



ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

GOVERNOR
Rod R. Blagojevich

January 10, 2006

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

CHAIRMAN
G. Tanner Girard, Ph.D.

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), R04-22 and R04-23, Docket B (cons.)**

Dear Director Lavin:

The Pollution Control Board (Board) has opened a subdocket B in its rulemaking 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), Board Docket R04-22 and R04-23, Docket B (consolidated). The Board opened this subdocket December 1, 2005 to address issues raised during hearings in the original rulemaking concerning the definition of a scope of work for professional services utilized in the remediation of leaking underground storage tanks. The Board adopted a proposal for public comment on January 5, 2005. 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

SPRINGFIELD OFFICE

1021 North Grand Ave. East
P.O. Box 19274
Springfield, IL
62794-9274
217-524-8500
FAX 217-524-8508

CHICAGO OFFICE

James R. Thompson Center
100 West Randolph
Suite 11-500
Chicago, IL 60601
312-814-3620
FAX 312-814-3669
TTY 312-814-6032

WEB SITE

www.ipcb.state.il.us



(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) (2004).

The Board is in the process of scheduling hearing dates for this rulemaking. 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.

To assist you in your decision, I want to remind you that the Board just recently completed rulemaking in the main docket to which this is a follow-up. See In the Matter of: 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), R04-22/23, Docket A (consolidated), (December 1, 2005). In that Docket A, on February 18, 2004, the Board requested that the Department conduct a study of the economic impact of the proposed rules. On April 2, 2004, DCEO notified that Board that based on a review of the proposed rules and continued fiscal constraints DCEO would not be performing an economic impact study.

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,



G. Tanner Girard
Acting Chairman
Pollution Control Board

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