

AN ACT concerning safety.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

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

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

Sec. 1-5. Applicability.

(a) This Act applies to every agency as defined in this Act. Beginning January 1, 1978, in case of conflict between the provisions of this Act and the Act creating or conferring power on an agency, this Act shall control. If, however, an agency (or its predecessor in the case of an agency that has been consolidated or reorganized) has existing procedures on July 1, 1977, specifically for contested cases or licensing, those existing provisions control, except that this exception respecting contested cases and licensing does not apply if the Act creating or conferring power on the agency adopts by express reference the provisions of this Act. Where the Act creating or conferring power on an agency establishes administrative procedures not covered by this Act, those procedures shall remain in effect.

(b) The provisions of this Act do not apply to (i) preliminary hearings, investigations, or practices where no

final determinations affecting State funding are made by the State Board of Education, (ii) legal opinions issued under Section 2-3.7 of the School Code, (iii) as to State colleges and universities, their disciplinary and grievance proceedings, academic irregularity and capricious grading proceedings, and admission standards and procedures, and (iv) the class specifications for positions and individual position descriptions prepared and maintained under the Personnel Code. Those class specifications shall, however, be made reasonably available to the public for inspection and copying. The provisions of this Act do not apply to hearings under Section 20 of the Uniform Disposition of Unclaimed Property Act.

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

(1) Rules adopted by the Pollution Control Board that, in accordance with Section 7.2 of the Environmental Protection Act, are identical in substance to federal regulations or amendments to those regulations implementing the following: Sections 3001, 3002, 3003, 3004, 3005, and 9003 of the Solid Waste Disposal Act; Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980; Sections 307(b), 307(c), 307(d), 402(b)(8), and 402(b)(9) of the Federal Water Pollution Control Act; and Sections 1412(b), 1414(c), 1417(a), 1421, and 1445(a) of the Safe Drinking Water Act.

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

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

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

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

(6) Rules adopted by the Illinois Pollution Control Board under Section 9.14 of the Environmental Protection Act.

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

an employee subject to that Code.

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

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

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

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

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

Sec. 1-70. "Rule" means each agency statement of general applicability that implements, applies, interprets, or prescribes law or policy, but does not include (i) statements concerning only the internal management of an agency and not affecting private rights or procedures available to persons or entities outside the agency, (ii) informal advisory rulings

issued under Section 5-150, (iii) intra-agency memoranda, (iv) the prescription of standardized forms, ~~or~~ (v) documents prepared or filed or actions taken by the Legislative Reference Bureau under Section 5.04 of the Legislative Reference Bureau Act, or (vi) guidance documents prepared by the Illinois Environmental Protection Agency under subsection (s) of Section 39 of the Environmental Protection Act.

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

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

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

Sec. 9. Except as to motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, each retailer required or authorized to collect the tax imposed by this Act shall pay to the Department the amount of such tax (except as otherwise provided) at the time when he is required to file his return for the period during which such tax was collected, less a discount of 2.1% prior to January 1, 1990, and 1.75% on and after January 1, 1990, or \$5 per calendar year, whichever is greater, which is allowed to reimburse the retailer for expenses incurred in collecting the tax, keeping records, preparing and filing returns, remitting the tax and supplying data to the Department on request. In the case of retailers who report and pay the tax on a transaction

by transaction basis, as provided in this Section, such discount shall be taken with each such tax remittance instead of when such retailer files his periodic return. A retailer need not remit that part of any tax collected by him to the extent that he is required to remit and does remit the tax imposed by the Retailers' Occupation Tax Act, with respect to the sale of the same property.

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

Except as provided in this Section, on or before the twentieth day of each calendar month, such retailer shall file a return for the preceding calendar month. Such return shall be filed on forms prescribed by the Department and shall furnish such information as the Department may reasonably require.

The Department may require returns to be filed on a quarterly basis. If so required, a return for each calendar quarter shall be filed on or before the twentieth day of the calendar month following the end of such calendar quarter. The

taxpayer shall also file a return with the Department for each of the first two months of each calendar quarter, on or before the twentieth day of the following calendar month, stating:

1. The name of the seller;
2. The address of the principal place of business from which he engages in the business of selling tangible personal property at retail in this State;
3. The total amount of taxable receipts received by him during the preceding calendar month from sales of tangible personal property by him during such preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;
4. The amount of credit provided in Section 2d of this Act;
5. The amount of tax due;
- 5-5. The signature of the taxpayer; and
6. Such other reasonable information as the Department may require.

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

Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of \$150,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has

an average monthly tax liability of \$100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of \$50,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 2000, a taxpayer who has an annual tax liability of \$200,000 or more shall make all payments required by rules of the Department by electronic funds transfer. The term "annual tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. The term "average monthly tax liability" means the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year divided by 12. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505-210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer.

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

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

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

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

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

incurred and shall make payment to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which such tax liability is incurred began prior to January 1, 1985, each payment shall be in an amount equal to 1/4 of the taxpayer's actual liability for the month or an amount set by the Department not to exceed 1/4 of the average monthly liability of the taxpayer to the Department for the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability in such 4 quarter period). If the month during which such tax liability is incurred begins on or after January 1, 1985, and prior to January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 27.5% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1987, and prior to January 1, 1988, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1988, and prior to January 1, 1989, or begins on or after January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which

such tax liability is incurred begins on or after January 1, 1989, and prior to January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year or 100% of the taxpayer's actual liability for the quarter monthly reporting period. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month. Before October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department shall continue until such taxpayer's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$9,000, or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than \$10,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the \$10,000 threshold stated above, then such taxpayer may petition the Department for change in such taxpayer's reporting status. On and after October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department shall continue until such taxpayer's

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

If any such payment provided for in this Section exceeds the taxpayer's liabilities under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act and the Service Use Tax Act, as shown by an original monthly return, the Department shall issue to the taxpayer a credit memorandum no later than 30 days after the date of payment, which memorandum may be submitted by the taxpayer to the Department in payment of tax liability subsequently to be remitted by the taxpayer to the Department or be assigned by the taxpayer to a similar taxpayer under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations to be prescribed by the Department, except that if such excess payment is shown on an original monthly return and is made after December 31, 1986, no credit memorandum shall be issued, unless requested by the taxpayer. If no such request is made, the taxpayer may credit such excess payment against tax liability subsequently to be remitted by the taxpayer to the Department under this Act, the Retailers' Occupation Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations prescribed by the Department. If the Department subsequently determines that all or any part of the credit taken was not actually due to the taxpayer, the taxpayer's 2.1% or 1.75% vendor's discount shall be reduced by 2.1% or 1.75% of the difference between the credit taken and that actually due, and the taxpayer shall be

liable for penalties and interest on such difference.

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

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

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

Notwithstanding any other provision in this Act concerning the time within which a retailer may file his return, in the case of any retailer who ceases to engage in a kind of business which makes him responsible for filing returns under this Act, such retailer shall file a final return under this Act with the

Department not more than one month after discontinuing such business.

In addition, with respect to motor vehicles, watercraft, aircraft, and trailers that are required to be registered with an agency of this State, every retailer selling this kind of tangible personal property shall file, with the Department, upon a form to be prescribed and supplied by the Department, a separate return for each such item of tangible personal property which the retailer sells, except that if, in the same transaction, (i) a retailer of aircraft, watercraft, motor vehicles or trailers transfers more than one aircraft, watercraft, motor vehicle or trailer to another aircraft, watercraft, motor vehicle or trailer retailer for the purpose of resale or (ii) a retailer of aircraft, watercraft, motor vehicles, or trailers transfers more than one aircraft, watercraft, motor vehicle, or trailer to a purchaser for use as a qualifying rolling stock as provided in Section 3-55 of this Act, then that seller may report the transfer of all the aircraft, watercraft, motor vehicles or trailers involved in that transaction to the Department on the same uniform invoice-transaction reporting return form. For purposes of this Section, "watercraft" means a Class 2, Class 3, or Class 4 watercraft as defined in Section 3-2 of the Boat Registration and Safety Act, a personal watercraft, or any boat equipped with an inboard motor.

The transaction reporting return in the case of motor

vehicles or trailers that are required to be registered with an agency of this State, shall be the same document as the Uniform Invoice referred to in Section 5-402 of the Illinois Vehicle Code and must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 2 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale; a sufficient identification of the property sold; such other information as is required in Section 5-402 of the Illinois Vehicle Code, and such other information as the Department may reasonably require.

The transaction reporting return in the case of watercraft and aircraft must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the

extent to which Section 2 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale, a sufficient identification of the property sold, and such other information as the Department may reasonably require.

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

With each such transaction reporting return, the retailer shall remit the proper amount of tax due (or shall submit satisfactory evidence that the sale is not taxable if that is the case), to the Department or its agents, whereupon the

Department shall issue, in the purchaser's name, a tax receipt (or a certificate of exemption if the Department is satisfied that the particular sale is tax exempt) which such purchaser may submit to the agency with which, or State officer with whom, he must title or register the tangible personal property that is involved (if titling or registration is required) in support of such purchaser's application for an Illinois certificate or other evidence of title or registration to such tangible personal property.

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

If the user who would otherwise pay tax to the retailer wants the transaction reporting return filed and the payment of tax or proof of exemption made to the Department before the retailer is willing to take these actions and such user has not paid the tax to the retailer, such user may certify to the fact of such delay by the retailer, and may (upon the Department being satisfied of the truth of such certification) transmit the information required by the transaction reporting return and the remittance for tax or proof of exemption directly to

the Department and obtain his tax receipt or exemption determination, in which event the transaction reporting return and tax remittance (if a tax payment was required) shall be credited by the Department to the proper retailer's account with the Department, but without the 2.1% or 1.75% discount provided for in this Section being allowed. When the user pays the tax directly to the Department, he shall pay the tax in the same amount and in the same form in which it would be remitted if the tax had been remitted to the Department by the retailer.

Where a retailer collects the tax with respect to the selling price of tangible personal property which he sells and the purchaser thereafter returns such tangible personal property and the retailer refunds the selling price thereof to the purchaser, such retailer shall also refund, to the purchaser, the tax so collected from the purchaser. When filing his return for the period in which he refunds such tax to the purchaser, the retailer may deduct the amount of the tax so refunded by him to the purchaser from any other use tax which such retailer may be required to pay or remit to the Department, as shown by such return, if the amount of the tax to be deducted was previously remitted to the Department by such retailer. If the retailer has not previously remitted the amount of such tax to the Department, he is entitled to no deduction under this Act upon refunding such tax to the purchaser.

Any retailer filing a return under this Section shall also

include (for the purpose of paying tax thereon) the total tax covered by such return upon the selling price of tangible personal property purchased by him at retail from a retailer, but as to which the tax imposed by this Act was not collected from the retailer filing such return, and such retailer shall remit the amount of such tax to the Department when filing such return.

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

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

Beginning January 1, 1990, each month the Department shall pay into the State and Local Sales Tax Reform Fund, a special fund in the State Treasury which is hereby created, the net revenue realized for the preceding month from the 1% tax on sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks and food which has been prepared for immediate consumption) and prescription and nonprescription medicines,

drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

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

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

Beginning August 1, 2000, each month the Department shall pay into the State and Local Sales Tax Reform Fund 100% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol. Beginning September 1, 2010, each month the Department shall pay into the State and Local Sales Tax Reform Fund 100% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of sales tax holiday items.

Beginning January 1, 1990, each month the Department shall

pay into the Local Government Tax Fund 16% of the net revenue realized for the preceding month from the 6.25% general rate on the selling price of tangible personal property which is purchased outside Illinois at retail from a retailer and which is titled or registered by an agency of this State's government.

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

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

Of the remainder of the moneys received by the Department pursuant to this Act, (a) 1.75% thereof shall be paid into the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on and after July 1, 1989, 3.8% thereof shall be paid into the

Build Illinois Fund; provided, however, that if in any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, as the case may be, of the moneys received by the Department and required to be paid into the Build Illinois Fund pursuant to Section 3 of the Retailers' Occupation Tax Act, Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, and Section 9 of the Service Occupation Tax Act, such Acts being hereinafter called the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case may be, of moneys being hereinafter called the "Tax Act Amount", and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall be less than the Annual Specified Amount (as defined in Section 3 of the Retailers' Occupation Tax Act), an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and further provided, that if on the last business day of any month the sum of (1) the Tax Act Amount required to be deposited into the Build Illinois Bond Account in the Build Illinois Fund during such month and (2) the amount transferred during such month to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and, further provided, that in no event shall the payments required under the preceding proviso

result in aggregate payments into the Build Illinois Fund pursuant to this clause (b) for any fiscal year in excess of the greater of (i) the Tax Act Amount or (ii) the Annual Specified Amount for such fiscal year; and, further provided, that the amounts payable into the Build Illinois Fund under this clause (b) shall be payable only until such time as the aggregate amount on deposit under each trust indenture securing Bonds issued and outstanding pursuant to the Build Illinois Bond Act is sufficient, taking into account any future investment income, to fully provide, in accordance with such indenture, for the defeasance of or the payment of the principal of, premium, if any, and interest on the Bonds secured by such indenture and on any Bonds expected to be issued thereafter and all fees and costs payable with respect thereto, all as certified by the Director of the Bureau of the Budget (now Governor's Office of Management and Budget). If on the last business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of the moneys deposited in the Build Illinois Bond Account in the Build Illinois Fund in such month shall be less than the amount required to be transferred in such month from the Build Illinois Bond Account to the Build Illinois Bond Retirement and Interest Fund pursuant to Section 13 of the Build Illinois Bond Act, an amount equal to such deficiency shall be immediately paid from other moneys received by the Department pursuant to the Tax Acts to the Build Illinois Fund;

provided, however, that any amounts paid to the Build Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursuant to clause (b) of the preceding sentence and shall reduce the amount otherwise payable for such fiscal year pursuant to clause (b) of the preceding sentence. The moneys received by the Department pursuant to this Act and required to be deposited into the Build Illinois Fund are subject to the pledge, claim and charge set forth in Section 12 of the Build Illinois Bond Act.

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

Fiscal Year	Total Deposit
1993	\$0
1994	53,000,000
1995	58,000,000

1996	61,000,000
1997	64,000,000
1998	68,000,000
1999	71,000,000
2000	75,000,000
2001	80,000,000
2002	93,000,000
2003	99,000,000
2004	103,000,000
2005	108,000,000
2006	113,000,000
2007	119,000,000
2008	126,000,000
2009	132,000,000
2010	139,000,000
2011	146,000,000
2012	153,000,000
2013	161,000,000
2014	170,000,000
2015	179,000,000
2016	189,000,000
2017	199,000,000
2018	210,000,000
2019	221,000,000
2020	233,000,000
2021	246,000,000

2022	260,000,000
2023	275,000,000
2024	275,000,000
2025	275,000,000
2026	279,000,000
2027	292,000,000
2028	307,000,000
2029	322,000,000
2030	338,000,000
2031	350,000,000
2032	350,000,000

and

each fiscal year
thereafter that bonds
are outstanding under
Section 13.2 of the
Metropolitan Pier and
Exposition Authority Act,
but not after fiscal year 2060.

Beginning July 20, 1993 and in each month of each fiscal year thereafter, one-eighth of the amount requested in the certificate of the Chairman of the Metropolitan Pier and Exposition Authority for that fiscal year, less the amount deposited into the McCormick Place Expansion Project Fund by the State Treasurer in the respective month under subsection (g) of Section 13 of the Metropolitan Pier and Exposition

Authority Act, plus cumulative deficiencies in the deposits required under this Section for previous months and years, shall be deposited into the McCormick Place Expansion Project Fund, until the full amount requested for the fiscal year, but not in excess of the amount specified above as "Total Deposit", has been deposited.

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

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning with the receipt of the first report of taxes paid by an eligible business and continuing for a 25-year period, the Department shall each month pay into the Energy Infrastructure Fund 80% of the net revenue realized from the 6.25% general rate on the selling price of Illinois-mined coal that was sold to an eligible business. For purposes of this paragraph, the term "eligible business" means a new electric generating facility certified pursuant to Section 605-332 of the Department of Commerce and Economic Opportunity Law of the

Civil Administrative Code of Illinois.

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

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

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

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

(Source: P.A. 96-34, eff. 7-13-09; 96-38, eff. 7-13-09; 96-898,

eff. 5-27-10; 96-1012, eff. 7-7-10; revised 7-22-10.)

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

(35 ILCS 120/2j new)

Sec. 2j. Sorbent purchasing reports. Illinois businesses that purchase sorbents for use in mercury control, as described in 35 Ill. Adm. Code 225, shall file a monthly report with the Department stating the amount of sorbent purchased during the previous month, the purchase price of the sorbent, the amount of State occupation and use taxes paid on the purchase of the sorbent (whether to the selling retailer or directly to the Department of Revenue pursuant to a direct pay permit), and any other information the Department may reasonably require. In sales of sorbents between related parties, the purchase price of the sorbent must have been determined in an arms-length transaction. The report shall be filed with the Department on or before the 20th day of each month following a month in which sorbents were purchased, on a form provided by the Department. However, no report need be filed in a month when the taxpayer made no reportable purchases of sorbents in the previous month. The Department shall provide a monthly summary of these reports to the Illinois Environmental Protection Agency. Upon request, the Illinois Environmental Protection Agency shall provide the Department with a list of Illinois businesses that are subject

to 35 Ill. Adm. Code 225.

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

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

1. The name of the seller;

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

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

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

5. Deductions allowed by law;

6. Gross receipts which were received by him during the

preceding calendar month or quarter and upon the basis of which the tax is imposed;

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

8. The amount of tax due;

9. The signature of the taxpayer; and

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

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

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

Prior to October 1, 2003, and on and after September 1, 2004 a retailer may accept a Manufacturer's Purchase Credit certification from a purchaser in satisfaction of Use Tax as provided in Section 3-85 of the Use Tax Act if the purchaser provides the appropriate documentation as required by Section 3-85 of the Use Tax Act. A Manufacturer's Purchase Credit certification, accepted by a retailer prior to October 1, 2003 and on and after September 1, 2004 as provided in Section 3-85 of the Use Tax Act, may be used by that retailer to satisfy Retailers' Occupation Tax liability in the amount claimed in the certification, not to exceed 6.25% of the receipts subject

to tax from a qualifying purchase. A Manufacturer's Purchase Credit reported on any original or amended return filed under this Act after October 20, 2003 for reporting periods prior to September 1, 2004 shall be disallowed. Manufacturer's Purchaser Credit reported on annual returns due on or after January 1, 2005 will be disallowed for periods prior to September 1, 2004. No Manufacturer's Purchase Credit may be used after September 30, 2003 through August 31, 2004 to satisfy any tax liability imposed under this Act, including any audit liability.

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

1. The name of the seller;
2. The address of the principal place of business from which he engages in the business of selling tangible personal property at retail in this State;
3. The total amount of taxable receipts received by him during the preceding calendar month from sales of tangible personal property by him during such preceding calendar month, including receipts from charge and time sales, but less all deductions allowed by law;

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

5. The amount of tax due; and

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

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

Beginning on October 1, 2003, every distributor, importing distributor, and manufacturer of alcoholic liquor as defined in the Liquor Control Act of 1934, shall file a statement with the Department of Revenue, no later than the 10th day of the month for the preceding month during which transactions occurred, by electronic means, showing the total amount of gross receipts from the sale of alcoholic liquor sold or distributed during

the preceding month to purchasers; identifying the purchaser to whom it was sold or distributed; the purchaser's tax registration number; and such other information reasonably required by the Department. A distributor, importing distributor, or manufacturer of alcoholic liquor must personally deliver, mail, or provide by electronic means to each retailer listed on the monthly statement a report containing a cumulative total of that distributor's, importing distributor's, or manufacturer's total sales of alcoholic liquor to that retailer no later than the 10th day of the month for the preceding month during which the transaction occurred. The distributor, importing distributor, or manufacturer shall notify the retailer as to the method by which the distributor, importing distributor, or manufacturer will provide the sales information. If the retailer is unable to receive the sales information by electronic means, the distributor, importing distributor, or manufacturer shall furnish the sales information by personal delivery or by mail. For purposes of this paragraph, the term "electronic means" includes, but is not limited to, the use of a secure Internet website, e-mail, or facsimile.

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

Beginning October 1, 1993, a taxpayer who has an average monthly tax liability of \$150,000 or more shall make all

payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1994, a taxpayer who has an average monthly tax liability of \$100,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 1995, a taxpayer who has an average monthly tax liability of \$50,000 or more shall make all payments required by rules of the Department by electronic funds transfer. Beginning October 1, 2000, a taxpayer who has an annual tax liability of \$200,000 or more shall make all payments required by rules of the Department by electronic funds transfer. The term "annual tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year. The term "average monthly tax liability" shall be the sum of the taxpayer's liabilities under this Act, and under all other State and local occupation and use tax laws administered by the Department, for the immediately preceding calendar year divided by 12. Beginning on October 1, 2002, a taxpayer who has a tax liability in the amount set forth in subsection (b) of Section 2505-210 of the Department of Revenue Law shall make all payments required by rules of the Department by electronic funds transfer.

Before August 1 of each year beginning in 1993, the Department shall notify all taxpayers required to make payments by electronic funds transfer. All taxpayers required to make

payments by electronic funds transfer shall make those payments for a minimum of one year beginning on October 1.

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

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

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

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

If the retailer is otherwise required to file a monthly return and if the retailer's average monthly tax liability to the Department does not exceed \$200, the Department may authorize his returns to be filed on a quarter annual basis, with the return for January, February and March of a given year being due by April 20 of such year; with the return for April, May and June of a given year being due by July 20 of such year;

with the return for July, August and September of a given year being due by October 20 of such year, and with the return for October, November and December of a given year being due by January 20 of the following year.

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

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

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

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

In addition, with respect to motor vehicles, watercraft,

aircraft, and trailers that are required to be registered with an agency of this State, every retailer selling this kind of tangible personal property shall file, with the Department, upon a form to be prescribed and supplied by the Department, a separate return for each such item of tangible personal property which the retailer sells, except that if, in the same transaction, (i) a retailer of aircraft, watercraft, motor vehicles or trailers transfers more than one aircraft, watercraft, motor vehicle or trailer to another aircraft, watercraft, motor vehicle retailer or trailer retailer for the purpose of resale or (ii) a retailer of aircraft, watercraft, motor vehicles, or trailers transfers more than one aircraft, watercraft, motor vehicle, or trailer to a purchaser for use as a qualifying rolling stock as provided in Section 2-5 of this Act, then that seller may report the transfer of all aircraft, watercraft, motor vehicles or trailers involved in that transaction to the Department on the same uniform invoice-transaction reporting return form. For purposes of this Section, "watercraft" means a Class 2, Class 3, or Class 4 watercraft as defined in Section 3-2 of the Boat Registration and Safety Act, a personal watercraft, or any boat equipped with an inboard motor.

Any retailer who sells only motor vehicles, watercraft, aircraft, or trailers that are required to be registered with an agency of this State, so that all retailers' occupation tax liability is required to be reported, and is reported, on such

transaction reporting returns and who is not otherwise required to file monthly or quarterly returns, need not file monthly or quarterly returns. However, those retailers shall be required to file returns on an annual basis.

The transaction reporting return, in the case of motor vehicles or trailers that are required to be registered with an agency of this State, shall be the same document as the Uniform Invoice referred to in Section 5-402 of The Illinois Vehicle Code and must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 1 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale; a sufficient identification of the property sold; such other information as is required in Section 5-402 of The Illinois Vehicle Code, and such other information as the Department may reasonably require.

The transaction reporting return in the case of watercraft

or aircraft must show the name and address of the seller; the name and address of the purchaser; the amount of the selling price including the amount allowed by the retailer for traded-in property, if any; the amount allowed by the retailer for the traded-in tangible personal property, if any, to the extent to which Section 1 of this Act allows an exemption for the value of traded-in property; the balance payable after deducting such trade-in allowance from the total selling price; the amount of tax due from the retailer with respect to such transaction; the amount of tax collected from the purchaser by the retailer on such transaction (or satisfactory evidence that such tax is not due in that particular instance, if that is claimed to be the fact); the place and date of the sale, a sufficient identification of the property sold, and such other information as the Department may reasonably require.

Such transaction reporting return shall be filed not later than 20 days after the day of delivery of the item that is being sold, but may be filed by the retailer at any time sooner than that if he chooses to do so. The transaction reporting return and tax remittance or proof of exemption from the Illinois use tax may be transmitted to the Department by way of the State agency with which, or State officer with whom the tangible personal property must be titled or registered (if titling or registration is required) if the Department and such agency or State officer determine that this procedure will expedite the processing of applications for title or

registration.

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

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

If the user who would otherwise pay tax to the retailer wants the transaction reporting return filed and the payment of the tax or proof of exemption made to the Department before the retailer is willing to take these actions and such user has not

paid the tax to the retailer, such user may certify to the fact of such delay by the retailer and may (upon the Department being satisfied of the truth of such certification) transmit the information required by the transaction reporting return and the remittance for tax or proof of exemption directly to the Department and obtain his tax receipt or exemption determination, in which event the transaction reporting return and tax remittance (if a tax payment was required) shall be credited by the Department to the proper retailer's account with the Department, but without the 2.1% or 1.75% discount provided for in this Section being allowed. When the user pays the tax directly to the Department, he shall pay the tax in the same amount and in the same form in which it would be remitted if the tax had been remitted to the Department by the retailer.

Refunds made by the seller during the preceding return period to purchasers, on account of tangible personal property returned to the seller, shall be allowed as a deduction under subdivision 5 of his monthly or quarterly return, as the case may be, in case the seller had theretofore included the receipts from the sale of such tangible personal property in a return filed by him and had paid the tax imposed by this Act with respect to such receipts.

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

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

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

Before October 1, 2000, if the taxpayer's average monthly tax liability to the Department under this Act, the Use Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act, excluding any liability for prepaid sales tax to be remitted in accordance with Section 2d of this Act, was \$10,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th

day of the month next following the month during which such tax liability is incurred and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. On and after October 1, 2000, if the taxpayer's average monthly tax liability to the Department under this Act, the Use Tax Act, the Service Occupation Tax Act, and the Service Use Tax Act, excluding any liability for prepaid sales tax to be remitted in accordance with Section 2d of this Act, was \$20,000 or more during the preceding 4 complete calendar quarters, he shall file a return with the Department each month by the 20th day of the month next following the month during which such tax liability is incurred and shall make payment to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month during which such tax liability is incurred began prior to January 1, 1985, each payment shall be in an amount equal to 1/4 of the taxpayer's actual liability for the month or an amount set by the Department not to exceed 1/4 of the average monthly liability of the taxpayer to the Department for the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability in such 4 quarter period). If the month during which such tax liability is incurred begins on or after January 1, 1985 and prior to January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 27.5% of the taxpayer's

liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1987 and prior to January 1, 1988, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1988, and prior to January 1, 1989, or begins on or after January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. If the month during which such tax liability is incurred begins on or after January 1, 1989, and prior to January 1, 1996, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year or 100% of the taxpayer's actual liability for the quarter monthly reporting period. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month. Before October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department by taxpayers having an average monthly tax liability of \$10,000 or more as determined in the manner provided above shall continue until such taxpayer's average monthly liability to the Department during the preceding 4 complete calendar

quarters (excluding the month of highest liability and the month of lowest liability) is less than \$9,000, or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than \$10,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the \$10,000 threshold stated above, then such taxpayer may petition the Department for a change in such taxpayer's reporting status. On and after October 1, 2000, once applicable, the requirement of the making of quarter monthly payments to the Department by taxpayers having an average monthly tax liability of \$20,000 or more as determined in the manner provided above shall continue until such taxpayer's average monthly liability to the Department during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$19,000 or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarter period is less than \$20,000. However, if a taxpayer can show the Department that a substantial change in the taxpayer's business has occurred which causes the taxpayer to anticipate that his average monthly tax liability for the reasonably foreseeable future will fall below the \$20,000 threshold stated

above, then such taxpayer may petition the Department for a change in such taxpayer's reporting status. The Department shall change such taxpayer's reporting status unless it finds that such change is seasonal in nature and not likely to be long term. If any such quarter monthly payment is not paid at the time or in the amount required by this Section, then the taxpayer shall be liable for penalties and interest on the difference between the minimum amount due as a payment and the amount of such quarter monthly payment actually and timely paid, except insofar as the taxpayer has previously made payments for that month to the Department in excess of the minimum payments previously due as provided in this Section. The Department shall make reasonable rules and regulations to govern the quarter monthly payment amount and quarter monthly payment dates for taxpayers who file on other than a calendar monthly basis.

The provisions of this paragraph apply before October 1, 2001. Without regard to whether a taxpayer is required to make quarter monthly payments as specified above, any taxpayer who is required by Section 2d of this Act to collect and remit prepaid taxes and has collected prepaid taxes which average in excess of \$25,000 per month during the preceding 2 complete calendar quarters, shall file a return with the Department as required by Section 2f and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which such liability is incurred. If the month

during which such tax liability is incurred began prior to the effective date of this amendatory Act of 1985, each payment shall be in an amount not less than 22.5% of the taxpayer's actual liability under Section 2d. If the month during which such tax liability is incurred begins on or after January 1, 1986, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 27.5% of the taxpayer's liability for the same calendar month of the preceding calendar year. If the month during which such tax liability is incurred begins on or after January 1, 1987, each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 26.25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of such quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month filed under this Section or Section 2f, as the case may be. Once applicable, the requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until such taxpayer's average monthly prepaid tax collections during the preceding 2 complete calendar quarters is \$25,000 or less. If any such quarter monthly payment is not paid at the time or in the amount required, the taxpayer shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously made payments for that month in excess of the minimum payments previously due.

The provisions of this paragraph apply on and after October 1, 2001. Without regard to whether a taxpayer is required to make quarter monthly payments as specified above, any taxpayer who is required by Section 2d of this Act to collect and remit prepaid taxes and has collected prepaid taxes that average in excess of \$20,000 per month during the preceding 4 complete calendar quarters shall file a return with the Department as required by Section 2f and shall make payments to the Department on or before the 7th, 15th, 22nd and last day of the month during which the liability is incurred. Each payment shall be in an amount equal to 22.5% of the taxpayer's actual liability for the month or 25% of the taxpayer's liability for the same calendar month of the preceding year. The amount of the quarter monthly payments shall be credited against the final tax liability of the taxpayer's return for that month filed under this Section or Section 2f, as the case may be. Once applicable, the requirement of the making of quarter monthly payments to the Department pursuant to this paragraph shall continue until the taxpayer's average monthly prepaid tax collections during the preceding 4 complete calendar quarters (excluding the month of highest liability and the month of lowest liability) is less than \$19,000 or until such taxpayer's average monthly liability to the Department as computed for each calendar quarter of the 4 preceding complete calendar quarters is less than \$20,000. If any such quarter monthly payment is not paid at the time or in the amount required, the

taxpayer shall be liable for penalties and interest on such difference, except insofar as the taxpayer has previously made payments for that month in excess of the minimum payments previously due.

If any payment provided for in this Section exceeds the taxpayer's liabilities under this Act, the Use Tax Act, the Service Occupation Tax Act and the Service Use Tax Act, as shown on an original monthly return, the Department shall, if requested by the taxpayer, issue to the taxpayer a credit memorandum no later than 30 days after the date of payment. The credit evidenced by such credit memorandum may be assigned by the taxpayer to a similar taxpayer under this Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations to be prescribed by the Department. If no such request is made, the taxpayer may credit such excess payment against tax liability subsequently to be remitted to the Department under this Act, the Use Tax Act, the Service Occupation Tax Act or the Service Use Tax Act, in accordance with reasonable rules and regulations prescribed by the Department. If the Department subsequently determined that all or any part of the credit taken was not actually due to the taxpayer, the taxpayer's 2.1% and 1.75% vendor's discount shall be reduced by 2.1% or 1.75% of the difference between the credit taken and that actually due, and that taxpayer shall be liable for penalties and interest on such difference.

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

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

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

Beginning August 1, 2000, each month the Department shall pay into the County and Mass Transit District Fund 20% of the net revenue realized for the preceding month from the 1.25% rate on the selling price of motor fuel and gasohol. Beginning September 1, 2010, each month the Department shall pay into the County and Mass Transit District Fund 20% of the net revenue

realized for the preceding month from the 1.25% rate on the selling price of sales tax holiday items.

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

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

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

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

Protection Act or the federal Clean Air Act, but the total payment into the Clean Air Act (CAA) Permit Fund under this Act and the Use Tax Act shall not exceed \$2,000,000 in any fiscal year.

Of the remainder of the moneys received by the Department pursuant to this Act, (a) 1.75% thereof shall be paid into the Build Illinois Fund and (b) prior to July 1, 1989, 2.2% and on and after July 1, 1989, 3.8% thereof shall be paid into the Build Illinois Fund; provided, however, that if in any fiscal year the sum of (1) the aggregate of 2.2% or 3.8%, as the case may be, of the moneys received by the Department and required to be paid into the Build Illinois Fund pursuant to this Act, Section 9 of the Use Tax Act, Section 9 of the Service Use Tax Act, and Section 9 of the Service Occupation Tax Act, such Acts being hereinafter called the "Tax Acts" and such aggregate of 2.2% or 3.8%, as the case may be, of moneys being hereinafter called the "Tax Act Amount", and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall be less than the Annual Specified Amount (as hereinafter defined), an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; the "Annual Specified Amount" means the amounts specified below for fiscal years 1986 through 1993:

Fiscal Year	Annual Specified Amount
1986	\$54,800,000

1987	\$76,650,000
1988	\$80,480,000
1989	\$88,510,000
1990	\$115,330,000
1991	\$145,470,000
1992	\$182,730,000
1993	\$206,520,000;

and means the Certified Annual Debt Service Requirement (as defined in Section 13 of the Build Illinois Bond Act) or the Tax Act Amount, whichever is greater, for fiscal year 1994 and each fiscal year thereafter; and further provided, that if on the last business day of any month the sum of (1) the Tax Act Amount required to be deposited into the Build Illinois Bond Account in the Build Illinois Fund during such month and (2) the amount transferred to the Build Illinois Fund from the State and Local Sales Tax Reform Fund shall have been less than 1/12 of the Annual Specified Amount, an amount equal to the difference shall be immediately paid into the Build Illinois Fund from other moneys received by the Department pursuant to the Tax Acts; and, further provided, that in no event shall the payments required under the preceding proviso result in aggregate payments into the Build Illinois Fund pursuant to this clause (b) for any fiscal year in excess of the greater of (i) the Tax Act Amount or (ii) the Annual Specified Amount for such fiscal year. The amounts payable into the Build Illinois Fund under clause (b) of the first sentence in this paragraph

shall be payable only until such time as the aggregate amount on deposit under each trust indenture securing Bonds issued and outstanding pursuant to the Build Illinois Bond Act is sufficient, taking into account any future investment income, to fully provide, in accordance with such indenture, for the defeasance of or the payment of the principal of, premium, if any, and interest on the Bonds secured by such indenture and on any Bonds expected to be issued thereafter and all fees and costs payable with respect thereto, all as certified by the Director of the Bureau of the Budget (now Governor's Office of Management and Budget). If on the last business day of any month in which Bonds are outstanding pursuant to the Build Illinois Bond Act, the aggregate of moneys deposited in the Build Illinois Bond Account in the Build Illinois Fund in such month shall be less than the amount required to be transferred in such month from the Build Illinois Bond Account to the Build Illinois Bond Retirement and Interest Fund pursuant to Section 13 of the Build Illinois Bond Act, an amount equal to such deficiency shall be immediately paid from other moneys received by the Department pursuant to the Tax Acts to the Build Illinois Fund; provided, however, that any amounts paid to the Build Illinois Fund in any fiscal year pursuant to this sentence shall be deemed to constitute payments pursuant to clause (b) of the first sentence of this paragraph and shall reduce the amount otherwise payable for such fiscal year pursuant to that clause (b). The moneys received by the

Department pursuant to this Act and required to be deposited into the Build Illinois Fund are subject to the pledge, claim and charge set forth in Section 12 of the Build Illinois Bond Act.

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

Fiscal Year	Total Deposit
1993	\$0
1994	53,000,000
1995	58,000,000
1996	61,000,000
1997	64,000,000
1998	68,000,000
1999	71,000,000
2000	75,000,000

2001	80,000,000
2002	93,000,000
2003	99,000,000
2004	103,000,000
2005	108,000,000
2006	113,000,000
2007	119,000,000
2008	126,000,000
2009	132,000,000
2010	139,000,000
2011	146,000,000
2012	153,000,000
2013	161,000,000
2014	170,000,000
2015	179,000,000
2016	189,000,000
2017	199,000,000
2018	210,000,000
2019	221,000,000
2020	233,000,000
2021	246,000,000
2022	260,000,000
2023	275,000,000
2024	275,000,000
2025	275,000,000
2026	279,000,000

2027	292,000,000
2028	307,000,000
2029	322,000,000
2030	338,000,000
2031	350,000,000
2032	350,000,000

and

each fiscal year thereafter that bonds are outstanding under Section 13.2 of the Metropolitan Pier and Exposition Authority Act, but not after fiscal year 2060.

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

has been deposited.

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

Subject to payment of amounts into the Build Illinois Fund and the McCormick Place Expansion Project Fund pursuant to the preceding paragraphs or in any amendments thereto hereafter enacted, beginning with the receipt of the first report of taxes paid by an eligible business and continuing for a 25-year period, the Department shall each month pay into the Energy Infrastructure Fund 80% of the net revenue realized from the 6.25% general rate on the selling price of Illinois-mined coal that was sold to an eligible business. For purposes of this paragraph, the term "eligible business" means a new electric generating facility certified pursuant to Section 605-332 of the Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois.

Of the remainder of the moneys received by the Department pursuant to this Act, 75% thereof shall be paid into the State Treasury and 25% shall be reserved in a special account and used only for the transfer to the Common School Fund as part of

the monthly transfer from the General Revenue Fund in accordance with Section 8a of the State Finance Act.

The Department may, upon separate written notice to a taxpayer, require the taxpayer to prepare and file with the Department on a form prescribed by the Department within not less than 60 days after receipt of the notice an annual information return for the tax year specified in the notice. Such annual return to the Department shall include a statement of gross receipts as shown by the retailer's last Federal income tax return. If the total receipts of the business as reported in the Federal income tax return do not agree with the gross receipts reported to the Department of Revenue for the same period, the retailer shall attach to his annual return a schedule showing a reconciliation of the 2 amounts and the reasons for the difference. The retailer's annual return to the Department shall also disclose the cost of goods sold by the retailer during the year covered by such return, opening and closing inventories of such goods for such year, costs of goods used from stock or taken from stock and given away by the retailer during such year, payroll information of the retailer's business during such year and any additional reasonable information which the Department deems would be helpful in determining the accuracy of the monthly, quarterly or annual returns filed by such retailer as provided for in this Section.

If the annual information return required by this Section

is not filed when and as required, the taxpayer shall be liable as follows:

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

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

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

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

As soon as possible after the first day of each month, upon certification of the Department of Revenue, the Comptroller

shall order transferred and the Treasurer shall transfer from the General Revenue Fund to the Motor Fuel Tax Fund an amount equal to 1.7% of 80% of the net revenue realized under this Act for the second preceding month. Beginning April 1, 2000, this transfer is no longer required and shall not be made.

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

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

Any person who promotes, organizes, provides retail selling space for concessionaires or other types of sellers at the Illinois State Fair, DuQuoin State Fair, county fairs, local fairs, art shows, flea markets and similar exhibitions or events, including any transient merchant as defined by Section 2 of the Transient Merchant Act of 1987, is required to file a report with the Department providing the name of the merchant's business, the name of the person or persons engaged in merchant's business, the permanent address and Illinois Retailers Occupation Tax Registration Number of the merchant,

the dates and location of the event and other reasonable information that the Department may require. The report must be filed not later than the 20th day of the month next following the month during which the event with retail sales was held. Any person who fails to file a report required by this Section commits a business offense and is subject to a fine not to exceed \$250.

Any person engaged in the business of selling tangible personal property at retail as a concessionaire or other type of seller at the Illinois State Fair, county fairs, art shows, flea markets and similar exhibitions or events, or any transient merchants, as defined by Section 2 of the Transient Merchant Act of 1987, may be required to make a daily report of the amount of such sales to the Department and to make a daily payment of the full amount of tax due. The Department shall impose this requirement when it finds that there is a significant risk of loss of revenue to the State at such an exhibition or event. Such a finding shall be based on evidence that a substantial number of concessionaires or other sellers who are not residents of Illinois will be engaging in the business of selling tangible personal property at retail at the exhibition or event, or other evidence of a significant risk of loss of revenue to the State. The Department shall notify concessionaires and other sellers affected by the imposition of this requirement. In the absence of notification by the Department, the concessionaires and other sellers shall file

their returns as otherwise required in this Section.

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

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

(415 ILCS 5/3.207 new)

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

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

Sec. 9. Acts prohibited. No person shall:

(a) Cause or threaten or allow the discharge or emission of any contaminant into the environment in any State so as to cause or tend to cause air pollution in Illinois, either alone or in combination with contaminants from other sources, or so as to violate regulations or standards adopted by the Board under this Act. ~~+~~

(b) Construct, install, or operate any equipment, facility, vehicle, vessel, or aircraft capable of causing or

contributing to air pollution or designed to prevent air pollution, of any type designated by Board regulations, (1) without a permit granted by the Agency unless otherwise exempt by this Act or Board regulations, or (2) in violation of any conditions imposed by such permit. †

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

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

(e) Use, cause or allow the spraying of loose asbestos for the purpose of fireproofing or insulating any building or building material or other constructions, or otherwise use asbestos in such unconfined manner as to permit asbestos fibers or particles to pollute the air. †

(f) Commencing July 1, 1985, sell any used oil for burning or incineration in any incinerator, boiler, furnace, burner or other equipment unless such oil meets standards based on virgin

fuel oil or re-refined oil, as defined in ASTM D-396 or specifications under VV-F-815C promulgated pursuant to the federal Energy Policy and Conservation Act, and meets the manufacturer's and current NFPA code standards for which such incinerator, boiler, furnace, burner or other equipment was approved, except that this prohibition does not apply to a sale to a permitted used oil re-refining or reprocessing facility or sale to a facility permitted by the Agency to burn or incinerate such oil.

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

This Section shall not limit the burning of landscape waste upon the premises where it is produced or at sites provided and supervised by any unit of local government, except within any county having a population of more than 400,000. Nothing in this Section shall prohibit the burning of landscape waste for agricultural purposes, habitat management (including but not limited to forest and prairie reclamation), or firefighter training. For the purposes of this Act, the burning of landscape waste by production nurseries shall be considered to be burning for agricultural purposes.

Any grain elevator located outside of a major population

area, as defined in Section 211.3610 of Title 35 of the Illinois Administrative Code, shall be exempt from the requirements of Section 212.462 of Title 35 of the Illinois Administrative Code provided that the elevator: (1) does not violate the prohibitions of subsection (a) of this Section or have a certified investigation, as defined in Section 211.970 of Title 35 of the Illinois Administrative Code, on file with the Agency and (2) is not required to obtain a Clean Air Act Permit Program permit pursuant to Section 39.5. Notwithstanding the above exemption, new stationary source performance standards for grain elevators, established pursuant to Section 9.1 of this Act and Section 111 of the federal Clean Air Act, shall continue to apply to grain elevators.

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

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

Sec. 9.1. (a) The General Assembly finds that the federal Clean Air Act, as amended, and regulations adopted pursuant thereto establish complex and detailed provisions for State-federal cooperation in the field of air pollution control, provide for a Prevention of Significant Deterioration program to regulate the issuance of preconstruction permits to insure that economic growth will occur in a manner consistent with the preservation of existing clean air resources, and also

provide for plan requirements for nonattainment areas to regulate the construction, modification and operation of sources of air pollution to insure that economic growth will occur in a manner consistent with the goal of achieving the national ambient air quality standards, and that the General Assembly cannot conveniently or advantageously set forth in this Act all the requirements of such federal Act or all regulations which may be established thereunder.

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

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

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

(d) No person shall:

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

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

(e) The Board shall exempt from regulation under the State Implementation Plan for ozone the volatile organic compounds which have been determined by the U.S. Environmental Protection Agency to be exempt from regulation under state implementation plans for ozone due to negligible photochemical reactivity. In accordance with subsection (b) of Section 7.2, the Board shall adopt regulations identical in substance to the U.S.

Environmental Protection Agency exemptions or deletion of exemptions published in policy statements on the control of volatile organic compounds in the Federal Register by amending the list of exemptions to the Board's definition of volatile organic material found at 35 Ill. Adm. Code Part 211. The provisions and requirements of Title VII of this Act shall not apply to regulations adopted under this subsection. Section 5-35 of the Illinois Administrative Procedure Act, relating to procedures for rulemaking, does not apply to regulations adopted under this subsection. However, the Board shall provide for notice, a hearing if required by the U.S. Environmental Protection Agency, and public comment before adopted rules are filed with the Secretary of State. The Board may consolidate into a single rulemaking under this subsection all such federal policy statements published in the Federal Register within a period of time not to exceed 6 months.

(f) If a complete application for a permit renewal is submitted to the Agency at least 90 days prior to expiration of the permit, all of the terms and conditions of the permit shall remain in effect until final administrative action has been taken on the application.

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

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

Sec. 9.6. Air pollution operating permit fee.

(a) For any site for which an air pollution operating

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

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

(1) The fee for a site permitted to emit less than 25 tons per year of any combination of regulated air pollutants, as defined in Section 39.5 of this Act, except greenhouse gases, ~~is \$100 per year beginning July 1, 1993, and increases to \$200 per year beginning on July 1, 2003, and increases, beginning January 1, 2012, to \$235 per year for lifetime operating permits and \$235 per year for federally enforceable state operating permits,~~ except as provided in subsection (c) of this Section.

(2) The fee for a site permitted to emit at least 25 tons per year but less than 100 tons per year of any combination of regulated air pollutants, as defined in

Section 39.5 of this Act, except greenhouse gases, is ~~\$1,000 per year beginning July 1, 1993, and increases to \$1,800 per year beginning on July 1, 2003, and increases, beginning January 1, 2012, to \$2,150 per year, except as provided in subsection (c) of this Section.~~

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

(c) The owner or operator of any site source subject to subsection paragraphs (b) (1), (b) (2), or (b) (3) of this Section that becomes subject to Section 39.5 of this Act shall continue to pay the fee set forth in this Section until the site source becomes subject to the CAAPP fee set forth within subsection 18 of Section 39.5 of this Act. If an owner or operator ~~In the event a site~~ has paid a fee under this Section during the 12-month ~~12-month~~ period following the effective date of the

CAAPP for that site, the ~~fee~~ amount of that fee shall be deducted from the ~~any~~ amount due under subsection 18 of Section 39.5 of this Act. ~~Owners or operators that are subject to paragraph (b) (1), (b) (2), or (b) (3) of this Section, but that are not also subject to Section 39.5, or excluded pursuant to subsection 1.1 or subsection 3(c) of Section 39.5 shall continue to pay the fee amounts set forth within paragraphs (b) (1), (b) (2), or (b) (3), whichever is applicable.~~

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

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

(f) The Agency may deny an application for the issuance, transfer, or renewal of an air pollution operating permit if any air pollution site fee owed by the applicant has not been paid within 60 days of the due date, unless the applicant, at the time of application, pays to the Agency in advance the air pollution site fee for the site that is the subject of the

operating permit, plus any other air pollution site fees then owed by the applicant. The denial of an air pollution operating permit for failure to pay an air pollution site fee shall be subject to review by the Board pursuant to the provisions of subsection (a) of Section 40 of this Act.

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

(h) If the Agency determines that an owner or operator of a site was required, but failed, to timely obtain an air pollution operating permit and as a result avoided the payment of permit fees, an enforcement action may be brought under Section 31 of this Act. In addition to any other relief that may be obtained as part of this action, the Agency may seek to recover the avoided permit fees. The avoided permit fees shall be calculated as double the amount that would have been owed had a permit been timely obtained. Fees collected pursuant to this subsection (h) shall be deposited into the Environmental Protection Permit and Inspection Fund.

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

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

(415 ILCS 5/9.12)

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

(a) An applicant for a new or revised air pollution construction permit shall pay a fee, as established in this Section, to the Agency at the time that he or she submits the application for a construction permit. Except as set forth below, the fee for each activity or category listed in this Section is separate and is cumulative with any other applicable fee listed in this Section.

(b) The fee amounts in this subsection (b) apply to

construction permit applications relating to (i) a source subject to Section 39.5 of this Act (the Clean Air Act Permit Program); (ii) a source that, upon issuance of the requested construction permit, will become a major source subject to Section 39.5; or (iii) a source that has or will require a federally enforceable State operating permit limiting its potential to emit.

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

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

(B) If the construction permit application relates to one or more modified emission units but not to any new emission unit, a fee of \$2,000 for the first modified emission unit and a fee of \$1,000 for each additional modified emission unit; provided that the total base fee under this subdivision (B) shall not exceed \$5,000.

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

(A) If, based on the construction permit

application, the source will be, but is not currently, subject to Section 39.5 of this Act, a CAAPP entry fee of \$5,000.

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

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

(D) If the construction permit application is for a new major source subject to the federal PSD program, a fee of \$12,000.

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

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

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

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

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

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

(3) If a public hearing is held regarding the construction permit application, an administrative fee of \$10,000. This fee shall be submitted at the time the

applicant requests a public hearing or, if a public hearing is not requested by the applicant, then within 30 days after the applicant is informed by the Agency that a public hearing will be held, ~~subject to adjustment under subsection (f) of this Section.~~

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

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

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

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

(C) For a construction permit application involving no more than 2 modified emission units, a fee of \$500.

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

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

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

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

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

(d) If no other fee is applicable under this Section, a construction permit application addressing one or more of the following shall be subject to a filing fee of \$500:

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

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

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

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

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

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

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

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

(g) Notwithstanding the requirements of subsection (a) of Section 39~~(a)~~ of this Act, the application for an air pollution construction permit shall not be deemed to be filed with the Agency until the Agency receives the initial air pollution construction permit application fee and the certified estimate of the fee required by this Section. Unless the Agency has

received the initial air pollution construction permit application fee and the certified estimate of the fee required by this Section, the Agency is not required to review or process the application.

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

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

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

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

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

(i) The Agency may deny the issuance of a pending air

pollution construction permit or the subsequent operating permit if the applicant has not paid the required fees by the date required for issuance of the permit. The denial or revocation of a permit for failure to pay a construction permit fee is subject to review by the Board pursuant to the provisions of subsection (a) of Section 40 of this Act.

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

(k) If an air pollution construction permittee makes a fee payment under this Section from an account with insufficient funds to cover the amount of the fee payment, the Agency shall notify the permittee of the failure to pay the fee. If the permittee fails to pay the fee within 60 days after such notification, the Agency may, by written notice, immediately revoke the air pollution construction permit. Failure of the Agency to notify the permittee of the permittee's failure to make payment does not excuse or alter the duty of the permittee to comply with the provisions of this Section.

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

(m) Fees collected pursuant to this Section shall be

deposited into the Environmental Protection Permit and Inspection Fund.

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

(415 ILCS 5/9.14 new)

Sec. 9.14. Registration of smaller sources.

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

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

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

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

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

(5) the source emits less than an actual 0.05 tons per

year of lead air emissions;

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

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

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

(c) The owner or operator of an eligible source shall pay an annual registration fee of \$235 to the Agency at the time of registration submittal and each year thereafter. Fees collected under this Section shall be deposited into the Environmental Protection Permit and Inspection Fund.

(d) The Agency shall propose rules to implement the registration of smaller sources program. Within 120 days after the Agency proposes those rules, the Board shall adopt rules to implement the registration of smaller sources program. These

rules may be subsequently amended from time to time pursuant to a proposal filed with the Board by any person, and any necessary amendments shall be adopted by the Board within 120 days after proposal. Such amendments may provide for the alteration or revision of the initial criteria included in subsection (a) of this Section. Subsection (b) of Section 27 of this Act and the rulemaking provisions of the Illinois Administrative Procedure Act do not apply to rules adopted by the Board under this Section.

(415 ILCS 5/9.15 new)

Sec. 9.15. Greenhouse gases.

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

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

(c) Notwithstanding any provision to the contrary in this

Section, an air pollution construction or operating permit shall not be required due to emissions of greenhouse gases if any of the following events occur:

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

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

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

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

(d) If any event listed in subsection (c) of this Section occurs, permits issued after such event shall not impose permit terms or conditions addressing greenhouse gases during the effectiveness of any event listed in subsection (c).

(e) If an event listed in subsection (c) of this Section occurs, any owner or operator with a permit that includes terms or conditions addressing greenhouse gases may elect to submit an application to the Agency to address a revision or repeal of such terms or conditions. The Agency shall expeditiously

process such permit application in accordance with applicable laws and regulations.

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

Sec. 39. Issuance of permits; procedures.

(a) When the Board has by regulation required a permit for the construction, installation, or operation of any type of facility, equipment, vehicle, vessel, or aircraft, the applicant shall apply to the Agency for such permit and it shall be the duty of the Agency to issue such a permit upon proof by the applicant that the facility, equipment, vehicle, vessel, or aircraft will not cause a violation of this Act or of regulations hereunder. The Agency shall adopt such procedures as are necessary to carry out its duties under this Section. In making its determinations on permit applications under this Section the Agency may consider prior adjudications of noncompliance with this Act by the applicant that involved a release of a contaminant into the environment. In granting permits, the Agency may impose reasonable conditions specifically related to the applicant's past compliance history with this Act as necessary to correct, detect, or prevent noncompliance. The Agency may impose such other conditions as may be necessary to accomplish the purposes of this Act, and as are not inconsistent with the regulations promulgated by the Board hereunder. Except as otherwise provided in this Act, a bond or other security shall not be

required as a condition for the issuance of a permit. If the Agency denies any permit under this Section, the Agency shall transmit to the applicant within the time limitations of this Section specific, detailed statements as to the reasons the permit application was denied. Such statements shall include, but not be limited to the following:

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

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

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

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

If there is no final action by the Agency within 90 days after the filing of the application for permit, the applicant may deem the permit issued; except that this time period shall be extended to 180 days when (1) notice and opportunity for public hearing are required by State or federal law or regulation, (2) the application which was filed is for any permit to develop a landfill subject to issuance pursuant to this subsection, or (3) the application that was filed is for a MSWLF unit required to issue public notice under subsection (p)

of Section 39. The 90-day and 180-day time periods for the Agency to take final action do not apply to NPDES permit applications under subsection (b) of this Section, to RCRA permit applications under subsection (d) of this Section, or to UIC permit applications under subsection (e) of this Section.

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

After January 1, 1994 and until July 1, 1998, operating permits issued under this Section by the Agency for sources of air pollution permitted to emit less than 25 tons per year of any combination of regulated air pollutants, as defined in Section 39.5 of this Act, shall be required to be renewed only upon written request by the Agency consistent with applicable provisions of this Act and regulations promulgated hereunder. Such operating permits shall expire 180 days after the date of such a request. The Board shall revise its regulations for the existing State air pollution operating permit program consistent with this provision by January 1, 1994.

After June 30, 1998, operating permits issued under this Section by the Agency for sources of air pollution that are not subject to Section 39.5 of this Act and are not required to have a federally enforceable State operating permit shall be

required to be renewed only upon written request by the Agency consistent with applicable provisions of this Act and its rules. Such operating permits shall expire 180 days after the date of such a request. Before July 1, 1998, the Board shall revise its rules for the existing State air pollution operating permit program consistent with this paragraph and shall adopt rules that require a source to demonstrate that it qualifies for a permit under this paragraph.

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

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

The Agency may issue general NPDES permits for discharges from categories of point sources which are subject to the same permit limitations and conditions. Such general permits may be issued without individual applications and shall conform to regulations promulgated under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended.

The Agency may include, among such conditions, effluent limitations and other requirements established under this Act, Board regulations, the Federal Water Pollution Control Act, as

now or hereafter amended, and regulations pursuant thereto, and schedules for achieving compliance therewith at the earliest reasonable date.

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

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

(c) Except for those facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act, no permit for the development or construction of a new pollution control facility may be granted by the Agency unless the applicant submits proof to the Agency that the location of the facility has been approved by the County Board of the county if in an unincorporated area, or the governing body of the municipality when in an incorporated area, in which the facility is to be located in accordance with Section 39.2 of this Act. For purposes of this subsection (c), and for purposes of Section 39.2 of this Act, the appropriate

county board or governing body of the municipality shall be the county board of the county or the governing body of the municipality in which the facility is to be located as of the date when the application for siting approval is filed.

In the event that siting approval granted pursuant to Section 39.2 has been transferred to a subsequent owner or operator, that subsequent owner or operator may apply to the Agency for, and the Agency may grant, a development or construction permit for the facility for which local siting approval was granted. Upon application to the Agency for a development or construction permit by that subsequent owner or operator, the permit applicant shall cause written notice of the permit application to be served upon the appropriate county board or governing body of the municipality that granted siting approval for that facility and upon any party to the siting proceeding pursuant to which siting approval was granted. In that event, the Agency shall conduct an evaluation of the subsequent owner or operator's prior experience in waste management operations in the manner conducted under subsection (i) of Section 39 of this Act.

Beginning August 20, 1993, if the pollution control facility consists of a hazardous or solid waste disposal facility for which the proposed site is located in an unincorporated area of a county with a population of less than 100,000 and includes all or a portion of a parcel of land that was, on April 1, 1993, adjacent to a municipality having a

population of less than 5,000, then the local siting review required under this subsection (c) in conjunction with any permit applied for after that date shall be performed by the governing body of that adjacent municipality rather than the county board of the county in which the proposed site is located; and for the purposes of that local siting review, any references in this Act to the county board shall be deemed to mean the governing body of that adjacent municipality; provided, however, that the provisions of this paragraph shall not apply to any proposed site which was, on April 1, 1993, owned in whole or in part by another municipality.

In the case of a pollution control facility for which a development permit was issued before November 12, 1981, if an operating permit has not been issued by the Agency prior to August 31, 1989 for any portion of the facility, then the Agency may not issue or renew any development permit nor issue an original operating permit for any portion of such facility unless the applicant has submitted proof to the Agency that the location of the facility has been approved by the appropriate county board or municipal governing body pursuant to Section 39.2 of this Act.

After January 1, 1994, if a solid waste disposal facility, any portion for which an operating permit has been issued by the Agency, has not accepted waste disposal for 5 or more consecutive calendar years, before that facility may accept any new or additional waste for disposal, the owner and

operator must obtain a new operating permit under this Act for that facility unless the owner and operator have applied to the Agency for a permit authorizing the temporary suspension of waste acceptance. The Agency may not issue a new operation permit under this Act for the facility unless the applicant has submitted proof to the Agency that the location of the facility has been approved or re-approved by the appropriate county board or municipal governing body under Section 39.2 of this Act after the facility ceased accepting waste.

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

Before beginning construction on any new sewage treatment plant or sludge drying site to be owned or operated by a sanitary district organized under the Metropolitan Water Reclamation District Act for which a new permit (rather than the renewal or amendment of an existing permit) is required, such sanitary district shall hold a public hearing within the municipality within which the proposed facility is to be located, or within the nearest community if the proposed facility is to be located within an unincorporated area, at

which information concerning the proposed facility shall be made available to the public, and members of the public shall be given the opportunity to express their views concerning the proposed facility.

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

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

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

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

(4) the site has local zoning approval.

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

All RCRA permits shall contain those terms and conditions,

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

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

The Agency shall adopt filing requirements and procedures which are necessary and appropriate for the issuance of RCRA permits, and which are consistent with the Act or regulations adopted by the Board, and with the Resource Conservation and Recovery Act of 1976 (P.L. 94-580), as amended, and regulations pursuant thereto.

The applicant shall make available to the public for inspection all documents submitted by the applicant to the Agency in furtherance of an application, with the exception of trade secrets, at the office of the county board or governing

body of the municipality. Such documents may be copied upon payment of the actual cost of reproduction during regular business hours of the local office. The Agency shall issue a written statement concurrent with its grant or denial of the permit explaining the basis for its decision.

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

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

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

The applicant shall make available to the public for inspection, all documents submitted by the applicant to the

Agency in furtherance of an application, with the exception of trade secrets, at the office of the county board or governing body of the municipality. Such documents may be copied upon payment of the actual cost of reproduction during regular business hours of the local office. The Agency shall issue a written statement concurrent with its grant or denial of the permit explaining the basis for its decision.

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

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

(2) The Agency shall, after conferring with the applicant, give written notice to the applicant of its proposed decision on the application including the terms and conditions of the permit to be issued and the facts, conduct or other basis upon which the Agency will rely to support its proposed action.

(3) Following such notice, the Agency shall give the applicant an opportunity for a hearing in accordance with the provisions of Sections 10-25 through 10-60 of the

Illinois Administrative Procedure Act.

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

(h) A hazardous waste stream may not be deposited in a permitted hazardous waste site unless specific authorization is obtained from the Agency by the generator and disposal site owner and operator for the deposit of that specific hazardous waste stream. The Agency may grant specific authorization for disposal of hazardous waste streams only after the generator has reasonably demonstrated that, considering technological feasibility and economic reasonableness, the hazardous waste cannot be reasonably recycled for reuse, nor incinerated or chemically, physically or biologically treated so as to neutralize the hazardous waste and render it nonhazardous. In granting authorization under this Section, the Agency may impose such conditions as may be necessary to accomplish the purposes of the Act and are consistent with this Act and

regulations promulgated by the Board hereunder. If the Agency refuses to grant authorization under this Section, the applicant may appeal as if the Agency refused to grant a permit, pursuant to the provisions of subsection (a) of Section 40 of this Act. For purposes of this subsection (h), the term "generator" has the meaning given in Section 3.205 of this Act, unless: (1) the hazardous waste is treated, incinerated, or partially recycled for reuse prior to disposal, in which case the last person who treats, incinerates, or partially recycles the hazardous waste prior to disposal is the generator; or (2) the hazardous waste is from a response action, in which case the person performing the response action is the generator. This subsection (h) does not apply to any hazardous waste that is restricted from land disposal under 35 Ill. Adm. Code 728.

(i) Before issuing any RCRA permit, any permit for a waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, waste incinerator, or any waste-transportation operation, or any permit or interim authorization for a clean construction or demolition debris fill operation, the Agency shall conduct an evaluation of the prospective owner's or operator's prior experience in waste management operations and clean construction or demolition debris fill operations. The Agency may deny such a permit, or deny or revoke interim authorization, if the prospective owner or operator or any employee or officer of the prospective owner or operator has a history of:

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

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

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

(i-5) Before issuing any permit or approving any interim authorization for a clean construction or demolition debris fill operation in which any ownership interest is transferred between January 1, 2005, and the effective date of the prohibition set forth in Section 22.52 of this Act, the Agency shall conduct an evaluation of the operation if any previous activities at the site or facility may have caused or allowed contamination of the site. It shall be the responsibility of

the owner or operator seeking the permit or interim authorization to provide to the Agency all of the information necessary for the Agency to conduct its evaluation. The Agency may deny a permit or interim authorization if previous activities at the site may have caused or allowed contamination at the site, unless such contamination is authorized under any permit issued by the Agency.

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

(k) A development permit issued under subsection (a) of Section 39 for any facility or site which is required to have a permit under subsection (d) of Section 21 shall expire at the end of 2 calendar years from the date upon which it was issued, unless within that period the applicant has taken action to develop the facility or the site. In the event that review of the conditions of the development permit is sought pursuant to Section 40 or 41, or permittee is prevented from commencing development of the facility or site by any other litigation beyond the permittee's control, such two-year period shall be deemed to begin on the date upon which such review process or litigation is concluded.

(l) No permit shall be issued by the Agency under this Act for construction or operation of any facility or site located

within the boundaries of any setback zone established pursuant to this Act, where such construction or operation is prohibited.

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

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

(2) the specific regulations promulgated pursuant to this Act that may be violated if the permit were granted;

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

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

If no final action is taken by the Agency within 90 days

after the filing of the application for permit, the applicant may deem the permit issued. Any applicant for a permit may waive the 90 day limitation by filing a written statement with the Agency.

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

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

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

(3) the facility is located so as to minimize incompatibility with the character of the surrounding area, including at least a 200 foot setback from any residence, and in the case of a facility that is developed or the permitted composting area of which is expanded after November 17, 1991, the composting area is located at least 1/8 mile from the nearest residence (other than a residence located on the same property as the facility);

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

the site;

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

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

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

The operator of any facility permitted under this subsection (m) must submit a written annual statement to the Agency on or before April 1 of each year that includes an estimate of the amount of material, in tons, received for composting.

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

(o) (Blank.)

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

When a permit applicant submits information to the Agency to supplement a permit application being reviewed by the Agency, the applicant shall not be required to reissue the notice under this subsection.

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

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

(g) Within 6 months after the effective date of this amendatory Act of the 97th General Assembly, the Agency, in consultation with the regulated community, shall develop a web portal to be posted on its website for the purpose of enhancing review and promoting timely issuance of permits required by this Act. At a minimum, the Agency shall make the following information available on the web portal:

(1) Checklists and guidance relating to the completion of permit applications, developed pursuant to subsection (s) of this Section, which may include, but are not limited to, existing instructions for completing the applications

and examples of complete applications. As the Agency develops new checklists and develops guidance, it shall supplement the web portal with those materials.

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

(3) Within 2 years after the effective date of this amendatory Act of the 97th General Assembly, an online tracking system where an applicant may review the status of its pending application, including the name and contact information of the permit analyst assigned to the application. Until the online tracking system has been developed, the Agency shall post on its website semi-annual permitting efficiency tracking reports that include statistics on the timeframes for Agency action on the following types of permits received after the effective date of this amendatory Act of the 97th General Assembly: air construction permits, new NPDES permits and associated water construction permits, and modifications of major NPDES permits and associated water construction permits. The reports must be posted by February 1 and August 1 each year and shall include:

(A) the number of applications received for each type of permit, the number of applications on which the

Agency has taken action, and the number of applications still pending; and

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

(r) Upon the request of the applicant, the Agency shall notify the applicant of the permit analyst assigned to the application upon its receipt.

(s) The Agency is authorized to prepare and distribute guidance documents relating to its administration of this Section and procedural rules implementing this Section. Guidance documents prepared under this subsection shall not be considered rules and shall not be subject to the Illinois

Administrative Procedure Act. Such guidance shall not be binding on any party.

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

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

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

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

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

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

Sec. 39.5. Clean Air Act Permit Program.

1. Definitions.

For purposes of this Section:

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

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

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

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

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

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

"Applicable Clean Air Act requirement" means all of the following as they apply to emissions units in a source (including regulations that have been promulgated or approved by USEPA pursuant to the Clean Air Act which directly impose requirements upon a source and other such federal requirements which have been adopted by the Board. These may include requirements and regulations which have future effective compliance dates. Requirements and regulations will be exempt if USEPA determines that such requirements need not be contained in a Title V permit):

(1) Any standard or other requirement provided for in

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

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

(ii) Any term or condition as required pursuant to Section 39.5 of any federally enforceable State operating permit issued pursuant to regulations approved or promulgated by USEPA under Title I of the Clean Air Act, including Part C or D of the Clean Air Act.

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

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

Air Act.

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

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

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

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

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

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

(11) Any standard or other requirement of the regulations promulgated to protect stratospheric ozone under Title VI of the Clean Air Act, unless USEPA has determined that such requirements need not be contained in a Title V permit.

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

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

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

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

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

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

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

"Designated representative" has ~~shall have~~ the meaning given to it in Section 402(26) of the Clean Air Act and the regulations promulgated thereunder, which state ~~states~~ that the term "designated representative" means ~~shall mean~~ a responsible person or official authorized by the owner or operator of a unit to represent the owner or operator in all matters pertaining to the holding, transfer, or disposition of allowances allocated to a unit, and the submission of and

compliance with permits, permit applications, and compliance plans for the unit.

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

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

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

"Federally enforceable" means enforceable by USEPA.

"Final permit action" means the Agency's granting with conditions, refusal to grant, renewal of, or revision of a CAAPP permit, the Agency's determination of incompleteness of a submitted CAAPP application, or the Agency's failure to act on an application for a permit, permit renewal, or permit revision within the time specified in ~~paragraph 5(j),~~ subsection 13, ~~or~~ subsection 14, or paragraph (j) of subsection 5 of this Section.

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

"Major source" means a source for which emissions of one or more air pollutants meet the criteria for major status pursuant

to paragraph ~~2~~(c) of subsection 2 of this Section.

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

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

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

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

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

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

"Potential to emit" means the maximum capacity of a stationary source to emit any air pollutant under its physical and operational design. Any physical or operational limitation on the capacity of a source to emit an air pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, shall be treated as part of its design if the limitation is enforceable by USEPA. This definition does

not alter or affect the use of this term for any other purposes under the Clean Air Act, or the term "capacity factor" as used in Title IV of the Clean Air Act or the regulations promulgated thereunder.

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

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

"Regulated air pollutant" means the following:

(1) Nitrogen oxides (NO_x) or any volatile organic compound.

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

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

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

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

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

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

(6) Greenhouse gases.

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

"Responsible official" means one of the following:

(1) For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either (i) the facilities employ more than 250 persons or have gross annual sales or

expenditures exceeding \$25 million (in second quarter 1980 dollars), or (ii) the delegation of authority to such representative is approved in advance by the Agency.

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

(3) For a municipality, State, Federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a Federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., a Regional Administrator of USEPA).

(4) For affected sources for acid deposition:

(i) The designated representative shall be the "responsible official" in so far as actions, standards, requirements, or prohibitions under Title

IV of the Clean Air Act or the regulations promulgated thereunder are concerned.

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

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

"Solid waste incineration unit" means a distinct operating unit of any facility which combusts any solid waste material from commercial or industrial establishments or the general public (including single and multiple residences, hotels, and motels). The term does not include incinerators or other units required to have a permit under Section 3005 of the Solid Waste Disposal Act. The term also does not include (A) materials recovery facilities (including primary or secondary smelters) which combust waste for the primary purpose of recovering metals, (B) qualifying small power production facilities, as defined in Section 3(17)(C) of the Federal Power Act (16 U.S.C. 769(17)(C)), or qualifying cogeneration facilities, as defined in Section 3(18)(B) of the Federal Power Act (16 U.S.C. 796(18)(B)), which burn homogeneous waste (such as units which burn tires or used oil, but not including refuse-derived fuel)

for the production of electric energy or in the case of qualifying cogeneration facilities which burn homogeneous waste for the production of electric energy and steam or forms of useful energy (such as heat) which are used for industrial, commercial, heating or cooling purposes, or (C) air curtain incinerators provided that such incinerators only burn wood wastes, yard waste and clean lumber and that such air curtain incinerators comply with opacity limitations to be established by the USEPA by rule.

"Source" means any stationary source (or any group of stationary sources) that is ~~are~~ located on one or more contiguous or adjacent properties that are under common control of the same person (or persons under common control) and that belongs to a single major industrial grouping. For the purposes of defining "source," a stationary source or group of stationary sources shall be considered part of a single major industrial grouping if all of the pollutant emitting activities at such source or group of sources located on contiguous or adjacent properties and under common control belong to the same Major Group (i.e., all have the same two-digit code) as described in the Standard Industrial Classification Manual, 1987, or such pollutant emitting activities at a stationary source (or group of stationary sources) located on contiguous or adjacent properties and under common control constitute a support facility. The determination as to whether any group of stationary sources is ~~are~~ located on contiguous or adjacent

properties, and/or is ~~are~~ under common control, and/or whether the pollutant emitting activities at such group of stationary sources constitute a support facility shall be made on a case by case basis.

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

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

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

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

1.1. Exclusion From the CAAPP.

a. An owner or operator of a source which determines that the source could be excluded from the CAAPP may seek

such exclusion prior to the date that the CAAPP application for the source is due but in no case later than 9 months after the effective date of the CAAPP through the imposition of federally enforceable conditions limiting the "potential to emit" of the source to a level below the major source threshold for that source as described in paragraph ~~2~~(c) of subsection 2 of this Section, within a State operating permit issued pursuant to subsection (a) of Section 39~~(a)~~ of this Act. After such date, an exclusion from the CAAPP may be sought under paragraph ~~3~~(c) of subsection 3 of this Section.

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

c. Upon such request, if the Agency determines that the owner or operator of a source has met the requirements for exclusion pursuant to paragraph (a) of this subsection and other applicable requirements for permit issuance under subsection (a) of Section 39~~(a)~~ of this Act, the Agency shall issue a State operating permit for such source under subsection (a) of Section 39~~(a)~~ of this Act, as amended, and regulations promulgated thereunder with federally enforceable conditions limiting the "potential to emit" of

the source to a level below the major source threshold for that source as described in paragraph ~~2~~(c) of subsection 2 of this Section.

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

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

2. Applicability.

a. Sources subject to this Section shall include:

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

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

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

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

b. Sources exempted from this Section shall include:

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

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

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

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

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

Act.

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

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

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

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

If any event listed in this subparagraph (vi) occurs, CAAPP permits issued after such event shall not impose permit terms or conditions addressing greenhouse gases during the effectiveness of any event listed in subparagraph (vi). If any event listed in this subparagraph (vi) occurs, any owner or operator with a CAAPP permit that includes terms or conditions addressing greenhouse gases may elect to submit an application to the Agency to address a revision or

repeal of such terms or conditions. If any owner or operator submits such an application, the Agency shall expeditiously process the permit application in accordance with applicable laws and regulations. Nothing in this subparagraph (vi) shall relieve an owner or operator of a source from the requirement to obtain a CAAPP permit for its emissions of regulated air pollutants other than greenhouse gases, as required by this Section.

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

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

A. For pollutants other than radionuclides, any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit, in the aggregate, 10 tons per year (tpy) or more of any hazardous air pollutant which has been listed pursuant to Section 112(b) of the Clean Air Act, 25 tpy or more of any combination of such hazardous air pollutants, or such lesser quantity as USEPA may establish by rule. Notwithstanding the preceding sentence, emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any

pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such stations are major sources.

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

ii. A major stationary source of air pollutants, as defined in Section 302 of the Clean Air Act, that directly emits or has the potential to emit, 100 tpy or more of any air pollutant subject to regulation (including any major source of fugitive emissions of any such pollutant, as determined by rule by USEPA). For purposes of this subsection, "fugitive emissions" means those emissions which could not reasonably pass through a stack, chimney, vent, or other functionally-equivalent opening. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of Section 302(j) of the Clean Air Act, unless the source belongs to one of the following categories of stationary source:

- A. Coal cleaning plants (with thermal dryers).
- B. Kraft pulp mills.
- C. Portland cement plants.
- D. Primary zinc smelters.

- E. Iron and steel mills.
- F. Primary aluminum ore reduction plants.
- G. Primary copper smelters.
- H. Municipal incinerators capable of charging more than 250 tons of refuse per day.
- I. Hydrofluoric, sulfuric, or nitric acid plants.
- J. Petroleum refineries.
- K. Lime plants.
- L. Phosphate rock processing plants.
- M. Coke oven batteries.
- N. Sulfur recovery plants.
- O. Carbon black plants (furnace process).
- P. Primary lead smelters.
- Q. Fuel conversion plants.
- R. Sintering plants.
- S. Secondary metal production plants.
- T. Chemical process plants.
- U. Fossil-fuel boilers (or combination thereof) totaling more than 250 million British thermal units per hour heat input.
- V. Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels.
- W. Taconite ore processing plants.
- X. Glass fiber processing plants.
- Y. Charcoal production plants.

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

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

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

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

A. For ozone nonattainment areas, sources with the potential to emit 100 tons or more per year of volatile organic compounds or oxides of nitrogen in areas classified as "marginal" or "moderate", 50 tons or more per year in areas classified as "serious", 25 tons or more per year in areas classified as "severe", and 10 tons or more per year in areas classified as "extreme"; except that the references in this clause to 100, 50, 25, and 10 tons per year of nitrogen oxides shall not apply with respect to any source for which USEPA has made a finding, under Section 182(f)(1) or (2) of the Clean Air Act, that requirements otherwise applicable to such source under Section 182(f) of the Clean Air Act do not apply. Such sources shall

remain subject to the major source criteria of subparagraph (ii) of paragraph 2(c)~~(iii)~~ of this subsection.

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

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

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

3. Agency Authority To Issue CAAPP Permits and Federally Enforceable State Operating Permits.

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

b. The Agency shall issue CAAPP permits for fixed terms of 5 years, except CAAPP permits issued for solid waste

incineration units combusting municipal waste which shall be issued for fixed terms of 12 years and except CAAPP permits for affected sources for acid deposition which shall be issued for initial terms to expire on December 31, 1999, and for fixed terms of 5 years thereafter.

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

d. For purposes of this Act, a permit issued by USEPA under Section 505 of the Clean Air Act, as now and hereafter amended, shall be deemed to be a permit issued by the Agency pursuant to Section 39.5 of this Act.

4. Transition.

a. An owner or operator of a CAAPP source shall not be required to renew an existing State operating permit for

any emission unit at such CAAPP source once a CAAPP application timely submitted prior to expiration of the State operating permit has been deemed complete. For purposes other than permit renewal, the obligation upon the owner or operator of a CAAPP source to obtain a State operating permit is not removed upon submittal of the complete CAAPP permit application. An owner or operator of a CAAPP source seeking to make a modification to a source prior to the issuance of its CAAPP permit shall be required to obtain a construction permit, ~~and/or~~ operating permit, or both as required for such modification in accordance with the State permit program under subsection (a) of Section 39(a) of this Act, as amended, and regulations promulgated thereunder. The application for such construction permit, ~~and/or~~ operating permit, or both shall be considered an amendment to the CAAPP application submitted for such source.

b. An owner or operator of a CAAPP source shall continue to operate in accordance with the terms and conditions of its applicable State operating permit notwithstanding the expiration of the State operating permit until the source's CAAPP permit has been issued.

c. An owner or operator of a CAAPP source shall submit its initial CAAPP application to the Agency no later than 12 months after the effective date of the CAAPP. The Agency may request submittal of initial CAAPP applications during

this 12-month ~~12-month~~ period according to a schedule set forth within Agency procedures, however, in no event shall the Agency require such submittal earlier than 3 months after such effective date of the CAAPP. An owner or operator may voluntarily submit its initial CAAPP application prior to the date required within this paragraph or applicable procedures, if any, subsequent to the date the Agency submits the CAAPP to USEPA for approval.

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

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

f. The Agency shall provide owners or operators of CAAPP sources with at least 3 ~~three~~ months advance notice of the date on which their applications are required to be submitted. In determining which sources shall be subject to early submittal, the Agency shall include among its considerations the complexity of the permit application, and the burden that such early submittal will have on the source.

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

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

5. Applications and Completeness.

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

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

c. To be deemed complete, a CAAPP application must provide all information, as requested in Agency application forms, sufficient to evaluate the subject source and its application and to determine all applicable requirements, pursuant to the Clean Air Act, and regulations thereunder, this Act and regulations thereunder. Such Agency application forms shall be finalized and made available prior to the date on which any CAAPP application is required.

d. An owner or operator of a CAAPP source shall submit, as part of its complete CAAPP application, a compliance plan, including a schedule of compliance, describing how each emission unit will comply with all applicable requirements. Any such schedule of compliance shall be

supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

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

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

g. If after the determination of completeness the Agency finds that additional information is necessary to evaluate or take final action on the CAAPP application, the Agency may request in writing such information from the source with a reasonable deadline for response.

h. If the owner or operator of a CAAPP source submits a timely and complete CAAPP application, the source's failure to have a CAAPP permit shall not be a violation of this Section until the Agency takes final action on the submitted CAAPP application, provided, however, where the applicant fails to submit the requested information under

paragraph ~~5~~(g) of this subsection 5 within the time frame specified by the Agency, this protection shall cease to apply.

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

j. The Agency shall issue or deny the CAAPP permit within 18 months after the date of receipt of the complete CAAPP application, with the following exceptions: (i) permits for affected sources for acid deposition shall be issued or denied within 6 months after receipt of a complete application in accordance with subsection 17 of this Section; (ii) the Agency shall act on initial CAAPP applications within 24 months after the date of receipt of the complete CAAPP application; (iii) the Agency shall act on complete applications containing early reduction demonstrations under Section 112(i)(5) of the Clean Air Act within 9 months of receipt of the complete CAAPP

application.

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

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

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

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

n. For purposes of permit renewal, a timely application is one that is submitted no less than 9 months prior to the date of permit expiration.

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

p. The owner or operator of a CAAPP source seeking a

permit shield pursuant to paragraph 7(j) of subsection 7 of this Section shall request such permit shield in the CAAPP application regarding that source.

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

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

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

t. An owner or operator of a CAAPP source, in order to utilize the operational flexibility provided under paragraph 7(1) of subsection 7 of this Section, must request such use and provide the necessary information within its CAAPP application.

u. An owner or operator of a CAAPP source which seeks exclusion from the CAAPP through the imposition of federally enforceable conditions, pursuant to paragraph

~~3~~(c) of subsection 3 of this Section, must request such exclusion within a CAAPP application submitted consistent with this subsection on or after the date that the CAAPP application for the source is due. Prior to such date, but in no case later than 9 months after the effective date of the CAAPP, such owner or operator may request the imposition of federally enforceable conditions pursuant to paragraph ~~1.1~~(b) of subsection 1.1 of this Section.

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

w. An owner or operator of a CAAPP source shall submit within its CAAPP application emissions information regarding all regulated air pollutants emitted at that source consistent with applicable Agency procedures. Emissions information regarding insignificant activities or emission levels, as determined by the Agency pursuant to Board regulations, may be submitted as a list within the CAAPP application. The Agency shall propose regulations to the Board defining insignificant activities or emission levels, consistent with federal regulations, if any, no later than 18 months after the effective date of this amendatory Act of 1992, consistent with Section 112(n)(1) of the Clean Air Act. The Board shall adopt final regulations defining insignificant activities or emission levels no later than 9 months after the date of the

Agency's proposal.

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

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

6. Prohibitions.

a. It shall be unlawful for any person to violate any terms or conditions of a permit issued under this Section, to operate any CAAPP source except in compliance with a permit issued by the Agency under this Section or to violate any other applicable requirements. All terms and conditions of a permit issued under this Section are enforceable by USEPA and citizens under the Clean Air Act, except those, if any, that are specifically designated as

not being federally enforceable in the permit pursuant to paragraph ~~7~~(m) of subsection 7 of this Section.

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

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

7. Permit Content.

a. All CAAPP permits shall contain emission limitations and standards and other enforceable terms and conditions, including but not limited to operational requirements, and schedules for achieving compliance at the earliest reasonable date, which are or will be required to accomplish the purposes and provisions of this Act and to assure compliance with all applicable requirements.

b. The Agency shall include among such conditions

applicable monitoring, reporting, record keeping and compliance certification requirements, as authorized by paragraphs (d), (e), and (f) ~~d, e, and f~~ of this subsection, that the Agency deems necessary to assure compliance with the Clean Air Act, the regulations promulgated thereunder, this Act, and applicable Board regulations. When monitoring, reporting, record keeping, and compliance certification requirements are specified within the Clean Air Act, regulations promulgated thereunder, this Act, or applicable regulations, such requirements shall be included within the CAAPP permit. The Board shall have authority to promulgate additional regulations where necessary to accomplish the purposes of the Clean Air Act, this Act, and regulations promulgated thereunder.

c. The Agency shall assure, within such conditions, the use of terms, test methods, units, averaging periods, and other statistical conventions consistent with the applicable emission limitations, standards, and other requirements contained in the permit.

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

i. Incorporate and identify all applicable emissions monitoring and analysis procedures or test methods required under the Clean Air Act, regulations promulgated thereunder, this Act, and applicable Board

regulations, including any procedures and methods promulgated by USEPA pursuant to Section 504(b) or Section 114 (a) (3) of the Clean Air Act.

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

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

e. To meet the requirements of this subsection with respect to record keeping, the permit shall incorporate and identify all applicable recordkeeping requirements and require, where applicable, the following:

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

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

B. The date(s) analyses were performed.

C. The company or entity that performed the analyses.

D. The analytical techniques or methods used.

E. The results of such analyses.

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

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

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

i. Submittal of reports of any required monitoring every 6 months. More frequent submittals may be requested by the Agency if such submittals are necessary to assure compliance with this Act or regulations promulgated by the Board thereunder. All instances of deviations from permit requirements must be clearly identified in such reports. All required reports must be certified by a responsible official

consistent with subsection 5 of this Section.

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

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

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

i. Each CAAPP permit issued under subsection 10 of this Section shall include a severability clause to ensure the continued validity of the various permit requirements in the event of a challenge to any portions of the permit.

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

i. The Agency shall include in a CAAPP permit, when requested by an applicant pursuant to paragraph ~~5~~(p) of

subsection 5 of this Section, a provision stating that compliance with the conditions of the permit shall be deemed compliance with applicable requirements which are applicable as of the date of release of the proposed permit, provided that:

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

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

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

iii. A CAAPP permit which does not expressly indicate the existence of a permit shield shall not provide such a shield.

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

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

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

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

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

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

i. An emergency occurred and the permittee can identify the cause(s) of the emergency.

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

iii. The permittee submitted notice of the emergency to the Agency within 2 working days after ~~of~~ the time when emission limitations were exceeded due to the emergency. This notice must contain a detailed

description of the emergency, any steps taken to mitigate emissions, and corrective actions taken.

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

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

In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof. This provision is in addition to any emergency or upset provision contained in any applicable requirement. This provision does not relieve a permittee of any reporting obligations under existing federal or state laws or regulations.

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

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

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

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

ii. Where requested by an applicant, all terms and conditions allowing for trading of emissions increases and decreases between different emission units at the CAAPP source, to the extent that the applicable requirements provide for trading of such emissions increases and decreases without a case-by-case approval of each emissions trade. Such terms and conditions:

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

B. Must meet all applicable requirements;

C. Shall extend the permit shield described in

paragraph 7(j) of subsection 7 of this Section to all terms and conditions that allow such increases and decreases in emissions.

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

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

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

i. Duty to comply. The permittee must comply with all terms and conditions of the CAAPP permit. Any permit noncompliance constitutes a violation of the Clean Air Act and the Act, and is grounds for any or all of the following: enforcement action; permit

termination, revocation and reissuance, or modification; or denial of a permit renewal application.

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

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

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

v. Duty to provide information. The permittee shall furnish to the Agency within a reasonable time specified by the Agency any information that the Agency may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with

the permit. Upon request, the permittee shall also furnish to the Agency copies of records required to be kept by the permit or, for information claimed to be confidential, the permittee may furnish such records directly to USEPA along with a claim of confidentiality.

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

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

p. Each CAAPP permit issued under subsection 10 of this Section shall contain the following elements with respect to compliance:

i. Compliance certification, testing, monitoring, reporting, and record keeping requirements sufficient to assure compliance with the terms and conditions of the permit. Any document (including reports) required by a CAAPP permit shall contain a certification by a responsible official that meets the requirements of

subsection 5 of this Section and applicable regulations.

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

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

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

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

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

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

2. As otherwise authorized by this Act.

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

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

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

B. An explanation of why any dates in the schedule of compliance were not or will not be met, and any preventive or corrective measures adopted.

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

A. The frequency (annually or more frequently

as specified in any applicable requirement or by the Agency pursuant to written procedures) of submissions of compliance certifications.

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

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

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

2. The compliance status.

3. Whether compliance was continuous or intermittent.

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

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

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

F. Other provisions as the Agency may require.

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

8. Public Notice; Affected State Review.

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

b. The Agency shall prepare a draft CAAPP permit and a statement that sets forth the legal and factual basis for the draft CAAPP permit conditions, including references to the applicable statutory or regulatory provisions. The Agency shall provide this statement to any person who requests it.

c. The Agency shall give notice of each draft CAAPP permit to the applicant and to any affected State on or before the time that the Agency has provided notice to the

public, except as otherwise provided in this Act.

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

e. The Agency shall make available to the public any CAAPP permit application, compliance plan (including the schedule of compliance), CAAPP permit, and emissions or compliance monitoring report. If an owner or operator of a CAAPP source is required to submit information entitled to protection from disclosure under ~~Section 7(a) or~~ Section 7.1 and subsection (a) of Section 7 of this Act, the owner or operator shall submit such information separately. The requirements of ~~Section 7(a) or~~ Section 7.1 and subsection (a) of Section 7 of this Act shall apply to such information, which shall not be included in a CAAPP permit unless required by law. The contents of a CAAPP permit shall not be entitled to protection under ~~Section 7(a) or~~

Section 7.1 and subsection (a) of Section 7 of this Act.

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

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

9. USEPA Notice and Objection.

a. The Agency shall provide to USEPA for its review a copy of each CAAPP application (including any application for permit modification), statement of basis as provided in paragraph ~~8~~(b) of subsection 8 of this Section, proposed CAAPP permit, CAAPP permit, and, if the Agency does not incorporate any affected State's recommendations on a proposed CAAPP permit, a written statement of this decision and its reasons for not accepting the recommendations, except as otherwise provided in this Act or by agreement with USEPA. To the extent practicable, the preceding information shall be provided in computer readable format compatible with USEPA's national database management system.

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

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

d. Any USEPA objection under this subsection, according to the Clean Air Act, will include a statement of reasons for the objection and a description of the terms and conditions that must be in the permit, in order to adequately respond to the objections. Grounds for a USEPA objection include the failure of the Agency to: (1) submit the items and notices required under this subsection; (2) submit any other information necessary to adequately review the proposed CAAPP permit; or (3) process the permit under subsection 8 of this Section except for minor permit

modifications.

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

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

g. If the Agency has issued a permit after expiration of the 45-day review period and prior to receipt of a USEPA objection under this subsection in response to a petition submitted pursuant to paragraph e of this subsection, the Agency may, upon receipt of an objection from USEPA, revise and resubmit the permit to USEPA pursuant to this subsection after providing a 10-day comment period in accordance with paragraph c of this subsection. If the Agency fails to submit a revised permit in response to the objection, USEPA shall modify, terminate or revoke the permit. In any case, the source will not be in violation of the requirement to have submitted a timely and complete

application.

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

10. Final Agency Action.

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

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

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

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

iv. The Agency has received a complete CAAPP application and, if necessary, has requested and received additional information from the applicant

consistent with subsection 5 of this Section and applicable regulations.

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

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

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

c. i. Prior to denial of a CAAPP permit, permit modification, or permit renewal under this Section, the Agency shall notify the applicant of the possible denial and the reasons for the denial.

ii. Within such notice, the Agency shall specify an appropriate date by which the applicant shall adequately respond to the Agency's notice. Such date shall not exceed 15 days from the date the notification

is received by the applicant. The Agency may grant a reasonable extension for good cause shown.

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

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

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

11. General Permits.

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

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

permit.

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

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

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

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

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

12. Operational Flexibility.

a. An owner or operator of a CAAPP source may make

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

i. An owner or operator of a CAAPP source may make Section 502 (b) (10) changes without a permit revision, if the changes are not modifications under any provision of Title I of the Clean Air Act and the changes do not exceed the emissions allowable under the permit (whether expressed therein as a rate of emissions or in terms of total emissions).

A. For each such change, the written notification required above shall include a brief description of the change within the source, the date on which the change will occur, any change in

emissions, and any permit term or condition that is no longer applicable as a result of the change.

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

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

A. Under this subparagraph ~~(a)~~(ii) of paragraph (a) of this subsection, the written notification required above shall include such information as may be required by the provision in the applicable implementation plan authorizing the emissions trade, including at a minimum, when the proposed changes will occur, a description of each such change, any change in emissions, the permit requirements with which the source will comply using the emissions trading provisions of the applicable implementation plan, and the pollutants emitted subject to the emissions trade. The notice shall also refer to the provisions in the

applicable implementation plan with which the source will comply and provide for the emissions trade.

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

iii. If requested within a CAAPP application, the Agency shall issue a CAAPP permit which contains terms and conditions, including all terms required under subsection 7 of this Section to determine compliance, allowing for the trading of emissions increases and decreases at the CAAPP source solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable requirements. The owner or operator of a CAAPP source shall include in its CAAPP application proposed replicable procedures and permit terms that ensure the emissions trades are quantifiable and enforceable. The permit shall also require compliance with all applicable requirements.

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

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

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

(i) Each such change shall meet all applicable requirements and shall not violate any existing permit term or condition;

(ii) Sources must provide contemporaneous written notice to the Agency and USEPA of each such change, except for changes that qualify as insignificant under provisions adopted by the Agency or the Board. Such written notice shall describe each such change,

including the date, any change in emissions, pollutants emitted, and any applicable requirement that would apply as a result of the change;

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

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

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

13. Administrative Permit Amendments.

a. The Agency shall take final action on a request for an administrative permit amendment within 60 days after ~~of~~ receipt of the request. Neither notice nor an opportunity for public and affected State comment shall be required for the Agency to incorporate such revisions, provided it designates the permit revisions as having been made pursuant to this subsection.

b. The Agency shall submit a copy of the revised permit

to USEPA.

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

i. Corrects typographical errors;

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

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

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

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

vi. (Blank); or

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

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

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

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

g. The Agency shall have the authority to adopt procedural rules, in accordance with the Illinois Administrative Procedure Act, as the Agency deems

necessary, to implement this subsection.

14. Permit Modifications.

a. Minor permit modification procedures.

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

A. Do not violate any applicable requirement;

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

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

D. Do not seek to establish or change a permit term or condition for which there is no corresponding underlying requirement and which avoids an applicable requirement to which the source would otherwise be subject. Such terms and conditions include:

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

2. An alternative emissions limit approved

pursuant to regulations promulgated under Section 112(i)(5) of the Clean Air Act;

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

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

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

iii. An applicant requesting the use of minor permit modification procedures shall meet the requirements of subsection 5 of this Section and shall include the following in its application:

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

B. The source's suggested draft permit;

C. Certification by a responsible official, consistent with paragraph 5(e) of subsection 5 of

this Section and applicable regulations, that the proposed modification meets the criteria for use of minor permit modification procedures and a request that such procedures be used; and

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

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

v. The Agency may not issue a final permit modification until after the 45-day review period for USEPA or until USEPA has notified the Agency that USEPA will not object to the issuance of the permit modification, whichever comes first, although the Agency can approve the permit modification prior to that time. Within 90 days after ~~of~~ the Agency's receipt of an application under the minor permit modification procedures or 15 days after the end of USEPA's 45-day review period under subsection 9 of this Section, whichever is later, the Agency shall:

A. Issue the permit modification as proposed;

B. Deny the permit modification application;

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

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

vi. Any CAAPP source may make the change proposed in its minor permit modification application immediately after it files such application. After the CAAPP source makes the change allowed by the preceding sentence, and until the Agency takes any of the actions specified in items subparagraphs (a) (v) (A) through (a) (v) (C) of subparagraph (v) of paragraph (a) of this subsection, the source must comply with both the applicable requirements governing the change and the proposed permit terms and conditions. During this time period, the source need not comply with the existing permit terms and conditions it seeks to modify. If the source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions which it seeks to modify may be enforced against it.

vii. The permit shield under paragraph (j) of

subsection 7 ~~subparagraph 7(j)~~ of this Section may not extend to minor permit modifications.

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

b. Group Processing of Minor Permit Modifications.

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

ii. Permit modifications may be processed in

accordance with the procedures for group processing, for those modifications:

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

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

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

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

B. The source's suggested draft permit.

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

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

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

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

iv. On a quarterly basis or within 5 business days after ~~of~~ receipt of an application demonstrating that the aggregate of a source's pending applications equals or exceeds the threshold level set forth within item subparagraph (b)(ii)(B) of subparagraph (ii) of paragraph (b) of this subsection, whichever is earlier, the Agency shall promptly notify USEPA and affected States of the requested permit modifications in accordance with subsections 8 and 9 of this Section. The Agency shall send any notice required under paragraph ~~5~~(d) of subsection 8 of this Section to

USEPA.

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

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

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

c. Significant Permit Modifications.

i. Significant modification procedures shall be used for applications requesting significant permit modifications and for those applications that do not qualify as either minor permit modifications or as administrative permit amendments.

ii. Every significant change in existing monitoring permit terms or conditions and every relaxation of reporting or recordkeeping requirements shall be considered significant. A modification shall

also be considered significant if in the judgment of the Agency action on an application for modification would require decisions to be made on technically complex issues. Nothing herein shall be construed to preclude the permittee from making changes consistent with this Section that would render existing permit compliance terms and conditions irrelevant.

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

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

15. Reopenings for Cause by the Agency.

a. Each issued CAAPP permit shall include provisions specifying the conditions under which the permit will be reopened prior to the expiration of the permit. Such revisions shall be made as expeditiously as practicable. A CAAPP permit shall be reopened and revised under any of the

following circumstances, in accordance with procedures adopted by the Agency:

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

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

iii. The Agency or USEPA determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations, or other terms or conditions of the permit.

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

b. In the event that the Agency determines that there are grounds for revoking a CAAPP permit, for cause,

consistent with paragraph a of this subsection, it shall file a petition before the Board setting forth the basis for such revocation. In any such proceeding, the Agency shall have the burden of establishing that the permit should be revoked under the standards set forth in this Act and the Clean Air Act. Any such proceeding shall be conducted pursuant to the Board's procedures for adjudicatory hearings and the Board shall render its decision within 120 days of the filing of the petition. The Agency shall take final action to revoke and reissue a CAAPP permit consistent with the Board's order.

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

d. Reopenings under paragraph (a) of this subsection shall not be initiated before a notice of such intent is provided to the CAAPP source by the Agency at least 30 days in advance of the date that the permit is to be reopened, except that the Agency may provide a shorter time period in the case of an emergency.

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

16. Reopenings for Cause by USEPA.

a. When USEPA finds that cause exists to terminate, modify, or revoke and reissue a CAAPP permit pursuant to subsection 15 of this Section, and thereafter notifies the Agency and the permittee of such finding in writing, the Agency shall forward to USEPA and the permittee a proposed determination of termination, modification, or revocation and reissuance as appropriate, in accordance with paragraph (b) of this subsection. The Agency's proposed determination shall be in accordance with the record, the Clean Air Act, regulations promulgated thereunder, this Act and regulations promulgated thereunder. Such proposed determination shall not affect the permit or constitute a final permit action for purposes of this Act or the Administrative Review Law. The Agency shall forward to USEPA such proposed determination within 90 days after receipt of the notification from USEPA. If additional time is necessary to submit the proposed determination, the Agency shall request a 90-day extension from USEPA and shall submit the proposed determination within 180 days after ~~of~~ receipt of notification from USEPA.

b. i. Prior to the Agency's submittal to USEPA of a proposed determination to terminate or revoke and reissue the permit, the Agency shall file a petition before the Board setting forth USEPA's objection, the permit record, the Agency's proposed determination,

and the justification for its proposed determination. The Board shall conduct a hearing pursuant to the rules prescribed by Section 32 of this Act, and the burden of proof shall be on the Agency.

ii. After due consideration of the written and oral statements, the testimony and arguments that shall be submitted at hearing, the Board shall issue and enter an interim order for the proposed determination, which shall set forth all changes, if any, required in the Agency's proposed determination. The interim order shall comply with the requirements for final orders as set forth in Section 33 of this Act. Issuance of an interim order by the Board under this paragraph, however, shall not affect the permit status and does not constitute a final action for purposes of this Act or the Administrative Review Law.

iii. The Board shall cause a copy of its interim order to be served upon all parties to the proceeding as well as upon USEPA. The Agency shall submit the proposed determination to USEPA in accordance with the Board's Interim Order within 180 days after receipt of the notification from USEPA.

c. USEPA shall review the proposed determination to terminate, modify, or revoke and reissue the permit within 90 days after ~~of~~ receipt.

i. When USEPA reviews the proposed determination

to terminate or revoke and reissue and does not object, the Board shall, within 7 days after ~~of~~ receipt of USEPA's final approval, enter the interim order as a final order. The final order may be appealed as provided by Title XI of this Act. The Agency shall take final action in accordance with the Board's final order.

ii. When USEPA reviews such proposed determination to terminate or revoke and reissue and objects, the Agency shall submit USEPA's objection and the Agency's comments and recommendation on the objection to the Board and permittee. The Board shall review its interim order in response to USEPA's objection and the Agency's comments and recommendation and issue a final order in accordance with Sections 32 and 33 of this Act. The Agency shall, within 90 days after receipt of such objection, respond to USEPA's objection in accordance with the Board's final order.

iii. When USEPA reviews such proposed determination to modify and objects, the Agency shall, within 90 days after receipt of the objection, resolve the objection and modify the permit in accordance with USEPA's objection, based upon the record, the Clean Air Act, regulations promulgated thereunder, this Act, and regulations promulgated thereunder.

d. If the Agency fails to submit the proposed

determination pursuant to paragraph a of this subsection or fails to resolve any USEPA objection pursuant to paragraph c of this subsection, USEPA will terminate, modify, or revoke and reissue the permit.

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

17. Title IV; Acid Rain Provisions.

a. The Agency shall act on initial CAAPP applications for affected sources for acid deposition in accordance with this Section and Title V of the Clean Air Act and regulations promulgated thereunder, except as modified by Title IV of the Clean Air Act and regulations promulgated thereunder. The Agency shall issue initial CAAPP permits to the affected sources for acid deposition which shall become effective no earlier than January 1, 1995, and which shall terminate on December 31, 1999, in accordance with this Section. Subsequent CAAPP permits issued to affected sources for acid deposition shall be issued for a fixed term of 5 years. Title IV of the Clean Air Act and regulations promulgated thereunder, including but not limited to 40 C.F.R. Part 72, as now or hereafter amended, are applicable to and enforceable under this Act.

b. A designated representative of an affected source

for acid deposition shall submit a timely and complete Phase II acid rain permit application and compliance plan to the Agency, not later than January 1, 1996, that meets the requirements of Titles IV and V of the Clean Air Act and regulations. The Agency shall act on the Phase II acid rain permit application and compliance plan in accordance with this Section and Title V of the Clean Air Act and regulations promulgated thereunder, except as modified by Title IV of the Clean Air Act and regulations promulgated thereunder. The Agency shall issue the Phase II acid rain permit to an affected source for acid deposition no later than December 31, 1997, which shall become effective on January 1, 2000, in accordance with this Section, except as modified by Title IV and regulations promulgated thereunder; provided that the designated representative of the source submitted a timely and complete Phase II permit application and compliance plan to the Agency that meets the requirements of Title IV and V of the Clean Air Act and regulations.

c. Each Phase II acid rain permit issued in accordance with this subsection shall have a fixed term of 5 years. Except as provided in paragraph b above, the Agency shall issue or deny a Phase II acid rain permit within 18 months of receiving a complete Phase II permit application and compliance plan.

d. A designated representative of a new unit, as

defined in Section 402 of the Clean Air Act, shall submit a timely and complete Phase II acid rain permit application and compliance plan that meets the requirements of Titles IV and V of the Clean Air Act and its regulations. The Agency shall act on the new unit's Phase II acid rain permit application and compliance plan in accordance with this Section and Title V of the Clean Air Act and its regulations, except as modified by Title IV of the Clean Air Act and its regulations. The Agency shall reopen the new unit's CAAPP permit for cause to incorporate the approved Phase II acid rain permit in accordance with this Section. The Phase II acid rain permit for the new unit shall become effective no later than the date required under Title IV of the Clean Air Act and its regulations.

e. A designated representative of an affected source for acid deposition shall submit a timely and complete Title IV NOx permit application to the Agency, not later than January 1, 1998, that meets the requirements of Titles IV and V of the Clean Air Act and its regulations. The Agency shall reopen the Phase II acid rain permit for cause and incorporate the approved NOx provisions into the Phase II acid rain permit not later than January 1, 1999, in accordance with this Section, except as modified by Title IV of the Clean Air Act and regulations promulgated thereunder. Such reopening shall not affect the term of the Phase II acid rain permit.

f. The designated representative of the affected source for acid deposition shall renew the initial CAAPP permit and Phase II acid rain permit in accordance with this Section and Title V of the Clean Air Act and regulations promulgated thereunder, except as modified by Title IV of the Clean Air Act and regulations promulgated thereunder.

g. In the case of an affected source for acid deposition for which a complete Phase II acid rain permit application and compliance plan are timely received under this subsection, the complete permit application and compliance plan, including amendments thereto, shall be binding on the owner, operator and designated representative, all affected units for acid deposition at the affected source, and any other unit, as defined in Section 402 of the Clean Air Act, governed by the Phase II acid rain permit application and shall be enforceable as an acid rain permit for purposes of Titles IV and V of the Clean Air Act, from the date of submission of the acid rain permit application until a Phase II acid rain permit is issued or denied by the Agency.

h. The Agency shall not include or implement any measure which would interfere with or modify the requirements of Title IV of the Clean Air Act or regulations promulgated thereunder.

i. Nothing in this Section shall be construed as

affecting allowances or USEPA's decision regarding an excess emissions offset plan, as set forth in Title IV of the Clean Air Act or regulations promulgated thereunder.

i. No permit revision shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit revision under any other applicable requirement.

ii. No limit shall be placed on the number of allowances held by the source. The source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

iii. Any such allowance shall be accounted for according to the procedures established in regulations promulgated under Title IV of the Clean Air Act.

j. To the extent that the federal regulations promulgated under Title IV, including but not limited to 40 C.F.R. Part 72, as now or hereafter amended, are inconsistent with the federal regulations promulgated under Title V, the federal regulations promulgated under Title IV shall take precedence.

k. The USEPA may intervene as a matter of right in any permit appeal involving a Phase II acid rain permit provision or denial of a Phase II acid rain permit.

l. It is unlawful for any owner or operator to violate any terms or conditions of a Phase II acid rain permit

issued under this subsection, to operate any affected source for acid deposition except in compliance with a Phase II acid rain permit issued by the Agency under this subsection, or to violate any other applicable requirements.

m. The designated representative of an affected source for acid deposition shall submit to the Agency the data and information submitted quarterly to USEPA, pursuant to 40 CFR 75.64, concurrently with the submission to USEPA. The submission shall be in the same electronic format as specified by USEPA.

n. The Agency shall act on any petition for exemption of a new unit or retired unit, as those terms are defined in Section 402 of the Clean Air Act, from the requirements of the acid rain program in accordance with Title IV of the Clean Air Act and its regulations.

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

18. Fee Provisions.

a. ~~A For each 12 month period after the date on which the USEPA approves or conditionally approves the CAAPP, but in no event prior to January 1, 1994,~~ a source subject to this Section or excluded under subsection 1.1 or paragraph

(c) of subsection 3 ~~3(e)~~ of this Section, shall pay a fee as provided in this paragraph ~~part~~ (a) of ~~this~~ subsection 18. However, a source that has been excluded from the provisions of this Section under subsection 1.1 or under paragraph (c) of subsection 3 ~~paragraph 3(e)~~ of this Section because the source emits less than 25 tons per year of any combination of regulated air pollutants, except greenhouse gases, shall pay fees in accordance with paragraph (1) of subsection (b) of Section 9.6.

i. The fee for a source allowed to emit less than 100 tons per year of any combination of regulated air pollutants, except greenhouse gases, shall be \$1,800 per year, and that fee shall increase, beginning January 1, 2012, to \$2,150 per year.

ii. The fee for a source allowed to emit 100 tons or more per year of any combination of regulated air pollutants, except greenhouse gases and ~~for~~ those regulated air pollutants excluded in paragraph ~~18~~(f) of this subsection 18, shall be as follows:

A. The Agency shall assess a ~~an annual~~ fee of \$~~18.00~~ per ton, per year for the allowable emissions of ~~all~~ regulated air pollutants subject to this subparagraph (ii) of paragraph (a) of subsection 18, and that fee shall increase, beginning January 1, 2012, to \$21.50 per ton, per year ~~at that source during the term of the permit.~~

These fees shall be used by the Agency and the Board to fund the activities required by Title V of the Clean Air Act including such activities as may be carried out by other State or local agencies pursuant to paragraph (d) of this subsection. The amount of such fee shall be based on the information supplied by the applicant in its complete CAAPP permit application or in the CAAPP permit if the permit has been granted and shall be determined by the amount of emissions that the source is allowed to emit annually, provided however, that the maximum fee for a CAAPP permit under this subparagraph (ii) of paragraph (a) of subsection 18 is no source shall be required to pay an annual fee in excess of \$250,000, and increases, beginning January 1, 2012, to \$294,000. Beginning January 1, 2012, the maximum fee under this subparagraph (ii) of paragraph (a) of subsection 18 for a source that has been excluded under subsection 1.1 of this Section or under paragraph (c) of subsection 3 of this Section is \$4,112. The Agency shall provide as part of the permit application form required under subsection 5 of this Section a separate fee calculation form which will allow the applicant to identify the allowable emissions and calculate the fee ~~for the term of the~~

~~permit~~. In no event shall the Agency raise the amount of allowable emissions requested by the applicant unless such increases are required to demonstrate compliance with terms of a CAAPP permit.

Notwithstanding the above, any applicant may seek a change in its permit which would result in increases in allowable emissions due to an increase in the hours of operation or production rates of an emission unit or units and such a change shall be consistent with the construction permit requirements of the existing State permit program, under subsection (a) of Section 39~~(a)~~ of this Act and applicable provisions of this Section. Where a construction permit is required, the Agency shall expeditiously grant such construction permit and shall, if necessary, modify the CAAPP permit based on the same application.

B. The applicant or permittee may pay the fee annually or semiannually for those fees greater than \$5,000. However, any applicant paying a fee equal to or greater than \$100,000 shall pay the full amount on July 1, for the subsequent fiscal year, or pay 50% of the fee on July 1 and the remaining 50% by the next January 1. The Agency may

change any annual billing date upon reasonable notice, but shall prorate the new bill so that the permittee or applicant does not pay more than its required fees for the fee period for which payment is made.

b. (Blank).

c. (Blank).

d. There is hereby created in the State Treasury a special fund to be known as the "CAA Permit Fund". All Funds collected by the Agency pursuant to this subsection shall be deposited into the Fund. The General Assembly shall appropriate monies from this Fund to the Agency and to the Board to carry out their obligations under this Section. The General Assembly may also authorize monies to be granted by the Agency from this Fund to other State and local agencies which perform duties related to the CAAPP. Interest generated on the monies deposited in this Fund shall be returned to the Fund.

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

f. For purposes of this subsection, the term "regulated air pollutant" shall have the meaning given to it under subsection 1 of this Section but shall exclude the following:

- i. carbon monoxide;
- ii. any Class I or II substance which is a regulated air pollutant solely because it is listed pursuant to Section 602 of the Clean Air Act; and
- iii. any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Clean Air Act based on the emissions allowed in the permit effective in that calendar year, at the time the applicable bill is generated.

19. Air Toxics Provisions.

a. In the event that the USEPA fails to promulgate in a timely manner a standard pursuant to Section 112(d) of the Clean Air Act, the Agency shall have the authority to issue permits, pursuant to Section 112(j) of the Clean Air Act and regulations promulgated thereunder, which contain emission limitations which are equivalent to the emission limitations that would apply to a source if an emission standard had been promulgated in a timely manner by USEPA pursuant to Section 112(d). Provided, however, that the owner or operator of a source shall have the opportunity to submit to the Agency a proposed emission limitation which it determines to be equivalent to the emission limitations that would apply to such source if an emission standard had been promulgated in a timely manner by USEPA. If the Agency

refuses to include the emission limitation proposed by the owner or operator in a CAAPP permit, the owner or operator may petition the Board to establish whether the emission limitation proposal submitted by the owner or operator provides for emission limitations which are equivalent to the emission limitations that would apply to the source if the emission standard had been promulgated by USEPA in a timely manner. The Board shall determine whether the emission limitation proposed by the owner or operator or an alternative emission limitation proposed by the Agency provides for the level of control required under Section 112 of the Clean Air Act, or shall otherwise establish an appropriate emission limitation, pursuant to Section 112 of the Clean Air Act.

b. Any Board proceeding brought under paragraph (a) or (e) of this subsection shall be conducted according to the Board's procedures for adjudicatory hearings and the Board shall render its decision within 120 days of the filing of the petition. Any such decision shall be subject to review pursuant to Section 41 of this Act. Where USEPA promulgates an applicable emission standard prior to the issuance of the CAAPP permit, the Agency shall include in the permit the promulgated standard, provided that the source shall have the compliance period provided under Section 112(i) of the Clean Air Act. Where USEPA promulgates an applicable standard subsequent to the issuance of the CAAPP permit,

the Agency shall revise such permit upon the next renewal to reflect the promulgated standard, providing a reasonable time for the applicable source to comply with the standard, but no longer than 8 years after the date on which the source is first required to comply with the emissions limitation established under this subsection.

c. The Agency shall have the authority to implement and enforce complete or partial emission standards promulgated by USEPA pursuant to Section 112(d), and standards promulgated by USEPA pursuant to Sections 112(f), 112(h), 112(m), and 112(n), and may accept delegation of authority from USEPA to implement and enforce Section 112(l) and requirements for the prevention and detection of accidental releases pursuant to Section 112(r) of the Clean Air Act.

d. The Agency shall have the authority to issue permits pursuant to Section 112(i)(5) of the Clean Air Act.

e. The Agency has the authority to implement Section 112(g) of the Clean Air Act consistent with the Clean Air Act and federal regulations promulgated thereunder. If the Agency refuses to include the emission limitations proposed in an application submitted by an owner or operator for a case-by-case maximum achievable control technology (MACT) determination, the owner or operator may petition the Board to determine whether the emission limitation proposed by the owner or operator or an

alternative emission limitation proposed by the Agency provides for a level of control required by Section 112 of the Clean Air Act, or to otherwise establish an appropriate emission limitation under Section 112 of the Clean Air Act.

20. Small Business.

a. For purposes of this subsection:

"Program" is the Small Business Stationary Source Technical and Environmental Compliance Assistance Program created within this State pursuant to Section 507 of the Clean Air Act and guidance promulgated thereunder, to provide technical assistance and compliance information to small business stationary sources;

"Small Business Assistance Program" is a component of the Program responsible for providing sufficient communications with small businesses through the collection and dissemination of information to small business stationary sources; and

"Small Business Stationary Source" means a stationary source that:

1. is owned or operated by a person that employs 100 or fewer individuals;
2. is a small business concern as defined in the "Small Business Act";
3. is not a major source as that term is defined in subsection 2 of this Section;

4. does not emit 50 tons or more per year of any regulated air pollutant, except greenhouse gases; and

5. emits less than 75 tons per year of all regulated pollutants, except greenhouse gases.

b. The Agency shall adopt and submit to USEPA, after reasonable notice and opportunity for public comment, as a revision to the Illinois state implementation plan, plans for establishing the Program.

c. The Agency shall have the authority to enter into such contracts and agreements as the Agency deems necessary to carry out the purposes of this subsection.

d. The Agency may establish such procedures as it may deem necessary for the purposes of implementing and executing its responsibilities under this subsection.

e. There shall be appointed a Small Business Ombudsman (hereinafter in this subsection referred to as "Ombudsman") to monitor the Small Business Assistance Program. The Ombudsman shall be a nonpartisan designated official, with the ability to independently assess whether the goals of the Program are being met.

f. The State Ombudsman Office shall be located in an existing Ombudsman office within the State or in any State Department.

g. There is hereby created a State Compliance Advisory Panel (hereinafter in this subsection referred to as "Panel") for determining the overall effectiveness of the

Small Business Assistance Program within this State.

h. The selection of Panel members shall be by the following method:

1. The Governor shall select two members who are not owners or representatives of owners of small business stationary sources to represent the general public;

2. The Director of the Agency shall select one member to represent the Agency; and

3. The State Legislature shall select four members who are owners or representatives of owners of small business stationary sources. Both the majority and minority leadership in both Houses of the Legislature shall appoint one member of the panel.

i. Panel members should serve without compensation but will receive full reimbursement for expenses including travel and per diem as authorized within this State.

j. The Panel shall select its own Chair by a majority vote. The Chair may meet and consult with the Ombudsman and the head of the Small Business Assistance Program in planning the activities for the Panel.

21. Temporary Sources.

a. The Agency may issue a single permit authorizing emissions from similar operations by the same source owner or operator at multiple temporary locations, except for

sources which are affected sources for acid deposition under Title IV of the Clean Air Act.

b. The applicant must demonstrate that the operation is temporary and will involve at least one change of location during the term of the permit.

c. Any such permit shall meet all applicable requirements of this Section and applicable regulations, and include conditions assuring compliance with all applicable requirements at all authorized locations and requirements that the owner or operator notify the Agency at least 10 days in advance of each change in location.

22. Solid Waste Incineration Units.

a. A CAAPP permit for a solid waste incineration unit combusting municipal waste subject to standards promulgated under Section 129(e) of the Clean Air Act shall be issued for a period of 12 years and shall be reviewed every 5 years, unless the Agency requires more frequent review through Agency procedures.

b. During the review in paragraph (a) of this subsection, the Agency shall fully review the previously submitted CAAPP permit application and corresponding reports subsequently submitted to determine whether the source is in compliance with all applicable requirements.

c. If the Agency determines that the source is not in compliance with all applicable requirements it shall

revise the CAAPP permit as appropriate.

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

(Source: P.A. 93-32, eff. 7-1-03; 94-580, eff. 8-12-05.)

(415 ILCS 5/39.10 new)

Sec. 39.10. General permits.

(a) Except as otherwise prohibited by federal law or regulation, the Agency may issue general permits for the construction, installation, or operation of categories of facilities for which permits are required under this Act or Board regulation, provided that such general permits are consistent with federal and State laws and regulations. Such general permits shall include, but shall not be limited to, provisions requiring the following as prerequisites to obtaining coverage under a general permit: (i) the submittal of a notice of intent to be covered by the general permit and (ii) the payment of applicable permitting fees. The Agency may include conditions in such general permits as may be necessary to accomplish the intent of this Act and rules adopted under this Act.

(b) Within 6 months after the effective date of this amendatory Act of the 97th General Assembly, the Agency shall, in consultation with the regulated community, identify types of

permits for which general permits would be appropriate and consistent with State and federal law and regulations. The types of permits may include, but shall not be limited to, permits for nonhazardous solid waste activities, discharge of storm water from landfills, and discharge of hydrostatic test waters. Within 18 months after the effective date of this amendatory Act of the 97th General Assembly, the Agency shall, in consultation with the regulated community, develop general permits for the types of permits identified pursuant to this subsection (b).

(c) Persons obtaining coverage under a general permit shall be subject to the same permitting fees that apply to persons obtaining individual permits.

(d) No person obtaining coverage under a general permit shall violate this Act, rules adopted under this Act, or the terms or conditions of the general permit.

(e) This Section does not apply to sources subject to Section 39.5 of this Act.

(415 ILCS 5/39.12 new)

Sec. 39.12. Permits by rule.

(a) Except as otherwise prohibited by federal law or regulation, the Board may adopt rules providing for permits by rule for classes of facilities or equipment, provided that the permits by rule are consistent with federal and State laws and regulations. Proposals for permits by rule authorized under

this Section may be filed by any person in accordance with Title VII of this Act.

(b) Board rules adopted under this Section shall include, but not be limited to, standards as may be necessary to accomplish the intent of this Act and rules adopted under this Act and the terms and conditions for obtaining a permit by rule under this Section, which shall include, but not be limited to, the following as prerequisites to obtaining a permit by rule: (i) the submittal of a notice of intent to be subject to the permit by rule and (ii) the payment of applicable permitting fees.

(c) Within one year after the effective date of this amendatory Act of the 97th General Assembly, the Agency shall, in consultation with the regulated community, identify types of permits for which permits by rule would be appropriate and consistent with State and federal law and regulations. The types of permits may include, but shall not be limited to, permits for open burning, certain package boilers and heaters using only natural gas or refinery gas, and certain internal combustion engines.

(d) Persons obtaining a permit by rule shall be subject to the same permitting fees that apply to persons obtaining individual permits.

(e) No person that has obtained a permit by rule shall violate this Act, rules adopted under this Act, or the terms and conditions of the permit by rule.

(415 ILCS 5/39.14 new)

Sec. 39.14. Expedited review of permits.

(a) It is the intent of this Section to promote an expedited permit review process for any permit required under this Act.

(b) Any applicant for a permit under this Act may request in writing from the Agency an expedited review of the application for a permit. Within a reasonable time, the Agency shall respond in writing, indicating whether the Agency will perform an expedited review.

(c) In addition to any other fees required by this Act or Board regulations, an applicant requesting expedited review under this Section shall pay to the Agency an expedited permit fee. The amount of the expedited permit fee shall be 4 times the standard permit fee required for the requested permit under this Act or Board regulations; provided that the expedited permit fee shall not exceed \$100,000. For recurring permit fees, such as annual fees, operating fees, or discharge fees, the expedited permit fee shall be 4 times the amount of the recurring fee on a one-time basis for each expedited permitting action. If an owner or operator is not required to pay a standard permit fee for the requested permit, the amount of the expedited permit fee shall be mutually agreed upon by the Agency and the applicant. Prior to any Agency review, the applicant shall make full payment of the expedited permit fee

to the Agency. All amounts paid to the Agency pursuant to this Section shall be deposited into the Environmental Protection Permit and Inspection Fund. The applicant shall also pay all standard permit fees in accordance with the applicable fee provisions of this Act or Board regulations.

(d) The Agency's expedited review under this Section shall include the usual and customary review by the Agency as necessary for processing any similar application.

(e) "Expedited review" means, for the purposes of this Section, the Agency taking action on a permit application within a period of time mutually agreed upon by the Agency and the applicant; provided, however, that the agreed-upon period of time shall be tolled during any times the Agency is waiting for the applicant or another party to provide information necessary for the Agency to complete its expedited review.

(f) If the Agency fails to complete an expedited review within the period of time agreed upon by the Agency and the applicant, taking into account the tolling provided under subsection (e) of this Section, the applicant shall be entitled to a refund of the expedited permit fee paid under this Section, on a prorated basis, as mutually agreed upon by the Agency and the applicant.

(g) This Section shall not apply to applications related to emergency events necessitating immediate action by the Agency on permit applications.

(h) The Agency may adopt rules for the implementation of

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this Section.

Section 99. Effective date. This Act takes effect July 1, 2011.