



# ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS  
Pollution Control Board

GOVERNOR  
Rod R. Blagojevich

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

Dear Director Lavin:

On May 4, 2006, the Pollution Control Board (Board), in response to a preliminary injunction issued by the Sangamon County Circuit Court (Dynergy Midwest Generation, Inc., Kincaid Generation, L.L.C., and Midwest Generation, L.L.C. v. PCB and IEPA, No 2006-CH-213), determined that the Board should proceed with a second first-notice in Proposed New 35 Ill. Adm. Code 225; Control of Emissions from Large Combustion Sources (Mercury) (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), which 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.

This is the Board's second request for an economic impact study for this rulemaking. The Board withdrew its original first-notice proposal which appeared in the March 31, 2006 *Illinois Register* (30 Ill. Reg. 5957) as a further response to the preliminary injunction.

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

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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 has filed this proposal for first notice publication in the *Illinois Register*, and has scheduled hearings for June 12, 2006 and August 14, 2006. 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.

If I, or my staff, can provide you with any additional information, please let me know.

Thank you for your early response.

Sincerely,



G. Tanner Girard  
Acting Chairman  
Pollution Control Board

Cc: Warren Ribley, DCEO  
Dorothy M. Gunn, Clerk of the Board  
Erin Conley, Rules Coordinator