

ILLINOIS POLLUTION CONTROL BOARD  
January 17, 2014

RECEIVED  
CLERK'S OFFICE  
JAN 17 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 )

STATE OF ILLINOIS  
Pollution Control Board



ORIGINAL

**HEARING OFFICER ORDER**

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 5/22.51 (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).

In the motion, IEPA asks that the Board grant the motion for emergency rulemaking "immediately", without waiting the 14 day response time set forth in Section 101.500(d) (35 Ill. Adm. Code 101.500(d)), "in order to prevent undue delay or material prejudice". Mot. at 1. IEPA argues that several bulk terminals located in Cook County process, transport, and handle large quantities of coke or coal and store the materials in large outdoor storage areas. *Id.* The IEPA argues that the emissions of fugitive particulate matter and the discharge into waters of the State of runoff from the materials constitute a threat to the public interest, safety or welfare, necessitating the adoption of emergency rules. *Id.*

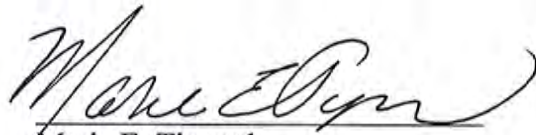
The Board's next regularly scheduled Board meeting is January 23, 2014 at 11:00 a.m., and the emergency rule and motion will be on the Board's agenda. Were the Board to take action on January 23, 2014, to avoid undue delay to prevent material prejudice as requested by the IEPA, responses would not ordinarily yet be due. *See* 35 Ill. Adm. Code 101.500(d). Therefore, in order for the Board to consider the legal and technical aspects of the proposal and motion filed by IEPA, and to allow for a more complete record that the Board can rely on to makes its decision, the hearing officer is setting a schedule for responses and replies.

Any responses to IEPA's motion must be filed with the Board by Tuesday, January 21, 2014, at noon. IEPA may reply to the responses but such reply must be filed by Wednesday, January 22, 2014, at 1:00 p.m. All filings in this proceeding will be available on the Board's web page at [www.ipcb.state.il.us](http://www.ipcb.state.il.us), and participants may file electronically on the Board's web page. All filings must be served on persons on the service list. To be placed on the service list, contact the hearing officer or the Clerk's office. Monday, January 20, 2014, is a legal holiday and the Board's office will be closed.

The IEPA's motion and proposal contain specific technical deficiencies that should be addressed by Wednesday January 22, 2014 at 1 p.m.. Specifically, pursuant to Section 102.202(b) and (d) (35 Ill. Adm. Code 102.202(b) and (d)), the proposal did not include a

statement of reasons, or copies of materials to be incorporated by reference. Also pursuant to Section 102.200 (35 Ill. Adm. Code 102.200)), there is no proof that the proposal was served on the Attorney General or the Department of Natural Resources.

IT IS SO ORDERED.



Marie E. Tipsord  
Hearing Officer  
Illinois Pollution Control Board  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
(312) 814-4925  
[Marie.Tipsord@illinois.gov](mailto:Marie.Tipsord@illinois.gov)