

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)
)
EMERGENCY RULEMAKING) R14-20
REGARDING REGULATIONS OF) (Rulemaking-Air/Land/Water)
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

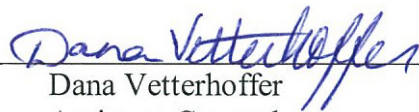
Marie Tipsord
Hearing Officer
Illinois Pollution Control Board
100 W. Randolph St., Suite 11-500
Chicago, IL 60601

SEE ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have today filed with the Office of the Pollution Control Board the STATUS REPORT AND MOTION TO STAY PROCEEDINGS of the Illinois Environmental Protection Agency, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Dana Vetterhoffer
Assistant Counsel
Division of Legal Counsel

DATED: June 23, 2014

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

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STATUS REPORT AND MOTION TO STAY PROCEEDINGS

In compliance with the Illinois Pollution Control Board's ("Board") Order dated March 20, 2014, and 35 Ill. Adm. Code 101.514(b), 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. The Agency also hereby requests that the Hearing Officer further stay proceedings in this matter pending the development and proposal of a general rulemaking by the Agency. In support of its Motion, the Illinois EPA states as follows:

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.

Consequently, 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.


Status Report and Request for Additional Stay

The Agency has conducted outreach meetings with different stakeholders and interested parties, and will continue to do so as rule development efforts continue. The Agency is also reviewing the efforts of other authorities to regulate petcoke bulk terminals within the State of Illinois.

Filing a general rulemaking proposal that reflects input from stakeholders and provides for long-term, comprehensive regulation of petcoke and coal bulk terminals by a date certain is not possible at this time, given ongoing efforts. The Illinois EPA therefore requests that the Hearing Officer continue to stay proceedings in this matter 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. If desired by the Hearing Officer, the Agency is amenable to submitting quarterly status reports regarding the Agency's rule development progress.

WHEREFORE, the Illinois EPA requests that the Hearing Officer stay proceedings in this matter pending the development and proposal of a general rulemaking by the Agency.

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: 
Dana Vetterhoffer
Assistant Counsel
Division of Legal Counsel

DATED: June 23, 2014
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CERTIFICATE OF SERVICE

I, the undersigned, an attorney, state that I have electronically served the attached STATUS REPORT AND MOTION TO STAY PROCEEDINGS of the Illinois Environmental Protection Agency upon the following persons:

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

and that I am mailing it by first-class mail from Springfield, Illinois, with sufficient postage affixed, to the following persons:

SEE ATTACHED SERVICE LIST

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

By: *Dana Vetterhoffer*
Dana Vetterhoffer
Assistant Counsel
Division of Legal Counsel

DATED: June 23, 2014
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