



January 22, 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 (Proposed December 17, 2013)

To whom this may concern:

On behalf of the Chemical Industry Council of Illinois (CICI) and many of our affected members, we urge the Department of Public Health of the City of Chicago to either withdraw the above-referenced proposed rules related to bulk materials, or, at the very least, extend the comment period for an additional 30 days to March 10, 2014. While we appreciate that the City extended the original comment period, a further extension is justified and will allow interested parties time to consider the overall impact of the proposal.

The City's desire to better control fugitive emissions is well intended, but it must be done the right way, with meaningful and open discussions with all interested parties to promulgate a fair, legal, and realistic ordinance.

First of all, the City stated publicly that the purpose of its proposed ordinance is to control emissions from petroleum coke (petcoke) operations, but this proposal impacts all bulk material operations, not just petcoke. Secondly, the title of the proposal focuses exclusively on bulk material storage piles, but covers significantly more than just storage piles. In fact, the City's proposal applies to any owner, operator or person who stores, blends, handles, processes, transports or uses any bulk solid materials. As the City's public statements surrounding its proposal were incomplete and the title of the ordinance is inaccurate, many businesses that will be impacted are simply not aware. A further extension of the comment period is therefore necessary.

Furthermore, we feel the City's proposed ordinance is susceptible to attack on multiple legal grounds, namely:

- The proposed ordinance is preempted by state law. The Illinois Pollution Control Board adopted detailed regulations covering fugitive air emissions. While the City has a certain amount of latitude to enact ordinances under its Home Rule authority, the City cannot enact an environmental ordinance that is inconsistent with state law. Here, the City's

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proposed ordinance is inconsistent with the state's regulations. See 35 Ill. Adm. Code Part 212.

- The proposed ordinance is overly broad. The City is not only attempting to regulate fugitive air emissions, but is also attempting to regulate operational matters that do not affect air emissions at facilities which handle bulk materials. One such example is the requirement that facilities cannot maintain bulk materials for longer than one year. The length of time that product is stored at a facility has no bearing on environmental control. For this reason the proposed ordinance exceeds the authority of the Department of Public Health.
- The proposed ordinance is unconstitutionally vague. Numerous provisions in the proposed ordinance are subject to multiple interpretations. One of many examples is that the term "ore" is not defined, but is specifically regulated.

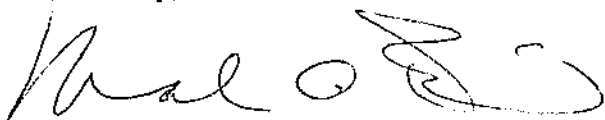
The proposed ordinance is also technically infeasible and economically unreasonable. Numerous sections of the ordinance are simply not realistic and are overreaching. The sections and provisions of the proposed ordinance that are not feasible include, but are not limited to: the total enclosure requirements, the outdoor management and dust suppression requirements, the height restriction for storage piles, the setback requirements, the wind restriction of 15 mph, the elements of the fugitive dust plan, the loading and unloading requirements, the paving requirements, among many other of the proposed requirements.

We feel this proposal is so problematic that numerous businesses will not be able to comply. Therefore, these businesses will be forced either to shut down or operate out of compliance. Neither option is acceptable. The impact is not only on the businesses that are directly impacted by the proposed ordinance, but on all downstream businesses, contractors, residents, consumers and workers who rely on the businesses that are subject to the proposed rules.

The chemical industry in Illinois is the 3rd largest manufacturing sector in the state. Illinois is also the 4th largest chemical producing state in the nation. The industry directly employs almost 45,000 Illinoisans at an average wage of \$97,000 a year. In addition, 299,242 Illinois jobs are supported by the business of chemistry. In all, the business of chemistry in Illinois generated \$40 billion worth of products, and exported \$7.9 billion, making the industry the second largest exporter in the state. Further, in July, 2012 *Chemical Week* reported that the Chicago-Joliet-Naperville area was listed as the top metro area in the U.S. for chemical manufacturing employment.

Thank you for your time and consideration. If you or your staff has any questions or comments, please do not hesitate to contact me in the Springfield office at (217) 522-5805

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Biel", with a stylized flourish at the end.

Mark Biel
Executive Director