

ILLINOIS POLLUTION CONTROL BOARD

February 22, 2006

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STATE OF ILLINOIS
Pollution Control Board

GOVERNOR

Rod R. Blagojevich

CHAIRMAN

G. Tannet Girard, Ph.D.

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: **In the Matter of: NOx Trading Program: Amendments to 35 Ill. Adm. Code Part 217 (R06-22)**

Dear Director Lavin:

The Pollution Control Board (Board) has received a rulemaking proposal from the Illinois Environmental Protection Agency (Agency) on January 19, 2006 that proposes amendments to the Board's regulations governing Nitrogen Oxide (NOx) emissions found at 35 Ill. Adm. Code Part 217, Subparts A, T, U, and W regulations. The proposal seeks to amend the NOx regulations by to reflect recent amendments made by the United States Environmental Protection Agency (USEPA) to the Code of Federal Regulations (C.F.R.) concerning several test methods and procedures, and by the Illinois General Assembly to Section 9.9 of the Act concerning the sale of NOx allowances and the repeal of the stay provisions. The Agency stated that its proposal is intended to ensure that the NOx budgets for both the Electrical Generating Units (EGU) and the non-EGUs are not reduced by low-emitters in a way that was not anticipated at the time the rules were originally adopted by the Board. Finally, the Agency has proposed clarifications to the dates and timing of allocations designed to simplify the administration of the NOx Trading Program.

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

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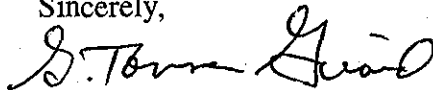
growth of small businesses with 100 or less employees, and the State's overall economy, and c) the cost per unit of pollution reduced and the variability of company revenues expected to be used to implement the proposed rules; and

(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) (2004).

The Board is currently in the process of scheduling hearings in this matter. I would greatly appreciate a response from you concerning DCEO's position on whether it will perform the 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