



ILLINOIS POLLUTION CONTROL BOARD

GOVERNOR

Rod R. Blagojevich



CHAIRMAN

J. Philip Novak

March 15, 2004

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: Technical Correction to Formulas in 35 Ill. Adm. Code 214 "Sulfur Limitations" (R04-12)

Dear Director Lavin:

The Pollution Control Board (Board) initiated a rulemaking proposal on January 22, 2004 to amend the Board's air pollution rules at 35 Ill. Adm. Code 214. These amendments in this proposal are non-substantive technical corrections. 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

(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) (2002).

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The Board has already scheduled hearing dates for this rulemaking proposal: March 18, 2004 and May 6, 2004. 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.

The Board anticipates a high volume of rulemaking in the coming year. Your Department can anticipate receiving many requests for economic studies this year. A review of the Department's files will reveal to you that DCEO has not conducted any economic studies since 1998 due to fiscal constraints. I am aware of the Department's April 2003 letter indicating that it would not be performing studies of this nature in response to any current or future requests, but I note that nearly 12 months have passed since that time. A review of Board rulemaking opinions and orders since then would reveal that the Department's decision not to perform economic impact studies has not been questioned at any Board hearing.

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,

A handwritten signature in black ink, appearing to read "J. Philip Novak". The signature is written in a cursive style with a large initial "J".

J. Philip Novak
Chairman, Pollution Control Board

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