

ILLINOIS POLLUTION CONTROL BOARD

ORIGINAL

February 22, 2011

Warren Ribley, Director
Department of Commerce and Economic Opportunity
620 East Adams Street, S-6
Springfield, Illinois 62704

Re: Request for Economic Impact Study for: Amendments to 35 Ill. Adm. Code Part 229: Hospital/Medical/Infectious Waste Incinerators, R11-20

Dear Director Ribley:

On December 23, 2010, the Board accepted for hearing an April 20, 2010 regulatory proposal filed by the Illinois Environmental Protection Agency in Amendments to 35 Ill. Adm. Code Part 229: Hospital/Medical/Infectious Waste Incinerators, R11-20. The proposal was accompanied by a motion for expedited consideration. On January 6, 2011, the Board authorized first-notice publication of the proposal without comment on the proposal's merits under the Administrative Procedure Act (APA), 415 ILCS 5/100 *et. seq.* (2008). I am writing to request that your Department conduct an economic impact study concerning this proposal. For reasons explained below, if at all possible, we would appreciate your response to this request no later than March 25, 2011.

In the Statement of Reasons (SR) accompanying the proposal, the Agency stated that this proposal contains amendments to 35 Ill. Adm. Code Part 229 "Hospital/Medical/Infectious Waste Incinerators" (HMIWI). The proposed rules would reflect amendments promulgated by the United States Environmental Protection Agency (USEPA) to federal air quality standards, including new source performance standards (NSPS) and emissions guidelines (EG). See "Standards of Performance for New Stationary Sources and Emissions Guidelines for Existing Sources: Hospital/Medical/Infectious Waste Incinerators" at 74 Fed. Reg. 51368 (Oct. 6, 2009); SR at 1. Changes include revised emission standards (more stringent than existing ones) revised waste management plan provisions (for greater flexibility in demonstrating compliance), and removal of an existing startup, shutdown, and malfunction provision. *Id.*

The compliance date for the new rules would be January 1, 2014. The Agency reports Illinois currently has only one HMIWI to which the new rules would apply: the Stericycle, Inc. facility located in Clinton.

Since 1998, Section 27 (b) of the Environmental Protection Act has required the Board to:

GOVERNOR
~~Rod R. Blagojevich~~

CHAIRMAN
G. Tanner Girard, Ph.D.

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(1) request that the Department of Commerce and Economic Opportunity (formerly the Department of Commerce and Community Affairs) conduct a study of the economic impact of the proposed rules. The Department may within 30 to 45 days of such request produce a study of the economic impact of the proposed rules. At a minimum, the economic impact study shall address a) economic, environmental, and public health benefits that may be achieved through compliance with the proposed rules, b) the effects of the proposed rules on employment levels, commercial productivity, the economic growth of small businesses with 100 or less employees, and the State's overall economy, and c) the cost per unit of pollution reduced and the variability of company revenues expected to be used to implement the proposed rules; and

(2) conduct at least one public hearing on the economic impact of those rules. At least 20 days before the hearing, the Board shall notify the public of the hearing and make the economic impact study, or the Department of Commerce and Economic Opportunity's explanation for not producing an economic impact study, available to the public. Such public hearing may be held simultaneously or as a part of any Board hearing considering such new rules. 415 ILCS 5/27(b) (2008).

Completion of this rulemaking is driven by requirements of the federal Clean Air Act (CAA). States were required to have State Implementation Plans (SIP) revisions with the new incinerator rules filed within a year of the date of USEPA promulgation of the new rules, *i.e.* by October 6, 2010. Section 129(b)(3) of the federal Clean Air Act, 42 USC 7429(c), requires USEPA to develop a Federal Implementation Plan (FIP) within two years of federal rule promulgation *i.e.* by October 6, 2011. The Agency has asked the Board to have rulemaking completed so as to allow the Agency to have a SIP revision in USEPA's offices by October 6, 2011, to avoid imposition of a FIP.

To that end, the Board has expedited the scheduling of hearings. The Board has scheduled hearings on this proposal for March 22, 2011 in Clinton and April 18, 2011 in Chicago, and due to budget constraints does not intend to hold a third hearing. Under these circumstances, the Board asks that you respond to this request as soon as you conveniently can, but in any event no later than March 25, 2010; this would allow the Board to give the public the 20-day notice of the results of your decision making required by Section 27(b) of the Act in advance of the second hearing on April 18, 2011.

If I, or any of my staff, can provide you with any additional information, please let me know.

Sincerely,

A handwritten signature in black ink that reads "G. Tanner Girard". The signature is written in a cursive style with a large, looped initial "G".

G. Tanner Girard

cc: John T. Therriault, Assistant Clerk of the Board