ILLINOIS POLLUTION CONTROL BOARD

ORIGINAL

October 28, 2004

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

Re: Request for Economic Impact Study for: **Standards for Universal Waste Management (35 Ill. Ad. Code Parts 703, 720, 721, 724, 725, 728, and 733) (R05-08)**

Dear Director Lavin:

The Pollution Control Board (Board) received a rulemaking proposal from the Illinois Environmental Protection Agency (Agency) on October 19, 2004. The Agency seeks to implement the provisions of Public Act 93-964 that requires the Board to adopt standards designating mercury switches, mercury relays, and scientific instruments and instructional equipment containing mercury added during their manufacture as universal waste. The Board has placed this proposal on its November 4, 2004 agenda for adoption of a first notice proposal to accommodate the 180 day statutory deadline for adoption of these amendments. I am writing to request that your Department 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

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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) (2002).

The Board is scheduling hearing dates for this rulemaking proposal. I would greatly appreciate a response from you concerning DCEO's position on whether it will perform the economic impact study.

The Board appreciates DCEO's recent timely and considered response to similar requests we have made concerning other pending rulemakings. The Board appreciates that fiscal constraints may prevent DCEO from conducting economic studies in every rulemaking. But, as I have pointed out before, 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,

J. Philip Novak
Chairman, Pollution Control Board

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