

1 AMENDMENT TO HOUSE BILL 3551

2 AMENDMENT NO. _____. Amend House Bill 3551 on page 1, in
3 line 5, by changing "Section 9.9" to "Sections 9.9 and 39.5";
4 and

5 on page 5, below line 2, by inserting the following:

6 "(415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)
7 Sec. 39.5. Clean Air Act Permit Program.

8 1. Definitions.

9 For purposes of this Section:

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

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

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

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

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

22 "Affected unit for acid deposition" shall have the

1 meaning given to the term "affected unit" in the regulations
2 promulgated under Title IV of the Clean Air Act.

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

13 (1) Any standard or other requirement provided for
14 in the applicable state implementation plan approved or
15 promulgated by USEPA under Title I of the Clean Air Act
16 that implement the relevant requirements of the Clean Air
17 Act, including any revisions to the state Implementation
18 Plan promulgated in 40 CFR Part 52, Subparts A and O and
19 other subparts applicable to Illinois. For purposes of
20 this subsection (1) of this definition, "any standard or
21 other requirement" shall mean only such standards or
22 requirements directly enforceable against an individual
23 source under the Clean Air Act.

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

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

34 (3) Any standard or other requirement under Section

1 111 of the Clean Air Act, including Section 111(d).

2 (4) Any standard or other requirement under Section
3 112 of the Clean Air Act, including any requirement
4 concerning accident prevention under Section 112(r)(7) of
5 the Clean Air Act.

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

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

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

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

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

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

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

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

32 "Applicable requirement" means all applicable Clean Air
33 Act requirements and any other standard, limitation, or other
34 requirement contained in this Act or regulations promulgated

1 under this Act as applicable to sources of air contaminants
2 (including requirements that have future effective compliance
3 dates).

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

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

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

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

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

16 "Designated representative" shall have the meaning given
17 to it in Section 402(26) of the Clean Air Act and the
18 regulations promulgated thereunder which states that the term
19 'designated representative' shall mean a responsible person
20 or official authorized by the owner or operator of a unit to
21 represent the owner or operator in all matters pertaining to
22 the holding, transfer, or disposition of allowances allocated
23 to a unit, and the submission of and compliance with permits,
24 permit applications, and compliance plans for the unit.

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

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

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

1 "Federally enforceable" means enforceable by USEPA.

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

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

12 "Major source" means a source for which emissions of one
13 or more air pollutants meet the criteria for major status
14 pursuant to paragraph 2(c) of this Section.

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

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

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

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

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

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

32 "Potential to emit" means the maximum capacity of a
33 stationary source to emit any air pollutant under its
34 physical and operational design. Any physical or operational

1 limitation on the capacity of a source to emit an air
2 pollutant, including air pollution control equipment and
3 restrictions on hours of operation or on the type or amount
4 of material combusted, stored, or processed, shall be treated
5 as part of its design if the limitation is enforceable by
6 USEPA. This definition does not alter or affect the use of
7 this term for any other purposes under the Clean Air Act, or
8 the term "capacity factor" as used in Title IV of the Clean
9 Air Act or the regulations promulgated thereunder.

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

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

18 "Regulated air pollutant" means the following:

19 (1) Nitrogen oxides (NOx) or any volatile organic
20 compound.

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

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

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

28 (5) Any pollutant subject to a standard promulgated
29 under Section 112 or other requirements established under
30 Section 112 of the Clean Air Act, including Sections
31 112(g), (j) and (r).

32 (i) Any pollutant subject to requirements
33 under Section 112(j) of the Clean Air Act. Any
34 pollutant listed under Section 112(b) for which the

1 subject source would be major shall be considered to
2 be regulated 18 months after the date on which USEPA
3 was required to promulgate an applicable standard
4 pursuant to Section 112(e) of the Clean Air Act, if
5 USEPA fails to promulgate such standard.

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

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

12 "Responsible official" means one of the following:

13 (1) For a corporation: a president, secretary,
14 treasurer, or vice-president of the corporation in charge
15 of a principal business function, or any other person who
16 performs similar policy or decision-making functions for
17 the corporation, or a duly authorized representative of
18 such person if the representative is responsible for the
19 overall operation of one or more manufacturing,
20 production, or operating facilities applying for or
21 subject to a permit and either (i) the facilities employ
22 more than 250 persons or have gross annual sales or
23 expenditures exceeding \$25 million (in second quarter
24 1980 dollars), or (ii) the delegation of authority to
25 such representative is approved in advance by the Agency.

26 (2) For a partnership or sole proprietorship: a
27 general partner or the proprietor, respectively, or in
28 the case of a partnership in which all of the partners
29 are corporations, a duly authorized representative of the
30 partnership if the representative is responsible for the
31 overall operation of one or more manufacturing,
32 production, or operating facilities applying for or
33 subject to a permit and either (i) the facilities employ
34 more than 250 persons or have gross annual sales or

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

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

12 (4) For affected sources for acid deposition:

13 (i) The designated representative shall be the
14 "responsible official" in so far as actions,
15 standards, requirements, or prohibitions under Title
16 IV of the Clean Air Act or the regulations
17 promulgated thereunder are concerned.

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

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

28 "Solid waste incineration unit" means a distinct
29 operating unit of any facility which combusts any solid waste
30 material from commercial or industrial establishments or the
31 general public (including single and multiple residences,
32 hotels, and motels). The term does not include incinerators
33 or other units required to have a permit under Section 3005
34 of the Solid Waste Disposal Act. The term also does not

1 include (A) materials recovery facilities (including primary
2 or secondary smelters) which combust waste for the primary
3 purpose of recovering metals, (B) qualifying small power
4 production facilities, as defined in Section 3(17)(C) of the
5 Federal Power Act (16 U.S.C. 769(17)(C)), or qualifying
6 cogeneration facilities, as defined in Section 3(18)(B) of
7 the Federal Power Act (16 U.S.C. 796(18)(B)), which burn
8 homogeneous waste (such as units which burn tires or used
9 oil, but not including refuse-derived fuel) for the
10 production of electric energy or in the case of qualifying
11 cogeneration facilities which burn homogeneous waste for the
12 production of electric energy and steam or forms of useful
13 energy (such as heat) which are used for industrial,
14 commercial, heating or cooling purposes, or (C) air curtain
15 incinerators provided that such incinerators only burn wood
16 wastes, yard waste and clean lumber and that such air curtain
17 incinerators comply with opacity limitations to be
18 established by the USEPA by rule.

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

1 determination as to whether any group of stationary sources
2 are located on contiguous or adjacent properties, and/or are
3 under common control, and/or whether the pollutant emitting
4 activities at such group of stationary sources constitute a
5 support facility shall be made on a case by case basis.

6 "Stationary source" means any building, structure,
7 facility, or installation that emits or may emit any
8 regulated air pollutant or any pollutant listed under Section
9 112(b) of the Clean Air Act.

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

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

22 1.1. Exclusion From the CAAPP.

23 a. An owner or operator of a source which
24 determines that the source could be excluded from the
25 CAAPP may seek such exclusion prior to the date that the
26 CAAPP application for the source is due but in no case
27 later than 9 months after the effective date of the CAAPP
28 through the imposition of federally enforceable
29 conditions limiting the "potential to emit" of the source
30 to a level below the major source threshold for that
31 source as described in paragraph 2(c) of this Section,
32 within a State operating permit issued pursuant to
33 Section 39(a) of this Act. After such date, an exclusion
34 from the CAAPP may be sought under paragraph 3(c) of this

1 Section.

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

8 c. Upon such request, if the Agency determines that
9 the owner or operator of a source has met the
10 requirements for exclusion pursuant to paragraph (a) of
11 this subsection and other applicable requirements for
12 permit issuance under Section 39(a) of this Act, the
13 Agency shall issue a State operating permit for such
14 source under Section 39(a) of this Act, as amended, and
15 regulations promulgated thereunder with federally
16 enforceable conditions limiting the "potential to emit"
17 of the source to a level below the major source threshold
18 for that source as described in paragraph 2(c) of this
19 Section.

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

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

26 2. Applicability.

27 a. Sources subject to this Section shall include:

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

30 ii. Any source subject to a standard or other
31 requirements promulgated under Section 111 (New
32 Source Performance Standards) or Section 112
33 (Hazardous Air Pollutants) of the Clean Air Act,
34 except that a source is not required to obtain a

1 permit solely because it is subject to regulations
2 or requirements under Section 112(r) of the Clean
3 Air Act.

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

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

9 b. Sources exempted from this Section shall
10 include:

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

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

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

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

34 v. Any other source categories exempted by

1 USEPA regulations pursuant to Section 502(a) of the
2 Clean Air Act.

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

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

7 A. For pollutants other than
8 radionuclides, any stationary source or group
9 of stationary sources located within a
10 contiguous area and under common control that
11 emits or has the potential to emit, in the
12 aggregate, 10 tons per year (tpy) or more of
13 any hazardous air pollutant which has been
14 listed pursuant to Section 112(b) of the Clean
15 Air Act, 25 tpy or more of any combination of
16 such hazardous air pollutants, or such lesser
17 quantity as USEPA may establish by rule.
18 Notwithstanding the preceding sentence,
19 emissions from any oil or gas exploration or
20 production well (with its associated equipment)
21 and emissions from any pipeline compressor or
22 pump station shall not be aggregated with
23 emissions from other similar units, whether or
24 not such units are in a contiguous area or
25 under common control, to determine whether such
26 stations are major sources.

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

30 ii. A major stationary source of air
31 pollutants, as defined in Section 302 of the Clean
32 Air Act, that directly emits or has the potential to
33 emit, 100 tpy or more of any air pollutant
34 (including any major source of fugitive emissions of

1 any such pollutant, as determined by rule by USEPA).
2 For purposes of this subsection, "fugitive
3 emissions" means those emissions which could not
4 reasonably pass through a stack, chimney, vent, or
5 other functionally-equivalent opening. The fugitive
6 emissions of a stationary source shall not be
7 considered in determining whether it is a major
8 stationary source for the purposes of Section 302(j)
9 of the Clean Air Act, unless the source belongs to
10 one of the following categories of stationary
11 source:

12 A. Coal cleaning plants (with thermal
13 dryers).

14 B. Kraft pulp mills.

15 C. Portland cement plants.

16 D. Primary zinc smelters.

17 E. Iron and steel mills.

18 F. Primary aluminum ore reduction plants.

19 G. Primary copper smelters.

20 H. Municipal incinerators capable of
21 charging more than 250 tons of refuse per day.

22 I. Hydrofluoric, sulfuric, or nitric acid
23 plants.

24 J. Petroleum refineries.

25 K. Lime plants.

26 L. Phosphate rock processing plants.

27 M. Coke oven batteries.

28 N. Sulfur recovery plants.

29 O. Carbon black plants (furnace process).

30 P. Primary lead smelters.

31 Q. Fuel conversion plants.

32 R. Sintering plants.

33 S. Secondary metal production plants.

34 T. Chemical process plants.

1 U. Fossil-fuel boilers (or combination
2 thereof) totaling more than 250 million British
3 thermal units per hour heat input.

4 V. Petroleum storage and transfer units
5 with a total storage capacity exceeding 300,000
6 barrels.

7 W. Taconite ore processing plants.

8 X. Glass fiber processing plants.

9 Y. Charcoal production plants.

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

13 AA. All other stationary source
14 categories, which as of August 7, 1980 are
15 being regulated by a standard promulgated under
16 Section 111 or 112 of the Clean Air Act, ~~but~~
17 ~~only-with-respect-to-these-air-pollutants--that~~
18 ~~have-been-regulated-for-that-category.~~

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

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

23 A. For ozone nonattainment areas, sources
24 with the potential to emit 100 tons or more per
25 year of volatile organic compounds or oxides of
26 nitrogen in areas classified as "marginal" or
27 "moderate", 50 tons or more per year in areas
28 classified as "serious", 25 tons or more per
29 year in areas classified as "severe", and 10
30 tons or more per year in areas classified as
31 "extreme"; except that the references in this
32 clause to 100, 50, 25, and 10 tons per year of
33 nitrogen oxides shall not apply with respect to
34 any source for which USEPA has made a finding,

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

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

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

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

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

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

29 b. The Agency shall issue CAAPP permits for fixed
30 terms of 5 years, except CAAPP permits issued for solid
31 waste incineration units combusting municipal waste which
32 shall be issued for fixed terms of 12 years and except
33 CAAPP permits for affected sources for acid deposition
34 which shall be issued for initial terms to expire on

1 December 31, 1999, and for fixed terms of 5 years
2 thereafter.

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

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

19 4. Transition.

20 a. An owner or operator of a CAAPP source shall not
21 be required to renew an existing State operating permit
22 for any emission unit at such CAAPP source once a CAAPP
23 application timely submitted prior to expiration of the
24 State operating permit has been deemed complete. For
25 purposes other than permit renewal, the obligation upon
26 the owner or operator of a CAAPP source to obtain a State
27 operating permit is not removed upon submittal of the
28 complete CAAPP permit application. An owner or operator
29 of a CAAPP source seeking to make a modification to a
30 source prior to the issuance of its CAAPP permit shall be
31 required to obtain a construction and/or operating permit
32 as required for such modification in accordance with the
33 State permit program under Section 39(a) of this Act, as
34 amended, and regulations promulgated thereunder. The

1 application for such construction and/or operating permit
2 shall be considered an amendment to the CAAPP application
3 submitted for such source.

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

9 c. An owner or operator of a CAAPP source shall
10 submit its initial CAAPP application to the Agency no
11 later than 12 months after the effective date of the
12 CAAPP. The Agency may request submittal of initial CAAPP
13 applications during this 12 month period according to a
14 schedule set forth within Agency procedures, however, in
15 no event shall the Agency require such submittal earlier
16 than 3 months after such effective date of the CAAPP. An
17 owner or operator may voluntarily submit its initial
18 CAAPP application prior to the date required within this
19 paragraph or applicable procedures, if any, subsequent to
20 the date the Agency submits the CAAPP to USEPA for
21 approval.

22 d. The Agency shall act on initial CAAPP
23 applications in accordance with subsection 5(j) of this
24 Section.

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

29 f. The Agency shall provide owners or operators of
30 CAAPP sources with at least three months advance notice
31 of the date on which their applications are required to
32 be submitted. In determining which sources shall be
33 subject to early submittal, the Agency shall include
34 among its considerations the complexity of the permit

1 application, and the burden that such early submittal
2 will have on the source.

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

5 h. 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 5. Applications and Completeness.

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

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

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

25 d. An owner or operator of a CAAPP source shall
26 submit, as part of its complete CAAPP application, a
27 compliance plan, including a schedule of compliance,
28 describing how each emission unit will comply with all
29 applicable requirements. Any such schedule of compliance
30 shall be supplemental to, and shall not sanction
31 noncompliance with, the applicable requirements on which
32 it is based.

33 e. Each submitted CAAPP application shall be
34 certified for truth, accuracy, and completeness by a

1 responsible official in accordance with applicable
2 regulations.

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

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

18 h. If the owner or operator of a CAAPP source
19 submits a timely and complete CAAPP application, the
20 source's failure to have a CAAPP permit shall not be a
21 violation of this Section until the Agency takes final
22 action on the submitted CAAPP application, provided,
23 however, where the applicant fails to submit the
24 requested information under paragraph 5(g) within the
25 time frame specified by the Agency, this protection shall
26 cease to apply.

27 i. Any applicant who fails to submit any relevant
28 facts necessary to evaluate the subject source and its
29 CAAPP application or who has submitted incorrect
30 information in a CAAPP application shall, upon becoming
31 aware of such failure or incorrect submittal, submit
32 supplementary facts or correct information to the Agency.
33 In addition, an applicant shall provide to the Agency
34 additional information as necessary to address any

1 requirements which become applicable to the source
2 subsequent to the date the applicant submitted its
3 complete CAAPP application but prior to release of the
4 draft CAAPP permit.

5 j. The Agency shall issue or deny the CAAPP permit
6 within 18 months after the date of receipt of the
7 complete CAAPP application, with the following
8 exceptions: (i) permits for affected sources for acid
9 deposition shall be issued or denied within 6 months
10 after receipt of a complete application in accordance
11 with subsection 17 of this Section; (ii) the Agency shall
12 act on initial CAAPP applications within 24 months after
13 the date of receipt of the complete CAAPP application;
14 (iii) the Agency shall act on complete applications
15 containing early reduction demonstrations under Section
16 112(i)(5) of the Clean Air Act within 9 months of receipt
17 of the complete CAAPP application.

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

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

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

32 m. Permits being renewed shall be subject to the
33 same procedural requirements, including those for public
34 participation and federal review and objection, that

1 apply to original permit issuance.

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

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

9 p. The owner or operator of a CAAPP source seeking
10 a permit shield pursuant to paragraph 7(j) of this
11 Section shall request such permit shield in the CAAPP
12 application regarding that source.

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

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

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

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

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

1 federally enforceable conditions, pursuant to paragraph
2 3(c) of this Section, must request such exclusion within
3 a CAAPP application submitted consistent with this
4 subsection on or after the date that the CAAPP
5 application for the source is due. Prior to such date,
6 but in no case later than 9 months after the effective
7 date of the CAAPP, such owner or operator may request the
8 imposition of federally enforceable conditions pursuant
9 to paragraph 1.1(b) 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
14 submit 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
19 to Board regulations, may be submitted as a list within
20 the CAAPP application. The Agency shall propose
21 regulations to the Board defining insignificant
22 activities or emission levels, consistent with federal
23 regulations, if any, no later than 18 months after the
24 effective date of this amendatory Act of 1992, consistent
25 with Section 112(n)(1) of the Clean Air Act. The Board
26 shall adopt final regulations defining insignificant
27 activities or emission levels no later than 9 months
28 after the date of the Agency's proposal.

29 x. The owner or operator of a new CAAPP source
30 shall submit its complete CAAPP application consistent
31 with this subsection within 12 months after commencing
32 operation of such source. The owner or operator of an
33 existing source that has been excluded from the
34 provisions of this Section under subsection 1.1 or

1 subsection 3(c) of this Section and that becomes subject
2 to the CAAPP solely due to a change in operation at the
3 source shall submit its complete CAAPP application
4 consistent with this subsection at least 180 days before
5 commencing operation in accordance with the change in
6 operation.

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

11 6. Prohibitions.

12 a. It shall be unlawful for any person to violate
13 any terms or conditions of a permit issued under this
14 Section, to operate any CAAPP source except in compliance
15 with a permit issued by the Agency under this Section or
16 to violate any other applicable requirements. All terms
17 and conditions of a permit issued under this Section are
18 enforceable by USEPA and citizens under the Clean Air
19 Act, except those, if any, that are specifically
20 designated as not being federally enforceable in the
21 permit pursuant to paragraph 7(m) of this Section.

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

28 c. No owner or operator of a CAAPP source shall
29 cause or threaten or allow the continued operation of an
30 emission source during malfunction or breakdown of the
31 emission source or related air pollution control
32 equipment if such operation would cause a violation of
33 the standards or limitations applicable to the source,
34 unless the CAAPP permit granted to the source provides

1 for such operation consistent with this Act and
2 applicable Board regulations.

3 7. Permit Content.

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

12 b. The Agency shall include among such conditions
13 applicable monitoring, reporting, record keeping and
14 compliance certification requirements, as authorized by
15 paragraphs d, e, and f of this subsection, that the
16 Agency deems necessary to assure compliance with the
17 Clean Air Act, the regulations promulgated thereunder,
18 this Act, and applicable Board regulations. When
19 monitoring, reporting, record keeping, and compliance
20 certification requirements are specified within the Clean
21 Air Act, regulations promulgated thereunder, this Act, or
22 applicable regulations, such requirements shall be
23 included within the CAAPP permit. The Board shall have
24 authority to promulgate additional regulations where
25 necessary to accomplish the purposes of the Clean Air
26 Act, this Act, and regulations promulgated thereunder.

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

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

34 i. Incorporate and identify all applicable

1 emissions monitoring and analysis procedures or test
2 methods required under the Clean Air Act,
3 regulations promulgated thereunder, this Act, and
4 applicable Board regulations, including any
5 procedures and methods promulgated by USEPA pursuant
6 to Section 504(b) or Section 114 (a)(3) of the Clean
7 Air Act.

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

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

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

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

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

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

32 C. The company or entity that performed
33 the analyses.

34 D. The analytical techniques or methods

1 used.

2 E. The results of such analyses.

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

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

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

17 i. Submittal of reports of any required
18 monitoring every 6 months. More frequent submittals
19 may be requested by the Agency if such submittals
20 are necessary to assure compliance with this Act or
21 regulations promulgated by the Board thereunder.
22 All instances of deviations from permit requirements
23 must be clearly identified in such reports. All
24 required reports must be certified by a responsible
25 official consistent with subsection 5 of this
26 Section.

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

32 g. Each CAAPP permit issued under subsection 10 of
33 this Section shall include a condition prohibiting
34 emissions exceeding any allowances that the source

1 lawfully holds under Title IV of the Clean Air Act or the
2 regulations promulgated thereunder, consistent with
3 subsection 17 of this Section and applicable regulations,
4 if any.

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

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

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

18 i. The Agency shall include in a CAAPP permit,
19 when requested by an applicant pursuant to paragraph
20 5(p) of this Section, a provision stating that
21 compliance with the conditions of the permit shall
22 be deemed compliance with applicable requirements
23 which are applicable as of the date of release of
24 the proposed permit, provided that:

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

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

33 ii. The permit shall identify the requirements
34 for which the source is shielded. The shield shall

1 not extend to applicable requirements which are
2 promulgated after the date of release of the
3 proposed permit unless the permit has been modified
4 to reflect such new requirements.

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

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

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

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

17 C. The applicable requirements of the
18 acid rain program consistent with Section
19 408(a) of the Clean Air Act.

20 D. The ability of USEPA to obtain
21 information from a source pursuant to Section
22 114 (inspections, monitoring, and entry) of the
23 Clean Air Act.

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

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

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

1 iii. The permittee submitted notice of the
2 emergency to the Agency within 2 working days of the
3 time when emission limitations were exceeded due to
4 the emergency. This notice must contain a detailed
5 description of the emergency, any steps taken to
6 mitigate emissions, and corrective actions taken.

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

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

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

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

33 i. Terms and conditions for reasonably
34 anticipated operating scenarios identified by the

1 source in its application. The permit terms and
2 conditions for each such operating scenario shall
3 meet all applicable requirements and the
4 requirements of this Section.

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

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

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

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

24 B. Must meet all applicable requirements;

25 C. Shall extend the permit shield
26 described in paragraph 7(j) of this Section to
27 all terms and conditions that allow such
28 increases and decreases in emissions.

29 m. The Agency shall specifically designate as not
30 being federally enforceable under the Clean Air Act any
31 terms and conditions included in the permit that are not
32 specifically required under the Clean Air Act or federal
33 regulations promulgated thereunder. Terms or conditions
34 so designated shall be subject to all applicable state

1 requirements, except the requirements of subsection 7
2 (other than this paragraph, paragraph q of subsection 7,
3 subsections 8 through 11, and subsections 13 through 16
4 of this Section. The Agency shall, however, include such
5 terms and conditions in the CAAPP permit issued to the
6 source.

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

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

15 i. Duty to comply. The permittee must comply
16 with all terms and conditions of the CAAPP permit.
17 Any permit noncompliance constitutes a violation of
18 the Clean Air Act and the Act, and is grounds for
19 any or all of the following: enforcement action;
20 permit termination, revocation and reissuance, or
21 modification; or denial of a permit renewal
22 application.

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

29 iii. Permit actions. The permit may be
30 modified, revoked, reopened, and reissued, or
31 terminated for cause in accordance with the
32 applicable subsections of Section 39.5 of this Act.
33 The filing of a request by the permittee for a
34 permit modification, revocation and reissuance, or

1 termination, or of a notification of planned changes
2 or anticipated noncompliance does not stay any
3 permit condition.

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

7 v. Duty to provide information. The permittee
8 shall furnish to the Agency within a reasonable time
9 specified by the Agency any information that the
10 Agency may request in writing to determine whether
11 cause exists for modifying, revoking and reissuing,
12 or terminating the permit or to determine compliance
13 with the permit. Upon request, the permittee shall
14 also furnish to the Agency copies of records
15 required to be kept by the permit or, for
16 information claimed to be confidential, the
17 permittee may furnish such records directly to USEPA
18 along with a claim of confidentiality.

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

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

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

33 i. Compliance certification, testing,
34 monitoring, reporting, and record keeping

1 requirements sufficient to assure compliance with
2 the terms and conditions of the permit. Any
3 document (including reports) required by a CAAPP
4 permit shall contain a certification by a
5 responsible official that meets the requirements of
6 subsection 5 of this Section and applicable
7 regulations.

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

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

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

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

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

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

33 2. As otherwise authorized by this
34 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
5 applicable schedule of compliance pursuant to
6 paragraph 5(d) 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
10 with 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
15 by the schedule of compliance and dates when
16 such 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
20 met, and any preventive or corrective measures
21 adopted.

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

27 A. The frequency (annually or more
28 frequently as specified in any applicable
29 requirement or by the Agency pursuant to
30 written procedures) of submissions of
31 compliance certifications.

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

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

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

6 2. The compliance status.

7 3. Whether compliance was continuous
8 or intermittent.

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

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

17 E. Additional requirements as may be
18 specified pursuant to Sections 114(a)(3) and
19 504(b) of the Clean Air Act.

20 F. Other provisions as the Agency may
21 require.

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

33 8. Public Notice; Affected State Review.

34 a. The Agency shall provide notice to the public,

1 including an opportunity for public comment and a
2 hearing, on each draft CAAPP permit for issuance, renewal
3 or significant modification, subject to Sections 7(a) and
4 7.1 of this Act.

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

11 c. The Agency shall give notice of each draft CAAPP
12 permit to the applicant and to any affected State on or
13 before the time that the Agency has provided notice to
14 the public, except as otherwise provided in this Act.

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

28 e. The Agency shall make available to the public
29 any CAAPP permit application, compliance plan (including
30 the schedule of compliance), CAAPP permit, and emissions
31 or compliance monitoring report. If an owner or operator
32 of a CAAPP source is required to submit information
33 entitled to protection from disclosure under Section 7(a)
34 or Section 7.1 of this Act, the owner or operator shall

1 submit such information separately. The requirements of
2 Section 7(a) or Section 7.1 of this Act shall apply to
3 such information, which shall not be included in a CAAPP
4 permit unless required by law. The contents of a CAAPP
5 permit shall not be entitled to protection under Section
6 7(a) or Section 7.1 of this Act.

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

11 9. USEPA Notice and Objection.

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

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

29 c. If USEPA objects in writing to the issuance of
30 the proposed CAAPP permit within the 45-day period, the
31 Agency shall respond in writing and may revise and
32 resubmit the proposed CAAPP permit in response to the
33 stated objection, to the extent supported by the record,
34 within 90 days after the date of the objection. Prior to

1 submitting a revised permit to USEPA, the Agency shall
2 provide the applicant and any person who participated in
3 the public comment process, pursuant to subsection 8 of
4 this Section, with a 10-day period to comment on any
5 revision which the Agency is proposing to make to the
6 permit in response to USEPA's objection in accordance
7 with Agency procedures.

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

19 e. If USEPA does not object in writing to issuance
20 of a permit under this subsection, any person may
21 petition USEPA within 60 days after expiration of the
22 45-day review period to make such objection.

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

32 g. If the Agency has issued a permit after
33 expiration of the 45-day review period and prior to
34 receipt of a USEPA objection under this subsection in

1 response to a petition submitted pursuant to paragraph e
2 of this subsection, the Agency may, upon receipt of an
3 objection from USEPA, revise and resubmit the permit to
4 USEPA pursuant to this subsection after providing a
5 10-day comment period in accordance with paragraph c of
6 this subsection. If the Agency fails to submit a revised
7 permit in response to the objection, USEPA shall modify,
8 terminate or revoke the permit. In any case, the source
9 will not be in violation of the requirement to have
10 submitted a timely and complete application.

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

15 10. Final Agency Action.

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

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

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

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

32 iv. The Agency has received a complete CAAPP
33 application and, if necessary, has requested and
34 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
5 State review consistent with subsection 8 of this
6 Section and applicable regulations.

7 vi. The Agency has provided a copy of each
8 CAAPP application, or summary thereof, pursuant to
9 agreement with USEPA and proposed CAAPP permit
10 required under subsection 9 of this Section to
11 USEPA, and USEPA has not objected to the issuance of
12 the permit in accordance with the Clean Air Act and
13 40 CFR Part 70.

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

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

23 ii. Within such notice, the Agency shall
24 specify an appropriate date by which the applicant
25 shall adequately respond to the Agency's notice.
26 Such date shall not exceed 15 days from the date the
27 notification is received by the applicant. The
28 Agency may grant a reasonable extension for good
29 cause shown.

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

34 For purposes of obtaining judicial review under

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

9 d. 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 11. General Permits.

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

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

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

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

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

1 permit action for purposes of judicial review.

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

5 g. 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 12. Operational Flexibility.

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

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

33 A. For each such change, the written
34 notification required above shall include a

1 brief description of the change within the
2 source, the date on which the change will
3 occur, any change in emissions, and any permit
4 term or condition that is no longer applicable
5 as a result of the change.

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

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

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

33 B. The permit shield described in
34 paragraph 7(j) of this Section shall not apply

1 to any change made pursuant to this
2 subparagraph (a) (ii). Compliance with the
3 permit requirements that the source will meet
4 using the emissions trade shall be determined
5 according to the requirements of the applicable
6 implementation plan authorizing the emissions
7 trade.

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

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

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

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

1 changes that are not addressed or prohibited by the
2 permit, other than those which are subject to any
3 requirements under Title IV of the Clean Air Act or are
4 modifications under any provisions of Title I of the
5 Clean Air Act, without a permit revision, in accordance
6 with the following requirements:

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

10 (ii) Sources must provide contemporaneous
11 written notice to the Agency and USEPA of each such
12 change, except for changes that qualify as
13 insignificant under provisions adopted by the Agency
14 or the Board. Such written notice shall describe
15 each such change, including the date, any change in
16 emissions, pollutants emitted, and any applicable
17 requirement that would apply as a result of the
18 change;

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

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

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

32 13. Administrative Permit Amendments.

33 a. The Agency shall take final action on a request
34 for an administrative permit amendment within 60 days of

1 receipt of the request. Neither notice nor an
2 opportunity for public and affected State comment shall
3 be required for the Agency to incorporate such revisions,
4 provided it designates the permit revisions as having
5 been made pursuant to this subsection.

6 b. The Agency shall submit a copy of the revised
7 permit to USEPA.

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

12 i. Corrects typographical errors;

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

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

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

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

33 vi. (Blank); or

34 vii. Any other type of change which USEPA has

1 determined as part of the approved CAAPP permit
2 program to be similar to those included in this
3 subsection.

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

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

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

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

28 14. Permit Modifications.

29 a. Minor permit modification procedures.

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

33 A. Do not violate any applicable
34 requirement;

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

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

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

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

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

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

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

27 ii. Notwithstanding subparagraphs (a)(i) and
28 (b)(ii) of this subsection, minor permit
29 modification procedures may be used for permit
30 modifications involving the use of economic
31 incentives, marketable permits, emissions trading,
32 and other similar approaches, to the extent that
33 such minor permit modification procedures are
34 explicitly provided for in an applicable

1 implementation plan or in applicable requirements
2 promulgated by USEPA.

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

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

11 B. The source's suggested draft permit;

12 C. Certification by a responsible
13 official, consistent with paragraph 5(e) of
14 this Section and applicable regulations, that
15 the proposed modification meets the criteria
16 for use of minor permit modification procedures
17 and a request that such procedures be used; and

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

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

28 v. The Agency may not issue a final permit
29 modification until after the 45-day review period
30 for USEPA or until USEPA has notified the Agency
31 that USEPA will not object to the issuance of the
32 permit modification, whichever comes first, although
33 the Agency can approve the permit modification prior
34 to that time. Within 90 days of the Agency's

1 receipt of an application under the minor permit
2 modification procedures or 15 days after the end of
3 USEPA's 45-day review period under subsection 9 of
4 this Section, whichever is later, the Agency shall:

5 A. Issue the permit modification as
6 proposed;

7 B. Deny the permit modification
8 application;

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

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

18 vi. Any CAAPP source may make the change
19 proposed in its minor permit modification
20 application immediately after it files such
21 application. After the CAAPP source makes the
22 change allowed by the preceding sentence, and until
23 the Agency takes any of the actions specified in
24 subparagraphs (a)(v)(A) through (a)(v)(C) of this
25 subsection, the source must comply with both the
26 applicable requirements governing the change and the
27 proposed permit terms and conditions. During this
28 time period, the source need not comply with the
29 existing permit terms and conditions it seeks to
30 modify. If the source fails to comply with its
31 proposed permit terms and conditions during this
32 time period, the existing permit terms and
33 conditions which it seeks to modify may be enforced
34 against it.

1 vii. The permit shield under subparagraph 7(j)
2 of this Section may not extend to minor permit
3 modifications.

4 viii. If a construction permit is required,
5 pursuant to Section 39(a) of this Act and
6 regulations thereunder, for a change for which the
7 minor permit modification procedures are applicable,
8 the source may request that the processing of the
9 construction permit application be consolidated with
10 the processing of the application for the minor
11 permit modification. In such cases, the provisions
12 of this Section, including those within subsections
13 5, 8, and 9, shall apply and the Agency shall act on
14 such applications pursuant to subparagraph 14(a)(v).
15 The source may make the proposed change immediately
16 after filing its application for the minor permit
17 modification. Nothing in this subparagraph shall
18 otherwise affect the requirements and procedures
19 applicable to construction permits.

20 b. Group Processing of Minor Permit Modifications.

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

27 ii. Permit modifications may be processed in
28 accordance with the procedures for group processing,
29 for those modifications:

30 A. Which meet the criteria for minor
31 permit modification procedures under
32 subparagraph 14(a)(i) of this Section; and

33 B. That collectively are below 10 percent
34 of the emissions allowed by the permit for the

1 emissions unit for which change is requested,
2 20 percent of the applicable definition of
3 major source set forth in subsection 2 of this
4 Section, or 5 tons per year, whichever is
5 least.

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

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

14 B. The source's suggested draft permit.

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

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

28 E. Certification, consistent with
29 paragraph 5(e), that the source has notified
30 USEPA of the proposed modification. Such
31 notification need only contain a brief
32 description of the requested modification.

33 F. Completed forms for the Agency to use
34 to notify USEPA and affected states as required

1 under subsections 8 and 9 of this Section.

2 iv. On a quarterly basis or within 5 business
3 days of receipt of an application demonstrating that
4 the aggregate of a source's pending applications
5 equals or exceeds the threshold level set forth
6 within subparagraph (b)(ii)(B) of this subsection,
7 whichever is earlier, the Agency shall promptly
8 notify USEPA and affected States of the requested
9 permit modifications in accordance with subsections
10 8 and 9 of this Section. The Agency shall send any
11 notice required under paragraph 8(d) of this Section
12 to USEPA.

13 v. The provisions of subparagraph (a)(v) of
14 this subsection shall apply to modifications
15 eligible for group processing, except that the
16 Agency shall take one of the actions specified in
17 subparagraphs (a)(v)(A) through (a)(v)(D) of this
18 subsection within 180 days of receipt of the
19 application or 15 days after the end of USEPA's
20 45-day review period under subsection 9 of this
21 Section, whichever is later.

22 vi. The provisions of subparagraph (a)(vi) of
23 this subsection shall apply to modifications for
24 group processing.

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

28 c. Significant Permit Modifications.

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

34 ii. Every significant change in existing

1 monitoring permit terms or conditions and every
2 relaxation of reporting or recordkeeping
3 requirements shall be considered significant. A
4 modification shall also be considered significant if
5 in the judgment of the Agency action on an
6 application for modification would require decisions
7 to be made on technically complex issues. Nothing
8 herein shall be construed to preclude the permittee
9 from making changes consistent with this Section
10 that would render existing permit compliance terms
11 and conditions irrelevant.

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

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

25 15. Reopenings for Cause by the Agency.

26 a. Each issued CAAPP permit shall include
27 provisions specifying the conditions under which the
28 permit will be reopened prior to the expiration of the
29 permit. Such revisions shall be made as expeditiously as
30 practicable. A CAAPP permit shall be reopened and
31 revised under any of the following circumstances, in
32 accordance with procedures adopted by the Agency:

33 i. Additional requirements under the Clean Air
34 Act become applicable to a major CAAPP source for

1 which 3 or more years remain on the original term of
2 the permit. Such a reopening shall be completed not
3 later than 18 months after the promulgation of the
4 applicable requirement. No such revision is
5 required if the effective date of the requirement is
6 later than the date on which the permit is due to
7 expire.

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

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

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

22 b. In the event that the Agency determines that
23 there are grounds for revoking a CAAPP permit, for cause,
24 consistent with paragraph a of this subsection, it shall
25 file a petition before the Board setting forth the basis
26 for such revocation. In any such proceeding, the Agency
27 shall have the burden of establishing that the permit
28 should be revoked under the standards set forth in this
29 Act and the Clean Air Act. Any such proceeding shall be
30 conducted pursuant to the Board's procedures for
31 adjudicatory hearings and the Board shall render its
32 decision within 120 days of the filing of the petition.
33 The Agency shall take final action to revoke and reissue
34 a CAAPP permit consistent with the Board's order.

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

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

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

15 16. Reopenings for Cause by USEPA.

16 a. When USEPA finds that cause exists to terminate,
17 modify, or revoke and reissue a CAAPP permit pursuant to
18 subsection 15 of this Section, and thereafter notifies
19 the Agency and the permittee of such finding in writing,
20 the Agency shall forward to USEPA and the permittee a
21 proposed determination of termination, modification, or
22 revocation and reissuance as appropriate, in accordance
23 with paragraph b of this subsection. The Agency's
24 proposed determination shall be in accordance with the
25 record, the Clean Air Act, regulations promulgated
26 thereunder, this Act and regulations promulgated
27 thereunder. Such proposed determination shall not affect
28 the permit or constitute a final permit action for
29 purposes of this Act or the Administrative Review Law.
30 The Agency shall forward to USEPA such proposed
31 determination within 90 days after receipt of the
32 notification from USEPA. If additional time is necessary
33 to submit the proposed determination, the Agency shall
34 request a 90-day extension from USEPA and shall submit

1 the proposed determination within 180 days of receipt of
2 notification from USEPA.

3 b. i. Prior to the Agency's submittal to USEPA
4 of a proposed determination to terminate or revoke
5 and reissue the permit, the Agency shall file a
6 petition before the Board setting forth USEPA's
7 objection, the permit record, the Agency's proposed
8 determination, and the justification for its
9 proposed determination. The Board shall conduct a
10 hearing pursuant to the rules prescribed by Section
11 32 of this Act, and the burden of proof shall be on
12 the Agency.

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

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

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

1 i. When USEPA reviews the proposed
2 determination to terminate or revoke and reissue and
3 does not object, the Board shall, within 7 days of
4 receipt of USEPA's final approval, enter the interim
5 order as a final order. The final order may be
6 appealed as provided by Title XI of this Act. The
7 Agency shall take final action in accordance with
8 the Board's final order.

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

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

29 d. If the Agency fails to submit the proposed
30 determination pursuant to paragraph a of this subsection
31 or fails to resolve any USEPA objection pursuant to
32 paragraph c of this subsection, USEPA will terminate,
33 modify, or revoke and reissue the permit.

34 e. The Agency shall have the authority to adopt

1 procedural rules, in accordance with the Illinois
2 Administrative Procedure Act, as the Agency deems
3 necessary, to implement this subsection.

4 17. Title IV; Acid Rain Provisions.

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

21 b. A designated representative of an affected
22 source for acid deposition shall submit a timely and
23 complete Phase II acid rain permit application and
24 compliance plan to the Agency, not later than January 1,
25 1996, that meets the requirements of Titles IV and V of
26 the Clean Air Act and regulations. The Agency shall act
27 on the Phase II acid rain permit application and
28 compliance plan in accordance with this Section and Title
29 V of the Clean Air Act and regulations promulgated
30 thereunder, except as modified by Title IV of the Clean
31 Air Act and regulations promulgated thereunder. The
32 Agency shall issue the Phase II acid rain permit to an
33 affected source for acid deposition no later than
34 December 31, 1997, which shall become effective on

1 January 1, 2000, in accordance with this Section, except
2 as modified by Title IV and regulations promulgated
3 thereunder; provided that the designated representative
4 of the source submitted a timely and complete Phase II
5 permit application and compliance plan to the Agency that
6 meets the requirements of Title IV and V of the Clean Air
7 Act and regulations.

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

14 d. A designated representative of a new unit, as
15 defined in Section 402 of the Clean Air Act, shall submit
16 a timely and complete Phase II acid rain permit
17 application and compliance plan that meets the
18 requirements of Titles IV and V of the Clean Air Act and
19 its regulations. The Agency shall act on the new unit's
20 Phase II acid rain permit application and compliance plan
21 in accordance with this Section and Title V of the Clean
22 Air Act and its regulations, except as modified by Title
23 IV of the Clean Air Act and its regulations. The Agency
24 shall reopen the new unit's CAAPP permit for cause to
25 incorporate the approved Phase II acid rain permit in
26 accordance with this Section. The Phase II acid rain
27 permit for the new unit shall become effective no later
28 than the date required under Title IV of the Clean Air
29 Act and its regulations.

30 e. A designated representative of an affected
31 source for acid deposition shall submit a timely and
32 complete Title IV NOx permit application to the Agency,
33 not later than January 1, 1998, that meets the
34 requirements of Titles IV and V of the Clean Air Act and

1 its regulations. The Agency shall reopen the Phase II
2 acid rain permit for cause and incorporate the approved
3 NOx provisions into the Phase II acid rain permit not
4 later than January 1, 1999, in accordance with this
5 Section, except as modified by Title IV of the Clean Air
6 Act and regulations promulgated thereunder. Such
7 reopening shall not affect the term of the Phase II acid
8 rain permit.

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

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

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

34 i. Nothing in this Section shall be construed as

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

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

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

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

18 j. To the extent that the federal regulations
19 promulgated under Title IV, including but not limited to
20 40 C.F.R. Part 72, as now or hereafter amended, are
21 inconsistent with the federal regulations promulgated
22 under Title V, the federal regulations promulgated under
23 Title IV shall take precedence.

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

27 l. It is unlawful for any owner or operator to
28 violate any terms or conditions of a Phase II acid rain
29 permit issued under this subsection, to operate any
30 affected source for acid deposition except in compliance
31 with a Phase II acid rain permit issued by the Agency
32 under this subsection, or to violate any other applicable
33 requirements.

34 m. The designated representative of an affected

1 source for acid deposition shall submit to the Agency the
2 data and information submitted quarterly to USEPA,
3 pursuant to 40 CFR 75.64, concurrently with the
4 submission to USEPA. The submission shall be in the same
5 electronic format as specified by USEPA.

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

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

15 18. Fee Provisions.

16 a. For each 12 month period after the date on which
17 the USEPA approves or conditionally approves the CAAPP,
18 but in no event prior to January 1, 1994, a source
19 subject to this Section or excluded under subsection 1.1
20 or paragraph 3(c) of this Section, shall pay a fee as
21 provided in this part (a) of this subsection 18.
22 However, a source that has been excluded from the
23 provisions of this Section under subsection 1.1 or
24 paragraph 3(c) of this Section because the source emits
25 less than 25 tons per year of any combination of
26 regulated air pollutants shall pay fees in accordance
27 with paragraph (1) of subsection (b) of Section 9.6.

28 i. The fee for a source allowed to emit less
29 than 100 tons per year of any combination of
30 regulated air pollutants shall be \$1,000 per year.

31 ii. The fee for a source allowed to emit 100
32 tons or more per year of any combination of
33 regulated air pollutants, except for those regulated
34 air pollutants excluded in paragraph 18(f) of this

1 subsection, shall be as follows:

2 A. The Agency shall assess an annual fee
3 of \$13.50 per ton for the allowable emissions
4 of all regulated air pollutants at that source
5 during the term of the permit. These fees
6 shall be used by the Agency and the Board to
7 fund the activities required by Title V of the
8 Clean Air Act including such activities as may
9 be carried out by other State or local agencies
10 pursuant to paragraph (d) of this subsection.
11 The amount of such fee shall be based on the
12 information supplied by the applicant in its
13 complete CAAPP permit application or in the
14 CAAPP permit if the permit has been granted and
15 shall be determined by the amount of emissions
16 that the source is allowed to emit annually,
17 provided however, that no source shall be
18 required to pay an annual fee in excess of
19 \$100,000. The Agency shall provide as part of
20 the permit application form required under
21 subsection 5 of this Section a separate fee
22 calculation form which will allow the applicant
23 to identify the allowable emissions and
24 calculate the fee for the term of the permit.
25 In no event shall the Agency raise the amount
26 of allowable emissions requested by the
27 applicant unless such increases are required to
28 demonstrate compliance with terms of a CAAPP
29 permit.

30 Notwithstanding the above, any applicant
31 may seek a change in its permit which would
32 result in increases in allowable emissions due
33 to an increase in the hours of operation or
34 production rates of an emission unit or units

1 and such a change shall be consistent with the
2 construction permit requirements of the
3 existing State permit program, under Section
4 39(a) of this Act and applicable provisions of
5 this Section. Where a construction permit is
6 required, the Agency shall expeditiously grant
7 such construction permit and shall, if
8 necessary, modify the CAAPP permit based on the
9 same application.

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

23 b. (Blank).

24 c. There shall be created a CAA Fee Panel of 5
25 persons. The Panel shall:

26 i. If it deems necessary on an annual basis,
27 render advisory opinions to the Agency and the
28 General Assembly regarding the appropriate level of
29 Title V Clean Air Act fees for the next fiscal year.
30 Such advisory opinions shall be based on a study of
31 the operations of the Agency and any other entity
32 requesting appropriations from the CAA Permit Fund.
33 This study shall recommend changes in the fee
34 structure, if warranted. The study will be based on

1 the ability of the Agency or other entity to
2 effectively utilize the funds generated as well as
3 the entity's conformance with the objectives and
4 measurable benchmarks identified by the Agency as
5 justification for the prior year's fee. Such
6 advisory opinions shall be submitted to the
7 appropriation committees no later than April 15th of
8 each year.

9 ii. Not be compensated for their services, but
10 shall receive reimbursement for their expenses.

11 iii. Be appointed as follows: 4 members by
12 the Director of the Agency from a list of no more
13 than 8 persons, submitted by representatives of
14 associations who represent facilities subject to the
15 provisions of this subsection and the Director of
16 the Agency or designee.

17 d. There is hereby created in the State Treasury a
18 special fund to be known as the "CAA Permit Fund". All
19 Funds collected by the Agency pursuant to this subsection
20 shall be deposited into the Fund. The General Assembly
21 shall appropriate monies from this Fund to the Agency and
22 to the Board to carry out their obligations under this
23 Section. The General Assembly may also authorize monies
24 to be granted by the Agency from this Fund to other State
25 and local agencies which perform duties related to the
26 CAAPP. Interest generated on the monies deposited in this
27 Fund shall be returned to the Fund. The General Assembly
28 may appropriate up to the sum of \$25,000 to the Agency
29 from the CAA Permit Fund for use by the Panel in carrying
30 out its responsibilities under this subsection.

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

1 f. For purposes of this subsection, the term
2 "regulated air pollutant" shall have the meaning given to
3 it under subsection 1 of this Section but shall exclude
4 the following:

5 i. carbon monoxide;

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

9 iii. any pollutant that is a regulated air
10 pollutant solely because it is subject to a standard
11 or regulation under Section 112(r) of the Clean Air
12 Act based on the emissions allowed in the permit
13 effective in that calendar year, at the time the
14 applicable bill is generated.

15 19. Air Toxics Provisions.

16 a. In the event that the USEPA fails to promulgate
17 in a timely manner a standard pursuant to Section 112(d)
18 of the Clean Air Act, the Agency shall have the authority
19 to issue permits, pursuant to Section 112(j) of the Clean
20 Air Act and regulations promulgated thereunder, which
21 contain emission limitations which are equivalent to the
22 emission limitations that would apply to a source if an
23 emission standard had been promulgated in a timely manner
24 by USEPA pursuant to Section 112(d). Provided, however,
25 that the owner or operator of a source shall have the
26 opportunity to submit to the Agency a proposed emission
27 limitation which it determines to be equivalent to the
28 emission limitations that would apply to such source if
29 an emission standard had been promulgated in a timely
30 manner by USEPA. If the Agency refuses to include the
31 emission limitation proposed by the owner or operator in
32 a CAAPP permit, the owner or operator may petition the
33 Board to establish whether the emission limitation
34 proposal submitted by the owner or operator provides for

1 emission limitations which are equivalent to the emission
2 limitations that would apply to the source if the
3 emission standard had been promulgated by USEPA in a
4 timely manner. The Board shall determine whether the
5 emission limitation proposed by the owner or operator or
6 an alternative emission limitation proposed by the Agency
7 provides for the level of control required under Section
8 112 of the Clean Air Act, or shall otherwise establish an
9 appropriate emission limitation, pursuant to Section 112
10 of the Clean Air Act.

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

30 c. The Agency shall have the authority to implement
31 and enforce complete or partial emission standards
32 promulgated by USEPA pursuant to Section 112(d), and
33 standards promulgated by USEPA pursuant to Sections
34 112(f), 112(h), 112(m), and 112(n), and may accept

1 delegation of authority from USEPA to implement and
2 enforce Section 112(l) and requirements for the
3 prevention and detection of accidental releases pursuant
4 to Section 112(r) of the Clean Air Act.

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

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

22 20. Small Business.

23 a. For purposes of this subsection:

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

30 "Small Business Assistance Program" is a component
31 of the Program responsible for providing sufficient
32 communications with small businesses through the
33 collection and dissemination of information to small
34 business stationary sources; and

1 "Small Business Stationary Source" means a
2 stationary source that:

3 1. is owned or operated by a person that
4 employs 100 or fewer individuals;

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

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

9 4. does not emit 50 tons or more per year of
10 any regulated air pollutant; and

11 5. emits less than 75 tons per year of all
12 regulated pollutants.

13 b. The Agency shall adopt and submit to USEPA,
14 after reasonable notice and opportunity for public
15 comment, as a revision to the Illinois state
16 implementation plan, plans for establishing the Program.

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

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

23 e. There shall be appointed a Small Business
24 Ombudsman (hereinafter in this subsection referred to as
25 "Ombudsman") to monitor the Small Business Assistance
26 Program. The Ombudsman shall be a nonpartisan designated
27 official, with the ability to independently assess
28 whether the goals of the Program are being met.

29 f. The State Ombudsman Office shall be located in
30 an existing Ombudsman office within the State or in any
31 State Department.

32 g. There is hereby created a State Compliance
33 Advisory Panel (hereinafter in this subsection referred
34 to as "Panel") for determining the overall effectiveness

1 of the Small Business Assistance Program within this
2 State.

3 h. The selection of Panel members shall be by the
4 following method:

5 1. The Governor shall select two members who
6 are not owners or representatives of owners of small
7 business stationary sources to represent the general
8 public;

9 2. The Director of the Agency shall select one
10 member to represent the Agency; and

11 3. The State Legislature shall select four
12 members who are owners or representatives of owners
13 of small business stationary sources. Both the
14 majority and minority leadership in both Houses of
15 the Legislature shall appoint one member of the
16 panel.

17 i. Panel members should serve without compensation
18 but will receive full reimbursement for expenses
19 including travel and per diem as authorized within this
20 State.

21 j. The Panel shall select its own Chair by a
22 majority vote. The Chair may meet and consult with the
23 Ombudsman and the head of the Small Business Assistance
24 Program in planning the activities for the Panel.

25 21. Temporary Sources.

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

31 b. The applicant must demonstrate that the
32 operation is temporary and will involve at least one
33 change of location during the term of the permit.

34 c. Any such permit shall meet all applicable

1 requirements of this Section and applicable regulations,
2 and include conditions assuring compliance with all
3 applicable requirements at all authorized locations and
4 requirements that the owner or operator notify the Agency
5 at least 10 days in advance of each change in location.

6 22. Solid Waste Incineration Units.

7 a. A CAAPP permit for a solid waste incineration
8 unit combusting municipal waste subject to standards
9 promulgated under Section 129(e) of the Clean Air Act
10 shall be issued for a period of 12 years and shall be
11 reviewed every 5 years, unless the Agency requires more
12 frequent review through Agency procedures.

13 b. During the review in paragraph (a) of this
14 subsection, the Agency shall fully review the previously
15 submitted CAAPP permit application and corresponding
16 reports subsequently submitted to determine whether the
17 source is in compliance with all applicable requirements.

18 c. If the Agency determines that the source is not
19 in compliance with all applicable requirements it shall
20 revise the CAAPP permit as appropriate.

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

25 (Source: P.A. 92-24, eff. 7-1-01.)".