

ILLINOIS POLLUTION CONTROL BOARD

March 20, 2014

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

ORDER OF THE BOARD (by D. Glosser):

On January 16, 2014, the Illinois Environmental Protection Agency (IEPA) filed a motion and proposal for emergency rulemaking (Mot.) pursuant to Section 27(c) of the Environmental Protection Act (Act) (415 ILCS 5/27(c) (2012)), Section 5-45 of the Illinois Administrative Procedure Act (IAPA) (5 ILCS 100/5-45 (2012)), and Section 102.612 of the Board's rules (35 Ill. Adm. Code 102.612). IEPA proposed an emergency rule applicable statewide to govern the handling of coal and coke, including petroleum coke (or "petcoke"), at bulk terminals and other specified facilities. The proposed emergency rules required immediate measures that included road paving, use of dust suppression systems, setback requirements, containment of stormwater, and disposal of coke and coal that have been on site for more than one year.

On January 23, 2014, the Board denied the IEPA's motion and declined to adopt an emergency rule; however, the Board agreed to proceed with the proposal as a general rulemaking. The Board directed the hearing officer to enter an order asking IEPA to amend its proposal to include the information required in 35 Ill. Adm. Code 102. Emergency Rulemaking Regarding Regulations of Coke/Bulk Terminals: New 35 Ill. Adm. Code 213, R14-20, slip op. at 1 (Jan. 23, 2014).

On January 29, 2014, the hearing officer directed IEPA to provide the additional information required by Section 102.202 of the Board's procedural rules as an amendment to its proposal by March 3, 2014. On February 20, 2014, the IEPA filed a motion asking that this proceeding be stayed (Mot.). The Board received no responses to IEPA's motion.

In its motion, IEPA indicated that the emergency rulemaking proposal was intended to address emissions and discharges from coke and coal bulk terminals on an emergency basis and as a result the proposal "was not developed as a comprehensive, long-term approach to regulating such operations." Mot. at 2. IEPA indicated that filing a general rulemaking proposal that included input from stakeholders and provides for long-term comprehensive regulation of petcoke and coal bulk terminals requires more time than is allowed by the March 3, 2014 deadline set by the hearing officer. *Id.* IEPA therefore asks the Board to stay the proceedings in this matter pending the development and proposal of general rulemaking by IEPA. *Id.* IEPA indicated that it is willing to provide quarterly status calls with the hearing officer to keep the Board apprised of the rulemaking development process. Mot. at 3.

The Board grants IEPA's request to stay the proceedings. However, the Board is reluctant to grant an indefinite stay, even with periodic status reports to the hearing officer. Therefore, the Board will stay the proceedings until June 23, 2014. At that time IEPA must provide a status report to the Board and may request an additional stay, which the Board will consider.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on March 20, 2014, by a vote of 4-0.



---

John T. Therriault, Clerk  
Illinois Pollution Control Board