

1 transmit the electricity generated from a site using such
2 technology or the costs of coal handling. These technologies
3 include but are not limited to, flue gas desulfurization (or
4 "scrubbing"), limestone injection multistage burners,
5 selective catalytic reduction, selective non-catalytic
6 reduction, coal re-burning, staged combustion (or "overfire
7 air"), low-NOx burners, ammonia reagent injection systems,
8 repowering, fluidized-bed combustion, integrated gasification
9 combined cycle, coal liquefaction, and coal gasification.

10 "Qualified personnel" means employees who install,
11 operate, and maintain generation, transmission, or
12 distribution facilities within the State and have the
13 requisite knowledge, skills, and competence to perform those
14 functions in a safe and responsible manner in order to
15 provide safe and reliable service.

16 Section 7. Findings. The General Assembly finds and
17 declares that:

18 (1) fossil fuel-fired electric generating plants
19 are a significant source of air emissions in this State
20 and have become the subject of a number of important new
21 studies of their effects on the public health;

22 (2) existing state and federal policies, that allow
23 older plants that meet federal standards to operate
24 without meeting the more stringent requirements
25 applicable to new plants, are being questioned on the
26 basis of their environmental impacts and the economic
27 distortions such policies cause in a deregulated energy
28 market;

29 (3) fossil fuel-fired electric generating plants
30 are, or may be, affected by a number of regulatory
31 programs, some of which are under review or development
32 on the state and national levels, and to a certain extent
33 the international level, including the federal acid rain

1 program, ozone, mercury and other hazardous pollutant
2 control requirements, regional haze, and global warming;

3 (4) scientific uncertainty regarding the formation
4 of certain components of regional haze and the air
5 quality modeling that predict impacts of control measures
6 requires careful consideration of the timing of the
7 control of some of the pollutants from these facilities,
8 particularly sulfur dioxides and nitrogen oxides that
9 each interact with ammonia and other substances in the
10 atmosphere;

11 (5) the development of energy policies to promote a
12 safe, sufficient, reliable, and affordable energy supply
13 on the state and national levels is being affected by the
14 on-going deregulation of the power generation industry
15 and the evolving energy markets;

16 (6) the Governor's formation of an Energy Cabinet
17 and the development of a State energy policy calls for
18 actions by the Environmental Protection Agency and the
19 Illinois Pollution Control Board that are in harmony with
20 the energy needs and policy of the State, while
21 protecting the public health and the environment;

22 (7) Illinois coal is an abundant resource and an
23 important component of Illinois' economy whose use should
24 be encouraged to the greatest extent possible consistent
25 with protecting the public health and the environment;

26 (8) Renewable forms of energy should be promoted as
27 an important element of the energy and environmental
28 policies of the State and that it is a goal of the State
29 that at least 5% of the State's energy production and use
30 be derived from renewable forms of energy by 2010 and at
31 least 15% from renewable forms of energy by 2020;

32 (9) efforts on the state and federal levels are
33 underway to consider the multiple environmental
34 regulations affecting electric generating plants in order

1 to improve the ability of government and the affected
2 industry to engage in effective planning through the use
3 of multi-pollutant strategies; and

4 (10) these issues, taken together, call for a
5 comprehensive review of the impact of these facilities on
6 the public health, considering also the energy supply,
7 reliability, and costs, the role of renewable forms of
8 energy, and the developments in federal law and
9 regulations that may affect any state actions, prior to
10 making final decisions in Illinois.

11 Section 10. Clean Air and Development Board.

12 (a) The Clean Air and Development Board is established
13 as an advisory board to the Department. The Board shall be
14 composed of the following 15 voting members and one
15 non-voting member: one member of the General Assembly
16 appointed by the Speaker of the House of Representatives, one
17 member of the General Assembly appointed by the Minority
18 Leader of the House of Representatives; one member of the
19 General Assembly appointed by the President of the Senate,
20 one member of the General Assembly appointed by the Minority
21 Leader of the Senate; one member appointed by the Governor;
22 one member selected by the International Brotherhood of
23 Electrical Workers; one member selected by the United Mine
24 Workers; 3 members selected by the Illinois Coal Association;
25 3 members selected by the Illinois Environmental Council; one
26 member selected by the Sierra Club; one member selected by
27 the American Lung Association; and one non-voting member
28 selected by the Illinois Energy Association. The Governor
29 shall select one of the 15 Board members to serve as Chair
30 pending the first election of officers by Board members.

31 The member appointed by the Governor shall serve for a
32 term of 4 years, unless otherwise provided in this
33 subsection. The initial term of the original appointee shall

1 expire on January 15, 2005. The term of the member appointed
2 by the Governor to fill a vacancy created on January 15,
3 2005, shall expire on January 15, 2009. The term of the
4 member appointed by the Governor to fill a vacancy created on
5 January 15, 2009, shall expire on January 15, 2013 or January
6 15, 2017, as determined by the Governor.

7 A member appointed by a legislative leader shall serve a
8 term of 5 years, unless otherwise provided in this
9 subsection. The initial term of a member appointed by a
10 legislative leader shall expire on January 15, 2006. The
11 term of a member appointed by a legislative leader to fill a
12 vacancy created on January 15, 2006, shall expire on January
13 15, 2011 or January 15, 2017, as determined by the
14 legislative leader.

15 The members chosen by the International Brotherhood of
16 Electrical Workers, United Mine Workers, Illinois Coal
17 Association, Illinois Environmental Council, Sierra Club,
18 American Lung Association, and Illinois Energy Association
19 shall serve for terms of 6 years. The initial terms of
20 original appointees shall expire on January 15, 2007. The
21 term of a member chosen by the International Brotherhood of
22 Electrical Workers, United Mine Workers, Illinois Coal
23 Association, Illinois Environmental Council, Sierra Club,
24 American Lung Association, or Illinois Energy Association to
25 fill a vacancy created on January 15, 2007 shall expire as
26 follows: 5 on January 15, 2013 and 6 on January 15, 2017, as
27 determined by lot.

28 Board members shall not receive compensation. All Board
29 members shall be entitled to reimbursement for reasonable
30 expenses incurred in the performance of their duties as Board
31 members.

32 The Board shall meet at least annually or at the call of
33 the Chair for a meeting of the Board. At any time, a
34 majority of the Board may petition the Chair for a meeting of

1 the Board. A quorum shall be defined as a majority of those
2 voting members appointed to the Board.

3 (b) The Board shall provide advice and make
4 recommendations on the following Department powers and
5 duties:

6 (1) To develop a program to increase the
7 utilization of Illinois coal.

8 (2) To approve projects and funding, if the owner
9 of the generating unit receiving the funding agrees to:

10 (A) burn Illinois coal to generate
11 electricity,

12 (B) employ qualified personnel to install,
13 operate, and maintain generation, transmission, or
14 distribution facilities within the State, and

15 (C) reduce its emissions of sulfur dioxide or
16 nitrogen oxides or both as described in subdivisions
17 (c)(3) and (c)(4) of Section 15 of this Act.

18 (3) To cooperate to the fullest extent possible
19 with State and federal agencies and departments,
20 independent organizations, and other interested groups,
21 public and private, for the purposes of promoting
22 Illinois coal resources.

23 (4) To submit an annual report to the Governor and
24 the General Assembly outlining the progress and
25 accomplishments made in the year, providing an annual
26 accounting of funds received and disbursed, and reviewing
27 the status of the program.

28 (5) To adopt, amend, and repeal rules, regulations,
29 and bylaws governing the Board's organization and conduct
30 of business.

31 (6) To recommend the authorization of the
32 expenditure of moneys for coal mining and coal
33 development projects from the Clean Air and Development
34 Fund. The expenditures shall be used to fund a

1 recommended amount of up to 50% of the costs of a
2 proposed project. However, the Board may exceed this
3 amount if the merits of the project are determined by the
4 Board to warrant additional funding and the project is
5 approved by a two-thirds vote of a quorum. All other
6 projects shall be approved by vote of a simple majority
7 of a quorum. The Board may use grants, loans, or any
8 other financial mechanism or any combination thereof to
9 fund such proposed projects consistent with this Act.

10 (7) To develop strategies and to propose policies
11 to promote environmentally responsible uses of Illinois
12 coal for meeting electric power supply requirements and
13 for other purposes.

14 (8) To develop and propose strategies to the
15 Illinois Environmental Protection Agency for inclusion in
16 the State implementation plan for nitrogen oxide that
17 would allow the transfer of ozone season nitrogen oxide
18 credits from the transportation and area source sectors
19 of the Illinois SIP Call NOx budget to the electric
20 generating unit sector for the purpose of offsetting any
21 nitrogen oxide emission increases associated with a
22 funded project.

23 (9) The Board may consider using stockpiled
24 emission credits or the value of those credits as a
25 factor in considering proposed projects.

26 (10) Projects on which construction had not yet
27 commenced prior to January 1, 2001, and that otherwise
28 qualify, shall be eligible for funding assistance under
29 this Act.

30 Section 15. Board evaluation and recommendations
31 concerning project proposals.

32 (a) The Board shall evaluate project proposals based on
33 the following primary criteria:

1 (1) Incremental increase or retention in tons of
2 Illinois coal that would be used over the proposed term
3 of the proposed project.

4 (2) Incremental tons of sulfur dioxide that would
5 be reduced over the proposed term of the proposed
6 project.

7 (3) Amount of funding required from the Fund.

8 (b) The primary criteria shall be used by the Board to
9 prioritize the proposed projects. Both the incremental
10 increase or retention in Illinois coal use and the
11 incremental reduction of sulfur dioxide emissions over the
12 term of the proposed project shall be divided by requested
13 funding amount. The Board shall use the resultant values to
14 rank the proposals.

15 (1) Projects shall be initially ranked, from
16 highest to lowest, based on their ratio of incremental
17 increase or retention of Illinois coal use per million
18 dollars expended from the Fund and the ratio of
19 incremental tons of sulfur dioxide reduction per million
20 dollars expended from the Fund.

21 (2) The ratios of both the incremental increase or
22 retention of Illinois coal use and incremental tons of
23 sulfur dioxide reduced per million dollars expended from
24 the Fund shall be used in a bi-axial matrix. The matrix
25 shall be divided into at least 16 linearly proportional
26 quadrants. Those projects that are plotted in the
27 quadrants farthest from the origin of the matrix will
28 receive the highest overall rankings.

29 (c) The Board shall consider secondary criteria prior to
30 making its recommendations to the Department. These
31 secondary criteria shall be used to amend the overall project
32 rankings. The secondary criteria may include the following:

33 (1) The incremental tons of nitrogen oxides that
34 will be reduced over the proposed term of the project.

1 (2) The incremental tons of nitrogen oxides to be
2 reduced over the proposed term of the project divided by
3 the requested funding from the Fund.

4 (3) Whether the proposed project will result in
5 that unit's annual average sulfur dioxide emission rate
6 being below the proposing company's most recent annual
7 average sulfur dioxide emission rate of its coal-fired
8 units as reported in the United States Environmental
9 Protection Agency's acid rain emissions database.

10 (4) Whether the proposed project will result in
11 that unit's annual average nitrogen oxide emission rate
12 being below the proposing company's most recent annual
13 average nitrogen oxide emission rate for similar type
14 coal-fired boilers (i.e. tangential boiler, wall-fired
15 boiler, or cyclone boiler) as reported in the United
16 States Environmental Protection Agency's acid rain
17 emissions database.

18 (5) The technical feasibility of the proposed
19 project.

20 (d) The Board shall provide its overall project rankings
21 to the Department within 6 months after it issues a request
22 for project proposals. Requests for proposed projects shall
23 be issued by the Board a minimum of twice per year.

24 Section 20. Department consideration of Board
25 recommendations; notice to Board in cases of disagreement.

26 (a) The Department shall consider the Board's
27 recommendations in making its decision to distribute the
28 grant moneys provided for in this Act. The Department shall
29 make its decision to distribute the grant moneys for the
30 project within 6 months after the board's written
31 recommendation.

32 (b) If the Department decides to deviate from any of the
33 Board's recommendations, then the Department shall give the

1 Board written notice and a copy of this decision, with an
2 explanation of the reasons causing the deviation from the
3 Board's recommendations, within 15 days after issuance of the
4 Department decision. Forty-five days from the issuance of
5 the Department decision, a public hearing shall be convened
6 at which the Director of the Department or his or her
7 designee shall appear and testify before the Board to explain
8 the Department's decision to deviate from the Board's
9 recommendations. The Department shall not proceed with a
10 distribution of grant funds under this Act until the above
11 notice is provided to the Board and a public hearing is
12 conducted as described in this Section.

13 Section 25. Rules. The Department is authorized to
14 promulgate rules to implement the provisions of this Act.

15 Section 30. Bonds. The State of Illinois is authorized
16 to issue, sell, and provide for the retirement of general
17 obligation bonds of the State of Illinois in the aggregate
18 principal amount of \$500,000,000, hereinafter called "Bonds",
19 for the purposes consistent with this Act.

20 Section 35. Bond proceeds. The proceeds of the bonds
21 shall be deposited into a separate fund known as the Clean
22 Air and Development Fund, which is hereby created.

23 Section 40. Expenditure of Funds. At all times, the
24 proceeds from the sale of Bonds are subject to appropriation
25 by the General Assembly and may be expended in such amounts
26 and at such times as the Department may deem necessary or
27 desirable for the purposes of this Act.

28 Section 905. The State Finance Act is amended by adding
29 Sections 5.545 and 5.546 as follows:

1 (30 ILCS 105/5.545 new)

2 Sec. 5.545. The Clean Air and Development Fund.

3 (30 ILCS 105/5.546 new)

4 Sec. 5.546. The Energy Efficiency Investment Fund.

5 Section 910. The Renewable Energy, Energy Efficiency,
6 and Coal Resources Development Law of 1997 is amended by
7 changing Section 6-3 as follows:

8 (20 ILCS 687/6-3)

9 (Section scheduled to be repealed on December 16, 2007)

10 Sec. 6-3. Renewable energy resources program.

11 (a) The Department of Commerce and Community Affairs, to
12 be called the "Department" hereinafter in this Law, shall
13 administer the Renewable Energy Resources Program to provide
14 grants, loans, and other incentives to foster investment in
15 and the development and use of renewable energy resources.

16 (b) The Department shall establish eligibility criteria
17 for grants, loans, and other incentives to foster investment
18 in and the development and use of renewable energy resources.
19 These criteria shall be reviewed annually and adjusted as
20 necessary. The criteria should promote the goal of fostering
21 investment in and the development and use, in Illinois, of
22 renewable energy resources.

23 (c) The Department shall accept applications for grants,
24 loans, and other incentives to foster investment in and the
25 development and use of renewable energy resources.

26 (d) To the extent that funds are available and
27 appropriated, the Department shall provide grants, loans, and
28 other incentives to applicants that meet the criteria
29 specified by the Department.

30 (e) The Department shall conduct an annual study on the
31 use and availability of renewable energy resources in

1 Illinois. Each year, the Department shall submit a report on
2 the study to the General Assembly. This report shall include
3 suggestions for legislation which will encourage the
4 development and use of renewable energy resources.

5 (f) As used in this Law, "renewable energy resources"
6 includes energy from wind, solar thermal energy, photovoltaic
7 cells and panels, dedicated crops grown for energy production
8 and organic waste biomass, hydropower that does not involve
9 new construction or significant expansion of hydropower dams,
10 and other such alternative sources of environmentally
11 preferable energy. "Renewable energy resources" does not
12 include, however, energy from the incineration, burning or
13 heating of waste wood, tires, garbage, general household,
14 institutional and commercial waste, industrial lunchroom or
15 office waste, landscape waste, or construction or demolition
16 debris.

17 (g) The Department shall establish a pilot project to
18 fund a biomass-to-fuels research facility in Illinois that
19 uses agricultural feedstocks and advances technologies to
20 develop a new environmentally friendly and sustainable
21 industry. The Clean Air and Development Board, created under
22 the Clean Air and Development Act, shall recommend to the
23 Department a site for the facility.

24 (h) There is created the Energy Efficiency Investment
25 Fund as a special fund in the State Treasury, to be
26 administered by the Department to support the development of
27 technologies for wind, biomass, and solar power in Illinois.
28 The Clean Air and Development Board, created under the Clean
29 Air and Development Act, shall recommend projects to the
30 Department for funding. The Department may accept private
31 and public funds, including federal funds, for deposit into
32 the Fund.

33 (Source: P.A. 90-561, eff. 12-16-97.)

1 Section 915. The Illinois Coal and Energy Development
2 Bond Act is amended by changing Section 6 as follows:

3 (20 ILCS 1110/6) (from Ch. 96 1/2, par. 4106)

4 Sec. 6. The Department of Commerce and Community Affairs
5 is authorized to use \$120,000,000 for the purposes specified
6 in this Act. ~~These funds shall be expended only for a grant~~
7 ~~to the owner of a generating station located in Illinois and~~
8 ~~having at least three coal-fired generating units with~~
9 ~~accredited summer capacity greater than 500 megawatts each at~~
10 ~~such generating station as specifically authorized by this~~
11 ~~paragraph.~~ Notwithstanding any of the other provisions of
12 this Act, in considering the approval of projects to be
13 funded under this Act, the Department of Commerce and
14 Community Affairs shall give special consideration to
15 projects which are designed to remove sulfur and other
16 pollutants in the preparation and utilization of coal, and in
17 the use and operation of electric utility generating plants
18 and industrial facilities which utilize Illinois coal as
19 their primary source of fuel. ~~The Department of Commerce and~~
20 ~~Community Affairs is directed to enter into a contract with~~
21 ~~the owner of a generating station located in Illinois and~~
22 ~~having at least three coal-fired generating units with~~
23 ~~accredited summer capability greater than 500 megawatts each~~
24 ~~at such generating station for a grant of \$35,000,000 to be~~
25 ~~made by the State of Illinois to such owner to be used to pay~~
26 ~~costs of designing, acquiring, constructing, installing and~~
27 ~~testing facilities to reduce sulfur dioxide emissions at one~~
28 ~~such generating unit to allow that unit to meet the~~
29 ~~requirements of the Federal Clean Air Act Amendments of 1990~~
30 ~~(P.L. 101-549) while continuing to use coal mined in Illinois~~
31 ~~as its source of fuel.~~

32 (Source: P.A. 91-583, eff. 1-1-00.)

1 Section 920. The General Obligation Bond Act is amended
2 by changing Section 2 as follows:

3 (30 ILCS 330/2) (from Ch. 127, par. 652)

4 Sec. 2. Authorization for Bonds. The State of Illinois
5 is authorized to issue, sell and provide for the retirement
6 of General Obligation Bonds of the State of Illinois for the
7 categories and specific purposes expressed in Sections 2
8 through 8 of this Act, in the total amount of \$14,697,632,592
9 ~~\$14,197,632,592~~.

10 The bonds authorized in this Section 2 and in Section 16
11 of this Act are herein called "Bonds".

12 Of the total amount of Bonds authorized in this Act, up
13 to \$2,200,000,000 in aggregate original principal amount may
14 be issued and sold in accordance with the Baccalaureate
15 Savings Act in the form of General Obligation College Savings
16 Bonds.

17 Of the total amount of Bonds authorized in this Act, up
18 to \$300,000,000 in aggregate original principal amount may be
19 issued and sold in accordance with the Retirement Savings Act
20 in the form of General Obligation Retirement Savings Bonds.

21 The issuance and sale of Bonds pursuant to the General
22 Obligation Bond Act is an economical and efficient method of
23 financing the capital needs of the State. This Act will
24 permit the issuance of a multi-purpose General Obligation
25 Bond with uniform terms and features. This will not only
26 lower the cost of registration but also reduce the overall
27 cost of issuing debt by improving the marketability of
28 Illinois General Obligation Bonds.

29 (Source: P.A. 90-1, eff. 2-20-97; 90-8, eff. 12-8-97; 90-549,
30 eff. 12-8-97; 90-586, eff. 6-4-98; 91-39, eff. 6-15-99;
31 91-53, eff 6-30-99; 91-710, eff. 5-17-00.)

32 (30 ILCS 330/7) (from Ch. 127, par. 657)

1 Sec. 7. Coal and Energy Development. The amount of
2 \$163,200,000 is authorized to be used by the Department of
3 Commerce and Community Affairs for coal and energy
4 development purposes, pursuant to Sections 2, 3 and 3.1 of
5 the Illinois Coal and Energy Development Bond Act, and for
6 the purposes specified in Section 8.1 of the Energy
7 Conservation and Coal Development Act. Of this amount
8 \$115,000,000 is for the specific purposes of acquisition,
9 development, construction, reconstruction, improvement,
10 financing, architectural and technical planning and
11 installation of capital facilities consisting of buildings,
12 structures, durable equipment, and land for the purpose of
13 capital development of coal resources within the State and
14 for the purposes specified in Section 8.1 of the Energy
15 Conservation and Coal Development Act, \$35,000,000 is for the
16 purposes specified in Section 8.1 of the Energy Conservation
17 and Coal Development Act, and-making-a-grant-to-the-owner-of
18 a-generating-station-located-in-Illinois-and-having-at-least
19 three-coal-fired-generating-units-with-accredited-summer
20 capability-greater-than-500-megawatts-each-at-such-generating
21 station-as-provided-in-Section-6-of-that-Bond-Act and
22 \$13,200,000 is for research, development and demonstration of
23 forms of energy other than that derived from coal, either on
24 or off State property.

25 The amount of \$500,000,000 is authorized to be used by
26 the Department of Commerce and Community Affairs for the
27 purposes consistent with the Clean Air and Development Act.

28 On or before May 1 each year until the principal of,
29 interest on, and premium, if any, on the \$500,000,000 in
30 additional general obligation bonds authorized to be issued
31 under this amendatory Act of the 92nd General Assembly for
32 coal development have been paid, the Bureau of the Budget
33 shall certify the amount necessary to be appropriated in the
34 State fiscal year that begins on July 1 of that calendar year

1 to finance the principal of, interest on, and premium, if
2 any, on the \$500,000,000 in additional general obligation
3 bonds authorized to be issued under this amendatory Act of
4 the 92nd General Assembly for coal development.

5 (Source: P.A. 89-445, eff. 2-7-96; 90-312, eff. 8-1-97;
6 90-549, eff. 12-8-97.)

7 Section 917. The Environmental Protection Act is amended
8 by changing Section 9.9 and adding Section 9.10 as follows:

9 (415 ILCS 5/9.9)

10 Sec. 9.9. Nitrogen oxides trading system.

11 (a) The General Assembly finds:

12 (1) That USEPA has issued a Final Rule published in
13 the Federal Register on October 27, 1998, entitled
14 "Finding of Significant Contribution and Rulemaking for
15 Certain States in the Ozone Transport Assessment Group
16 Region for Purposes of Reducing Regional Transport of
17 Ozone", hereinafter referred to as the "NOx SIP Call",
18 compliance with which will require reducing emissions of
19 nitrogen oxides ("NOx");

20 (2) That reducing emissions of NOx in the State
21 helps the State to meet the national ambient air quality
22 standard for ozone;

23 (3) That emissions trading is a cost-effective
24 means of obtaining reductions of NOx emissions.

25 (b) The Agency shall propose and the Board shall adopt
26 regulations to implement an interstate NOx trading program
27 (hereinafter referred to as the "NOx Trading Program") as
28 provided for in 40 CFR Part 96, including incorporation by
29 reference of appropriate provisions of 40 CFR Part 96 and
30 regulations to address 40 CFR Section 96.4(b), Section
31 96.55(c), Subpart E, and Subpart I. In addition, the Agency
32 shall propose and the Board shall adopt regulations to

1 implement NOx emission reduction programs for cement kilns
2 and stationary internal combustion engines.

3 (c) Allocations of NOx allowances to large electric
4 generating units ("EGUs") and large non-electric generating
5 units ("non-EGUs"), as defined by 40 CFR Part 96.4(a), shall
6 not exceed the State's trading budget for those source
7 categories to be included in the State Implementation Plan
8 for NOx.

9 (d) In adopting regulations to implement the NOx Trading
10 Program, the Board shall:

11 (1) assure that the economic impact and technical
12 feasibility of NOx emissions reductions under the NOx
13 Trading Program are considered relative to the
14 traditional regulatory control requirements in the State
15 for EGUs and non-EGUs;

16 (2) provide that emission units, as defined in
17 Section 39.5(1) of this Act, may opt into the NOx Trading
18 Program;

19 (3) provide for voluntary reductions of NOx
20 emissions from emission units, as defined in Section
21 39.5(1) of this Act, not otherwise included under
22 paragraph (c) or (d)(2) of this Section to provide
23 additional allowances to EGUs and non-EGUs to be
24 allocated by the Agency. The regulations shall further
25 provide that such voluntary reductions are verifiable,
26 quantifiable, permanent, and federally enforceable;

27 (4) provide that the Agency allocate to non-EGUs
28 allowances that are designated in the rule, unless the
29 Agency has been directed to transfer the allocations to
30 another unit subject to the requirements of the NOx
31 Trading Program, and that upon shutdown of a non-EGU, the
32 unit may transfer or sell the NOx allowances that are
33 allocated to such unit; and

34 (5) provide that the Agency shall set aside

1 annually a number of allowances, not to exceed 5% of the
2 total EGU trading budget, to be made available to new
3 EGUs.

4 (A) Those EGUs that commence commercial
5 operation, as defined in 40 CFR Section 96.2, at a
6 time that is more than half way through the control
7 period in 2003 ~~2002~~ shall return to the Agency any
8 allowances that were issued to it by the Agency and
9 were not used for compliance in 2004 ~~2003~~.

10 (B) The Agency may charge EGUs that commence
11 commercial operation, as defined in 40 CFR Section
12 96.2, on or after January 1, 2003, for the
13 allowances it issues to them.

14 (e) The Agency may adopt procedural rules, as necessary,
15 to implement the regulations promulgated by the Board
16 pursuant to subsections (b) and (d) and to implement
17 subsection (i) of this Section.

18 (f) Notwithstanding any provisions in subparts T, U, and
19 W of Section 217 of Title 35 of the Illinois Administrative
20 Code to the contrary, compliance with the regulations
21 promulgated by the Board pursuant to subsections (b) and (d)
22 of this Section is required by May 31, 2004. ~~The regulations~~
23 ~~promulgated by the Board pursuant to subsections (b) and (d)~~
24 ~~of this Section shall not be enforced until the later of May~~
25 ~~17, 2003, or the first day of the control season subsequent to~~
26 ~~the calendar year in which all of the other states subject to~~
27 ~~the provisions of the NOx SIP Call that are located in USEPA~~
28 ~~Region V or that are contiguous to Illinois have adopted~~
29 ~~regulations to implement NOx trading programs and other~~
30 ~~required reductions of NOx emissions pursuant to the NOx SIP~~
31 ~~Call, and such regulations have received final approval by~~
32 ~~USEPA as part of the respective states' SIPs for ozone, or a~~
33 ~~final FIP for ozone promulgated by USEPA is effective for~~
34 ~~such other states.~~

1 (g) To the extent that a court of competent jurisdiction
2 finds a provision of 40 CFR Part 96 invalid, the
3 corresponding Illinois provision shall be stayed until such
4 provision of 40 CFR Part 96 is found to be valid or is
5 re-promulgated. To the extent that USEPA or any court of
6 competent jurisdiction stays the applicability of any
7 provision of the NOx SIP Call to any person or circumstance
8 relating to Illinois, during the period of that stay, the
9 effectiveness of the corresponding Illinois provision shall
10 be stayed. To the extent that the invalidity of the
11 particular requirement or application does not affect other
12 provisions or applications of the NOx SIP Call pursuant to 40
13 CFR 51.121 or the NOx trading program pursuant to 40 CFR Part
14 96 or 40 CFR Part 97, this Section, and rules or regulations
15 promulgated hereunder, will be given effect without the
16 invalid provisions or applications.

17 (h) Notwithstanding any other provision of this Act, any
18 source or other authorized person that participates in the
19 NOx Trading Program shall be eligible to exchange NOx
20 allowances with other sources in accordance with this Section
21 and with regulations promulgated by the Board or the Agency.

22 (i) There is hereby created within the State Treasury an
23 interest-bearing special fund to be known as the NOx Trading
24 System Fund, which shall be used and administered by the
25 Agency for the purposes stated below:

26 (1) To accept funds from persons who purchase NOx
27 allowances from the Agency;

28 (2) To disburse the proceeds of the NOx allowances
29 sales pro-rata to the owners or operators of the EGUs
30 that received allowances from the Agency but not from the
31 Agency's set-aside, in accordance with regulations that
32 may be promulgated by the Agency; and

33 (3) To finance the reasonable costs incurred by the
34 Agency in the administration of the NOx Trading System.

1 (Source: P.A. 91-631, eff. 8-19-99.)

2 (415 ILCS 5/9.10 new)

3 Sec. 9.10. Fossil fuel-fired electric generating plants.

4 (a) The General Assembly finds and declares that:

5 (1) fossil fuel-fired electric generating plants
6 are a significant source of air emissions in this State
7 and have become the subject of a number of important new
8 studies of their effects on the public health;

9 (2) existing state and federal policies, that allow
10 older plants that meet federal standards to operate
11 without meeting the more stringent requirements
12 applicable to new plants, are being questioned on the
13 basis of their environmental impacts and the economic
14 distortions such policies cause in a deregulated energy
15 market;

16 (3) fossil fuel-fired electric generating plants
17 are, or may be, affected by a number of regulatory
18 programs, some of which are under review or development
19 on the state and national levels, and to a certain extent
20 the international level, including the federal acid rain
21 program, tropospheric ozone, mercury and other hazardous
22 pollutant control requirements, regional haze, and global
23 warming;

24 (4) scientific uncertainty regarding the formation
25 of certain components of regional haze and the air
26 quality modeling that predict impacts of control measures
27 requires careful consideration of the timing of the
28 control of some of the pollutants from these facilities,
29 particularly sulfur dioxides and nitrogen oxides that
30 each interact with ammonia and other substances in the
31 atmosphere;

32 (5) the development of energy policies to promote a
33 safe, sufficient, reliable, and affordable energy supply

1 on the state and national levels is being affected by the
2 on-going deregulation of the power generation industry
3 and the evolving energy markets;

4 (6) the Governor's formation of an Energy Cabinet
5 and the development of a State energy policy calls for
6 actions by the Agency and the Board that are in harmony
7 with the energy needs and policy of the State, while
8 protecting the public health and the environment;

9 (7) Illinois coal is an abundant resource and an
10 important component of Illinois' economy whose use should
11 be encouraged to the greatest extent possible consistent
12 with protecting the public health and the environment;

13 (8) renewable forms of energy should be promoted as
14 an important element of the energy and environmental
15 policies of the State and that it is a goal of the State
16 that at least 5% of the State's energy production and use
17 be derived from renewable forms of energy by 2010 and at
18 least 15% from renewable forms of energy by 2020;

19 (9) efforts on the state and federal levels are
20 underway to consider the multiple environmental
21 regulations affecting electric generating plants in order
22 to improve the ability of government and the affected
23 industry to engage in effective planning through the use
24 of multi-pollutant strategies; and

25 (10) these issues, taken together, call for a
26 comprehensive review of the impact of these facilities on
27 the public health, considering also the energy supply,
28 reliability, and costs, the role of renewable forms of
29 energy, and the developments in federal law and
30 regulations that may affect any state actions, prior to
31 making final decisions in Illinois.

32 (b) Taking into account the findings and declarations of
33 the General Assembly contained in subsection (a) of this
34 Section, the Agency shall, before September 30, 2004, but not

1 before September 30, 2003, issue to the House and Senate
2 Committees on Environment and Energy findings that address
3 the potential need for the control or reduction of emissions
4 from fossil fuel-fired electric generating plants, including
5 the following provisions:

6 (1) reduction of nitrogen oxide emissions, as
7 appropriate, with consideration of maximum annual
8 emissions rate limits or establishment of an emissions
9 trading program and with consideration of the
10 developments in federal law and regulations that may
11 affect any State action, prior to making final decisions
12 in Illinois;

13 (2) reduction of sulfur dioxide emissions, as
14 appropriate, with consideration of maximum annual
15 emissions rate limits or establishment of an emissions
16 trading program and with consideration of the
17 developments in federal law and regulations that may
18 affect any State action, prior to making final decisions
19 in Illinois;

20 (3) incentives to promote renewable sources of
21 energy consistent with item (8) of subsection (a) of
22 this Section;

23 (4) reduction of mercury as appropriate,
24 consideration of the availability of control technology,
25 industry practice requirements, or incentive programs, or
26 some combination of these approaches that are sufficient
27 to prevent unacceptable local impacts from individual
28 facilities, and with consideration of the developments in
29 federal law and regulations that may affect any state
30 action, prior to making final decisions in Illinois; and

31 (5) establishment of a banking system, consistent
32 with the United States Department of Energy's voluntary
33 reporting system, for certifying credits for voluntary
34 offsets of emissions of greenhouse gases, as identified

1 by the United States Environmental Protection Agency, or
2 other voluntary reductions of greenhouse gases. Such
3 reduction efforts may include, but are not limited to,
4 carbon sequestration, technology-based control measures,
5 energy efficiency measures, and the use of renewable
6 energy sources.

7 The Agency shall consider the impact on the public
8 health, considering also energy supply, reliability and
9 costs, the role of renewable forms of energy, and
10 developments in federal law and regulations that may affect
11 any state actions, prior to making final decisions in
12 Illinois.

13 (c) Nothing in this Section is intended to or should be
14 interpreted in a manner to limit or restrict the authority of
15 the Illinois Environmental Protection Agency to propose, or
16 the Illinois Pollution Control Board to adopt, any
17 regulations applicable or that may become applicable to the
18 facilities covered by this Section that are required by
19 federal law.

20 (d) The Agency may file proposed rules with the Board to
21 effectuate its findings provided to the Senate Committee on
22 Environment and Energy and the House Committee on Environment
23 and Energy in accordance with subsection (b) of this Section.
24 Any such proposal shall not be submitted sooner than 90 days
25 after the issuance of the findings provided for in subsection
26 (b) of this Section. The Board shall take action on any such
27 proposal within one year of the Agency's filing of the
28 proposed rules.

29 Section 99. Effective date. This Act takes effect July
30 1, 2001."