



Sen. James F. Clayborne, Jr.

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1 AMENDMENT TO HOUSE BILL 1297

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1297 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Administrative Procedure Act is  
5 amended by changing Sections 1-5 and 1-70 as follows:

6 (5 ILCS 100/1-5) (from Ch. 127, par. 1001-5)

7 Sec. 1-5. Applicability.

8 (a) This Act applies to every agency as defined in this  
9 Act. Beginning January 1, 1978, in case of conflict between the  
10 provisions of this Act and the Act creating or conferring power  
11 on an agency, this Act shall control. If, however, an agency  
12 (or its predecessor in the case of an agency that has been  
13 consolidated or reorganized) has existing procedures on July 1,  
14 1977, specifically for contested cases or licensing, those  
15 existing provisions control, except that this exception  
16 respecting contested cases and licensing does not apply if the

1 Act creating or conferring power on the agency adopts by  
2 express reference the provisions of this Act. Where the Act  
3 creating or conferring power on an agency establishes  
4 administrative procedures not covered by this Act, those  
5 procedures shall remain in effect.

6 (b) The provisions of this Act do not apply to (i)  
7 preliminary hearings, investigations, or practices where no  
8 final determinations affecting State funding are made by the  
9 State Board of Education, (ii) legal opinions issued under  
10 Section 2-3.7 of the School Code, (iii) as to State colleges  
11 and universities, their disciplinary and grievance  
12 proceedings, academic irregularity and capricious grading  
13 proceedings, and admission standards and procedures, and (iv)  
14 the class specifications for positions and individual position  
15 descriptions prepared and maintained under the Personnel Code.  
16 Those class specifications shall, however, be made reasonably  
17 available to the public for inspection and copying. The  
18 provisions of this Act do not apply to hearings under Section  
19 20 of the Uniform Disposition of Unclaimed Property Act.

20 (c) Section 5-35 of this Act relating to procedures for  
21 rulemaking does not apply to the following:

22 (1) Rules adopted by the Pollution Control Board that,  
23 in accordance with Section 7.2 of the Environmental  
24 Protection Act, are identical in substance to federal  
25 regulations or amendments to those regulations  
26 implementing the following: Sections 3001, 3002, 3003,

1           3004, 3005, and 9003 of the Solid Waste Disposal Act;  
2           Section 105 of the Comprehensive Environmental Response,  
3           Compensation, and Liability Act of 1980; Sections 307(b),  
4           307(c), 307(d), 402(b)(8), and 402(b)(9) of the Federal  
5           Water Pollution Control Act; and Sections 1412(b),  
6           1414(c), 1417(a), 1421, and 1445(a) of the Safe Drinking  
7           Water Act.

8           (2) Rules adopted by the Pollution Control Board that  
9           establish or amend standards for the emission of  
10          hydrocarbons and carbon monoxide from gasoline powered  
11          motor vehicles subject to inspection under the Vehicle  
12          Emissions Inspection Law of 2005 or its predecessor laws .

13          (3) Procedural rules adopted by the Pollution Control  
14          Board governing requests for exceptions under Section 14.2  
15          of the Environmental Protection Act.

16          (4) The Pollution Control Board's grant, pursuant to an  
17          adjudicatory determination, of an adjusted standard for  
18          persons who can justify an adjustment consistent with  
19          subsection (a) of Section 27 of the Environmental  
20          Protection Act.

21          (5) Rules adopted by the Pollution Control Board that  
22          are identical in substance to the regulations adopted by  
23          the Office of the State Fire Marshal under clause (ii) of  
24          paragraph (b) of subsection (3) of Section 2 of the  
25          Gasoline Storage Act.

26          (6) Rules adopted by the Illinois Pollution Control

1           Board under Section 9.14 of the Environmental Protection  
2           Act.

3           (d) Pay rates established under Section 8a of the Personnel  
4 Code shall be amended or repealed pursuant to the process set  
5 forth in Section 5-50 within 30 days after it becomes necessary  
6 to do so due to a conflict between the rates and the terms of a  
7 collective bargaining agreement covering the compensation of  
8 an employee subject to that Code.

9           (e) Section 10-45 of this Act shall not apply to any  
10 hearing, proceeding, or investigation conducted under Section  
11 13-515 of the Public Utilities Act.

12           (f) Article 10 of this Act does not apply to any hearing,  
13 proceeding, or investigation conducted by the State Council for  
14 the State of Illinois created under Section 3-3-11.05 of the  
15 Unified Code of Corrections or by the Interstate Commission for  
16 Adult Offender Supervision created under the Interstate  
17 Compact for Adult Offender Supervision or by the Interstate  
18 Commission for Juveniles created under the Interstate Compact  
19 for Juveniles.

20           (g) This Act is subject to the provisions of Article XXI of  
21 the Public Utilities Act. To the extent that any provision of  
22 this Act conflicts with the provisions of that Article XXI, the  
23 provisions of that Article XXI control.

24           (Source: P.A. 95-9, eff. 6-30-07; 95-331, eff. 8-21-07; 95-937,  
25 eff. 8-26-08.)

1 (5 ILCS 100/1-70) (from Ch. 127, par. 1001-70)

2 Sec. 1-70. "Rule" means each agency statement of general  
3 applicability that implements, applies, interprets, or  
4 prescribes law or policy, but does not include (i) statements  
5 concerning only the internal management of an agency and not  
6 affecting private rights or procedures available to persons or  
7 entities outside the agency, (ii) informal advisory rulings  
8 issued under Section 5-150, (iii) intra-agency memoranda, (iv)  
9 the prescription of standardized forms, ~~or~~ (v) documents  
10 prepared or filed or actions taken by the Legislative Reference  
11 Bureau under Section 5.04 of the Legislative Reference Bureau  
12 Act, or (vi) guidance documents prepared by the Illinois  
13 Environmental Protection Agency under subsection (s) of  
14 Section 39 of the Environmental Protection Act.

15 (Source: P.A. 87-823; 87-1005.)

16 Section 10. The Use Tax Act is amended by changing Section  
17 9 as follows:

18 (35 ILCS 105/9) (from Ch. 120, par. 439.9)

19 Sec. 9. Except as to motor vehicles, watercraft, aircraft,  
20 and trailers that are required to be registered with an agency  
21 of this State, each retailer required or authorized to collect  
22 the tax imposed by this Act shall pay to the Department the  
23 amount of such tax (except as otherwise provided) at the time  
24 when he is required to file his return for the period during

1 which such tax was collected, less a discount of 2.1% prior to  
2 January 1, 1990, and 1.75% on and after January 1, 1990, or \$5  
3 per calendar year, whichever is greater, which is allowed to  
4 reimburse the retailer for expenses incurred in collecting the  
5 tax, keeping records, preparing and filing returns, remitting  
6 the tax and supplying data to the Department on request. In the  
7 case of retailers who report and pay the tax on a transaction  
8 by transaction basis, as provided in this Section, such  
9 discount shall be taken with each such tax remittance instead  
10 of when such retailer files his periodic return. A retailer  
11 need not remit that part of any tax collected by him to the  
12 extent that he is required to remit and does remit the tax  
13 imposed by the Retailers' Occupation Tax Act, with respect to  
14 the sale of the same property.

15 Where such tangible personal property is sold under a  
16 conditional sales contract, or under any other form of sale  
17 wherein the payment of the principal sum, or a part thereof, is  
18 extended beyond the close of the period for which the return is  
19 filed, the retailer, in collecting the tax (except as to motor  
20 vehicles, watercraft, aircraft, and trailers that are required  
21 to be registered with an agency of this State), may collect for  
22 each tax return period, only the tax applicable to that part of  
23 the selling price actually received during such tax return  
24 period.

25 Except as provided in this Section, on or before the  
26 twentieth day of each calendar month, such retailer shall file

1 a return for the preceding calendar month. Such return shall be  
2 filed on forms prescribed by the Department and shall furnish  
3 such information as the Department may reasonably require.

4 The Department may require returns to be filed on a  
5 quarterly basis. If so required, a return for each calendar  
6 quarter shall be filed on or before the twentieth day of the  
7 calendar month following the end of such calendar quarter. The  
8 taxpayer shall also file a return with the Department for each  
9 of the first two months of each calendar quarter, on or before  
10 the twentieth day of the following calendar month, stating:

11 1. The name of the seller;

12 2. The address of the principal place of business from  
13 which he engages in the business of selling tangible  
14 personal property at retail in this State;

15 3. The total amount of taxable receipts received by him  
16 during the preceding calendar month from sales of tangible  
17 personal property by him during such preceding calendar  
18 month, including receipts from charge and time sales, but  
19 less all deductions allowed by law;

20 4. The amount of credit provided in Section 2d of this  
21 Act;

22 5. The amount of tax due;

23 5-5. The signature of the taxpayer; and

24 6. Such other reasonable information as the Department  
25 may require.

26 If a taxpayer fails to sign a return within 30 days after

1 the proper notice and demand for signature by the Department,  
2 the return shall be considered valid and any amount shown to be  
3 due on the return shall be deemed assessed.

4 Beginning October 1, 1993, a taxpayer who has an average  
5 monthly tax liability of \$150,000 or more shall make all  
6 payments required by rules of the Department by electronic  
7 funds transfer. Beginning October 1, 1994, a taxpayer who has  
8 an average monthly tax liability of \$100,000 or more shall make  
9 all payments required by rules of the Department by electronic  
10 funds transfer. Beginning October 1, 1995, a taxpayer who has  
11 an average monthly tax liability of \$50,000 or more shall make  
12 all payments required by rules of the Department by electronic  
13 funds transfer. Beginning October 1, 2000, a taxpayer who has  
14 an annual tax liability of \$200,000 or more shall make all  
15 payments required by rules of the Department by electronic  
16 funds transfer. The term "annual tax liability" shall be the  
17 sum of the taxpayer's liabilities under this Act, and under all  
18 other State and local occupation and use tax laws administered  
19 by the Department, for the immediately preceding calendar year.  
20 The term "average monthly tax liability" means the sum of the  
21 taxpayer's liabilities under this Act, and under all other  
22 State and local occupation and use tax laws administered by the  
23 Department, for the immediately preceding calendar year  
24 divided by 12. Beginning on October 1, 2002, a taxpayer who has  
25 a tax liability in the amount set forth in subsection (b) of  
26 Section 2505-210 of the Department of Revenue Law shall make



1 all payments required by rules of the Department by electronic  
2 funds transfer.

3 Before August 1 of each year beginning in 1993, the  
4 Department shall notify all taxpayers required to make payments  
5 by electronic funds transfer. All taxpayers required to make  
6 payments by electronic funds transfer shall make those payments  
7 for a minimum of one year beginning on October 1.

8 Any taxpayer not required to make payments by electronic  
9 funds transfer may make payments by electronic funds transfer  
10 with the permission of the Department.

11 All taxpayers required to make payment by electronic funds  
12 transfer and any taxpayers authorized to voluntarily make  
13 payments by electronic funds transfer shall make those payments  
14 in the manner authorized by the Department.

15 The Department shall adopt such rules as are necessary to  
16 effectuate a program of electronic funds transfer and the  
17 requirements of this Section.

18 Before October 1, 2000, if the taxpayer's average monthly  
19 tax liability to the Department under this Act, the Retailers'  
20 Occupation Tax Act, the Service Occupation Tax Act, the Service  
21 Use Tax Act was \$10,000 or more during the preceding 4 complete  
22 calendar quarters, he shall file a return with the Department  
23 each month by the 20th day of the month next following the  
24 month during which such tax liability is incurred and shall  
25 make payments to the Department on or before the 7th, 15th,  
26 22nd and last day of the month during which such liability is

1 incurred. On and after October 1, 2000, if the taxpayer's  
2 average monthly tax liability to the Department under this Act,  
3 the Retailers' Occupation Tax Act, the Service Occupation Tax  
4 Act, and the Service Use Tax Act was \$20,000 or more during the  
5 preceding 4 complete calendar quarters, he shall file a return  
6 with the Department each month by the 20th day of the month  
7 next following the month during which such tax liability is  
8 incurred and shall make payment to the Department on or before  
9 the 7th, 15th, 22nd and last day of the month during which such  
10 liability is incurred. If the month during which such tax  
11 liability is incurred began prior to January 1, 1985, each  
12 payment shall be in an amount equal to 1/4 of the taxpayer's  
13 actual liability for the month or an amount set by the  
14 Department not to exceed 1/4 of the average monthly liability  
15 of the taxpayer to the Department for the preceding 4 complete  
16 calendar quarters (excluding the month of highest liability and  
17 the month of lowest liability in such 4 quarter period). If the  
18 month during which such tax liability is incurred begins on or  
19 after January 1, 1985, and prior to January 1, 1987, each  
20 payment shall be in an amount equal to 22.5% of the taxpayer's  
21 actual liability for the month or 27.5% of the taxpayer's  
22 liability for the same calendar month of the preceding year. If  
23 the month during which such tax liability is incurred begins on  
24 or after January 1, 1987, and prior to January 1, 1988, each  
25 payment shall be in an amount equal to 22.5% of the taxpayer's  
26 actual liability for the month or 26.25% of the taxpayer's

1 liability for the same calendar month of the preceding year. If  
2 the month during which such tax liability is incurred begins on  
3 or after January 1, 1988, and prior to January 1, 1989, or  
4 begins on or after January 1, 1996, each payment shall be in an  
5 amount equal to 22.5% of the taxpayer's actual liability for  
6 the month or 25% of the taxpayer's liability for the same  
7 calendar month of the preceding year. If the month during which  
8 such tax liability is incurred begins on or after January 1,  
9 1989, and prior to January 1, 1996, each payment shall be in an  
10 amount equal to 22.5% of the taxpayer's actual liability for  
11 the month or 25% of the taxpayer's liability for the same  
12 calendar month of the preceding year or 100% of the taxpayer's  
13 actual liability for the quarter monthly reporting period. The  
14 amount of such quarter monthly payments shall be credited  
15 against the final tax liability of the taxpayer's return for  
16 that month. Before October 1, 2000, once applicable, the  
17 requirement of the making of quarter monthly payments to the  
18 Department shall continue until such taxpayer's average  
19 monthly liability to the Department during the preceding 4  
20 complete calendar quarters (excluding the month of highest  
21 liability and the month of lowest liability) is less than  
22 \$9,000, or until such taxpayer's average monthly liability to  
23 the Department as computed for each calendar quarter of the 4  
24 preceding complete calendar quarter period is less than  
25 \$10,000. However, if a taxpayer can show the Department that a  
26 substantial change in the taxpayer's business has occurred

1 which causes the taxpayer to anticipate that his average  
2 monthly tax liability for the reasonably foreseeable future  
3 will fall below the \$10,000 threshold stated above, then such  
4 taxpayer may petition the Department for change in such  
5 taxpayer's reporting status. On and after October 1, 2000, once  
6 applicable, the requirement of the making of quarter monthly  
7 payments to the Department shall continue until such taxpayer's  
8 average monthly liability to the Department during the  
9 preceding 4 complete calendar quarters (excluding the month of  
10 highest liability and the month of lowest liability) is less  
11 than \$19,000 or until such taxpayer's average monthly liability  
12 to the Department as computed for each calendar quarter of the  
13 4 preceding complete calendar quarter period is less than  
14 \$20,000. However, if a taxpayer can show the Department that a  
15 substantial change in the taxpayer's business has occurred  
16 which causes the taxpayer to anticipate that his average  
17 monthly tax liability for the reasonably foreseeable future  
18 will fall below the \$20,000 threshold stated above, then such  
19 taxpayer may petition the Department for a change in such  
20 taxpayer's reporting status. The Department shall change such  
21 taxpayer's reporting status unless it finds that such change is  
22 seasonal in nature and not likely to be long term. If any such  
23 quarter monthly payment is not paid at the time or in the  
24 amount required by this Section, then the taxpayer shall be  
25 liable for penalties and interest on the difference between the  
26 minimum amount due and the amount of such quarter monthly

1 payment actually and timely paid, except insofar as the  
2 taxpayer has previously made payments for that month to the  
3 Department in excess of the minimum payments previously due as  
4 provided in this Section. The Department shall make reasonable  
5 rules and regulations to govern the quarter monthly payment  
6 amount and quarter monthly payment dates for taxpayers who file  
7 on other than a calendar monthly basis.

8 If any such payment provided for in this Section exceeds  
9 the taxpayer's liabilities under this Act, the Retailers'  
10 Occupation Tax Act, the Service Occupation Tax Act and the  
11 Service Use Tax Act, as shown by an original monthly return,  
12 the Department shall issue to the taxpayer a credit memorandum  
13 no later than 30 days after the date of payment, which  
14 memorandum may be submitted by the taxpayer to the Department  
15 in payment of tax liability subsequently to be remitted by the  
16 taxpayer to the Department or be assigned by the taxpayer to a  
17 similar taxpayer under this Act, the Retailers' Occupation Tax  
18 Act, the Service Occupation Tax Act or the Service Use Tax Act,  
19 in accordance with reasonable rules and regulations to be  
20 prescribed by the Department, except that if such excess  
21 payment is shown on an original monthly return and is made  
22 after December 31, 1986, no credit memorandum shall be issued,  
23 unless requested by the taxpayer. If no such request is made,  
24 the taxpayer may credit such excess payment against tax  
25 liability subsequently to be remitted by the taxpayer to the  
26 Department under this Act, the Retailers' Occupation Tax Act,

1 the Service Occupation Tax Act or the Service Use Tax Act, in  
2 accordance with reasonable rules and regulations prescribed by  
3 the Department. If the Department subsequently determines that  
4 all or any part of the credit taken was not actually due to the  
5 taxpayer, the taxpayer's 2.1% or 1.75% vendor's discount shall  
6 be reduced by 2.1% or 1.75% of the difference between the  
7 credit taken and that actually due, and the taxpayer shall be  
8 liable for penalties and interest on such difference.

9 If the retailer is otherwise required to file a monthly  
10 return and if the retailer's average monthly tax liability to  
11 the Department does not exceed \$200, the Department may  
12 authorize his returns to be filed on a quarter annual basis,  
13 with the return for January, February, and March of a given  
14 year being due by April 20 of such year; with the return for  
15 April, May and June of a given year being due by July 20 of such  
16 year; with the return for July, August and September of a given  
17 year being due by October 20 of such year, and with the return  
18 for October, November and December of a given year being due by  
19 January 20 of the following year.

20 If the retailer is otherwise required to file a monthly or  
21 quarterly return and if the retailer's average monthly tax  
22 liability to the Department does not exceed \$50, the Department  
23 may authorize his returns to be filed on an annual basis, with  
24 the return for a given year being due by January 20 of the  
25 following year.

26 Such quarter annual and annual returns, as to form and

1 substance, shall be subject to the same requirements as monthly  
2 returns.

3 Notwithstanding any other provision in this Act concerning  
4 the time within which a retailer may file his return, in the  
5 case of any retailer who ceases to engage in a kind of business  
6 which makes him responsible for filing returns under this Act,  
7 such retailer shall file a final return under this Act with the  
8 Department not more than one month after discontinuing such  
9 business.

10 In addition, with respect to motor vehicles, watercraft,  
11 aircraft, and trailers that are required to be registered with  
12 an agency of this State, every retailer selling this kind of  
13 tangible personal property shall file, with the Department,  
14 upon a form to be prescribed and supplied by the Department, a  
15 separate return for each such item of tangible personal  
16 property which the retailer sells, except that if, in the same  
17 transaction, (i) a retailer of aircraft, watercraft, motor  
18 vehicles or trailers transfers more than one aircraft,  
19 watercraft, motor vehicle or trailer to another aircraft,  
20 watercraft, motor vehicle or trailer retailer for the purpose  
21 of resale or (ii) a retailer of aircraft, watercraft, motor  
22 vehicles, or trailers transfers more than one aircraft,  
23 watercraft, motor vehicle, or trailer to a purchaser for use as  
24 a qualifying rolling stock as provided in Section 3-55 of this  
25 Act, then that seller may report the transfer of all the  
26 aircraft, watercraft, motor vehicles or trailers involved in

1 that transaction to the Department on the same uniform  
2 invoice-transaction reporting return form. For purposes of  
3 this Section, "watercraft" means a Class 2, Class 3, or Class 4  
4 watercraft as defined in Section 3-2 of the Boat Registration  
5 and Safety Act, a personal watercraft, or any boat equipped  
6 with an inboard motor.

7 The transaction reporting return in the case of motor  
8 vehicles or trailers that are required to be registered with an  
9 agency of this State, shall be the same document as the Uniform  
10 Invoice referred to in Section 5-402 of the Illinois Vehicle  
11 Code and must show the name and address of the seller; the name  
12 and address of the purchaser; the amount of the selling price  
13 including the amount allowed by the retailer for traded-in  
14 property, if any; the amount allowed by the retailer for the  
15 traded-in tangible personal property, if any, to the extent to  
16 which Section 2 of this Act allows an exemption for the value  
17 of traded-in property; the balance payable after deducting such  
18 trade-in allowance from the total selling price; the amount of  
19 tax due from the retailer with respect to such transaction; the  
20 amount of tax collected from the purchaser by the retailer on  
21 such transaction (or satisfactory evidence that such tax is not  
22 due in that particular instance, if that is claimed to be the  
23 fact); the place and date of the sale; a sufficient  
24 identification of the property sold; such other information as  
25 is required in Section 5-402 of the Illinois Vehicle Code, and  
26 such other information as the Department may reasonably



1 require.

2 The transaction reporting return in the case of watercraft  
3 and aircraft must show the name and address of the seller; the  
4 name and address of the purchaser; the amount of the selling  
5 price including the amount allowed by the retailer for  
6 traded-in property, if any; the amount allowed by the retailer  
7 for the traded-in tangible personal property, if any, to the  
8 extent to which Section 2 of this Act allows an exemption for  
9 the value of traded-in property; the balance payable after  
10 deducting such trade-in allowance from the total selling price;  
11 the amount of tax due from the retailer with respect to such  
12 transaction; the amount of tax collected from the purchaser by  
13 the retailer on such transaction (or satisfactory evidence that  
14 such tax is not due in that particular instance, if that is  
15 claimed to be the fact); the place and date of the sale, a  
16 sufficient identification of the property sold, and such other  
17 information as the Department may reasonably require.

18 Such transaction reporting return shall be filed not later  
19 than 20 days after the date of delivery of the item that is  
20 being sold, but may be filed by the retailer at any time sooner  
21 than that if he chooses to do so. The transaction reporting  
22 return and tax remittance or proof of exemption from the tax  
23 that is imposed by this Act may be transmitted to the  
24 Department by way of the State agency with which, or State  
25 officer with whom, the tangible personal property must be  
26 titled or registered (if titling or registration is required)

1 if the Department and such agency or State officer determine  
2 that this procedure will expedite the processing of  
3 applications for title or registration.

4 With each such transaction reporting return, the retailer  
5 shall remit the proper amount of tax due (or shall submit  
6 satisfactory evidence that the sale is not taxable if that is  
7 the case), to the Department or its agents, whereupon the  
8 Department shall issue, in the purchaser's name, a tax receipt  
9 (or a certificate of exemption if the Department is satisfied  
10 that the particular sale is tax exempt) which such purchaser  
11 may submit to the agency with which, or State officer with  
12 whom, he must title or register the tangible personal property  
13 that is involved (if titling or registration is required) in  
14 support of such purchaser's application for an Illinois  
15 certificate or other evidence of title or registration to such  
16 tangible personal property.

17 No retailer's failure or refusal to remit tax under this  
18 Act precludes a user, who has paid the proper tax to the  
19 retailer, from obtaining his certificate of title or other  
20 evidence of title or registration (if titling or registration  
21 is required) upon satisfying the Department that such user has  
22 paid the proper tax (if tax is due) to the retailer. The  
23 Department shall adopt appropriate rules to carry out the  
24 mandate of this paragraph.

25 If the user who would otherwise pay tax to the retailer  
26 wants the transaction reporting return filed and the payment of

1 tax or proof of exemption made to the Department before the  
2 retailer is willing to take these actions and such user has not  
3 paid the tax to the retailer, such user may certify to the fact  
4 of such delay by the retailer, and may (upon the Department  
5 being satisfied of the truth of such certification) transmit  
6 the information required by the transaction reporting return  
7 and the remittance for tax or proof of exemption directly to  
8 the Department and obtain his tax receipt or exemption  
9 determination, in which event the transaction reporting return  
10 and tax remittance (if a tax payment was required) shall be  
11 credited by the Department to the proper retailer's account  
12 with the Department, but without the 2.1% or 1.75% discount  
13 provided for in this Section being allowed. When the user pays  
14 the tax directly to the Department, he shall pay the tax in the  
15 same amount and in the same form in which it would be remitted  
16 if the tax had been remitted to the Department by the retailer.

17 Where a retailer collects the tax with respect to the  
18 selling price of tangible personal property which he sells and  
19 the purchaser thereafter returns such tangible personal  
20 property and the retailer refunds the selling price thereof to  
21 the purchaser, such retailer shall also refund, to the  
22 purchaser, the tax so collected from the purchaser. When filing  
23 his return for the period in which he refunds such tax to the  
24 purchaser, the retailer may deduct the amount of the tax so  
25 refunded by him to the purchaser from any other use tax which  
26 such retailer may be required to pay or remit to the

1 Department, as shown by such return, if the amount of the tax  
2 to be deducted was previously remitted to the Department by  
3 such retailer. If the retailer has not previously remitted the  
4 amount of such tax to the Department, he is entitled to no  
5 deduction under this Act upon refunding such tax to the  
6 purchaser.

7 Any retailer filing a return under this Section shall also  
8 include (for the purpose of paying tax thereon) the total tax  
9 covered by such return upon the selling price of tangible  
10 personal property purchased by him at retail from a retailer,  
11 but as to which the tax imposed by this Act was not collected  
12 from the retailer filing such return, and such retailer shall  
13 remit the amount of such tax to the Department when filing such  
14 return.

15 If experience indicates such action to be practicable, the  
16 Department may prescribe and furnish a combination or joint  
17 return which will enable retailers, who are required to file  
18 returns hereunder and also under the Retailers' Occupation Tax  
19 Act, to furnish all the return information required by both  
20 Acts on the one form.

21 Where the retailer has more than one business registered  
22 with the Department under separate registration under this Act,  
23 such retailer may not file each return that is due as a single  
24 return covering all such registered businesses, but shall file  
25 separate returns for each such registered business.

26 Beginning January 1, 1990, each month the Department shall

1 pay into the State and Local Sales Tax Reform Fund, a special  
2 fund in the State Treasury which is hereby created, the net  
3 revenue realized for the preceding month from the 1% tax on  
4 sales of food for human consumption which is to be consumed off  
5 the premises where it is sold (other than alcoholic beverages,  
6 soft drinks and food which has been prepared for immediate  
7 consumption) and prescription and nonprescription medicines,  
8 drugs, medical appliances and insulin, urine testing  
9 materials, syringes and needles used by diabetics.

10 Beginning January 1, 1990, each month the Department shall  
11 pay into the County and Mass Transit District Fund 4% of the  
12 net revenue realized for the preceding month from the 6.25%  
13 general rate on the selling price of tangible personal property  
14 which is purchased outside Illinois at retail from a retailer  
15 and which is titled or registered by an agency of this State's  
16 government.

17 Beginning January 1, 1990, each month the Department shall  
18 pay into the State and Local Sales Tax Reform Fund, a special  
19 fund in the State Treasury, 20% of the net revenue realized for  
20 the preceding month from the 6.25% general rate on the selling  
21 price of tangible personal property, other than tangible  
22 personal property which is purchased outside Illinois at retail  
23 from a retailer and which is titled or registered by an agency  
24 of this State's government.

25 Beginning August 1, 2000, each month the Department shall  
26 pay into the State and Local Sales Tax Reform Fund 100% of the

1 net revenue realized for the preceding month from the 1.25%  
2 rate on the selling price of motor fuel and gasohol. Beginning  
3 September 1, 2010, each month the Department shall pay into the  
4 State and Local Sales Tax Reform Fund 100% of the net revenue  
5 realized for the preceding month from the 1.25% rate on the  
6 selling price of sales tax holiday items.

7 Beginning January 1, 1990, each month the Department shall  
8 pay into the Local Government Tax Fund 16% of the net revenue  
9 realized for the preceding month from the 6.25% general rate on  
10 the selling price of tangible personal property which is  
11 purchased outside Illinois at retail from a retailer and which  
12 is titled or registered by an agency of this State's  
13 government.

14 Beginning October 1, 2009, each month the Department shall  
15 pay into the Capital Projects Fund an amount that is equal to  
16 an amount estimated by the Department to represent 80% of the  
17 net revenue realized for the preceding month from the sale of  
18 candy, grooming and hygiene products, and soft drinks that had  
19 been taxed at a rate of 1% prior to September 1, 2009 but that  
20 is now taxed at 6.25%.

21 Beginning July 1, 2011, each month the Department shall pay  
22 into the Clean Air Act (CAA) Permit Fund 80% of the net revenue  
23 realized for the preceding month from the 6.25% general rate on  
24 the selling price of sorbents used in Illinois in the process  
25 of sorbent injection as used to comply with the Environmental  
26 Protection Act or the federal Clean Air Act, but the total

1 payment into the Clean Air Act (CAA) Permit Fund under this Act  
2 and the Retailers' Occupation Tax Act shall not exceed  
3 \$2,000,000 in any fiscal year.

4 Of the remainder of the moneys received by the Department  
5 pursuant to this Act, (a) 1.75% thereof shall be paid into the  
6 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on  
7 and after July 1, 1989, 3.8% thereof shall be paid into the  
8 Build Illinois Fund; provided, however, that if in any fiscal  
9 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case  
10 may be, of the moneys received by the Department and required  
11 to be paid into the Build Illinois Fund pursuant to Section 3  
12 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax  
13 Act, Section 9 of the Service Use Tax Act, and Section 9 of the  
14 Service Occupation Tax Act, such Acts being hereinafter called  
15 the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case  
16 may be, of moneys being hereinafter called the "Tax Act  
17 Amount", and (2) the amount transferred to the Build Illinois  
18 Fund from the State and Local Sales Tax Reform Fund shall be  
19 less than the Annual Specified Amount (as defined in Section 3  
20 of the Retailers' Occupation Tax Act), an amount equal to the  
21 difference shall be immediately paid into the Build Illinois  
22 Fund from other moneys received by the Department pursuant to  
23 the Tax Acts; and further provided, that if on the last  
24 business day of any month the sum of (1) the Tax Act Amount  
25 required to be deposited into the Build Illinois Bond Account  
26 in the Build Illinois Fund during such month and (2) the amount

1 transferred during such month to the Build Illinois Fund from  
2 the State and Local Sales Tax Reform Fund shall have been less  
3 than 1/12 of the Annual Specified Amount, an amount equal to  
4 the difference shall be immediately paid into the Build  
5 Illinois Fund from other moneys received by the Department  
6 pursuant to the Tax Acts; and, further provided, that in no  
7 event shall the payments required under the preceding proviso  
8 result in aggregate payments into the Build Illinois Fund  
9 pursuant to this clause (b) for any fiscal year in excess of  
10 the greater of (i) the Tax Act Amount or (ii) the Annual  
11 Specified Amount for such fiscal year; and, further provided,  
12 that the amounts payable into the Build Illinois Fund under  
13 this clause (b) shall be payable only until such time as the  
14 aggregate amount on deposit under each trust indenture securing  
15 Bonds issued and outstanding pursuant to the Build Illinois  
16 Bond Act is sufficient, taking into account any future  
17 investment income, to fully provide, in accordance with such  
18 indenture, for the defeasance of or the payment of the  
19 principal of, premium, if any, and interest on the Bonds  
20 secured by such indenture and on any Bonds expected to be  
21 issued thereafter and all fees and costs payable with respect  
22 thereto, all as certified by the Director of the Bureau of the  
23 Budget (now Governor's Office of Management and Budget). If on  
24 the last business day of any month in which Bonds are  
25 outstanding pursuant to the Build Illinois Bond Act, the  
26 aggregate of the moneys deposited in the Build Illinois Bond



1 Account in the Build Illinois Fund in such month shall be less  
2 than the amount required to be transferred in such month from  
3 the Build Illinois Bond Account to the Build Illinois Bond  
4 Retirement and Interest Fund pursuant to Section 13 of the  
5 Build Illinois Bond Act, an amount equal to such deficiency  
6 shall be immediately paid from other moneys received by the  
7 Department pursuant to the Tax Acts to the Build Illinois Fund;  
8 provided, however, that any amounts paid to the Build Illinois  
9 Fund in any fiscal year pursuant to this sentence shall be  
10 deemed to constitute payments pursuant to clause (b) of the  
11 preceding sentence and shall reduce the amount otherwise  
12 payable for such fiscal year pursuant to clause (b) of the  
13 preceding sentence. The moneys received by the Department  
14 pursuant to this Act and required to be deposited into the  
15 Build Illinois Fund are subject to the pledge, claim and charge  
16 set forth in Section 12 of the Build Illinois Bond Act.

17 Subject to payment of amounts into the Build Illinois Fund  
18 as provided in the preceding paragraph or in any amendment  
19 thereto hereafter enacted, the following specified monthly  
20 installment of the amount requested in the certificate of the  
21 Chairman of the Metropolitan Pier and Exposition Authority  
22 provided under Section 8.25f of the State Finance Act, but not  
23 in excess of the sums designated as "Total Deposit", shall be  
24 deposited in the aggregate from collections under Section 9 of  
25 the Use Tax Act, Section 9 of the Service Use Tax Act, Section  
26 9 of the Service Occupation Tax Act, and Section 3 of the

1 Retailers' Occupation Tax Act into the McCormick Place  
2 Expansion Project Fund in the specified fiscal years.

3	Fiscal Year	Total Deposit
4	1993	\$0
5	1994	53,000,000
6	1995	58,000,000
7	1996	61,000,000
8	1997	64,000,000
9	1998	68,000,000
10	1999	71,000,000
11	2000	75,000,000
12	2001	80,000,000
13	2002	93,000,000
14	2003	99,000,000
15	2004	103,000,000
16	2005	108,000,000
17	2006	113,000,000
18	2007	119,000,000
19	2008	126,000,000
20	2009	132,000,000
21	2010	139,000,000
22	2011	146,000,000
23	2012	153,000,000
24	2013	161,000,000
25	2014	170,000,000

1	2015	179,000,000
2	2016	189,000,000
3	2017	199,000,000
4	2018	210,000,000
5	2019	221,000,000
6	2020	233,000,000
7	2021	246,000,000
8	2022	260,000,000
9	2023	275,000,000
10	2024	275,000,000
11	2025	275,000,000
12	2026	279,000,000
13	2027	292,000,000
14	2028	307,000,000
15	2029	322,000,000
16	2030	338,000,000
17	2031	350,000,000
18	2032	350,000,000

19                   and  
20                    each fiscal year  
21                   thereafter that bonds  
22                   are outstanding under  
23                   Section 13.2 of the  
24                   Metropolitan Pier and  
25                   Exposition Authority Act,  
26                   but not after fiscal year 2060.

1           Beginning July 20, 1993 and in each month of each fiscal  
2 year thereafter, one-eighth of the amount requested in the  
3 certificate of the Chairman of the Metropolitan Pier and  
4 Exposition Authority for that fiscal year, less the amount  
5 deposited into the McCormick Place Expansion Project Fund by  
6 the State Treasurer in the respective month under subsection  
7 (g) of Section 13 of the Metropolitan Pier and Exposition  
8 Authority Act, plus cumulative deficiencies in the deposits  
9 required under this Section for previous months and years,  
10 shall be deposited into the McCormick Place Expansion Project  
11 Fund, until the full amount requested for the fiscal year, but  
12 not in excess of the amount specified above as "Total Deposit",  
13 has been deposited.

14           Subject to payment of amounts into the Build Illinois Fund  
15 and the McCormick Place Expansion Project Fund pursuant to the  
16 preceding paragraphs or in any amendments thereto hereafter  
17 enacted, beginning July 1, 1993, the Department shall each  
18 month pay into the Illinois Tax Increment Fund 0.27% of 80% of  
19 the net revenue realized for the preceding month from the 6.25%  
20 general rate on the selling price of tangible personal  
21 property.

22           Subject to payment of amounts into the Build Illinois Fund  
23 and the McCormick Place Expansion Project Fund pursuant to the  
24 preceding paragraphs or in any amendments thereto hereafter  
25 enacted, beginning with the receipt of the first report of  
26 taxes paid by an eligible business and continuing for a 25-year

1 period, the Department shall each month pay into the Energy  
2 Infrastructure Fund 80% of the net revenue realized from the  
3 6.25% general rate on the selling price of Illinois-mined coal  
4 that was sold to an eligible business. For purposes of this  
5 paragraph, the term "eligible business" means a new electric  
6 generating facility certified pursuant to Section 605-332 of  
7 the Department of Commerce and Economic Opportunity Law of the  
8 Civil Administrative Code of Illinois.

9 Of the remainder of the moneys received by the Department  
10 pursuant to this Act, 75% thereof shall be paid into the State  
11 Treasury and 25% shall be reserved in a special account and  
12 used only for the transfer to the Common School Fund as part of  
13 the monthly transfer from the General Revenue Fund in  
14 accordance with Section 8a of the State Finance Act.

15 As soon as possible after the first day of each month, upon  
16 certification of the Department of Revenue, the Comptroller  
17 shall order transferred and the Treasurer shall transfer from  
18 the General Revenue Fund to the Motor Fuel Tax Fund an amount  
19 equal to 1.7% of 80% of the net revenue realized under this Act  
20 for the second preceding month. Beginning April 1, 2000, this  
21 transfer is no longer required and shall not be made.

22 Net revenue realized for a month shall be the revenue  
23 collected by the State pursuant to this Act, less the amount  
24 paid out during that month as refunds to taxpayers for  
25 overpayment of liability.

26 For greater simplicity of administration, manufacturers,

1 importers and wholesalers whose products are sold at retail in  
2 Illinois by numerous retailers, and who wish to do so, may  
3 assume the responsibility for accounting and paying to the  
4 Department all tax accruing under this Act with respect to such  
5 sales, if the retailers who are affected do not make written  
6 objection to the Department to this arrangement.

7 (Source: P.A. 96-34, eff. 7-13-09; 96-38, eff. 7-13-09; 96-898,  
8 eff. 5-27-10; 96-1012, eff. 7-7-10; revised 7-22-10.)

9 Section 15. The Retailers' Occupation Tax Act is amended by  
10 adding Section 2j and changing Section 3 as follows:

11 (35 ILCS 120/2j new)

12 Sec. 2j. Sorbent purchasing reports. Illinois businesses  
13 that purchase sorbents for use in mercury control, as described  
14 in 35 Ill. Adm. Code 225, shall file a monthly report with the  
15 Department stating the amount of sorbent purchased during the  
16 previous month, the purchase price of the sorbent, the amount  
17 of State occupation and use taxes paid on the purchase of the  
18 sorbent (whether to the selling retailer or directly to the  
19 Department of Revenue pursuant to a direct pay permit), and any  
20 other information the Department may reasonably require. In  
21 sales of sorbents between related parties, the purchase price  
22 of the sorbent must have been determined in an arms-length  
23 transaction. The report shall be filed with the Department on  
24 or before the 20th day of each month following a month in which

1 sorbents were purchased, on a form provided by the Department.  
2 However, no report need be filed in a month when the taxpayer  
3 made no reportable purchases of sorbents in the previous month.  
4 The Department shall provide a monthly summary of these reports  
5 to the Illinois Environmental Protection Agency. Upon request,  
6 the Illinois Environmental Protection Agency shall provide the  
7 Department with a list of Illinois businesses that are subject  
8 to 35 Ill. Adm. Code 225.

9 (35 ILCS 120/3) (from Ch. 120, par. 442)

10 Sec. 3. Except as provided in this Section, on or before  
11 the twentieth day of each calendar month, every person engaged  
12 in the business of selling tangible personal property at retail  
13 in this State during the preceding calendar month shall file a  
14 return with the Department, stating:

15 1. The name of the seller;

16 2. His residence address and the address of his  
17 principal place of business and the address of the  
18 principal place of business (if that is a different  
19 address) from which he engages in the business of selling  
20 tangible personal property at retail in this State;

21 3. Total amount of receipts received by him during the  
22 preceding calendar month or quarter, as the case may be,  
23 from sales of tangible personal property, and from services  
24 furnished, by him during such preceding calendar month or  
25 quarter;

1           4. Total amount received by him during the preceding  
2           calendar month or quarter on charge and time sales of  
3           tangible personal property, and from services furnished,  
4           by him prior to the month or quarter for which the return  
5           is filed;

6           5. Deductions allowed by law;

7           6. Gross receipts which were received by him during the  
8           preceding calendar month or quarter and upon the basis of  
9           which the tax is imposed;

10          7. The amount of credit provided in Section 2d of this  
11          Act;

12          8. The amount of tax due;

13          9. The signature of the taxpayer; and

14          10. Such other reasonable information as the  
15          Department may require.

16          If a taxpayer fails to sign a return within 30 days after  
17          the proper notice and demand for signature by the Department,  
18          the return shall be considered valid and any amount shown to be  
19          due on the return shall be deemed assessed.

20          Each return shall be accompanied by the statement of  
21          prepaid tax issued pursuant to Section 2e for which credit is  
22          claimed.

23          Prior to October 1, 2003, and on and after September 1,  
24          2004 a retailer may accept a Manufacturer's Purchase Credit  
25          certification from a purchaser in satisfaction of Use Tax as  
26          provided in Section 3-85 of the Use Tax Act if the purchaser



1 provides the appropriate documentation as required by Section  
2 3-85 of the Use Tax Act. A Manufacturer's Purchase Credit  
3 certification, accepted by a retailer prior to October 1, 2003  
4 and on and after September 1, 2004 as provided in Section 3-85  
5 of the Use Tax Act, may be used by that retailer to satisfy  
6 Retailers' Occupation Tax liability in the amount claimed in  
7 the certification, not to exceed 6.25% of the receipts subject  
8 to tax from a qualifying purchase. A Manufacturer's Purchase  
9 Credit reported on any original or amended return filed under  
10 this Act after October 20, 2003 for reporting periods prior to  
11 September 1, 2004 shall be disallowed. Manufacturer's  
12 Purchaser Credit reported on annual returns due on or after  
13 January 1, 2005 will be disallowed for periods prior to  
14 September 1, 2004. No Manufacturer's Purchase Credit may be  
15 used after September 30, 2003 through August 31, 2004 to  
16 satisfy any tax liability imposed under this Act, including any  
17 audit liability.

18 The Department may require returns to be filed on a  
19 quarterly basis. If so required, a return for each calendar  
20 quarter shall be filed on or before the twentieth day of the  
21 calendar month following the end of such calendar quarter. The  
22 taxpayer shall also file a return with the Department for each  
23 of the first two months of each calendar quarter, on or before  
24 the twentieth day of the following calendar month, stating:

- 25 1. The name of the seller;
- 26 2. The address of the principal place of business from

1           which he engages in the business of selling tangible  
2           personal property at retail in this State;

3           3. The total amount of taxable receipts received by him  
4           during the preceding calendar month from sales of tangible  
5           personal property by him during such preceding calendar  
6           month, including receipts from charge and time sales, but  
7           less all deductions allowed by law;

8           4. The amount of credit provided in Section 2d of this  
9           Act;

10          5. The amount of tax due; and

11          6. Such other reasonable information as the Department  
12          may require.

13          Beginning on October 1, 2003, any person who is not a  
14          licensed distributor, importing distributor, or manufacturer,  
15          as defined in the Liquor Control Act of 1934, but is engaged in  
16          the business of selling, at retail, alcoholic liquor shall file  
17          a statement with the Department of Revenue, in a format and at  
18          a time prescribed by the Department, showing the total amount  
19          paid for alcoholic liquor purchased during the preceding month  
20          and such other information as is reasonably required by the  
21          Department. The Department may adopt rules to require that this  
22          statement be filed in an electronic or telephonic format. Such  
23          rules may provide for exceptions from the filing requirements  
24          of this paragraph. For the purposes of this paragraph, the term  
25          "alcoholic liquor" shall have the meaning prescribed in the  
26          Liquor Control Act of 1934.

1           Beginning on October 1, 2003, every distributor, importing  
2 distributor, and manufacturer of alcoholic liquor as defined in  
3 the Liquor Control Act of 1934, shall file a statement with the  
4 Department of Revenue, no later than the 10th day of the month  
5 for the preceding month during which transactions occurred, by  
6 electronic means, showing the total amount of gross receipts  
7 from the sale of alcoholic liquor sold or distributed during  
8 the preceding month to purchasers; identifying the purchaser to  
9 whom it was sold or distributed; the purchaser's tax  
10 registration number; and such other information reasonably  
11 required by the Department. A distributor, importing  
12 distributor, or manufacturer of alcoholic liquor must  
13 personally deliver, mail, or provide by electronic means to  
14 each retailer listed on the monthly statement a report  
15 containing a cumulative total of that distributor's, importing  
16 distributor's, or manufacturer's total sales of alcoholic  
17 liquor to that retailer no later than the 10th day of the month  
18 for the preceding month during which the transaction occurred.  
19 The distributor, importing distributor, or manufacturer shall  
20 notify the retailer as to the method by which the distributor,  
21 importing distributor, or manufacturer will provide the sales  
22 information. If the retailer is unable to receive the sales  
23 information by electronic means, the distributor, importing  
24 distributor, or manufacturer shall furnish the sales  
25 information by personal delivery or by mail. For purposes of  
26 this paragraph, the term "electronic means" includes, but is

1 not limited to, the use of a secure Internet website, e-mail,  
2 or facsimile.

3 If a total amount of less than \$1 is payable, refundable or  
4 creditable, such amount shall be disregarded if it is less than  
5 50 cents and shall be increased to \$1 if it is 50 cents or more.

6 Beginning October 1, 1993, a taxpayer who has an average  
7 monthly tax liability of \$150,000 or more shall make all  
8 payments required by rules of the Department by electronic  
9 funds transfer. Beginning October 1, 1994, a taxpayer who has  
10 an average monthly tax liability of \$100,000 or more shall make  
11 all payments required by rules of the Department by electronic  
12 funds transfer. Beginning October 1, 1995, a taxpayer who has  
13 an average monthly tax liability of \$50,000 or more shall make  
14 all payments required by rules of the Department by electronic  
15 funds transfer. Beginning October 1, 2000, a taxpayer who has  
16 an annual tax liability of \$200,000 or more shall make all  
17 payments required by rules of the Department by electronic  
18 funds transfer. The term "annual tax liability" shall be the  
19 sum of the taxpayer's liabilities under this Act, and under all  
20 other State and local occupation and use tax laws administered  
21 by the Department, for the immediately preceding calendar year.  
22 The term "average monthly tax liability" shall be the sum of  
23 the taxpayer's liabilities under this Act, and under all other  
24 State and local occupation and use tax laws administered by the  
25 Department, for the immediately preceding calendar year  
26 divided by 12. Beginning on October 1, 2002, a taxpayer who has

1 a tax liability in the amount set forth in subsection (b) of  
2 Section 2505-210 of the Department of Revenue Law shall make  
3 all payments required by rules of the Department by electronic  
4 funds transfer.

5 Before August 1 of each year beginning in 1993, the  
6 Department shall notify all taxpayers required to make payments  
7 by electronic funds transfer. All taxpayers required to make  
8 payments by electronic funds transfer shall make those payments  
9 for a minimum of one year beginning on October 1.

10 Any taxpayer not required to make payments by electronic  
11 funds transfer may make payments by electronic funds transfer  
12 with the permission of the Department.

13 All taxpayers required to make payment by electronic funds  
14 transfer and any taxpayers authorized to voluntarily make  
15 payments by electronic funds transfer shall make those payments  
16 in the manner authorized by the Department.

17 The Department shall adopt such rules as are necessary to  
18 effectuate a program of electronic funds transfer and the  
19 requirements of this Section.

20 Any amount which is required to be shown or reported on any  
21 return or other document under this Act shall, if such amount  
22 is not a whole-dollar amount, be increased to the nearest  
23 whole-dollar amount in any case where the fractional part of a  
24 dollar is 50 cents or more, and decreased to the nearest  
25 whole-dollar amount where the fractional part of a dollar is  
26 less than 50 cents.

1           If the retailer is otherwise required to file a monthly  
2 return and if the retailer's average monthly tax liability to  
3 the Department does not exceed \$200, the Department may  
4 authorize his returns to be filed on a quarter annual basis,  
5 with the return for January, February and March of a given year  
6 being due by April 20 of such year; with the return for April,  
7 May and June of a given year being due by July 20 of such year;  
8 with the return for July, August and September of a given year  
9 being due by October 20 of such year, and with the return for  
10 October, November and December of a given year being due by  
11 January 20 of the following year.

12           If the retailer is otherwise required to file a monthly or  
13 quarterly return and if the retailer's average monthly tax  
14 liability with the Department does not exceed \$50, the  
15 Department may authorize his returns to be filed on an annual  
16 basis, with the return for a given year being due by January 20  
17 of the following year.

18           Such quarter annual and annual returns, as to form and  
19 substance, shall be subject to the same requirements as monthly  
20 returns.

21           Notwithstanding any other provision in this Act concerning  
22 the time within which a retailer may file his return, in the  
23 case of any retailer who ceases to engage in a kind of business  
24 which makes him responsible for filing returns under this Act,  
25 such retailer shall file a final return under this Act with the  
26 Department not more than one month after discontinuing such

1 business.

2 Where the same person has more than one business registered  
3 with the Department under separate registrations under this  
4 Act, such person may not file each return that is due as a  
5 single return covering all such registered businesses, but  
6 shall file separate returns for each such registered business.

7 In addition, with respect to motor vehicles, watercraft,  
8 aircraft, and trailers that are required to be registered with  
9 an agency of this State, every retailer selling this kind of  
10 tangible personal property shall file, with the Department,  
11 upon a form to be prescribed and supplied by the Department, a  
12 separate return for each such item of tangible personal  
13 property which the retailer sells, except that if, in the same  
14 transaction, (i) a retailer of aircraft, watercraft, motor  
15 vehicles or trailers transfers more than one aircraft,  
16 watercraft, motor vehicle or trailer to another aircraft,  
17 watercraft, motor vehicle retailer or trailer retailer for the  
18 purpose of resale or (ii) a retailer of aircraft, watercraft,  
19 motor vehicles, or trailers transfers more than one aircraft,  
20 watercraft, motor vehicle, or trailer to a purchaser for use as  
21 a qualifying rolling stock as provided in Section 2-5 of this  
22 Act, then that seller may report the transfer of all aircraft,  
23 watercraft, motor vehicles or trailers involved in that  
24 transaction to the Department on the same uniform  
25 invoice-transaction reporting return form. For purposes of  
26 this Section, "watercraft" means a Class 2, Class 3, or Class 4

1 watercraft as defined in Section 3-2 of the Boat Registration  
2 and Safety Act, a personal watercraft, or any boat equipped  
3 with an inboard motor.

4 Any retailer who sells only motor vehicles, watercraft,  
5 aircraft, or trailers that are required to be registered with  
6 an agency of this State, so that all retailers' occupation tax  
7 liability is required to be reported, and is reported, on such  
8 transaction reporting returns and who is not otherwise required  
9 to file monthly or quarterly returns, need not file monthly or  
10 quarterly returns. However, those retailers shall be required  
11 to file returns on an annual basis.

12 The transaction reporting return, in the case of motor  
13 vehicles or trailers that are required to be registered with an  
14 agency of this State, shall be the same document as the Uniform  
15 Invoice referred to in Section 5-402 of The Illinois Vehicle  
16 Code and must show the name and address of the seller; the name  
17 and address of the purchaser; the amount of the selling price  
18 including the amount allowed by the retailer for traded-in  
19 property, if any; the amount allowed by the retailer for the  
20 traded-in tangible personal property, if any, to the extent to  
21 which Section 1 of this Act allows an exemption for the value  
22 of traded-in property; the balance payable after deducting such  
23 trade-in allowance from the total selling price; the amount of  
24 tax due from the retailer with respect to such transaction; the  
25 amount of tax collected from the purchaser by the retailer on  
26 such transaction (or satisfactory evidence that such tax is not



1 due in that particular instance, if that is claimed to be the  
2 fact); the place and date of the sale; a sufficient  
3 identification of the property sold; such other information as  
4 is required in Section 5-402 of The Illinois Vehicle Code, and  
5 such other information as the Department may reasonably  
6 require.

7 The transaction reporting return in the case of watercraft  
8 or aircraft must show the name and address of the seller; the  
9 name and address of the purchaser; the amount of the selling  
10 price including the amount allowed by the retailer for  
11 traded-in property, if any; the amount allowed by the retailer  
12 for the traded-in tangible personal property, if any, to the  
13 extent to which Section 1 of this Act allows an exemption for  
14 the value of traded-in property; the balance payable after  
15 deducting such trade-in allowance from the total selling price;  
16 the amount of tax due from the retailer with respect to such  
17 transaction; the amount of tax collected from the purchaser by  
18 the retailer on such transaction (or satisfactory evidence that  
19 such tax is not due in that particular instance, if that is  
20 claimed to be the fact); the place and date of the sale, a  
21 sufficient identification of the property sold, and such other  
22 information as the Department may reasonably require.

23 Such transaction reporting return shall be filed not later  
24 than 20 days after the day of delivery of the item that is  
25 being sold, but may be filed by the retailer at any time sooner  
26 than that if he chooses to do so. The transaction reporting

1 return and tax remittance or proof of exemption from the  
2 Illinois use tax may be transmitted to the Department by way of  
3 the State agency with which, or State officer with whom the  
4 tangible personal property must be titled or registered (if  
5 titling or registration is required) if the Department and such  
6 agency or State officer determine that this procedure will  
7 expedite the processing of applications for title or  
8 registration.

9 With each such transaction reporting return, the retailer  
10 shall remit the proper amount of tax due (or shall submit  
11 satisfactory evidence that the sale is not taxable if that is  
12 the case), to the Department or its agents, whereupon the  
13 Department shall issue, in the purchaser's name, a use tax  
14 receipt (or a certificate of exemption if the Department is  
15 satisfied that the particular sale is tax exempt) which such  
16 purchaser may submit to the agency with which, or State officer  
17 with whom, he must title or register the tangible personal  
18 property that is involved (if titling or registration is  
19 required) in support of such purchaser's application for an  
20 Illinois certificate or other evidence of title or registration  
21 to such tangible personal property.

22 No retailer's failure or refusal to remit tax under this  
23 Act precludes a user, who has paid the proper tax to the  
24 retailer, from obtaining his certificate of title or other  
25 evidence of title or registration (if titling or registration  
26 is required) upon satisfying the Department that such user has

1 paid the proper tax (if tax is due) to the retailer. The  
2 Department shall adopt appropriate rules to carry out the  
3 mandate of this paragraph.

4 If the user who would otherwise pay tax to the retailer  
5 wants the transaction reporting return filed and the payment of  
6 the tax or proof of exemption made to the Department before the  
7 retailer is willing to take these actions and such user has not  
8 paid the tax to the retailer, such user may certify to the fact  
9 of such delay by the retailer and may (upon the Department  
10 being satisfied of the truth of such certification) transmit  
11 the information required by the transaction reporting return  
12 and the remittance for tax or proof of exemption directly to  
13 the Department and obtain his tax receipt or exemption  
14 determination, in which event the transaction reporting return  
15 and tax remittance (if a tax payment was required) shall be  
16 credited by the Department to the proper retailer's account  
17 with the Department, but without the 2.1% or 1.75% discount  
18 provided for in this Section being allowed. When the user pays  
19 the tax directly to the Department, he shall pay the tax in the  
20 same amount and in the same form in which it would be remitted  
21 if the tax had been remitted to the Department by the retailer.

22 Refunds made by the seller during the preceding return  
23 period to purchasers, on account of tangible personal property  
24 returned to the seller, shall be allowed as a deduction under  
25 subdivision 5 of his monthly or quarterly return, as the case  
26 may be, in case the seller had theretofore included the

1 receipts from the sale of such tangible personal property in a  
2 return filed by him and had paid the tax imposed by this Act  
3 with respect to such receipts.

4 Where the seller is a corporation, the return filed on  
5 behalf of such corporation shall be signed by the president,  
6 vice-president, secretary or treasurer or by the properly  
7 accredited agent of such corporation.

8 Where the seller is a limited liability company, the return  
9 filed on behalf of the limited liability company shall be  
10 signed by a manager, member, or properly accredited agent of  
11 the limited liability company.

12 Except as provided in this Section, the retailer filing the  
13 return under this Section shall, at the time of filing such  
14 return, pay to the Department the amount of tax imposed by this  
15 Act less a discount of 2.1% prior to January 1, 1990 and 1.75%  
16 on and after January 1, 1990, or \$5 per calendar year,  
17 whichever is greater, which is allowed to reimburse the  
18 retailer for the expenses incurred in keeping records,  
19 preparing and filing returns, remitting the tax and supplying  
20 data to the Department on request. Any prepayment made pursuant  
21 to Section 2d of this Act shall be included in the amount on  
22 which such 2.1% or 1.75% discount is computed. In the case of  
23 retailers who report and pay the tax on a transaction by  
24 transaction basis, as provided in this Section, such discount  
25 shall be taken with each such tax remittance instead of when  
26 such retailer files his periodic return.

1           Before October 1, 2000, if the taxpayer's average monthly  
2 tax liability to the Department under this Act, the Use Tax  
3 Act, the Service Occupation Tax Act, and the Service Use Tax  
4 Act, excluding any liability for prepaid sales tax to be  
5 remitted in accordance with Section 2d of this Act, was \$10,000  
6 or more during the preceding 4 complete calendar quarters, he  
7 shall file a return with the Department each month by the 20th  
8 day of the month next following the month during which such tax  
9 liability is incurred and shall make payments to the Department  
10 on or before the 7th, 15th, 22nd and last day of the month  
11 during which such liability is incurred. On and after October  
12 1, 2000, if the taxpayer's average monthly tax liability to the  
13 Department under this Act, the Use Tax Act, the Service  
14 Occupation Tax Act, and the Service Use Tax Act, excluding any  
15 liability for prepaid sales tax to be remitted in accordance  
16 with Section 2d of this Act, was \$20,000 or more during the  
17 preceding 4 complete calendar quarters, he shall file a return  
18 with the Department each month by the 20th day of the month  
19 next following the month during which such tax liability is  
20 incurred and shall make payment to the Department on or before  
21 the 7th, 15th, 22nd and last day of the month during which such  
22 liability is incurred. If the month during which such tax  
23 liability is incurred began prior to January 1, 1985, each  
24 payment shall be in an amount equal to 1/4 of the taxpayer's  
25 actual liability for the month or an amount set by the  
26 Department not to exceed 1/4 of the average monthly liability

1 of the taxpayer to the Department for the preceding 4 complete  
2 calendar quarters (excluding the month of highest liability and  
3 the month of lowest liability in such 4 quarter period). If the  
4 month during which such tax liability is incurred begins on or  
5 after January 1, 1985 and prior to January 1, 1987, each  
6 payment shall be in an amount equal to 22.5% of the taxpayer's  
7 actual liability for the month or 27.5% of the taxpayer's  
8 liability for the same calendar month of the preceding year. If  
9 the month during which such tax liability is incurred begins on  
10 or after January 1, 1987 and prior to January 1, 1988, each  
11 payment shall be in an amount equal to 22.5% of the taxpayer's  
12 actual liability for the month or 26.25% of the taxpayer's  
13 liability for the same calendar month of the preceding year. If  
14 the month during which such tax liability is incurred begins on  
15 or after January 1, 1988, and prior to January 1, 1989, or  
16 begins on or after January 1, 1996, each payment shall be in an  
17 amount equal to 22.5% of the taxpayer's actual liability for  
18 the month or 25% of the taxpayer's liability for the same  
19 calendar month of the preceding year. If the month during which  
20 such tax liability is incurred begins on or after January 1,  
21 1989, and prior to January 1, 1996, each payment shall be in an  
22 amount equal to 22.5% of the taxpayer's actual liability for  
23 the month or 25% of the taxpayer's liability for the same  
24 calendar month of the preceding year or 100% of the taxpayer's  
25 actual liability for the quarter monthly reporting period. The  
26 amount of such quarter monthly payments shall be credited

1 against the final tax liability of the taxpayer's return for  
2 that month. Before October 1, 2000, once applicable, the  
3 requirement of the making of quarter monthly payments to the  
4 Department by taxpayers having an average monthly tax liability  
5 of \$10,000 or more as determined in the manner provided above  
6 shall continue until such taxpayer's average monthly liability  
7 to the Department during the preceding 4 complete calendar  
8 quarters (excluding the month of highest liability and the  
9 month of lowest liability) is less than \$9,000, or until such  
10 taxpayer's average monthly liability to the Department as  
11 computed for each calendar quarter of the 4 preceding complete  
12 calendar quarter period is less than \$10,000. However, if a  
13 taxpayer can show the Department that a substantial change in  
14 the taxpayer's business has occurred which causes the taxpayer  
15 to anticipate that his average monthly tax liability for the  
16 reasonably foreseeable future will fall below the \$10,000  
17 threshold stated above, then such taxpayer may petition the  
18 Department for a change in such taxpayer's reporting status. On  
19 and after October 1, 2000, once applicable, the requirement of  
20 the making of quarter monthly payments to the Department by  
21 taxpayers having an average monthly tax liability of \$20,000 or  
22 more as determined in the manner provided above shall continue  
23 until such taxpayer's average monthly liability to the  
24 Department during the preceding 4 complete calendar quarters  
25 (excluding the month of highest liability and the month of  
26 lowest liability) is less than \$19,000 or until such taxpayer's

1 average monthly liability to the Department as computed for  
2 each calendar quarter of the 4 preceding complete calendar  
3 quarter period is less than \$20,000. However, if a taxpayer can  
4 show the Department that a substantial change in the taxpayer's  
5 business has occurred which causes the taxpayer to anticipate  
6 that his average monthly tax liability for the reasonably  
7 foreseeable future will fall below the \$20,000 threshold stated  
8 above, then such taxpayer may petition the Department for a  
9 change in such taxpayer's reporting status. The Department  
10 shall change such taxpayer's reporting status unless it finds  
11 that such change is seasonal in nature and not likely to be  
12 long term. If any such quarter monthly payment is not paid at  
13 the time or in the amount required by this Section, then the  
14 taxpayer shall be liable for penalties and interest on the  
15 difference between the minimum amount due as a payment and the  
16 amount of such quarter monthly payment actually and timely  
17 paid, except insofar as the taxpayer has previously made  
18 payments for that month to the Department in excess of the  
19 minimum payments previously due as provided in this Section.  
20 The Department shall make reasonable rules and regulations to  
21 govern the quarter monthly payment amount and quarter monthly  
22 payment dates for taxpayers who file on other than a calendar  
23 monthly basis.

24 The provisions of this paragraph apply before October 1,  
25 2001. Without regard to whether a taxpayer is required to make  
26 quarter monthly payments as specified above, any taxpayer who



1 is required by Section 2d of this Act to collect and remit  
2 prepaid taxes and has collected prepaid taxes which average in  
3 excess of \$25,000 per month during the preceding 2 complete  
4 calendar quarters, shall file a return with the Department as  
5 required by Section 2f and shall make payments to the  
6 Department on or before the 7th, 15th, 22nd and last day of the  
7 month during which such liability is incurred. If the month  
8 during which such tax liability is incurred began prior to the  
9 effective date of this amendatory Act of 1985, each payment  
10 shall be in an amount not less than 22.5% of the taxpayer's  
11 actual liability under Section 2d. If the month during which  
12 such tax liability is incurred begins on or after January 1,  
13 1986, each payment shall be in an amount equal to 22.5% of the  
14 taxpayer's actual liability for the month or 27.5% of the  
15 taxpayer's liability for the same calendar month of the  
16 preceding calendar year. If the month during which such tax  
17 liability is incurred begins on or after January 1, 1987, each  
18 payment shall be in an amount equal to 22.5% of the taxpayer's  
19 actual liability for the month or 26.25% of the taxpayer's  
20 liability for the same calendar month of the preceding year.  
21 The amount of such quarter monthly payments shall be credited  
22 against the final tax liability of the taxpayer's return for  
23 that month filed under this Section or Section 2f, as the case  
24 may be. Once applicable, the requirement of the making of  
25 quarter monthly payments to the Department pursuant to this  
26 paragraph shall continue until such taxpayer's average monthly

1 prepaid tax collections during the preceding 2 complete  
2 calendar quarters is \$25,000 or less. If any such quarter  
3 monthly payment is not paid at the time or in the amount  
4 required, the taxpayer shall be liable for penalties and  
5 interest on such difference, except insofar as the taxpayer has  
6 previously made payments for that month in excess of the  
7 minimum payments previously due.

8 The provisions of this paragraph apply on and after October  
9 1, 2001. Without regard to whether a taxpayer is required to  
10 make quarter monthly payments as specified above, any taxpayer  
11 who is required by Section 2d of this Act to collect and remit  
12 prepaid taxes and has collected prepaid taxes that average in  
13 excess of \$20,000 per month during the preceding 4 complete  
14 calendar quarters shall file a return with the Department as  
15 required by Section 2f and shall make payments to the  
16 Department on or before the 7th, 15th, 22nd and last day of the  
17 month during which the liability is incurred. Each payment  
18 shall be in an amount equal to 22.5% of the taxpayer's actual  
19 liability for the month or 25% of the taxpayer's liability for  
20 the same calendar month of the preceding year. The amount of  
21 the quarter monthly payments shall be credited against the  
22 final tax liability of the taxpayer's return for that month  
23 filed under this Section or Section 2f, as the case may be.  
24 Once applicable, the requirement of the making of quarter  
25 monthly payments to the Department pursuant to this paragraph  
26 shall continue until the taxpayer's average monthly prepaid tax

1 collections during the preceding 4 complete calendar quarters  
2 (excluding the month of highest liability and the month of  
3 lowest liability) is less than \$19,000 or until such taxpayer's  
4 average monthly liability to the Department as computed for  
5 each calendar quarter of the 4 preceding complete calendar  
6 quarters is less than \$20,000. If any such quarter monthly  
7 payment is not paid at the time or in the amount required, the  
8 taxpayer shall be liable for penalties and interest on such  
9 difference, except insofar as the taxpayer has previously made  
10 payments for that month in excess of the minimum payments  
11 previously due.

12 If any payment provided for in this Section exceeds the  
13 taxpayer's liabilities under this Act, the Use Tax Act, the  
14 Service Occupation Tax Act and the Service Use Tax Act, as  
15 shown on an original monthly return, the Department shall, if  
16 requested by the taxpayer, issue to the taxpayer a credit  
17 memorandum no later than 30 days after the date of payment. The  
18 credit evidenced by such credit memorandum may be assigned by  
19 the taxpayer to a similar taxpayer under this Act, the Use Tax  
20 Act, the Service Occupation Tax Act or the Service Use Tax Act,  
21 in accordance with reasonable rules and regulations to be  
22 prescribed by the Department. If no such request is made, the  
23 taxpayer may credit such excess payment against tax liability  
24 subsequently to be remitted to the Department under this Act,  
25 the Use Tax Act, the Service Occupation Tax Act or the Service  
26 Use Tax Act, in accordance with reasonable rules and

1 regulations prescribed by the Department. If the Department  
2 subsequently determined that all or any part of the credit  
3 taken was not actually due to the taxpayer, the taxpayer's 2.1%  
4 and 1.75% vendor's discount shall be reduced by 2.1% or 1.75%  
5 of the difference between the credit taken and that actually  
6 due, and that taxpayer shall be liable for penalties and  
7 interest on such difference.

8 If a retailer of motor fuel is entitled to a credit under  
9 Section 2d of this Act which exceeds the taxpayer's liability  
10 to the Department under this Act for the month which the  
11 taxpayer is filing a return, the Department shall issue the  
12 taxpayer a credit memorandum for the excess.

13 Beginning January 1, 1990, each month the Department shall  
14 pay into the Local Government Tax Fund, a special fund in the  
15 State treasury which is hereby created, the net revenue  
16 realized for the preceding month from the 1% tax on sales of  
17 food for human consumption which is to be consumed off the  
18 premises where it is sold (other than alcoholic beverages, soft  
19 drinks and food which has been prepared for immediate  
20 consumption) and prescription and nonprescription medicines,  
21 drugs, medical appliances and insulin, urine testing  
22 materials, syringes and needles used by diabetics.

23 Beginning January 1, 1990, each month the Department shall  
24 pay into the County and Mass Transit District Fund, a special  
25 fund in the State treasury which is hereby created, 4% of the  
26 net revenue realized for the preceding month from the 6.25%

1 general rate.

2 Beginning August 1, 2000, each month the Department shall  
3 pay into the County and Mass Transit District Fund 20% of the  
4 net revenue realized for the preceding month from the 1.25%  
5 rate on the selling price of motor fuel and gasohol. Beginning  
6 September 1, 2010, each month the Department shall pay into the  
7 County and Mass Transit District Fund 20% of the net revenue  
8 realized for the preceding month from the 1.25% rate on the  
9 selling price of sales tax holiday items.

10 Beginning January 1, 1990, each month the Department shall  
11 pay into the Local Government Tax Fund 16% of the net revenue  
12 realized for the preceding month from the 6.25% general rate on  
13 the selling price of tangible personal property.

14 Beginning August 1, 2000, each month the Department shall  
15 pay into the Local Government Tax Fund 80% of the net revenue  
16 realized for the preceding month from the 1.25% rate on the  
17 selling price of motor fuel and gasohol. Beginning September 1,  
18 2010, each month the Department shall pay into the Local  
19 Government Tax Fund 80% of the net revenue realized for the  
20 preceding month from the 1.25% rate on the selling price of  
21 sales tax holiday items.

22 Beginning October 1, 2009, each month the Department shall  
23 pay into the Capital Projects Fund an amount that is equal to  
24 an amount estimated by the Department to represent 80% of the  
25 net revenue realized for the preceding month from the sale of  
26 candy, grooming and hygiene products, and soft drinks that had

1 been taxed at a rate of 1% prior to September 1, 2009 but that  
2 is now taxed at 6.25%.

3 Beginning July 1, 2011, each month the Department shall pay  
4 into the Clean Air Act (CAA) Permit Fund 80% of the net revenue  
5 realized for the preceding month from the 6.25% general rate on  
6 the selling price of sorbents used in Illinois in the process  
7 of sorbent injection as used to comply with the Environmental  
8 Protection Act or the federal Clean Air Act, but the total  
9 payment into the Clean Air Act (CAA) Permit Fund under this Act  
10 and the Use Tax Act shall not exceed \$2,000,000 in any fiscal  
11 year.

12 Of the remainder of the moneys received by the Department  
13 pursuant to this Act, (a) 1.75% thereof shall be paid into the  
14 Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on  
15 and after July 1, 1989, 3.8% thereof shall be paid into the  
16 Build Illinois Fund; provided, however, that if in any fiscal  
17 year the sum of (1) the aggregate of 2.2% or 3.8%, as the case  
18 may be, of the moneys received by the Department and required  
19 to be paid into the Build Illinois Fund pursuant to this Act,  
20 Section 9 of the Use Tax Act, Section 9 of the Service Use Tax  
21 Act, and Section 9 of the Service Occupation Tax Act, such Acts  
22 being hereinafter called the "Tax Acts" and such aggregate of  
23 2.2% or 3.8%, as the case may be, of moneys being hereinafter  
24 called the "Tax Act Amount", and (2) the amount transferred to  
25 the Build Illinois Fund from the State and Local Sales Tax  
26 Reform Fund shall be less than the Annual Specified Amount (as

1 hereinafter defined), an amount equal to the difference shall  
2 be immediately paid into the Build Illinois Fund from other  
3 moneys received by the Department pursuant to the Tax Acts; the  
4 "Annual Specified Amount" means the amounts specified below for  
5 fiscal years 1986 through 1993:

6	Fiscal Year	Annual Specified Amount
7	1986	\$54,800,000
8	1987	\$76,650,000
9	1988	\$80,480,000
10	1989	\$88,510,000
11	1990	\$115,330,000
12	1991	\$145,470,000
13	1992	\$182,730,000
14	1993	\$206,520,000;

15 and means the Certified Annual Debt Service Requirement (as  
16 defined in Section 13 of the Build Illinois Bond Act) or the  
17 Tax Act Amount, whichever is greater, for fiscal year 1994 and  
18 each fiscal year thereafter; and further provided, that if on  
19 the last business day of any month the sum of (1) the Tax Act  
20 Amount required to be deposited into the Build Illinois Bond  
21 Account in the Build Illinois Fund during such month and (2)  
22 the amount transferred to the Build Illinois Fund from the  
23 State and Local Sales Tax Reform Fund shall have been less than  
24 1/12 of the Annual Specified Amount, an amount equal to the  
25 difference shall be immediately paid into the Build Illinois  
26 Fund from other moneys received by the Department pursuant to

1 the Tax Acts; and, further provided, that in no event shall the  
2 payments required under the preceding proviso result in  
3 aggregate payments into the Build Illinois Fund pursuant to  
4 this clause (b) for any fiscal year in excess of the greater of  
5 (i) the Tax Act Amount or (ii) the Annual Specified Amount for  
6 such fiscal year. The amounts payable into the Build Illinois  
7 Fund under clause (b) of the first sentence in this paragraph  
8 shall be payable only until such time as the aggregate amount  
9 on deposit under each trust indenture securing Bonds issued and  
10 outstanding pursuant to the Build Illinois Bond Act is  
11 sufficient, taking into account any future investment income,  
12 to fully provide, in accordance with such indenture, for the  
13 defeasance of or the payment of the principal of, premium, if  
14 any, and interest on the Bonds secured by such indenture and on  
15 any Bonds expected to be issued thereafter and all fees and  
16 costs payable with respect thereto, all as certified by the  
17 Director of the Bureau of the Budget (now Governor's Office of  
18 Management and Budget). If on the last business day of any  
19 month in which Bonds are outstanding pursuant to the Build  
20 Illinois Bond Act, the aggregate of moneys deposited in the  
21 Build Illinois Bond Account in the Build Illinois Fund in such  
22 month shall be less than the amount required to be transferred  
23 in such month from the Build Illinois Bond Account to the Build  
24 Illinois Bond Retirement and Interest Fund pursuant to Section  
25 13 of the Build Illinois Bond Act, an amount equal to such  
26 deficiency shall be immediately paid from other moneys received



1 by the Department pursuant to the Tax Acts to the Build  
 2 Illinois Fund; provided, however, that any amounts paid to the  
 3 Build Illinois Fund in any fiscal year pursuant to this  
 4 sentence shall be deemed to constitute payments pursuant to  
 5 clause (b) of the first sentence of this paragraph and shall  
 6 reduce the amount otherwise payable for such fiscal year  
 7 pursuant to that clause (b). The moneys received by the  
 8 Department pursuant to this Act and required to be deposited  
 9 into the Build Illinois Fund are subject to the pledge, claim  
 10 and charge set forth in Section 12 of the Build Illinois Bond  
 11 Act.

12 Subject to payment of amounts into the Build Illinois Fund  
 13 as provided in the preceding paragraph or in any amendment  
 14 thereto hereafter enacted, the following specified monthly  
 15 installment of the amount requested in the certificate of the  
 16 Chairman of the Metropolitan Pier and Exposition Authority  
 17 provided under Section 8.25f of the State Finance Act, but not  
 18 in excess of sums designated as "Total Deposit", shall be  
 19 deposited in the aggregate from collections under Section 9 of  
 20 the Use Tax Act, Section 9 of the Service Use Tax Act, Section  
 21 9 of the Service Occupation Tax Act, and Section 3 of the  
 22 Retailers' Occupation Tax Act into the McCormick Place  
 23 Expansion Project Fund in the specified fiscal years.

Fiscal Year	Total Deposit
1993	\$0

1	1994	53,000,000
2	1995	58,000,000
3	1996	61,000,000
4	1997	64,000,000
5	1998	68,000,000
6	1999	71,000,000
7	2000	75,000,000
8	2001	80,000,000
9	2002	93,000,000
10	2003	99,000,000
11	2004	103,000,000
12	2005	108,000,000
13	2006	113,000,000
14	2007	119,000,000
15	2008	126,000,000
16	2009	132,000,000
17	2010	139,000,000
18	2011	146,000,000
19	2012	153,000,000
20	2013	161,000,000
21	2014	170,000,000
22	2015	179,000,000
23	2016	189,000,000
24	2017	199,000,000
25	2018	210,000,000
26	2019	221,000,000

1	2020	233,000,000
2	2021	246,000,000
3	2022	260,000,000
4	2023	275,000,000
5	2024	275,000,000
6	2025	275,000,000
7	2026	279,000,000
8	2027	292,000,000
9	2028	307,000,000
10	2029	322,000,000
11	2030	338,000,000
12	2031	350,000,000
13	2032	350,000,000

14                   and  
15                    each fiscal year  
16                   thereafter that bonds  
17                   are outstanding under  
18                   Section 13.2 of the  
19                   Metropolitan Pier and  
20                   Exposition Authority Act,  
21                   but not after fiscal year 2060.

22                   Beginning July 20, 1993 and in each month of each fiscal  
23                   year thereafter, one-eighth of the amount requested in the  
24                   certificate of the Chairman of the Metropolitan Pier and  
25                   Exposition Authority for that fiscal year, less the amount  
26                   deposited into the McCormick Place Expansion Project Fund by

1 the State Treasurer in the respective month under subsection  
2 (g) of Section 13 of the Metropolitan Pier and Exposition  
3 Authority Act, plus cumulative deficiencies in the deposits  
4 required under this Section for previous months and years,  
5 shall be deposited into the McCormick Place Expansion Project  
6 Fund, until the full amount requested for the fiscal year, but  
7 not in excess of the amount specified above as "Total Deposit",  
8 has been deposited.

9 Subject to payment of amounts into the Build Illinois Fund  
10 and the McCormick Place Expansion Project Fund pursuant to the  
11 preceding paragraphs or in any amendments thereto hereafter  
12 enacted, beginning July 1, 1993, the Department shall each  
13 month pay into the Illinois Tax Increment Fund 0.27% of 80% of  
14 the net revenue realized for the preceding month from the 6.25%  
15 general rate on the selling price of tangible personal  
16 property.

17 Subject to payment of amounts into the Build Illinois Fund  
18 and the McCormick Place Expansion Project Fund pursuant to the  
19 preceding paragraphs or in any amendments thereto hereafter  
20 enacted, beginning with the receipt of the first report of  
21 taxes paid by an eligible business and continuing for a 25-year  
22 period, the Department shall each month pay into the Energy  
23 Infrastructure Fund 80% of the net revenue realized from the  
24 6.25% general rate on the selling price of Illinois-mined coal  
25 that was sold to an eligible business. For purposes of this  
26 paragraph, the term "eligible business" means a new electric

1 generating facility certified pursuant to Section 605-332 of  
2 the Department of Commerce and Economic Opportunity Law of the  
3 Civil Administrative Code of Illinois.

4 Of the remainder of the moneys received by the Department  
5 pursuant to this Act, 75% thereof shall be paid into the State  
6 Treasury and 25% shall be reserved in a special account and  
7 used only for the transfer to the Common School Fund as part of  
8 the monthly transfer from the General Revenue Fund in  
9 accordance with Section 8a of the State Finance Act.

10 The Department may, upon separate written notice to a  
11 taxpayer, require the taxpayer to prepare and file with the  
12 Department on a form prescribed by the Department within not  
13 less than 60 days after receipt of the notice an annual  
14 information return for the tax year specified in the notice.  
15 Such annual return to the Department shall include a statement  
16 of gross receipts as shown by the retailer's last Federal  
17 income tax return. If the total receipts of the business as  
18 reported in the Federal income tax return do not agree with the  
19 gross receipts reported to the Department of Revenue for the  
20 same period, the retailer shall attach to his annual return a  
21 schedule showing a reconciliation of the 2 amounts and the  
22 reasons for the difference. The retailer's annual return to the  
23 Department shall also disclose the cost of goods sold by the  
24 retailer during the year covered by such return, opening and  
25 closing inventories of such goods for such year, costs of goods  
26 used from stock or taken from stock and given away by the

1 retailer during such year, payroll information of the  
2 retailer's business during such year and any additional  
3 reasonable information which the Department deems would be  
4 helpful in determining the accuracy of the monthly, quarterly  
5 or annual returns filed by such retailer as provided for in  
6 this Section.

7 If the annual information return required by this Section  
8 is not filed when and as required, the taxpayer shall be liable  
9 as follows:

10 (i) Until January 1, 1994, the taxpayer shall be liable  
11 for a penalty equal to 1/6 of 1% of the tax due from such  
12 taxpayer under this Act during the period to be covered by  
13 the annual return for each month or fraction of a month  
14 until such return is filed as required, the penalty to be  
15 assessed and collected in the same manner as any other  
16 penalty provided for in this Act.

17 (ii) On and after January 1, 1994, the taxpayer shall  
18 be liable for a penalty as described in Section 3-4 of the  
19 Uniform Penalty and Interest Act.

20 The chief executive officer, proprietor, owner or highest  
21 ranking manager shall sign the annual return to certify the  
22 accuracy of the information contained therein. Any person who  
23 willfully signs the annual return containing false or  
24 inaccurate information shall be guilty of perjury and punished  
25 accordingly. The annual return form prescribed by the  
26 Department shall include a warning that the person signing the

1 return may be liable for perjury.

2 The provisions of this Section concerning the filing of an  
3 annual information return do not apply to a retailer who is not  
4 required to file an income tax return with the United States  
5 Government.

6 As soon as possible after the first day of each month, upon  
7 certification of the Department of Revenue, the Comptroller  
8 shall order transferred and the Treasurer shall transfer from  
9 the General Revenue Fund to the Motor Fuel Tax Fund an amount  
10 equal to 1.7% of 80% of the net revenue realized under this Act  
11 for the second preceding month. Beginning April 1, 2000, this  
12 transfer is no longer required and shall not be made.

13 Net revenue realized for a month shall be the revenue  
14 collected by the State pursuant to this Act, less the amount  
15 paid out during that month as refunds to taxpayers for  
16 overpayment of liability.

17 For greater simplicity of administration, manufacturers,  
18 importers and wholesalers whose products are sold at retail in  
19 Illinois by numerous retailers, and who wish to do so, may  
20 assume the responsibility for accounting and paying to the  
21 Department all tax accruing under this Act with respect to such  
22 sales, if the retailers who are affected do not make written  
23 objection to the Department to this arrangement.

24 Any person who promotes, organizes, provides retail  
25 selling space for concessionaires or other types of sellers at  
26 the Illinois State Fair, DuQuoin State Fair, county fairs,

1 local fairs, art shows, flea markets and similar exhibitions or  
2 events, including any transient merchant as defined by Section  
3 2 of the Transient Merchant Act of 1987, is required to file a  
4 report with the Department providing the name of the merchant's  
5 business, the name of the person or persons engaged in  
6 merchant's business, the permanent address and Illinois  
7 Retailers Occupation Tax Registration Number of the merchant,  
8 the dates and location of the event and other reasonable  
9 information that the Department may require. The report must be  
10 filed not later than the 20th day of the month next following  
11 the month during which the event with retail sales was held.  
12 Any person who fails to file a report required by this Section  
13 commits a business offense and is subject to a fine not to  
14 exceed \$250.

15 Any person engaged in the business of selling tangible  
16 personal property at retail as a concessionaire or other type  
17 of seller at the Illinois State Fair, county fairs, art shows,  
18 flea markets and similar exhibitions or events, or any  
19 transient merchants, as defined by Section 2 of the Transient  
20 Merchant Act of 1987, may be required to make a daily report of  
21 the amount of such sales to the Department and to make a daily  
22 payment of the full amount of tax due. The Department shall  
23 impose this requirement when it finds that there is a  
24 significant risk of loss of revenue to the State at such an  
25 exhibition or event. Such a finding shall be based on evidence  
26 that a substantial number of concessionaires or other sellers



1 who are not residents of Illinois will be engaging in the  
2 business of selling tangible personal property at retail at the  
3 exhibition or event, or other evidence of a significant risk of  
4 loss of revenue to the State. The Department shall notify  
5 concessionaires and other sellers affected by the imposition of  
6 this requirement. In the absence of notification by the  
7 Department, the concessionaires and other sellers shall file  
8 their returns as otherwise required in this Section.

9 (Source: P.A. 95-331, eff. 8-21-07; 96-34, eff. 7-13-09; 96-38,  
10 eff. 7-13-09; 96-898, eff. 5-27-10; 96-1012, eff. 7-7-10;  
11 revised 7-22-10.)

12 Section 20. The Environmental Protection Act is amended by  
13 changing Sections 9, 9.1, 9.6, 9.12, 39, and 39.5 and adding  
14 Sections 3.207, 9.14, 9.15, 39.10, 39.12, and 39.14 as follows:

15 (415 ILCS 5/3.207 new)

16 Sec. 3.207. Greenhouse gases. "Greenhouse gases" or "GHG"  
17 means the air pollutant defined in 40 CFR 86.1818-12(a) as the  
18 aggregate group of 6 greenhouse gases: carbon dioxide, nitrous  
19 oxide, methane, hydrofluorocarbons, perfluorocarbons, and  
20 sulfur hexafluoride.

21 (415 ILCS 5/9) (from Ch. 111 1/2, par. 1009)

22 Sec. 9. Acts prohibited. No person shall:

23 (a) Cause or threaten or allow the discharge or emission of

1 any contaminant into the environment in any State so as to  
2 cause or tend to cause air pollution in Illinois, either alone  
3 or in combination with contaminants from other sources, or so  
4 as to violate regulations or standards adopted by the Board  
5 under this Act. †

6 (b) Construct, install, or operate any equipment,  
7 facility, vehicle, vessel, or aircraft capable of causing or  
8 contributing to air pollution or designed to prevent air  
9 pollution, of any type designated by Board regulations, (1)  
10 without a permit granted by the Agency unless otherwise exempt  
11 by this Act or Board regulations, or (2) in violation of any  
12 conditions imposed by such permit. †

13 (c) Cause or allow the open burning of refuse, conduct any  
14 salvage operation by open burning, or cause or allow the  
15 burning of any refuse in any chamber not specifically designed  
16 for the purpose and approved by the Agency pursuant to  
17 regulations adopted by the Board under this Act; except that  
18 the Board may adopt regulations permitting open burning of  
19 refuse in certain cases upon a finding that no harm will result  
20 from such burning, or that any alternative method of disposing  
21 of such refuse would create a safety hazard so extreme as to  
22 justify the pollution that would result from such burning. †

23 (d) Sell, offer, or use any fuel or other article in any  
24 areas in which the Board may by regulation forbid its sale,  
25 offer, or use for reasons of air-pollution control. †

26 (e) Use, cause or allow the spraying of loose asbestos for

1 the purpose of fireproofing or insulating any building or  
2 building material or other constructions, or otherwise use  
3 asbestos in such unconfined manner as to permit asbestos fibers  
4 or particles to pollute the air. †

5 (f) Commencing July 1, 1985, sell any used oil for burning  
6 or incineration in any incinerator, boiler, furnace, burner or  
7 other equipment unless such oil meets standards based on virgin  
8 fuel oil or re-refined oil, as defined in ASTM D-396 or  
9 specifications under VV-F-815C promulgated pursuant to the  
10 federal Energy Policy and Conservation Act, and meets the  
11 manufacturer's and current NFPA code standards for which such  
12 incinerator, boiler, furnace, burner or other equipment was  
13 approved, except that this prohibition does not apply to a sale  
14 to a permitted used oil re-refining or reprocessing facility or  
15 sale to a facility permitted by the Agency to burn or  
16 incinerate such oil.

17 Nothing herein shall limit the effect of any section of  
18 this Title with respect to any form of asbestos, or the  
19 spraying of any form of asbestos, or limit the power of the  
20 Board under this Title to adopt additional and further  
21 regulations with respect to any form of asbestos, or the  
22 spraying of any form of asbestos.

23 This Section shall not limit the burning of landscape waste  
24 upon the premises where it is produced or at sites provided and  
25 supervised by any unit of local government, except within any  
26 county having a population of more than 400,000. Nothing in

1 this Section shall prohibit the burning of landscape waste for  
2 agricultural purposes, habitat management (including but not  
3 limited to forest and prairie reclamation), or firefighter  
4 training. For the purposes of this Act, the burning of  
5 landscape waste by production nurseries shall be considered to  
6 be burning for agricultural purposes.

7 Any grain elevator located outside of a major population  
8 area, as defined in Section 211.3610 of Title 35 of the  
9 Illinois Administrative Code, shall be exempt from the  
10 requirements of Section 212.462 of Title 35 of the Illinois  
11 Administrative Code provided that the elevator: (1) does not  
12 violate the prohibitions of subsection (a) of this Section or  
13 have a certified investigation, as defined in Section 211.970  
14 of Title 35 of the Illinois Administrative Code, on file with  
15 the Agency and (2) is not required to obtain a Clean Air Act  
16 Permit Program permit pursuant to Section 39.5.  
17 Notwithstanding the above exemption, new stationary source  
18 performance standards for grain elevators, established  
19 pursuant to Section 9.1 of this Act and Section 111 of the  
20 federal Clean Air Act, shall continue to apply to grain  
21 elevators.

22 (Source: P.A. 88-488; 89-328, eff. 8-17-95; 89-491, eff.  
23 6-21-96.)

24 (415 ILCS 5/9.1) (from Ch. 111 1/2, par. 1009.1)

25 Sec. 9.1. (a) The General Assembly finds that the federal

1 Clean Air Act, as amended, and regulations adopted pursuant  
2 thereto establish complex and detailed provisions for  
3 State-federal cooperation in the field of air pollution  
4 control, provide for a Prevention of Significant Deterioration  
5 program to regulate the issuance of preconstruction permits to  
6 insure that economic growth will occur in a manner consistent  
7 with the preservation of existing clean air resources, and also  
8 provide for plan requirements for nonattainment areas to  
9 regulate the construction, modification and operation of  
10 sources of air pollution to insure that economic growth will  
11 occur in a manner consistent with the goal of achieving the  
12 national ambient air quality standards, and that the General  
13 Assembly cannot conveniently or advantageously set forth in  
14 this Act all the requirements of such federal Act or all  
15 regulations which may be established thereunder.

16 It is the purpose of this Section to avoid the existence of  
17 duplicative, overlapping or conflicting State and federal  
18 regulatory systems.

19 (b) The provisions of Section 111 of the federal Clean Air  
20 Act (42 USC 7411), as amended, relating to standards of  
21 performance for new stationary sources, and Section 112 of the  
22 federal Clean Air Act (42 USC 7412), as amended, relating to  
23 the establishment of national emission standards for hazardous  
24 air pollutants are applicable in this State and are enforceable  
25 under this Act. Any such enforcement shall be stayed consistent  
26 with any stay granted in any federal judicial action to review

1 such standards. Enforcement shall be consistent with the  
2 results of any such judicial review.

3 (c) The Board may adopt regulations establishing permit  
4 programs meeting the requirements of Sections 165 and 173 of  
5 the Clean Air Act (42 USC 7475 and 42 USC 7503) as amended. The  
6 Agency may adopt procedures for the administration of such  
7 programs.

8 (d) No person shall:

9 (1) violate any provisions of Sections 111, 112, 165 or  
10 173 of the Clean Air Act, as now or hereafter amended, or  
11 federal regulations adopted pursuant thereto; or

12 (2) construct, install, modify or operate any  
13 equipment, building, facility, source or installation  
14 which is subject to regulation under Sections 111, 112, 165  
15 or 173 of the Clean Air Act, as now or hereafter amended,  
16 except in compliance with the requirements of such Sections  
17 and federal regulations adopted pursuant thereto, and no  
18 such action shall be undertaken (A) without a permit  
19 granted by the Agency whenever a permit is required  
20 pursuant to (i) this Act or Board regulations or (ii)  
21 Section 111, 112, 165, or 173 of the Clean Air Act or  
22 federal regulations adopted pursuant thereto or (B) in  
23 violation of any conditions imposed by such permit. Any  
24 denial of such a permit or any conditions imposed in such a  
25 permit shall be reviewable by the Board in accordance with  
26 Section 40 of this Act.

1           (e) The Board shall exempt from regulation under the State  
2 Implementation Plan for ozone the volatile organic compounds  
3 which have been determined by the U.S. Environmental Protection  
4 Agency to be exempt from regulation under state implementation  
5 plans for ozone due to negligible photochemical reactivity. In  
6 accordance with subsection (b) of Section 7.2, the Board shall  
7 adopt regulations identical in substance to the U.S.  
8 Environmental Protection Agency exemptions or deletion of  
9 exemptions published in policy statements on the control of  
10 volatile organic compounds in the Federal Register by amending  
11 the list of exemptions to the Board's definition of volatile  
12 organic material found at 35 Ill. Adm. Code Part 211. The  
13 provisions and requirements of Title VII of this Act shall not  
14 apply to regulations adopted under this subsection. Section  
15 5-35 of the Illinois Administrative Procedure Act, relating to  
16 procedures for rulemaking, does not apply to regulations  
17 adopted under this subsection. However, the Board shall provide  
18 for notice, a hearing if required by the U.S. Environmental  
19 Protection Agency, and public comment before adopted rules are  
20 filed with the Secretary of State. The Board may consolidate  
21 into a single rulemaking under this subsection all such federal  
22 policy statements published in the Federal Register within a  
23 period of time not to exceed 6 months.

24           (f) If a complete application for a permit renewal is  
25 submitted to the Agency at least 90 days prior to expiration of  
26 the permit, all of the terms and conditions of the permit shall

1 remain in effect until final administrative action has been  
2 taken on the application.

3 (Source: P.A. 87-555; 87-1213; 88-45.)

4 (415 ILCS 5/9.6) (from Ch. 111 1/2, par. 1009.6)

5 Sec. 9.6. Air pollution operating permit fee.

6 (a) For any site for which an air pollution operating  
7 permit is required, other than a site permitted solely as a  
8 retail liquid dispensing facility that has air pollution  
9 control equipment or an agrichemical facility with an endorsed  
10 permit pursuant to Section 39.4, the owner or operator of that  
11 site shall pay an initial annual fee to the Agency within 30  
12 days of receipt of the permit and an annual fee each year  
13 thereafter for as long as a permit is in effect. The owner or  
14 operator of a portable emission unit, as defined in 35 Ill.  
15 Adm. Code 201.170, may change the site of any unit previously  
16 permitted without paying an additional fee under this Section  
17 for each site change, provided that no further change to the  
18 permit is otherwise necessary or requested.

19 (b) ~~The Notwithstanding any rules to the contrary, the~~  
20 following fee amounts shall apply:

21 (1) The fee for a site permitted to emit less than 25  
22 tons per year of any combination of regulated air  
23 pollutants, as defined in Section 39.5 of this Act, except  
24 greenhouse gases, is ~~\$100 per year beginning July 1, 1993,~~  
25 ~~and increases to~~ \$200 per year beginning ~~on~~ July 1, 2003,



1       and increases, beginning January 1, 2012, to \$235 per year  
2       for lifetime operating permits and \$235 per year for  
3       federally enforceable state operating permits, except as  
4       provided in subsection (c) of this Section.

5       (2) The fee for a site permitted to emit at least 25  
6       tons per year but less than 100 tons per year of any  
7       combination of regulated air pollutants, as defined in  
8       Section 39.5 of this Act, except greenhouse gases, is  
9       ~~\$1,000 per year beginning July 1, 1993, and increases to~~  
10       \$1,800 per year beginning ~~on~~ July 1, 2003, and increases,  
11       beginning January 1, 2012, to \$2,150 per year, except as  
12       provided in subsection (c) of this Section.

13       (3) The fee for a site permitted to emit at least 100  
14       tons per year of any combination of regulated air  
15       pollutants, as defined in Section 39.5 of this Act, except  
16       greenhouse gases, is \$18 per ton, ~~\$2,500~~ per year,  
17       beginning July 1, 2003 ~~1993~~, and increases, beginning  
18       January 1, 2012 to \$21.50 per ton, ~~\$3,500~~ per year  
19       ~~beginning on July 1, 2003,~~ except as provided in subsection  
20       (c) of this Section. However, the maximum fee under this  
21       paragraph (3) is \$3,500 before January 1, 2012, and is  
22       \$4,112 beginning January 1, 2012; ~~provided, however, that~~  
23       ~~the fee shall not exceed the amount that would be required~~  
24       ~~for the site if it were subject to the fee requirements of~~  
25       ~~Section 39.5 of this Act.~~

26       (c) The owner or operator of any site ~~source~~ subject to

1 ~~subsection paragraphs (b) (1), (b) (2), or (b) (3)~~ of this Section  
2 that becomes subject to Section 39.5 of this Act shall continue  
3 to pay the fee set forth in this Section until the site source  
4 becomes subject to the CAAPP fee set forth within subsection 18  
5 of Section 39.5 of this Act. If an owner or operator ~~In the~~  
6 ~~event a site~~ has paid a fee under this Section during the  
7 12-month ~~12-month~~ period following the effective date of the  
8 CAAPP for that site, the ~~fee~~ amount of that fee shall be  
9 deducted from the any amount due under subsection 18 of Section  
10 39.5 of this Act. ~~Owners or operators that are subject to~~  
11 ~~paragraph (b) (1), (b) (2), or (b) (3) of this Section, but that~~  
12 ~~are not also subject to Section 39.5, or excluded pursuant to~~  
13 ~~subsection 1.1 or subsection 3(c) of Section 39.5 shall~~  
14 ~~continue to pay the fee amounts set forth within paragraphs~~  
15 ~~(b) (1), (b) (2), or (b) (3), whichever is applicable.~~

16 (d) Only one air pollution site fee may be collected from  
17 any site, even if such site receives more than one air  
18 pollution control permit.

19 (e) The Agency shall establish procedures for the  
20 collection of air pollution site fees. Air pollution site fees  
21 may be paid annually, or in advance for the number of years for  
22 which the permit is issued, at the option of the owner or  
23 operator. Payment in advance does not exempt the owner or  
24 operator from paying any increase in the fee that may occur  
25 during the term of the permit; the owner or operator must pay  
26 the amount of the increase upon and from the effective date of

1 the increase.

2 (f) The Agency may deny an application for the issuance,  
3 transfer, or renewal of an air pollution operating permit if  
4 any air pollution site fee owed by the applicant has not been  
5 paid within 60 days of the due date, unless the applicant, at  
6 the time of application, pays to the Agency in advance the air  
7 pollution site fee for the site that is the subject of the  
8 operating permit, plus any other air pollution site fees then  
9 owed by the applicant. The denial of an air pollution operating  
10 permit for failure to pay an air pollution site fee shall be  
11 subject to review by the Board pursuant to the provisions of  
12 subsection (a) of Section 40 of this Act.

13 (g) If the Agency determines that an owner or operator of a  
14 site was required, but failed, to timely obtain an air  
15 pollution operating permit, and as a result avoided the payment  
16 of permit fees, the Agency may collect the avoided permit fees  
17 with or without pursuing enforcement under Section 31 of this  
18 Act. The avoided permit fees shall be calculated as double the  
19 amount that would have been owed had a permit been timely  
20 obtained. Fees collected pursuant to this subsection (g) shall  
21 be deposited into the Environmental Protection Permit and  
22 Inspection Fund.

23 (h) If the Agency determines that an owner or operator of a  
24 site was required, but failed, to timely obtain an air  
25 pollution operating permit and as a result avoided the payment  
26 of permit fees, an enforcement action may be brought under

1 Section 31 of this Act. In addition to any other relief that  
2 may be obtained as part of this action, the Agency may seek to  
3 recover the avoided permit fees. The avoided permit fees shall  
4 be calculated as double the amount that would have been owed  
5 had a permit been timely obtained. Fees collected pursuant to  
6 this subsection (h) shall be deposited into the Environmental  
7 Protection Permit and Inspection Fund.

8 (i) If a permittee subject to a fee under this Section  
9 fails to pay the fee within 90 days of its due date, or makes  
10 the fee payment from an account with insufficient funds to  
11 cover the amount of the fee payment, the Agency shall notify  
12 the permittee of the failure to pay the fee. If the permittee  
13 fails to pay the fee within 60 days after such notification,  
14 the Agency may, by written notice, immediately revoke the air  
15 pollution operating permit. Failure of the Agency to notify the  
16 permittee of failure to pay a fee due under this Section, or  
17 the payment of the fee from an account with insufficient funds  
18 to cover the amount of the fee payment, does not excuse or  
19 alter the duty of the permittee to comply with the provisions  
20 of this Section.

21 (Source: P.A. 93-32, eff. 7-1-03.)

22 (415 ILCS 5/9.12)

23 Sec. 9.12. Construction permit fees for air pollution  
24 sources.

25 (a) An applicant for a new or revised air pollution

1 construction permit shall pay a fee, as established in this  
2 Section, to the Agency at the time that he or she submits the  
3 application for a construction permit. Except as set forth  
4 below, the fee for each activity or category listed in this  
5 Section is separate and is cumulative with any other applicable  
6 fee listed in this Section.

7 (b) The fee amounts in this subsection (b) apply to  
8 construction permit applications relating to (i) a source  
9 subject to Section 39.5 of this Act (the Clean Air Act Permit  
10 Program); (ii) a source that, upon issuance of the requested  
11 construction permit, will become a major source subject to  
12 Section 39.5; or (iii) a source that has or will require a  
13 federally enforceable State operating permit limiting its  
14 potential to emit.

15 (1) Base fees for each construction permit application  
16 shall be assessed as follows:

17 (A) If the construction permit application relates  
18 to one or more new emission units or to a combination  
19 of new and modified emission units, a fee of \$4,000 for  
20 the first new emission unit and a fee of \$1,000 for  
21 each additional new or modified emission unit;  
22 provided that the total base fee under this subdivision  
23 (A) shall not exceed \$10,000.

24 (B) If the construction permit application relates  
25 to one or more modified emission units but not to any  
26 new emission unit, a fee of \$2,000 for the first

1 modified emission unit and a fee of \$1,000 for each  
2 additional modified emission unit; provided that the  
3 total base fee under this subdivision (B) shall not  
4 exceed \$5,000.

5 (2) Supplemental fees for each construction permit  
6 application shall be assessed as follows:

7 (A) If, based on the construction permit  
8 application, the source will be, but is not currently,  
9 subject to Section 39.5 of this Act, a CAAPP entry fee  
10 of \$5,000.

11 (B) If the construction permit application  
12 involves (i) a new source or emission unit subject to  
13 Section 39.2 of this Act, (ii) a commercial incinerator  
14 or other municipal waste, hazardous waste, or waste  
15 tire incinerator, (iii) a commercial power generator,  
16 or (iv) one or more other emission units designated as  
17 a complex source by Agency rulemaking, a fee of  
18 \$25,000.

19 (C) If the construction permit application  
20 involves an emissions netting exercise or reliance on a  
21 contemporaneous emissions decrease for a pollutant to  
22 avoid application of the federal PSD program (40 CFR  
23 52.21) or nonattainment new source review (35 Ill. Adm.  
24 Code 203), a fee of \$3,000 for each such pollutant.

25 (D) If the construction permit application is for a  
26 new major source subject to the federal PSD program, a

1 fee of \$12,000.

2 (E) If the construction permit application is for a  
3 new major source subject to nonattainment new source  
4 review, a fee of \$20,000.

5 (F) If the construction permit application is for a  
6 major modification subject to the federal PSD program,  
7 a fee of \$6,000.

8 (G) If the construction permit application is for a  
9 major modification subject to nonattainment new source  
10 review, a fee of \$12,000.

11 (H) (Blank). ~~If the construction permit~~  
12 ~~application review involves a determination of whether~~  
13 ~~an emission unit has Clean Unit Status and is therefore~~  
14 ~~not subject to the Best Available Control Technology~~  
15 ~~(BACT) or Lowest Achievable Emission Rate (LAER) under~~  
16 ~~the federal PSD program or nonattainment new source~~  
17 ~~review, a fee of \$5,000 per unit for which a~~  
18 ~~determination is requested or otherwise required.~~

19 (I) If the construction permit application review  
20 involves a determination of the Maximum Achievable  
21 Control Technology standard for a pollutant and the  
22 project is not otherwise subject to BACT or LAER for a  
23 related pollutant under the federal PSD program or  
24 nonattainment new source review, a fee of \$5,000 per  
25 unit for which a determination is requested or  
26 otherwise required.

1           (J) (Blank). ~~If the applicant is requesting a~~  
2 ~~construction permit that will alter the source's~~  
3 ~~status so that it is no longer a major source subject~~  
4 ~~to Section 39.5 of this Act, a fee of \$4,000.~~

5           (3) If a public hearing is held regarding the  
6 construction permit application, an administrative fee of  
7 \$10,000. This fee shall be submitted at the time the  
8 applicant requests a public hearing or, if a public hearing  
9 is not requested by the applicant, then within 30 days  
10 after the applicant is informed by the Agency that a public  
11 hearing will be held , ~~subject to adjustment under~~  
12 ~~subsection (f) of this Section.~~

13           (c) The fee amounts in this subsection (c) apply to  
14 construction permit applications relating to a source that,  
15 upon issuance of the construction permit, will not (i) be or  
16 become subject to Section 39.5 of this Act (the Clean Air Act  
17 Permit Program) or (ii) have or require a federally enforceable  
18 state operating permit limiting its potential to emit.

19           (1) Base fees for each construction permit application  
20 shall be assessed as follows:

21           (A) For a construction permit application  
22 involving a single new emission unit, a fee of \$500.

23           (B) For a construction permit application  
24 involving more than one new emission unit, a fee of  
25 \$1,000.

26           (C) For a construction permit application



1 involving no more than 2 modified emission units, a fee  
2 of \$500.

3 (D) For a construction permit application  
4 involving more than 2 modified emission units, a fee of  
5 \$1,000.

6 (2) Supplemental fees for each construction permit  
7 application shall be assessed as follows:

8 (A) If the source is a new source, i.e., does not  
9 currently have an operating permit, an entry fee of  
10 \$500;

11 (B) If the construction permit application  
12 involves (i) a new source or emission unit subject to  
13 Section 39.2 of this Act, (ii) a commercial incinerator  
14 or a municipal waste, hazardous waste, or waste tire  
15 incinerator, (iii) a commercial power generator, or  
16 (iv) an emission unit designated as a complex source by  
17 Agency rulemaking, a fee of \$15,000.

18 (3) If a public hearing is held regarding the  
19 construction permit application, an administrative fee of  
20 \$10,000. This fee shall be submitted at the time the  
21 applicant requests a public hearing or, if a public hearing  
22 is not requested by the applicant, then within 30 days  
23 after the applicant is informed by the Agency that a public  
24 hearing will be held.

25 (d) If no other fee is applicable under this Section, a  
26 construction permit application addressing one or more of the

1 following shall be subject to a filing fee of \$500:

2 (1) A construction permit application to add or replace  
3 a control device on a permitted emission unit.

4 (2) A construction permit application to conduct a  
5 pilot project or trial burn for a permitted emission unit.

6 (3) A construction permit application for a land  
7 remediation project.

8 (4) (Blank). ~~A construction permit application for an~~  
9 ~~insignificant activity as described in 35 Ill. Adm. Code~~  
10 ~~201.210.~~

11 (5) A construction permit application to revise an  
12 emissions testing methodology or the timing of required  
13 emissions testing.

14 (6) A construction permit application that provides  
15 for a change in the name, address, or phone number of any  
16 person identified in the permit, or for a change in the  
17 stated ownership or control, or for a similar minor  
18 administrative permit change at the source.

19 (e) No fee shall be assessed for a request to correct an  
20 issued permit that involves only an Agency error, if the  
21 request is received within the deadline for a permit appeal to  
22 the Pollution Control Board.

23 (f) The applicant for a new or revised air pollution  
24 construction permit shall submit to the Agency, with the  
25 construction permit application, both a certification of the  
26 fee that he or she estimates to be due under this Section and

1 the fee itself.

2 (g) Notwithstanding the requirements of subsection (a) of  
3 Section 39~~(a)~~ of this Act, the application for an air pollution  
4 construction permit shall not be deemed to be filed with the  
5 Agency until the Agency receives the initial air pollution  
6 construction permit application fee and the certified estimate  
7 of the fee required by this Section. Unless the Agency has  
8 received the initial air pollution construction permit  
9 application fee and the certified estimate of the fee required  
10 by this Section, the Agency is not required to review or  
11 process the application.

12 (h) If the Agency determines at any time that a  
13 construction permit application is subject to an additional fee  
14 under this Section that the applicant has not submitted, the  
15 Agency shall notify the applicant in writing of the amount due  
16 under this Section. The applicant shall have 60 days to remit  
17 the assessed fee to the Agency.

18 If the proper fee established under this Section is not  
19 submitted within 60 days after the request for further  
20 remittance:

21 (1) If the construction permit has not yet been issued,  
22 the Agency is not required to further review or process,  
23 and the provisions of subsection (a) of Section 39~~(a)~~ of  
24 this Act do not apply to, the application for a  
25 construction permit until such time as the proper fee is  
26 remitted.

1           (2) If the construction permit has been issued, the  
2           Agency may, upon written notice, immediately revoke the  
3           construction permit.

4           The denial or revocation of a construction permit does not  
5           excuse the applicant from the duty of paying the fees required  
6           under this Section.

7           (i) The Agency may deny the issuance of a pending air  
8           pollution construction permit or the subsequent operating  
9           permit if the applicant has not paid the required fees by the  
10          date required for issuance of the permit. The denial or  
11          revocation of a permit for failure to pay a construction permit  
12          fee is subject to review by the Board pursuant to the  
13          provisions of subsection (a) of Section 40 of this Act.

14          (j) If the owner or operator undertakes construction  
15          without obtaining an air pollution construction permit, the fee  
16          under this Section is still required. Payment of the required  
17          fee does not preclude the Agency or the Attorney General or  
18          other authorized persons from pursuing enforcement against the  
19          applicant for failure to have an air pollution construction  
20          permit prior to commencing construction.

21          (k) If an air pollution construction permittee makes a fee  
22          payment under this Section from an account with insufficient  
23          funds to cover the amount of the fee payment, the Agency shall  
24          notify the permittee of the failure to pay the fee. If the  
25          permittee fails to pay the fee within 60 days after such  
26          notification, the Agency may, by written notice, immediately

1 revoke the air pollution construction permit. Failure of the  
2 Agency to notify the permittee of the permittee's failure to  
3 make payment does not excuse or alter the duty of the permittee  
4 to comply with the provisions of this Section.

5 (l) The Agency may establish procedures for the collection  
6 of air pollution construction permit fees.

7 (m) Fees collected pursuant to this Section shall be  
8 deposited into the Environmental Protection Permit and  
9 Inspection Fund.

10 (Source: P.A. 93-32, eff. 7-1-03.)

11 (415 ILCS 5/9.14 new)

12 Sec. 9.14. Registration of smaller sources.

13 (a) After the effective date of rules implementing this  
14 Section, the owner or operator of an eligible source shall  
15 annually register with the Agency instead of complying with the  
16 requirement to obtain an air pollution construction or  
17 operating permit under this Act. The criteria for determining  
18 an eligible source shall include the following:

19 (1) the source must not be required to obtain a permit  
20 pursuant to the Illinois Clean Air Act Permit Program or  
21 Federally Enforceable State Operating Permit program, or  
22 under regulations promulgated pursuant to Section 111 or  
23 112 of the Clean Air Act;

24 (2) the USEPA has not otherwise determined that a  
25 permit is required;

1           (3) the source emits less than an actual 5 tons per  
2           year of combined particulate matter, carbon monoxide,  
3           nitrogen oxides, sulfur dioxide, and volatile organic  
4           material air pollutant emissions;

5           (4) the source emits less than an actual 0.5 tons per  
6           year of combined hazardous air pollutant emissions;

7           (5) the source emits less than an actual 0.05 tons per  
8           year of lead air emissions;

9           (6) the source emits less than an actual 0.05 tons per  
10           year of mercury air emissions; and

11           (7) the source does not have an emission unit subject  
12           to a standard pursuant to 40 CFR Part 61 Maximum Achievable  
13           Control Technology, or 40 CFR Part 63 National Emissions  
14           Standards for Hazardous Air Pollutants other than those  
15           regulations that the USEPA has categorized as "area  
16           source".

17           (b) Complete registration of an eligible source, including  
18           payment of the required fee as specified in subsection (c) of  
19           this Section, shall provide the owner or operator of the  
20           eligible source with an exemption from the requirement to  
21           obtain an air pollution construction or operating permit under  
22           this Act. The registration of smaller sources program does not  
23           relieve an owner or operator from the obligation to comply with  
24           any other applicable rules or regulations.

25           (c) The owner or operator of an eligible source shall pay  
26           an annual registration fee of \$200 to the Agency at the time of

1 registration submittal and each year thereafter. Fees  
2 collected under this Section shall be deposited into the  
3 Environmental Protection Permit and Inspection Fund.

4 (d) The Agency shall propose rules to implement the  
5 registration of smaller sources program. Within 120 days after  
6 the Agency proposes those rules, the Board shall adopt rules to  
7 implement the registration of smaller sources program. These  
8 rules may be subsequently amended from time to time pursuant to  
9 a proposal filed with the Board by any person, and any  
10 necessary amendments shall be adopted by the Board within 120  
11 days after proposal. Such amendments may provide for the  
12 alteration or revision of the initial criteria included in  
13 subsection (a) of this Section. Subsection (b) of Section 27 of  
14 this Act and the rulemaking provisions of the Illinois  
15 Administrative Procedure Act do not apply to rules adopted by  
16 the Board under this Section.

17 (415 ILCS 5/9.15 new)

18 Sec. 9.15. Greenhouse gases.

19 (a) An air pollution construction permit shall not be  
20 required due to emissions of greenhouse gases if the equipment,  
21 site, or source is not subject to regulation, as defined by 40  
22 CFR 52.21, as now or hereafter amended, for greenhouse gases.  
23 This exemption does not relieve an owner or operator from the  
24 obligation to comply with other applicable rules or  
25 regulations.

1       (b) An air pollution operating permit shall not be required  
2 due to emissions of greenhouse gases if the equipment, site, or  
3 source is not subject to regulation, as defined by Section 39.5  
4 of this Act, for greenhouse gases. This exemption does not  
5 relieve an owner or operator from the obligation to comply with  
6 other applicable rules or regulations.

7       (c) Notwithstanding any provision to the contrary in this  
8 Section, an air pollution construction or operating permit  
9 shall not be required due to emissions of greenhouse gases if  
10 any of the following events occur:

11           (1) enactment of federal legislation depriving the  
12 Administrator of the USEPA of authority to regulate  
13 greenhouse gases under the Clean Air Act;

14           (2) the issuance of any opinion, ruling, judgment,  
15 order, or decree by a federal court depriving the  
16 Administrator of the USEPA of authority to regulate  
17 greenhouse gases under the Clean Air Act; or

18           (3) action by the President of the United States or the  
19 President's authorized agent, including the Administrator  
20 of the USEPA, to repeal or withdraw the Greenhouse Gas  
21 Tailoring Rule (75 Fed. Reg. 31514, June 3, 2010).

22       This subsection (c) does not relieve an owner or operator  
23 from the obligation to comply with applicable rules or  
24 regulations other than those relating to greenhouse gases.

25       (d) If any event listed in subsection (c) of this Section  
26 occurs, permits issued after such event shall not impose permit



1 terms or conditions addressing greenhouse gases during the  
2 effectiveness of any event listed in subsection (c).

3 (e) If an event listed in subsection (c) of this Section  
4 occurs, any owner or operator with a permit that includes terms  
5 or conditions addressing greenhouse gases may elect to submit  
6 an application to the Agency to address a revision or repeal of  
7 such terms or conditions. The Agency shall expeditiously  
8 process such permit application in accordance with applicable  
9 laws and regulations.

10 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

11 Sec. 39. Issuance of permits; procedures.

12 (a) When the Board has by regulation required a permit for  
13 the construction, installation, or operation of any type of  
14 facility, equipment, vehicle, vessel, or aircraft, the  
15 applicant shall apply to the Agency for such permit and it  
16 shall be the duty of the Agency to issue such a permit upon  
17 proof by the applicant that the facility, equipment, vehicle,  
18 vessel, or aircraft will not cause a violation of this Act or  
19 of regulations hereunder. The Agency shall adopt such  
20 procedures as are necessary to carry out its duties under this  
21 Section. In making its determinations on permit applications  
22 under this Section the Agency may consider prior adjudications  
23 of noncompliance with this Act by the applicant that involved a  
24 release of a contaminant into the environment. In granting  
25 permits, the Agency may impose reasonable conditions

1 specifically related to the applicant's past compliance  
2 history with this Act as necessary to correct, detect, or  
3 prevent noncompliance. The Agency may impose such other  
4 conditions as may be necessary to accomplish the purposes of  
5 this Act, and as are not inconsistent with the regulations  
6 promulgated by the Board hereunder. Except as otherwise  
7 provided in this Act, a bond or other security shall not be  
8 required as a condition for the issuance of a permit. If the  
9 Agency denies any permit under this Section, the Agency shall  
10 transmit to the applicant within the time limitations of this  
11 Section specific, detailed statements as to the reasons the  
12 permit application was denied. Such statements shall include,  
13 but not be limited to the following:

14 (i) the Sections of this Act which may be violated if  
15 the permit were granted;

16 (ii) the provision of the regulations, promulgated  
17 under this Act, which may be violated if the permit were  
18 granted;

19 (iii) the specific type of information, if any, which  
20 the Agency deems the applicant did not provide the Agency;  
21 and

22 (iv) a statement of specific reasons why the Act and  
23 the regulations might not be met if the permit were  
24 granted.

25 If there is no final action by the Agency within 90 days  
26 after the filing of the application for permit, the applicant

1 may deem the permit issued; except that this time period shall  
2 be extended to 180 days when (1) notice and opportunity for  
3 public hearing are required by State or federal law or  
4 regulation, (2) the application which was filed is for any  
5 permit to develop a landfill subject to issuance pursuant to  
6 this subsection, or (3) the application that was filed is for a  
7 MSWLF unit required to issue public notice under subsection (p)  
8 of Section 39. The 90-day and 180-day time periods for the  
9 Agency to take final action do not apply to NPDES permit  
10 applications under subsection (b) of this Section, to RCRA  
11 permit applications under subsection (d) of this Section, or to  
12 UIC permit applications under subsection (e) of this Section.

13 The Agency shall publish notice of all final permit  
14 determinations for development permits for MSWLF units and for  
15 significant permit modifications for lateral expansions for  
16 existing MSWLF units one time in a newspaper of general  
17 circulation in the county in which the unit is or is proposed  
18 to be located.

19 After January 1, 1994 and until July 1, 1998, operating  
20 permits issued under this Section by the Agency for sources of  
21 air pollution permitted to emit less than 25 tons per year of  
22 any combination of regulated air pollutants, as defined in  
23 Section 39.5 of this Act, shall be required to be renewed only  
24 upon written request by the Agency consistent with applicable  
25 provisions of this Act and regulations promulgated hereunder.  
26 Such operating permits shall expire 180 days after the date of

1 such a request. The Board shall revise its regulations for the  
2 existing State air pollution operating permit program  
3 consistent with this provision by January 1, 1994.

4 After June 30, 1998, operating permits issued under this  
5 Section by the Agency for sources of air pollution that are not  
6 subject to Section 39.5 of this Act and are not required to  
7 have a federally enforceable State operating permit shall be  
8 required to be renewed only upon written request by the Agency  
9 consistent with applicable provisions of this Act and its  
10 rules. Such operating permits shall expire 180 days after the  
11 date of such a request. Before July 1, 1998, the Board shall  
12 revise its rules for the existing State air pollution operating  
13 permit program consistent with this paragraph and shall adopt  
14 rules that require a source to demonstrate that it qualifies  
15 for a permit under this paragraph.

16 (b) The Agency may issue NPDES permits exclusively under  
17 this subsection for the discharge of contaminants from point  
18 sources into navigable waters, all as defined in the Federal  
19 Water Pollution Control Act, as now or hereafter amended,  
20 within the jurisdiction of the State, or into any well.

21 All NPDES permits shall contain those terms and conditions,  
22 including but not limited to schedules of compliance, which may  
23 be required to accomplish the purposes and provisions of this  
24 Act.

25 The Agency may issue general NPDES permits for discharges  
26 from categories of point sources which are subject to the same

1 permit limitations and conditions. Such general permits may be  
2 issued without individual applications and shall conform to  
3 regulations promulgated under Section 402 of the Federal Water  
4 Pollution Control Act, as now or hereafter amended.

5 The Agency may include, among such conditions, effluent  
6 limitations and other requirements established under this Act,  
7 Board regulations, the Federal Water Pollution Control Act, as  
8 now or hereafter amended, and regulations pursuant thereto, and  
9 schedules for achieving compliance therewith at the earliest  
10 reasonable date.

11 The Agency shall adopt filing requirements and procedures  
12 which are necessary and appropriate for the issuance of NPDES  
13 permits, and which are consistent with the Act or regulations  
14 adopted by the Board, and with the Federal Water Pollution  
15 Control Act, as now or hereafter amended, and regulations  
16 pursuant thereto.

17 The Agency, subject to any conditions which may be  
18 prescribed by Board regulations, may issue NPDES permits to  
19 allow discharges beyond deadlines established by this Act or by  
20 regulations of the Board without the requirement of a variance,  
21 subject to the Federal Water Pollution Control Act, as now or  
22 hereafter amended, and regulations pursuant thereto.

23 (c) Except for those facilities owned or operated by  
24 sanitary districts organized under the Metropolitan Water  
25 Reclamation District Act, no permit for the development or  
26 construction of a new pollution control facility may be granted

1 by the Agency unless the applicant submits proof to the Agency  
2 that the location of the facility has been approved by the  
3 County Board of the county if in an unincorporated area, or the  
4 governing body of the municipality when in an incorporated  
5 area, in which the facility is to be located in accordance with  
6 Section 39.2 of this Act. For purposes of this subsection (c),  
7 and for purposes of Section 39.2 of this Act, the appropriate  
8 county board or governing body of the municipality shall be the  
9 county board of the county or the governing body of the  
10 municipality in which the facility is to be located as of the  
11 date when the application for siting approval is filed.

12 In the event that siting approval granted pursuant to  
13 Section 39.2 has been transferred to a subsequent owner or  
14 operator, that subsequent owner or operator may apply to the  
15 Agency for, and the Agency may grant, a development or  
16 construction permit for the facility for which local siting  
17 approval was granted. Upon application to the Agency for a  
18 development or construction permit by that subsequent owner or  
19 operator, the permit applicant shall cause written notice of  
20 the permit application to be served upon the appropriate county  
21 board or governing body of the municipality that granted siting  
22 approval for that facility and upon any party to the siting  
23 proceeding pursuant to which siting approval was granted. In  
24 that event, the Agency shall conduct an evaluation of the  
25 subsequent owner or operator's prior experience in waste  
26 management operations in the manner conducted under subsection

1 (i) of Section 39 of this Act.

2 Beginning August 20, 1993, if the pollution control  
3 facility consists of a hazardous or solid waste disposal  
4 facility for which the proposed site is located in an  
5 unincorporated area of a county with a population of less than  
6 100,000 and includes all or a portion of a parcel of land that  
7 was, on April 1, 1993, adjacent to a municipality having a  
8 population of less than 5,000, then the local siting review  
9 required under this subsection (c) in conjunction with any  
10 permit applied for after that date shall be performed by the  
11 governing body of that adjacent municipality rather than the  
12 county board of the county in which the proposed site is  
13 located; and for the purposes of that local siting review, any  
14 references in this Act to the county board shall be deemed to  
15 mean the governing body of that adjacent municipality;  
16 provided, however, that the provisions of this paragraph shall  
17 not apply to any proposed site which was, on April 1, 1993,  
18 owned in whole or in part by another municipality.

19 In the case of a pollution control facility for which a  
20 development permit was issued before November 12, 1981, if an  
21 operating permit has not been issued by the Agency prior to  
22 August 31, 1989 for any portion of the facility, then the  
23 Agency may not issue or renew any development permit nor issue  
24 an original operating permit for any portion of such facility  
25 unless the applicant has submitted proof to the Agency that the  
26 location of the facility has been approved by the appropriate

1 county board or municipal governing body pursuant to Section  
2 39.2 of this Act.

3 After January 1, 1994, if a solid waste disposal facility,  
4 any portion for which an operating permit has been issued by  
5 the Agency, has not accepted waste disposal for 5 or more  
6 consecutive calendar years, before that facility may accept  
7 any new or additional waste for disposal, the owner and  
8 operator must obtain a new operating permit under this Act for  
9 that facility unless the owner and operator have applied to the  
10 Agency for a permit authorizing the temporary suspension of  
11 waste acceptance. The Agency may not issue a new operation  
12 permit under this Act for the facility unless the applicant has  
13 submitted proof to the Agency that the location of the facility  
14 has been approved or re-approved by the appropriate county  
15 board or municipal governing body under Section 39.2 of this  
16 Act after the facility ceased accepting waste.

17 Except for those facilities owned or operated by sanitary  
18 districts organized under the Metropolitan Water Reclamation  
19 District Act, and except for new pollution control facilities  
20 governed by Section 39.2, and except for fossil fuel mining  
21 facilities, the granting of a permit under this Act shall not  
22 relieve the applicant from meeting and securing all necessary  
23 zoning approvals from the unit of government having zoning  
24 jurisdiction over the proposed facility.

25 Before beginning construction on any new sewage treatment  
26 plant or sludge drying site to be owned or operated by a



1 sanitary district organized under the Metropolitan Water  
2 Reclamation District Act for which a new permit (rather than  
3 the renewal or amendment of an existing permit) is required,  
4 such sanitary district shall hold a public hearing within the  
5 municipality within which the proposed facility is to be  
6 located, or within the nearest community if the proposed  
7 facility is to be located within an unincorporated area, at  
8 which information concerning the proposed facility shall be  
9 made available to the public, and members of the public shall  
10 be given the opportunity to express their views concerning the  
11 proposed facility.

12 The Agency may issue a permit for a municipal waste  
13 transfer station without requiring approval pursuant to  
14 Section 39.2 provided that the following demonstration is made:

15 (1) the municipal waste transfer station was in  
16 existence on or before January 1, 1979 and was in  
17 continuous operation from January 1, 1979 to January 1,  
18 1993;

19 (2) the operator submitted a permit application to the  
20 Agency to develop and operate the municipal waste transfer  
21 station during April of 1994;

22 (3) the operator can demonstrate that the county board  
23 of the county, if the municipal waste transfer station is  
24 in an unincorporated area, or the governing body of the  
25 municipality, if the station is in an incorporated area,  
26 does not object to resumption of the operation of the

1 station; and

2 (4) the site has local zoning approval.

3 (d) The Agency may issue RCRA permits exclusively under  
4 this subsection to persons owning or operating a facility for  
5 the treatment, storage, or disposal of hazardous waste as  
6 defined under this Act.

7 All RCRA permits shall contain those terms and conditions,  
8 including but not limited to schedules of compliance, which may  
9 be required to accomplish the purposes and provisions of this  
10 Act. The Agency may include among such conditions standards and  
11 other requirements established under this Act, Board  
12 regulations, the Resource Conservation and Recovery Act of 1976  
13 (P.L. 94-580), as amended, and regulations pursuant thereto,  
14 and may include schedules for achieving compliance therewith as  
15 soon as possible. The Agency shall require that a performance  
16 bond or other security be provided as a condition for the  
17 issuance of a RCRA permit.

18 In the case of a permit to operate a hazardous waste or PCB  
19 incinerator as defined in subsection (k) of Section 44, the  
20 Agency shall require, as a condition of the permit, that the  
21 operator of the facility perform such analyses of the waste to  
22 be incinerated as may be necessary and appropriate to ensure  
23 the safe operation of the incinerator.

24 The Agency shall adopt filing requirements and procedures  
25 which are necessary and appropriate for the issuance of RCRA  
26 permits, and which are consistent with the Act or regulations

1 adopted by the Board, and with the Resource Conservation and  
2 Recovery Act of 1976 (P.L. 94-580), as amended, and regulations  
3 pursuant thereto.

4 The applicant shall make available to the public for  
5 inspection all documents submitted by the applicant to the  
6 Agency in furtherance of an application, with the exception of  
7 trade secrets, at the office of the county board or governing  
8 body of the municipality. Such documents may be copied upon  
9 payment of the actual cost of reproduction during regular  
10 business hours of the local office. The Agency shall issue a  
11 written statement concurrent with its grant or denial of the  
12 permit explaining the basis for its decision.

13 (e) The Agency may issue UIC permits exclusively under this  
14 subsection to persons owning or operating a facility for the  
15 underground injection of contaminants as defined under this  
16 Act.

17 All UIC permits shall contain those terms and conditions,  
18 including but not limited to schedules of compliance, which may  
19 be required to accomplish the purposes and provisions of this  
20 Act. The Agency may include among such conditions standards and  
21 other requirements established under this Act, Board  
22 regulations, the Safe Drinking Water Act (P.L. 93-523), as  
23 amended, and regulations pursuant thereto, and may include  
24 schedules for achieving compliance therewith. The Agency shall  
25 require that a performance bond or other security be provided  
26 as a condition for the issuance of a UIC permit.

1           The Agency shall adopt filing requirements and procedures  
2 which are necessary and appropriate for the issuance of UIC  
3 permits, and which are consistent with the Act or regulations  
4 adopted by the Board, and with the Safe Drinking Water Act  
5 (P.L. 93-523), as amended, and regulations pursuant thereto.

6           The applicant shall make available to the public for  
7 inspection, all documents submitted by the applicant to the  
8 Agency in furtherance of an application, with the exception of  
9 trade secrets, at the office of the county board or governing  
10 body of the municipality. Such documents may be copied upon  
11 payment of the actual cost of reproduction during regular  
12 business hours of the local office. The Agency shall issue a  
13 written statement concurrent with its grant or denial of the  
14 permit explaining the basis for its decision.

15           (f) In making any determination pursuant to Section 9.1 of  
16 this Act:

17           (1) The Agency shall have authority to make the  
18 determination of any question required to be determined by  
19 the Clean Air Act, as now or hereafter amended, this Act,  
20 or the regulations of the Board, including the  
21 determination of the Lowest Achievable Emission Rate,  
22 Maximum Achievable Control Technology, or Best Available  
23 Control Technology, consistent with the Board's  
24 regulations, if any.

25           (2) The Agency shall, after conferring with the  
26 applicant, give written notice to the applicant of its

1 proposed decision on the application including the terms  
2 and conditions of the permit to be issued and the facts,  
3 conduct or other basis upon which the Agency will rely to  
4 support its proposed action.

5 (3) Following such notice, the Agency shall give the  
6 applicant an opportunity for a hearing in accordance with  
7 the provisions of Sections 10-25 through 10-60 of the  
8 Illinois Administrative Procedure Act.

9 (g) The Agency shall include as conditions upon all permits  
10 issued for hazardous waste disposal sites such restrictions  
11 upon the future use of such sites as are reasonably necessary  
12 to protect public health and the environment, including  
13 permanent prohibition of the use of such sites for purposes  
14 which may create an unreasonable risk of injury to human health  
15 or to the environment. After administrative and judicial  
16 challenges to such restrictions have been exhausted, the Agency  
17 shall file such restrictions of record in the Office of the  
18 Recorder of the county in which the hazardous waste disposal  
19 site is located.

20 (h) A hazardous waste stream may not be deposited in a  
21 permitted hazardous waste site unless specific authorization  
22 is obtained from the Agency by the generator and disposal site  
23 owner and operator for the deposit of that specific hazardous  
24 waste stream. The Agency may grant specific authorization for  
25 disposal of hazardous waste streams only after the generator  
26 has reasonably demonstrated that, considering technological

1 feasibility and economic reasonableness, the hazardous waste  
2 cannot be reasonably recycled for reuse, nor incinerated or  
3 chemically, physically or biologically treated so as to  
4 neutralize the hazardous waste and render it nonhazardous. In  
5 granting authorization under this Section, the Agency may  
6 impose such conditions as may be necessary to accomplish the  
7 purposes of the Act and are consistent with this Act and  
8 regulations promulgated by the Board hereunder. If the Agency  
9 refuses to grant authorization under this Section, the  
10 applicant may appeal as if the Agency refused to grant a  
11 permit, pursuant to the provisions of subsection (a) of Section  
12 40 of this Act. For purposes of this subsection (h), the term  
13 "generator" has the meaning given in Section 3.205 of this Act,  
14 unless: (1) the hazardous waste is treated, incinerated, or  
15 partially recycled for reuse prior to disposal, in which case  
16 the last person who treats, incinerates, or partially recycles  
17 the hazardous waste prior to disposal is the generator; or (2)  
18 the hazardous waste is from a response action, in which case  
19 the person performing the response action is the generator.  
20 This subsection (h) does not apply to any hazardous waste that  
21 is restricted from land disposal under 35 Ill. Adm. Code 728.

22 (i) Before issuing any RCRA permit, any permit for a waste  
23 storage site, sanitary landfill, waste disposal site, waste  
24 transfer station, waste treatment facility, waste incinerator,  
25 or any waste-transportation operation, or any permit or interim  
26 authorization for a clean construction or demolition debris

1 fill operation, the Agency shall conduct an evaluation of the  
2 prospective owner's or operator's prior experience in waste  
3 management operations and clean construction or demolition  
4 debris fill operations. The Agency may deny such a permit, or  
5 deny or revoke interim authorization, if the prospective owner  
6 or operator or any employee or officer of the prospective owner  
7 or operator has a history of:

8 (1) repeated violations of federal, State, or local  
9 laws, regulations, standards, or ordinances in the  
10 operation of waste management facilities or sites or clean  
11 construction or demolition debris fill operation  
12 facilities or sites; or

13 (2) conviction in this or another State of any crime  
14 which is a felony under the laws of this State, or  
15 conviction of a felony in a federal court; or conviction in  
16 this or another state or federal court of any of the  
17 following crimes: forgery, official misconduct, bribery,  
18 perjury, or knowingly submitting false information under  
19 any environmental law, regulation, or permit term or  
20 condition; or

21 (3) proof of gross carelessness or incompetence in  
22 handling, storing, processing, transporting or disposing  
23 of waste or clean construction or demolition debris, or  
24 proof of gross carelessness or incompetence in using clean  
25 construction or demolition debris as fill.

26 (i-5) Before issuing any permit or approving any interim

1 authorization for a clean construction or demolition debris  
2 fill operation in which any ownership interest is transferred  
3 between January 1, 2005, and the effective date of the  
4 prohibition set forth in Section 22.52 of this Act, the Agency  
5 shall conduct an evaluation of the operation if any previous  
6 activities at the site or facility may have caused or allowed  
7 contamination of the site. It shall be the responsibility of  
8 the owner or operator seeking the permit or interim  
9 authorization to provide to the Agency all of the information  
10 necessary for the Agency to conduct its evaluation. The Agency  
11 may deny a permit or interim authorization if previous  
12 activities at the site may have caused or allowed contamination  
13 at the site, unless such contamination is authorized under any  
14 permit issued by the Agency.

15 (j) The issuance under this Act of a permit to engage in  
16 the surface mining of any resources other than fossil fuels  
17 shall not relieve the permittee from its duty to comply with  
18 any applicable local law regulating the commencement, location  
19 or operation of surface mining facilities.

20 (k) A development permit issued under subsection (a) of  
21 Section 39 for any facility or site which is required to have a  
22 permit under subsection (d) of Section 21 shall expire at the  
23 end of 2 calendar years from the date upon which it was issued,  
24 unless within that period the applicant has taken action to  
25 develop the facility or the site. In the event that review of  
26 the conditions of the development permit is sought pursuant to



1 Section 40 or 41, or permittee is prevented from commencing  
2 development of the facility or site by any other litigation  
3 beyond the permittee's control, such two-year period shall be  
4 deemed to begin on the date upon which such review process or  
5 litigation is concluded.

6 (l) No permit shall be issued by the Agency under this Act  
7 for construction or operation of any facility or site located  
8 within the boundaries of any setback zone established pursuant  
9 to this Act, where such construction or operation is  
10 prohibited.

11 (m) The Agency may issue permits to persons owning or  
12 operating a facility for composting landscape waste. In  
13 granting such permits, the Agency may impose such conditions as  
14 may be necessary to accomplish the purposes of this Act, and as  
15 are not inconsistent with applicable regulations promulgated  
16 by the Board. Except as otherwise provided in this Act, a bond  
17 or other security shall not be required as a condition for the  
18 issuance of a permit. If the Agency denies any permit pursuant  
19 to this subsection, the Agency shall transmit to the applicant  
20 within the time limitations of this subsection specific,  
21 detailed statements as to the reasons the permit application  
22 was denied. Such statements shall include but not be limited to  
23 the following:

24 (1) the Sections of this Act that may be violated if  
25 the permit were granted;

26 (2) the specific regulations promulgated pursuant to

1 this Act that may be violated if the permit were granted;

2 (3) the specific information, if any, the Agency deems  
3 the applicant did not provide in its application to the  
4 Agency; and

5 (4) a statement of specific reasons why the Act and the  
6 regulations might be violated if the permit were granted.

7 If no final action is taken by the Agency within 90 days  
8 after the filing of the application for permit, the applicant  
9 may deem the permit issued. Any applicant for a permit may  
10 waive the 90 day limitation by filing a written statement with  
11 the Agency.

12 The Agency shall issue permits for such facilities upon  
13 receipt of an application that includes a legal description of  
14 the site, a topographic map of the site drawn to the scale of  
15 200 feet to the inch or larger, a description of the operation,  
16 including the area served, an estimate of the volume of  
17 materials to be processed, and documentation that:

18 (1) the facility includes a setback of at least 200  
19 feet from the nearest potable water supply well;

20 (2) the facility is located outside the boundary of the  
21 10-year floodplain or the site will be floodproofed;

22 (3) the facility is located so as to minimize  
23 incompatibility with the character of the surrounding  
24 area, including at least a 200 foot setback from any  
25 residence, and in the case of a facility that is developed  
26 or the permitted composting area of which is expanded after

1 November 17, 1991, the composting area is located at least  
2 1/8 mile from the nearest residence (other than a residence  
3 located on the same property as the facility);

4 (4) the design of the facility will prevent any compost  
5 material from being placed within 5 feet of the water  
6 table, will adequately control runoff from the site, and  
7 will collect and manage any leachate that is generated on  
8 the site;

9 (5) the operation of the facility will include  
10 appropriate dust and odor control measures, limitations on  
11 operating hours, appropriate noise control measures for  
12 shredding, chipping and similar equipment, management  
13 procedures for composting, containment and disposal of  
14 non-compostable wastes, procedures to be used for  
15 terminating operations at the site, and recordkeeping  
16 sufficient to document the amount of materials received,  
17 composted and otherwise disposed of; and

18 (6) the operation will be conducted in accordance with  
19 any applicable rules adopted by the Board.

20 The Agency shall issue renewable permits of not longer than  
21 10 years in duration for the composting of landscape wastes, as  
22 defined in Section 3.155 of this Act, based on the above  
23 requirements.

24 The operator of any facility permitted under this  
25 subsection (m) must submit a written annual statement to the  
26 Agency on or before April 1 of each year that includes an

1 estimate of the amount of material, in tons, received for  
2 composting.

3 (n) The Agency shall issue permits jointly with the  
4 Department of Transportation for the dredging or deposit of  
5 material in Lake Michigan in accordance with Section 18 of the  
6 Rivers, Lakes, and Streams Act.

7 (o) (Blank.)

8 (p) (1) Any person submitting an application for a permit  
9 for a new MSWLF unit or for a lateral expansion under  
10 subsection (t) of Section 21 of this Act for an existing MSWLF  
11 unit that has not received and is not subject to local siting  
12 approval under Section 39.2 of this Act shall publish notice of  
13 the application in a newspaper of general circulation in the  
14 county in which the MSWLF unit is or is proposed to be located.  
15 The notice must be published at least 15 days before submission  
16 of the permit application to the Agency. The notice shall state  
17 the name and address of the applicant, the location of the  
18 MSWLF unit or proposed MSWLF unit, the nature and size of the  
19 MSWLF unit or proposed MSWLF unit, the nature of the activity  
20 proposed, the probable life of the proposed activity, the date  
21 the permit application will be submitted, and a statement that  
22 persons may file written comments with the Agency concerning  
23 the permit application within 30 days after the filing of the  
24 permit application unless the time period to submit comments is  
25 extended by the Agency.

26 When a permit applicant submits information to the Agency

1 to supplement a permit application being reviewed by the  
2 Agency, the applicant shall not be required to reissue the  
3 notice under this subsection.

4 (2) The Agency shall accept written comments concerning the  
5 permit application that are postmarked no later than 30 days  
6 after the filing of the permit application, unless the time  
7 period to accept comments is extended by the Agency.

8 (3) Each applicant for a permit described in part (1) of  
9 this subsection shall file a copy of the permit application  
10 with the county board or governing body of the municipality in  
11 which the MSWLF unit is or is proposed to be located at the  
12 same time the application is submitted to the Agency. The  
13 permit application filed with the county board or governing  
14 body of the municipality shall include all documents submitted  
15 to or to be submitted to the Agency, except trade secrets as  
16 determined under Section 7.1 of this Act. The permit  
17 application and other documents on file with the county board  
18 or governing body of the municipality shall be made available  
19 for public inspection during regular business hours at the  
20 office of the county board or the governing body of the  
21 municipality and may be copied upon payment of the actual cost  
22 of reproduction.

23 (g) Within 6 months after the effective date of this  
24 amendatory Act of the 97th General Assembly, the Agency, in  
25 consultation with the regulated community, shall develop a web  
26 portal to be posted on its website for the purpose of enhancing

1 review and promoting timely issuance of permits required by  
2 this Act. At a minimum, the Agency shall make the following  
3 information available on the web portal:

4 (1) Checklists and guidance relating to the completion  
5 of permit applications, developed pursuant to subsection  
6 (s) of this Section, which may include, but are not limited  
7 to, existing instructions for completing the applications  
8 and examples of complete applications. As the Agency  
9 develops new checklists and develops guidance, it shall  
10 supplement the web portal with those materials.

11 (2) Within 2 years after the effective date of this  
12 amendatory Act of the 97th General Assembly, permit  
13 application forms or portions of permit applications that  
14 can be completed and saved electronically, and submitted to  
15 the Agency electronically with digital signatures.

16 (3) Within 2 years after the effective date of this  
17 amendatory Act of the 97th General Assembly, an online  
18 tracking system where an applicant may review the status of  
19 its pending application, including the name and contact  
20 information of the permit analyst assigned to the  
21 application. Until the online tracking system has been  
22 developed, the Agency shall post on its website semi-annual  
23 permitting efficiency tracking reports that include  
24 statistics on the timeframes for Agency action on the  
25 following types of permits received after the effective  
26 date of this amendatory Act of the 97th General Assembly:

1       air construction permits, new NPDES permits and associated  
2       water construction permits, and modifications of major  
3       NPDES permits and associated water construction permits.  
4       The reports must be posted by February 1 and August 1 each  
5       year and shall include:

6               (A) the number of applications received for each  
7               type of permit, the number of applications on which the  
8               Agency has taken action, and the number of applications  
9               still pending; and

10              (B) for those applications where the Agency has not  
11              taken action in accordance with the timeframes set  
12              forth in this Act, the date the application was  
13              received and the reasons for any delays, which may  
14              include, but shall not be limited to, (i) the  
15              application being inadequate or incomplete, (ii)  
16              scientific or technical disagreements with the  
17              applicant, USEPA, or other local, state, or federal  
18              agencies involved in the permitting approval process,  
19              (iii) public opposition to the permit, or (iv) Agency  
20              staffing shortages. To the extent practicable, the  
21              tracking report shall provide approximate dates when  
22              cause for delay was identified by the Agency, when the  
23              Agency informed the applicant of the problem leading to  
24              the delay, and when the applicant remedied the reason  
25              for the delay.

26       (r) Upon the request of the applicant, the Agency shall

1 notify the applicant of the permit analyst assigned to the  
2 application upon its receipt.

3 (s) The Agency is authorized to prepare and distribute  
4 guidance documents relating to its administration of this  
5 Section and procedural rules implementing this Section.  
6 Guidance documents prepared under this subsection shall not be  
7 considered rules and shall not be subject to the Illinois  
8 Administrative Procedure Act. Such guidance shall not be  
9 binding on any party.

10 (t) Except as otherwise prohibited by federal law or  
11 regulation, any person submitting an application for a permit  
12 may include with the application suggested permit language for  
13 Agency consideration. The Agency is not obligated to use the  
14 suggested language or any portion thereof in its permitting  
15 decision. If requested by the permit applicant, the Agency  
16 shall meet with the applicant to discuss the suggested  
17 language.

18 (u) If requested by the permit applicant, the Agency shall  
19 provide the permit applicant with a copy of the draft permit  
20 prior to any public review period.

21 (v) If requested by the permit applicant, the Agency shall  
22 provide the permit applicant with a copy of the final permit  
23 prior to its issuance.

24 (w) An air pollution permit shall not be required due to  
25 emissions of greenhouse gases, as specified by Section 9.15 of  
26 this Act.



1 (Source: P.A. 94-272, eff. 7-19-05; 94-725, eff. 6-1-06;  
2 95-288, eff. 8-20-07.)

3 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

4 Sec. 39.5. Clean Air Act Permit Program.

5 1. Definitions.

6 For purposes of this Section:

7 "Administrative permit amendment" means a permit revision  
8 subject to subsection 13 of this Section.

9 "Affected source for acid deposition" means a source that  
10 includes one or more affected units under Title IV of the Clean  
11 Air Act.

12 "Affected States" for purposes of formal distribution of a  
13 draft CAAPP permit to other States for comments prior to  
14 issuance, means all States:

15 (1) Whose air quality may be affected by the source  
16 covered by the draft permit and that are contiguous to  
17 Illinois; or

18 (2) That are within 50 miles of the source.

19 "Affected unit for acid deposition" shall have the meaning  
20 given to the term "affected unit" in the regulations  
21 promulgated under Title IV of the Clean Air Act.

22 "Applicable Clean Air Act requirement" means all of the  
23 following as they apply to emissions units in a source  
24 (including regulations that have been promulgated or approved  
25 by USEPA pursuant to the Clean Air Act which directly impose

1 requirements upon a source and other such federal requirements  
2 which have been adopted by the Board. These may include  
3 requirements and regulations which have future effective  
4 compliance dates. Requirements and regulations will be exempt  
5 if USEPA determines that such requirements need not be  
6 contained in a Title V permit):

7 (1) Any standard or other requirement provided for in  
8 the applicable state implementation plan approved or  
9 promulgated by USEPA under Title I of the Clean Air Act  
10 that implements ~~implement~~ the relevant requirements of the  
11 Clean Air Act, including any revisions to the state  
12 Implementation Plan promulgated in 40 CFR Part 52, Subparts  
13 A and O and other subparts applicable to Illinois. For  
14 purposes of this paragraph ~~subsection~~ (1) of this  
15 definition, "any standard or other requirement" means  
16 ~~shall mean~~ only such standards or requirements directly  
17 enforceable against an individual source under the Clean  
18 Air Act.

19 (2)(i) Any term or condition of any preconstruction  
20 permits issued pursuant to regulations approved or  
21 promulgated by USEPA under Title I of the Clean Air  
22 Act, including Part C or D of the Clean Air Act.

23 (ii) Any term or condition as required pursuant to  
24 Section 39.5 of any federally enforceable State  
25 operating permit issued pursuant to regulations  
26 approved or promulgated by USEPA under Title I of the

1 Clean Air Act, including Part C or D of the Clean Air  
2 Act.

3 (3) Any standard or other requirement under Section 111  
4 of the Clean Air Act, including Section 111(d).

5 (4) Any standard or other requirement under Section 112  
6 of the Clean Air Act, including any requirement concerning  
7 accident prevention under Section 112(r)(7) of the Clean  
8 Air Act.

9 (5) Any standard or other requirement of the acid rain  
10 program under Title IV of the Clean Air Act or the  
11 regulations promulgated thereunder.

12 (6) Any requirements established pursuant to Section  
13 504(b) or Section 114(a)(3) of the Clean Air Act.

14 (7) Any standard or other requirement governing solid  
15 waste incineration, under Section 129 of the Clean Air Act.

16 (8) Any standard or other requirement for consumer and  
17 commercial products, under Section 183(e) of the Clean Air  
18 Act.

19 (9) Any standard or other requirement for tank vessels,  
20 under Section 183(f) of the Clean Air Act.

21 (10) Any standard or other requirement of the program  
22 to control air pollution from Outer Continental Shelf  
23 sources, under Section 328 of the Clean Air Act.

24 (11) Any standard or other requirement of the  
25 regulations promulgated to protect stratospheric ozone  
26 under Title VI of the Clean Air Act, unless USEPA has

1 determined that such requirements need not be contained in  
2 a Title V permit.

3 (12) Any national ambient air quality standard or  
4 increment or visibility requirement under Part C of Title I  
5 of the Clean Air Act, but only as it would apply to  
6 temporary sources permitted pursuant to Section 504(e) of  
7 the Clean Air Act.

8 "Applicable requirement" means all applicable Clean Air  
9 Act requirements and any other standard, limitation, or other  
10 requirement contained in this Act or regulations promulgated  
11 under this Act as applicable to sources of air contaminants  
12 (including requirements that have future effective compliance  
13 dates).

14 "CAAPP" means the Clean Air Act Permit Program, developed  
15 pursuant to Title V of the Clean Air Act.

16 "CAAPP application" means an application for a CAAPP  
17 permit.

18 "CAAPP Permit" or "permit" (unless the context suggests  
19 otherwise) means any permit issued, renewed, amended, modified  
20 or revised pursuant to Title V of the Clean Air Act.

21 "CAAPP source" means any source for which the owner or  
22 operator is required to obtain a CAAPP permit pursuant to  
23 subsection 2 of this Section.

24 "Clean Air Act" means the Clean Air Act, as now and  
25 hereafter amended, 42 U.S.C. 7401, et seq.

26 "Designated representative" has ~~shall have~~ the meaning

1 given to it in Section 402(26) of the Clean Air Act and the  
2 regulations promulgated thereunder, which state ~~states~~ that  
3 the term "designated representative" ~~means~~ ~~shall mean~~ a  
4 responsible person or official authorized by the owner or  
5 operator of a unit to represent the owner or operator in all  
6 matters pertaining to the holding, transfer, or disposition of  
7 allowances allocated to a unit, and the submission of and  
8 compliance with permits, permit applications, and compliance  
9 plans for the unit.

10 "Draft CAAPP permit" means the version of a CAAPP permit  
11 for which public notice and an opportunity for public comment  
12 and hearing is offered by the Agency.

13 "Effective date of the CAAPP" means the date that USEPA  
14 approves Illinois' CAAPP.

15 "Emission unit" means any part or activity of a stationary  
16 source that emits or has the potential to emit any air  
17 pollutant. This term is not meant to alter or affect the  
18 definition of the term "unit" for purposes of Title IV of the  
19 Clean Air Act.

20 "Federally enforceable" means enforceable by USEPA.

21 "Final permit action" means the Agency's granting with  
22 conditions, refusal to grant, renewal of, or revision of a  
23 CAAPP permit, the Agency's determination of incompleteness of a  
24 submitted CAAPP application, or the Agency's failure to act on  
25 an application for a permit, permit renewal, or permit revision  
26 within the time specified in ~~paragraph 5(j),~~ subsection 13, ~~or~~

1 subsection 14, or paragraph (j) of subsection 5 of this  
2 Section.

3 "General permit" means a permit issued to cover numerous  
4 similar sources in accordance with subsection 11 of this  
5 Section.

6 "Major source" means a source for which emissions of one or  
7 more air pollutants meet the criteria for major status pursuant  
8 to paragraph 2(c) of subsection 2 of this Section.

9 "Maximum achievable control technology" or "MACT" means  
10 the maximum degree of reductions in emissions deemed achievable  
11 under Section 112 of the Clean Air Act.

12 "Owner or operator" means any person who owns, leases,  
13 operates, controls, or supervises a stationary source.

14 "Permit modification" means a revision to a CAAPP permit  
15 that cannot be accomplished under the provisions for  
16 administrative permit amendments under subsection 13 of this  
17 Section.

18 "Permit revision" means a permit modification or  
19 administrative permit amendment.

20 "Phase II" means the period of the national acid rain  
21 program, established under Title IV of the Clean Air Act,  
22 beginning January 1, 2000, and continuing thereafter.

23 "Phase II acid rain permit" means the portion of a CAAPP  
24 permit issued, renewed, modified, or revised by the Agency  
25 during Phase II for an affected source for acid deposition.

26 "Potential to emit" means the maximum capacity of a

1 stationary source to emit any air pollutant under its physical  
2 and operational design. Any physical or operational limitation  
3 on the capacity of a source to emit an air pollutant, including  
4 air pollution control equipment and restrictions on hours of  
5 operation or on the type or amount of material combusted,  
6 stored, or processed, shall be treated as part of its design if  
7 the limitation is enforceable by USEPA. This definition does  
8 not alter or affect the use of this term for any other purposes  
9 under the Clean Air Act, or the term "capacity factor" as used  
10 in Title IV of the Clean Air Act or the regulations promulgated  
11 thereunder.

12 "Preconstruction Permit" or "Construction Permit" means a  
13 permit which is to be obtained prior to commencing or beginning  
14 actual construction or modification of a source or emissions  
15 unit.

16 "Proposed CAAPP permit" means the version of a CAAPP permit  
17 that the Agency proposes to issue and forwards to USEPA for  
18 review in compliance with applicable requirements of the Act  
19 and regulations promulgated thereunder.

20 "Regulated air pollutant" means the following:

21 (1) Nitrogen oxides (NO<sub>x</sub>) or any volatile organic  
22 compound.

23 (2) Any pollutant for which a national ambient air  
24 quality standard has been promulgated.

25 (3) Any pollutant that is subject to any standard  
26 promulgated under Section 111 of the Clean Air Act.

1           (4) Any Class I or II substance subject to a standard  
2 promulgated under or established by Title VI of the Clean  
3 Air Act.

4           (5) Any pollutant subject to a standard promulgated  
5 under Section 112 or other requirements established under  
6 Section 112 of the Clean Air Act, including Sections  
7 112(g), (j) and (r).

8           (i) Any pollutant subject to requirements under  
9 Section 112(j) of the Clean Air Act. Any pollutant  
10 listed under Section 112(b) for which the subject  
11 source would be major shall be considered to be  
12 regulated 18 months after the date on which USEPA was  
13 required to promulgate an applicable standard pursuant  
14 to Section 112(e) of the Clean Air Act, if USEPA fails  
15 to promulgate such standard.

16           (ii) Any pollutant for which the requirements of  
17 Section 112(g)(2) of the Clean Air Act have been met,  
18 but only with respect to the individual source subject  
19 to Section 112(g)(2) requirement.

20           (6) Greenhouse gases.

21           "Renewal" means the process by which a permit is reissued  
22 at the end of its term.

23           "Responsible official" means one of the following:

24           (1) For a corporation: a president, secretary,  
25 treasurer, or vice-president of the corporation in charge  
26 of a principal business function, or any other person who



1 performs similar policy or decision-making functions for  
2 the corporation, or a duly authorized representative of  
3 such person if the representative is responsible for the  
4 overall operation of one or more manufacturing,  
5 production, or operating facilities applying for or  
6 subject to a permit and either (i) the facilities employ  
7 more than 250 persons or have gross annual sales or  
8 expenditures exceeding \$25 million (in second quarter 1980  
9 dollars), or (ii) the delegation of authority to such  
10 representative is approved in advance by the Agency.

11 (2) For a partnership or sole proprietorship: a general  
12 partner or the proprietor, respectively, or in the case of  
13 a partnership in which all of the partners are  
14 corporations, a duly authorized representative of the  
15 partnership if the representative is responsible for the  
16 overall operation of one or more manufacturing,  
17 production, or operating facilities applying for or  
18 subject to a permit and either (i) the facilities employ  
19 more than 250 persons or have gross annual sales or  
20 expenditures exceeding \$25 million (in second quarter 1980  
21 dollars), or (ii) the delegation of authority to such  
22 representative is approved in advance by the Agency.

23 (3) For a municipality, State, Federal, or other public  
24 agency: either a principal executive officer or ranking  
25 elected official. For the purposes of this part, a  
26 principal executive officer of a Federal agency includes

1 the chief executive officer having responsibility for the  
2 overall operations of a principal geographic unit of the  
3 agency (e.g., a Regional Administrator of USEPA).

4 (4) For affected sources for acid deposition:

5 (i) The designated representative shall be the  
6 "responsible official" in so far as actions,  
7 standards, requirements, or prohibitions under Title  
8 IV of the Clean Air Act or the regulations promulgated  
9 thereunder are concerned.

10 (ii) The designated representative may also be the  
11 "responsible official" for any other purposes with  
12 respect to air pollution control.

13 "Section 502(b)(10) changes" means changes that contravene  
14 express permit terms. "Section 502(b)(10) changes" do not  
15 include changes that would violate applicable requirements or  
16 contravene federally enforceable permit terms or conditions  
17 that are monitoring (including test methods), recordkeeping,  
18 reporting, or compliance certification requirements.

19 "Solid waste incineration unit" means a distinct operating  
20 unit of any facility which combusts any solid waste material  
21 from commercial or industrial establishments or the general  
22 public (including single and multiple residences, hotels, and  
23 motels). The term does not include incinerators or other units  
24 required to have a permit under Section 3005 of the Solid Waste  
25 Disposal Act. The term also does not include (A) materials  
26 recovery facilities (including primary or secondary smelters)

1 which combust waste for the primary purpose of recovering  
2 metals, (B) qualifying small power production facilities, as  
3 defined in Section 3(17)(C) of the Federal Power Act (16 U.S.C.  
4 769(17)(C)), or qualifying cogeneration facilities, as defined  
5 in Section 3(18)(B) of the Federal Power Act (16 U.S.C.  
6 796(18)(B)), which burn homogeneous waste (such as units which  
7 burn tires or used oil, but not including refuse-derived fuel)  
8 for the production of electric energy or in the case of  
9 qualifying cogeneration facilities which burn homogeneous  
10 waste for the production of electric energy and steam or forms  
11 of useful energy (such as heat) which are used for industrial,  
12 commercial, heating or cooling purposes, or (C) air curtain  
13 incinerators provided that such incinerators only burn wood  
14 wastes, yard waste and clean lumber and that such air curtain  
15 incinerators comply with opacity limitations to be established  
16 by the USEPA by rule.

17 "Source" means any stationary is source (or any group of  
18 stationary sources) that ~~are~~ located on one or more contiguous  
19 or adjacent properties that are under common control of the  
20 same person (or persons under common control) and that belongs  
21 to a single major industrial grouping. For the purposes of  
22 defining "source," a stationary source or group of stationary  
23 sources shall be considered part of a single major industrial  
24 grouping if all of the pollutant emitting activities at such  
25 source or group of sources located on contiguous or adjacent  
26 properties and under common control belong to the same Major

1 Group (i.e., all have the same two-digit code) as described in  
2 the Standard Industrial Classification Manual, 1987, or such  
3 pollutant emitting activities at a stationary source (or group  
4 of stationary sources) located on contiguous or adjacent  
5 properties and under common control constitute a support  
6 facility. The determination as to whether any group of  
7 stationary sources is ~~are~~ located on contiguous or adjacent  
8 properties, and/or is ~~are~~ under common control, and/or whether  
9 the pollutant emitting activities at such group of stationary  
10 sources constitute a support facility shall be made on a case  
11 by case basis.

12 "Stationary source" means any building, structure,  
13 facility, or installation that emits or may emit any regulated  
14 air pollutant or any pollutant listed under Section 112(b) of  
15 the Clean Air Act.

16 "Subject to regulation" has the meaning given to it in 40  
17 CFR 70.2, as now or hereafter amended.

18 "Support facility" means any stationary source (or group of  
19 stationary sources) that conveys, stores, or otherwise assists  
20 to a significant extent in the production of a principal  
21 product at another stationary source (or group of stationary  
22 sources). A support facility shall be considered to be part of  
23 the same source as the stationary source (or group of  
24 stationary sources) that it supports regardless of the 2-digit  
25 Standard Industrial Classification code for the support  
26 facility.

1 "USEPA" means the Administrator of the United States  
2 Environmental Protection Agency (USEPA) or a person designated  
3 by the Administrator.

4 1.1. Exclusion From the CAAPP.

5 a. An owner or operator of a source which determines  
6 that the source could be excluded from the CAAPP may seek  
7 such exclusion prior to the date that the CAAPP application  
8 for the source is due but in no case later than 9 months  
9 after the effective date of the CAAPP through the  
10 imposition of federally enforceable conditions limiting  
11 the "potential to emit" of the source to a level below the  
12 major source threshold for that source as described in  
13 paragraph ~~2~~(c) of subsection 2 of this Section, within a  
14 State operating permit issued pursuant to subsection (a) of  
15 Section 39~~(a)~~ of this Act. After such date, an exclusion  
16 from the CAAPP may be sought under paragraph ~~3~~(c) of  
17 subsection 3 of this Section.

18 b. An owner or operator of a source seeking exclusion  
19 from the CAAPP pursuant to paragraph (a) of this subsection  
20 must submit a permit application consistent with the  
21 existing State permit program which specifically requests  
22 such exclusion through the imposition of such federally  
23 enforceable conditions.

24 c. Upon such request, if the Agency determines that the  
25 owner or operator of a source has met the requirements for

1 exclusion pursuant to paragraph (a) of this subsection and  
2 other applicable requirements for permit issuance under  
3 subsection (a) of Section 39~~(a)~~ of this Act, the Agency  
4 shall issue a State operating permit for such source under  
5 subsection (a) of Section 39~~(a)~~ of this Act, as amended,  
6 and regulations promulgated thereunder with federally  
7 enforceable conditions limiting the "potential to emit" of  
8 the source to a level below the major source threshold for  
9 that source as described in paragraph ~~2~~(c) of subsection 2  
10 of this Section.

11 d. The Agency shall provide an owner or operator of a  
12 source which may be excluded from the CAAPP pursuant to  
13 this subsection with reasonable notice that the owner or  
14 operator may seek such exclusion.

15 e. The Agency shall provide such sources with the  
16 necessary permit application forms.

## 17 2. Applicability.

18 a. Sources subject to this Section shall include:

19 i. Any major source as defined in paragraph (c) of  
20 this subsection.

21 ii. Any source subject to a standard or other  
22 requirements promulgated under Section 111 (New Source  
23 Performance Standards) or Section 112 (Hazardous Air  
24 Pollutants) of the Clean Air Act, except that a source  
25 is not required to obtain a permit solely because it is

1 subject to regulations or requirements under Section  
2 112(r) of the Clean Air Act.

3 iii. Any affected source for acid deposition, as  
4 defined in subsection 1 of this Section.

5 iv. Any other source subject to this Section under  
6 the Clean Air Act or regulations promulgated  
7 thereunder, or applicable Board regulations.

8 b. Sources exempted from this Section shall include:

9 i. All sources listed in paragraph (a) of this  
10 subsection that ~~which~~ are not major sources, affected  
11 sources for acid deposition or solid waste  
12 incineration units required to obtain a permit  
13 pursuant to Section 129(e) of the Clean Air Act, until  
14 the source is required to obtain a CAAPP permit  
15 pursuant to the Clean Air Act or regulations  
16 promulgated thereunder.

17 ii. Nonmajor sources subject to a standard or other  
18 requirements subsequently promulgated by USEPA under  
19 Section 111 or 112 of the Clean Air Act that ~~which~~ are  
20 determined by USEPA to be exempt at the time a new  
21 standard is promulgated.

22 iii. All sources and source categories that would  
23 be required to obtain a permit solely because they are  
24 subject to Part 60, Subpart AAA - Standards of  
25 Performance for New Residential Wood Heaters (40 CFR  
26 Part 60).

1           iv. All sources and source categories that would be  
2 required to obtain a permit solely because they are  
3 subject to Part 61, Subpart M - National Emission  
4 Standard for Hazardous Air Pollutants for Asbestos,  
5 Section 61.145 (40 CFR Part 61).

6           v. Any other source categories exempted by USEPA  
7 regulations pursuant to Section 502(a) of the Clean Air  
8 Act.

9           vi. Major sources of greenhouse gas emissions  
10 required to obtain a CAAPP permit under this Section if  
11 any of the following occurs:

12                 (A) enactment of federal legislation depriving  
13 the Administrator of the USEPA of authority to  
14 regulate greenhouse gases under the Clean Air Act;

15                 (B) the issuance of any opinion, ruling,  
16 judgment, order, or decree by a federal court  
17 depriving the Administrator of the USEPA of  
18 authority to regulate greenhouse gases under the  
19 Clean Air Act; or

20                 (C) action by the President of the United  
21 States or the President's authorized agent,  
22 including the Administrator of the USEPA, to  
23 repeal or withdraw the Greenhouse Gas Tailoring  
24 Rule (75 Fed. Reg. 31514, June 3, 2010).

25           If any event listed in this subparagraph (vi)  
26 occurs, CAAPP permits issued after such event shall not



1           impose permit terms or conditions addressing  
2           greenhouse gases during the effectiveness of any event  
3           listed in subparagraph (vi). If any event listed in  
4           this subparagraph (vi) occurs, any owner or operator  
5           with a CAAPP permit that includes terms or conditions  
6           addressing greenhouse gases may elect to submit an  
7           application to the Agency to address a revision or  
8           repeal of such terms or conditions. If any owner or  
9           operator submits such an application, the Agency shall  
10           expeditiously process the permit application in  
11           accordance with applicable laws and regulations.  
12           Nothing in this subparagraph (vi) shall relieve an  
13           owner or operator of a source from the requirement to  
14           obtain a CAAPP permit for its emissions of regulated  
15           air pollutants other than greenhouse gases, as  
16           required by this Section.

17           c. For purposes of this Section the term "major source"  
18 means any source that is:

19           i. A major source under Section 112 of the Clean  
20 Air Act, which is defined as:

21           A. For pollutants other than radionuclides,  
22           any stationary source or group of stationary  
23           sources located within a contiguous area and under  
24           common control that emits or has the potential to  
25           emit, in the aggregate, 10 tons per year (tpy) or  
26           more of any hazardous air pollutant which has been

1 listed pursuant to Section 112(b) of the Clean Air  
2 Act, 25 tpy or more of any combination of such  
3 hazardous air pollutants, or such lesser quantity  
4 as USEPA may establish by rule. Notwithstanding  
5 the preceding sentence, emissions from any oil or  
6 gas exploration or production well (with its  
7 associated equipment) and emissions from any  
8 pipeline compressor or pump station shall not be  
9 aggregated with emissions from other similar  
10 units, whether or not such units are in a  
11 contiguous area or under common control, to  
12 determine whether such stations are major sources.

13 B. For radionuclides, "major source" shall  
14 have the meaning specified by the USEPA by rule.

15 ii. A major stationary source of air pollutants, as  
16 defined in Section 302 of the Clean Air Act, that  
17 directly emits or has the potential to emit, 100 tpy or  
18 more of any air pollutant subject to regulation  
19 (including any major source of fugitive emissions of  
20 any such pollutant, as determined by rule by USEPA).  
21 For purposes of this subsection, "fugitive emissions"  
22 means those emissions which could not reasonably pass  
23 through a stack, chimney, vent, or other  
24 functionally-equivalent opening. The fugitive  
25 emissions of a stationary source shall not be  
26 considered in determining whether it is a major

1 stationary source for the purposes of Section 302(j) of  
2 the Clean Air Act, unless the source belongs to one of  
3 the following categories of stationary source:

4 A. Coal cleaning plants (with thermal dryers).

5 B. Kraft pulp mills.

6 C. Portland cement plants.

7 D. Primary zinc smelters.

8 E. Iron and steel mills.

9 F. Primary aluminum ore reduction plants.

10 G. Primary copper smelters.

11 H. Municipal incinerators capable of charging  
12 more than 250 tons of refuse per day.

13 I. Hydrofluoric, sulfuric, or nitric acid  
14 plants.

15 J. Petroleum refineries.

16 K. Lime plants.

17 L. Phosphate rock processing plants.

18 M. Coke oven batteries.

19 N. Sulfur recovery plants.

20 O. Carbon black plants (furnace process).

21 P. Primary lead smelters.

22 Q. Fuel conversion plants.

23 R. Sintering plants.

24 S. Secondary metal production plants.

25 T. Chemical process plants.

26 U. Fossil-fuel boilers (or combination

1           thereof) totaling more than 250 million British  
2           thermal units per hour heat input.

3           V. Petroleum storage and transfer units with a  
4           total storage capacity exceeding 300,000 barrels.

5           W. Taconite ore processing plants.

6           X. Glass fiber processing plants.

7           Y. Charcoal production plants.

8           Z. Fossil fuel-fired steam electric plants of  
9           more than 250 million British thermal units per  
10          hour heat input.

11          AA. All other stationary source categories,  
12          which as of August 7, 1980 are being regulated by a  
13          standard promulgated under Section 111 or 112 of  
14          the Clean Air Act.

15          BB. Any other stationary source category  
16          designated by USEPA by rule.

17          iii. A major stationary source as defined in part D  
18          of Title I of the Clean Air Act including:

19           A. For ozone nonattainment areas, sources with  
20           the potential to emit 100 tons or more per year of  
21           volatile organic compounds or oxides of nitrogen  
22           in areas classified as "marginal" or "moderate",  
23           50 tons or more per year in areas classified as  
24           "serious", 25 tons or more per year in areas  
25           classified as "severe", and 10 tons or more per  
26           year in areas classified as "extreme"; except that

1 the references in this clause to 100, 50, 25, and  
2 10 tons per year of nitrogen oxides shall not apply  
3 with respect to any source for which USEPA has made  
4 a finding, under Section 182(f)(1) or (2) of the  
5 Clean Air Act, that requirements otherwise  
6 applicable to such source under Section 182(f) of  
7 the Clean Air Act do not apply. Such sources shall  
8 remain subject to the major source criteria of  
9 subparagraph (ii) of paragraph 2(c) ~~(ii)~~ of this  
10 subsection.

11 B. For ozone transport regions established  
12 pursuant to Section 184 of the Clean Air Act,  
13 sources with the potential to emit 50 tons or more  
14 per year of volatile organic compounds (VOCs).

15 C. For carbon monoxide nonattainment areas (1)  
16 that are classified as "serious", and (2) in which  
17 stationary sources contribute significantly to  
18 carbon monoxide levels as determined under rules  
19 issued by USEPA, sources with the potential to emit  
20 50 tons or more per year of carbon monoxide.

21 D. For particulate matter (PM-10)  
22 nonattainment areas classified as "serious",  
23 sources with the potential to emit 70 tons or more  
24 per year of PM-10.

25 3. Agency Authority To Issue CAAPP Permits and Federally

1 Enforceable State Operating Permits.

2 a. The Agency shall issue CAAPP permits under this  
3 Section consistent with the Clean Air Act and regulations  
4 promulgated thereunder and this Act and regulations  
5 promulgated thereunder.

6 b. The Agency shall issue CAAPP permits for fixed terms  
7 of 5 years, except CAAPP permits issued for solid waste  
8 incineration units combusting municipal waste which shall  
9 be issued for fixed terms of 12 years and except CAAPP  
10 permits for affected sources for acid deposition which  
11 shall be issued for initial terms to expire on December 31,  
12 1999, and for fixed terms of 5 years thereafter.

13 c. The Agency shall have the authority to issue a State  
14 operating permit for a source under subsection (a) of  
15 Section 39~~(a)~~ of this Act, as amended, and regulations  
16 promulgated thereunder, which includes federally  
17 enforceable conditions limiting the "potential to emit" of  
18 the source to a level below the major source threshold for  
19 that source as described in paragraph ~~2~~(c) of subsection 2  
20 of this Section, thereby excluding the source from the  
21 CAAPP, when requested by the applicant pursuant to  
22 paragraph ~~5~~(u) of subsection 5 of this Section. The public  
23 notice requirements of this Section applicable to CAAPP  
24 permits shall also apply to the initial issuance of permits  
25 under this paragraph.

26 d. For purposes of this Act, a permit issued by USEPA

1 under Section 505 of the Clean Air Act, as now and  
2 hereafter amended, shall be deemed to be a permit issued by  
3 the Agency pursuant to Section 39.5 of this Act.

4 4. Transition.

5 a. An owner or operator of a CAAPP source shall not be  
6 required to renew an existing State operating permit for  
7 any emission unit at such CAAPP source once a CAAPP  
8 application timely submitted prior to expiration of the  
9 State operating permit has been deemed complete. For  
10 purposes other than permit renewal, the obligation upon the  
11 owner or operator of a CAAPP source to obtain a State  
12 operating permit is not removed upon submittal of the  
13 complete CAAPP permit application. An owner or operator of  
14 a CAAPP source seeking to make a modification to a source  
15 prior to the issuance of its CAAPP permit shall be required  
16 to obtain a construction permit, and/or operating permit,  
17 or both as required for such modification in accordance  
18 with the State permit program under subsection (a) of  
19 Section 39(a) of this Act, as amended, and regulations  
20 promulgated thereunder. The application for such  
21 construction permit, and/or operating permit, or both  
22 shall be considered an amendment to the CAAPP application  
23 submitted for such source.

24 b. An owner or operator of a CAAPP source shall  
25 continue to operate in accordance with the terms and

1 conditions of its applicable State operating permit  
2 notwithstanding the expiration of the State operating  
3 permit until the source's CAAPP permit has been issued.

4 c. An owner or operator of a CAAPP source shall submit  
5 its initial CAAPP application to the Agency no later than  
6 12 months after the effective date of the CAAPP. The Agency  
7 may request submittal of initial CAAPP applications during  
8 this 12-month ~~12-month~~ period according to a schedule set  
9 forth within Agency procedures, however, in no event shall  
10 the Agency require such submittal earlier than 3 months  
11 after such effective date of the CAAPP. An owner or  
12 operator may voluntarily submit its initial CAAPP  
13 application prior to the date required within this  
14 paragraph or applicable procedures, if any, subsequent to  
15 the date the Agency submits the CAAPP to USEPA for  
16 approval.

17 d. The Agency shall act on initial CAAPP applications  
18 in accordance with paragraph (j) of subsection 5~~(j)~~ of this  
19 Section.

20 e. For purposes of this Section, the term "initial  
21 CAAPP application" shall mean the first CAAPP application  
22 submitted for a source existing as of the effective date of  
23 the CAAPP.

24 f. The Agency shall provide owners or operators of  
25 CAAPP sources with at least 3 ~~three~~ months advance notice  
26 of the date on which their applications are required to be



1 submitted. In determining which sources shall be subject to  
2 early submittal, the Agency shall include among its  
3 considerations the complexity of the permit application,  
4 and the burden that such early submittal will have on the  
5 source.

6 g. The CAAPP permit shall upon becoming effective  
7 supersede the State operating permit.

8 h. The Agency shall have the authority to adopt  
9 procedural rules, in accordance with the Illinois  
10 Administrative Procedure Act, as the Agency deems  
11 necessary, to implement this subsection.

12 5. Applications and Completeness.

13 a. An owner or operator of a CAAPP source shall submit  
14 its complete CAAPP application consistent with the Act and  
15 applicable regulations.

16 b. An owner or operator of a CAAPP source shall submit  
17 a single complete CAAPP application covering all emission  
18 units at that source.

19 c. To be deemed complete, a CAAPP application must  
20 provide all information, as requested in Agency  
21 application forms, sufficient to evaluate the subject  
22 source and its application and to determine all applicable  
23 requirements, pursuant to the Clean Air Act, and  
24 regulations thereunder, this Act and regulations  
25 thereunder. Such Agency application forms shall be

1 finalized and made available prior to the date on which any  
2 CAAPP application is required.

3 d. An owner or operator of a CAAPP source shall submit,  
4 as part of its complete CAAPP application, a compliance  
5 plan, including a schedule of compliance, describing how  
6 each emission unit will comply with all applicable  
7 requirements. Any such schedule of compliance shall be  
8 supplemental to, and shall not sanction noncompliance  
9 with, the applicable requirements on which it is based.

10 e. Each submitted CAAPP application shall be certified  
11 for truth, accuracy, and completeness by a responsible  
12 official in accordance with applicable regulations.

13 f. The Agency shall provide notice to a CAAPP applicant  
14 as to whether a submitted CAAPP application is complete.  
15 Unless the Agency notifies the applicant of  
16 incompleteness, within 60 days after ~~of~~ receipt of the  
17 CAAPP application, the application shall be deemed  
18 complete. The Agency may request additional information as  
19 needed to make the completeness determination. The Agency  
20 may to the extent practicable provide the applicant with a  
21 reasonable opportunity to correct deficiencies prior to a  
22 final determination of completeness.

23 g. If after the determination of completeness the  
24 Agency finds that additional information is necessary to  
25 evaluate or take final action on the CAAPP application, the  
26 Agency may request in writing such information from the

1 source with a reasonable deadline for response.

2 h. If the owner or operator of a CAAPP source submits a  
3 timely and complete CAAPP application, the source's  
4 failure to have a CAAPP permit shall not be a violation of  
5 this Section until the Agency takes final action on the  
6 submitted CAAPP application, provided, however, where the  
7 applicant fails to submit the requested information under  
8 paragraph ~~5~~(g) of this subsection 5 within the time frame  
9 specified by the Agency, this protection shall cease to  
10 apply.

11 i. Any applicant who fails to submit any relevant facts  
12 necessary to evaluate the subject source and its CAAPP  
13 application or who has submitted incorrect information in a  
14 CAAPP application shall, upon becoming aware of such  
15 failure or incorrect submittal, submit supplementary facts  
16 or correct information to the Agency. In addition, an  
17 applicant shall provide to the Agency additional  
18 information as necessary to address any requirements which  
19 become applicable to the source subsequent to the date the  
20 applicant submitted its complete CAAPP application but  
21 prior to release of the draft CAAPP permit.

22 j. The Agency shall issue or deny the CAAPP permit  
23 within 18 months after the date of receipt of the complete  
24 CAAPP application, with the following exceptions: (i)  
25 permits for affected sources for acid deposition shall be  
26 issued or denied within 6 months after receipt of a

1 complete application in accordance with subsection 17 of  
2 this Section; (ii) the Agency shall act on initial CAAPP  
3 applications within 24 months after the date of receipt of  
4 the complete CAAPP application; (iii) the Agency shall act  
5 on complete applications containing early reduction  
6 demonstrations under Section 112(i)(5) of the Clean Air Act  
7 within 9 months of receipt of the complete CAAPP  
8 application.

9 Where the Agency does not take final action on the  
10 permit within the required time period, the permit shall  
11 not be deemed issued; rather, the failure to act shall be  
12 treated as a final permit action for purposes of judicial  
13 review pursuant to Sections 40.2 and 41 of this Act.

14 k. The submittal of a complete CAAPP application shall  
15 not affect the requirement that any source have a  
16 preconstruction permit under Title I of the Clean Air Act.

17 l. Unless a timely and complete renewal application has  
18 been submitted consistent with this subsection, a CAAPP  
19 source operating upon the expiration of its CAAPP permit  
20 shall be deemed to be operating without a CAAPP permit.  
21 Such operation is prohibited under this Act.

22 m. Permits being renewed shall be subject to the same  
23 procedural requirements, including those for public  
24 participation and federal review and objection, that apply  
25 to original permit issuance.

26 n. For purposes of permit renewal, a timely application

1 is one that is submitted no less than 9 months prior to the  
2 date of permit expiration.

3 o. The terms and conditions of a CAAPP permit shall  
4 remain in effect until the issuance of a CAAPP renewal  
5 permit provided a timely and complete CAAPP application has  
6 been submitted.

7 p. The owner or operator of a CAAPP source seeking a  
8 permit shield pursuant to paragraph ~~7~~(j) of subsection 7 of  
9 this Section shall request such permit shield in the CAAPP  
10 application regarding that source.

11 q. The Agency shall make available to the public all  
12 documents submitted by the applicant to the Agency,  
13 including each CAAPP application, compliance plan  
14 (including the schedule of compliance), and emissions or  
15 compliance monitoring report, with the exception of  
16 information entitled to confidential treatment pursuant to  
17 Section 7 of this Act.

18 r. The Agency shall use the standardized forms required  
19 under Title IV of the Clean Air Act and regulations  
20 promulgated thereunder for affected sources for acid  
21 deposition.

22 s. An owner or operator of a CAAPP source may include  
23 within its CAAPP application a request for permission to  
24 operate during a startup, malfunction, or breakdown  
25 consistent with applicable Board regulations.

26 t. An owner or operator of a CAAPP source, in order to

1           utilize the operational flexibility provided under  
2           paragraph ~~7~~(1) of subsection 7 of this Section, must  
3           request such use and provide the necessary information  
4           within its CAAPP application.

5           u. An owner or operator of a CAAPP source which seeks  
6           exclusion from the CAAPP through the imposition of  
7           federally enforceable conditions, pursuant to paragraph  
8           ~~3~~(c) of subsection 3 of this Section, must request such  
9           exclusion within a CAAPP application submitted consistent  
10          with this subsection on or after the date that the CAAPP  
11          application for the source is due. Prior to such date, but  
12          in no case later than 9 months after the effective date of  
13          the CAAPP, such owner or operator may request the  
14          imposition of federally enforceable conditions pursuant to  
15          paragraph ~~1.1~~(b) of subsection 1.1 of this Section.

16          v. CAAPP applications shall contain accurate  
17          information on allowable emissions to implement the fee  
18          provisions of subsection 18 of this Section.

19          w. An owner or operator of a CAAPP source shall submit  
20          within its CAAPP application emissions information  
21          regarding all regulated air pollutants emitted at that  
22          source consistent with applicable Agency procedures.  
23          Emissions information regarding insignificant activities  
24          or emission levels, as determined by the Agency pursuant to  
25          Board regulations, may be submitted as a list within the  
26          CAAPP application. The Agency shall propose regulations to

1 the Board defining insignificant activities or emission  
2 levels, consistent with federal regulations, if any, no  
3 later than 18 months after the effective date of this  
4 amendatory Act of 1992, consistent with Section 112(n)(1)  
5 of the Clean Air Act. The Board shall adopt final  
6 regulations defining insignificant activities or emission  
7 levels no later than 9 months after the date of the  
8 Agency's proposal.

9 x. The owner or operator of a new CAAPP source shall  
10 submit its complete CAAPP application consistent with this  
11 subsection within 12 months after commencing operation of  
12 such source. The owner or operator of an existing source  
13 that has been excluded from the provisions of this Section  
14 under subsection 1.1 or paragraph (c) of subsection 3~~(e)~~ of  
15 this Section and that becomes subject to the CAAPP solely  
16 due to a change in operation at the source shall submit its  
17 complete CAAPP application consistent with this subsection  
18 at least 180 days before commencing operation in accordance  
19 with the change in operation.

20 y. The Agency shall have the authority to adopt  
21 procedural rules, in accordance with the Illinois  
22 Administrative Procedure Act, as the Agency deems  
23 necessary to implement this subsection.

24 6. Prohibitions.

25 a. It shall be unlawful for any person to violate any

1 terms or conditions of a permit issued under this Section,  
2 to operate any CAAPP source except in compliance with a  
3 permit issued by the Agency under this Section or to  
4 violate any other applicable requirements. All terms and  
5 conditions of a permit issued under this Section are  
6 enforceable by USEPA and citizens under the Clean Air Act,  
7 except those, if any, that are specifically designated as  
8 not being federally enforceable in the permit pursuant to  
9 paragraph ~~7~~(m) of subsection 7 of this Section.

10 b. After the applicable CAAPP permit or renewal  
11 application submittal date, as specified in subsection 5 of  
12 this Section, no person shall operate a CAAPP source  
13 without a CAAPP permit unless the complete CAAPP permit or  
14 renewal application for such source has been timely  
15 submitted to the Agency.

16 c. No owner or operator of a CAAPP source shall cause  
17 or threaten or allow the continued operation of an emission  
18 source during malfunction or breakdown of the emission  
19 source or related air pollution control equipment if such  
20 operation would cause a violation of the standards or  
21 limitations applicable to the source, unless the CAAPP  
22 permit granted to the source provides for such operation  
23 consistent with this Act and applicable Board regulations.

24 7. Permit Content.

25 a. All CAAPP permits shall contain emission



1 limitations and standards and other enforceable terms and  
2 conditions, including but not limited to operational  
3 requirements, and schedules for achieving compliance at  
4 the earliest reasonable date, which are or will be required  
5 to accomplish the purposes and provisions of this Act and  
6 to assure compliance with all applicable requirements.

7 b. The Agency shall include among such conditions  
8 applicable monitoring, reporting, record keeping and  
9 compliance certification requirements, as authorized by  
10 paragraphs (d), (e), and (f) ~~d, e, and f~~ of this  
11 subsection, that the Agency deems necessary to assure  
12 compliance with the Clean Air Act, the regulations  
13 promulgated thereunder, this Act, and applicable Board  
14 regulations. When monitoring, reporting, record keeping,  
15 and compliance certification requirements are specified  
16 within the Clean Air Act, regulations promulgated  
17 thereunder, this Act, or applicable regulations, such  
18 requirements shall be included within the CAAPP permit. The  
19 Board shall have authority to promulgate additional  
20 regulations where necessary to accomplish the purposes of  
21 the Clean Air Act, this Act, and regulations promulgated  
22 thereunder.

23 c. The Agency shall assure, within such conditions, the  
24 use of terms, test methods, units, averaging periods, and  
25 other statistical conventions consistent with the  
26 applicable emission limitations, standards, and other

1 requirements contained in the permit.

2 d. To meet the requirements of this subsection with  
3 respect to monitoring, the permit shall:

4 i. Incorporate and identify all applicable  
5 emissions monitoring and analysis procedures or test  
6 methods required under the Clean Air Act, regulations  
7 promulgated thereunder, this Act, and applicable Board  
8 regulations, including any procedures and methods  
9 promulgated by USEPA pursuant to Section 504(b) or  
10 Section 114 (a) (3) of the Clean Air Act.

11 ii. Where the applicable requirement does not  
12 require periodic testing or instrumental or  
13 noninstrumental monitoring (which may consist of  
14 recordkeeping designed to serve as monitoring),  
15 require periodic monitoring sufficient to yield  
16 reliable data from the relevant time period that is  
17 representative of the source's compliance with the  
18 permit, as reported pursuant to paragraph (f) of this  
19 subsection. The Agency may determine that  
20 recordkeeping requirements are sufficient to meet the  
21 requirements of this subparagraph.

22 iii. As necessary, specify requirements concerning  
23 the use, maintenance, and when appropriate,  
24 installation of monitoring equipment or methods.

25 e. To meet the requirements of this subsection with  
26 respect to record keeping, the permit shall incorporate and

1 identify all applicable recordkeeping requirements and  
2 require, where applicable, the following:

3 i. Records of required monitoring information that  
4 include the following:

5 A. The date, place and time of sampling or  
6 measurements.

7 B. The date(s) analyses were performed.

8 C. The company or entity that performed the  
9 analyses.

10 D. The analytical techniques or methods used.

11 E. The results of such analyses.

12 F. The operating conditions as existing at the  
13 time of sampling or measurement.

14 ii. Retention of records of all monitoring data  
15 and support information for a period of at least 5  
16 years from the date of the monitoring sample,  
17 measurement, report, or application. Support  
18 information includes all calibration and maintenance  
19 records, original strip-chart recordings for  
20 continuous monitoring instrumentation, and copies of  
21 all reports required by the permit.

22 f. To meet the requirements of this subsection with  
23 respect to reporting, the permit shall incorporate and  
24 identify all applicable reporting requirements and require  
25 the following:

26 i. Submittal of reports of any required monitoring

1 every 6 months. More frequent submittals may be  
2 requested by the Agency if such submittals are  
3 necessary to assure compliance with this Act or  
4 regulations promulgated by the Board thereunder. All  
5 instances of deviations from permit requirements must  
6 be clearly identified in such reports. All required  
7 reports must be certified by a responsible official  
8 consistent with subsection 5 of this Section.

9 ii. Prompt reporting of deviations from permit  
10 requirements, including those attributable to upset  
11 conditions as defined in the permit, the probable cause  
12 of such deviations, and any corrective actions or  
13 preventive measures taken.

14 g. Each CAAPP permit issued under subsection 10 of this  
15 Section shall include a condition prohibiting emissions  
16 exceeding any allowances that the source lawfully holds  
17 under Title IV of the Clean Air Act or the regulations  
18 promulgated thereunder, consistent with subsection 17 of  
19 this Section and applicable regulations, if any.

20 h. All CAAPP permits shall state that, where another  
21 applicable requirement of the Clean Air Act is more  
22 stringent than any applicable requirement of regulations  
23 promulgated under Title IV of the Clean Air Act, both  
24 provisions shall be incorporated into the permit and shall  
25 be State and federally enforceable.

26 i. Each CAAPP permit issued under subsection 10 of this

1 Section shall include a severability clause to ensure the  
2 continued validity of the various permit requirements in  
3 the event of a challenge to any portions of the permit.

4 j. The following shall apply with respect to owners or  
5 operators requesting a permit shield:

6 i. The Agency shall include in a CAAPP permit, when  
7 requested by an applicant pursuant to paragraph 5(p) of  
8 subsection 5 of this Section, a provision stating that  
9 compliance with the conditions of the permit shall be  
10 deemed compliance with applicable requirements which  
11 are applicable as of the date of release of the  
12 proposed permit, provided that:

13 A. The applicable requirement is specifically  
14 identified within the permit; or

15 B. The Agency in acting on the CAAPP  
16 application or revision determines in writing that  
17 other requirements specifically identified are not  
18 applicable to the source, and the permit includes  
19 that determination or a concise summary thereof.

20 ii. The permit shall identify the requirements for  
21 which the source is shielded. The shield shall not  
22 extend to applicable requirements which are  
23 promulgated after the date of release of the proposed  
24 permit unless the permit has been modified to reflect  
25 such new requirements.

26 iii. A CAAPP permit which does not expressly

1           indicate the existence of a permit shield shall not  
2           provide such a shield.

3           iv. Nothing in this paragraph or in a CAAPP permit  
4           shall alter or affect the following:

5           A. The provisions of Section 303 (emergency  
6           powers) of the Clean Air Act, including USEPA's  
7           authority under that section.

8           B. The liability of an owner or operator of a  
9           source for any violation of applicable  
10          requirements prior to or at the time of permit  
11          issuance.

12          C. The applicable requirements of the acid  
13          rain program consistent with Section 408(a) of the  
14          Clean Air Act.

15          D. The ability of USEPA to obtain information  
16          from a source pursuant to Section 114  
17          (inspections, monitoring, and entry) of the Clean  
18          Air Act.

19          k. Each CAAPP permit shall include an emergency  
20          provision providing an affirmative defense of emergency to  
21          an action brought for noncompliance with technology-based  
22          emission limitations under a CAAPP permit if the following  
23          conditions are met through properly signed,  
24          contemporaneous operating logs, or other relevant  
25          evidence:

26          i. An emergency occurred and the permittee can

1 identify the cause(s) of the emergency.

2 ii. The permitted facility was at the time being  
3 properly operated.

4 iii. The permittee submitted notice of the  
5 emergency to the Agency within 2 working days after ~~of~~  
6 the time when emission limitations were exceeded due to  
7 the emergency. This notice must contain a detailed  
8 description of the emergency, any steps taken to  
9 mitigate emissions, and corrective actions taken.

10 iv. During the period of the emergency the  
11 permittee took all reasonable steps to minimize levels  
12 of emissions that exceeded the emission limitations,  
13 standards, or requirements in the permit.

14 For purposes of this subsection, "emergency" means any  
15 situation arising from sudden and reasonably unforeseeable  
16 events beyond the control of the source, such as an act of  
17 God, that requires immediate corrective action to restore  
18 normal operation, and that causes the source to exceed a  
19 technology-based emission limitation under the permit, due  
20 to unavoidable increases in emissions attributable to the  
21 emergency. An emergency shall not include noncompliance to  
22 the extent caused by improperly designed equipment, lack of  
23 preventative maintenance, careless or improper operation,  
24 or operation error.

25 In any enforcement proceeding, the permittee seeking  
26 to establish the occurrence of an emergency has the burden

1 of proof. This provision is in addition to any emergency or  
2 upset provision contained in any applicable requirement.  
3 This provision does not relieve a permittee of any  
4 reporting obligations under existing federal or state laws  
5 or regulations.

6 1. The Agency shall include in each permit issued under  
7 subsection 10 of this Section:

8 i. Terms and conditions for reasonably anticipated  
9 operating scenarios identified by the source in its  
10 application. The permit terms and conditions for each  
11 such operating scenario shall meet all applicable  
12 requirements and the requirements of this Section.

13 A. Under this subparagraph, the source must  
14 record in a log at the permitted facility a record  
15 of the scenario under which it is operating  
16 contemporaneously with making a change from one  
17 operating scenario to another.

18 B. The permit shield described in paragraph  
19 ~~7~~(j) of subsection 7 of this Section shall extend  
20 to all terms and conditions under each such  
21 operating scenario.

22 ii. Where requested by an applicant, all terms and  
23 conditions allowing for trading of emissions increases  
24 and decreases between different emission units at the  
25 CAAPP source, to the extent that the applicable  
26 requirements provide for trading of such emissions



1 increases and decreases without a case-by-case  
2 approval of each emissions trade. Such terms and  
3 conditions:

4 A. Shall include all terms required under this  
5 subsection to determine compliance;

6 B. Must meet all applicable requirements;

7 C. Shall extend the permit shield described in  
8 paragraph ~~7~~(j) of subsection 7 of this Section to  
9 all terms and conditions that allow such increases  
10 and decreases in emissions.

11 m. The Agency shall specifically designate as not being  
12 federally enforceable under the Clean Air Act any terms and  
13 conditions included in the permit that are not specifically  
14 required under the Clean Air Act or federal regulations  
15 promulgated thereunder. Terms or conditions so designated  
16 shall be subject to all applicable state requirements,  
17 except the requirements of subsection 7 (other than this  
18 paragraph, paragraph q of subsection 7, subsections 8  
19 through 11, and subsections 13 through 16 of this Section.  
20 The Agency shall, however, include such terms and  
21 conditions in the CAAPP permit issued to the source.

22 n. Each CAAPP permit issued under subsection 10 of this  
23 Section shall specify and reference the origin of and  
24 authority for each term or condition, and identify any  
25 difference in form as compared to the applicable  
26 requirement upon which the term or condition is based.

1           o. Each CAAPP permit issued under subsection 10 of this  
2 Section shall include provisions stating the following:

3           i. Duty to comply. The permittee must comply with  
4 all terms and conditions of the CAAPP permit. Any  
5 permit noncompliance constitutes a violation of the  
6 Clean Air Act and the Act, and is grounds for any or  
7 all of the following: enforcement action; permit  
8 termination, revocation and reissuance, or  
9 modification; or denial of a permit renewal  
10 application.

11           ii. Need to halt or reduce activity not a defense.  
12 It shall not be a defense for a permittee in an  
13 enforcement action that it would have been necessary to  
14 halt or reduce the permitted activity in order to  
15 maintain compliance with the conditions of this  
16 permit.

17           iii. Permit actions. The permit may be modified,  
18 revoked, reopened, and reissued, or terminated for  
19 cause in accordance with the applicable subsections of  
20 Section 39.5 of this Act. The filing of a request by  
21 the permittee for a permit modification, revocation  
22 and reissuance, or termination, or of a notification of  
23 planned changes or anticipated noncompliance does not  
24 stay any permit condition.

25           iv. Property rights. The permit does not convey any  
26 property rights of any sort, or any exclusive

1 privilege.

2 v. Duty to provide information. The permittee  
3 shall furnish to the Agency within a reasonable time  
4 specified by the Agency any information that the Agency  
5 may request in writing to determine whether cause  
6 exists for modifying, revoking and reissuing, or  
7 terminating the permit or to determine compliance with  
8 the permit. Upon request, the permittee shall also  
9 furnish to the Agency copies of records required to be  
10 kept by the permit or, for information claimed to be  
11 confidential, the permittee may furnish such records  
12 directly to USEPA along with a claim of  
13 confidentiality.

14 vi. Duty to pay fees. The permittee must pay fees  
15 to the Agency consistent with the fee schedule approved  
16 pursuant to subsection 18 of this Section, and submit  
17 any information relevant thereto.

18 vii. Emissions trading. No permit revision shall  
19 be required for increases in emissions allowed under  
20 any approved economic incentives, marketable permits,  
21 emissions trading, and other similar programs or  
22 processes for changes that are provided for in the  
23 permit and that are authorized by the applicable  
24 requirement.

25 p. Each CAAPP permit issued under subsection 10 of this  
26 Section shall contain the following elements with respect

1 to compliance:

2 i. Compliance certification, testing, monitoring,  
3 reporting, and record keeping requirements sufficient  
4 to assure compliance with the terms and conditions of  
5 the permit. Any document (including reports) required  
6 by a CAAPP permit shall contain a certification by a  
7 responsible official that meets the requirements of  
8 subsection 5 of this Section and applicable  
9 regulations.

10 ii. Inspection and entry requirements that  
11 necessitate that, upon presentation of credentials and  
12 other documents as may be required by law and in  
13 accordance with constitutional limitations, the  
14 permittee shall allow the Agency, or an authorized  
15 representative to perform the following:

16 A. Enter upon the permittee's premises where a  
17 CAAPP source is located or emissions-related  
18 activity is conducted, or where records must be  
19 kept under the conditions of the permit.

20 B. Have access to and copy, at reasonable  
21 times, any records that must be kept under the  
22 conditions of the permit.

23 C. Inspect at reasonable times any facilities,  
24 equipment (including monitoring and air pollution  
25 control equipment), practices, or operations  
26 regulated or required under the permit.

1           D. Sample or monitor any substances or  
2 parameters at any location:

3           1. As authorized by the Clean Air Act, at  
4 reasonable times, for the purposes of assuring  
5 compliance with the CAAPP permit or applicable  
6 requirements; or

7           2. As otherwise authorized by this Act.

8           iii. A schedule of compliance consistent with  
9 subsection 5 of this Section and applicable  
10 regulations.

11           iv. Progress reports consistent with an applicable  
12 schedule of compliance pursuant to paragraph ~~5~~(d) of  
13 subsection 5 of this Section and applicable  
14 regulations to be submitted semiannually, or more  
15 frequently if the Agency determines that such more  
16 frequent submittals are necessary for compliance with  
17 the Act or regulations promulgated by the Board  
18 thereunder. Such progress reports shall contain the  
19 following:

20           A. Required dates for achieving the  
21 activities, milestones, or compliance required by  
22 the schedule of compliance and dates when such  
23 activities, milestones or compliance were  
24 achieved.

25           B. An explanation of why any dates in the  
26 schedule of compliance were not or will not be met,

1 and any preventive or corrective measures adopted.

2 v. Requirements for compliance certification with  
3 terms and conditions contained in the permit,  
4 including emission limitations, standards, or work  
5 practices. Permits shall include each of the  
6 following:

7 A. The frequency (annually or more frequently  
8 as specified in any applicable requirement or by  
9 the Agency pursuant to written procedures) of  
10 submissions of compliance certifications.

11 B. A means for assessing or monitoring the  
12 compliance of the source with its emissions  
13 limitations, standards, and work practices.

14 C. A requirement that the compliance  
15 certification include the following:

16 1. The identification of each term or  
17 condition contained in the permit that is the  
18 basis of the certification.

19 2. The compliance status.

20 3. Whether compliance was continuous or  
21 intermittent.

22 4. The method(s) used for determining the  
23 compliance status of the source, both  
24 currently and over the reporting period  
25 consistent with subsection 7 of this Section  
26 ~~39.5 of the Act.~~

1           D. A requirement that all compliance  
2           certifications be submitted to USEPA as well as to  
3           the Agency.

4           E. Additional requirements as may be specified  
5           pursuant to Sections 114(a)(3) and 504(b) of the  
6           Clean Air Act.

7           F. Other provisions as the Agency may require.

8           q. If the owner or operator of CAAPP source can  
9           demonstrate in its CAAPP application, including an  
10          application for a significant modification, that an  
11          alternative emission limit would be equivalent to that  
12          contained in the applicable Board regulations, the Agency  
13          shall include the alternative emission limit in the CAAPP  
14          permit, which shall supersede the emission limit set forth  
15          in the applicable Board regulations, and shall include  
16          conditions that insure that the resulting emission limit is  
17          quantifiable, accountable, enforceable, and based on  
18          replicable procedures.

19          8. Public Notice; Affected State Review.

20          a. The Agency shall provide notice to the public,  
21          including an opportunity for public comment and a hearing,  
22          on each draft CAAPP permit for issuance, renewal or  
23          significant modification, subject to Section ~~Sections 7(a)~~  
24          ~~and~~ 7.1 and subsection (a) of Section 7 of this Act.

25          b. The Agency shall prepare a draft CAAPP permit and a  
26          statement that sets forth the legal and factual basis for

1 the draft CAAPP permit conditions, including references to  
2 the applicable statutory or regulatory provisions. The  
3 Agency shall provide this statement to any person who  
4 requests it.

5 c. The Agency shall give notice of each draft CAAPP  
6 permit to the applicant and to any affected State on or  
7 before the time that the Agency has provided notice to the  
8 public, except as otherwise provided in this Act.

9 d. The Agency, as part of its submittal of a proposed  
10 permit to USEPA (or as soon as possible after the submittal  
11 for minor permit modification procedures allowed under  
12 subsection 14 of this Section), shall notify USEPA and any  
13 affected State in writing of any refusal of the Agency to  
14 accept all of the recommendations for the proposed permit  
15 that an affected State submitted during the public or  
16 affected State review period. The notice shall include the  
17 Agency's reasons for not accepting the recommendations.  
18 The Agency is not required to accept recommendations that  
19 are not based on applicable requirements or the  
20 requirements of this Section.

21 e. The Agency shall make available to the public any  
22 CAAPP permit application, compliance plan (including the  
23 schedule of compliance), CAAPP permit, and emissions or  
24 compliance monitoring report. If an owner or operator of a  
25 CAAPP source is required to submit information entitled to  
26 protection from disclosure under ~~Section 7(a)~~ or Section



1       7.1 and subsection (a) of Section 7 of this Act, the owner  
2       or operator shall submit such information separately. The  
3       requirements of ~~Section 7(a) or~~ Section 7.1 and subsection  
4       (a) of Section 7 of this Act shall apply to such  
5       information, which shall not be included in a CAAPP permit  
6       unless required by law. The contents of a CAAPP permit  
7       shall not be entitled to protection under ~~Section 7(a) or~~  
8       Section 7.1 and subsection (a) of Section 7 of this Act.

9       f. The Agency shall have the authority to adopt  
10      procedural rules, in accordance with the Illinois  
11      Administrative Procedure Act, as the Agency deems  
12      necessary, to implement this subsection.

13      g. If requested by the permit applicant, the Agency  
14      shall provide the permit applicant with a copy of the draft  
15      CAAPP permit prior to any public review period. If  
16      requested by the permit applicant, the Agency shall provide  
17      the permit applicant with a copy of the final CAAPP permit  
18      prior to issuance of the CAAPP permit.

19      9. USEPA Notice and Objection.

20      a. The Agency shall provide to USEPA for its review a  
21      copy of each CAAPP application (including any application  
22      for permit modification), statement of basis as provided in  
23      paragraph ~~8~~(b) of subsection 8 of this Section, proposed  
24      CAAPP permit, CAAPP permit, and, if the Agency does not  
25      incorporate any affected State's recommendations on a

1 proposed CAAPP permit, a written statement of this decision  
2 and its reasons for not accepting the recommendations,  
3 except as otherwise provided in this Act or by agreement  
4 with USEPA. To the extent practicable, the preceding  
5 information shall be provided in computer readable format  
6 compatible with USEPA's national database management  
7 system.

8 b. The Agency shall not issue the proposed CAAPP permit  
9 if USEPA objects in writing within 45 days after ~~of~~ receipt  
10 of the proposed CAAPP permit and all necessary supporting  
11 information.

12 c. If USEPA objects in writing to the issuance of the  
13 proposed CAAPP permit within the 45-day period, the Agency  
14 shall respond in writing and may revise and resubmit the  
15 proposed CAAPP permit in response to the stated objection,  
16 to the extent supported by the record, within 90 days after  
17 the date of the objection. Prior to submitting a revised  
18 permit to USEPA, the Agency shall provide the applicant and  
19 any person who participated in the public comment process,  
20 pursuant to subsection 8 of this Section, with a 10-day  
21 period to comment on any revision which the Agency is  
22 proposing to make to the permit in response to USEPA's  
23 objection in accordance with Agency procedures.

24 d. Any USEPA objection under this subsection,  
25 according to the Clean Air Act, will include a statement of  
26 reasons for the objection and a description of the terms

1 and conditions that must be in the permit, in order to  
2 adequately respond to the objections. Grounds for a USEPA  
3 objection include the failure of the Agency to: (1) submit  
4 the items and notices required under this subsection; (2)  
5 submit any other information necessary to adequately  
6 review the proposed CAAPP permit; or (3) process the permit  
7 under subsection 8 of this Section except for minor permit  
8 modifications.

9 e. If USEPA does not object in writing to issuance of a  
10 permit under this subsection, any person may petition USEPA  
11 within 60 days after expiration of the 45-day review period  
12 to make such objection.

13 f. If the permit has not yet been issued and USEPA  
14 objects to the permit as a result of a petition, the Agency  
15 shall not issue the permit until USEPA's objection has been  
16 resolved. The Agency shall provide a 10-day comment period  
17 in accordance with paragraph c of this subsection. A  
18 petition does not, however, stay the effectiveness of a  
19 permit or its requirements if the permit was issued after  
20 expiration of the 45-day review period and prior to a USEPA  
21 objection.

22 g. If the Agency has issued a permit after expiration  
23 of the 45-day review period and prior to receipt of a USEPA  
24 objection under this subsection in response to a petition  
25 submitted pursuant to paragraph e of this subsection, the  
26 Agency may, upon receipt of an objection from USEPA, revise

1 and resubmit the permit to USEPA pursuant to this  
2 subsection after providing a 10-day comment period in  
3 accordance with paragraph c of this subsection. If the  
4 Agency fails to submit a revised permit in response to the  
5 objection, USEPA shall modify, terminate or revoke the  
6 permit. In any case, the source will not be in violation of  
7 the requirement to have submitted a timely and complete  
8 application.

9 h. The Agency shall have the authority to adopt  
10 procedural rules, in accordance with the Illinois  
11 Administrative Procedure Act, as the Agency deems  
12 necessary, to implement this subsection.

13 10. Final Agency Action.

14 a. The Agency shall issue a CAAPP permit, permit  
15 modification, or permit renewal if all of the following  
16 conditions are met:

17 i. The applicant has submitted a complete and  
18 certified application for a permit, permit  
19 modification, or permit renewal consistent with  
20 subsections 5 and 14 of this Section, as applicable,  
21 and applicable regulations.

22 ii. The applicant has submitted with its complete  
23 application an approvable compliance plan, including a  
24 schedule for achieving compliance, consistent with  
25 subsection 5 of this Section and applicable

1 regulations.

2 iii. The applicant has timely paid the fees  
3 required pursuant to subsection 18 of this Section and  
4 applicable regulations.

5 iv. The Agency has received a complete CAAPP  
6 application and, if necessary, has requested and  
7 received additional information from the applicant  
8 consistent with subsection 5 of this Section and  
9 applicable regulations.

10 v. The Agency has complied with all applicable  
11 provisions regarding public notice and affected State  
12 review consistent with subsection 8 of this Section and  
13 applicable regulations.

14 vi. The Agency has provided a copy of each CAAPP  
15 application, or summary thereof, pursuant to agreement  
16 with USEPA and proposed CAAPP permit required under  
17 subsection 9 of this Section to USEPA, and USEPA has  
18 not objected to the issuance of the permit in  
19 accordance with the Clean Air Act and 40 CFR Part 70.

20 b. The Agency shall have the authority to deny a CAAPP  
21 permit, permit modification, or permit renewal if the  
22 applicant has not complied with the requirements of  
23 subparagraphs (i) through (iv) of paragraph (a) ~~paragraphs~~  
24 ~~(a) (i) - (a) (iv)~~ of this subsection or if USEPA objects to  
25 its issuance.

26 c. i. Prior to denial of a CAAPP permit, permit

1 modification, or permit renewal under this Section,  
2 the Agency shall notify the applicant of the possible  
3 denial and the reasons for the denial.

4 ii. Within such notice, the Agency shall specify an  
5 appropriate date by which the applicant shall  
6 adequately respond to the Agency's notice. Such date  
7 shall not exceed 15 days from the date the notification  
8 is received by the applicant. The Agency may grant a  
9 reasonable extension for good cause shown.

10 iii. Failure by the applicant to adequately  
11 respond by the date specified in the notification or by  
12 any granted extension date shall be grounds for denial  
13 of the permit.

14 For purposes of obtaining judicial review under  
15 Sections 40.2 and 41 of this Act, the Agency shall  
16 provide to USEPA and each applicant, and, upon request,  
17 to affected States, any person who participated in the  
18 public comment process, and any other person who could  
19 obtain judicial review under Sections 40.2 and 41 of  
20 this Act, a copy of each CAAPP permit or notification  
21 of denial pertaining to that party.

22 d. The Agency shall have the authority to adopt  
23 procedural rules, in accordance with the Illinois  
24 Administrative Procedure Act, as the Agency deems  
25 necessary, to implement this subsection.

1 11. General Permits.

2 a. The Agency may issue a general permit covering  
3 numerous similar sources, except for affected sources for  
4 acid deposition unless otherwise provided in regulations  
5 promulgated under Title IV of the Clean Air Act.

6 b. The Agency shall identify, in any general permit,  
7 criteria by which sources may qualify for the general  
8 permit.

9 c. CAAPP sources that would qualify for a general  
10 permit must apply for coverage under the terms of the  
11 general permit or must apply for a CAAPP permit consistent  
12 with subsection 5 of this Section and applicable  
13 regulations.

14 d. The Agency shall comply with the public comment and  
15 hearing provisions of this Section as well as the USEPA and  
16 affected State review procedures prior to issuance of a  
17 general permit.

18 e. When granting a subsequent request by a qualifying  
19 CAAPP source for coverage under the terms of a general  
20 permit, the Agency shall not be required to repeat the  
21 public notice and comment procedures. The granting of such  
22 request shall not be considered a final permit action for  
23 purposes of judicial review.

24 f. The Agency may not issue a general permit to cover  
25 any discrete emission unit at a CAAPP source if another  
26 CAAPP permit covers emission units at the source.

1           g. The Agency shall have the authority to adopt  
2 procedural rules, in accordance with the Illinois  
3 Administrative Procedure Act, as the Agency deems  
4 necessary, to implement this subsection.

5           12. Operational Flexibility.

6           a. An owner or operator of a CAAPP source may make  
7 changes at the CAAPP source without requiring a prior  
8 permit revision, consistent with subparagraphs ~~(a)~~ (i)  
9 through ~~(a)~~ (iii) of paragraph (a) of this subsection, so  
10 long as the changes are not modifications under any  
11 provision of Title I of the Clean Air Act and they do not  
12 exceed the emissions allowable under the permit (whether  
13 expressed therein as a rate of emissions or in terms of  
14 total emissions), provided that the owner or operator of  
15 the CAAPP source provides USEPA and the Agency with written  
16 notification as required below in advance of the proposed  
17 changes, which shall be a minimum of 7 days, unless  
18 otherwise provided by the Agency in applicable regulations  
19 regarding emergencies. The owner or operator of a CAAPP  
20 source and the Agency shall each attach such notice to  
21 their copy of the relevant permit.

22           i. An owner or operator of a CAAPP source may make  
23 Section 502 (b) (10) changes without a permit revision,  
24 if the changes are not modifications under any  
25 provision of Title I of the Clean Air Act and the



1 changes do not exceed the emissions allowable under the  
2 permit (whether expressed therein as a rate of  
3 emissions or in terms of total emissions).

4 A. For each such change, the written  
5 notification required above shall include a brief  
6 description of the change within the source, the  
7 date on which the change will occur, any change in  
8 emissions, and any permit term or condition that is  
9 no longer applicable as a result of the change.

10 B. The permit shield described in paragraph  
11 7(j) of subsection 7 of this Section shall not  
12 apply to any change made pursuant to this  
13 subparagraph.

14 ii. An owner or operator of a CAAPP source may  
15 trade increases and decreases in emissions in the CAAPP  
16 source, where the applicable implementation plan  
17 provides for such emission trades without requiring a  
18 permit revision. This provision is available in those  
19 cases where the permit does not already provide for  
20 such emissions trading.

21 A. Under this subparagraph ~~(a)(ii)~~ of  
22 paragraph (a) of this subsection, the written  
23 notification required above shall include such  
24 information as may be required by the provision in  
25 the applicable implementation plan authorizing the  
26 emissions trade, including at a minimum, when the

1 proposed changes will occur, a description of each  
2 such change, any change in emissions, the permit  
3 requirements with which the source will comply  
4 using the emissions trading provisions of the  
5 applicable implementation plan, and the pollutants  
6 emitted subject to the emissions trade. The notice  
7 shall also refer to the provisions in the  
8 applicable implementation plan with which the  
9 source will comply and provide for the emissions  
10 trade.

11 B. The permit shield described in paragraph  
12 ~~7~~(j) of subsection 7 of this Section shall not  
13 apply to any change made pursuant to ~~this~~  
14 subparagraph ~~(a)~~ (ii) of paragraph (a) of this  
15 subsection. Compliance with the permit  
16 requirements that the source will meet using the  
17 emissions trade shall be determined according to  
18 the requirements of the applicable implementation  
19 plan authorizing the emissions trade.

20 iii. If requested within a CAAPP application, the  
21 Agency shall issue a CAAPP permit which contains terms  
22 and conditions, including all terms required under  
23 subsection 7 of this Section to determine compliance,  
24 allowing for the trading of emissions increases and  
25 decreases at the CAAPP source solely for the purpose of  
26 complying with a federally-enforceable emissions cap

1           that is established in the permit independent of  
2           otherwise applicable requirements. The owner or  
3           operator of a CAAPP source shall include in its CAAPP  
4           application proposed replicable procedures and permit  
5           terms that ensure the emissions trades are  
6           quantifiable and enforceable. The permit shall also  
7           require compliance with all applicable requirements.

8           A. Under this subparagraph ~~(a)~~ (iii) of  
9           paragraph (a), the written notification required  
10          above shall state when the change will occur and  
11          shall describe the changes in emissions that will  
12          result and how these increases and decreases in  
13          emissions will comply with the terms and  
14          conditions of the permit.

15          B. The permit shield described in paragraph  
16          ~~7~~(j) of subsection 7 of this Section shall extend  
17          to terms and conditions that allow such increases  
18          and decreases in emissions.

19          b. An owner or operator of a CAAPP source may make  
20          changes that are not addressed or prohibited by the permit,  
21          other than those which are subject to any requirements  
22          under Title IV of the Clean Air Act or are modifications  
23          under any provisions of Title I of the Clean Air Act,  
24          without a permit revision, in accordance with the following  
25          requirements:

26                 (i) Each such change shall meet all applicable

1 requirements and shall not violate any existing permit  
2 term or condition;

3 (ii) Sources must provide contemporaneous written  
4 notice to the Agency and USEPA of each such change,  
5 except for changes that qualify as insignificant under  
6 provisions adopted by the Agency or the Board. Such  
7 written notice shall describe each such change,  
8 including the date, any change in emissions,  
9 pollutants emitted, and any applicable requirement  
10 that would apply as a result of the change;

11 (iii) The change shall not qualify for the shield  
12 described in paragraph 7(j) of subsection 7 of this  
13 Section; and

14 (iv) The permittee shall keep a record describing  
15 changes made at the source that result in emissions of  
16 a regulated air pollutant subject to an applicable  
17 Clean Air Act requirement, but not otherwise regulated  
18 under the permit, and the emissions resulting from  
19 those changes.

20 c. The Agency shall have the authority to adopt  
21 procedural rules, in accordance with the Illinois  
22 Administrative Procedure Act, as the Agency deems  
23 necessary to implement this subsection.

24 13. Administrative Permit Amendments.

25 a. The Agency shall take final action on a request for

1 an administrative permit amendment within 60 days after ~~of~~  
2 receipt of the request. Neither notice nor an opportunity  
3 for public and affected State comment shall be required for  
4 the Agency to incorporate such revisions, provided it  
5 designates the permit revisions as having been made  
6 pursuant to this subsection.

7 b. The Agency shall submit a copy of the revised permit  
8 to USEPA.

9 c. For purposes of this Section the term  
10 "administrative permit amendment" shall be defined as a  
11 permit revision that can accomplish one or more of the  
12 changes described below:

13 i. Corrects typographical errors;

14 ii. Identifies a change in the name, address, or  
15 phone number of any person identified in the permit, or  
16 provides a similar minor administrative change at the  
17 source;

18 iii. Requires more frequent monitoring or  
19 reporting by the permittee;

20 iv. Allows for a change in ownership or operational  
21 control of a source where the Agency determines that no  
22 other change in the permit is necessary, provided that  
23 a written agreement containing a specific date for  
24 transfer of permit responsibility, coverage, and  
25 liability between the current and new permittees has  
26 been submitted to the Agency;

1           v. Incorporates into the CAAPP permit the  
2 requirements from preconstruction review permits  
3 authorized under a USEPA-approved program, provided  
4 the program meets procedural and compliance  
5 requirements substantially equivalent to those  
6 contained in this Section;

7           vi. (Blank); or

8           vii. Any other type of change which USEPA has  
9 determined as part of the approved CAAPP permit program  
10 to be similar to those included in this subsection.

11          d. The Agency shall, upon taking final action granting  
12 a request for an administrative permit amendment, allow  
13 coverage by the permit shield in paragraph 7(j) of  
14 subsection 7 of this Section for administrative permit  
15 amendments made pursuant to subparagraph ~~(e)~~(v) of  
16 paragraph (c) of this subsection which meet the relevant  
17 requirements for significant permit modifications.

18          e. Permit revisions and modifications, including  
19 administrative amendments and automatic amendments  
20 (pursuant to Sections 408(b) and 403(d) of the Clean Air  
21 Act or regulations promulgated thereunder), for purposes  
22 of the acid rain portion of the permit shall be governed by  
23 the regulations promulgated under Title IV of the Clean Air  
24 Act. Owners or operators of affected sources for acid  
25 deposition shall have the flexibility to amend their  
26 compliance plans as provided in the regulations

1 promulgated under Title IV of the Clean Air Act.

2 f. The CAAPP source may implement the changes addressed  
3 in the request for an administrative permit amendment  
4 immediately upon submittal of the request.

5 g. The Agency shall have the authority to adopt  
6 procedural rules, in accordance with the Illinois  
7 Administrative Procedure Act, as the Agency deems  
8 necessary, to implement this subsection.

9 14. Permit Modifications.

10 a. Minor permit modification procedures.

11 i. The Agency shall review a permit modification  
12 using the "minor permit" modification procedures only  
13 for those permit modifications that:

14 A. Do not violate any applicable requirement;

15 B. Do not involve significant changes to  
16 existing monitoring, reporting, or recordkeeping  
17 requirements in the permit;

18 C. Do not require a case-by-case determination  
19 of an emission limitation or other standard, or a  
20 source-specific determination of ambient impacts,  
21 or a visibility or increment analysis;

22 D. Do not seek to establish or change a permit  
23 term or condition for which there is no  
24 corresponding underlying requirement and which  
25 avoids an applicable requirement to which the

1 source would otherwise be subject. Such terms and  
2 conditions include:

3 1. A federally enforceable emissions cap  
4 assumed to avoid classification as a  
5 modification under any provision of Title I of  
6 the Clean Air Act; and

7 2. An alternative emissions limit approved  
8 pursuant to regulations promulgated under  
9 Section 112(i)(5) of the Clean Air Act;

10 E. Are not modifications under any provision  
11 of Title I of the Clean Air Act; and

12 F. Are not required to be processed as a  
13 significant modification.

14 ii. Notwithstanding subparagraph ~~subparagraphs~~  
15 ~~(a)~~(i) of paragraph (a) and subparagraph ~~(b)~~(ii) of  
16 paragraph (b) of this subsection, minor permit  
17 modification procedures may be used for permit  
18 modifications involving the use of economic  
19 incentives, marketable permits, emissions trading, and  
20 other similar approaches, to the extent that such minor  
21 permit modification procedures are explicitly provided  
22 for in an applicable implementation plan or in  
23 applicable requirements promulgated by USEPA.

24 iii. An applicant requesting the use of minor  
25 permit modification procedures shall meet the  
26 requirements of subsection 5 of this Section and shall



1 include the following in its application:

2 A. A description of the change, the emissions  
3 resulting from the change, and any new applicable  
4 requirements that will apply if the change occurs;

5 B. The source's suggested draft permit;

6 C. Certification by a responsible official,  
7 consistent with paragraph ~~5~~(e) of subsection 5 of  
8 this Section and applicable regulations, that the  
9 proposed modification meets the criteria for use  
10 of minor permit modification procedures and a  
11 request that such procedures be used; and

12 D. Completed forms for the Agency to use to  
13 notify USEPA and affected States as required under  
14 subsections 8 and 9 of this Section.

15 iv. Within 5 working days after ~~of~~ receipt of a  
16 complete permit modification application, the Agency  
17 shall notify USEPA and affected States of the requested  
18 permit modification in accordance with subsections 8  
19 and 9 of this Section. The Agency promptly shall send  
20 any notice required under paragraph ~~8~~(d) of subsection  
21 8 of this Section to USEPA.

22 v. The Agency may not issue a final permit  
23 modification until after the 45-day review period for  
24 USEPA or until USEPA has notified the Agency that USEPA  
25 will not object to the issuance of the permit  
26 modification, whichever comes first, although the

1 Agency can approve the permit modification prior to  
2 that time. Within 90 days after ~~of~~ the Agency's receipt  
3 of an application under the minor permit modification  
4 procedures or 15 days after the end of USEPA's 45-day  
5 review period under subsection 9 of this Section,  
6 whichever is later, the Agency shall:

7 A. Issue the permit modification as proposed;

8 B. Deny the permit modification application;

9 C. Determine that the requested modification  
10 does not meet the minor permit modification  
11 criteria and should be reviewed under the  
12 significant modification procedures; or

13 D. Revise the draft permit modification and  
14 transmit to USEPA the new proposed permit  
15 modification as required by subsection 9 of this  
16 Section.

17 vi. Any CAAPP source may make the change proposed  
18 in its minor permit modification application  
19 immediately after it files such application. After the  
20 CAAPP source makes the change allowed by the preceding  
21 sentence, and until the Agency takes any of the actions  
22 specified in items subparagraphs (a) (v) (A) through  
23 ~~(a) (v) (C)~~ of subparagraph (v) of paragraph (a) of this  
24 subsection, the source must comply with both the  
25 applicable requirements governing the change and the  
26 proposed permit terms and conditions. During this time

1 period, the source need not comply with the existing  
2 permit terms and conditions it seeks to modify. If the  
3 source fails to comply with its proposed permit terms  
4 and conditions during this time period, the existing  
5 permit terms and conditions which it seeks to modify  
6 may be enforced against it.

7 vii. The permit shield under paragraph (j) of  
8 subsection 7 ~~subparagraph 7(j)~~ of this Section may not  
9 extend to minor permit modifications.

10 viii. If a construction permit is required,  
11 pursuant to subsection (a) of Section 39~~(a)~~ of this Act  
12 and regulations thereunder, for a change for which the  
13 minor permit modification procedures are applicable,  
14 the source may request that the processing of the  
15 construction permit application be consolidated with  
16 the processing of the application for the minor permit  
17 modification. In such cases, the provisions of this  
18 Section, including those within subsections 5, 8, and  
19 9, shall apply and the Agency shall act on such  
20 applications pursuant to subparagraph ~~14(a)(v)~~ of  
21 paragraph (a) of subsection 14 of this Section. The  
22 source may make the proposed change immediately after  
23 filing its application for the minor permit  
24 modification. Nothing in this subparagraph shall  
25 otherwise affect the requirements and procedures  
26 applicable to construction permits.

1           b. Group Processing of Minor Permit Modifications.

2           i. Where requested by an applicant within its  
3 application, the Agency shall process groups of a  
4 source's applications for certain modifications  
5 eligible for minor permit modification processing in  
6 accordance with the provisions of this paragraph (b).

7           ii. Permit modifications may be processed in  
8 accordance with the procedures for group processing,  
9 for those modifications:

10           A. Which meet the criteria for minor permit  
11 modification procedures under subparagraph  
12 ~~14(a)~~ (i) of paragraph (a) of subsection 14 of this  
13 Section; and

14           B. That collectively are below 10 percent of  
15 the emissions allowed by the permit for the  
16 emissions unit for which change is requested, 20  
17 percent of the applicable definition of major  
18 source set forth in subsection 2 of this Section,  
19 or 5 tons per year, whichever is least.

20           iii. An applicant requesting the use of group  
21 processing procedures shall meet the requirements of  
22 subsection 5 of this Section and shall include the  
23 following in its application:

24           A. A description of the change, the emissions  
25 resulting from the change, and any new applicable  
26 requirements that will apply if the change occurs.

1 B. The source's suggested draft permit.

2 C. Certification by a responsible official  
3 consistent with paragraph ~~5~~(e) of subsection 5 of  
4 this Section, that the proposed modification meets  
5 the criteria for use of group processing  
6 procedures and a request that such procedures be  
7 used.

8 D. A list of the source's other pending  
9 applications awaiting group processing, and a  
10 determination of whether the requested  
11 modification, aggregated with these other  
12 applications, equals or exceeds the threshold set  
13 under item subparagraph (b) (ii) (B) of subparagraph  
14 (ii) of paragraph (b) of this subsection.

15 E. Certification, consistent with paragraph  
16 ~~5~~(e) of subsection 5 of this Section, that the  
17 source has notified USEPA of the proposed  
18 modification. Such notification need only contain  
19 a brief description of the requested modification.

20 F. Completed forms for the Agency to use to  
21 notify USEPA and affected states as required under  
22 subsections 8 and 9 of this Section.

23 iv. On a quarterly basis or within 5 business days  
24 after ~~of~~ receipt of an application demonstrating that  
25 the aggregate of a source's pending applications  
26 equals or exceeds the threshold level set forth within

1 item subparagraph (b) (ii) (B) of subparagraph (ii) of  
2 paragraph (b) of this subsection, whichever is  
3 earlier, the Agency shall promptly notify USEPA and  
4 affected States of the requested permit modifications  
5 in accordance with subsections 8 and 9 of this Section.  
6 The Agency shall send any notice required under  
7 paragraph ~~6~~(d) of subsection 8 of this Section to  
8 USEPA.

9 v. The provisions of subparagraph ~~(a) (v)~~ of  
10 paragraph (a) of this subsection shall apply to  
11 modifications eligible for group processing, except  
12 that the Agency shall take one of the actions specified  
13 in items subparagraphs (a) (v) (A) through (a) (v) (D) of  
14 subparagraph (v) of paragraph (a) of this subsection  
15 within 180 days after ~~of~~ receipt of the application or  
16 15 days after the end of USEPA's 45-day review period  
17 under subsection 9 of this Section, whichever is later.

18 vi. The provisions of subparagraph ~~(a) (vi)~~ of  
19 paragraph (a) of this subsection shall apply to  
20 modifications for group processing.

21 vii. The provisions of paragraph ~~7~~(j) of  
22 subsection 7 of this Section shall not apply to  
23 modifications eligible for group processing.

24 c. Significant Permit Modifications.

25 i. Significant modification procedures shall be  
26 used for applications requesting significant permit

1 modifications and for those applications that do not  
2 qualify as either minor permit modifications or as  
3 administrative permit amendments.

4 ii. Every significant change in existing  
5 monitoring permit terms or conditions and every  
6 relaxation of reporting or recordkeeping requirements  
7 shall be considered significant. A modification shall  
8 also be considered significant if in the judgment of  
9 the Agency action on an application for modification  
10 would require decisions to be made on technically  
11 complex issues. Nothing herein shall be construed to  
12 preclude the permittee from making changes consistent  
13 with this Section that would render existing permit  
14 compliance terms and conditions irrelevant.

15 iii. Significant permit modifications must meet  
16 all the requirements of this Section, including those  
17 for applications (including completeness review),  
18 public participation, review by affected States, and  
19 review by USEPA applicable to initial permit issuance  
20 and permit renewal. The Agency shall take final action  
21 on significant permit modifications within 9 months  
22 after receipt of a complete application.

23 d. The Agency shall have the authority to adopt  
24 procedural rules, in accordance with the Illinois  
25 Administrative Procedure Act, as the Agency deems  
26 necessary, to implement this subsection.

1 15. Reopenings for Cause by the Agency.

2 a. Each issued CAAPP permit shall include provisions  
3 specifying the conditions under which the permit will be  
4 reopened prior to the expiration of the permit. Such  
5 revisions shall be made as expeditiously as practicable. A  
6 CAAPP permit shall be reopened and revised under any of the  
7 following circumstances, in accordance with procedures  
8 adopted by the Agency:

9 i. Additional requirements under the Clean Air Act  
10 become applicable to a major CAAPP source for which 3  
11 or more years remain on the original term of the  
12 permit. Such a reopening shall be completed not later  
13 than 18 months after the promulgation of the applicable  
14 requirement. No such revision is required if the  
15 effective date of the requirement is later than the  
16 date on which the permit is due to expire.

17 ii. Additional requirements (including excess  
18 emissions requirements) become applicable to an  
19 affected source for acid deposition under the acid rain  
20 program. Excess emissions offset plans shall be deemed  
21 to be incorporated into the permit upon approval by  
22 USEPA.

23 iii. The Agency or USEPA determines that the permit  
24 contains a material mistake or that inaccurate  
25 statements were made in establishing the emissions



1 standards, limitations, or other terms or conditions  
2 of the permit.

3 iv. The Agency or USEPA determines that the permit  
4 must be revised or revoked to assure compliance with  
5 the applicable requirements.

6 b. In the event that the Agency determines that there  
7 are grounds for revoking a CAAPP permit, for cause,  
8 consistent with paragraph a of this subsection, it shall  
9 file a petition before the Board setting forth the basis  
10 for such revocation. In any such proceeding, the Agency  
11 shall have the burden of establishing that the permit  
12 should be revoked under the standards set forth in this Act  
13 and the Clean Air Act. Any such proceeding shall be  
14 conducted pursuant to the Board's procedures for  
15 adjudicatory hearings and the Board shall render its  
16 decision within 120 days of the filing of the petition. The  
17 Agency shall take final action to revoke and reissue a  
18 CAAPP permit consistent with the Board's order.

19 c. Proceedings regarding a reopened CAAPP permit shall  
20 follow the same procedures as apply to initial permit  
21 issuance and shall affect only those parts of the permit  
22 for which cause to reopen exists.

23 d. Reopenings under paragraph (a) of this subsection  
24 shall not be initiated before a notice of such intent is  
25 provided to the CAAPP source by the Agency at least 30 days  
26 in advance of the date that the permit is to be reopened,

1           except that the Agency may provide a shorter time period in  
2           the case of an emergency.

3           e. The Agency shall have the authority to adopt  
4           procedural rules, in accordance with the Illinois  
5           Administrative Procedure Act, as the Agency deems  
6           necessary, to implement this subsection.

7           16. Reopenings for Cause by USEPA.

8           a. When USEPA finds that cause exists to terminate,  
9           modify, or revoke and reissue a CAAPP permit pursuant to  
10          subsection 15 of this Section, and thereafter notifies the  
11          Agency and the permittee of such finding in writing, the  
12          Agency shall forward to USEPA and the permittee a proposed  
13          determination of termination, modification, or revocation  
14          and reissuance as appropriate, in accordance with  
15          paragraph (b) of this subsection. The Agency's proposed  
16          determination shall be in accordance with the record, the  
17          Clean Air Act, regulations promulgated thereunder, this  
18          Act and regulations promulgated thereunder. Such proposed  
19          determination shall not affect the permit or constitute a  
20          final permit action for purposes of this Act or the  
21          Administrative Review Law. The Agency shall forward to  
22          USEPA such proposed determination within 90 days after  
23          receipt of the notification from USEPA. If additional time  
24          is necessary to submit the proposed determination, the  
25          Agency shall request a 90-day extension from USEPA and

1 shall submit the proposed determination within 180 days  
2 after ~~of~~ receipt of notification from USEPA.

3 b. i. Prior to the Agency's submittal to USEPA of a  
4 proposed determination to terminate or revoke and  
5 reissue the permit, the Agency shall file a petition  
6 before the Board setting forth USEPA's objection, the  
7 permit record, the Agency's proposed determination,  
8 and the justification for its proposed determination.  
9 The Board shall conduct a hearing pursuant to the rules  
10 prescribed by Section 32 of this Act, and the burden of  
11 proof shall be on the Agency.

12 ii. After due consideration of the written and oral  
13 statements, the testimony and arguments that shall be  
14 submitted at hearing, the Board shall issue and enter  
15 an interim order for the proposed determination, which  
16 shall set forth all changes, if any, required in the  
17 Agency's proposed determination. The interim order  
18 shall comply with the requirements for final orders as  
19 set forth in Section 33 of this Act. Issuance of an  
20 interim order by the Board under this paragraph,  
21 however, shall not affect the permit status and does  
22 not constitute a final action for purposes of this Act  
23 or the Administrative Review Law.

24 iii. The Board shall cause a copy of its interim  
25 order to be served upon all parties to the proceeding  
26 as well as upon USEPA. The Agency shall submit the

1 proposed determination to USEPA in accordance with the  
2 Board's Interim Order within 180 days after receipt of  
3 the notification from USEPA.

4 c. USEPA shall review the proposed determination to  
5 terminate, modify, or revoke and reissue the permit within  
6 90 days after ~~of~~ receipt.

7 i. When USEPA reviews the proposed determination  
8 to terminate or revoke and reissue and does not object,  
9 the Board shall, within 7 days after ~~of~~ receipt of  
10 USEPA's final approval, enter the interim order as a  
11 final order. The final order may be appealed as  
12 provided by Title XI of this Act. The Agency shall take  
13 final action in accordance with the Board's final  
14 order.

15 ii. When USEPA reviews such proposed determination  
16 to terminate or revoke and reissue and objects, the  
17 Agency shall submit USEPA's objection and the Agency's  
18 comments and recommendation on the objection to the  
19 Board and permittee. The Board shall review its interim  
20 order in response to USEPA's objection and the Agency's  
21 comments and recommendation and issue a final order in  
22 accordance with Sections 32 and 33 of this Act. The  
23 Agency shall, within 90 days after receipt of such  
24 objection, respond to USEPA's objection in accordance  
25 with the Board's final order.

26 iii. When USEPA reviews such proposed

1           determination to modify and objects, the Agency shall,  
2           within 90 days after receipt of the objection, resolve  
3           the objection and modify the permit in accordance with  
4           USEPA's objection, based upon the record, the Clean Air  
5           Act, regulations promulgated thereunder, this Act, and  
6           regulations promulgated thereunder.

7           d. If the Agency fails to submit the proposed  
8           determination pursuant to paragraph a of this subsection or  
9           fails to resolve any USEPA objection pursuant to paragraph  
10          c of this subsection, USEPA will terminate, modify, or  
11          revoke and reissue the permit.

12          e. The Agency shall have the authority to adopt  
13          procedural rules, in accordance with the Illinois  
14          Administrative Procedure Act, as the Agency deems  
15          necessary, to implement this subsection.

16          17. Title IV; Acid Rain Provisions.

17          a. The Agency shall act on initial CAAPP applications  
18          for affected sources for acid deposition in accordance with  
19          this Section and Title V of the Clean Air Act and  
20          regulations promulgated thereunder, except as modified by  
21          Title IV of the Clean Air Act and regulations promulgated  
22          thereunder. The Agency shall issue initial CAAPP permits to  
23          the affected sources for acid deposition which shall become  
24          effective no earlier than January 1, 1995, and which shall  
25          terminate on December 31, 1999, in accordance with this

1 Section. Subsequent CAAPP permits issued to affected  
2 sources for acid deposition shall be issued for a fixed  
3 term of 5 years. Title IV of the Clean Air Act and  
4 regulations promulgated thereunder, including but not  
5 limited to 40 C.F.R. Part 72, as now or hereafter amended,  
6 are applicable to and enforceable under this Act.

7 b. A designated representative of an affected source  
8 for acid deposition shall submit a timely and complete  
9 Phase II acid rain permit application and compliance plan  
10 to the Agency, not later than January 1, 1996, that meets  
11 the requirements of Titles IV and V of the Clean Air Act  
12 and regulations. The Agency shall act on the Phase II acid  
13 rain permit application and compliance plan in accordance  
14 with this Section and Title V of the Clean Air Act and  
15 regulations promulgated thereunder, except as modified by  
16 Title IV of the Clean Air Act and regulations promulgated  
17 thereunder. The Agency shall issue the Phase II acid rain  
18 permit to an affected source for acid deposition no later  
19 than December 31, 1997, which shall become effective on  
20 January 1, 2000, in accordance with this Section, except as  
21 modified by Title IV and regulations promulgated  
22 thereunder; provided that the designated representative of  
23 the source submitted a timely and complete Phase II permit  
24 application and compliance plan to the Agency that meets  
25 the requirements of Title IV and V of the Clean Air Act and  
26 regulations.

1           c. Each Phase II acid rain permit issued in accordance  
2 with this subsection shall have a fixed term of 5 years.  
3 Except as provided in paragraph b above, the Agency shall  
4 issue or deny a Phase II acid rain permit within 18 months  
5 of receiving a complete Phase II permit application and  
6 compliance plan.

7           d. A designated representative of a new unit, as  
8 defined in Section 402 of the Clean Air Act, shall submit a  
9 timely and complete Phase II acid rain permit application  
10 and compliance plan that meets the requirements of Titles  
11 IV and V of the Clean Air Act and its regulations. The  
12 Agency shall act on the new unit's Phase II acid rain  
13 permit application and compliance plan in accordance with  
14 this Section and Title V of the Clean Air Act and its  
15 regulations, except as modified by Title IV of the Clean  
16 Air Act and its regulations. The Agency shall reopen the  
17 new unit's CAAPP permit for cause to incorporate the  
18 approved Phase II acid rain permit in accordance with this  
19 Section. The Phase II acid rain permit for the new unit  
20 shall become effective no later than the date required  
21 under Title IV of the Clean Air Act and its regulations.

22           e. A designated representative of an affected source  
23 for acid deposition shall submit a timely and complete  
24 Title IV NOx permit application to the Agency, not later  
25 than January 1, 1998, that meets the requirements of Titles  
26 IV and V of the Clean Air Act and its regulations. The

1 Agency shall reopen the Phase II acid rain permit for cause  
2 and incorporate the approved NOx provisions into the Phase  
3 II acid rain permit not later than January 1, 1999, in  
4 accordance with this Section, except as modified by Title  
5 IV of the Clean Air Act and regulations promulgated  
6 thereunder. Such reopening shall not affect the term of the  
7 Phase II acid rain permit.

8 f. The designated representative of the affected  
9 source for acid deposition shall renew the initial CAAPP  
10 permit and Phase II acid rain permit in accordance with  
11 this Section and Title V of the Clean Air Act and  
12 regulations promulgated thereunder, except as modified by  
13 Title IV of the Clean Air Act and regulations promulgated  
14 thereunder.

15 g. In the case of an affected source for acid  
16 deposition for which a complete Phase II acid rain permit  
17 application and compliance plan are timely received under  
18 this subsection, the complete permit application and  
19 compliance plan, including amendments thereto, shall be  
20 binding on the owner, operator and designated  
21 representative, all affected units for acid deposition at  
22 the affected source, and any other unit, as defined in  
23 Section 402 of the Clean Air Act, governed by the Phase II  
24 acid rain permit application and shall be enforceable as an  
25 acid rain permit for purposes of Titles IV and V of the  
26 Clean Air Act, from the date of submission of the acid rain



1 permit application until a Phase II acid rain permit is  
2 issued or denied by the Agency.

3 h. The Agency shall not include or implement any  
4 measure which would interfere with or modify the  
5 requirements of Title IV of the Clean Air Act or  
6 regulations promulgated thereunder.

7 i. Nothing in this Section shall be construed as  
8 affecting allowances or USEPA's decision regarding an  
9 excess emissions offset plan, as set forth in Title IV of  
10 the Clean Air Act or regulations promulgated thereunder.

11 i. No permit revision shall be required for  
12 increases in emissions that are authorized by  
13 allowances acquired pursuant to the acid rain program,  
14 provided that such increases do not require a permit  
15 revision under any other applicable requirement.

16 ii. No limit shall be placed on the number of  
17 allowances held by the source. The source may not,  
18 however, use allowances as a defense to noncompliance  
19 with any other applicable requirement.

20 iii. Any such allowance shall be accounted for  
21 according to the procedures established in regulations  
22 promulgated under Title IV of the Clean Air Act.

23 j. To the extent that the federal regulations  
24 promulgated under Title IV, including but not limited to 40  
25 C.F.R. Part 72, as now or hereafter amended, are  
26 inconsistent with the federal regulations promulgated

1 under Title V, the federal regulations promulgated under  
2 Title IV shall take precedence.

3 k. The USEPA may intervene as a matter of right in any  
4 permit appeal involving a Phase II acid rain permit  
5 provision or denial of a Phase II acid rain permit.

6 l. It is unlawful for any owner or operator to violate  
7 any terms or conditions of a Phase II acid rain permit  
8 issued under this subsection, to operate any affected  
9 source for acid deposition except in compliance with a  
10 Phase II acid rain permit issued by the Agency under this  
11 subsection, or to violate any other applicable  
12 requirements.

13 m. The designated representative of an affected source  
14 for acid deposition shall submit to the Agency the data and  
15 information submitted quarterly to USEPA, pursuant to 40  
16 CFR 75.64, concurrently with the submission to USEPA. The  
17 submission shall be in the same electronic format as  
18 specified by USEPA.

19 n. The Agency shall act on any petition for exemption  
20 of a new unit or retired unit, as those terms are defined  
21 in Section 402 of the Clean Air Act, from the requirements  
22 of the acid rain program in accordance with Title IV of the  
23 Clean Air Act and its regulations.

24 o. The Agency shall have the authority to adopt  
25 procedural rules, in accordance with the Illinois  
26 Administrative Procedure Act, as the Agency deems

1 necessary to implement this subsection.

2 18. Fee Provisions.

3 a. ~~A For each 12 month period after the date on which~~  
4 ~~the USEPA approves or conditionally approves the CAAPP, but~~  
5 ~~in no event prior to January 1, 1994,~~ a source subject to  
6 this Section or excluded under subsection 1.1 or paragraph  
7 (c) of subsection 3 ~~3(e)~~ of this Section, shall pay a fee  
8 as provided in this paragraph ~~part~~ (a) of ~~this~~ subsection  
9 18. However, a source that has been excluded from the  
10 provisions of this Section under subsection 1.1 or under  
11 paragraph (c) of subsection 3 ~~paragraph 3(e)~~ of this  
12 Section because the source emits less than 25 tons per year  
13 of any combination of regulated air pollutants, except  
14 greenhouse gases, shall pay fees in accordance with  
15 paragraph (1) of subsection (b) of Section 9.6.

16 i. The fee for a source allowed to emit less than  
17 100 tons per year of any combination of regulated air  
18 pollutants, except greenhouse gases, shall be \$1,800  
19 per year, and that fee shall increase, beginning  
20 January 1, 2012, to \$2,150 per year.

21 ii. The fee for a source allowed to emit 100 tons  
22 or more per year of any combination of regulated air  
23 pollutants, except greenhouse gases and ~~for~~ those  
24 regulated air pollutants excluded in paragraph ~~18~~(f)  
25 of this subsection 18, shall be as follows:

1           A. The Agency shall assess ~~a~~ ~~an annual~~ fee of  
2           \$18.00 per ton, per year for the allowable  
3           emissions of ~~all~~ regulated air pollutants subject  
4           to this subparagraph (ii) of paragraph (a) of  
5           subsection 18, and that fee shall increase,  
6           beginning January 1, 2012, to \$21.50 per ton, per  
7           year ~~at that source during the term of the permit.~~  
8           These fees shall be used by the Agency and the  
9           Board to fund the activities required by Title V of  
10          the Clean Air Act including such activities as may  
11          be carried out by other State or local agencies  
12          pursuant to paragraph (d) of this subsection. The  
13          amount of such fee shall be based on the  
14          information supplied by the applicant in its  
15          complete CAAPP permit application or in the CAAPP  
16          permit if the permit has been granted and shall be  
17          determined by the amount of emissions that the  
18          source is allowed to emit annually, provided  
19          however, that the maximum fee for a CAAPP permit  
20          under this subparagraph (ii) of paragraph (a) of  
21          subsection 18 is ~~no source shall be required to pay~~  
22          ~~an annual fee in excess of \$250,000,~~ and increases,  
23          beginning January 1, 2012, to \$294,000. Beginning  
24          January 1, 2012, the maximum fee under this  
25          subparagraph (ii) of paragraph (a) of subsection  
26          18 for a source that has been excluded under

1           subsection 1.1 of this Section or under paragraph  
2           (c) of subsection 3 of this Section is \$4,112. The  
3           Agency shall provide as part of the permit  
4           application form required under subsection 5 of  
5           this Section a separate fee calculation form which  
6           will allow the applicant to identify the allowable  
7           emissions and calculate the fee ~~for the term of the~~  
8           ~~permit~~. In no event shall the Agency raise the  
9           amount of allowable emissions requested by the  
10          applicant unless such increases are required to  
11          demonstrate compliance with terms of a CAAPP  
12          permit.

13           Notwithstanding the above, any applicant may  
14          seek a change in its permit which would result in  
15          increases in allowable emissions due to an  
16          increase in the hours of operation or production  
17          rates of an emission unit or units and such a  
18          change shall be consistent with the construction  
19          permit requirements of the existing State permit  
20          program, under subsection (a) of Section 39~~(a)~~ of  
21          this Act and applicable provisions of this  
22          Section. Where a construction permit is required,  
23          the Agency shall expeditiously grant such  
24          construction permit and shall, if necessary,  
25          modify the CAAPP permit based on the same  
26          application.

1           B. The applicant or permittee may pay the fee  
2           annually or semiannually for those fees greater  
3           than \$5,000. However, any applicant paying a fee  
4           equal to or greater than \$100,000 shall pay the  
5           full amount on July 1, for the subsequent fiscal  
6           year, or pay 50% of the fee on July 1 and the  
7           remaining 50% by the next January 1. The Agency may  
8           change any annual billing date upon reasonable  
9           notice, but shall prorate the new bill so that the  
10          permittee or applicant does not pay more than its  
11          required fees for the fee period for which payment  
12          is made.

13          b. (Blank).

14          c. (Blank).

15          d. There is hereby created in the State Treasury a  
16          special fund to be known as the "CAA Permit Fund". All  
17          Funds collected by the Agency pursuant to this subsection  
18          shall be deposited into the Fund. The General Assembly  
19          shall appropriate monies from this Fund to the Agency and  
20          to the Board to carry out their obligations under this  
21          Section. The General Assembly may also authorize monies to  
22          be granted by the Agency from this Fund to other State and  
23          local agencies which perform duties related to the CAAPP.  
24          Interest generated on the monies deposited in this Fund  
25          shall be returned to the Fund.

26          e. The Agency shall have the authority to adopt

1 procedural rules, in accordance with the Illinois  
2 Administrative Procedure Act, as the Agency deems  
3 necessary to implement this subsection.

4 f. For purposes of this subsection, the term "regulated  
5 air pollutant" shall have the meaning given to it under  
6 subsection 1 of this Section but shall exclude the  
7 following:

8 i. carbon monoxide;

9 ii. any Class I or II substance which is a  
10 regulated air pollutant solely because it is listed  
11 pursuant to Section 602 of the Clean Air Act; and

12 iii. any pollutant that is a regulated air  
13 pollutant solely because it is subject to a standard or  
14 regulation under Section 112(r) of the Clean Air Act  
15 based on the emissions allowed in the permit effective  
16 in that calendar year, at the time the applicable bill  
17 is generated.

18 19. Air Toxics Provisions.

19 a. In the event that the USEPA fails to promulgate in a  
20 timely manner a standard pursuant to Section 112(d) of the  
21 Clean Air Act, the Agency shall have the authority to issue  
22 permits, pursuant to Section 112(j) of the Clean Air Act  
23 and regulations promulgated thereunder, which contain  
24 emission limitations which are equivalent to the emission  
25 limitations that would apply to a source if an emission

1 standard had been promulgated in a timely manner by USEPA  
2 pursuant to Section 112(d). Provided, however, that the  
3 owner or operator of a source shall have the opportunity to  
4 submit to the Agency a proposed emission limitation which  
5 it determines to be equivalent to the emission limitations  
6 that would apply to such source if an emission standard had  
7 been promulgated in a timely manner by USEPA. If the Agency  
8 refuses to include the emission limitation proposed by the  
9 owner or operator in a CAAPP permit, the owner or operator  
10 may petition the Board to establish whether the emission  
11 limitation proposal submitted by the owner or operator  
12 provides for emission limitations which are equivalent to  
13 the emission limitations that would apply to the source if  
14 the emission standard had been promulgated by USEPA in a  
15 timely manner. The Board shall determine whether the  
16 emission limitation proposed by the owner or operator or an  
17 alternative emission limitation proposed by the Agency  
18 provides for the level of control required under Section  
19 112 of the Clean Air Act, or shall otherwise establish an  
20 appropriate emission limitation, pursuant to Section 112  
21 of the Clean Air Act.

22 b. Any Board proceeding brought under paragraph (a) or  
23 (e) of this subsection shall be conducted according to the  
24 Board's procedures for adjudicatory hearings and the Board  
25 shall render its decision within 120 days of the filing of  
26 the petition. Any such decision shall be subject to review



1           pursuant to Section 41 of this Act. Where USEPA promulgates  
2           an applicable emission standard prior to the issuance of  
3           the CAAPP permit, the Agency shall include in the permit  
4           the promulgated standard, provided that the source shall  
5           have the compliance period provided under Section 112(i) of  
6           the Clean Air Act. Where USEPA promulgates an applicable  
7           standard subsequent to the issuance of the CAAPP permit,  
8           the Agency shall revise such permit upon the next renewal  
9           to reflect the promulgated standard, providing a  
10          reasonable time for the applicable source to comply with  
11          the standard, but no longer than 8 years after the date on  
12          which the source is first required to comply with the  
13          emissions limitation established under this subsection.

14           c. The Agency shall have the authority to implement and  
15          enforce complete or partial emission standards promulgated  
16          by USEPA pursuant to Section 112(d), and standards  
17          promulgated by USEPA pursuant to Sections 112(f), 112(h),  
18          112(m), and 112(n), and may accept delegation of authority  
19          from USEPA to implement and enforce Section 112(l) and  
20          requirements for the prevention and detection of  
21          accidental releases pursuant to Section 112(r) of the Clean  
22          Air Act.

23           d. The Agency shall have the authority to issue permits  
24          pursuant to Section 112(i)(5) of the Clean Air Act.

25           e. The Agency has the authority to implement Section  
26          112(g) of the Clean Air Act consistent with the Clean Air

1 Act and federal regulations promulgated thereunder. If the  
2 Agency refuses to include the emission limitations  
3 proposed in an application submitted by an owner or  
4 operator for a case-by-case maximum achievable control  
5 technology (MACT) determination, the owner or operator may  
6 petition the Board to determine whether the emission  
7 limitation proposed by the owner or operator or an  
8 alternative emission limitation proposed by the Agency  
9 provides for a level of control required by Section 112 of  
10 the Clean Air Act, or to otherwise establish an appropriate  
11 emission limitation under Section 112 of the Clean Air Act.

12 20. Small Business.

13 a. For purposes of this subsection:

14 "Program" is the Small Business Stationary Source  
15 Technical and Environmental Compliance Assistance Program  
16 created within this State pursuant to Section 507 of the  
17 Clean Air Act and guidance promulgated thereunder, to  
18 provide technical assistance and compliance information to  
19 small business stationary sources;

20 "Small Business Assistance Program" is a component of  
21 the Program responsible for providing sufficient  
22 communications with small businesses through the  
23 collection and dissemination of information to small  
24 business stationary sources; and

25 "Small Business Stationary Source" means a stationary

1 source that:

2 1. is owned or operated by a person that employs  
3 100 or fewer individuals;

4 2. is a small business concern as defined in the  
5 "Small Business Act";

6 3. is not a major source as that term is defined in  
7 subsection 2 of this Section;

8 4. does not emit 50 tons or more per year of any  
9 regulated air pollutant , except greenhouse gases; and

10 5. emits less than 75 tons per year of all  
11 regulated pollutants, except greenhouse gases.

12 b. The Agency shall adopt and submit to USEPA, after  
13 reasonable notice and opportunity for public comment, as a  
14 revision to the Illinois state implementation plan, plans  
15 for establishing the Program.

16 c. The Agency shall have the authority to enter into  
17 such contracts and agreements as the Agency deems necessary  
18 to carry out the purposes of this subsection.

19 d. The Agency may establish such procedures as it may  
20 deem necessary for the purposes of implementing and  
21 executing its responsibilities under this subsection.

22 e. There shall be appointed a Small Business Ombudsman  
23 (hereinafter in this subsection referred to as  
24 "Ombudsman") to monitor the Small Business Assistance  
25 Program. The Ombudsman shall be a nonpartisan designated  
26 official, with the ability to independently assess whether

1 the goals of the Program are being met.

2 f. The State Ombudsman Office shall be located in an  
3 existing Ombudsman office within the State or in any State  
4 Department.

5 g. There is hereby created a State Compliance Advisory  
6 Panel (hereinafter in this subsection referred to as  
7 "Panel") for determining the overall effectiveness of the  
8 Small Business Assistance Program within this State.

9 h. The selection of Panel members shall be by the  
10 following method:

11 1. The Governor shall select two members who are  
12 not owners or representatives of owners of small  
13 business stationary sources to represent the general  
14 public;

15 2. The Director of the Agency shall select one  
16 member to represent the Agency; and

17 3. The State Legislature shall select four members  
18 who are owners or representatives of owners of small  
19 business stationary sources. Both the majority and  
20 minority leadership in both Houses of the Legislature  
21 shall appoint one member of the panel.

22 i. Panel members should serve without compensation but  
23 will receive full reimbursement for expenses including  
24 travel and per diem as authorized within this State.

25 j. The Panel shall select its own Chair by a majority  
26 vote. The Chair may meet and consult with the Ombudsman and

1 the head of the Small Business Assistance Program in  
2 planning the activities for the Panel.

3 21. Temporary Sources.

4 a. The Agency may issue a single permit authorizing  
5 emissions from similar operations by the same source owner  
6 or operator at multiple temporary locations, except for  
7 sources which are affected sources for acid deposition  
8 under Title IV of the Clean Air Act.

9 b. The applicant must demonstrate that the operation is  
10 temporary and will involve at least one change of location  
11 during the term of the permit.

12 c. Any such permit shall meet all applicable  
13 requirements of this Section and applicable regulations,  
14 and include conditions assuring compliance with all  
15 applicable requirements at all authorized locations and  
16 requirements that the owner or operator notify the Agency  
17 at least 10 days in advance of each change in location.

18 22. Solid Waste Incineration Units.

19 a. A CAAPP permit for a solid waste incineration unit  
20 combusting municipal waste subject to standards  
21 promulgated under Section 129(e) of the Clean Air Act shall  
22 be issued for a period of 12 years and shall be reviewed  
23 every 5 years, unless the Agency requires more frequent  
24 review through Agency procedures.

1           b. During the review in paragraph (a) of this  
2 subsection, the Agency shall fully review the previously  
3 submitted CAAPP permit application and corresponding  
4 reports subsequently submitted to determine whether the  
5 source is in compliance with all applicable requirements.

6           c. If the Agency determines that the source is not in  
7 compliance with all applicable requirements it shall  
8 revise the CAAPP permit as appropriate.

9           d. The Agency shall have the authority to adopt  
10 procedural rules, in accordance with the Illinois  
11 Administrative Procedure Act, as the Agency deems  
12 necessary, to implement this subsection.

13 (Source: P.A. 93-32, eff. 7-1-03; 94-580, eff. 8-12-05.)

14 (415 ILCS 5/39.10 new)

15 Sec. 39.10. General permits.

16 (a) Except as otherwise prohibited by federal law or  
17 regulation, the Agency may issue general permits for the  
18 construction, installation, or operation of categories of  
19 facilities for which permits are required under this Act or  
20 Board regulation, provided that such general permits are  
21 consistent with federal and State laws and regulations. Such  
22 general permits shall include, but shall not be limited to,  
23 provisions requiring the following as prerequisites to  
24 obtaining coverage under a general permit: (i) the submittal of  
25 a notice of intent to be covered by the general permit and (ii)

1 the payment of applicable permitting fees. The Agency may  
2 include conditions in such general permits as may be necessary  
3 to accomplish the intent of this Act and rules adopted under  
4 this Act.

5 (b) Within 6 months after the effective date of this  
6 amendatory Act of the 97th General Assembly, the Agency shall,  
7 in consultation with the regulated community, identify types of  
8 permits for which general permits would be appropriate and  
9 consistent with State and federal law and regulations. The  
10 types of permits may include, but shall not be limited to,  
11 permits for nonhazardous solid waste activities, discharge of  
12 storm water from landfills, and discharge of hydrostatic test  
13 waters. Within 18 months after the effective date of this  
14 amendatory Act of the 97th General Assembly, the Agency shall,  
15 in consultation with the regulated community, develop general  
16 permits for the types of permits identified pursuant to this  
17 subsection (b).

18 (c) Persons obtaining coverage under a general permit shall  
19 be subject to the same permitting fees that apply to persons  
20 obtaining individual permits.

21 (d) No person obtaining coverage under a general permit  
22 shall violate this Act, rules adopted under this Act, or the  
23 terms or conditions of the general permit.

24 (e) This Section does not apply to sources subject to  
25 Section 39.5 of this Act.

1 (415 ILCS 5/39.12 new)

2 Sec. 39.12. Permits by rule.

3 (a) Except as otherwise prohibited by federal law or  
4 regulation, the Board may adopt rules providing for permits by  
5 rule for classes of facilities or equipment, provided that the  
6 permits by rule are consistent with federal and State laws and  
7 regulations. Proposals for permits by rule authorized under  
8 this Section may be filed by any person in accordance with  
9 Title VII of this Act.

10 (b) Board rules adopted under this Section shall include,  
11 but not be limited to, standards as may be necessary to  
12 accomplish the intent of this Act and rules adopted under this  
13 Act and the terms and conditions for obtaining a permit by rule  
14 under this Section, which shall include, but not be limited to,  
15 the following as prerequisites to obtaining a permit by rule:  
16 (i) the submittal of a notice of intent to be subject to the  
17 permit by rule and (ii) the payment of applicable permitting  
18 fees.

19 (c) Within one year after the effective date of this  
20 amendatory Act of the 97th General Assembly, the Agency shall,  
21 in consultation with the regulated community, identify types of  
22 permits for which permits by rule would be appropriate and  
23 consistent with State and federal law and regulations. The  
24 types of permits may include, but shall not be limited to,  
25 permits for open burning, certain package boilers and heaters  
26 using only natural gas or refinery gas, and certain internal



1 combustion engines.

2 (d) Persons obtaining a permit by rule shall be subject to  
3 the same permitting fees that apply to persons obtaining  
4 individual permits.

5 (e) No person that has obtained a permit by rule shall  
6 violate this Act, rules adopted under this Act, or the terms  
7 and conditions of the permit by rule.

8 (415 ILCS 5/39.14 new)

9 Sec. 39.14. Expedited review of permits.

10 (a) It is the intent of this Section to promote an  
11 expedited permit review process for any permit required under  
12 this Act.

13 (b) Any applicant for a permit under this Act may request  
14 in writing from the Agency an expedited review of the  
15 application for a permit. Within a reasonable time, the Agency  
16 shall respond in writing, indicating whether the Agency will  
17 perform an expedited review.

18 (c) In addition to any other fees required by this Act or  
19 Board regulations, an applicant requesting expedited review  
20 under this Section shall pay to the Agency an expedited permit  
21 fee. The amount of the expedited permit fee shall be 4 times  
22 the standard permit fee required for the requested permit under  
23 this Act or Board regulations; provided that the expedited  
24 permit fee shall not exceed \$100,000. For recurring permit  
25 fees, such as annual fees, operating fees, or discharge fees,

1 the expedited permit fee shall be 4 times the amount of the  
2 recurring fee on a one-time basis for each expedited permitting  
3 action. If an owner or operator is not required to pay a  
4 standard permit fee for the requested permit, the amount of the  
5 expedited permit fee shall be mutually agreed upon by the  
6 Agency and the applicant. Prior to any Agency review, the  
7 applicant shall make full payment of the expedited permit fee  
8 to the Agency. All amounts paid to the Agency pursuant to this  
9 Section shall be deposited into the Environmental Protection  
10 Permit and Inspection Fund. The applicant shall also pay all  
11 standard permit fees in accordance with the applicable fee  
12 provisions of this Act or Board regulations.

13 (d) The Agency's expedited review under this Section shall  
14 include the usual and customary review by the Agency as  
15 necessary for processing any similar application.

16 (e) "Expedited review" means, for the purposes of this  
17 Section, the Agency taking action on a permit application  
18 within a period of time mutually agreed upon by the Agency and  
19 the applicant; provided, however, that the agreed-upon period  
20 of time shall be tolled during any times the Agency is waiting  
21 for the applicant or another party to provide information  
22 necessary for the Agency to complete its expedited review.

23 (f) If the Agency fails to complete an expedited review  
24 within the period of time agreed upon by the Agency and the  
25 applicant, taking into account the tolling provided under  
26 subsection (e) of this Section, the applicant shall be entitled

1 to a refund of the expedited permit fee paid under this  
2 Section, on a prorated basis, as mutually agreed upon by the  
3 Agency and the applicant.

4 (g) This Section shall not apply to applications related to  
5 emergency events necessitating immediate action by the Agency  
6 on permit applications.

7 (h) The Agency may adopt rules for the implementation of  
8 this Section.

9 Section 99. Effective date. This Act takes effect July 1,  
10 2011.".