



ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

February 17, 2004

GOVERNOR
Rod R. Blagojevich

Jack Lavin, Director
Department of Commerce and Economic Opportunity
620 East Adams Street, S-6
Springfield, Illinois 62704

CHAIRMAN
J. Philip Novak

Re: Request for Economic Impact Study for: In the Matter of: Clean-Up Part III, Amendments to 35 Ill. Adm. Code Part 211, 218, and 219 (R04-20)

Dear Director Lavin:

The Pollution Control Board (Board) received a rulemaking proposal on January 6, 2004, from the Illinois Environmental Protection Agency (Agency) to amend the Board's air pollution rules at 35 Ill. Adm. Code 211, 218, and 219. The Agency describes the proposed amendments as non-substantive corrections and updates; "simply a 'clean-up'" that will "reduce the burden" of, and "increase the flexibility" in, demonstrating compliance. 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

SPRINGFIELD OFFICE

1021 North Grand Ave. East
P.O. Box 19274
Springfield, IL
62794-9274
217-524-8500
FAX 217-524-8508

CHICAGO OFFICE

James R. Thompson Center
100 West Randolph
Suite 11-500
Chicago, IL 60601
312-814-3620
FAX 312-814-3669
TTY 312-814-6032

WEB SITE

www.ipcb.state.il.us



held simultaneously or as a part of any Board hearing considering such new rules." 415 ILCS 5/27(b) (2002).

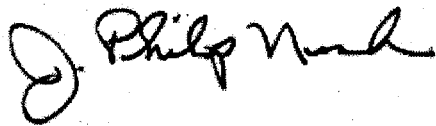
The Board has already scheduled hearing dates for this rulemaking proposal: March 18, 2004 and May 6, 2004. I would greatly appreciate a response from you concerning DCEO's position on whether it will perform the economic impact study as soon as is possible.

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,



J. Philip Novak
Chairman, Pollution Control Board

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