

ILLINOIS POLLUTION CONTROL BOARD

July 10, 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) timely 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 duct 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 the 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 the 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.

On March 20, 2014, the Board granted IEPA's request to stay the proceedings until June 23, 2014 and directed IEPA to provide a status report at that time and to request an additional stay if necessary.

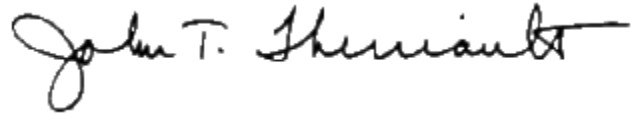
On June 23, 2014, the IEPA filed a status report and a request for an additional stay of the proceedings (Mot. II). In its motion, the IEPA indicated that it has conducted outreach meetings with different stakeholders and interested parties, and will continue to do so as rule development continues. Mot. II at 3. IEPA also indicated that it was reviewing the efforts of other authorities to regulate petcoke bulk terminals within the State of Illinois. *Id.* IEPA could not designate a certain date when a general rulemaking proposal that incorporated input from stakeholders and provided for long-term, comprehensive regulation of petcoke and coal bulk terminals would be

available. *Id.* IEPA therefore asks the Board to continue to stay the proceedings in this matter pending its actions to investigate appropriate long-term control approaches, develop regulations implementing those approaches, and develop a rulemaking submittal in compliance with Board regulations. *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. *Id.*

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 January 12, 2015. At that time IEPA must provide a status report to the Board and may request an additional stay. If substantial progress has not been made the Board may consider closing this docket.

IT IS SO ORDERED.

I, John T. Therriault, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on July 10, 2014 by a vote of 4-0.



John T. Therriault, Clerk
Illinois Pollution Control Board