

ILLINOIS POLLUTION CONTROL BOARD

August 4, 2011

ORIGINAL

GOVERNOR

~~Rud E. Blagojevich~~

CHAIRMAN

G. Tanner Girard, Ph.D.

Warren Ribley, Director
Department of Commerce and Economic Opportunity
500 E. Monroe
Springfield, Illinois 62701

Re: Request for Economic Impact Study for: Proposed Amendments to Clean Construction Or Demolition Debris Fill Operations (CCDD): Proposed Amendments to 35 Ill. Adm. Code 1100 R12-9

Dear Director Ribley:

On July 7, 2011, the Board accepted for hearing a rulemaking entitled: Proposed Amendments to Clean Construction Or Demolition Debris Fill Operations (CCDD): Proposed Amendments to 35 Ill. Adm. Code 1100 R12-9. I am writing to request that your Department conduct an economic impact study concerning this proposal. On July 29, 2011, the Illinois Environmental Protection Agency (IEPA) filed a proposal pursuant to Section 22.51 of the Environmental Protection Act (Act) (415 ILCS 5/22.51 (2010)). Generally, the proposal will amend the Board's rules for Clean Construction or Demolition Debris Fill Operations to allow for use of uncontaminated clean construction or demolition debris (CCDD) and soil to be used as fill. Under Section 22.51 of the Act, the IEPA is required to present a proposal to the Board by July 30, 2011 and the Board must adopt the rule no later than one year after receipt of the IEPA's proposal.

The proposal specifies: 1) the use of CCDD and uncontaminated soil as fill material at CCDD fill operations; 2) the use of uncontaminated soil as fill material at uncontaminated soil fill operations; and (3) the maximum concentrations of contaminants that may be present in the uncontaminated soil component of construction or demolition debris. The proposed rules also include standards and procedures necessary to protect groundwater. *Id.*

The IEPA's proposal also reflects changes necessitated by P. A 97-0137 (eff. July 14, 2011). The first change removes the benzo(a)pyrene restriction at Section 3.160(c)(1) of the Act (415 ILCS 5/3/160(c)(1) (2010)). SR at 2. This change allows the Board to consider Tiered Approach to Corrective Action background levels for all carcinogens and not just for the one carcinogen, benzo(a)pyrene. The second amendment allows Professional Geologists, as well as Professional Engineers to provide certifications under the interim soil certification requirements. *Id.*

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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
- (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) (2008).

If I, or my staff, can provide you with any additional information, please let me know. Thank you in advance for your prompt response.

Sincerely,



G. Tanner Girard,
Acting Chairman
Pollution Control Board

cc: John T. Therriault, Assistant Clerk