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January 20, 2014

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

**RE: R2014-020- Emergency Rulemaking Regarding Regulations of
Coke/Coal Bulk Terminals: New 35 ILL. ADM. Code 213**

On behalf of The American Coal Company ("AmCoal"), thank you for the opportunity to provide comments with respect to recent emergency regulations filed by the Illinois Environmental Protection Agency ("IEPA"). AmCoal is a coal mine and coal preparation facility that employs 985 workers and produces 10,000,000 clean tons annually. Approximately 60% of that coal is shipped through trans-loading facilities located in Illinois on the Ohio River, Empire Dock, Inc. ("Empire Dock") AmCoal strongly opposes the content of the rules and the designation of the rules as an "emergency."

We respectfully request that the Illinois Pollution Control Board ("IPCB") reject the proposed emergency rules immediately so that all parties can utilize the normal rulemaking process.

Section 5-45 of the Illinois Administrative Procedure Act provides that agencies may use this short form rulemaking procedure under the following circumstances: (1) when a disaster emergency exists; (2) when the IPCB finds that a severe public health emergency exists; or (3) when the IPCB finds that a situation exists which reasonably constitutes a threat to the public interests, safety or welfare. The Illinois Administrative Procedure Act also requires the agency to make an effort to notify the affected public. These conditions have not been met.

1. There is no threat to public interest, safety or welfare.

The United States Environmental Protection Agency ("USEPA") does not classify petcoke/coal as a hazardous material.

2. The Emergency Rule Imposes Unreasonable or Unnecessary Economic Costs

Section 230.550 of the Illinois Administrative Code provides criteria by which the

Joint Committee on Administrative Rules can suspend emergency rules. In determining whether to suspend the emergency rules, the Committee must consider whether "the emergency rule impose[s] unreasonable or unnecessary economic costs on any citizen of this state . . ." The IEPA did not reach out to impacted parties to determine the economic cost and refused to share draft rules with industry to get comment.

It is clear that the Illinois EPA's emergency rulemaking will result in a significant economic burden to AmCoal and other companies across the state that have not created or contributed to any public health or disaster-related emergency. **First, AmCoal will be forced to expend significant financial resources to comply with the emergency rules. In fact, initial estimates show that compliance with the emergency rules will cost Empire Dock in excess of \$27,000,000. Second, the proposed timeline is exceptionally tight. This fact would have been brought to the attention of the IEPA if the IEPA had consulted with the industry prior to proposing the emergency rules. According to AmCoal's initial analysis, it will not be physically possible to comply with the indicated timeline. Coal trans-loading facilities that we utilize will be forced to expend significant financial resources, which in turn will significantly increase our cost of doing business. AmCoal would not be competitive in the current market place, which could potentially result in layoffs or closing of AmCoal.**

3. One Isolated Incident Does Not Constitute an Emergency

On behalf of AmCoal, I respectfully request that the Pollution Control Board reject the emergency rules. It is very clear that there is no immediate threat to the public interest, safety or welfare of Illinois. Accordingly, any rulemaking can and should go through the normal rulemaking process so that all parties have an adequate time to respond and participate.

Thank you for your consideration.

Sincerely,

THE AMERICAN COAL COMPANY



Michael O. McKown
Senior Vice President, Law and
Administration and Secretary

cc: IPCB Board Members:

Ms. Deanna Glosser, Chairperson
Ms. Carrie Zaleski
Ms. Jennifer Burke
Mr. Jerome D. O'Leary