

1 AN ACT concerning safety.

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

4 Section 5. The Illinois Plumbing License Law is amended by
5 changing Section 35.5 as follows:

6 (225 ILCS 320/35.5)

7 Sec. 35.5. Lead in drinking water prevention.

8 (a) The General Assembly finds that lead has been detected
9 in the drinking water of schools in this State. The General
10 Assembly also finds that infants and young children may suffer
11 adverse health effects and developmental delays as a result of
12 exposure to even low levels of lead. The General Assembly
13 further finds that it is in the best interests of the people of
14 the State to require school districts or chief school
15 administrators, or the designee of the school district or chief
16 school administrator, to test for lead in drinking water in
17 school buildings and provide written notification of the test
18 results.

19 The purpose of this Section is to require (i) school
20 districts or chief school administrators, or the designees of
21 the school districts or chief school administrators, to test
22 for lead with the goal of providing school building occupants
23 with an adequate supply of safe, potable water; and (ii) school

1 districts or chief school administrators, or the designees of
2 the school districts or chief school administrators, to notify
3 the parents and legal guardians of enrolled students of the
4 sampling results from their respective school buildings.

5 (b) For the purposes of this Section:

6 "Community water system" has the meaning provided in 35
7 Ill. Adm. Code 611.101.

8 "School building" means any facility or portion thereof
9 that was constructed on or before January 1, 2000 and may be
10 occupied by more than 10 children or students, pre-kindergarten
11 through grade 5, under the control of (a) a school district or
12 (b) a public, private, charter, or nonpublic day or residential
13 educational institution.

14 "Source of potable water" means the point at which
15 non-bottled water that may be ingested by children or used for
16 food preparation exits any tap, faucet, drinking fountain, wash
17 basin in a classroom occupied by children or students under
18 grade 1, or similar point of use; provided, however, that all
19 (a) bathroom sinks and (b) wash basins used by janitorial staff
20 are excluded from this definition.

21 (c) Each school district or chief school administrator, or
22 the designee of each school district or chief school
23 administrator, shall test each source of potable water in a
24 school building for lead contamination as required in this
25 subsection.

26 (1) Each school district or chief school

1 administrator, or the designee of each school district or
2 chief school administrator, shall, at a minimum, (a)
3 collect a first-draw 250 milliliter sample of water, (b)
4 flush for 30 seconds, and (c) collect a second-draw 250
5 milliliter sample from each source of potable water located
6 at each corresponding school building; provided, however,
7 that to the extent that multiple sources of potable water
8 utilize the same drain, (i) the foregoing collection
9 protocol is required for one such source of potable water,
10 and (ii) only a first-draw 250 milliliter sample of water
11 is required from the remaining such sources of potable
12 water. The water corresponding to the first-draw 250
13 milliliter sample from each source of potable water shall
14 have been standing in the plumbing pipes for at least 8
15 hours, but not more than 18 hours, without any flushing of
16 the source of potable water before sample collection.

17 (2) Each school district or chief school
18 administrator, or the designee of each school district or
19 chief school administrator, shall arrange to have the
20 samples it collects pursuant to subdivision (1) of this
21 subsection submitted to a laboratory that is certified for
22 the analysis of lead in drinking water in accordance with
23 accreditation requirements developed by a national
24 laboratory accreditation body, such as the National
25 Environmental Laboratory Accreditation Conference (NELAC)
26 Institute (TNI). Samples submitted to laboratories

1 pursuant to this subdivision (2) shall be analyzed for lead
2 using one of the test methods for lead that is described in
3 40 CFR 141.23(k) (1). Within 7 days after receiving a final
4 analytical result concerning a sample collected pursuant
5 to subdivision (1) of this subsection, the school district
6 or chief school administrator, or a designee of the school
7 district or chief school administrator, that collected the
8 sample shall provide the final analytical result to the
9 Department. ~~submit or cause to be submitted (A) the samples~~
10 ~~to an Illinois Environmental Protection Agency accredited~~
11 ~~laboratory for analysis for lead in accordance with the~~
12 ~~instructions supplied by an Illinois Environmental~~
13 ~~Protection Agency accredited laboratory and (B) the~~
14 ~~written sampling results to the Department within 7~~
15 ~~business days of receipt of the results.~~

16 (3) If any of the samples taken in the school exceed 5
17 parts per billion, the school district or chief school
18 administrator, or the designee of the school district or
19 chief school administrator, shall promptly provide an
20 individual notification of the sampling results, via
21 written or electronic communication, to the parents or
22 legal guardians of all enrolled students and include the
23 following information: the corresponding sampling location
24 within the school building and the United States
25 Environmental Protection Agency's website for information
26 about lead in drinking water. If any of the samples taken

1 at the school are at or below 5 parts per billion,
2 notification may be made as provided in this paragraph or
3 by posting on the school's website.

4 (4) Sampling and analysis required under this Section
5 shall be completed by the following applicable deadlines:
6 for school buildings constructed prior to January 1, 1987,
7 by December 31, 2017; and for school buildings constructed
8 between January 2, 1987 and January 1, 2000, by December
9 31, 2018.

10 (5) A school district or chief school administrator, or
11 the designee of the school district or chief school
12 administrator, may seek a waiver of the requirements of
13 this subsection from the Department, if (A) the school
14 district or chief school administrator, or the designee of
15 the school district or chief school administrator,
16 collected at least one 250 milliliter or greater sample of
17 water from each source of potable water that had been
18 standing in the plumbing pipes for at least 6 hours and
19 that was collected without flushing the source of potable
20 water before collection, (B) a ~~an Illinois Environmental~~
21 ~~Protection Agency-accredited~~ laboratory described in
22 subdivision (2) of this subsection analyzed the samples in
23 accordance with a test method described in that
24 subdivision, (C) test results were obtained prior to the
25 effective date of this amendatory Act of the 99th General
26 Assembly, but after January 1, 2013, and (D) test results

1 were submitted to the Department within 120 days of the
2 effective date of this amendatory Act of the 99th General
3 Assembly.

4 (6) The owner or operator of a community water system
5 may agree to pay for the cost of the laboratory analysis of
6 the samples required under this Section and may utilize the
7 lead hazard cost recovery fee under Section 11-150.1-1 of
8 the Illinois Municipal Code or other available funds to
9 defray said costs.

10 (7) Lead sampling results obtained shall not be used
11 for purposes of determining compliance with the Board's
12 rules that implement the national primary drinking water
13 regulations for lead and copper.

14 (d) By no later than June 30, 2019, the Department shall
15 determine whether it is necessary and appropriate to protect
16 public health to require schools constructed in whole or in
17 part after January 1, 2000 to conduct testing for lead from
18 sources of potable water, taking into account, among other
19 relevant information, the results of testing conducted
20 pursuant to this Section.

21 (e) Within 90 days of the effective date of this amendatory
22 Act of the 99th General Assembly, the Department shall post on
23 its website guidance on mitigation actions for lead in drinking
24 water, and ongoing water management practices, in schools. In
25 preparing such guidance, the Department may, in part, reference
26 the United States Environmental Protection Agency's 3Ts for

1 Reducing Lead in Drinking Water in Schools.

2 (Source: P.A. 99-922, eff. 1-17-17.)

3 Section 10. The Environmental Protection Act is amended by
4 changing Sections 12.4, 21, 22.15, 22.28, 22.29, 39.5, 55, and
5 55.6 as follows:

6 (415 ILCS 5/12.4)

7 Sec. 12.4. Vegetable by-product; land application; report.

8 In addition to any other requirements of this Act, a generator
9 of vegetable by-products utilizing land application shall
10 prepare file an annual report ~~with the Agency~~ identifying the
11 quantity of vegetable by-products transported for land
12 application during the reporting period, the hauler or haulers
13 utilized for the transportation, and the sites to which the
14 vegetable by-products were transported. The report must be
15 retained on the premises of the generator for a minimum of 5
16 calendar years after the end of the applicable reporting period
17 and must, during that time, be made available to the Agency for
18 inspection and copying during normal business hours.

19 (Source: P.A. 88-454.)

20 (415 ILCS 5/21) (from Ch. 111 1/2, par. 1021)

21 Sec. 21. Prohibited acts. No person shall:

22 (a) Cause or allow the open dumping of any waste.

23 (b) Abandon, dump, or deposit any waste upon the public

1 highways or other public property, except in a sanitary
2 landfill approved by the Agency pursuant to regulations adopted
3 by the Board.

4 (c) Abandon any vehicle in violation of the "Abandoned
5 Vehicles Amendment to the Illinois Vehicle Code", as enacted by
6 the 76th General Assembly.

7 (d) Conduct any waste-storage, waste-treatment, or
8 waste-disposal operation:

9 (1) without a permit granted by the Agency or in
10 violation of any conditions imposed by such permit,
11 including periodic reports and full access to adequate
12 records and the inspection of facilities, as may be
13 necessary to assure compliance with this Act and with
14 regulations and standards adopted thereunder; provided,
15 however, that, except for municipal solid waste landfill
16 units that receive waste on or after October 9, 1993, no
17 permit shall be required for (i) any person conducting a
18 waste-storage, waste-treatment, or waste-disposal
19 operation for wastes generated by such person's own
20 activities which are stored, treated, or disposed within
21 the site where such wastes are generated, or (ii) a
22 facility located in a county with a population over 700,000
23 as of January 1, 2000, operated and located in accordance
24 with Section 22.38 of this Act, and used exclusively for
25 the transfer, storage, or treatment of general
26 construction or demolition debris, provided that the

1 facility was receiving construction or demolition debris
2 on the effective date of this amendatory Act of the 96th
3 General Assembly;

4 (2) in violation of any regulations or standards
5 adopted by the Board under this Act; or

6 (3) which receives waste after August 31, 1988, does
7 not have a permit issued by the Agency, and is (i) a
8 landfill used exclusively for the disposal of waste
9 generated at the site, (ii) a surface impoundment receiving
10 special waste not listed in an NPDES permit, (iii) a waste
11 pile in which the total volume of waste is greater than 100
12 cubic yards or the waste is stored for over one year, or
13 (iv) a land treatment facility receiving special waste
14 generated at the site; without giving notice of the
15 operation to the Agency by January 1, 1989, or 30 days
16 after the date on which the operation commences, whichever
17 is later, and every 3 years thereafter. The form for such
18 notification shall be specified by the Agency, and shall be
19 limited to information regarding: the name and address of
20 the location of the operation; the type of operation; the
21 types and amounts of waste stored, treated or disposed of
22 on an annual basis; the remaining capacity of the
23 operation; and the remaining expected life of the
24 operation.

25 Item (3) of this subsection (d) shall not apply to any
26 person engaged in agricultural activity who is disposing of a

1 substance that constitutes solid waste, if the substance was
2 acquired for use by that person on his own property, and the
3 substance is disposed of on his own property in accordance with
4 regulations or standards adopted by the Board.

5 This subsection (d) shall not apply to hazardous waste.

6 (e) Dispose, treat, store or abandon any waste, or
7 transport any waste into this State for disposal, treatment,
8 storage or abandonment, except at a site or facility which
9 meets the requirements of this Act and of regulations and
10 standards thereunder.

11 (f) Conduct any hazardous waste-storage, hazardous
12 waste-treatment or hazardous waste-disposal operation:

13 (1) without a RCRA permit for the site issued by the
14 Agency under subsection (d) of Section 39 of this Act, or
15 in violation of any condition imposed by such permit,
16 including periodic reports and full access to adequate
17 records and the inspection of facilities, as may be
18 necessary to assure compliance with this Act and with
19 regulations and standards adopted thereunder; or

20 (2) in violation of any regulations or standards
21 adopted by the Board under this Act; or

22 (3) in violation of any RCRA permit filing requirement
23 established under standards adopted by the Board under this
24 Act; or

25 (4) in violation of any order adopted by the Board
26 under this Act.

1 Notwithstanding the above, no RCRA permit shall be required
2 under this subsection or subsection (d) of Section 39 of this
3 Act for any person engaged in agricultural activity who is
4 disposing of a substance which has been identified as a
5 hazardous waste, and which has been designated by Board
6 regulations as being subject to this exception, if the
7 substance was acquired for use by that person on his own
8 property and the substance is disposed of on his own property
9 in accordance with regulations or standards adopted by the
10 Board.

11 (g) Conduct any hazardous waste-transportation operation:

12 (1) without registering with and obtaining a special
13 waste hauling permit from the Agency in accordance with the
14 regulations adopted by the Board under this Act; or

15 (2) in violation of any regulations or standards
16 adopted by the Board under this Act.

17 (h) Conduct any hazardous waste-recycling or hazardous
18 waste-reclamation or hazardous waste-reuse operation in
19 violation of any regulations, standards or permit requirements
20 adopted by the Board under this Act.

21 (i) Conduct any process or engage in any act which produces
22 hazardous waste in violation of any regulations or standards
23 adopted by the Board under subsections (a) and (c) of Section
24 22.4 of this Act.

25 (j) Conduct any special waste transportation operation in
26 violation of any regulations, standards or permit requirements

1 adopted by the Board under this Act. However, sludge from a
2 water or sewage treatment plant owned and operated by a unit of
3 local government which (1) is subject to a sludge management
4 plan approved by the Agency or a permit granted by the Agency,
5 and (2) has been tested and determined not to be a hazardous
6 waste as required by applicable State and federal laws and
7 regulations, may be transported in this State without a special
8 waste hauling permit, and the preparation and carrying of a
9 manifest shall not be required for such sludge under the rules
10 of the Pollution Control Board. The unit of local government
11 which operates the treatment plant producing such sludge shall
12 file an annual ~~a semiannual~~ report with the Agency identifying
13 the volume of such sludge transported during the reporting
14 period, the hauler of the sludge, and the disposal sites to
15 which it was transported. This subsection (j) shall not apply
16 to hazardous waste.

17 (k) Fail or refuse to pay any fee imposed under this Act.

18 (l) Locate a hazardous waste disposal site above an active
19 or inactive shaft or tunneled mine or within 2 miles of an
20 active fault in the earth's crust. In counties of population
21 less than 225,000 no hazardous waste disposal site shall be
22 located (1) within 1 1/2 miles of the corporate limits as
23 defined on June 30, 1978, of any municipality without the
24 approval of the governing body of the municipality in an
25 official action; or (2) within 1000 feet of an existing private
26 well or the existing source of a public water supply measured

1 from the boundary of the actual active permitted site and
2 excluding existing private wells on the property of the permit
3 applicant. The provisions of this subsection do not apply to
4 publicly-owned sewage works or the disposal or utilization of
5 sludge from publicly-owned sewage works.

6 (m) Transfer interest in any land which has been used as a
7 hazardous waste disposal site without written notification to
8 the Agency of the transfer and to the transferee of the
9 conditions imposed by the Agency upon its use under subsection
10 (g) of Section 39.

11 (n) Use any land which has been used as a hazardous waste
12 disposal site except in compliance with conditions imposed by
13 the Agency under subsection (g) of Section 39.

14 (o) Conduct a sanitary landfill operation which is required
15 to have a permit under subsection (d) of this Section, in a
16 manner which results in any of the following conditions:

17 (1) refuse in standing or flowing waters;

18 (2) leachate flows entering waters of the State;

19 (3) leachate flows exiting the landfill confines (as
20 determined by the boundaries established for the landfill
21 by a permit issued by the Agency);

22 (4) open burning of refuse in violation of Section 9 of
23 this Act;

24 (5) uncovered refuse remaining from any previous
25 operating day or at the conclusion of any operating day,
26 unless authorized by permit;

1 (6) failure to provide final cover within time limits
2 established by Board regulations;

3 (7) acceptance of wastes without necessary permits;

4 (8) scavenging as defined by Board regulations;

5 (9) deposition of refuse in any unpermitted portion of
6 the landfill;

7 (10) acceptance of a special waste without a required
8 manifest;

9 (11) failure to submit reports required by permits or
10 Board regulations;

11 (12) failure to collect and contain litter from the
12 site by the end of each operating day;

13 (13) failure to submit any cost estimate for the site
14 or any performance bond or other security for the site as
15 required by this Act or Board rules.

16 The prohibitions specified in this subsection (o) shall be
17 enforceable by the Agency either by administrative citation
18 under Section 31.1 of this Act or as otherwise provided by this
19 Act. The specific prohibitions in this subsection do not limit
20 the power of the Board to establish regulations or standards
21 applicable to sanitary landfills.

22 (p) In violation of subdivision (a) of this Section, cause
23 or allow the open dumping of any waste in a manner which
24 results in any of the following occurrences at the dump site:

25 (1) litter;

26 (2) scavenging;

- 1 (3) open burning;
- 2 (4) deposition of waste in standing or flowing waters;
- 3 (5) proliferation of disease vectors;
- 4 (6) standing or flowing liquid discharge from the dump
5 site;
- 6 (7) deposition of:
- 7 (i) general construction or demolition debris as
8 defined in Section 3.160(a) of this Act; or
- 9 (ii) clean construction or demolition debris as
10 defined in Section 3.160(b) of this Act.

11 The prohibitions specified in this subsection (p) shall be
12 enforceable by the Agency either by administrative citation
13 under Section 31.1 of this Act or as otherwise provided by this
14 Act. The specific prohibitions in this subsection do not limit
15 the power of the Board to establish regulations or standards
16 applicable to open dumping.

17 (q) Conduct a landscape waste composting operation without
18 an Agency permit, provided, however, that no permit shall be
19 required for any person:

20 (1) conducting a landscape waste composting operation
21 for landscape wastes generated by such person's own
22 activities which are stored, treated, or disposed of within
23 the site where such wastes are generated; or

24 (1.5) conducting a landscape waste composting
25 operation that (i) has no more than 25 cubic yards of
26 landscape waste, composting additives, composting

1 material, or end-product compost on-site at any one time
2 and (ii) is not engaging in commercial activity; or

3 (2) applying landscape waste or composted landscape
4 waste at agronomic rates; or

5 (2.5) operating a landscape waste composting facility
6 at a site having 10 or more occupied non-farm residences
7 within 1/2 mile of its boundaries, if the facility meets
8 all of the following criteria:

9 (A) the composting facility is operated by the
10 farmer on property on which the composting material is
11 utilized, and the composting facility constitutes no
12 more than 2% of the site's total acreage;

13 (A-5) any composting additives that the composting
14 facility accepts and uses at the facility are necessary
15 to provide proper conditions for composting and do not
16 exceed 10% of the total composting material at the
17 facility at any one time;

18 (B) the property on which the composting facility
19 is located, and any associated property on which the
20 compost is used, is principally and diligently devoted
21 to the production of agricultural crops and is not
22 owned, leased, or otherwise controlled by any waste
23 hauler or generator of nonagricultural compost
24 materials, and the operator of the composting facility
25 is not an employee, partner, shareholder, or in any way
26 connected with or controlled by any such waste hauler

1 or generator;

2 (C) all compost generated by the composting
3 facility is applied at agronomic rates and used as
4 mulch, fertilizer, or soil conditioner on land
5 actually farmed by the person operating the composting
6 facility, and the finished compost is not stored at the
7 composting site for a period longer than 18 months
8 prior to its application as mulch, fertilizer, or soil
9 conditioner;

10 (D) no fee is charged for the acceptance of
11 materials to be composted at the facility; and

12 (E) the owner or operator, by January 1, 2014 (or
13 the January 1 following commencement of operation,
14 whichever is later) and January 1 of each year
15 thereafter, registers the site with the Agency, (ii)
16 reports to the Agency on the volume of composting
17 material received and used at the site; (iii) certifies
18 to the Agency that the site complies with the
19 requirements set forth in subparagraphs (A), (A-5),
20 (B), (C), and (D) of this paragraph (2.5); and (iv)
21 certifies to the Agency that all composting material
22 was placed more than 200 feet from the nearest potable
23 water supply well, was placed outside the boundary of
24 the 10-year floodplain or on a part of the site that is
25 floodproofed, was placed at least 1/4 mile from the
26 nearest residence (other than a residence located on

1 the same property as the facility) or a lesser distance
2 from the nearest residence (other than a residence
3 located on the same property as the facility) if the
4 municipality in which the facility is located has by
5 ordinance approved a lesser distance than 1/4 mile, and
6 was placed more than 5 feet above the water table; any
7 ordinance approving a residential setback of less than
8 1/4 mile that is used to meet the requirements of this
9 subparagraph (E) of paragraph (2.5) of this subsection
10 must specifically reference this paragraph; or

11 (3) operating a landscape waste composting facility on
12 a farm, if the facility meets all of the following
13 criteria:

14 (A) the composting facility is operated by the
15 farmer on property on which the composting material is
16 utilized, and the composting facility constitutes no
17 more than 2% of the property's total acreage, except
18 that the Board may allow a higher percentage for
19 individual sites where the owner or operator has
20 demonstrated to the Board that the site's soil
21 characteristics or crop needs require a higher rate;

22 (A-1) the composting facility accepts from other
23 agricultural operations for composting with landscape
24 waste no materials other than uncontaminated and
25 source-separated (i) crop residue and other
26 agricultural plant residue generated from the

1 production and harvesting of crops and other customary
2 farm practices, including, but not limited to, stalks,
3 leaves, seed pods, husks, bagasse, and roots and (ii)
4 plant-derived animal bedding, such as straw or
5 sawdust, that is free of manure and was not made from
6 painted or treated wood;

7 (A-2) any composting additives that the composting
8 facility accepts and uses at the facility are necessary
9 to provide proper conditions for composting and do not
10 exceed 10% of the total composting material at the
11 facility at any one time;

12 (B) the property on which the composting facility
13 is located, and any associated property on which the
14 compost is used, is principally and diligently devoted
15 to the production of agricultural crops and is not
16 owned, leased or otherwise controlled by any waste
17 hauler or generator of nonagricultural compost
18 materials, and the operator of the composting facility
19 is not an employee, partner, shareholder, or in any way
20 connected with or controlled by any such waste hauler
21 or generator;

22 (C) all compost generated by the composting
23 facility is applied at agronomic rates and used as
24 mulch, fertilizer or soil conditioner on land actually
25 farmed by the person operating the composting
26 facility, and the finished compost is not stored at the

1 composting site for a period longer than 18 months
2 prior to its application as mulch, fertilizer, or soil
3 conditioner;

4 (D) the owner or operator, by January 1 of each
5 year, (i) registers the site with the Agency, (ii)
6 reports to the Agency on the volume of composting
7 material received and used at the site, (iii) certifies
8 to the Agency that the site complies with the
9 requirements set forth in subparagraphs (A), (A-1),
10 (A-2), (B), and (C) of this paragraph (q) (3), and (iv)
11 certifies to the Agency that all composting material:

12 (I) was placed more than 200 feet from the
13 nearest potable water supply well;

14 (II) was placed outside the boundary of the
15 10-year floodplain or on a part of the site that is
16 floodproofed;

17 (III) was placed either (aa) at least 1/4 mile
18 from the nearest residence (other than a residence
19 located on the same property as the facility) and
20 there are not more than 10 occupied non-farm
21 residences within 1/2 mile of the boundaries of the
22 site on the date of application or (bb) a lesser
23 distance from the nearest residence (other than a
24 residence located on the same property as the
25 facility) provided that the municipality or county
26 in which the facility is located has by ordinance

1 approved a lesser distance than 1/4 mile and there
2 are not more than 10 occupied non-farm residences
3 within 1/2 mile of the boundaries of the site on
4 the date of application; and

5 (IV) was placed more than 5 feet above the
6 water table.

7 Any ordinance approving a residential setback of
8 less than 1/4 mile that is used to meet the
9 requirements of this subparagraph (D) must
10 specifically reference this subparagraph.

11 For the purposes of this subsection (q), "agronomic rates"
12 means the application of not more than 20 tons per acre per
13 year, except that the Board may allow a higher rate for
14 individual sites where the owner or operator has demonstrated
15 to the Board that the site's soil characteristics or crop needs
16 require a higher rate.

17 (r) Cause or allow the storage or disposal of coal
18 combustion waste unless:

19 (1) such waste is stored or disposed of at a site or
20 facility for which a permit has been obtained or is not
21 otherwise required under subsection (d) of this Section; or

22 (2) such waste is stored or disposed of as a part of
23 the design and reclamation of a site or facility which is
24 an abandoned mine site in accordance with the Abandoned
25 Mined Lands and Water Reclamation Act; or

26 (3) such waste is stored or disposed of at a site or

1 facility which is operating under NPDES and Subtitle D
2 permits issued by the Agency pursuant to regulations
3 adopted by the Board for mine-related water pollution and
4 permits issued pursuant to the Federal Surface Mining
5 Control and Reclamation Act of 1977 (P.L. 95-87) or the
6 rules and regulations thereunder or any law or rule or
7 regulation adopted by the State of Illinois pursuant
8 thereto, and the owner or operator of the facility agrees
9 to accept the waste; and either

10 (i) such waste is stored or disposed of in
11 accordance with requirements applicable to refuse
12 disposal under regulations adopted by the Board for
13 mine-related water pollution and pursuant to NPDES and
14 Subtitle D permits issued by the Agency under such
15 regulations; or

16 (ii) the owner or operator of the facility
17 demonstrates all of the following to the Agency, and
18 the facility is operated in accordance with the
19 demonstration as approved by the Agency: (1) the
20 disposal area will be covered in a manner that will
21 support continuous vegetation, (2) the facility will
22 be adequately protected from wind and water erosion,
23 (3) the pH will be maintained so as to prevent
24 excessive leaching of metal ions, and (4) adequate
25 containment or other measures will be provided to
26 protect surface water and groundwater from

1 contamination at levels prohibited by this Act, the
2 Illinois Groundwater Protection Act, or regulations
3 adopted pursuant thereto.

4 Notwithstanding any other provision of this Title, the
5 disposal of coal combustion waste pursuant to item (2) or (3)
6 of this subdivision (r) shall be exempt from the other
7 provisions of this Title V, and notwithstanding the provisions
8 of Title X of this Act, the Agency is authorized to grant
9 experimental permits which include provision for the disposal
10 of wastes from the combustion of coal and other materials
11 pursuant to items (2) and (3) of this subdivision (r).

12 (s) After April 1, 1989, offer for transportation,
13 transport, deliver, receive or accept special waste for which a
14 manifest is required, unless the manifest indicates that the
15 fee required under Section 22.8 of this Act has been paid.

16 (t) Cause or allow a lateral expansion of a municipal solid
17 waste landfill unit on or after October 9, 1993, without a
18 permit modification, granted by the Agency, that authorizes the
19 lateral expansion.

20 (u) Conduct any vegetable by-product treatment, storage,
21 disposal or transportation operation in violation of any
22 regulation, standards or permit requirements adopted by the
23 Board under this Act. However, no permit shall be required
24 under this Title V for the land application of vegetable
25 by-products conducted pursuant to Agency permit issued under
26 Title III of this Act to the generator of the vegetable

1 by-products. In addition, vegetable by-products may be
2 transported in this State without a special waste hauling
3 permit, and without the preparation and carrying of a manifest.

4 (v) (Blank).

5 (w) Conduct any generation, transportation, or recycling
6 of construction or demolition debris, clean or general, or
7 uncontaminated soil generated during construction, remodeling,
8 repair, and demolition of utilities, structures, and roads that
9 is not commingled with any waste, without the maintenance of
10 documentation identifying the hauler, generator, place of
11 origin of the debris or soil, the weight or volume of the
12 debris or soil, and the location, owner, and operator of the
13 facility where the debris or soil was transferred, disposed,
14 recycled, or treated. This documentation must be maintained by
15 the generator, transporter, or recycler for 3 years. This
16 subsection (w) shall not apply to (1) a permitted pollution
17 control facility that transfers or accepts construction or
18 demolition debris, clean or general, or uncontaminated soil for
19 final disposal, recycling, or treatment, (2) a public utility
20 (as that term is defined in the Public Utilities Act) or a
21 municipal utility, (3) the Illinois Department of
22 Transportation, or (4) a municipality or a county highway
23 department, with the exception of any municipality or county
24 highway department located within a county having a population
25 of over 3,000,000 inhabitants or located in a county that is
26 contiguous to a county having a population of over 3,000,000

1 inhabitants; but it shall apply to an entity that contracts
2 with a public utility, a municipal utility, the Illinois
3 Department of Transportation, or a municipality or a county
4 highway department. The terms "generation" and "recycling" as
5 used in this subsection do not apply to clean construction or
6 demolition debris when (i) used as fill material below grade
7 outside of a setback zone if covered by sufficient
8 uncontaminated soil to support vegetation within 30 days of the
9 completion of filling or if covered by a road or structure,
10 (ii) solely broken concrete without protruding metal bars is
11 used for erosion control, or (iii) milled asphalt or crushed
12 concrete is used as aggregate in construction of the shoulder
13 of a roadway. The terms "generation" and "recycling", as used
14 in this subsection, do not apply to uncontaminated soil that is
15 not commingled with any waste when (i) used as fill material
16 below grade or contoured to grade, or (ii) used at the site of
17 generation.

18 (Source: P.A. 97-220, eff. 7-28-11; 98-239, eff. 8-9-13;
19 98-484, eff. 8-16-13; 98-756, eff. 7-16-14.)

20 (415 ILCS 5/22.15) (from Ch. 111 1/2, par. 1022.15)

21 Sec. 22.15. Solid Waste Management Fund; fees.

22 (a) There is hereby created within the State Treasury a
23 special fund to be known as the "Solid Waste Management Fund",
24 to be constituted from the fees collected by the State pursuant
25 to this Section and from repayments of loans made from the Fund

1 for solid waste projects. Moneys received by the Department of
2 Commerce and Economic Opportunity in repayment of loans made
3 pursuant to the Illinois Solid Waste Management Act shall be
4 deposited into the General Revenue Fund.

5 (b) The Agency shall assess and collect a fee in the amount
6 set forth herein from the owner or operator of each sanitary
7 landfill permitted or required to be permitted by the Agency to
8 dispose of solid waste if the sanitary landfill is located off
9 the site where such waste was produced and if such sanitary
10 landfill is owned, controlled, and operated by a person other
11 than the generator of such waste. The Agency shall deposit all
12 fees collected into the Solid Waste Management Fund. If a site
13 is contiguous to one or more landfills owned or operated by the
14 same person, the volumes permanently disposed of by each
15 landfill shall be combined for purposes of determining the fee
16 under this subsection.

17 (1) If more than 150,000 cubic yards of non-hazardous
18 solid waste is permanently disposed of at a site in a
19 calendar year, the owner or operator shall either pay a fee
20 of 95 cents per cubic yard or, alternatively, the owner or
21 operator may weigh the quantity of the solid waste
22 permanently disposed of with a device for which
23 certification has been obtained under the Weights and
24 Measures Act and pay a fee of \$2.00 per ton of solid waste
25 permanently disposed of. In no case shall the fee collected
26 or paid by the owner or operator under this paragraph

1 exceed \$1.55 per cubic yard or \$3.27 per ton.

2 (2) If more than 100,000 cubic yards but not more than
3 150,000 cubic yards of non-hazardous waste is permanently
4 disposed of at a site in a calendar year, the owner or
5 operator shall pay a fee of \$52,630.

6 (3) If more than 50,000 cubic yards but not more than
7 100,000 cubic yards of non-hazardous solid waste is
8 permanently disposed of at a site in a calendar year, the
9 owner or operator shall pay a fee of \$23,790.

10 (4) If more than 10,000 cubic yards but not more than
11 50,000 cubic yards of non-hazardous solid waste is
12 permanently disposed of at a site in a calendar year, the
13 owner or operator shall pay a fee of \$7,260.

14 (5) If not more than 10,000 cubic yards of
15 non-hazardous solid waste is permanently disposed of at a
16 site in a calendar year, the owner or operator shall pay a
17 fee of \$1050.

18 (c) (Blank).

19 (d) The Agency shall establish rules relating to the
20 collection of the fees authorized by this Section. Such rules
21 shall include, but not be limited to:

22 (1) necessary records identifying the quantities of
23 solid waste received or disposed;

24 (2) the form and submission of reports to accompany the
25 payment of fees to the Agency;

26 (3) the time and manner of payment of fees to the

1 Agency, which payments shall not be more often than
2 quarterly; and

3 (4) procedures setting forth criteria establishing
4 when an owner or operator may measure by weight or volume
5 during any given quarter or other fee payment period.

6 (e) Pursuant to appropriation, all monies in the Solid
7 Waste Management Fund shall be used by the Agency and the
8 Department of Commerce and Economic Opportunity for the
9 purposes set forth in this Section and in the Illinois Solid
10 Waste Management Act, including for the costs of fee collection
11 and administration.

12 (f) The Agency is authorized to enter into such agreements
13 and to promulgate such rules as are necessary to carry out its
14 duties under this Section and the Illinois Solid Waste
15 Management Act.

16 (g) On the first day of January, April, July, and October
17 of each year, beginning on July 1, 1996, the State Comptroller
18 and Treasurer shall transfer \$500,000 from the Solid Waste
19 Management Fund to the Hazardous Waste Fund. Moneys transferred
20 under this subsection (g) shall be used only for the purposes
21 set forth in item (1) of subsection (d) of Section 22.2.

22 (h) The Agency is authorized to provide financial
23 assistance to units of local government for the performance of
24 inspecting, investigating and enforcement activities pursuant
25 to Section 4(r) at nonhazardous solid waste disposal sites.

26 (i) The Agency is authorized ~~to support the operations of~~

1 ~~an industrial materials exchange service,~~ and to conduct
2 household waste collection and disposal programs.

3 (j) A unit of local government, as defined in the Local
4 Solid Waste Disposal Act, in which a solid waste disposal
5 facility is located may establish a fee, tax, or surcharge with
6 regard to the permanent disposal of solid waste. All fees,
7 taxes, and surcharges collected under this subsection shall be
8 utilized for solid waste management purposes, including
9 long-term monitoring and maintenance of landfills, planning,
10 implementation, inspection, enforcement and other activities
11 consistent with the Solid Waste Management Act and the Local
12 Solid Waste Disposal Act, or for any other environment-related
13 purpose, including but not limited to an environment-related
14 public works project, but not for the construction of a new
15 pollution control facility other than a household hazardous
16 waste facility. However, the total fee, tax or surcharge
17 imposed by all units of local government under this subsection
18 (j) upon the solid waste disposal facility shall not exceed:

19 (1) 60¢ per cubic yard if more than 150,000 cubic yards
20 of non-hazardous solid waste is permanently disposed of at
21 the site in a calendar year, unless the owner or operator
22 weighs the quantity of the solid waste received with a
23 device for which certification has been obtained under the
24 Weights and Measures Act, in which case the fee shall not
25 exceed \$1.27 per ton of solid waste permanently disposed
26 of.

1 (2) \$33,350 if more than 100,000 cubic yards, but not
2 more than 150,000 cubic yards, of non-hazardous waste is
3 permanently disposed of at the site in a calendar year.

4 (3) \$15,500 if more than 50,000 cubic yards, but not
5 more than 100,000 cubic yards, of non-hazardous solid waste
6 is permanently disposed of at the site in a calendar year.

7 (4) \$4,650 if more than 10,000 cubic yards, but not
8 more than 50,000 cubic yards, of non-hazardous solid waste
9 is permanently disposed of at the site in a calendar year.

10 (5) \$650 if not more than 10,000 cubic yards of
11 non-hazardous solid waste is permanently disposed of at the
12 site in a calendar year.

13 The corporate authorities of the unit of local government
14 may use proceeds from the fee, tax, or surcharge to reimburse a
15 highway commissioner whose road district lies wholly or
16 partially within the corporate limits of the unit of local
17 government for expenses incurred in the removal of
18 nonhazardous, nonfluid municipal waste that has been dumped on
19 public property in violation of a State law or local ordinance.

20 A county or Municipal Joint Action Agency that imposes a
21 fee, tax, or surcharge under this subsection may use the
22 proceeds thereof to reimburse a municipality that lies wholly
23 or partially within its boundaries for expenses incurred in the
24 removal of nonhazardous, nonfluid municipal waste that has been
25 dumped on public property in violation of a State law or local
26 ordinance.

1 If the fees are to be used to conduct a local sanitary
2 landfill inspection or enforcement program, the unit of local
3 government must enter into a written delegation agreement with
4 the Agency pursuant to subsection (r) of Section 4. The unit of
5 local government and the Agency shall enter into such a written
6 delegation agreement within 60 days after the establishment of
7 such fees. At least annually, the Agency shall conduct an audit
8 of the expenditures made by units of local government from the
9 funds granted by the Agency to the units of local government
10 for purposes of local sanitary landfill inspection and
11 enforcement programs, to ensure that the funds have been
12 expended for the prescribed purposes under the grant.

13 The fees, taxes or surcharges collected under this
14 subsection (j) shall be placed by the unit of local government
15 in a separate fund, and the interest received on the moneys in
16 the fund shall be credited to the fund. The monies in the fund
17 may be accumulated over a period of years to be expended in
18 accordance with this subsection.

19 A unit of local government, as defined in the Local Solid
20 Waste Disposal Act, shall prepare and distribute to the Agency,
21 in April of each year, a report that details spending plans for
22 monies collected in accordance with this subsection. The report
23 will at a minimum include the following:

24 (1) The total monies collected pursuant to this
25 subsection.

26 (2) The most current balance of monies collected

1 pursuant to this subsection.

2 (3) An itemized accounting of all monies expended for
3 the previous year pursuant to this subsection.

4 (4) An estimation of monies to be collected for the
5 following 3 years pursuant to this subsection.

6 (5) A narrative detailing the general direction and
7 scope of future expenditures for one, 2 and 3 years.

8 The exemptions granted under Sections 22.16 and 22.16a, and
9 under subsection (k) of this Section, shall be applicable to
10 any fee, tax or surcharge imposed under this subsection (j);
11 except that the fee, tax or surcharge authorized to be imposed
12 under this subsection (j) may be made applicable by a unit of
13 local government to the permanent disposal of solid waste after
14 December 31, 1986, under any contract lawfully executed before
15 June 1, 1986 under which more than 150,000 cubic yards (or
16 50,000 tons) of solid waste is to be permanently disposed of,
17 even though the waste is exempt from the fee imposed by the
18 State under subsection (b) of this Section pursuant to an
19 exemption granted under Section 22.16.

20 (k) In accordance with the findings and purposes of the
21 Illinois Solid Waste Management Act, beginning January 1, 1989
22 the fee under subsection (b) and the fee, tax or surcharge
23 under subsection (j) shall not apply to:

24 (1) Waste which is hazardous waste; or

25 (2) Waste which is pollution control waste; or

26 (3) Waste from recycling, reclamation or reuse

1 processes which have been approved by the Agency as being
2 designed to remove any contaminant from wastes so as to
3 render such wastes reusable, provided that the process
4 renders at least 50% of the waste reusable; or

5 (4) Non-hazardous solid waste that is received at a
6 sanitary landfill and composted or recycled through a
7 process permitted by the Agency; or

8 (5) Any landfill which is permitted by the Agency to
9 receive only demolition or construction debris or
10 landscape waste.

11 (Source: P.A. 97-333, eff. 8-12-11.)

12 (415 ILCS 5/22.28) (from Ch. 111 1/2, par. 1022.28)

13 Sec. 22.28. White goods.

14 (a) ~~No Beginning July 1, 1994, no~~ person shall knowingly
15 offer for collection or collect white goods for the purpose of
16 disposal by landfilling unless the white good components have
17 been removed.

18 (b) ~~No Beginning July 1, 1994, no~~ owner or operator of a
19 landfill shall accept any white goods for final disposal,
20 except that white goods may be accepted if:

21 (1) (blank); ~~the landfill participates in the~~
22 ~~Industrial Materials Exchange Service by communicating the~~
23 ~~availability of white goods;~~

24 (2) prior to final disposal, any white good components
25 have been removed from the white goods; and

1 (3) ~~if white good components are removed from the white~~
2 ~~goods at the landfill,~~ a site operating plan satisfying
3 this Act has been approved under the landfill's site
4 operating permit and the conditions of the ~~such~~ operating
5 plan are met.

6 (c) For the purposes of this Section:

7 (1) "White goods" shall include all discarded
8 refrigerators, ranges, water heaters, freezers, air
9 conditioners, humidifiers and other similar domestic and
10 commercial large appliances.

11 (2) "White good components" shall include:

12 (i) any chlorofluorocarbon refrigerant gas;

13 (ii) any electrical switch containing mercury;

14 (iii) any device that contains or may contain PCBs
15 in a closed system, such as a dielectric fluid for a
16 capacitor, ballast or other component; and

17 (iv) any fluorescent lamp that contains mercury.

18 (d) The Agency is authorized to provide financial
19 assistance to units of local government from the Solid Waste
20 Management Fund to plan for and implement programs to collect,
21 transport and manage white goods. Units of local government may
22 apply jointly for financial assistance under this Section.

23 Applications for such financial assistance shall be
24 submitted to the Agency and must provide a description of:

25 (A) the area to be served by the program;

26 (B) the white goods intended to be included in the

1 program;

2 (C) the methods intended to be used for collecting
3 and receiving materials;

4 (D) the property, buildings, equipment and
5 personnel included in the program;

6 (E) the public education systems to be used as part
7 of the program;

8 (F) the safety and security systems that will be
9 used;

10 (G) the intended processing methods for each white
11 goods type;

12 (H) the intended destination for final material
13 handling location; and

14 (I) any staging sites used to handle collected
15 materials, the activities to be performed at such sites
16 and the procedures for assuring removal of collected
17 materials from such sites.

18 The application may be amended to reflect changes in
19 operating procedures, destinations for collected materials, or
20 other factors.

21 Financial assistance shall be awarded for a State fiscal
22 year, and may be renewed, upon application, if the Agency
23 approves the operation of the program.

24 (e) All materials collected or received under a program
25 operated with financial assistance under this Section shall be
26 recycled whenever possible. Treatment or disposal of collected

1 materials are not eligible for financial assistance unless the
2 applicant shows and the Agency approves which materials may be
3 treated or disposed of under various conditions.

4 Any revenue from the sale of materials collected under such
5 a program shall be retained by the unit of local government and
6 may be used only for the same purposes as the financial
7 assistance under this Section.

8 (f) The Agency is authorized to adopt rules necessary or
9 appropriate to the administration of this Section.

10 (g) (Blank).

11 (Source: P.A. 91-798, eff. 7-9-00; revised 10-6-16.)

12 (415 ILCS 5/22.29) (from Ch. 111 1/2, par. 1022.29)

13 Sec. 22.29. (a) Except as provided in subsection (c), any
14 waste material generated by processing recyclable metals by
15 shredding shall be managed as a special waste unless ~~(1) a site~~
16 ~~operating plan has been approved by the Agency and the~~
17 ~~conditions of such operating plan are met; and (2) the facility~~
18 ~~participates in the Industrial Materials Exchange Service by~~
19 ~~communicating availability to process recyclable metals.~~

20 (b) An operating plan submitted to the Agency under this
21 Section shall include the following concerning recyclable
22 metals processing and components which may contaminate waste
23 from shredding recyclable metals (such as lead acid batteries,
24 fuel tanks, or components that contain or may contain PCB's in
25 a closed system such as a capacitor or ballast):

1 (1) procedures for inspecting recyclable metals when
2 received to assure that such components are identified;

3 (2) a list of equipment and removal procedures to be
4 used to assure proper removal of such components;

5 (3) procedures for safe storage of such components
6 after removal and any waste materials;

7 (4) procedures to assure that such components and waste
8 materials will only be stored for a period long enough to
9 accumulate the proper quantities for off-site
10 transportation;

11 (5) identification of how such components and waste
12 materials will be managed after removal from the site to
13 assure proper handling and disposal;

14 (6) procedures for sampling and analyzing waste
15 intended for disposal or off-site handling as a waste;

16 (7) a demonstration, including analytical reports,
17 that any waste generated is not a hazardous waste and will
18 not pose a present or potential threat to human health or
19 the environment.

20 (c) Any waste generated as a result of processing
21 recyclable metals by shredding which is determined to be
22 hazardous waste shall be managed as a hazardous waste.

23 (d) The Agency is authorized to adopt rules necessary or
24 appropriate to the administration of this Section.

25 (Source: P.A. 87-806; 87-895.)

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

2 Sec. 39.5. Clean Air Act Permit Program.

3 1. Definitions. For purposes of this Section:

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

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

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

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

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

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

19 "Applicable Clean Air Act requirement" means all of the
20 following as they apply to emissions units in a source
21 (including regulations that have been promulgated or approved
22 by USEPA pursuant to the Clean Air Act which directly impose
23 requirements upon a source and other such federal requirements
24 which have been adopted by the Board. These may include
25 requirements and regulations which have future effective
26 compliance dates. Requirements and regulations will be exempt

1 if USEPA determines that such requirements need not be
2 contained in a Title V permit):

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

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

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

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

26 (4) Any standard or other requirement under Section 112

1 of the Clean Air Act, including any requirement concerning
2 accident prevention under Section 112(r)(7) of the Clean
3 Air Act.

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

7 (6) Any requirements established pursuant to Section
8 504(b) or Section 114(a)(3) of the Clean Air Act.

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

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

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

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

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

24 (12) Any national ambient air quality standard or
25 increment or visibility requirement under Part C of Title I
26 of the Clean Air Act, but only as it would apply to

1 temporary sources permitted pursuant to Section 504(e) of
2 the Clean Air Act.

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

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

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

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

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

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

21 "Designated representative" has the meaning given to it in
22 Section 402(26) of the Clean Air Act and the regulations
23 promulgated thereunder, which state that the term "designated
24 representative" means a responsible person or official
25 authorized by the owner or operator of a unit to represent the
26 owner or operator in all matters pertaining to the holding,

1 transfer, or disposition of allowances allocated to a unit, and
2 the submission of and compliance with permits, permit
3 applications, and compliance plans for the unit.

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

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

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

14 "Federally enforceable" means enforceable by USEPA.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13 "Regulated air pollutant" means the following:

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

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

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

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

23 (5) Any pollutant subject to a standard promulgated
24 under Section 112 or other requirements established under
25 Section 112 of the Clean Air Act, including Sections
26 112(g), (j) and (r).

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

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

13 (6) Greenhouse gases.

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

16 "Responsible official" means one of the following:

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

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

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

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

23 (4) For affected sources for acid deposition:

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

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

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

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

12 "Solid waste incineration unit" means a distinct operating
13 unit of any facility which combusts any solid waste material
14 from commercial or industrial establishments or the general
15 public (including single and multiple residences, hotels, and
16 motels). The term does not include incinerators or other units
17 required to have a permit under Section 3005 of the Solid Waste
18 Disposal Act. The term also does not include (A) materials
19 recovery facilities (including primary or secondary smelters)
20 which combust waste for the primary purpose of recovering
21 metals, (B) qualifying small power production facilities, as
22 defined in Section 3(17)(C) of the Federal Power Act (16 U.S.C.
23 769(17)(C)), or qualifying cogeneration facilities, as defined
24 in Section 3(18)(B) of the Federal Power Act (16 U.S.C.
25 796(18)(B)), which burn homogeneous waste (such as units which
26 burn tires or used oil, but not including refuse-derived fuel)

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

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

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

5 "Stationary source" means any building, structure,
6 facility, or installation that emits or may emit any regulated
7 air pollutant or any pollutant listed under Section 112(b) of
8 the Clean Air Act, except those emissions resulting directly
9 from an internal combustion engine for transportation purposes
10 or from a nonroad engine or nonroad vehicle as defined in
11 Section 216 of the Clean Air Act.

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

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

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

1 1.1. Exclusion From the CAAPP.

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

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

21 c. Upon such request, if the Agency determines that the
22 owner or operator of a source has met the requirements for
23 exclusion pursuant to paragraph (a) of this subsection and
24 other applicable requirements for permit issuance under
25 subsection (a) of Section 39 of this Act, the Agency shall
26 issue a State operating permit for such source under

1 subsection (a) of Section 39 of this Act, as amended, and
2 regulations promulgated thereunder with federally
3 enforceable conditions limiting the "potential to emit" of
4 the source to a level below the major source threshold for
5 that source as described in paragraph (c) of subsection 2
6 of this Section.

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

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

13 2. Applicability.

14 a. Sources subject to this Section shall include:

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

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

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

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

4 b. Sources exempted from this Section shall include:

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

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

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

23 iv. All sources and source categories that would be
24 required to obtain a permit solely because they are
25 subject to Part 61, Subpart M - National Emission
26 Standard for Hazardous Air Pollutants for Asbestos,

1 Section 61.145 (40 CFR Part 61).

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

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

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

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

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

21 If any event listed in this subparagraph (vi)
22 occurs, CAAPP permits issued after such event shall not
23 impose permit terms or conditions addressing
24 greenhouse gases during the effectiveness of any event
25 listed in subparagraph (vi). If any event listed in
26 this subparagraph (vi) occurs, any owner or operator

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

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

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

17 A. For pollutants other than radionuclides,
18 any stationary source or group of stationary
19 sources located within a contiguous area and under
20 common control that emits or has the potential to
21 emit, in the aggregate, 10 tons per year (tpy) or
22 more of any hazardous air pollutant which has been
23 listed pursuant to Section 112(b) of the Clean Air
24 Act, 25 tpy or more of any combination of such
25 hazardous air pollutants, or such lesser quantity
26 as USEPA may establish by rule. Notwithstanding

1 the preceding sentence, emissions from any oil or
2 gas exploration or production well (with its
3 associated equipment) and emissions from any
4 pipeline compressor or pump station shall not be
5 aggregated with emissions from other similar
6 units, whether or not such units are in a
7 contiguous area or under common control, to
8 determine whether such stations are major sources.

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

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

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

- 1 B. Kraft pulp mills.
- 2 C. Portland cement plants.
- 3 D. Primary zinc smelters.
- 4 E. Iron and steel mills.
- 5 F. Primary aluminum ore reduction plants.
- 6 G. Primary copper smelters.
- 7 H. Municipal incinerators capable of charging
- 8 more than 250 tons of refuse per day.
- 9 I. Hydrofluoric, sulfuric, or nitric acid
- 10 plants.
- 11 J. Petroleum refineries.
- 12 K. Lime plants.
- 13 L. Phosphate rock processing plants.
- 14 M. Coke oven batteries.
- 15 N. Sulfur recovery plants.
- 16 O. Carbon black plants (furnace process).
- 17 P. Primary lead smelters.
- 18 Q. Fuel conversion plants.
- 19 R. Sintering plants.
- 20 S. Secondary metal production plants.
- 21 T. Chemical process plants.
- 22 U. Fossil-fuel boilers (or combination
- 23 thereof) totaling more than 250 million British
- 24 thermal units per hour heat input.
- 25 V. Petroleum storage and transfer units with a
- 26 total storage capacity exceeding 300,000 barrels.

1 W. Taconite ore processing plants.

2 X. Glass fiber processing plants.

3 Y. Charcoal production plants.

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

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

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

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

15 A. For ozone nonattainment areas, sources with
16 the potential to emit 100 tons or more per year of
17 volatile organic compounds or oxides of nitrogen
18 in areas classified as "marginal" or "moderate",
19 50 tons or more per year in areas classified as
20 "serious", 25 tons or more per year in areas
21 classified as "severe", and 10 tons or more per
22 year in areas classified as "extreme"; except that
23 the references in this clause to 100, 50, 25, and
24 10 tons per year of nitrogen oxides shall not apply
25 with respect to any source for which USEPA has made
26 a finding, under Section 182(f)(1) or (2) of the

1 Clean Air Act, that requirements otherwise
2 applicable to such source under Section 182(f) of
3 the Clean Air Act do not apply. Such sources shall
4 remain subject to the major source criteria of
5 subparagraph (ii) of paragraph (c) of this
6 subsection.

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

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

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

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

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

1 promulgated thereunder.

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

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

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

1 4. Transition.

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

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

25 c. An owner or operator of a CAAPP source shall submit
26 its initial CAAPP application to the Agency no later than

1 12 months after the effective date of the CAAPP. The Agency
2 may request submittal of initial CAAPP applications during
3 this 12-month period according to a schedule set forth
4 within Agency procedures, however, in no event shall the
5 Agency require such submittal earlier than 3 months after
6 such effective date of the CAAPP. An owner or operator may
7 voluntarily submit its initial CAAPP application prior to
8 the date required within this paragraph or applicable
9 procedures, if any, subsequent to the date the Agency
10 submits the CAAPP to USEPA for approval.

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

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

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

26 g. The CAAPP permit shall upon becoming effective

1 supersede the State operating permit.

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

6 5. Applications and Completeness.

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

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

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

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

1 requirements. Any such schedule of compliance shall be
2 supplemental to, and shall not sanction noncompliance
3 with, the applicable requirements on which it is based.

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

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

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

22 h. If the owner or operator of a CAAPP source submits a
23 timely and complete CAAPP application, the source's
24 failure to have a CAAPP permit shall not be a violation of
25 this Section until the Agency takes final action on the
26 submitted CAAPP application, provided, however, where the

1 applicant fails to submit the requested information under
2 paragraph (g) of this subsection 5 within the time frame
3 specified by the Agency, this protection shall cease to
4 apply.

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

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

1 within 9 months of receipt of the complete CAAPP
2 application.

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

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

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

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

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

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

1 p. The owner or operator of a CAAPP source seeking a
2 permit shield pursuant to paragraph (j) of subsection 7 of
3 this Section shall request such permit shield in the CAAPP
4 application regarding that source.

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

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

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

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

25 u. An owner or operator of a CAAPP source which seeks
26 exclusion from the CAAPP through the imposition of

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

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

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

1 levels no later than 9 months after the date of the
2 Agency's proposal.

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

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

18 6. Prohibitions.

19 a. It shall be unlawful for any person to violate any
20 terms or conditions of a permit issued under this Section,
21 to operate any CAAPP source except in compliance with a
22 permit issued by the Agency under this Section or to
23 violate any other applicable requirements. All terms and
24 conditions of a permit issued under this Section are
25 enforceable by USEPA and citizens under the Clean Air Act,

1 except those, if any, that are specifically designated as
2 not being federally enforceable in the permit pursuant to
3 paragraph (m) of subsection 7 of this Section.

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

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

18 7. Permit Content.

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

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

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

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

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

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

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

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

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

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

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

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

1 C. The company or entity that performed the
2 analyses.

3 D. The analytical techniques or methods used.

4 E. The results of such analyses.

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

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

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

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

1 consistent with subsection 5 of this Section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 B. Must meet all applicable requirements;

26 C. Shall extend the permit shield described in

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 subsection 5 of this Section and applicable
2 regulations.

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

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

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

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

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

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

26 2. As otherwise authorized by this Act.

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

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

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

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

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

26 A. The frequency (annually or more frequently

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

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

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

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

12 2. The compliance status.

13 3. Whether compliance was continuous or
14 intermittent.

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

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

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

25 F. Other provisions as the Agency may require.

26 q. If the owner or operator of CAAPP source can

1 demonstrate in its CAAPP application, including an
2 application for a significant modification, that an
3 alternative emission limit would be equivalent to that
4 contained in the applicable Board regulations, the Agency
5 shall include the alternative emission limit in the CAAPP
6 permit, which shall supersede the emission limit set forth
7 in the applicable Board regulations, and shall include
8 conditions that insure that the resulting emission limit is
9 quantifiable, accountable, enforceable, and based on
10 replicable procedures.

11 8. Public Notice; Affected State Review.

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

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

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

1 public, except as otherwise provided in this Act.

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

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

1 7 of this Act.

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

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

12 9. USEPA Notice and Objection.

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

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

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

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

1 modifications.

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

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

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

1 application.

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

6 10. Final Agency Action.

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

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

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

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

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

1 consistent with subsection 5 of this Section and
2 applicable regulations.

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

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

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

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

22 ii. Within such notice, the Agency shall specify an
23 appropriate date by which the applicant shall
24 adequately respond to the Agency's notice. Such date
25 shall not exceed 15 days from the date the notification
26 is received by the applicant. The Agency may grant a

1 reasonable extension for good cause shown.

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

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

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

18 11. General Permits.

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

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

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

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

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

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

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

23 12. Operational Flexibility.

24 a. An owner or operator of a CAAPP source may make
25 changes at the CAAPP source without requiring a prior

1 permit revision, consistent with subparagraphs (i) through
2 (iii) of paragraph (a) of this subsection, so long as the
3 changes are not modifications under any provision of Title
4 I of the Clean Air Act and they do not exceed the emissions
5 allowable under the permit (whether expressed therein as a
6 rate of emissions or in terms of total emissions), provided
7 that the owner or operator of the CAAPP source provides
8 USEPA and the Agency with written notification as required
9 below in advance of the proposed changes, which shall be a
10 minimum of 7 days, unless otherwise provided by the Agency
11 in applicable regulations regarding emergencies. The owner
12 or operator of a CAAPP source and the Agency shall each
13 attach such notice to their copy of the relevant permit.

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

21 A. For each such change, the written
22 notification required above shall include a brief
23 description of the change within the source, the
24 date on which the change will occur, any change in
25 emissions, and any permit term or condition that is
26 no longer applicable as a result of the change.

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

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

11 A. Under this subparagraph (ii) of paragraph
12 (a) of this subsection, the written notification
13 required above shall include such information as
14 may be required by the provision in the applicable
15 implementation plan authorizing the emissions
16 trade, including at a minimum, when the proposed
17 changes will occur, a description of each such
18 change, any change in emissions, the permit
19 requirements with which the source will comply
20 using the emissions trading provisions of the
21 applicable implementation plan, and the pollutants
22 emitted subject to the emissions trade. The notice
23 shall also refer to the provisions in the
24 applicable implementation plan with which the
25 source will comply and provide for the emissions
26 trade.

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

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

24 A. Under this subparagraph (iii) of paragraph
25 (a), the written notification required above shall
26 state when the change will occur and shall describe

1 the changes in emissions that will result and how
2 these increases and decreases in emissions will
3 comply with the terms and conditions of the permit.

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

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

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

18 (ii) Sources must provide contemporaneous written
19 notice to the Agency and USEPA of each such change,
20 except for changes that qualify as insignificant under
21 provisions adopted by the Agency or the Board. Such
22 written notice shall describe each such change,
23 including the date, any change in emissions,
24 pollutants emitted, and any applicable requirement
25 that would apply as a result of the change;

26 (iii) The change shall not qualify for the shield

1 described in paragraph (j) of subsection 7 of this
2 Section; and

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

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

13 13. Administrative Permit Amendments.

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

21 b. The Agency shall submit a copy of the revised permit
22 to USEPA.

23 c. For purposes of this Section the term
24 "administrative permit amendment" shall be defined as a
25 permit revision that can accomplish one or more of the

1 changes described below:

2 i. Corrects typographical errors;

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

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

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

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

22 vi. (Blank); or

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

26 d. The Agency shall, upon taking final action granting

1 a request for an administrative permit amendment, allow
2 coverage by the permit shield in paragraph (j) of
3 subsection 7 of this Section for administrative permit
4 amendments made pursuant to subparagraph (v) of paragraph
5 (c) of this subsection which meet the relevant requirements
6 for significant permit modifications.

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

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

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

24 14. Permit Modifications.

25 a. Minor permit modification procedures.

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

4 A. Do not violate any applicable requirement;

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

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

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

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

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

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

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

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

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

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

20 B. The source's suggested draft permit;

21 C. Certification by a responsible official,
22 consistent with paragraph (e) of subsection 5 of
23 this Section and applicable regulations, that the
24 proposed modification meets the criteria for use
25 of minor permit modification procedures and a
26 request that such procedures be used; and

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

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

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

22 A. Issue the permit modification as proposed;

23 B. Deny the permit modification application;

24 C. Determine that the requested modification
25 does not meet the minor permit modification
26 criteria and should be reviewed under the

1 significant modification procedures; or

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

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

22 vii. The permit shield under paragraph (j) of
23 subsection 7 of this Section may not extend to minor
24 permit modifications.

25 viii. If a construction permit is required,
26 pursuant to subsection (a) of Section 39 of this Act

1 and regulations thereunder, for a change for which the
2 minor permit modification procedures are applicable,
3 the source may request that the processing of the
4 construction permit application be consolidated with
5 the processing of the application for the minor permit
6 modification. In such cases, the provisions of this
7 Section, including those within subsections 5, 8, and
8 9, shall apply and the Agency shall act on such
9 applications pursuant to subparagraph (v) of paragraph
10 (a) of subsection 14 of this Section. The source may
11 make the proposed change immediately after filing its
12 application for the minor permit modification. Nothing
13 in this subparagraph shall otherwise affect the
14 requirements and procedures applicable to construction
15 permits.

16 b. Group Processing of Minor Permit Modifications.

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

22 ii. Permit modifications may be processed in
23 accordance with the procedures for group processing,
24 for those modifications:

25 A. Which meet the criteria for minor permit
26 modification procedures under subparagraph (i) of

1 paragraph (a) of subsection 14 of this Section; and

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

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

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

15 B. The source's suggested draft permit.

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

22 D. A list of the source's other pending
23 applications awaiting group processing, and a
24 determination of whether the requested
25 modification, aggregated with these other
26 applications, equals or exceeds the threshold set

1 under item (B) of subparagraph (ii) of paragraph
2 (b) of this subsection.

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

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

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

22 v. The provisions of subparagraph (v) of paragraph
23 (a) of this subsection shall apply to modifications
24 eligible for group processing, except that the Agency
25 shall take one of the actions specified in items (A)
26 through (D) of subparagraph (v) of paragraph (a) of

1 this subsection within 180 days after receipt of the
2 application or 15 days after the end of USEPA's 45-day
3 review period under subsection 9 of this Section,
4 whichever is later.

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

8 vii. The provisions of paragraph (j) of subsection
9 7 of this Section shall not apply to modifications
10 eligible for group processing.

11 c. Significant Permit Modifications.

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

17 ii. Every significant change in existing
18 monitoring permit terms or conditions and every
19 relaxation of reporting or recordkeeping requirements
20 shall be considered significant. A modification shall
21 also be considered significant if in the judgment of
22 the Agency action on an application for modification
23 would require decisions to be made on technically
24 complex issues. Nothing herein shall be construed to
25 preclude the permittee from making changes consistent
26 with this Section that would render existing permit

1 compliance terms and conditions irrelevant.

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

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

14 15. Reopenings for Cause by the Agency.

15 a. Each issued CAAPP permit shall include provisions
16 specifying the conditions under which the permit will be
17 reopened prior to the expiration of the permit. Such
18 revisions shall be made as expeditiously as practicable. A
19 CAAPP permit shall be reopened and revised under any of the
20 following circumstances, in accordance with procedures
21 adopted by the Agency:

22 i. Additional requirements under the Clean Air Act
23 become applicable to a major CAAPP source for which 3
24 or more years remain on the original term of the
25 permit. Such a reopening shall be completed not later

1 than 18 months after the promulgation of the applicable
2 requirement. No such revision is required if the
3 effective date of the requirement is later than the
4 date on which the permit is due to expire.

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

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

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

19 b. In the event that the Agency determines that there
20 are grounds for revoking a CAAPP permit, for cause,
21 consistent with paragraph a of this subsection, it shall
22 file a petition before the Board setting forth the basis
23 for such revocation. In any such proceeding, the Agency
24 shall have the burden of establishing that the permit
25 should be revoked under the standards set forth in this Act
26 and the Clean Air Act. Any such proceeding shall be

1 conducted pursuant to the Board's procedures for
2 adjudicatory hearings and the Board shall render its
3 decision within 120 days of the filing of the petition. The
4 Agency shall take final action to revoke and reissue a
5 CAAPP permit consistent with the Board's order.

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

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

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

20 16. Reopenings for Cause by USEPA.

21 a. When USEPA finds that cause exists to terminate,
22 modify, or revoke and reissue a CAAPP permit pursuant to
23 subsection 15 of this Section, and thereafter notifies the
24 Agency and the permittee of such finding in writing, the
25 Agency shall forward to USEPA and the permittee a proposed

1 determination of termination, modification, or revocation
2 and reissuance as appropriate, in accordance with
3 paragraph (b) of this subsection. The Agency's proposed
4 determination shall be in accordance with the record, the
5 Clean Air Act, regulations promulgated thereunder, this
6 Act and regulations promulgated thereunder. Such proposed
7 determination shall not affect the permit or constitute a
8 final permit action for purposes of this Act or the
9 Administrative Review Law. The Agency shall forward to
10 USEPA such proposed determination within 90 days after
11 receipt of the notification from USEPA. If additional time
12 is necessary to submit the proposed determination, the
13 Agency shall request a 90-day extension from USEPA and
14 shall submit the proposed determination within 180 days
15 after receipt of notification from USEPA.

16 b. i. Prior to the Agency's submittal to USEPA of a
17 proposed determination to terminate or revoke and
18 reissue the permit, the Agency shall file a petition
19 before the Board setting forth USEPA's objection, the
20 permit record, the Agency's proposed determination,
21 and the justification for its proposed determination.
22 The Board shall conduct a hearing pursuant to the rules
23 prescribed by Section 32 of this Act, and the burden of
24 proof shall be on the Agency.

25 ii. After due consideration of the written and oral
26 statements, the testimony and arguments that shall be

1 submitted at hearing, the Board shall issue and enter
2 an interim order for the proposed determination, which
3 shall set forth all changes, if any, required in the
4 Agency's proposed determination. The interim order
5 shall comply with the requirements for final orders as
6 set forth in Section 33 of this Act. Issuance of an
7 interim order by the Board under this paragraph,
8 however, shall not affect the permit status and does
9 not constitute a final action for purposes of this Act
10 or the Administrative Review Law.

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

17 c. USEPA shall review the proposed determination to
18 terminate, modify, or revoke and reissue the permit within
19 90 days after receipt.

20 i. When USEPA reviews the proposed determination
21 to terminate or revoke and reissue and does not object,
22 the Board shall, within 7 days after receipt of USEPA's
23 final approval, enter the interim order as a final
24 order. The final order may be appealed as provided by
25 Title XI of this Act. The Agency shall take final
26 action in accordance with the Board's final order.

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

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

19 d. If the Agency fails to submit the proposed
20 determination pursuant to paragraph a of this subsection or
21 fails to resolve any USEPA objection pursuant to paragraph
22 c of this subsection, USEPA will terminate, modify, or
23 revoke and reissue the permit.

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

1 necessary, to implement this subsection.

2 17. Title IV; Acid Rain Provisions.

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

18 b. A designated representative of an affected source
19 for acid deposition shall submit a timely and complete
20 Phase II acid rain permit application and compliance plan
21 to the Agency, not later than January 1, 1996, that meets
22 the requirements of Titles IV and V of the Clean Air Act
23 and regulations. The Agency shall act on the Phase II acid
24 rain permit application and compliance plan in accordance
25 with this Section and Title V of the Clean Air Act and

1 regulations promulgated thereunder, except as modified by
2 Title IV of the Clean Air Act and regulations promulgated
3 thereunder. The Agency shall issue the Phase II acid rain
4 permit to an affected source for acid deposition no later
5 than December 31, 1997, which shall become effective on
6 January 1, 2000, in accordance with this Section, except as
7 modified by Title IV and regulations promulgated
8 thereunder; provided that the designated representative of
9 the source submitted a timely and complete Phase II permit
10 application and compliance plan to the Agency that meets
11 the requirements of Title IV and V of the Clean Air Act and
12 regulations.

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

19 d. A designated representative of a new unit, as
20 defined in Section 402 of the Clean Air Act, shall submit a
21 timely and complete Phase II acid rain permit application
22 and compliance plan that meets the requirements of Titles
23 IV and V of the Clean Air Act and its regulations. The
24 Agency shall act on the new unit's Phase II acid rain
25 permit application and compliance plan in accordance with
26 this Section and Title V of the Clean Air Act and its

1 regulations, except as modified by Title IV of the Clean
2 Air Act and its regulations. The Agency shall reopen the
3 new unit's CAAPP permit for cause to incorporate the
4 approved Phase II acid rain permit in accordance with this
5 Section. The Phase II acid rain permit for the new unit
6 shall become effective no later than the date required
7 under Title IV of the Clean Air Act and its regulations.

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

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

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

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

19 i. Nothing in this Section shall be construed as
20 affecting allowances or USEPA's decision regarding an
21 excess emissions offset plan, as set forth in Title IV of
22 the Clean Air Act or regulations promulgated thereunder.

23 i. No permit revision shall be required for
24 increases in emissions that are authorized by
25 allowances acquired pursuant to the acid rain program,
26 provided that such increases do not require a permit

1 revision under any other applicable requirement.

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

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

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

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

18 l. It is unlawful for any owner or operator to violate
19 any terms or conditions of a Phase II acid rain permit
20 issued under this subsection, to operate any affected
21 source for acid deposition except in compliance with a
22 Phase II acid rain permit issued by the Agency under this
23 subsection, or to violate any other applicable
24 requirements.

25 m. The designated representative of an affected source
26 for acid deposition shall submit to the Agency the data and

1 information submitted quarterly to USEPA, pursuant to 40
2 CFR 75.64, concurrently with the submission to USEPA. The
3 submission shall be in the same electronic format as
4 specified by USEPA.

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

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

14 18. Fee Provisions.

15 a. A source subject to this Section or excluded under
16 subsection 1.1 or paragraph (c) of subsection 3 of this
17 Section, shall pay a fee as provided in this paragraph (a)
18 of subsection 18. However, a source that has been excluded
19 from the provisions of this Section under subsection 1.1 or
20 under paragraph (c) of subsection 3 of this Section because
21 the source emits less than 25 tons per year of any
22 combination of regulated air pollutants, except greenhouse
23 gases, shall pay fees in accordance with paragraph (1) of
24 subsection (b) of Section 9.6.

25 i. The fee for a source allowed to emit less than

1 100 tons per year of any combination of regulated air
2 pollutants, except greenhouse gases, shall be \$1,800
3 per year, and that fee shall increase, beginning
4 January 1, 2012, to \$2,150 per year.

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

10 A. The Agency shall assess a fee of \$18 per
11 ton, per year for the allowable emissions of
12 regulated air pollutants subject to this
13 subparagraph (ii) of paragraph (a) of subsection
14 18, and that fee shall increase, beginning January
15 1, 2012, to \$21.50 per ton, per year. These fees
16 shall be used by the Agency and the Board to fund
17 the activities required by Title V of the Clean Air
18 Act including such activities as may be carried out
19 by other State or local agencies pursuant to
20 paragraph (d) of this subsection. The amount of
21 such fee shall be based on the information supplied
22 by the applicant in its complete CAAPP permit
23 application or in the CAAPP permit if the permit
24 has been granted and shall be determined by the
25 amount of emissions that the source is allowed to
26 emit annually, provided however, that the maximum

1 fee for a CAAPP permit under this subparagraph (ii)
2 of paragraph (a) of subsection 18 is \$250,000, and
3 increases, beginning January 1, 2012, to \$294,000.
4 Beginning January 1, 2012, the maximum fee under
5 this subparagraph (ii) of paragraph (a) of
6 subsection 18 for a source that has been excluded
7 under subsection 1.1 of this Section or under
8 paragraph (c) of subsection 3 of this Section is
9 \$4,112. The Agency shall provide as part of the
10 permit application form required under subsection
11 5 of this Section a separate fee calculation form
12 which will allow the applicant to identify the
13 allowable emissions and calculate the fee. In no
14 event shall the Agency raise the amount of
15 allowable emissions requested by the applicant
16 unless such increases are required to demonstrate
17 compliance with terms of a CAAPP permit.

18 Notwithstanding the above, any applicant may
19 seek a change in its permit which would result in
20 increases in allowable emissions due to an
21 increase in the hours of operation or production
22 rates of an emission unit or units and such a
23 change shall be consistent with the construction
24 permit requirements of the existing State permit
25 program, under subsection (a) of Section 39 of this
26 Act and applicable provisions of this Section.

1 Where a construction permit is required, the
2 Agency shall expeditiously grant such construction
3 permit and shall, if necessary, modify the CAAPP
4 permit based on the same application.

5 B. The applicant or permittee may pay the fee
6 annually or semiannually for those fees greater
7 than \$5,000. However, any applicant paying a fee
8 equal to or greater than \$100,000 shall pay the
9 full amount on July 1, for the subsequent fiscal
10 year, or pay 50% of the fee on July 1 and the
11 remaining 50% by the next January 1. The Agency may
12 change any annual billing date upon reasonable
13 notice, but shall prorate the new bill so that the
14 permittee or applicant does not pay more than its
15 required fees for the fee period for which payment
16 is made.

17 b. (Blank).

18 c. (Blank).

19 d. There is hereby created in the State Treasury a
20 special fund to be known as the Clean Air Act Permit Fund
21 (formerly known as the CAA Permit Fund). All Funds
22 collected by the Agency pursuant to this subsection shall
23 be deposited into the Fund. The General Assembly shall
24 appropriate monies from this Fund to the Agency and to the
25 Board to carry out their obligations under this Section.
26 The General Assembly may also authorize monies to be

1 granted by the Agency from this Fund to other State and
2 local agencies which perform duties related to the CAAPP.
3 Interest generated on the monies deposited in this Fund
4 shall be returned to the Fund.

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

9 f. For purposes of this subsection, the term "regulated
10 air pollutant" shall have the meaning given to it under
11 subsection 1 of this Section but shall exclude the
12 following:

13 i. carbon monoxide;

14 ii. any Class I or II substance which is a
15 regulated air pollutant solely because it is listed
16 pursuant to Section 602 of the Clean Air Act; and

17 iii. any pollutant that is a regulated air
18 pollutant solely because it is subject to a standard or
19 regulation under Section 112(r) of the Clean Air Act
20 based on the emissions allowed in the permit effective
21 in that calendar year, at the time the applicable bill
22 is generated.

23 19. Air Toxics Provisions.

24 a. In the event that the USEPA fails to promulgate in a
25 timely manner a standard pursuant to Section 112(d) of the

1 Clean Air Act, the Agency shall have the authority to issue
2 permits, pursuant to Section 112(j) of the Clean Air Act
3 and regulations promulgated thereunder, which contain
4 emission limitations which are equivalent to the emission
5 limitations that would apply to a source if an emission
6 standard had been promulgated in a timely manner by USEPA
7 pursuant to Section 112(d). Provided, however, that the
8 owner or operator of a source shall have the opportunity to
9 submit to the Agency a proposed emission limitation which
10 it determines to be equivalent to the emission limitations
11 that would apply to such source if an emission standard had
12 been promulgated in a timely manner by USEPA. If the Agency
13 refuses to include the emission limitation proposed by the
14 owner or operator in a CAAPP permit, the owner or operator
15 may petition the Board to establish whether the emission
16 limitation proposal submitted by the owner or operator
17 provides for emission limitations which are equivalent to
18 the emission limitations that would apply to the source if
19 the emission standard had been promulgated by USEPA in a
20 timely manner. The Board shall determine whether the
21 emission limitation proposed by the owner or operator or an
22 alternative emission limitation proposed by the Agency
23 provides for the level of control required under Section
24 112 of the Clean Air Act, or shall otherwise establish an
25 appropriate emission limitation, pursuant to Section 112
26 of the Clean Air Act.

1 b. Any Board proceeding brought under paragraph (a) or
2 (e) of this subsection shall be conducted according to the
3 Board's procedures for adjudicatory hearings and the Board
4 shall render its decision within 120 days of the filing of
5 the petition. Any such decision shall be subject to review
6 pursuant to Section 41 of this Act. Where USEPA promulgates
7 an applicable emission standard prior to the issuance of
8 the CAAPP permit, the Agency shall include in the permit
9 the promulgated standard, provided that the source shall
10 have the compliance period provided under Section 112(i) of
11 the Clean Air Act. Where USEPA promulgates an applicable
12 standard subsequent to the issuance of the CAAPP permit,
13 the Agency shall revise such permit upon the next renewal
14 to reflect the promulgated standard, providing a
15 reasonable time for the applicable source to comply with
16 the standard, but no longer than 8 years after the date on
17 which the source is first required to comply with the
18 emissions limitation established under this subsection.

19 c. The Agency shall have the authority to implement and
20 enforce complete or partial emission standards promulgated
21 by USEPA pursuant to Section 112(d), and standards
22 promulgated by USEPA pursuant to Sections 112(f), 112(h),
23 112(m), and 112(n), and may accept delegation of authority
24 from USEPA to implement and enforce Section 112(l) and
25 requirements for the prevention and detection of
26 accidental releases pursuant to Section 112(r) of the Clean

1 Air Act.

2 d. The Agency shall have the authority to issue permits
3 pursuant to Section 112(i) (5) of the Clean Air Act.

4 e. The Agency has the authority to implement Section
5 112(g) of the Clean Air Act consistent with the Clean Air
6 Act and federal regulations promulgated thereunder. If the
7 Agency refuses to include the emission limitations
8 proposed in an application submitted by an owner or
9 operator for a case-by-case maximum achievable control
10 technology (MACT) determination, the owner or operator may
11 petition the Board to determine whether the emission
12 limitation proposed by the owner or operator or an
13 alternative emission limitation proposed by the Agency
14 provides for a level of control required by Section 112 of
15 the Clean Air Act, or to otherwise establish an appropriate
16 emission limitation under Section 112 of the Clean Air Act.

17 20. Small Business.

18 a. For purposes of this subsection:

19 "Program" is the Small Business Stationary Source
20 Technical and Environmental Compliance Assistance Program
21 created within this State pursuant to Section 507 of the
22 Clean Air Act and guidance promulgated thereunder, to
23 provide technical assistance and compliance information to
24 small business stationary sources;

25 "Small Business Assistance Program" is a component of

1 the Program responsible for providing sufficient
2 communications with small businesses through the
3 collection and dissemination of information to small
4 business stationary sources; and

5 "Small Business Stationary Source" means a stationary
6 source that:

7 1. is owned or operated by a person that employs
8 100 or fewer individuals;

9 2. is a small business concern as defined in the
10 "Small Business Act";

11 3. is not a major source as that term is defined in
12 subsection 2 of this Section;

13 4. does not emit 50 tons or more per year of any
14 regulated air pollutant, except greenhouse gases; and

15 5. emits less than 75 tons per year of all
16 regulated pollutants, except greenhouse gases.

17 b. The Agency shall adopt and submit to USEPA, after
18 reasonable notice and opportunity for public comment, as a
19 revision to the Illinois state implementation plan, plans
20 for establishing the Program.

21 c. The Agency shall have the authority to enter into
22 such contracts and agreements as the Agency deems necessary
23 to carry out the purposes of this subsection.

24 d. The Agency may establish such procedures as it may
25 deem necessary for the purposes of implementing and
26 executing its responsibilities under this subsection.

1 e. There shall be appointed a Small Business Ombudsman
2 (hereinafter in this subsection referred to as
3 "Ombudsman") to monitor the Small Business Assistance
4 Program. The Ombudsman shall be a nonpartisan designated
5 official, with the ability to independently assess whether
6 the goals of the Program are being met.

7 f. The State Ombudsman Office shall be located in an
8 existing Ombudsman office within the State or in any State
9 Department.

10 g. There is hereby created a State Compliance Advisory
11 Panel (hereinafter in this subsection referred to as
12 "Panel") for determining the overall effectiveness of the
13 Small Business Assistance Program within this State.

14 h. The selection of Panel members shall be by the
15 following method:

16 1. The Governor shall select two members who are
17 not owners or representatives of owners of small
18 business stationary sources to represent the general
19 public;

20 2. The Director of the Agency shall select one
21 member to represent the Agency; and

22 3. The State Legislature shall select four members
23 who are owners or representatives of owners of small
24 business stationary sources. Both the majority and
25 minority leadership in both Houses of the Legislature
26 shall appoint one member of the panel.

1 i. Panel members should serve without compensation but
2 will receive full reimbursement for expenses including
3 travel and per diem as authorized within this State.

4 j. The Panel shall select its own Chair by a majority
5 vote. The Chair may meet and consult with the Ombudsman and
6 the head of the Small Business Assistance Program in
7 planning the activities for the Panel.

8 21. Temporary Sources.

9 a. The Agency may issue a single permit authorizing
10 emissions from similar operations by the same source owner
11 or operator at multiple temporary locations, except for
12 sources which are affected sources for acid deposition
13 under Title IV of the Clean Air Act.

14 b. The applicant must demonstrate that the operation is
15 temporary and will involve at least one change of location
16 during the term of the permit.

17 c. Any such permit shall meet all applicable
18 requirements of this Section and applicable regulations,
19 and include conditions assuring compliance with all
20 applicable requirements at all authorized locations and
21 requirements that the owner or operator notify the Agency
22 at least 10 days in advance of each change in location.

23 22. Solid Waste Incineration Units.

24 a. A CAAPP permit for a solid waste incineration unit

1 combusting municipal waste subject to standards
2 promulgated under Section 129(e) of the Clean Air Act shall
3 be issued for a period of 12 years and shall be reviewed
4 every 5 years, unless the Agency requires more frequent
5 review through Agency procedures.

6 b. During the review in paragraph (a) of this
7 subsection, the Agency shall fully review the previously
8 submitted CAAPP permit application and corresponding
9 reports subsequently submitted to determine whether the
10 source is in compliance with all applicable requirements.

11 c. If the Agency determines that the source is not in
12 compliance with all applicable requirements it shall
13 revise the CAAPP permit as appropriate.

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

18 (Source: P.A. 99-380, eff. 8-17-15; 99-933, eff. 1-27-17.)

19 (415 ILCS 5/55) (from Ch. 111 1/2, par. 1055)

20 Sec. 55. Prohibited activities.

21 (a) No person shall:

22 (1) Cause or allow the open dumping of any used or
23 waste tire.

24 (2) Cause or allow the open burning of any used or
25 waste tire.

1 (3) Except at a tire storage site which contains more
2 than 50 used tires, cause or allow the storage of any used
3 tire unless the tire is altered, reprocessed, converted,
4 covered, or otherwise prevented from accumulating water.

5 (4) Cause or allow the operation of a tire storage site
6 except in compliance with Board regulations.

7 (5) Abandon, dump or dispose of any used or waste tire
8 on private or public property, except in a sanitary
9 landfill approved by the Agency pursuant to regulations
10 adopted by the Board.

11 (6) Fail to submit required reports, tire removal
12 agreements, or Board regulations.

13 (b) (Blank.)

14 (b-1) No ~~Beginning January 1, 1995,~~ no person shall
15 knowingly mix any used or waste tire, either whole or cut, with
16 municipal waste, and no owner or operator of a sanitary
17 landfill shall accept any used or waste tire for final
18 disposal; except that used or waste tires, when separated from
19 other waste, may be accepted if: ~~(1)~~ the sanitary landfill
20 provides and maintains a means for shredding, slitting, or
21 chopping whole tires and so treats whole tires and, if approved
22 by the Agency in a permit issued under this Act, uses the used
23 or waste tires for alternative uses, which may include on-site
24 practices such as lining of roadways with tire scraps,
25 alternative daily cover, or use in a leachate collection system
26 ~~or (2) the sanitary landfill, by its notification to the~~

1 ~~Illinois Industrial Materials Exchange Service, makes~~
2 ~~available the used or waste tire to an appropriate facility for~~
3 ~~reuse, reprocessing, or converting, including use as an~~
4 ~~alternate energy fuel. If, within 30 days after notification to~~
5 ~~the Illinois Industrial Materials Exchange Service of the~~
6 ~~availability of waste tires, no specific request for the used~~
7 ~~or waste tires is received by the sanitary landfill, and the~~
8 ~~sanitary landfill determines it has no alternative use for~~
9 ~~those used or waste tires, the sanitary landfill may dispose of~~
10 ~~slit, chopped, or shredded used or waste tires in the sanitary~~
11 ~~landfill.~~ In the event the physical condition of a used or
12 waste tire makes shredding, slitting, chopping, reuse,
13 reprocessing, or other alternative use of the used or waste
14 tire impractical or infeasible, then the sanitary landfill,
15 after authorization by the Agency, may accept the used or waste
16 tire for disposal.

17 ~~Sanitary landfills and facilities for reuse, reprocessing,~~
18 ~~or converting, including use as alternative fuel, shall (i)~~
19 ~~notify the Illinois Industrial Materials Exchange Service of~~
20 ~~the availability of and demand for used or waste tires and (ii)~~
21 ~~consult with the Department of Commerce and Economic~~
22 ~~Opportunity regarding the status of marketing of waste tires to~~
23 ~~facilities for reuse.~~

24 (c) Any person who sells new or used tires at retail or
25 operates a tire storage site or a tire disposal site which
26 contains more than 50 used or waste tires shall give notice of

1 such activity to the Agency. Any person engaging in such
2 activity for the first time after January 1, 1990, shall give
3 notice to the Agency within 30 days after the date of
4 commencement of the activity. The form of such notice shall be
5 specified by the Agency and shall be limited to information
6 regarding the following:

7 (1) the name and address of the owner and operator;

8 (2) the name, address and location of the operation;

9 (3) the type of operations involving used and waste
10 tires (storage, disposal, conversion or processing); and

11 (4) the number of used and waste tires present at the
12 location.

13 (d) Beginning January 1, 1992, no person shall cause or
14 allow the operation of:

15 (1) a tire storage site which contains more than 50
16 used tires, unless the owner or operator, by January 1,
17 1992 (or the January 1 following commencement of operation,
18 whichever is later) and January 1 of each year thereafter,
19 (i) registers the site with the Agency, except that the
20 registration requirement in this item (i) does not apply in
21 the case of a tire storage site required to be permitted
22 under subsection (d-5), (ii) certifies to the Agency that
23 the site complies with any applicable standards adopted by
24 the Board pursuant to Section 55.2, (iii) reports to the
25 Agency the number of tires accumulated, the status of
26 vector controls, and the actions taken to handle and

1 process the tires, and (iv) pays the fee required under
2 subsection (b) of Section 55.6; or

3 (2) a tire disposal site, unless the owner or operator
4 (i) has received approval from the Agency after filing a
5 tire removal agreement pursuant to Section 55.4, or (ii)
6 has entered into a written agreement to participate in a
7 consensual removal action under Section 55.3.

8 The Agency shall provide written forms for the annual
9 registration and certification required under this subsection
10 (d).

11 (d-4) On or before January 1, 2015, the owner or operator
12 of each tire storage site that contains used tires totaling
13 more than 10,000 passenger tire equivalents, or at which more
14 than 500 tons of used tires are processed in a calendar year,
15 shall submit documentation demonstrating its compliance with
16 Board rules adopted under this Title. This documentation must
17 be submitted on forms and in a format prescribed by the Agency.

18 (d-5) Beginning July 1, 2016, no person shall cause or
19 allow the operation of a tire storage site that contains used
20 tires totaling more than 10,000 passenger tire equivalents, or
21 at which more than 500 tons of used tires are processed in a
22 calendar year, without a permit granted by the Agency or in
23 violation of any conditions imposed by that permit, including
24 periodic reports and full access to adequate records and the
25 inspection of facilities, as may be necessary to ensure
26 compliance with this Act and with regulations and standards

1 adopted under this Act.

2 (d-6) No person shall cause or allow the operation of a
3 tire storage site in violation of the financial assurance rules
4 established by the Board under subsection (b) of Section 55.2
5 of this Act. In addition to the remedies otherwise provided
6 under this Act, the State's Attorney of the county in which the
7 violation occurred, or the Attorney General, may, at the
8 request of the Agency or on his or her own motion, institute a
9 civil action for an immediate injunction, prohibitory or
10 mandatory, to restrain any violation of this subsection (d-6)
11 or to require any other action as may be necessary to abate or
12 mitigate any immediate danger or threat to public health or the
13 environment at the site. Injunctions to restrain a violation of
14 this subsection (d-6) may include, but are not limited to, the
15 required removal of all tires for which financial assurance is
16 not maintained and a prohibition against the acceptance of
17 tires in excess of the amount for which financial assurance is
18 maintained.

19 (e) No person shall cause or allow the storage, disposal,
20 treatment or processing of any used or waste tire in violation
21 of any regulation or standard adopted by the Board.

22 (f) No person shall arrange for the transportation of used
23 or waste tires away from the site of generation with a person
24 known to openly dump such tires.

25 (g) No person shall engage in any operation as a used or
26 waste tire transporter except in compliance with Board

1 regulations.

2 (h) No person shall cause or allow the combustion of any
3 used or waste tire in an enclosed device unless a permit has
4 been issued by the Agency authorizing such combustion pursuant
5 to regulations adopted by the Board for the control of air
6 pollution and consistent with the provisions of Section 9.4 of
7 this Act.

8 (i) No person shall cause or allow the use of pesticides to
9 treat tires except as prescribed by Board regulations.

10 (j) No person shall fail to comply with the terms of a tire
11 removal agreement approved by the Agency pursuant to Section
12 55.4.

13 (k) No person shall:

14 (1) Cause or allow water to accumulate in used or waste
15 tires. The prohibition set forth in this paragraph (1) of
16 subsection (k) shall not apply to used or waste tires
17 located at a residential household, as long as not more
18 than 12 used or waste tires are located at the site.

19 (2) Fail to collect a fee required under Section 55.8
20 of this Title.

21 (3) Fail to file a return required under Section 55.10
22 of this Title.

23 (4) Transport used or waste tires in violation of the
24 registration and vehicle placarding requirements adopted
25 by the Board.

26 (Source: P.A. 98-656, eff. 6-19-14.)

1 (415 ILCS 5/55.6) (from Ch. 111 1/2, par. 1055.6)

2 Sec. 55.6. Used Tire Management Fund.

3 (a) There is hereby created in the State Treasury a special
4 fund to be known as the Used Tire Management Fund. There shall
5 be deposited into the Fund all monies received as (1) recovered
6 costs or proceeds from the sale of used tires under Section
7 55.3 of this Act, (2) repayment of loans from the Used Tire
8 Management Fund, or (3) penalties or punitive damages for
9 violations of this Title, except as provided by subdivision
10 (b) (4) or (b) (4-5) of Section 42.

11 (b) Beginning January 1, 1992, in addition to any other
12 fees required by law, the owner or operator of each site
13 required to be registered or permitted under subsection (d) or
14 (d-5) of Section 55 shall pay to the Agency an annual fee of
15 \$100. Fees collected under this subsection shall be deposited
16 into the Environmental Protection Permit and Inspection Fund.

17 (c) Pursuant to appropriation, monies up to an amount of \$2
18 million per fiscal year from the Used Tire Management Fund
19 shall be allocated as follows:

20 (1) 38% shall be available to the Agency for the
21 following purposes, provided that priority shall be given
22 to item (i):

23 (i) To undertake preventive, corrective or removal
24 action as authorized by and in accordance with Section
25 55.3, and to recover costs in accordance with Section

1 55.3.

2 (ii) For the performance of inspection and
3 enforcement activities for used and waste tire sites.

4 (iii) (Blank). ~~To assist with marketing of used~~
5 ~~tires by augmenting the operations of an industrial~~
6 ~~materials exchange service.~~

7 (iv) To provide financial assistance to units of
8 local government for the performance of inspecting,
9 investigating and enforcement activities pursuant to
10 subsection (r) of Section 4 at used and waste tire
11 sites.

12 (v) To provide financial assistance for used and
13 waste tire collection projects sponsored by local
14 government or not-for-profit corporations.

15 (vi) For the costs of fee collection and
16 administration relating to used and waste tires, and to
17 accomplish such other purposes as are authorized by
18 this Act and regulations thereunder.

19 (vii) To provide financial assistance to units of
20 local government and private industry for the purposes
21 of:

22 (A) assisting in the establishment of
23 facilities and programs to collect, process, and
24 utilize used and waste tires and tire-derived
25 materials;

26 (B) demonstrating the feasibility of

1 innovative technologies as a means of collecting,
2 storing, processing, and utilizing used and waste
3 tires and tire-derived materials; and

4 (C) applying demonstrated technologies as a
5 means of collecting, storing, processing, and
6 utilizing used and waste tires and tire-derived
7 materials.

8 (2) For fiscal years beginning prior to July 1, 2004,
9 23% shall be available to the Department of Commerce and
10 Economic Opportunity for the following purposes, provided
11 that priority shall be given to item (A):

12 (A) To provide grants or loans for the purposes of:

13 (i) assisting units of local government and
14 private industry in the establishment of
15 facilities and programs to collect, process and
16 utilize used and waste tires and tire derived
17 materials;

18 (ii) demonstrating the feasibility of
19 innovative technologies as a means of collecting,
20 storing, processing and utilizing used and waste
21 tires and tire derived materials; and

22 (iii) applying demonstrated technologies as a
23 means of collecting, storing, processing, and
24 utilizing used and waste tires and tire derived
25 materials.

26 (B) To develop educational material for use by

1 officials and the public to better understand and
2 respond to the problems posed by used tires and
3 associated insects.

4 (C) (Blank).

5 (D) To perform such research as the Director deems
6 appropriate to help meet the purposes of this Act.

7 (E) To pay the costs of administration of its
8 activities authorized under this Act.

9 (2.1) For the fiscal year beginning July 1, 2004 and
10 for all fiscal years thereafter, 23% shall be deposited
11 into the General Revenue Fund.

12 (3) 25% shall be available to the Illinois Department
13 of Public Health for the following purposes:

14 (A) To investigate threats or potential threats to
15 the public health related to mosquitoes and other
16 vectors of disease associated with the improper
17 storage, handling and disposal of tires, improper
18 waste disposal, or natural conditions.

19 (B) To conduct surveillance and monitoring
20 activities for mosquitoes and other arthropod vectors
21 of disease, and surveillance of animals which provide a
22 reservoir for disease-producing organisms.

23 (C) To conduct training activities to promote
24 vector control programs and integrated pest management
25 as defined in the Vector Control Act.

26 (D) To respond to inquiries, investigate

1 complaints, conduct evaluations and provide technical
2 consultation to help reduce or eliminate public health
3 hazards and nuisance conditions associated with
4 mosquitoes and other vectors.

5 (E) To provide financial assistance to units of
6 local government for training, investigation and
7 response to public nuisances associated with
8 mosquitoes and other vectors of disease.

9 (4) 2% shall be available to the Department of
10 Agriculture for its activities under the Illinois
11 Pesticide Act relating to used and waste tires.

12 (5) 2% shall be available to the Pollution Control
13 Board for administration of its activities relating to used
14 and waste tires.

15 (6) 10% shall be available to the Department of Natural
16 Resources for the Illinois Natural History Survey to
17 perform research to study the biology, distribution,
18 population ecology, and biosystematics of tire-breeding
19 arthropods, especially mosquitoes, and the diseases they
20 spread.

21 (d) By January 1, 1998, and biennially thereafter, each
22 State agency receiving an appropriation from the Used Tire
23 Management Fund shall report to the Governor and the General
24 Assembly on its activities relating to the Fund.

25 (e) Any monies appropriated from the Used Tire Management
26 Fund, but not obligated, shall revert to the Fund.

1 (f) In administering the provisions of subdivisions (1),
2 (2) and (3) of subsection (c) of this Section, the Agency, the
3 Department of Commerce and Economic Opportunity, and the
4 Illinois Department of Public Health shall ensure that
5 appropriate funding assistance is provided to any municipality
6 with a population over 1,000,000 or to any sanitary district
7 which serves a population over 1,000,000.

8 (g) Pursuant to appropriation, monies in excess of \$2
9 million per fiscal year from the Used Tire Management Fund
10 shall be used as follows:

11 (1) 55% shall be available to the Agency for the
12 following purposes, provided that priority shall be given
13 to subparagraph (A):

14 (A) To undertake preventive, corrective or renewed
15 action as authorized by and in accordance with Section
16 55.3 and to recover costs in accordance with Section
17 55.3.

18 (B) To provide financial assistance to units of
19 local government and private industry for the purposes
20 of:

21 (i) assisting in the establishment of
22 facilities and programs to collect, process, and
23 utilize used and waste tires and tire-derived
24 materials;

25 (ii) demonstrating the feasibility of
26 innovative technologies as a means of collecting,

1 storing, processing, and utilizing used and waste
2 tires and tire-derived materials; and

3 (iii) applying demonstrated technologies as a
4 means of collecting, storing, processing, and
5 utilizing used and waste tires and tire-derived
6 materials.

7 (2) For fiscal years beginning prior to July 1, 2004,
8 45% shall be available to the Department of Commerce and
9 Economic Opportunity to provide grants or loans for the
10 purposes of:

11 (i) assisting units of local government and
12 private industry in the establishment of facilities
13 and programs to collect, process and utilize waste
14 tires and tire derived material;

15 (ii) demonstrating the feasibility of innovative
16 technologies as a means of collecting, storing,
17 processing, and utilizing used and waste tires and tire
18 derived materials; and

19 (iii) applying demonstrated technologies as a
20 means of collecting, storing, processing, and
21 utilizing used and waste tires and tire derived
22 materials.

23 (3) For the fiscal year beginning July 1, 2004 and for
24 all fiscal years thereafter, 45% shall be deposited into
25 the General Revenue Fund.

26 (Source: P.A. 98-656, eff. 6-19-14.)

1 (415 ILCS 5/17.6 rep.)

2 Section 15. The Environmental Protection Act is amended by
3 repealing Section 17.6.

4 Section 20. The Environmental Toxicology Act is amended by
5 changing Sections 3 and 5 as follows:

6 (415 ILCS 75/3) (from Ch. 111 1/2, par. 983)

7 Sec. 3. Definitions. As used in this Act, unless the
8 context otherwise requires;

9 (a) "Department" means the Illinois Department of Public
10 Health;

11 (b) "Director" means the Director of the Illinois
12 Department of Public Health;

13 (c) "Program" means the Environmental Toxicology program
14 as established by this Act;

15 (d) "Exposure" means contact with a hazardous substance;

16 (e) "Hazardous Substance" means chemical compounds,
17 elements, or combinations of chemicals which, because of
18 quantity concentration, physical characteristics or
19 toxicological characteristics may pose a substantial present
20 or potential hazard to human health and includes, but is not
21 limited to, any substance defined as a hazardous substance in
22 Section 3.215 of the "Environmental Protection Act", approved
23 June 29, 1970, as amended;

1 (f) "Initial Assessment" means a review and evaluation of
2 site history and hazardous substances involved, potential for
3 population exposure, the nature of any health related
4 complaints and any known patterns in disease occurrence;

5 (g) "Comprehensive Health Study" means a detailed analysis
6 which may include: a review of available environmental,
7 morbidity and mortality data; environmental and biological
8 sampling; detailed review of scientific literature; exposure
9 analysis; population surveys; or any other scientific or
10 epidemiologic methods deemed necessary to adequately evaluate
11 the health status of the population at risk and any potential
12 relationship to environmental factors;

13 (h) "Superfund Site" means any hazardous waste site
14 designated for cleanup on the National Priorities List as
15 mandated by the Comprehensive Environmental Response,
16 Compensation, and Liability Act of 1980 (P.L. 96-510), as
17 amended;

18 (i) ~~(Blank). "State Remedial Action Priority List" means a~~
19 ~~list compiled by the Illinois Environmental Protection Agency~~
20 ~~which identifies sites that appear to present significant risk~~
21 ~~to the public health, welfare or environment.~~

22 (Source: P.A. 92-574, eff. 6-26-02.)

23 (415 ILCS 75/5) (from Ch. 111 1/2, par. 985)

24 Sec. 5. (a) Upon request by the Illinois Environmental
25 Protection Agency, the Department shall conduct an initial

1 assessment for any location designated as a Superfund Site ~~or~~
2 ~~on the State Remedial Action Priority List~~. Such assessment
3 shall be initiated within 60 days of the request.

4 (b) (Blank). ~~For sites designated as Superfund Sites or~~
5 ~~sites on the State Remedial Action Priority List on the~~
6 ~~effective date of this Act, the Department and the Illinois~~
7 ~~Environmental Protection Agency shall jointly determine which~~
8 ~~sites warrant initial assessment. If warranted, initial~~
9 ~~assessment shall be initiated by January 1, 1986.~~

10 (c) If, as a result of the initial assessment, the
11 Department determines that a public health problem related to
12 exposure to hazardous substances may exist in a community
13 located near a designated site, the Department shall conduct a
14 comprehensive health study to assess the full relationship, if
15 any, between such threat or potential threat and possible
16 exposure to hazardous substances at the designated site.

17 (Source: P.A. 84-987.)

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

1 INDEX

2 Statutes amended in order of appearance

3 225 ILCS 320/35.5

4 415 ILCS 5/12.4

5 415 ILCS 5/21 from Ch. 111 1/2, par. 1021

6 415 ILCS 5/22.15 from Ch. 111 1/2, par. 1022.15

7 415 ILCS 5/22.28 from Ch. 111 1/2, par. 1022.28

8 415 ILCS 5/22.29 from Ch. 111 1/2, par. 1022.29

9 415 ILCS 5/55 from Ch. 111 1/2, par. 1055

10 415 ILCS 5/55.6 from Ch. 111 1/2, par. 1055.6

11 415 ILCS 5/17.6 rep.

12 415 ILCS 75/3 from Ch. 111 1/2, par. 983

13 415 ILCS 75/5 from Ch. 111 1/2, par. 985