



ILLINOIS CHAMBER
OF COMMERCE

CAPITAL CITY OFFICE
215 E Adams St
Springfield IL 62701
217 522 5512

CHICAGO OFFICE
300 S Wacker Dr, Suite 1600
Chicago IL 60606
312 983 7100

www.ilchamber.org

January 20, 2014

Mr. John Therriault
Clerk
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, Illinois 60601

RE: Case R2014-20 -- Consideration of IEPA decision to seek emergency rules under Section 27(c) of the Illinois Environmental Protection Act

Dear Mr. Therriault:

The Illinois Chamber of Commerce urges the Illinois Pollution Control Board (IPCB) to reject the Illinois Environmental Protection Agency's request for emergency regulations for operators and transporters of petroleum coke and bulk material storage facilities.

Our reasons can be summed up briefly:

There is no emergency

Section 27(c) of the Illinois Environmental Protection Act clearly and unequivocally states that the Illinois Pollution Control Board may only permit administrative emergency rule making when one or more of the following conditions exists:

- "...a disaster emergency exists;"
- "...when the Board finds that a severe public health emergency exists;" or
- "...when the Board finds that a situation exists which reasonably constitutes a threat to the public interest, safety or welfare."

We are not aware of any member of the Illinois Chamber, or any company in Illinois that is currently contributing to, or creating, any public health or disaster related emergencies as defined in the Act in their handling and storage of petroleum coke, coal or related bulk materials.

While the proposed emergency rules do not apply only to petroleum coke, Governor Quinn has made it clear that petroleum coke storage and transportation is the major impetus behind this request. Please know that petroleum coke has been stored and transported throughout the state in a regulated environment for decades.

Petroleum coke is non-toxic, non-hazardous and certainly is not an imminent health threat. In fact, the Chicago public health department has stated on its website that "According to available scientific data, there are no known illnesses or health effects associated specifically with exposure to petcoke."

There was an incident in August of 2013 involving blowing dust from a petcoke storage facility on Chicago's south side that is being investigated by the IEPA and Attorney General's office. However, the operator in question has installed additional dust suppression equipment at a cost of \$30 million and is cooperating with the agencies to determine its effectiveness. There has been no documented incidents since then. So, once again, where's the emergency?

In addition, it is a diversion for the proposed petroleum coke rules to be abruptly applied to coal as well. Coal and petroleum coke are different products with much different characteristics. There is no documented public protest, let alone anything reaching the level of a health and welfare *emergency*, caused by the transfer and storage of Illinois coal -- which is done under pollution-control permits covering air and water quality, as issued by the EPA with the health and safety of Illinoisans in mind.

To be clear, there have been no recent scientific studies, no outbreak of environmentally hazardous events nor any statewide public health crises that would dictate the need for emergency regulations. Usurping the regular rulemaking process should be done only in extreme cases. This doesn't come close to meeting that threshold.

Haste makes waste (and bad public policy)

No matter how well intentioned, emergency rules promulgated without an actual emergency will no doubt cause widespread economic harm with the potential to negatively affect not only operators handling and storing bulk materials throughout the State of Illinois, but the many manufacturers, utilities and transportation companies that rely on petroleum coke for their business.

Why? Because emergency rules by definition don't give anyone the opportunity to look at the value of the regulations nor the potential unintended consequences. It is doubtful that the arbitrary deadlines in the proposed regulations could be met and, even if they could, it would come at great cost to the industry.

In an *actual public health emergency* these risks might be worth weighing. But in this instance it simply causes economic harm for little to no public safety or public health gain.

Bad precedent

As a quasi-judicial board, you know full well the power of precedent. Giving in to hysteria without due cause will open the door for future governors and future members of your board to enact emergency rules in non-emergency situations for whatever reasons are convenient at that moment.

Instead, we ask that you be the voice of reason and deny the IEPA's request and ask them to work within the rulemaking process to resolve a very solvable issue with the benefit of perspective, time, reason, research and the opportunity for public input.

The people of Illinois deserve nothing less.

Thank you,



Doug Whitley
President and CEO

CC: IPCB Board Members:
Ms. Deanna Glosser (chair)
Ms. Carrie Zalewski
Ms. Jennifer A. Burke
Mr. Jerome D. O'Leary

JCAR Members:
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