



February 1, 2014

Mr. Bechara Choucair, M.D.  
Commissioner  
Chicago Department of Public Health  
333 South State Street, Room 200  
Chicago IL 60604

**RE: Proposed regulations for the Handling and Storage of Bulk Material Piles**

Dear Commissioner Choucair:

On behalf of the Illinois Manufacturers' Association, thank you for the opportunity to comment on the Department of Public Health's proposed regulations for the handling and storage of bulk material piles. Representing nearly 4,000 member companies and facilities, the Illinois Manufacturers' Association is the oldest and one of the largest state manufacturing trade associations in the United States. Manufacturing employs nearly 580,000 workers and contributes the single largest share of the Gross State Product.

First of all, please let me extend our appreciation for your decision to undertake a thorough review process that included last month's public hearing along with the ability to offer comments on the proposed regulations. It's vitally important that the City of Chicago and State of Illinois utilize a fact and science-based approach when imposing new regulations on industry that could have negative economic consequences.

**As currently drafted, the Illinois Manufacturers' Association opposes the draft regulations for the handling and storage of bulk materials and I will highlight a number of our concerns for your consideration.**

As you're well aware, this debate began with an isolated incident in Chicago that occurred last August when a rare confluence of events resulted in an alleged violation of the Fugitive Dust Rule. The delay and stoppage of barge traffic on Illinois waterways due to drought resulted in accumulation of petcoke dried by a period of hot weather. These events, combined with the lack of a proper water suppression system by a former bulk storage operator, appear to have caused the dust when a severe windstorm blew through the area. Since that time, the new operator with decades of experience has installed more than \$10 million in new water suppression equipment. It's important to note that no additional fact-based incidents have occurred since that time even during the tornados that blew through the region in December.

### **1. The proposed regulations are overly broad.**

According to the Scope and Purpose of the regulation, the intent of the regulation is to minimize emission of airborne particulate matter from the storage, blending, handling, processing and transport of bulk solid materials which is very broadly defined. The definition means “any solid substance or material that can be used as a fuel or as an ingredient in a manufacturing process including but not limited to, ores, coal and coke. Under the reading of this definition, there are numerous other materials other than coal and petcoke that can be subject to this new regulation including sand and silica, lime, gravel, and grain.

While the incident reportedly involved petcoke, the new regulations will impact a host of industries including steel, agriculture, mining, construction, manufacturing, transportation, and utilities. The IMA believes that this broad definition is an overreach that will negatively impact jobs and revenue for the City of Chicago.

### **2. Petcoke is not a hazardous material**

The United States Environmental Protection Agency (USEPA) does not classify petcoke as a hazardous material. According to the Congressional Research Service, which cited the June 2011 study completed by the USEPA:

*“The U.S. Environmental Protection Agency does not classify petcoke as a hazardous waste. EPA has surveyed the potential human health and environmental impacts of petcoke through its High Production Volume (HPV) Challenge Program and found the material to be highly stable and non-reactive at ambient environmental conditions. Most toxicity analyses of petcoke find it has a low potential to cause adverse effects on aquatic or terrestrial environments as well as a low health hazard potential in humans, with no observed carcinogenic, reproductive or developmental effects.”*

Further, the Chicago Department of Public Health (CDPH) agrees with the USEPA. According to the CDPH’s website:

*“There are no other known illnesses or health effects associated with petcoke dust. This was the conclusion of a report issued by the United States Environmental Protection Agency based on available scientific data.”*

### **3. Independent tests show no presence of petcoke or coal in local areas**

During the course of the Illinois EPA rulemaking, KCBX provided the Illinois EPA, Illinois Pollution Control Board and others with independent scientific data from soil and surface sampling around their facility. Samples were collected and tested in accordance with ASTM and EPA methods by independent environmental professionals and laboratories. These test results showed no evidence of key chemical indicators of petcoke or coal on surfaces or in soil in the neighborhoods surrounding the facility.

Subsequent to the one isolated incident, there have been no additional problems, a fact that is backed up by scientific evidence. Given that there are no additional problems that have been identified by the City of Chicago or Illinois EPA, it is not necessary to devise new regulations.



#### **4. Current regulations are sufficient**

Companies that handle and store petcoke, metcoke, coal and other materials are already subject to extensive regulations including Fugitive Dust Regulation, Clean Air Act, Clean Water Act, NPDES, and others. The Illinois EPA and Attorney General have the ability to enforce permits and can issue an enforcement action to ensure compliance. In its recent decision, the Illinois Pollution Control Board rejected the IEPA's request for new emergency rules noting "*the Board does have regulations addressing these facilities*" that "*are addressed by pending enforcement actions.*"

There are extensive regulations that govern the storage and handling of petcoke and other products that must meet particulate matter rules. A small sample of current laws and regulations including requiring piles to be covered or sprayed with water or a surfactant, the use of chutes, ladders and sprays for conveyor belts, and covered trucks.

#### **5. The proposed regulations are extremely costly and rigid**

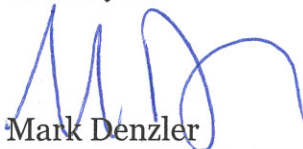
New requirements, specifically including the regulation that all piles be limited to 30 feet and completely enclosed represents a tremendous economic burden for operators. Rather than requiring a specifically scripted plan, any regulations should be flexible in order that operators can meet the goals using different methods. A one-size-fits-all approach does not work because of the broad scope of materials covered by this regulatory proposal.

Other provisions such as a ban on operations when the wind is 15 mph are overly restrictive. In 2013, the average wind speed averaged 10.3 mph. This new wind speed regulation will force facilities to shut down operations on a constant basis.

While the regulations are overly broad, I'd like to specifically mention that petcoke is a beneficial product of the manufacturing process. This commodity is in a number of manufacturing sectors including cement, glass, electricity, steel, and other products. Any negative impact on petcoke storage and handling will be felt down the line to end users of the product.

The IMA appreciates the careful, studied approach when considering new regulations on the handling and storage of bulk materials. The IMA believes that the current proposed regulations are an overreach that will have far reaching negative consequences. It is our hope that the Department of Public Health will rescind the current proposal and continue working with industry to identify the actual problem and possible solutions.

Thank you.



Mark Denzler  
Vice President & COO