

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

NOTICE

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

Marie Tipsord
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the Status Report of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Dana Vetterhoffer
Assistant Counsel

DATED: April 10, 2015

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

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STATUS REPORT

In compliance with the Illinois Pollution Control Board's ("Board") Order dated January 22, 2015, the Illinois Environmental Protection Agency ("Illinois EPA" or "Agency"), by and through its attorneys, hereby provides the following status report to the Board regarding the Agency's rule development efforts.

Background

On January 16, 2014, the Illinois EPA filed with the Board a Proposal and Motion for Emergency Rulemaking, proposing control measures to address inadequately controlled fugitive particulate matter emissions and inadequately controlled stormwater and wastewater discharges from coke and coal bulk terminals on an emergency basis. On January 23, 2014, the Board issued an order denying the Illinois EPA's motion and declining to adopt an emergency rule, but the Board noted that the rules governing bulk terminal operations for petcoke and coal could be improved. Additionally, the Board indicated that the proposal will benefit by proceeding through the regular rulemaking process and, therefore, the Board will continue with the proposal as a general rulemaking.

On January 29, 2014, the Hearing Officer issued an order directing the Illinois EPA to provide additional information required by Section 102.202 of the Board's rulemaking regulations as an amendment to the Agency's proposal, or to file a motion requesting additional

time to provide such information, by March 3, 2014. The Hearing Officer Order indicated that, if the Illinois EPA does not wish to amend its proposal and instead prefers to proceed with the proposed amendments already filed, hearings will be scheduled.

On February 20, 2014, the Illinois EPA filed a Motion to Stay Proceedings (“Motion to Stay”), in which it explained that its emergency rulemaking proposal was intended to address emissions and discharges from coke and coal bulk terminals on an emergency basis, and was not developed as a comprehensive, long-term approach to regulating such operations. The Agency further explained that it intends to file a general rulemaking proposal with the Board, but only after conducting outreach with affected parties and fully exploring permanent control strategies. Such outreach and rule development will take time, as will development of all technical aspects of a general rulemaking proposal. The Agency will need to develop a new Statement of Reasons with environmental and economic justification for the proposal, technical support for any proposed control measures, and a synopsis of testimony the Agency intends to present at hearing, and will need to comply with all other requirements set forth in the Board’s regulations. The Agency indicated that it was not possible to complete this outreach, rule development, and preparation of required documents for filing with the Board by the March 3, 2014, deadline.

The Board granted the Agency’s Motion to Stay until June 23, 2014, and directed the Agency to provide the Board a status report at that time and request an additional stay if necessary. On June 23, 2014, the Agency filed a status report with the Board and requested that proceedings be stayed further, pending the Agency’s actions to investigate appropriate long-term control approaches, develop regulations implementing those approaches, and develop a rulemaking submittal in compliance with Board regulations. On July 10, 2014, the Board granted the Agency’s request for an additional stay until Jan. 12, 2015. The Board indicated, “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.”

On Jan. 12, 2015, the Agency filed a second Status Report and Motion to Stay Proceedings, requesting an additional stay of 90 days to give the Agency an opportunity to update the new administration regarding this matter. On January 22, 2015, the Board granted the stay. The Board ordered the Agency to provide the Board additional information by April 13, 2015, and indicated, “Absent a rulemaking proposal in the immediate future, the Board is inclined to close this docket at the end of the 90 days.”

Status Report

The Agency has updated the new administration regarding this matter. Further, the Agency has considered the effect of the City of Chicago's recent promulgation of an ordinance addressing petcoke-related operations in the City, as well as pending litigation related to petcoke activity in the City. In light of the above, the Agency does not intend to proceed with this rulemaking at this time. The Agency supports the Board’s dismissal of this docket.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Dana Vetterhoffer
Assistant Counsel

DATED: April 10, 2015
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CERTIFICATE OF SERVICE

I, the undersigned, an attorney, affirm that I have served the attached Status Report upon the following person(s) by e-mailing it to the e-mail address(es) indicated below:

Marie Tipsord, Hearing Officer
Illinois Pollution Control Board
marie.tipsord@illinois.gov

I affirm that my e-mail address is dana.vetterhoffer@illinois.gov; the number of pages in the e-mail transmission is 7; and the e-mail transmission took place today before 5:00 p.m.

I also affirm that I am mailing the attached Status Report by first-class mail from Springfield, Illinois, with sufficient postage affixed, to the following persons:

SEE ATTACHED SERVICE LIST

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: /s/ Dana Vetterhoffer
Assistant Counsel

DATED: April 10, 2015
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P.O. Box 19276
Springfield, IL 62794-9276
(217) 782-5544

Service List R14-20

Scott W. Fowkes
Caitlin A. Kovacs
Kirkland & Ellis
300 N. La Salle Drive
Suite 3500
Chicago, IL 60654

Matthew J. Dunn
Office of the Attorney General
500 South Second Street
Springfield, IL 62706

Katherine D. Hodge
Matthew C. Read
Hodge Dwyer & Driver
3150 Roland Avenue
P.O. Box 5776
Springfield, IL 62705-5776

Office of Legal Services
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, IL 62702-1271

Susan M. Franzetti
Kristen Laughridge Gale
Nijman Franzetti LLP
10 South LaSalle Street
Suite 3600
Chicago, IL 60603

Valerie Corr Hanserd
BP Products North America, Inc.
150 W. Warrenville Rd.
Naperville, IL 60563

Mark Goldenberg
Holly Reese
Goldenberg Heller Antognoli & Rowland, P.C.
2227 S. State Route 157
Edwardsville, IL 62025

Darren Hunter
Rooney Rippie & Ratnaswamy LLP
350 W. Hubbard
Suite 600
Chicago, IL 60654

David Long
American Electric Power Service Corp.
1 Riverside Plaza
Columbus, OH 43215

Greg Stiltner
American Electric Power Service Corp.
01/3316 North US 45
P.O. Box 870
Metropolis, IL 62960

L. Elizabeth Gunter
American Electric Power Service Corp.
400 West 15th Street
Suite 1500
Austin, TX 78701

Fredric P. Andes
Paul M. Drucker
Barnes & Thornburg
1 North Wacker Drive
Suite 4400
Chicago, IL 60606

Jennifer L. Cassel
Rachel Granneman
Environmental Law and Policy Center
35 E. Wacker Drive
Suite 1600
Chicago, IL 60601

Keith I. Harley
Chicago Legal Clinic, Inc.
211 West Wacker Drive
Suite 750
Chicago, IL 60606