



# ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
Pollution Control Board

**GOVERNOR**  
Rod R. Blagojevich

February 17, 2004

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

**CHAIRMAN**  
J. Philip Novak

Re: Request for Economic Impact Study for: **Proposed Amendments to Regulation of Petroleum Leaking Underground Storage Tanks (35 Ill. Adm. Code 732) and Regulation of Petroleum Leaking Underground Storage Tanks (Proposed new 35 Ill. Adm. Code 734) (Consolidated: R04-22 and R04-23)**

Dear Director Lavin:

The Pollution Control Board (Board) received a rulemaking proposal on January 13, 2004, filed by the Illinois Environmental Protection Agency (Agency) to amend Part 732 and to add a new Part 734. The proposal seeks to amend the Board's petroleum leaking underground storage tanks rules. I am writing to request that you determine whether your Department will conduct an economic impact study concerning this proposal

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

- 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

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held simultaneously or as a part of any Board hearing considering such new rules." 415 ILCS 5/27(b) (2002).

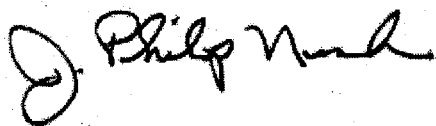
The Board has already scheduled hearing dates for this rulemaking proposal: March 15, 2004 and May 25, 2004. I would greatly appreciate a response from you concerning DCEO's position on whether it will perform the economic impact study as soon as is possible.

The Board anticipates a high volume of rulemaking in the coming year. Your Department can anticipate receiving many requests for economic studies this year. A review of the Department's files will reveal to you that DCEO has not conducted any economic studies since 1998 due to fiscal constraints. I am aware of the Department's April 2003 letter indicating that it would not be performing studies of this nature in response to any current or future requests, but I note that nearly 12 months have passed since that time. A review of Board rulemaking opinions and orders since then would reveal that the Department's decision not to perform economic impact studies has not been questioned at any Board hearing.

If I, or my staff, can provide you with any additional information, please let me know. While the Board can proceed to hold hearings while awaiting your decision, the Environmental Protection Act does not allow the Board to complete its rulemaking process without your Department's input.

Thank you for your early response.

Sincerely,

A handwritten signature in black ink that reads "J. Philip Novak". The signature is written in a cursive style with a large initial "J".

J. Philip Novak  
Chairman, Pollution Control Board

Cc: Dorothy M. Gunn, Clerk  
Erin Conley, Rules Coordinator