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February 5, 2014

Department of Public Health  
Attn: Environmental Permitting and Inspections  
333 South State Street, Room 200  
Chicago, IL 60604

**Re: Proposed Regulations for the handling and storage of bulk materials piles**

We respectfully request that you tread carefully and reconsider your regulations for handling and storage of bulk materials piles in the City of Chicago. While certainly well intended, we believe the unintended consequences to the current petroleum coke storage facilities as well as other businesses who rely on petroleum coke and coal (or other materials) for their operations make the proposed regulations a net loss for the City of Chicago, the residents of southeast side and the business community.

After participating in the public hearing last month, we truly believe the Department is trying to find the right remedy that works for all parties. We certainly appreciate the extension of the deadline for public comment and your willingness to hear from all parties. This issue goes beyond one industry and one neighborhood because the business community looks at how a City reacts to an incident and how it handles the on-going process to find the best solution.

Even though you have delayed the process a few weeks already, we would ask the City to take a further pause in this process and take the time for the discovery of scientific facts, review results of air quality testing currently going on to see if and how these types of facilities can continue to co-exist in their current locations.

**What started all this?**

KCBX and Beemsterboer terminals on Chicago's south east side have generated significant attention due to an August wind event that created significant dust in the surrounding community. As you know, Beemsterboer has since removed its petcoke from their facility.

KCBX has handled bulk materials, including petroleum coke in this community for more than 20 years and was in the process of improving the dust suppression systems of its recently acquired facility when the August event occurred.

Since that time KCBX has successfully invested \$30 million – including \$10 million in dust suppression technology alone – in an attempt to solve the issue. KCBX is currently working with the USEPA on monitoring dust activity since the new equipment was installed. It seems as though the equipment is working but more time is needed by all parties to confirm this in various weather scenarios. Time that your proposed rules and regulations do not give.

### **Remember...**

Please remember that petroleum coke is a valued product produced as part of the process of refining crude oil. It is a critical ingredient in the manufacture of aluminum as well as cement, steel, paper, brick, glass, titanium dioxide (a pigment or whitener used in everyday consumer items) and other industrial products. These are the products that our members and their employees produce and sell on the world market.

Also remember that petroleum coke is not considered to be a hazardous material. Directly to this point, the U.S. Environmental Protection Agency has stated that “petroleum coke has an extremely low environmental hazard potential.”

We will remember that the incidents like the one that happened in August of last year are serious and neighbors should not have to go through that. Industry and residents live in close proximity in many areas of the City and we believe there are ways to have them coexist in harmony.

### **Specific problems with the proposed regulations:**

#### **Prescriptive, not flexible**

Regulations that try to keep dust out of the nearby community should be based on goals backed up by monitoring to ensure companies are reaching those goals. The proposed regulations take away any flexibility for operators to reach those goals now and into the future by dictating solutions – in this case closed operations, specific fencing requirements, etc.

If the true goal is dust suppression, then why not promulgate rules that have regulatory goals that the operator must adhere to – and let the operator use the technology they see fit (and that’s properly permitted) to provide the optimal solution. Keep in mind that solutions might change over time with changing technologies and you will want companies to have the ability to incorporate those new technologies.

### Definition of bulk material

Though you stated your efforts are to try and limit the regulations to petroleum coke, metcoke and coal, the definition of bulk material states “any solid substance or material that can be used as a fuel or as an ingredient in a manufacturing process that may become airborne or be scattered by wind.”

Might this not include grain on its way to ethanol plants? Might this not include sand, gravel or other materials at concrete manufacturing facilities? We know from the public hearing that this is not your intent. However, we need to ensure they are not entrapped by these regulations and do unnecessary harm to ancillary business interests.

### Why Coal?

Please remember that coal has been transported and stored throughout the city for decades, is regulated by the IEPA and we know of no recent public health issues that would dictate the need to include coal in these regulations.

### Covered Transportation

Though we know of no specific public health concerns or permit violations, the City is requiring covered transportation of the defined materials. We are concerned that these requirements for covered transportation may result in a de facto ban of handling petroleum coke within the city because of additional costs and burdens that haulers will have to incur in Chicago but nowhere else.

Coal, petcoke, grain, sand, gravel and other materials that could fall under the umbrella of these regulations are shipped by rail throughout the country every day. Is there any science behind this that would provide a rationale for its inclusion?

### Time

Even if these regulations are enacted and withstand court challenges, many provisions require immediate compliance and/or a compliance schedule with little to no flexibility for operators. From changing pile heights and throughput requirements at the front end, to the incredibly optimistic view that design, engineering, permitting and construction of an enclosed facility can be done within 24 months (especially since it took 12 months just to permit water cannons) -- the deadlines seem random and should be amended so companies have the time to adjust, plan and carry out the changes if they choose to stay in the City at all.

## Conclusion

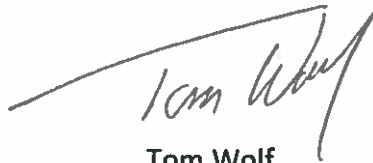
KCBX has handled bulk materials in this community for more than 20 years without major incident. We believe the new dust suppression system is working. We believe the City hasn't allowed the time to figure out if it's working or not. Finally, we believe there is a regulatory *sweet spot* that protects the community and keeps the benefits of businesses like KCBX and others in Chicago.

We hope you will consider our comments, work harder to find that sweet spot and allow the continued safe storage and shipping of petroleum coke, coal and other related materials in Chicago

Sincerely,



Doug Whitley  
President and CEO



Tom Wolf  
Executive Director, Energy Council