

February 5, 2014

Via Email

Department of Public Health
City of Chicago
Attn: Environmental Permitting and Inspections
333 South State Street, Room 200
Chicago, IL 60604
petcokecomments@cityofchicago.org

Re: Department of Public Health – Proposed Rules and Regulations for Bulk Material Storage Piles

Illinois Petroleum Council is a member of API, a national trade association that represents all segments of America's technology-driven oil and natural gas industry. Its more than 580 members – including large integrated companies, exploration and production, refining, marketing, pipeline, and marine businesses, and service and supply firms – provide most of the nation's energy and are backed by a growing grassroots movement of over 15 million Americans. The industry also supports 9.8 million U.S. jobs (263,000 Illinois jobs) and 8 percent of the U.S. economy, delivers \$85 million a day in revenue to our government, and, since 2000, has invested over \$2 trillion in U.S. capital projects to advance all forms of energy, including alternatives. Our members have five refineries near Chicago and generate petroleum coke (petcoke) as a normal part of operations, and thus have a vested interest in the outcome of these regulations.

This letter most importantly requests that the Department of Health strongly reconsider moving forward with overly restrictive management regulations for bulk material storage piles without first having the benefit of a better understanding of the array of management options that exist to effectively manage, in this particular case, petcoke. We encourage the Department to consider these management options in full before imposing a one-size fits all management approach.

In addition, there is a fundamental misunderstanding and a resulting mischaracterization of this refinery product and its uses. Here are some facts to set the record straight:

- Petroleum coke is a solid product of the refining process. We get many products from a barrel of crude oil (e.g., gasoline and diesel), and petroleum coke is another.
- Petroleum coke is a valued commodity around the world. There has been a global market for petroleum coke for decades.

- Petroleum coke is an essential fuel that is used in industrial applications and manufacturing processes including the production of steel, aluminum, and other specialty products.¹
- Petroleum coke is produced from all types of oil – including, light, sweet crude oil and Canadian crude.
- MDS sheets for petroleum coke indicate it is a non-toxic and non-carcinogenic. The EPA does not consider petroleum coke a hazardous product. Related links [here](#) and [here](#).
- In the ordinary course of day-to-day commerce, petcoke is stored and shipped from ports around North America and the world.
- The United States Environmental Protection Agency [classifies petroleum coke](#) as a “traditional fuel” that has been historically managed as a “valuable fuel product.”
- The use of petroleum coke has enabled many North American businesses to remain competitive in the global marketplace while employing thousands of people in manufacturing jobs with good wages and benefits.

Banning the storage of petcoke or requiring it to be stored only in enclosed buildings goes far beyond what Illinois and other states have previously found to be effective regulation of petcoke facilities. Petcoke and other potential sources of particulate matter have been successfully regulated for decades by dozens of states, including Illinois. These states’ regulations are summarized below. **These regulations reflect the flexible and site-specific approach to regulation that is most effective for the management and regulation of petcoke.** Tellingly, these regulations almost never prohibit the storage or handling of petcoke or mandate complete enclosure of petcoke.

State laws and regulations that potentially apply to petroleum coke storage and handling facilities fall into three general categories: air, water, and fire.

¹According to EPA, petroleum cokes can be categorized as either green coke or calcined coke. The initial product of the coking process, green coke, is used as a fuel, in gasification and metallurgical processes, or as feedstock to produce calcined coke. Calcined coke is produced when green coke is treated to higher temperatures (1200 to 1350^oC). The primary use of calcined coke is in making carbon anodes for the aluminum industry. Other uses include making graphite electrodes for arc furnaces, titanium dioxide, polycarbonate plastics, steel, carbon refractory bricks for blast furnaces, packing media for anode baking furnaces, and material for cathodic protection of pipelines.

- **Air Regulations:** Many states' laws include broad statements prohibiting air pollution. *See, e.g., Alaska Admin. Code tit. §18, 50.110* ("No person may permit any emission which is injurious to human health or welfare"). In implementing those broad prohibitions with more specific regulations, states generally have focused on a combination of three primary strategies: 1) requiring appropriate management of airborne "fugitive dust" or "particulate matter"; 2) limiting the duration or opacity of "visible emissions"; and 3) establishing permitting requirements (either by implementing federal permitting standards or with state-specific permit requirements) for operators who produce certain threshold annual amounts of particulate matter.
- **Water Regulations:** State-based regulations of water pollution primarily involve the states' administration of the National Pollution Discharge Elimination System (NPDES). The NPDES system regulates "point source" discharges of potential water pollutants, meaning that the pollutants may be traced back to a discernible, confined and discrete conveyance, such as a drainpipe. States have promulgated regulations and developed permitting requirements implementing NPDES. Further, under the NPDES and most state laws, petroleum coke storage and handling facilities must obtain a storm water discharge permit and must submit a storm water pollution prevention plan. The plan typically will describe the particular operation, the potential for pollutants from runoff, and measures taken to prevent pollution in storm water discharges. Further, states often have groundwater and other permitting requirements that may apply to petroleum storage and handling facilities.
- **Fire Regulations:** Most states have enacted fire prevention codes. These codes typically are based on either the International Fire Code (IFC) or National Fire Prevention Association (NFPA) standards, which the state may adopt in whole, or in part. Under a particular state's IFC, permits may be required to store or handle combustible dust, measures may have to be taken to prevent explosions (typically consistent with NFPA standards), and restrictions may be placed on material storage. Fire emergency plans may also be required.

These various state laws show the range and flexibility of approaches in regulating potential sources of particulate matter like petroleum coke. Illinois itself has robust and time-tested methods to manage outdoor storage of petroleum coke. The Illinois Environmental Protection Agency restricts "visible and particulate matter emissions" such as petroleum coke. 35 Ill. Admin. Code §212.301 et seq. To that end, **existing** IEPA regulations contain the following requirements:

- Storage piles must be covered or sprayed with water or a surfactant "on a regular basis," unless the particulate matter does not cross property lines. *Id.* At §212.304.
- Conveyor loading operations must utilize sprays, telescopic chutes, stone ladders, or other methods to control dust. *Id.* At §212.305.
- Access roads must be paved or treated with water or dust suppressants "on a regular basis." *Id.* At §212.306.

- Vehicles must be covered to prevent the release of particulate matter into the atmosphere. Id. At §212.315.

Operators of petroleum coke facilities must also comply with an “operating program” to “significantly reduce” fugitive emissions. Id. At §212.309. Operators must submit their operating programs to the IEPA for review. The Operating Program requires contact information of the owner, a map or diagram showing approximate locations of storage piles and traffic patterns, a detailed description of “best management practices” for controlling dust, the frequency of dust suppressant application, and other information. Id. At §212.310. Any amendments to the operating program must also be submitted to the IEPA for its review.

Additional concerns include the apparent authority granted to the Commissioner of Public Health to implement rule changes at will and without any evidence of failure. This is far too open-ended and such regulatory uncertainty could prohibit future investment.

As written, the setback requirements would shut down most facilities within the state. “Pile boundaries” rather than “facility boundaries” will permit facilities with a larger footprint to operate and still meet with the rules’ intent.

Properly implemented, these existing Illinois regulations are sufficient to prevent petroleum coke from causing a nuisance to nearby properties and people. If some petcoke handling or transportation operations are falling short of the standards required by Illinois’ regulations, the appropriate resolution is to enforce the existing regulations.

Illinois’ existing regulations are consistent with the flexible and multi-pronged approaches that have been implemented in dozens of states for decades. Any proposal to ban the storage of petcoke or require that it always be enclosed is an unnecessary departure from time-tested and effective management practices found in the laws of Illinois and dozens of other states.

Finally, we encourage the Chicago Department of Public Health to grasp the importance of logistics in the management of petroleum coke. As we have seen for decades, the best management practices involve an array of options. The department’s proposal reduces those options and could very likely exacerbate the very problem it intends to address.

Sincerely



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