



## 98TH GENERAL ASSEMBLY

### State of Illinois

2013 and 2014

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.

LRB098 20256 MGM 55630 b

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by  
5 adding the heading of Title XVIII and Sections 59, 59.1, 59.2,  
6 59.3, 59.4, 59.5, 59.6, and 59.7 as follows:

7 (415 ILCS 5/Tit. XVIII heading new)

8 Title XVIII: Coal and Coke Regulation

9 (415 ILCS 5/59 new)

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

15 (415 ILCS 5/59.1 new)

16 Sec. 59.1. Applicability. This Title applies to any person  
17 that owns or operates a coke or coal storage, processing, or  
18 transloading facility, that is located within 5,000 feet of the  
19 property line of a residence, childcare service, preschool,  
20 primary or secondary school, outdoor recreational area,  
21 hospital, nursing home, community center, place of worship, or

1 any place of public accommodation, that is not a coal mine, oil  
2 refinery, or coke plant, and that does not store coke or coal  
3 solely for use at the facility as either a fuel or as an  
4 ingredient in a manufacturing process.

5 (415 ILCS 5/59.2 new)

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

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

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

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

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

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

24 "Enclosed structure" means any completely roofed and  
25 walled structure or building.

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

13       "Fugitive dust" means any solid particulate matter that  
14 becomes airborne by natural or human-made activities.

15       "Fugitive dust" does not include particulate matter emitted  
16 from a properly permitted exhaust stack equipped with air  
17 pollution control equipment.

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

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

25       "Moist" means having a moisture content that is in no place  
26 less than 8.3% by weight for coke, and 7.6% by weight for coal.

1       "Owner or operator" means any person who has legal title to  
2 any facility, who has charge, care, or control of and for any  
3 facility, who is in possession of any facility or any part  
4 thereof, or who is entitled to control or direct the management  
5 of any facility.

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

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

11           (1) an inn, hotel, motel, or other place of lodging,  
12 except for an establishment located within a building that  
13 contains not more than 5 units for rent or hire and that is  
14 actually occupied by the proprietor of the establishment;

15           (2) a restaurant, bar, or other establishment serving  
16 food or drink;

17           (3) a motion picture house, theater, concert hall,  
18 stadium, or other place of exhibition or entertainment;

19           (4) an auditorium, convention center, lecture hall, or  
20 other place of public gathering;

21           (5) a bakery, grocery store, clothing store, hardware  
22 store, shopping center, or other sales or rental  
23 establishment;

24           (6) a laundromat, dry-cleaner, bank, barber shop,  
25 beauty shop, travel service, shoe repair service, funeral  
26 parlor, gas station, office of an accountant or lawyer,

1 pharmacy, insurance office, professional office of a  
2 health care provider, hospital, or other service  
3 establishment;

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

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

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

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

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

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

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

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

26 "Separation pond" means a container for separating coke or

1 coal from water by gravity, which has a liquid water surface at  
2 all points.

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

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

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

12 (415 ILCS 5/59.3 new)

13 Sec. 59.3. Requirements.

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

23 (b) The owner or operator of a facility shall not accept  
24 coke from any source unless coke from that source has  
25 previously undergone a hazardous waste determination, analyzed

1 as if the coke was a solid waste, in accordance with State law  
2 and administrative rules, and that determination has  
3 established that the coke is not a hazardous waste.

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

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

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

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

24 (e) The owner or operator of a facility shall prepare,  
25 submit, and follow a fugitive dust plan. The fugitive dust plan  
26 shall expire one year after its approval date. Updated fugitive



1 dust plans must be submitted to the Agency for review and  
2 approval on or before January 31 of each year, provided that  
3 the first fugitive dust plan shall be submitted no later than  
4 90 days after the effective date of this Title or, for  
5 facilities that are constructed or become subject to this Title  
6 after the effective date of this Title, before receiving any  
7 coke or coal. The Agency shall promptly post proposed fugitive  
8 dust plans on its website and hold a 30-day public comment  
9 period.

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

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

26 The fugitive dust plan shall include, at a minimum, the

1 following components:

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

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

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

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

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

24 (1) are properly maintained, and equipped with and use  
25 a permitted air pollution control system sufficient to  
26 achieve a control efficiency of 99.95% for fugitive dust

1 emissions or a maximum outlet concentration of 0.005 grains  
2 per cubic foot at designed vents and at any other openings,  
3 including entrances and exits;

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

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

17 (g) Loading and unloading of coke and coal from trucks  
18 shall be conducted only in enclosed structures equipped with  
19 either a water spray system operated to prevent visible dust  
20 emissions sufficiently to comply with the opacity limits of  
21 paragraph (2) of subsection (c) of Section 59.3 of this Title,  
22 or vented to permitted air pollution control equipment that is  
23 operated during loading and unloading activities and is  
24 sufficient to comply with the opacity limits of paragraph (2)  
25 of subsection (c) of Section 59.3 of this Title. The entrances  
26 and exits of those structures shall have overlapping flaps,

1 sliding doors, which shall remain closed except to allow the  
2 trucks to enter and exit, or other devices approved in writing  
3 by the Agency. Any device approved by the Agency under this  
4 subsection (g) must achieve the same level of fugitive dust  
5 control provided by overlapping flaps or sliding doors.

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

21 (i) Loading and unloading of coke and coal from boats and  
22 barges shall be conducted only through fully enclosed equipment  
23 or equipment such as vacuum or screw-type loaders and unloaders  
24 that the owner or operator of the facility demonstrates will  
25 control fugitive dust emissions during operations sufficient  
26 to comply with the opacity limits of paragraph (2) of

1 subsection (c) of Section 59.3 of this Title.

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

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

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

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

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

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

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

1 the truck count.

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

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

11 (m) All conveyors shall be enclosed.

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

17 (1) total enclosure;

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

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

22 (4) transfer only moist coke and coal and conduct the  
23 transfer only in an overhead truck trailer, railcar, barge  
24 or boat loader, or chute with a hopper, such that the  
25 exposed drop does not exceed 2 feet from the top of the  
26 vehicle.

1       (o) When transport of coke or coal to or from the facility  
2 is by truck, the owner or operator shall ensure that:

3           (1) all trucks adhere to the posted speed limit within  
4 the facility, which shall be no more than 8 miles per hour;

5           (2) coke and coal is received or transferred only in  
6 truck trailers that, within one quarter-mile of the  
7 perimeter of the facility, are driven only on paved roads;

8           (3) all outgoing material transport trucks, whether  
9 loaded or empty, are cleaned so that:

10           (A) every part of every tractor, trailer, or tire  
11 exterior surface, excluding the inside of the trailers  
12 if covered under the requirements of subsection (p), is  
13 free of all loose coke and coal; and

14           (B) the coke and coal removed by the truck cleaning  
15 operation is collected and recycled or otherwise  
16 properly disposed of so that it does not result in  
17 fugitive dust emissions.

18           (4) all outgoing material transport trucks, whether  
19 loaded or empty, pass through a wheel wash station and pass  
20 over rumble strips that will vibrate the trucks and shake  
21 off loose coal, coke, and dust;

22           (5) owners or operators of facilities shall conduct  
23 visual observations and testing of at least one truck per  
24 calendar quarter to determine compliance with this  
25 subsection (o).

26 (p) The owner or operator of a facility shall not cause or

1 allow coke or coal to be loaded into any truck trailer,  
2 railcar, or barge unless it is subsequently and immediately  
3 covered before leaving the facility, and shall not accept any  
4 coke or coal delivered to the facility unless the delivery  
5 vehicle is covered in one of the following manners as necessary  
6 to prevent fugitive dust emissions, as determined by the  
7 Agency:

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

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

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

22 (415 ILCS 5/59.4 new)

23 Sec. 59.4. Monitoring and testing. The owner or operator of  
24 a facility shall conduct continuous ambient air quality  
25 monitoring for PM10 and PM2.5, as well as opacity and visible



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

14 (415 ILCS 5/59.5 new)

15 Sec. 59.5. Recordkeeping.

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

17 (1) record daily the type and amount of material, in  
18 tons, delivered to and taken from the facility for each  
19 24-hour period;

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

23 (3) record daily, street sweeping;

24 (4) record the time of discovery, condition (moist or  
25 dry, depth of material, or both) and removal of any

1 accumulations pursuant to subsection (i) of Section 59.3 of  
2 this Title; and

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

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

10 (415 ILCS 5/59.6 new)

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

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

21 (b) If there was a malfunction during the reporting period  
22 of any device or equipment at a facility used primarily to  
23 control or reduce the emission of fugitive dust, the report  
24 shall include the number, duration, and a brief description for  
25 each type of malfunction that occurred during the reporting

1 period and which caused or may have caused any applicable  
2 emission limitation to be exceeded. The report must also  
3 include a description of actions taken by an owner or operator  
4 during a malfunction to minimize emissions, including actions  
5 taken to correct a malfunction.

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

17 (d) Quarterly reports shall be due to the Agency within 30  
18 days of the end of each quarter. Quarters end on March 31, June  
19 30, September 30, and December 31.

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

22 (415 ILCS 5/59.7 new)

23 Sec. 59.7. Other laws. This Title in no way affects the  
24 responsibilities of the owner or operator of a facility to  
25 comply with all other applicable federal, State, and municipal

1 laws, ordinances, or rules. The provisions of any ordinance or  
2 rule of any municipality that are more protective of the public  
3 health and welfare than the requirements of this Title are not  
4 preempted by this Title. Any municipality or unit of local  
5 government, including non-home-rule municipalities and units  
6 of local government, may adopt laws or ordinances that require  
7 owners or operators of any chemical, industrial, commercial, or  
8 manufacturing operation that processes coke or coal to comply  
9 with pollution control and related compliance, monitoring,  
10 recordkeeping, and reporting requirements that are more  
11 stringent than those under this Title.

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