

## Clean Air Act Permit Program permit for Midwest Generation, Waukegan Generating Station, CAAPP Permit Application 95090047

### Additional 10-day comment period prior to resubmittal of a Proposed Permit to USEPA

On September 28, 2005, the USEPA objected to the proposed CAAPP permit for the Waukegan plant submitted to it by the Illinois EPA in August 2005. In accordance with Section 39.5(9)(c) of Illinois' Environmental Protection Act (Act), the Illinois EPA is providing an additional 10-day comment period on a draft of a proposed CAAPP permit for the plant prior to resubmitting a proposed CAAPP permit to the USEPA. This comment period will begin on December 5, 2005, and close on December 16, 2005. Comments must be sent to Mr. Charles Matoesian, who originally served as the hearing officer for this proceeding, and postmarked by December 16, 2005.

Charles Matoesian  
Illinois Environmental Protection Agency  
1021 North Grand Avenue, East, P. O. Box 19276  
Springfield, Illinois 62794-9276

Copies of the Illinois EPA's Responsiveness Summary and the draft of the Proposed CAAPP Permit that the Illinois EPA is planning to resubmit to USEPA can be obtained by contacting Brad Frost at 217/782-7027 (TDD 217/782-9143), or e-mail to [brad.frost@epa.state.il.us](mailto:brad.frost@epa.state.il.us), or on the Internet at [www.epa.gov/region5/air/permits/ilonline.htm](http://www.epa.gov/region5/air/permits/ilonline.htm) (please look under Midwest Generation, ID 097190AAC, under All Permit Records/Title V/New).

By way of background, in June 2003, the Illinois EPA opened public comment periods on a draft CAAPP permit for the Waukegan Generating Station, in addition to draft CAAPP permits for Illinois' other coal-fired power plants. After the close of the comment periods in September 2003 and review of public comments, proposed CAAPP permits were submitted to the USEPA for its review, as provided by Section 39.5(9)(a) of the Act. Based on further consideration and consultation with USEPA and to address USEPA's responses to petitions filed on the proposed CAAPP permits for certain plants, the Illinois EPA submitted revised proposed permits to USEPA in August 2005. The further revisions clarified and enhanced various requirements of the permits. With the exception of the proposed CAAPP permit for the Waukegan Generating Station, the USEPA did not object to the issuance of the proposed CAAPP permits for the coal-fired power plants in Illinois, which were duly issued on September 29, 2005.

The Illinois EPA's planned responses to USEPA's four objections to the August 2005 proposed permit for the Waukegan Generating Station are summarized below.

1. Status of State Operating Permits for the Waukegan Generating Station: The Illinois EPA has confirmed that the current State operating permits for this plant are not federally enforceable operating permits. Accordingly, the conditions of these permits do not constitute applicable requirements for purposes of the CAAPP. As a result, no further action is required to address these permits and their conditions in the CAAPP permit for the Waukegan plant.

2. Statement of Basis: USEPA's general concerns about the Statement of Basis prepared by the Illinois EPA for the processing of a CAAPP permit for this plant are not supported by the applicable laws and regulations that are the legal basis of the CAAPP. Moreover, the permit record for the Waukegan plant adequately explains the basis for the significant decision made by the Illinois EPA in preparing a CAAPP permit for the plant. In this regard, the USEPA has not raised particular concerns with the decisions that were made, except as discussed below.

3. Limits on Opacity from the Coal-fired Boilers related to Particulate Matter Emissions: The USEPA instructs the Illinois EPA to set, either directly or indirectly, a limit in the CAAPP permit for the opacity from

each boiler, which limit assures compliance with the applicable particulate matter emission standard. It is not possible for the Illinois EPA to undertake such action in this initial CAAPP permit within the 90-day statutory deadline for resubmittal of a proposed CAAPP permit to USEPA, nor is this action necessary or appropriate. In this regard, in its objection USEPA also notes that data from a recent particulate matter emission test is not available to have “reliable data from the relevant time period.” In this regard, the USEPA also objected to the proposed permit because it would have provided for testing for particulate matter emissions to occur within a year, rather than requiring testing to be performed as soon as possible.

More generally, the action requested by USEPA goes beyond the requirements of 40 CFR Part 63, Compliance Assurance Monitoring, in which USEPA sets out the general methodology for enhanced periodic monitoring. These regulations are a key reference for periodic monitoring, as they set requirements related to such monitoring after careful consideration of various issues posed by such monitoring. In this regard, important elements of the proposed permit for the Waukegan Generating Station, consistent with 40 CFR 64.6, are the requirements that Midwest Generation maintain records, a copy of which must be sent to the Illinois EPA, defining the level of opacity that would be considered an excursion for purposes of the particulate matter limit, with supporting documentation and explanation. These records must be periodically reviewed by Midwest Generation and revised as necessary, including review after each test for particulate matter emissions that is performed. Midwest Generation must also identify all excursions of the established opacity value in its routine quarterly reports, with description and an incident-specific explanation whether the applicable particulate matter emission limit may have been exceeded.

The revised proposed permit for the Waukegan Generating Station that would be resubmitted to USEPA would require testing of particulate matter emissions from the coal-fired boilers to be conducted as soon as possible, in accordance with USEPA’s specific objection, rather than within one year, so as to expedite development of better periodic monitoring for particulate matter emissions from the boilers.

4. Content of Public Notice Related to Title I Conditions: USEPA’s concerns about the public notice originally prepared by the Illinois EPA for this plant are not supported by the applicable laws and regulations that are the legal basis of the CAAPP. The ability to make minor changes to Title I Conditions during the issuance of a CAAPP permit is an inherent aspect of the CAAPP. Such changes, if any are proposed, are readily identifiable in the draft permit. They do not warrant “special” public notice, particularly as such notice would suggest that any actions in a CAAPP permit with respect to Title I Conditions are more important than other aspects of the CAAPP permit, such as identifying applicable regulatory requirements and development of compliance procedures that satisfy the requirement for meaningful periodic monitoring.