

ILLINOIS POLLUTION CONTROL BOARD

March 28, 2005

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: **Amendments to Exemptions from State Permitting Requirements (35 Ill. Adm. Code 201.146) (R05-19)**

Dear Director Lavin:

The Pollution Control Board (Board) received a rulemaking proposal from the Illinois Environmental Protection Agency (IEPA) and the Illinois Environmental Regulatory Group (IERG) on February 22, 2005. The proposal seeks to amend the Board's air permit regulations.

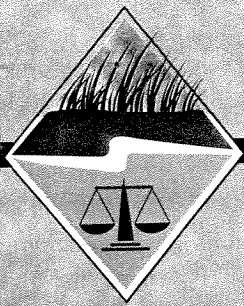
The IEPA and IERG have stated that the purpose of this rulemaking is to eliminate delays in issuance of air permits for minor projects. The proposal would add four categories to the listing of exemptions from State permitting requirements found at 35 Ill. Adm. Code 201.146. The proposed exemptions include:

1. replacement or addition of control equipment at existing emissions units,
2. a "de minimis" exemption for new units or modifications to existing units that are operating under a federally enforceable state operating permit (FESOP),
3. an exemption for new or modified units at minor sources that do have FESOPs; and
4. a list of "insignificant activities" that is intended to be similar to the list of insignificant activities for sources with a Clean Air Act Permit found at 35 Ill. Adm. Code 201.210.

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



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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) (2002).

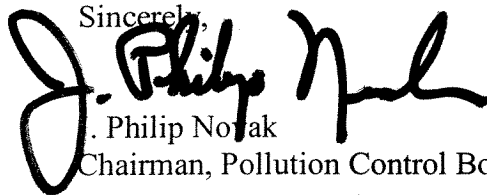
The Board has scheduled hearing dates for this rulemaking proposal on April 12, 2005 in Chicago and on June 14, 2005 in Springfield. I would greatly appreciate a response from you concerning DCEO's position on whether it will perform the economic impact study.

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,

A handwritten signature in black ink, appearing to read "J. Philip Norak". The signature is stylized and cursive.

J. Philip Norak

Chairman, Pollution Control Board

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