

1 AN ACT concerning air pollution.

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

4 Section 5. The Environmental Protection Act is amended by
5 adding Section 9.11 as follows:

6 (415 ILCS 5/9.11 new)

7 Sec. 9.11. Air pollution construction permit fees.

8 (a) For any source for which an air pollution
9 construction permit is required, the owner or operator of
10 that source shall pay a fee as established in this Section to
11 the Agency at the time that he or she submits the application
12 for a construction permit. Unless the proper fee established
13 under this Section is submitted with the permit application,
14 the Agency shall not be required to review or process the
15 application, and the provisions of subsection (a) of Section
16 39 of this Act do not apply to the application.

17 (b) The following fee amounts shall apply:

18 (1) If the estimated cost of the project is less
19 than \$300,000, or if the project consists of a new
20 facility controlled and operated by the federal
21 government or the State of Illinois and the new facility
22 is not subject to the requirements of the federal
23 Prevention of Significant Deterioration (PSD) program or
24 the nonattainment New Source Review (NSR) program, the
25 fee is \$500 per application for an air pollution
26 construction permit. If the Agency grants a request for
27 expedited review of an application for an air pollution
28 construction permit that meets the criteria of this
29 subdivision (b)(1), the review shall be completed within
30 45 days of the date the permit application is filed with
31 the Agency, and the fee is \$1,000. The Agency may not

1 grant a request for expedited review of an application
2 for an air pollution construction permit under this
3 subdivision (b)(1) if public notice and the opportunity
4 for a hearing are required. If public notice and the
5 opportunity for a hearing are required, the fee per
6 application under this subdivision (b)(1) is \$5,500.

7 (2) If the estimated cost of the project is
8 \$300,000 or more, and the project is not subject to PSD
9 or NSR, the fee is 0.20% of the estimated capital cost of
10 the project, not to exceed \$75,000 per application, for
11 an air pollution construction permit that meets the
12 criteria of this subdivision (b)(2). If the Agency grants
13 a request for expedited review of an application for an
14 air pollution construction permit that meets the criteria
15 of this subdivision (b)(2), the review shall be completed
16 within 45 days after the date the permit application is
17 filed with the Agency, and the fee is 0.40% of the
18 capital cost of the project, not to exceed \$150,000 per
19 application. The Agency may not grant a request for
20 expedited review of an application for an air pollution
21 construction permit under this subdivision (b)(2) if
22 public notice and the opportunity for a hearing are
23 required. If public notice and the opportunity for a
24 hearing are required, the fee per application under this
25 subdivision (b)(2) shall be increased by \$5,000.

26 (3) If the requested construction permit is for
27 activities not involving capital expenditure and the
28 requested permit does not meet the criteria of
29 subdivision (b)(4) of this Section, the fee is \$500 per
30 application for an air pollution construction permit. If
31 the Agency grants a request for expedited review of an
32 application for an air pollution construction permit
33 under this subdivision (b)(3), the review shall be
34 completed within 45 days after the date the permit

1 application is filed with the Agency, and the fee is
2 \$1,000. The Agency shall not grant a request for
3 expedited review of an application for an air pollution
4 construction permit under this subdivision (b)(3) if
5 public notice and the opportunity for a hearing are
6 required. If public notice and the opportunity for a
7 hearing are required, the fee per application under this
8 subdivision (b)(3) is \$5,500.

9 (4) If the project requires a PSD or NSR permit or
10 a permit with limitations on throughput or operating
11 hours or other limitations to avoid PSD or NSR:

12 (A) If the estimated capital cost of the
13 project is less than \$300,000, or if the project
14 consists of a new facility controlled and operated
15 directly by the federal government or the State of
16 Illinois, the fee is \$1,500 per application for an
17 air pollution construction permit. If public notice
18 and the opportunity for a hearing are required, the
19 fee per application is \$6,500.

20 (B) If the estimated capital cost of the
21 project is \$300,000 or more, the fee is 0.50% of the
22 estimated capital cost of the project, not to exceed
23 \$75,000 per application for an air pollution
24 construction permit. If public notice and the
25 opportunity for a hearing are required, the fee per
26 application calculated under this subdivision
27 (b)(4)(B) shall be increased by \$5,000.

28 (5) For each application for an air pollution
29 construction permit where the application does not
30 include an estimate of the capital cost of the project,
31 the fee shall be as follows:

32 (A) For projects not subject to PSD or NSR,
33 and for permit applications for which limitations on
34 throughput or operating hours or other limitations

1 to avoid PSD or NSR are not requested, a fee of
2 \$500, or \$1,000 if the Agency grants a request for
3 expedited review of an application for an air
4 pollution construction permit under this subdivision
5 (b)(5)(A). However, if public notice and the
6 opportunity for a hearing are required, the fee per
7 application under this subsection (b)(5)(A) shall be
8 increased by \$5,000.

9 (B) For projects subject to PSD or NSR, a fee
10 of \$75,000.

11 (6) Where a permittee seeks a revision to an air
12 pollution control construction permit that has been
13 issued, fees for each request for revision shall be as
14 follows:

15 (A) For revisions to change names, addresses,
16 or phone numbers identified in the permit, or to
17 provide for a similar minor administrative change at
18 the source, \$500, or \$1,000 if the Agency grants a
19 request for expedited review of the revision.

20 (B) For modifications to a permit subject to
21 the fee required under subdivision (b)(1) or (b)(3)
22 of this Section, \$500, or \$1,000 if the Agency
23 grants a request for expedited review of the
24 modifications.

25 (C) For modifications to a permit subject to
26 the fee required under subdivision (b)(2) or
27 (b)(4)(B) of this Section, 0.005% of the estimated
28 capital cost of the project.

29 (D) For modifications to a permit subject to
30 the fee required under subdivision (b)(4)(A) of this
31 Section, \$1,500.

32 (E) For modifications to a permit subject to
33 the fees required under subdivision (b)(5)(A) of
34 this Section, \$500, or \$1,000 if the Agency grants a

1 request for expedited review of the modifications.

2 (F) For modifications to a permit subject to
3 the fee required under subdivision (b)(5)(B) of this
4 Section, \$75,000 if the project was initially
5 subject to PSD or NSR or the modifications cause the
6 project to be subject to PSD or NSR.

7 (G) For modifications requiring public notice
8 and the opportunity for a hearing, an additional
9 \$5,000.

10 (c) In the event that a permittee issued an air
11 pollution construction permit makes the fee payment from an
12 account with insufficient funds to cover the amount of a fee
13 payment, the air pollution construction permit shall be
14 deemed revoked immediately. The Agency shall notify the
15 permittee within 60 days of receipt of the notice of
16 insufficient funds by the bank. Failure of the Agency to
17 notify the permittee within 60 days of receipt of the notice
18 of insufficient funds by the bank does not excuse or alter
19 the duty of the permittee to comply with the provisions of
20 this Section.

21 (d) The applicant for an air pollution construction
22 permit or the permittee seeking a modification of an issued
23 air pollution control construction permit shall include a
24 certification of the estimated capital cost of the project
25 with each application or request for modification submitted
26 to the Agency. The estimated capital cost of the project
27 shall be updated quarterly and provided to the Agency with a
28 certification of the revised estimated capital cost. The
29 certification shall be signed by a duly authorized officer or
30 other representative of the permittee authorized to legally
31 bind or represent the permittee.

32 (e) The estimated capital cost of the project shall
33 include both direct and indirect costs. Direct costs include
34 the following: (A) process and control equipment not

1 previously owned by the applicant and not currently included
2 in a construction or operating permit issued for the source;
3 (B) auxiliary equipment, including exhaust hoods, ducting,
4 fans, pumps, piping, conveyors, stacks, storage tanks,
5 waste-disposal facilities, and air pollution control
6 equipment specifically needed to meet permit and regulatory
7 requirements; (C) freight charges; (D) site preparation
8 (including demolition), construction of fences, outdoor
9 lighting, road, and parking areas; (E) installation
10 (including foundations), erection of supporting structures,
11 enclosures or weather protection, insulation and painting,
12 utilities and connections, process integration, and process
13 control equipment; (F) auxiliary buildings, including
14 materials storage, employee facilities, and changes to
15 existing structures; and (G) ambient air monitoring
16 equipment. Indirect costs include final engineering design
17 and supervisions, and administrative overhead; construction
18 expenses (including construction liaison), securing local
19 building permits, insurance, temporary construction
20 facilities, and construction clean-up; and contractor's fees
21 and overhead.

22 (f) The initial fee for an air pollution construction
23 permit and the initial certification of the estimate of
24 capital cost shall be submitted to the Agency at the time the
25 permit application is submitted, except that if public notice
26 and the opportunity for a hearing is required, the fee for
27 the notice may be submitted at a later date, but no later
28 than 15 days prior to the hearing. Any additional fees due
29 because of an increase in the estimated capital cost shall be
30 submitted with the quarterly certification of the estimated
31 capital cost.

32 (g) The Agency shall deny the issuance of a pending air
33 pollution construction permit or of the subsequent operating
34 permit if the applicant has not paid the required fees by the

1 date required for issuance of the permit. The denial of a
2 permit for failure to pay an air pollution construction
3 permit fee shall be subject to review by the Board pursuant
4 to the provisions of subsection (a) of Section 40 of this
5 Act.

6 (h) Notwithstanding the requirements of subsection (a)
7 of Section 39 of this Act, the application for an air
8 pollution construction permit shall not be deemed to be filed
9 with the Agency until the Agency receives the initial air
10 pollution construction permit application fee and certified
11 estimate of capital cost as required by this Section.

12 (i) The requirements of this Section shall apply
13 beginning on July 1, 2003.

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

16 (k) Fees collected pursuant to this Section shall be
17 deposited into the Environmental Protection Permit and
18 Inspection Fund.

19 Section 99. Effective date. This Act takes effect upon
20 becoming law.