**
EMERGENCY

Beginning sixty (60) days after the effective date of this Part, the owner or operator must locate all coke piles and coal piles:

- a) A minimum distance of 200 feet from:
 - 1) All waters of the United States;
 - 2) All public water supply reservoirs and intakes;
 - 3) All potable water wells; and
- b) On impermeable bases or pads.

Section 213.325 **Wastewater and Stormwater Runoff Controls**
EMERGENCY

- a) Within forty-five (45) days after the effective date of this Part, the owner or operator must submit applications for necessary permits, and implement comprehensive wastewater and stormwater runoff controls for the entire site.
 - 1) The controls must:
 - A) Ensure that water that may come in contact with storage piles or process areas is prevented from entering waters of the State, except in accordance with a permit issued by the Agency;
 - B) Address all potential inlets, drains, or entry points into the stormwater collection system, and off-site conveyances through which coke or coal might enter the stormwater collection system;

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- C) Address timely and effective ways to respond to spills and or visible migration of pollutants that could occur onsite or offsite; and
 - D) Demonstrate that the site is graded in such a way as to ensure proper drainage and to prevent pooling of water.
- 2) For controls that utilize sedimentation ponds:
- A) The sedimentation ponds must be designed and operated to contain or appropriately treat runoff from a 100-year, 24-hour precipitation event;
 - B) Rainfall, snowmelt, combined rainfall-snow melt events, and runoff from dust suppression spray systems must be considered in determining the design capacity of the sedimentation pond;
 - C) The sedimentation ponds and ditches or conveyances tributary to such ponds must be constructed with a liner that has a maximum permeability equal to or less than 1×10^{-7} cm/sec; and
 - D) All discharges from the sedimentation ponds must comply with the applicable requirements of the Illinois Environmental Protection Act and 35 Ill. Adm. Code: Subtitles C and D.
- b) Within sixty (60) days after the effective date of this Part, the owner or operator must submit written documentation to the Agency demonstrating compliance with the comprehensive wastewater and stormwater runoff controls set forth in subsection (a) of this Section. Any deficiencies noted by the Agency must be corrected within sixty (60) days of written notification by the Agency.
- c) Submittals for compliance with this Subpart must be addressed to:

Illinois Environmental Protection Agency
Division of Water Pollution Control, Mail Code #15
Attention: Permit Section
1021 North Grand Avenue East
Post Office Box 19276
Springfield, Illinois 62794-9276

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SUBPART D: HAZARDOUS WASTE DETERMINATIONS

Section 213.410 Applicability
EMERGENCY

This Subpart is intended to supplement solid waste requirements in the Illinois Environmental Protection Act and regulations adopted under that Act.

Section 213.415 Hazardous Waste Determinations
EMERGENCY

- a) The owner or operator must not accept coke for storage, handling, blending, processing, transport, or other management unless:
 - 1) A hazardous waste determination for the coke has been conducted in accordance with 35 Ill. Adm. Code 722.111; and
 - 2) Such determination establishes that the coke is not a hazardous waste.
- b) When making hazardous waste determinations pursuant to this Section coke must be analyzed as if it were a solid waste.
- c) Documentation of all determinations required under this Section must be maintained at the site and provided upon request to the Agency.

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

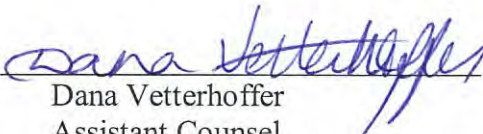
IN THE MATTER OF:)	
)	R14-
EMERGENCY RULEMAKING REGARDING)	(Rulemaking-Air)
REGULATION OF COKE/COAL BULK)	
TERMINALS)	
35 ILL. ADM. CODE PART 213)	

APPEARANCE

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

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
 Dana Vetterhoffer
 Assistant Counsel
 Division of Legal Counsel

DATED: January 16, 2014

1021 N. Grand Ave. East
P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	R14-
EMERGENCY RULEMAKING REGARDING)	(Rulemaking-Air)
REGULATION OF COKE/COAL BULK)	
TERMINALS)	
35 ILL. ADM. CODE PART 213)	

AFFIDAVIT OF DAVID BLOOMBERG


Pursuant to 35 Ill. Adm. Code §101.504, under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned, David Bloomberg, certifies that the statements set forth in the Motion for Emergency Rulemaking are true and correct, except as to matters therein stated to be on information and belief and, as to such matters, the undersigned certifies as aforesaid that he verily believes the same to be true.

*State of Illinois
County of Sangamon*

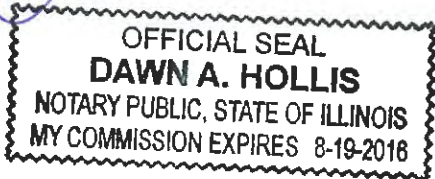


DAVID BLOOMBERG

SUBSCRIBED and SWORN to
before me this 16th day
of January, 2014.



NOTARY PUBLIC

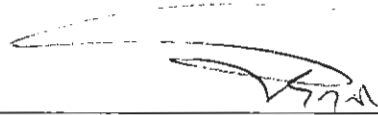


BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	R14-
EMERGENCY RULEMAKING REGARDING)	(Rulemaking-Air)
REGULATION OF COKE/COAL BULK)	
TERMINALS)	
35 ILL. ADM. CODE PART 213)	

AFFIDAVIT OF SANJAY SOFAT

Pursuant to 35 Ill. Adm. Code §101.504, under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned, Sanjay Sofat, certifies that the statements set forth in the Motion for Emergency Rulemaking are true and correct, except as to matters therein stated to be on information and belief and, as to such matters, the undersigned certifies as aforesaid that he verily believes the same to be true.



SANJAY SOFAT

*State of Illinois
County of Sangamon*

SUBSCRIBED and SWORN to
before me this 16th day
of January, 2014.

Dawn A. Hollis

NOTARY PUBLIC



BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

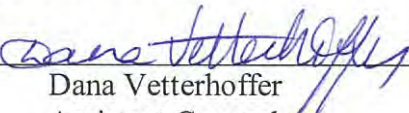
IN THE MATTER OF:)	
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EMERGENCY RULEMAKING REGARDING)	(Rulemaking-Air)
REGULATION OF COKE/COAL BULK)	
TERMINALS)	
35 ILL. ADM. CODE PART 213)	

CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have electronically served the attached PROPOSAL AND MOTION FOR EMERGENCY RULEMAKING, ENTRY OF APPEARANCE, AFFIDAVIT OF DAVID BLOOMBERG, and AFFIDAVIT OF SANJAY SOFAT of the Illinois Environmental Protection Agency upon the following persons:

John Therriault, Clerk
Illinois Pollution Control Board
James R. Thompson Center
100 West Randolph, Suite 11-500
Chicago, Illinois 60601-3218

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Dana Vetterhoffer
Assistant Counsel
Division of Legal Counsel

DATED: January 16, 2014
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