



ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

GOVERNOR
Rod R. Blagojevich

March 16, 2006

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: **Proposed New 35 Ill. Adm. Code 225; Control of Emissions from Large Combustion Sources (R06-25)**

Dear Director Lavin:

On March 16, 2006, the Pollution Control Board (Board) adopted a first notice opinion and order, without commenting on the merits of the proposal, in Proposed New 35 Ill. Adm. Code 225; Control of Emissions from Large Combustion Sources (R06-25). This rulemaking, filed by the Illinois Environmental Protection Agency (IEPA) on March 14, 2006, seeks to add a new Part 225 to the Board's air regulations. The new Part 225 would require Illinois coal-fired electrical generating units (EGUs) that serve a generator greater than 25 megawatts producing electricity for sale to begin to utilize control technology for mercury to meet the standards established in the proposed rule beginning July 1, 2009. Governor Blagojevich's direction in January 2006 to the IEPA to file this proposal with the Board has been widely-reported and referenced in the newspapers.

The IEPA filed this rulemaking under the "fast-track" rulemaking authority of section 28.5 of the Environmental Protection Act, which contains a strict timeline for the Board to complete its rulemaking process. The Board must hold at least two, and possibly three, sets of hearings on the proposal. The Board must send rules to the Joint Committee on Administrative Rules either July 22 or August 11 (130 or 150 days after the proposal's filing), depending on whether two or three sets of hearings are needed. The Board accordingly requests that your Department expedite its determination whether it will conduct an economic impact study on the proposal, and provide the Board with an answer no later than May 1, 2006

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

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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 held simultaneously or as a part of any Board hearing considering such new rules." 415 ILCS 5/27(b) (2004).

The Board accepted the proposal for hearing and adopted a first notice opinion and order on March 16, 2006. The Board is in the process of scheduling hearings on this proposal. Based on the statutory timelines of section 28.5, the first hearing must begin no later than May 8, 2006, the second no later than June 7, and any needed third no later than June 21. 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 allow the Board to comply with the pre-hearing notice requirement of Section 27(b)(2), the Board would appreciate your decision no later than May 1, 2006.

If I, or my staff, can provide you with any additional information, please let me know. While the Board can proceed to schedule and hold a hearing 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