

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
EMERGENCY RULEMAKING) R14-20
REGARDING REGULATIONS OF) (Rulemaking - Air/Land/Water)
COKE/BULK TERMINALS: NEW)
35 ILL. ADM. CODE 213)

RESPONSE OF BEELMAN RIVER TERMINALS, INC.

Beelman River Terminals, Inc. ("BRT"), welcomes this opportunity to express its concern regarding the inequity of the proposed *Emergency Rulemaking Regarding Regulation of Coke/Coal Bulk Terminals* submitted by the Illinois Environmental Protection Agency ("IEPA"). BRT, as with all of its facilities, works in conjunction with the IEPA and the US Environmental Protection Agency ("USEPA"), to protect public health and the environment. BRT's terminal is fully committed to compliance with all federal, state and local regulation, as well as environmental permit conditions which govern the terminal, including those that cover the processing and handling of coal and coke.

Beelman River Terminals, Inc.'s Operation

BRT has been in the materials handling business for over a quarter of a century. Specifically, BRT has operated the facility in Venice, Illinois since 2000. BRT is held in the highest regards by the communities in which it does business (Venice, Illinois and Madison County, Illinois) and has operated for over fourteen (14) years in Venice, Illinois without an environmental violation or citation.

BRT's Illinois facility employs thirty-four (34) people of which 47% are minority and Beelman Truck Company employs forty-five (45) drivers and mechanics of which 24% are minority.

In addition to supporting the local economy, BRT and affiliated companies pay over \$150,000.00 annually in taxes to Madison County.

BRT's business consists of two primary operations. Coal is brought to the facility by barge, unloaded at the terminal and delivered by truck to U.S. Steel in Granite City, Illinois. Petroleum coke ("petcoke") is produced by Phillips 66's Wood River Refinery, transported by truck to BRT's facility, and loaded onto barges. These products are critical to both U.S. Steel and Phillips 66.

The Introduction portion of the Proposed Rulemaking, it states *"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."* BRT has numerous safety precautions in place including systems and equipment to control and eliminate fugitive dust emissions. Some of the safety systems include:

- The BRT Venice, IL facility was designed, constructed and operates to meet and exceed all USEPA and IEPA regulations. The state of the art conveyor system, stackers, truck & barge load out systems are custom designed and built to meet all current regulations.
- BRT's Venice, IL facility has in place, and executes daily, a Minimum Operation Plan. This plan ensures the execution of BRT's fugitive dust control plan which includes water cannons, spray nozzles on its conveyor systems, at load outs and also uses water trucks/sweepers for its paved roadways.
- The outbound barge loading system utilizes truck dump hoppers, stackers, reclaim tunnels, and conveyors used for transferring or reclaiming product, and an outbound extendable conveyor with an extendable chute to transfer product to barges. This system virtually eliminates any fugitive dust encountered during the load out process.

- BRT does not store petcoke long-term. It is stored temporarily and as soon as a shipment is accumulated it is loaded onto barges.
- BRT unloads coal for U.S. Steel from barges also using covered conveyors from the barge to the Hopper Load Out. The Hopper is also enclosed and contains a spray bar if needed. The Hopper system utilizes a clam shell loader, which is controlled by the truck driver, and further prevents the escape of any fugitive dust.
- BRT has all required permits to operate its facility. One permit is a Lifetime Operating Permit issued by the IEPA to operate emission units and air pollution control equipment. Another permit is a coal handling permit that includes specific provisions for water pollution control. BRT also has all required construction permits from the IEPA and from the U. S. Army St. Louis District Corps of Engineers.
- This proposal discriminates against Illinois terminals. They are being held to more restrictive and detrimental standards that will make Illinois businesses noncompetitive to neighboring states. This creates an economic disadvantage to Illinois terminals. Customers in BRT's area can simply contract with companies in other states, such as Missouri, to avoid these issues. There are massive stockpiles in the City of St. Louis, Missouri that would dwarf BRT's Venice stockpiles. They are not be subjected to these restrictive regulations.

No Emergency Exists

The IEPA is attempting to circumvent the standard rulemaking process by claiming that an emergency exists. There is absolutely no evidence of an emergency sufficient to deny interested parties their rights under the normal procedures. 5 ILCS 100/5-45 allows an agency to use a shortened rulemaking procedure ONLY if the agency finds there to be an emergency and requires

the agency to notify the affected public. 415 ILCS 5/27(c) states, “[w]hen 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.”

First, there is no emergency. Petcoke has been produced and used in the chemical industry for over 70 years. BRT has handled petcoke at its terminals for over 25 years. The transportation, storage, and handling of petcoke is not a new industry, and the changes that have taken place in the industry have only decreased its environmental and public health impact, if any. As exemplified by BRT, facilities that will be affected by the proposed rulemaking are already investing significant resources into the safe handling of petcoke.

Second, petcoke is not a severe risk to public health. Based on a June 2011 study, the United States Environmental Protection Agency does not classify petcoke as a hazardous material, does not find that it has any imminent human health threat, and has found that it has a low potential to cause adverse effects on aquatic and plant life.

Third, it is our understanding that the specific complaints outlined in paragraph 13 of the Proposed Rulemaking were all related to an isolated incident that occurring in August of 2013 at one facility in Cook County, Illinois. It is our additional understanding that there were other extenuating environmental factors that played a role in the August 2013 emissions, including excessive high winds and excessive heat. It is our further understanding that measures have already been put in place at that facility to prevent another such incident.

BRT is unaware of any similar complaints or incidents regarding fugitive emissions from any facility outside of Cook County, including its Venice, Illinois terminal.

Proposed Rules Are Unreasonable and Oppressive

The rules as proposed by the IEPA would have a severe negative impact on Illinois businesses and citizens, are arbitrary and capricious and would require procedures that are not necessary or merited in the petcoke industry. The time period set forth for implementation of the standards is far too short based on the large scope of construction that would be required by most, if not all, of the affected facilities. The design and construction of enclosures, the relocation of existing storage piles, and the paving of roads are all labor intensive, expensive, and time consuming activities. Further, there is no evidence to support any additional operating rules on BRT other than those that it has already implemented on its own as evidenced by their operations without any environmental incidences or fugitive emissions. If the IEPA is successful in having these rules implemented in the time period requested, the facility owners will be faced with undertaking these efforts in poor weather conditions, and with no advance notice or warning to prepare for the labor and financial impact of such construction.

There is no rational basis to implement such financially devastating procedures, when all evidence indicates no violations or issues outside of the single isolated incident in Cook County over six months ago, which has since been corrected.

Conclusion

Petcoke, although constantly monitored, has never been classified as a hazardous material and has never required specific permitting. The proposed regulations would create arbitrary and unnecessary regulations and would cause an extreme hardship on BRT, similarly situated operations, their employees and their customers. It would have a negative impact on the State of Illinois, the local communities, their citizens and other businesses that are located in the

communities. The regulations already in existence in the State of Illinois are more than sufficient to protect its citizens.

If regulations are to be considered, they should be considered on a non emergency basis that would allow the Board to receive written and oral evidence and provide for an orderly hearing process. If controls are merited, the Board would learn that BRT and similarly operated facilities have all of the necessary controls and safety precautions in place. Any reasonable regulations would entail nothing more than the processes and precautions that BRT already has in place.

BRT requests fair consideration and observation of our facility before inaccurately and unfairly including BRT's facility in the Proposed Rulemaking. The proposed rules would have a significant detrimental impact on BRT's thirty-four (34) direct employees, approximately forty-five (45) indirect employees and its two major customers, U.S. Steel and Phillips 66. If the Pollution Control Board passes the emergency regulations, BRT and the State of Illinois would lose business, employment and economic opportunity to the City of St. Louis and the State of Missouri.



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PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing instrument was served upon the following persons or attorney(s) of record of all parties to the captioned cause by facsimile and by enclosing same in an envelope addressed to each attorney at their address(es) disclosed by the pleadings of record, with postage fully prepaid, and by depositing said envelope in a U.S. Post Office mail box in Edwardsville, Illinois, this 21st day of January, 2014:

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