98TH GENERAL ASSEMBLY

State of Illinois

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HB5939

by Rep. Barbara Flynn Currie

SYNOPSIS AS INTRODUCED:

415 ILCS 5/Tit. XVIII heading new
415 ILCS 5/59 new
415 ILCS 5/59.1 new
415 ILCS 5/59.2 new
415 ILCS 5/59.3 new
415 ILCS 5/59.4 new
415 ILCS 5/59.5 new
415 ILCS 5/59.6 new
415 ILCS 5/59.7 new

Amends the Environmental Protection Act. Creates a new Title in the Act concerning the regulation of coal and coke storage, processing, and transloading. Provides for minimum setbacks for coal and coke facilities, sets limits for quantities of fugitive dust permitted from facilities, establishes specified requirements for storage of coal and coke products, requires permits for construction and operation of facilities, regulates the loading and unloading, paving, and cleaning of facilities. Requires monitoring and testing, record keeping, and reporting to the Illinois Environmental Protection Agency. Effective immediately.
AN ACT concerning safety.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 5. The Environmental Protection Act is amended by adding the heading of Title XVIII and Sections 59, 59.1, 59.2, 59.3, 59.4, 59.5, 59.6, and 59.7 as follows:

(415 ILCS 5/Tit. XVIII heading new)

Title XVIII: Coal and Coke Regulation

(415 ILCS 5/59 new)

Sec. 59. Purpose. The purpose of this Title is to prescribe specific operating and maintenance practices to minimize emissions of airborne particulate matter from the storage, processing, and transloading of coke and coal near specific areas.

(415 ILCS 5/59.1 new)

Sec. 59.1. Applicability. This Title applies to any person that owns or operates a coke or coal storage, processing, or transloading facility, that is located within 5,000 feet of the property line of a residence, childcare service, preschool, primary or secondary school, outdoor recreational area, hospital, nursing home, community center, place of worship, or
any place of public accommodation, that is not a coal mine, oil
refinery, or coke plant, and that does not store coke or coal
solely for use at the facility as either a fuel or as an
ingredient in a manufacturing process.

(415 ILCS 5/59.2 new)

Sec. 59.2. Definitions. As used in this Title:

"Accumulation" means any surface deposit of coke or coal
greater than 3 ounces in one square foot other than inside an
approved storage area, conveyor, transport vehicle, slurry
bin, water collection channel, or separation pond.

"ASTM" means the American Society for Testing and
Materials.

"Chemical stabilizer" means any chemical dust suppressant
that is not prohibited for the uses proposed in these rules or
by any other applicable law, and that meets all applicable
specifications required by any federal, State, or local agency.

"Coal" means a solid, brittle, carbonaceous rock
classified as anthracite, bituminous, subbituminous, or
lignite by ASTM Designation D388-77.

"Coke" means a solid carbonaceous material derived from the
distillation of coal or from oil refinery coker units or other
cracking processes. "Coke" includes metallurgical coke and
petroleum coke.

"Enclosed structure" means any completely roofed and
walled structure or building.
"Facility" means all contiguous land, and any adjacent or proximate property under common control or ownership, and structures, other appurtenances, and improvements on the land, used for the storage, processing, or transloading of coke or coal, that is located within 5,000 feet of the property line of a residence, childcare service, preschool, primary or secondary school, outdoor recreational area, hospital, nursing home, community center, place of worship, or any other place of public accommodation that is not a coal mine, oil refinery, or coke plant, and that does not store coke or coal solely for use at the facility as either a fuel or as an ingredient in a manufacturing process.

"Fugitive dust" means any solid particulate matter that becomes airborne by natural or human-made activities. "Fugitive dust" does not include particulate matter emitted from a properly permitted exhaust stack equipped with air pollution control equipment.

"Materials received" means coke and coal received at a facility by any means, including by car, truck, railcar, off-road mobile heavy equipment, or marine vessel, such as a boat or barge.

"Metallurgical coke" means a carbon material resulting from the manufactured purification of multifarious blends of bituminous coal.

"Moist" means having a moisture content that is in no place less than 8.3% by weight for coke, and 7.6% by weight for coal.
"Owner or operator" means any person who has legal title to any facility, who has charge, care, or control of and for any facility, who is in possession of any facility or any part thereof, or who is entitled to control or direct the management of any facility.

"Petroleum coke" means the solid carbonaceous residue produced from a coker after cracking and distillation from petroleum refining or upgrading operations.

"Place of public accommodation" includes, but is not limited to:

1. an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than 5 units for rent or hire and that is actually occupied by the proprietor of the establishment;
2. a restaurant, bar, or other establishment serving food or drink;
3. a motion picture house, theater, concert hall, stadium, or other place of exhibition or entertainment;
4. an auditorium, convention center, lecture hall, or other place of public gathering;
5. a bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment;
6. a laundromat, dry-cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of an accountant or lawyer,
pharmacy, insurance office, professional office of a health care provider, hospital, or other service establishment;

(7) a terminal, depot, or other station used for specified public transportation;

(8) a museum, library, gallery, or other place of public display or collection;

(9) a park, zoo, amusement park, or other place of recreation;

(10) a nursery, day care center, elementary, secondary, undergraduate, or postgraduate school, or other place of education;

(11) a senior citizen center, homeless shelter, food bank, adoption agency, or other social service center establishment; and

(12) a gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

"Process" or "processing" means any chemical, industrial, commercial, or manufacturing operation or activity that changes the physical or chemical properties of a substance and that causes, or has the potential to cause, the emission of airborne particles, including, but not limited to, crushing, blending, washing, mixing, and screening.

"Road" means any route with evidence of repeated prior travel by vehicles.

"Separation pond" means a container for separating coke or
coal from water by gravity, which has a liquid water surface at all points.

"Transfer point" means any location at a facility where coke or coal that is being moved, carried, conveyed, or transported is dropped or deposited.

"Vehicle" means any car, truck, railcar, off-road mobile heavy equipment, or marine vessel such as a boat or barge.

"Water spray system" means a dust suppression technique that uses water or water-based solutions delivered through pipes, tubes, or hoses that are fitted with one or more nozzles.

(415 ILCS 5/59.3 new)

Sec. 59.3. Requirements.

(a) It shall be unlawful for the property line of a facility to be within 1,000 feet of the property line of a residence, childcare service, preschool, primary or secondary school, outdoor recreational area, hospital, or nursing home or within 660 feet from the property line of a community center, place of worship, or any place of public accommodation that is not, or does not contain, a residence, childcare service, preschool, primary or secondary school, outdoor recreational area, hospital, or nursing home.

(b) The owner or operator of a facility shall not accept coke from any source unless coke from that source has previously undergone a hazardous waste determination, analyzed
as if the coke was a solid waste, in accordance with State law and administrative rules, and that determination has established that the coke is not a hazardous waste.

(c) The owner or operator of a facility shall not cause or allow the emission of any fugitive dust:

(1) that is visible beyond the property line of the facility; or

(2) within the property line of the facility at any coke or coal storage pile, transfer point, entrance or exit to an enclosed structure, roadway, or parking area that, for a period or periods aggregating more than 3 minutes in any one hour or 6 minutes in any continuous 24-hour period, is equal to or greater than 5% opacity, unless a more stringent emission limit is specified elsewhere in this Title or rules adopted thereunder.

(d) Before commencing construction and operation of an enclosure required by subsection (f) of Section 59.3, the owner or operator of a facility must obtain, respectively, a construction permit, an air operating permit, and a National Pollutant Discharge Elimination System (NPDES) permit from the Agency. The Agency may impose requirements, in addition to the requirements set forth in this Title, as conditions of the facility's construction, air operating, and NPDES permits.

(e) The owner or operator of a facility shall prepare, submit, and follow a fugitive dust plan. The fugitive dust plan shall expire one year after its approval date. Updated fugitive
dust plans must be submitted to the Agency for review and approval on or before January 31 of each year, provided that the first fugitive dust plan shall be submitted no later than 90 days after the effective date of this Title or, for facilities that are constructed or become subject to this Title after the effective date of this Title, before receiving any coke or coal. The Agency shall promptly post proposed fugitive dust plans on its website and hold a 30-day public comment period.

If there is any change, modification, or addition to any facility component described in an approved fugitive dust plan, the facility owner or operator shall submit an amended fugitive dust plan to the Agency for review and approval within 15 days of that change, modification, or addition. The Agency shall promptly post the amended fugitive dust plan on its website and hold a 15-day public comment period.

After reviewing a proposed fugitive dust plan or amended fugitive dust plan and taking into consideration all public comments received, the Agency shall only approve a plan if (1) the plan ensures compliance with all substantive and administrative requirements set forth in this Title and any other applicable rules and (2) the Agency determines that the facility will not create a public nuisance or adversely impact the surrounding area, environment, or property uses and will not otherwise pose a threat to public health and welfare.

The fugitive dust plan shall include, at a minimum, the
following components:

(1) a site map, drawn to scale, depicting the facility boundaries and all buildings, roadways, and utilities. In addition, the site map shall identify all potential emissions points and air pollution control equipment;

(2) a description of all control measures, devices, and technologies to be used to minimize and control fugitive dust, including back-up measures, devices, or technologies that will be used if the primary methods are out of service, sufficient to comply with the requirements of this Act, and a description of the personnel, including their qualifications, who will oversee those measures, devices, and technologies;

(3) a description of the facility's recordkeeping system, which shall include a schedule for routine inspection and maintenance of the control measures, devices, and technologies, and the title of the person or persons responsible for such maintenance and testing.

(4) a description of all air monitoring and testing that will occur at the facility under the requirements of this Title.

(f) Coke and coal piles shall be maintained in enclosed structures that:

(1) are properly maintained, and equipped with and use a permitted air pollution control system sufficient to achieve a control efficiency of 99.95% for fugitive dust
emissions or a maximum outlet concentration of 0.005 grains per cubic foot at designed vents and at any other openings, including entrances and exits;

(2) are designed, permitted, and constructed in accordance with applicable building code requirements, in accordance with best management practices to reduce the risk of fire or explosion, and shall be situated on an impermeable base or pad; and

(3) on any entrances for coke and coal or vehicles, have overlapping flaps, sliding doors, or other equivalent devices approved in writing by the Agency, which shall remain closed except to allow coal, coke, vehicles, or people to enter and exit. Any device approved by the Agency under this subsection (f) shall achieve the same level of fugitive dust control provided by overlapping flaps or sliding doors.

(g) Loading and unloading of coke and coal from trucks shall be conducted only in enclosed structures equipped with either a water spray system operated to prevent visible dust emissions sufficiently to comply with the opacity limits of paragraph (2) of subsection (c) of Section 59.3 of this Title, or vented to permitted air pollution control equipment that is operated during loading and unloading activities and is sufficient to comply with the opacity limits of paragraph (2) of subsection (c) of Section 59.3 of this Title. The entrances and exits of those structures shall have overlapping flaps,
sliding doors, which shall remain closed except to allow the
tucks to enter and exit, or other devices approved in writing
by the Agency. Any device approved by the Agency under this
subsection (g) must achieve the same level of fugitive dust
control provided by overlapping flaps or sliding doors.

(h) Loading and unloading of coke and coal from railcars
shall be conducted only in enclosed structures equipped with
either a water spray system operated to prevent visible dust
emissions sufficient to comply with the opacity limits of
paragraph (2) of subsection (c) of Section 59.3 of this Title,
or vented to permitted air pollution control equipment that is
operated during loading and unloading activities and is
sufficient to comply with the opacity limits of paragraph (2)
of subsection (c) of Section 59.3 of this Title. The entrances
and exits of those structures shall have overlapping flaps,
sliding doors, which shall remain closed except to allow the
railcars to enter and exit, or other devices approved in
writing by the Agency. Any device approved by the Agency under
this subsection (h) must achieve the same level of fugitive
dust control provided by overlapping flaps or sliding doors.

(i) Loading and unloading of coke and coal from boats and
barges shall be conducted only through fully enclosed equipment
or equipment such as vacuum or screw-type loaders and unloaders
that the owner or operator of the facility demonstrates will
control fugitive dust emissions during operations sufficient
to comply with the opacity limits of paragraph (2) of
subsection (c) of Section 59.3 of this Title.

(j) The following areas shall be paved with an impermeable material and in a manner sufficient to handle the expected level of traffic at the facility and maintained as such:

(1) all non-road ground surfaces within the facility where accumulations might occur; and

(2) all roads and vehicle movement areas within the facility that are used for transporting or moving coke or coal.

(k) In order to clean roads of accumulations, the owner or operator of a facility shall clean any road that is used to transport coke or coal inside or within one quarter mile of the perimeter of the facility with a street sweeper and comply with the following requirements:

(1) the street sweeper shall employ a water spray and vacuum system to prevent fugitive dust during street sweeping and shall either dispose of sweepings in a permitted solid waste facility or return them to the facility for reuse and storage in an enclosed structure;

(2) the street sweeping shall be frequent enough that not more than 4 hours elapses between each street sweeper cleaning or after every 100 truck material receipts or dispatches, but not less than one time daily when the facility is operating.

(3) the owner or operator of a facility shall record the date and time when street sweeping was performed and
the truck count.

(4) the owner or operator of a facility shall begin cleaning up spills of more than 3 pounds of coke or coal, or spills that cover more than a square foot, within one hour, and continue cleanup operations until the spill is removed.

(1) The owner or operator of a facility shall maintain all areas within the facility, including, but not limited to, rail tracks, and all roads and rail tracks within one quarter-mile of the facility free of any accumulation.

(m) All conveyors shall be enclosed.

(n) Fugitive dust emissions from all transfer points shall be controlled with one of the following methods, as necessary to meet any applicable emission limits, including, but not limited to, the 5% opacity limit contained in paragraph (2) of subsection (c) of Section 59.3 of this Title:

(1) total enclosure;

(2) a water spray system sufficient to control fugitive dust emissions during operations;

(3) venting to air pollution control equipment which is in full operation and permitted by the Agency; or

(4) transfer only moist coke and coal and conduct the transfer only in an overhead truck trailer, railcar, barge or boat loader, or chute with a hopper, such that the exposed drop does not exceed 2 feet from the top of the vehicle.
(o) When transport of coke or coal to or from the facility is by truck, the owner or operator shall ensure that:

(1) all trucks adhere to the posted speed limit within the facility, which shall be no more than 8 miles per hour;
(2) coke and coal is received or transferred only in truck trailers that, within one quarter-mile of the perimeter of the facility, are driven only on paved roads;
(3) all outgoing material transport trucks, whether loaded or empty, are cleaned so that:
   (A) every part of every tractor, trailer, or tire exterior surface, excluding the inside of the trailers if covered under the requirements of subsection (p), is free of all loose coke and coal; and
   (B) the coke and coal removed by the truck cleaning operation is collected and recycled or otherwise properly disposed of so that it does not result in fugitive dust emissions.
(4) all outgoing material transport trucks, whether loaded or empty, pass through a wheel wash station and pass over rumble strips that will vibrate the trucks and shake off loose coal, coke, and dust;
(5) owners or operators of facilities shall conduct visual observations and testing of at least one truck per calendar quarter to determine compliance with this subsection (o).

(p) The owner or operator of a facility shall not cause or
allow coke or coal to be loaded into any truck trailer, railcar, or barge unless it is subsequently and immediately covered before leaving the facility, and shall not accept any coke or coal delivered to the facility unless the delivery vehicle is covered in one of the following manners as necessary to prevent fugitive dust emissions, as determined by the Agency:

(1) a continuous tarp that completely covers the truck trailer, railcar top, or barge. The tarp shall be installed or the trailer, railcar, or barge constructed to prevent wind from entering over the leading edge into the interior of the vehicle; or

(2) a solid sliding cover that is kept completely closed.

The owner or operator of a facility shall not cause or allow coke or coal to be loaded into any vehicle such that the vehicle leaks or may leak coke or coal or liquid containing coke or coal. If a vehicle leaks coke or coal or liquid containing coke or coal within the facility, the owner or operator shall clean the affected property within one hour with a street sweeper or water.

(415 ILCS 5/59.4 new)

Sec. 59.4. Monitoring and testing. The owner or operator of a facility shall conduct continuous ambient air quality monitoring for PM10 and PM2.5, as well as opacity and visible
emissions testing using approved methods and protocols for determining visible emissions and opacity, such as digital opacity monitoring or the United States Environmental Protection Agency's Method 9 or 9D, as applicable, by a trained and certified professional. Opacity and visible emissions testing shall be conducted on at least a quarterly basis and under a range of weather and atmospheric conditions that are representative of conditions at the facility. The owner or operator shall include proposed continuous ambient air quality monitoring and opacity and visible emissions testing protocols in its fugitive dust plan submission to the Agency for approval. Air monitoring results shall be made available to the public on the Agency's website.

(415 ILCS 5/59.5 new)

Sec. 59.5. Recordkeeping.

(a) The owner or operator of a facility shall:

(1) record daily the type and amount of material, in tons, delivered to and taken from the facility for each 24-hour period;

(2) record, on a monthly basis, the total quantity of coke and coal, in tons, at the facility at the end of each month;

(3) record daily, street sweeping;

(4) record the time of discovery, condition (moist or dry, depth of material, or both) and removal of any
accumulations pursuant to subsection (i) of Section 59.3 of this Title; and

(5) record the time of discovery, condition (moist or dry and depth of material) and cleanup of any spills under paragraph (4) of subsection (k) of this Title.

(b) All records required to be kept under this Title shall be kept and maintained at the facility and be available for inspection for a minimum of 3 years from the date the record is created.

(415 ILCS 5/59.6 new)

Sec. 59.6. Reporting. The owner or operator of a facility shall provide quarterly reports to the Agency containing the following information:

(a) A summary of the fugitive dust control measures performed during the required reporting period, including an explanation of any periods when the procedures outlined in the facility's fugitive dust plan were not followed and the corrective actions taken, as well as any spills and subsequent cleanups that took place under paragraph (4) of subsection (k) of this Title.

(b) If there was a malfunction during the reporting period of any device or equipment at a facility used primarily to control or reduce the emission of fugitive dust, the report shall include the number, duration, and a brief description for each type of malfunction that occurred during the reporting
period and which caused or may have caused any applicable
emission limitation to be exceeded. The report must also
include a description of actions taken by an owner or operator
during a malfunction to minimize emissions, including actions
taken to correct a malfunction.

(c) If compliance with any part of this Title relies on the
moisture content of coke or coal, each calendar week the owner
or operator shall collect representative samples of coke and
coal and test the moisture content of these samples using ASTM
Procedure D 3302 for coal and ASTM Procedure D 3172 and D 4931
for coke. The owner or operator shall conduct sampling until 3
consecutive tests at the facility, taken at least 24 hours
apart, show moisture contents of 8.3% by weight or greater for
coke and 7.6% by weight or greater for coal. The owner or
operator shall submit the test results to the Agency as part of
the facility's quarterly reports.

(d) Quarterly reports shall be due to the Agency within 30
days of the end of each quarter. Quarters end on March 31, June
30, September 30, and December 31.

(d-5) All monitoring and testing results generated under
Section 59.4.

(415 ILCS 5/59.7 new)

Sec. 59.7. Other laws. This Title in no way affects the
responsibilities of the owner or operator of a facility to
comply with all other applicable federal, State, and municipal
laws, ordinances, or rules. The provisions of any ordinance or rule of any municipality that are more protective of the public health and welfare than the requirements of this Title are not preempted by this Title. Any municipality or unit of local government, including non-home-rule municipalities and units of local government, may adopt laws or ordinances that require owners or operators of any chemical, industrial, commercial, or manufacturing operation that processes coke or coal to comply with pollution control and related compliance, monitoring, recordkeeping, and reporting requirements that are more stringent than those under this Title.

Section 99. Effective date. This Act takes effect upon becoming law.