

January 21, 2014

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

**RE: Joint Comments of IERG, the ICA, and the IAAP in R2014-20 – Emergency Rulemaking Regarding Regulation of Coke/Coal Bulk Terminals**

On behalf of the Illinois Environmental Regulatory Group (“IERG”), the Illinois Coal Association (“ICA”), and the Illinois Association of Aggregate Producers (“IAAP”), thank you for the opportunity to provide the comments found below related to the Illinois Environmental Protection Agency’s (“Illinois EPA”) Proposal and Motion for Emergency Rulemaking filed with the Illinois Pollution Control Board (“Board”). IERG represents the environmental-related interests of its 53 member companies throughout the State, including major industrial facilities and companies in the chemical, food, pharmaceutical, transportation equipment, energy, heavy manufacturing, steel, oil, cement and power generation sectors. The ICA is the professional trade organization responsible for the promotion of Illinois coal, and its member companies produce 100 percent of the coal mined in Illinois. The IAAP is the trade association representing companies that mine and produce crushed stone, sand, gravel and industrial minerals. These associations have a number of members subject to the proposal.

We urge the Board to reject this Proposal.

**I. FACTUAL BACKGROUND**

As there was no technical support document filed with the Illinois EPA’s proposal with the Board, it is unclear exactly when the Agency determined that piles of coke and coal became an issue that required additional regulatory scrutiny. IERG is aware, based on press releases, that the Illinois Attorney General’s Office, at the request of the Illinois EPA, has filed complaints against two material handling facilities in the Chicago area. In one matter, the State alleged that a “visible cloud of black dust from the petroleum coke and coal at the Site was observed” blowing into the surrounding neighborhood on August 30, 2013. In another matter, the State alleged fine particles had been escaping from the bulk material handling and storage site since “at least June 2013.” Both matters have been the subject of significant media attention. While large piles of coke, coal, and other materials have long been regulated by the Agency, and the fugitive dust program has long

been a component of its air permit program, it is apparent that the Illinois EPA has been keenly aware of the heightened attention relative to coke and fugitive dust since the June – August 2013 timeframe.

On Monday, January 13, 2014, the Office of the Governor issued a press release indicating that the Illinois EPA would be submitting “emergency rules” that would set “statewide standards for any facility that manages or stores petcoke or related materials.” Three days later, on January 16, 2014, the Illinois EPA filed its Proposal and Motion which is the subject of these comments today. Despite having ample opportunity since concerns initially arose, in the four plus months since the events noted above, Illinois EPA has not met with either IERG, the ICA, or the IAAP to discuss the Proposal before the Board today, nor are these associations aware of any meetings or other outreach between the Agency and any representatives of the regulated community regarding deficiencies in the existing fugitive dust program or a need for additional rules prior to the proposal’s submittal to the Board. IERG is aware, however, that Illinois EPA met with at least one other stakeholder group, and accepted comments on its proposal, before filing the Proposal and Motion with the Board on January 16<sup>th</sup>. See the letter from Ann Alexander, included as Exhibit A. It is unclear why Illinois EPA found it had enough time and it would be appropriate to vet its proposed emergency rules with some parties but not others.

## II. ARGUMENT

IERG’s concern with the Proposal submitted by the Illinois EPA is twofold: first, the Proposal sets an absurdly low bar for future emergency rulemakings should the Board accept the Agency’s rationale for proceeding under its emergency provisions, and second, the Proposal itself is hopelessly flawed. For the reasons given below, IERG urges the Board to refuse to adopt the Proposal submitted by the Agency as an emergency proceeding and return the proposal to the Agency or, in the alternative, to instead proceed under its general rulemaking process and schedule hearings as appropriate.

### A. The Illinois EPA’s Proposal does not Describe an Emergency

As the Illinois EPA notes in its Proposal and Motion, Section 27(c) of the Environmental Protection Act authorizes the Board to adopt emergency regulations “[w]hen the Board finds that a situation exists which reasonably constitutes a threat to the public, interest, safety or welfare,” pursuant to Section 5-45 of the Illinois Administrative Procedure Act (“IAPA”), which is entitled “Emergency rulemaking.”

Illinois EPA’s Proposal and Motion requests that the Board adopt emergency rules but provides no concrete evidence to justify the proposed emergency rules. Illinois EPA states generally that it has “become aware of complaints or observed” certain conditions. Proposal and Motion, ¶13. Were those complaints substantiated, and are there records of Agency observations? When were the complaints received or observations made? Why

do they warrant statewide emergency action now? The Illinois EPA did not describe any specific threats that have occurred at coke and coal bulk terminals. Such information substantiating an emergency must be provided for the Board to adopt emergency rules. *Citizens for a Better Environment v. The Pollution Control Bd.*, 152 Ill. App. 3d 105, 504 N.E.2d 166, 105 Ill. Dec. 297 (1987).

The Illinois EPA also does not explain why coal and coke are different from other materials such that they warrant unique emergency rules over and above the existing rules. The Proposal and Motion generally concludes that emergency regulations “are necessary to establish more detailed control requirements specific to emissions and discharges from coke and coal bulk terminal operations.” Proposal and Motion, ¶16. Presumably, coke and coal bulk terminals are already required to obtain permits from Illinois EPA and must follow existing air, water, and waste regulations. Why are those requirements not adequate? Illinois EPA does not provide this information.

Illinois EPA’s proposal appears to be a shift in policy instead of an emergency fix. If a true emergency exists, the Illinois EPA would have submitted a similar proposal to the Board after it learned of the fugitive dust concerns in June and July, or after the high wind event in August. But it did not. Not in September. Not in October. Not in November. And not in December. IERG strongly suggests to the Board that a true emergency would have led to true, timely emergency action. That is not the case here.

The Illinois EPA thus ignores the definition of “emergency” in the IAPA and its burden of demonstrating an adequate threat. The “threats” the Illinois EPA relies upon amount to two unadjudicated nuisance actions. Perhaps if coke and coal were inherently dangerous materials, or a threat to the public at large existed, utilizing this expedited process to impose very costly and stringent requirements might be warranted. But that is not the case. These are common materials that are commonly regulated by the Agency. Coke and coal are not new. And storing these materials in large piles is common throughout the state.

IERG cautions the Board that setting such a precedent, and finding that simple unadjudicated enforcement matters that do not involve inherently dangerous materials are adequate to justify emergency rules, will invalidate the meaning of “emergency” and lead to policy changes by emergency rulemaking. By utilizing the rationale urged by the Agency, the Board would create a standard where virtually EVERY rule imposing new regulatory requirements for protection of the environment would “reasonably constitute a threat to the public interest, safety, or welfare” and could be adopted utilizing this process. The Board should reject such a request by the Agency.

#### B. Technical Flaws in the Illinois EPA’s Proposal

As the Board’s Hearing Officer noted in her Hearing Officer Order dated January 17, 2014, the Motion and Proposal contained technical deficiencies, namely the failure to

provide proof of service to two required parties and the failure to include a Statement of Reasons. The failure to include a Statement of Reasons is most troubling, particularly given the small window of time provided to potentially affected parties to comment. It is in this Statement of Reasons that the Illinois EPA would not only provide a technical basis for the proposed emergency regulations, but also an analysis of the economic impact upon affected entities. *See* 35 Ill. Admin. Code § 102.202(b). Without this analysis, the Board cannot satisfy the Illinois Environmental Protection Act's requirement that the Board "shall take into account . . . the technical feasibility and economic reasonableness" of the proposal (415 ILCS 5/27).

With respect to technical feasibility, a review of Illinois EPA's Proposal and Motion reveals that the Illinois EPA is imposing a one size fits all regulatory scheme on issues best managed through permitting or, should an entity fail to comply with a properly designed and approved fugitive dust plan, through enforcement. The Illinois EPA refers in its Proposal and Motion to "several bulk terminals in Cook County" that "process, transport, and handle large quantities of coke and/or coal." IERG cannot speak to the appropriateness of the proposed requirements to these terminals, but IERG is well aware of other bulk terminals throughout Illinois. Some of these sites are located in areas that are not highly populated, or in areas that a threat to the environment due to fugitive dust or run-off is minimal. Illinois EPA does not provide any justification for these facilities either.

IERG also is concerned that the definitions are so broad that the Proposal will capture many sites not intended to be regulated by the Agency, a concern which is exacerbated by the list released to a media outlet purporting to list affected entities, which is attached as Exhibit B. To require enclosure of all coke and coal piles, related equipment, and work areas at facilities where enclosure may not be necessary is ridiculous and demands greater investigation from the Board in the form of hearings and a full rulemaking process. Similarly, to require all coke and coal piles to be moved under the proposed setback provisions, without investigation and Board hearings to determine whether such movement is reasonable at the many impacted sites throughout the State, is improper.

The Illinois EPA has not presented anything to the Board related to the Proposal's economic reasonableness. IERG has heard anecdotally about the significant costs associated with this Proposal in the days since its filing, but will rely on those entities to submit detailed comments. U.S. EPA, however, has recently weighed in on the issue of fugitive dust, and containment versus work practice standards, in the context of its recently finalized amendments to rules regulating the portland cement manufacturing industry. 78 Fed. Reg. 10006 (Feb. 12, 2013). This rulemaking contained a number of new and modified requirements regarding monitoring and emissions testing, but also addressed control of fugitive emissions from open clinker storage piles. Initially, the proposal required piles to be controlled through a menu of tools, including damping down the piles, partial enclosure, and shielding piles from the wind. However, after reviewing the economics associated with containment and hearing from those entities impacted by

its original proposal, U.S. EPA declined to require enclosures and instead only imposed work practices. *Id.* at 10022. Certainly, while federal treatment of fugitive dust at open clinker piles is not dispositive of the issue before the Board today, it does highlight two important notions: one, the costs of enclosure of storage piles may be economically unreasonable, and two, the Board should decline to proceed under the emergency rulemaking process so that it can hear testimony on economic reasonableness, a critical issue presented by the matter submitted to the Board.

### C. BUSINESS IMPACTS

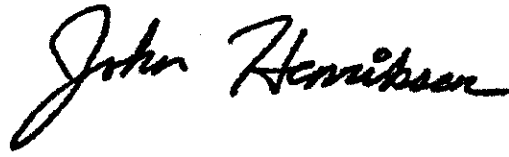
Costs and operational changes necessary to implement the proposed emergency rules will severely debilitate commerce in Illinois and throughout the region that is connected to coal and coke. The rules could result in coke and coal bulk terminals shutting down or reducing capacity. At the very least, it is likely that the costs for operating these facilities will increase drastically. Such a result would impact any business that is connected to coke or coal bulk terminals and extends well beyond the intended target of coke and coal bulk terminals.

A disruption in the production and supply chain would cause potentially damaging impacts on producers, transporters, and end users of coke and coal. An immediate effective date would give those impacted little time to adjust for the changes. It would leave producers little time to redirect shipments and end users little time to find procure alternative supplies. Ship, barge, rail, and truck companies may not be able to handle such disruptions to the production and supply chain. Such a disruption could result in coke and coal shortages, price increases, and the loss of jobs.

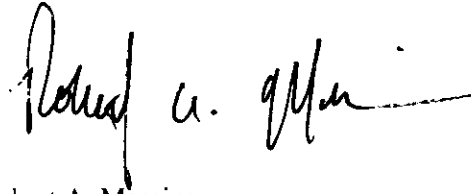
### III. CONCLUSION

The regulatory proposal before the Board is a complex one that raises a number of technical questions and economic concerns. In the four days since its submittal to the Board, neither IERG, the ICA, or the IAAP have been able to fully determine the impact upon its Members. What is clear, however, is that it is wholly inappropriate to proceed with this rulemaking under the Board's emergency rulemaking provisions. Illinois EPA's proposal does not describe an emergency and it is technically deficient. For the foregoing reasons, IERG, the ICA, and the IAAP respectively request that the Board deny the Illinois EPA's Motion and decline to take action on the Proposal submitted by the Agency as an emergency proceeding or, in the alternative, to instead proceed under its general rulemaking authority and schedule hearings as appropriate so that the many specific regulatory requirements can thoroughly be considered.

Thank you for your consideration.



John Henriksen  
Executive Director  
Illinois Association of Aggregate Producers



Robert A. Messina  
Executive Director  
Illinois Environmental Regulatory Group



Phil Gonet  
President  
Illinois Coal Association

# **Exhibit A**



NATURAL RESOURCES DEFENSE COUNCIL

Via electronic mail (john.j.kim@illinois.gov)

John J. Kim  
Chief Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276

*Re: Comments concerning emergency Part 213 rules governing fugitive dust*

Dear John:

Thank you for taking the time to talk with us this morning regarding our concerns with the emergency rule. We very much appreciate that the Governor is focused on this issue and wants to take strong action to curb the very real public health threat that petcoke and coal piles represent.

We have made clear our position that the most sensible use of emergency power is a moratorium: suspension of permits for new facilities or expansion of existing facilities, in order to ensure that an expanded presence of the piles in the state does not become entrenched via a regulatory approach. That said, however, we have a set of specific technical concerns with the rules that are relevant regardless of whether you adopt the moratorium approach, as they apply to existing facilities.

The following is a list of issues we have identified thus far in our very limited review. As we indicated on the call, we have not had time to do the type of thorough review that would be necessary to identify all relevant issues, but we hope that this limited listing of some key concerns is helpful to you.

Our comments are listed in the order they are found in the draft, not necessarily in order of priority. That said, our key priorities include (i) shortening the timeframes for enclosure of major dust sources; (ii) adding further clarity to the provision governing operation during wind events, which we consider to be critically important; (iii) enhancing the setback requirements, which are also critical, and (iv) adding testing and monitoring provisions for most notably visible emissions and opacity.

These comments incorporate by reference the draft comments submitted separately by ELPC (ELPC Comments) during the call this morning, unless otherwise noted.



### **Section 213.115 Definitions**

*“Accumulation.”* The basis for using three ounces per square foot as the threshold for accumulation is not clear and should be explained. Moreover, three ounces per square foot is a significant amount of material; in comparison, silt, the parameter for measuring deposits on surfaces, is typically calculated in grams per square meter. Thus, IEPA should adopt a lower threshold for accumulation, employing the grams per square meter unit.

*“Coke or Coal Bulk Terminal.”* The ELPC Comments observe that this definition is overly narrow in excluding locations where petcoke is produced and consumed, because Illinois has numerous other facilities that produce petcoke (*e.g.*, the ExxonMobil refinery in Joliet, the Citgo refinery in Lemont, the Wood River refinery in Roxana, Illinois, and numerous coal mines where coal is stored), such that bulk storage at production locations is a real possibility. We would add that many of these facilities, while governed by major source air permits, have dated and insufficient provisions governing fugitive emissions from petcoke piles. The BP Whiting permit, issued more recently, at least requires enclosure of coke handling and storage facilities, but these requirements were obtained through litigation and it is our understanding the permits for the referenced Illinois refinery facilities do not contain similar provisions.

*“Water spray system.”* The 1500 psi limitation on the the upper limit in the range of pressures is not justified. Systems are available that operate at pressures up to 2000 psi.<sup>1</sup>

### **Section 213.215 Storage Limitation**

*One year storage limit (subsection a).* While we support the prohibition on long-term storage reflected in subsection a), we believe the limit should be 6 months rather than one year, which is more consistent with RCRA requirements.

### **Section 213.220 Plan for Total Enclosure**

*Two-year time frame.* As discussed in the ELPC comments, two years is an excessive amount of time to allow for full enclosure. As ELPC notes, the technical aspects of the enclosure process for piles should take no more than about 9 months. Even if one were to assume, however, that two years is an appropriate amount of time to allow for enclosure of the piles, there is no reason why that amount of time should be necessary to enclose the other aspects of operation identified in this section – *i.e.*, conveyors, transfer points, loading and unloading areas, screening areas, crushing areas, and sizing areas. Instead of lumping all of these disparate components together, the State should follow the City’s lead and identify separate time frames

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<sup>1</sup> See, *e.g.*, MEFCOR, Fully Automatic Dust Suppression Water Control Valve, Model DSV400, available at <http://173.254.28.129/~copyitb1/mefcor/dsv400.htm>; see also Tecpro Australia, Tecpro Australia – Specialists in Spray Nozzles and Dust Suppression Solutions for Mining Industry, available at [http://www.mining-technology.com/contractors/emission\\_control/tecpro-australia/](http://www.mining-technology.com/contractors/emission_control/tecpro-australia/). Spray systems used in the mining industry should be translatable to the facility covered by the Proposed Rules.

for enclosure of each. *See* subsection 6.0 of the City's draft ordinance – although we do not endorse the specific time frames the City has proposed.<sup>2</sup>

### **Section 213.235 Coke and Coal Fugitive Dust Plan**

*Need for review period and criteria.* It is essential that this section incorporate a requirement that the Agency review the Dust Plans required to be submitted to it; and criteria for reviewing the adequacy of such plans. As currently drafted, the rule merely requires physical submission of the plan, without provision for scrutiny of it. The section should expressly provide for an agency review period concluding in a determination, and establish discretionary criteria for such determination that are grounded in protection of public health, not merely compliance with minimum control requirements required by the letter of the regulations. That is, the section should provide that the Agency will reject any plan that (i) is found not to be sufficiently protective of public health and the environment, *and* (ii) does not *at minimum* demonstrate compliance with the requirements of this Subpart and contain all of the information specified in 35 Ill. Adm. Code 212.310.

In addition, to the extent the Dust Plans are to be in effect beyond the time frame of the emergency rule, there must be provision for public comment. The fact that the rule is being promulgated on an emergency basis should not be used deny citizens the right to have input on measures they will need to live with for the long term.

### **Section 213.230 Property Boundary Setbacks**

*Setback distance.* We very much appreciate the inclusion in the rule of a setback for unenclosed piles inside the property line, as it is critical that there be a wide separation between the piles and neighboring properties. However, 200 feet is extremely minimal when dealing with fugitive dust that can travel much further, especially given the high wind speeds seen in the Chicago area, and we would therefore strongly encourage you to expand the setback distance, going beyond the facility boundary if necessary to ensure that dust does not burden health and welfare. (*See also* our comments concerning the Section 213.320 Water and Well Setbacks).

### **Section 213.235 Pile Height**

*Pile height is not justified.* There is no justification for allowing 30 foot piles, which correspond to the height of a 3 story building; and it is quite clear that piles at this height will be subject to significant wind disturbance given the wind gusts that can occur at these heights. In just 2013 alone, the highest wind gust speed recorded in Chicago at that height<sup>3</sup> was 67 miles per hour and highest sustained wind speed was 41 mph at Midway Airport.<sup>4</sup> Spray systems are known to be of limited effectiveness at high winds, as spray can be redirected away from piles by the wind.

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<sup>2</sup> As will be set forth in more detail in our comments on the City's proposal, the timelines are both too long (e.g., a year is not needed for enclosing conveyors or loading/unloading areas), while some timelines do not make sense in context (one cannot comply with obligations triggered by a factor that itself does not apply until later on).

<sup>3</sup> Typically, wind speeds are measured at the standard anemometric height of 10 meters.

<sup>4</sup> *See* <http://weatherspark.com/history/30851/2013/Chicago-Illinois-United-States>. Such wind speed data is typically recorded at a height of 30 meters, approximately equal to the maximum pile height allowed by the Proposed Rules.

### **Section 213.240 Wind Events**

*Need for further definition.* This is an absolutely key provision, since the disturbance activity referenced in it is an enormous generator of dust during a wind event, and we appreciate that the Agency has included it. However, more definition is needed to make this provision effective. First, "wind speeds" must be defined, as wind speed may be measured in a number of different ways (*e.g.*, average wind speed, wind speed sustained over a period of time, wind gusts, *etc.*) The rules should use 15 mph average wind speed over a reasonable averaging time, and also include a threshold for wind gusts of a limited duration, above which operations must similarly cease. Second, the definition should specify at what elevation the wind speed is to be measured. While typically wind speed is measured at a height of 10 meters, in this case it may be more appropriate to base the wind speed measurement at an elevation specific to the expected heights of sources such as piles or loading activities. Third, the section should establish a protocol for weather station design and operation, to ensure that wind speed measurements are accurate. USEPA protocols and guidance should be the metric for weather stations. Finally, facilities must follow protocols for siting weather stations, such that they are located in an unsheltered position, centrally placed in relation to the sources.

### **Section 213.245 Paving**

*Paving requirement.* This section provides only that roadways "within the source" must be paved. This is insufficiently protective, as dust disturbance on unpaved roads outside the facility creates a significant public health risk. Residents of the Calumet area report significant dust from truck traffic on unpaved sections of road surrounding the KCBX south facility. Conversely, USEPA has found that paving unpaved roads can significantly reduce PM10. We note also that Rule 1158 from the South Coast Air Quality Management District, on which this provision was based, does not exempt any facilities from the requirement to have truck traffic only travel on paved roads within a quarter mile radius of the facility. Instead, it requires paved roads around all facilities served by trucks, and sweeping on those roads.

The limited paving requirement is additionally insufficient in view of Section 213.250 (a), which requires sweeping and cleaning of all roads outside the source, within a quarter mile of the source perimeter. That requirement cannot be complied with if those roads are not paved, as typically unpaved roads are not swept as paved roads are. Accordingly, the paving requirement should also apply to roads within a quarter mile of the source.

### **Section 312.250 Roadways**

*Application to rail facilities.* This section should establish cleaning requirements not just for roads but also for railway facilities, which are a significant source of dust. Specifically, this section should require the facility operator or owner to maintain spill-free and material-free railroad tracks by daily vacuuming or otherwise removing any materials that may be deposited on the tracks or adjacent to the tracks that can entrain fugitive dust. It should also prohibit the use of bottom-dump rail road cars, which can leak dust-forming materials onto the tracks.

### **Section 213.270 Vehicle Tarping**

*Title.* The title of the section should be changed to “Vehicle Covering,” as tarps are only one of the allowed controls.

*Solid covers.* The section should make clear that solid covers are available and should be used for barges. We observed such a solid barge cover on a barge docked at the Beemsterboer facility during a boat trip in mid-October of 2013.

### **Section 213.275 Truck Transport**

*Speed limit.* The basis for the 8 mph speed limit is not state or clear. The ability of trucks to pulverize, create and entrain fugitive dust depends on many factors including truck weight, number of tires, speed, etc. Thus, simply noting a speed limit, without basis, does not ensure effectiveness in dust control so as to achieve compliance with the visual emission limit and opacity limits applicable to roadways under the existing code (see also comment about a 5% opacity limit). The Agency should confirm whether this speed limit will achieve compliance with these limits, and if not, modify the speed limit accordingly.

*Leaks.* This section should prohibit leaks of both liquid and solid material (solids can “leak” from vehicles<sup>5</sup>

*Railcars and barges.* Measures equivalent to those for trucks should be added for railcars and barges. All outgoing railcars should be cleaned, and there should be a prohibition on holes in railcars and barges such that material leaks (in solid or liquid form) from the cars.

### **New Section, Visual Emissions and Opacity Testing**

While the current Illinois regulations include numeric limits on opacity as well as visible emissions, they completely lack any testing protocols for these parameters. The emergency rules should adopt such testing protocols.

These protocols should include, at minimum, the following:

- Periodic testing using approved methods and protocols for determining visible emissions and opacity, such as USEPA’s Method 9 or 9d, as appropriate, by a trained and certified professional<sup>6</sup>;
- A schedule for such testing, with testing occurring at least quarterly;
- A full range of weather and atmospheric conditions under which such testing must occur, such that representative conditions at the facility are covered;

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<sup>5</sup> See Guardian Carleton, Fugitive Dust Program, October 2013 (“Guardian Carleton”) (requested by the Michigan Department of Environmental Quality), available at [http://www.deq.state.mi.us/aps/downloads/ROP/pub\\_ntce/B1877/October%202013%20Fugitive%20Dust.pdf](http://www.deq.state.mi.us/aps/downloads/ROP/pub_ntce/B1877/October%202013%20Fugitive%20Dust.pdf) (describing leakage of solid materials onto tracks and obligations to keep the tracks free of raw materials).

<sup>6</sup> See, e.g., USEPA, Test Methods for Paved and Unpaved Parking Lots, available at <http://www.epa.gov/region9/air/phoenixprn/lip/method.html>.

- A prohibition on nighttime operations, as measurement of opacity at night is infeasible

Additionally, we recommend that the Agency establish a cumulative daily limit on excess opacity levels, such as not to exceed three three-minute periods in a consecutive 24-hour period, as 24 episodes of three minute exceedances can equal a significant amount of fugitive dust in a single day.

Finally, the Agency should limit opacity from all covered sources within a facility to 5% instead of 10%. This is the limit that applies to a number of parallel fugitive dust sources, including barge loading, in Granite City, Illinois, under the state's fugitive dust regulations (Michigan similarly imposes a 5% limit on a number of sources). The Calumet area, unlike Granite City, has a number of fugitive dust sources located in close proximity to neighborhoods; thus, it is appropriate to require sources in more densely populated areas to comply with at least as rigorous an opacity standard.

### **Section 213.285, Recordkeeping and Reporting**

*General.* The rules should require that a person trained and certified in dust management be responsible for and certify all records and reports under this section.

*"Type" (213.285 a) 1).* The term "type" of coke and coal is vague. The section should specifically require reporting of composition of the material, derived through testing.

*Monthly reporting (213.285 c).* The operator should not be allowed to submit only the raw data, which may be difficult and time consuming for the Agency and the public to review. Rather, it should be required to submit quarterly summary reports concerning the referenced records, along with the monthly data. As noted above, this report should be certified by a trained and licensed dust control professional.

### **Section 213.320 Water and Well Setbacks; Impermeable Barriers**

*Additional definition concerning "minimum."* As noted previously, we consider the setback provisions to be a linchpin of the regulation, essential to protecting the public. Again, however, further definition is needed to ensure the effectiveness of this key provision. Subsection a) requires a "minimum" setback of 200 feet, indicating – correctly – that in some instances a larger setback will be required. However, the section does not define what those instances are, or provide the Agency with discretion to establish them pursuant to some standard. Similarly to what we have recommended for the Dust Plans, the setback provision should state (i) that setbacks must protect public health and the environment, *and* (ii) that such setbacks must be 200 feet at minimum. This provision would need to specify standards for ensuring protection of affected waterbodies and water sources.

*Sufficiency of setback.* We do not believe that 200' is a sufficient minimum distance. Fugitive dust can travel much further than 200 feet at the wind speeds seen in the Chicago area.

**Section 213.325 Wastewater and Stormwater Runoff Plan**

*100-year storm (section 213.325 a) 2)).* Designing the sedimentation ponds to treat the runoff from the 100-year storm event is insufficient. Likely due to climate change, the frequency and severity of storm events has significantly increased in recent years, such that the 500-year event would be a more appropriate benchmark. Our concern has significant real-world implications, as one facility's sedimentation pond is located directly adjacent to the Calumet River.

Thank you for considering these comments. If you have any questions or concerns, please contact Ann Alexander [REDACTED], [aalexander@nrdc.org](mailto:aalexander@nrdc.org).

Very truly yours,

NATURAL RESOURCES DEFENSE COUNCIL



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Ann Alexander  
Meleah Geertsma

# **Exhibit B**

**Sources Potentially subject to Coke or Coal Bulk Terminals Emergency Rulemaking**

| <b>Company</b>                            | <b>Address</b>                               | <b>County</b> |
|---|--|---------------|
| AEP Generating Company-Cook Coal Terminal | 3316 North US 45 Road, Metropolis            | Massac        |
| American Milling Co                       | 1700 S 2nd St, Pekin                         | Tazewell      |
| Archer Daniels Midland Company (ADM)      | Foot of Brunner Street, LaSalle              | LaSalle       |
| Beelman River Terminals, Inc.             | 210 Bremen Avenue, Venice                    | Madison       |
| Cahokia Acres LLC                         | 189 American Grain St, Cahokia               | St. Clair     |
| Calumet Transload Railroad LLC            | 11400 South Burley Avenue, Chicago           | Cook          |
| Consolidated Grain & Barge Co             | 201 N Missouri St, Mound City                | Pulaski       |
| Consolidated Grain & Barge Co             | #3 Cargill Elevator Rd, Cahokia              | St. Clair     |
| Consolidated Grain & Barge Co Inc         | 7305 Illinois Hwy 26, Princeton              | Bureau        |
| County Materials Corporation              | 2052 N 2753 Rd, Ottawa                       | LaSalle       |
| Empire Dock Inc                           | Rte 1 Box 110 Job Corps Rd, Golconda         | Hardin        |
| Geo J Beemsterboer Co Inc.                | 2900 East 106Street @ Calumet River, Chicago | Cook          |
| Growmark Inc                              | 520 Shipyard Rd, Seneca                      | LaSalle       |
| Havana Dock Enterprises LLC               | 17810 E Manito Rd, Havana                    | Mason         |
| IEI Barge Services- East Dubuque          | 18525 Highway 20 West, East Dubuque          | Jo Daviess    |
| J & L Dock Facilities Inc                 | 6 Sanger St, Peoria                          | Peoria        |
| Kaskaskia Regional Port District          | 10349 Riverview Dr, Baldwin                  | Randolph      |
| Kaskaskia Regional Port District          | 7405 Pike Sawmill Rd, New Athens             | St. Clair     |
| KCBX Terminals Co                         | 3259 East 100th Street, Chicago              | Cook          |
| KCBX Terminals Company                    | 10730 South Burley Avenue, Chicago           | Cook          |
| Kellogg Terminal                          | 3500 S Levee Rd, Modoc                       | Randolph      |
| Kinder Morgan Bulk Terminals              | 262 Cora Road, Rockwood                      | Jackson       |
| Kinder Morgan Cahokia Terminal,           | #2 Monsanto Avenue, Sauget                   | St. Clair     |
| Lone Eagle Dock                           | Rural Randolph County                        | Randolph      |
| Marine Material Handling Corporation      | 12308 South New Avenue, Lemont               | Will          |
| Metropolis Ready Mix                      | 1200 E 2nd St, Metropolis                    | Massac        |
| Midwest Transload LLC                     | 1967 Pyatt-Cutler Rd, Cutler                 | Peoria        |
| Mosaic Crop Nutrition LLC                 | 8710 S Cargill Rd, Pekin                     | Peoria        |
| North American Stevedoring Co             | 9301 S Kreiter Ave., Chicago                 | Cook          |
| Ohio River Dock Corp                      | Il State Route 146, Elizabethtown            | Hardin        |
| Ozinga Materials Inc                      | Rt 26 and Gro Mark Elev Rd, Lacon            | Marshall      |
| Phoenix Terminal Company, Inc.            | 1301 West Piasa Lane, Hartford               | Madison       |
| River Docks Inc                           | 2400 Water St, Peru                          | LaSalle       |
| US Silica Co                              | Dee Bennett Rd, Ottawa                       | LaSalle       |
| Vermilion Transmodal LLC                  | 3200 E Main St, Danville                     | Vermilion     |
| Vulcan Construction Materials LP          | Job Corps Rd, Golconda                       | Hardin        |