



**93RD GENERAL ASSEMBLY**  
**State of Illinois**  
**2003 and 2004**

Introduced 2/6/2004, by Dave Sullivan

**SYNOPSIS AS INTRODUCED:**

415 ILCS 5/9.6	from Ch. 111 1/2, par. 1009.6
415 ILCS 5/9.12	
415 ILCS 5/12.2	from Ch. 111 1/2, par. 1012.2
415 ILCS 5/12.5	
415 ILCS 5/16.1	from Ch. 111 1/2, par. 1016.1
415 ILCS 5/22.8	from Ch. 111 1/2, par. 1022.8
415 ILCS 5/22.15	from Ch. 111 1/2, par. 1022.15
415 ILCS 5/22.44	
415 ILCS 5/39.5	from Ch. 111 1/2, par. 1039.5
415 ILCS 5/12.6 rep.	
30 ILCS 105/5.625 new	

Amends the Environmental Protection Act. Reduces the amounts various fees to be collected by the Environmental Protection Agency. Sets forth new procedures for the collection of NPDES fees and requires that all moneys collected from the fees be deposited into the Illinois Clean Water Fund. Repeals Sections concerning air pollution operating permit fees and fees for water quality certification. Amends the State Finance Act to create the Illinois Clean Water Fund. Effective immediately.

LRB093 18644 BDD 44370 b

FISCAL NOTE ACT  
MAY APPLY

1 AN ACT concerning environmental protection.

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

4 Section 5. The Environmental Protection Act is amended by  
5 changing Sections 9.6, 9.12, 12.2, 12.5, 16.1, 22.8, 22.15,  
6 22.44, and 39.5 as follows:

7 (415 ILCS 5/9.6) (from Ch. 111 1/2, par. 1009.6)

8 Sec. 9.6. Air pollution operating permit fee.

9 (a) For any site for which an air pollution operating  
10 permit is required, other than a site permitted solely as a  
11 retail liquid dispensing facility that has air pollution  
12 control equipment or an agrichemical facility with an endorsed  
13 permit pursuant to Section 39.4, the owner or operator of that  
14 site shall pay an initial annual fee to the Agency within 30  
15 days of receipt of the permit and an annual fee each year  
16 thereafter for as long as a permit is in effect. The owner or  
17 operator of a portable emission unit, as defined in 35 Ill.  
18 Adm. Code 201.170, may change the site of any unit previously  
19 permitted without paying an additional fee under this Section  
20 for each site change, provided that no further change to the  
21 permit is otherwise necessary or requested.

22 (b) Notwithstanding any rules to the contrary, the  
23 following fee amounts shall apply:

24 (1) The fee for a site permitted to emit less than 25  
25 tons per year of any combination of regulated air  
26 pollutants, as defined in Section 39.5 of this Act, is \$100  
27 per year beginning July 1, 1993, ~~and~~ increases to \$200 per  
28 year beginning on July 1, 2003 through June 30, 2004, and  
29 decreases to \$125 per year beginning on July 1, 2004,  
30 except as provided in subsection (c) of this Section.

31 (2) The fee for a site permitted to emit at least 25  
32 tons per year but less than 100 tons per year of any

1 combination of regulated air pollutants, as defined in  
2 Section 39.5 of this Act, is \$1,000 per year beginning July  
3 1, 1993, ~~and~~ increases to \$1,800 per year beginning on July  
4 1, 2003 through June 30, 2004, and decreases to \$1,250 per  
5 year beginning on July 1, 2004, except as provided in  
6 subsection (c) of this Section.

7 (3) The fee for a site permitted to emit at least 100  
8 tons per year of any combination of regulated air  
9 pollutants is \$2,500 per year beginning July 1, 1993, ~~and~~  
10 increases to \$3,500 per year beginning on July 1, 2003  
11 through June 30, 2004, and decreases to \$3,125 per year  
12 beginning on July 1, 2004, except as provided in subsection  
13 (c) of this Section; provided, however, that the fee shall  
14 not exceed the amount that would be required for the site  
15 if it were subject to the fee requirements of Section 39.5  
16 of this Act.

17 (c) The owner or operator of any source subject to  
18 paragraphs (b)(1), (b)(2), or (b)(3) of this Section that  
19 becomes subject to Section 39.5 of this Act shall continue to  
20 pay the fee set forth in this Section until the source becomes  
21 subject to the fee set forth within subsection 18 of Section  
22 39.5 of this Act. In the event a site has paid a fee under this  
23 Section during the 12 month period following the effective date  
24 of the CAAPP for that site, the fee amount shall be deducted  
25 from any amount due under subsection 18 of Section 39.5 of this  
26 Act. Owners or operators that are subject to paragraph (b)(1),  
27 (b)(2), or (b)(3) of this Section, but that are not also  
28 subject to Section 39.5, or excluded pursuant to subsection 1.1  
29 or subsection 3(c) of Section 39.5 shall continue to pay the  
30 fee amounts set forth within paragraphs (b)(1), (b)(2), or  
31 (b)(3), whichever is applicable.

32 (d) Only one air pollution site fee may be collected from  
33 any site, even if such site receives more than one air  
34 pollution control permit.

35 (e) The Agency shall establish procedures for the  
36 collection of air pollution site fees. Air pollution site fees

1 may be paid annually, or in advance for the number of years for  
2 which the permit is issued, at the option of the owner or  
3 operator. Payment in advance does not exempt the owner or  
4 operator from paying any increase in the fee that may occur  
5 during the term of the permit; the owner or operator must pay  
6 the amount of the increase upon and from the effective date of  
7 the increase.

8 (f) The Agency may deny an application for the issuance,  
9 transfer, or renewal of an air pollution operating permit if  
10 any air pollution site fee owed by the applicant has not been  
11 paid within 60 days of the due date, unless the applicant, at  
12 the time of application, pays to the Agency in advance the air  
13 pollution site fee for the site that is the subject of the  
14 operating permit, plus any other air pollution site fees then  
15 owed by the applicant. The denial of an air pollution operating  
16 permit for failure to pay an air pollution site fee shall be  
17 subject to review by the Board pursuant to the provisions of  
18 subsection (a) of Section 40 of this Act.

19 (g) If the Agency determines that an owner or operator of a  
20 site was required, but failed, to timely obtain an air  
21 pollution operating permit, and as a result avoided the payment  
22 of permit fees, the Agency may collect the avoided permit fees  
23 with or without pursuing enforcement under Section 31 of this  
24 Act. The avoided permit fees shall be calculated as double the  
25 amount that would have been owed had a permit been timely  
26 obtained. Fees collected pursuant to this subsection (g) shall  
27 be deposited into the Environmental Protection Permit and  
28 Inspection Fund.

29 (h) If the Agency determines that an owner or operator of a  
30 site was required, but failed, to timely obtain an air  
31 pollution operating permit and as a result avoided the payment  
32 of permit fees, an enforcement action may be brought under  
33 Section 31 of this Act. In addition to any other relief that  
34 may be obtained as part of this action, the Agency may seek to  
35 recover the avoided permit fees. The avoided permit fees shall  
36 be calculated as double the amount that would have been owed

1 had a permit been timely obtained. Fees collected pursuant to  
2 this subsection (h) shall be deposited into the Environmental  
3 Protection Permit and Inspection Fund.

4 (i) If a permittee subject to a fee under this Section  
5 fails to pay the fee within 90 days of its due date, or makes  
6 the fee payment from an account with insufficient funds to  
7 cover the amount of the fee payment, the Agency shall notify  
8 the permittee of the failure to pay the fee. If the permittee  
9 fails to pay the fee within 60 days after such notification,  
10 the Agency may, by written notice, immediately revoke the air  
11 pollution operating permit. Failure of the Agency to notify the  
12 permittee of failure to pay a fee due under this Section, or  
13 the payment of the fee from an account with insufficient funds  
14 to cover the amount of the fee payment, does not excuse or  
15 alter the duty of the permittee to comply with the provisions  
16 of this Section.

17 (Source: P.A. 93-32, eff. 7-1-03.)

18 (415 ILCS 5/9.12)

19 Sec. 9.12. Construction permit fees for air pollution  
20 sources.

21 (a) An applicant for a new or revised air pollution  
22 construction permit shall pay a fee, as established in this  
23 Section, to the Agency at the time that he or she submits the  
24 application for a construction permit. Except as set forth  
25 below, the fee for each activity or category listed in this  
26 Section is separate and is cumulative with any other applicable  
27 fee listed in this Section.

28 (b) Notwithstanding any provision of law to the contrary,  
29 the following fee amounts apply:

30 (1) The fee for an air construction permit at a site  
31 which is subject to regulation under Sections 165 or 173 of  
32 the Clean Air Act, as now or hereafter amended, and which  
33 has a valid operating permit is \$2,500.

34 (2) The fee for an air construction permit at a site  
35 which seeks a construction permit containing conditions

1 such that the facility would avoid being subject to  
2 regulation under Sections 165 or 173 of the Clean Air Act,  
3 as now or hereafter amended, and which has a valid  
4 operating permit is \$1,000.

5 (3) The fee for an air construction permit at any site  
6 which does not at the time of application for such  
7 construction permit, or within one year after such time  
8 obtain and pay the fee for an operating permit, shall be  
9 the same as that fee which would be required under Sections  
10 9.6(b)(1) or (b)(2) or section 39.5 as applicable. The fee  
11 amounts in this subsection (b) apply to construction permit  
12 applications relating to (i) a source subject to Section  
13 39.5 of this Act (the Clean Air Act Permit Program); (ii) a  
14 source that, upon issuance of the requested construction  
15 permit, will become a major source subject to Section 39.5;  
16 or (iii) a source that has or will require a federally  
17 enforceable State operating permit limiting its potential  
18 to emit.

19 ~~(1) Base fees for each construction permit application~~  
20 ~~shall be assessed as follows:~~

21 ~~(A) If the construction permit application relates~~  
22 ~~to one or more new emission units or to a combination~~  
23 ~~of new and modified emission units, a fee of \$4,000 for~~  
24 ~~the first new emission unit and a fee of \$1,000 for~~  
25 ~~each additional new or modified emission unit;~~  
26 ~~provided that the total base fee under this subdivision~~  
27 ~~(A) shall not exceed \$10,000.~~

28 ~~(B) If the construction permit application relates~~  
29 ~~to one or more modified emission units but not to any~~  
30 ~~new emission unit, a fee of \$2,000 for the first~~  
31 ~~modified emission unit and a fee of \$1,000 for each~~  
32 ~~additional modified emission unit; provided that the~~  
33 ~~total base fee under this subdivision (B) shall not~~  
34 ~~exceed \$5,000.~~

35 ~~(2) Supplemental fees for each construction permit~~  
36 ~~application shall be assessed as follows:~~

1           ~~(A) If, based on the construction permit~~  
2           ~~application, the source will be, but is not currently,~~  
3           ~~subject to Section 39.5 of this Act, a CAAPP entry fee~~  
4           ~~of \$5,000.~~

5           ~~(B) If the construction permit application~~  
6           ~~involves (i) a new source or emission unit subject to~~  
7           ~~Section 39.2 of this Act, (ii) a commercial incinerator~~  
8           ~~or other municipal waste, hazardous waste, or waste~~  
9           ~~tire incinerator, (iii) a commercial power generator,~~  
10           ~~or (iv) one or more other emission units designated as~~  
11           ~~a complex source by Agency rulemaking, a fee of~~  
12           ~~\$25,000.~~

13           ~~(C) If the construction permit application~~  
14           ~~involves an emissions netting exercise or reliance on a~~  
15           ~~contemporaneous emissions decrease for a pollutant to~~  
16           ~~avoid application of the federal PSD program (40 CFR~~  
17           ~~52.21) or nonattainment new source review (35 Ill. Adm.~~  
18           ~~Code 203), a fee of \$3,000 for each such pollutant.~~

19           ~~(D) If the construction permit application is for a~~  
20           ~~new major source subject to the federal PSD program, a~~  
21           ~~fee of \$12,000.~~

22           ~~(E) If the construction permit application is for a~~  
23           ~~new major source subject to nonattainment new source~~  
24           ~~review, a fee of \$20,000.~~

25           ~~(F) If the construction permit application is for a~~  
26           ~~major modification subject to the federal PSD program,~~  
27           ~~a fee of \$6,000.~~

28           ~~(G) If the construction permit application is for a~~  
29           ~~major modification subject to nonattainment new source~~  
30           ~~review, a fee of \$12,000.~~

31           ~~(H) If the construction permit application review~~  
32           ~~involves a determination of whether an emission unit~~  
33           ~~has Clean Unit Status and is therefore not subject to~~  
34           ~~the Best Available Control Technology (BACT) or Lowest~~  
35           ~~Achievable Emission Rate (LAER) under the federal PSD~~  
36           ~~program or nonattainment new source review, a fee of~~

1 ~~\$5,000 per unit for which a determination is requested~~  
2 ~~or otherwise required.~~

3 ~~(I) If the construction permit application review~~  
4 ~~involves a determination of the Maximum Achievable~~  
5 ~~Control Technology standard for a pollutant and the~~  
6 ~~project is not otherwise subject to DACT or LAER for a~~  
7 ~~related pollutant under the federal PSD program or~~  
8 ~~nonattainment new source review, a fee of \$5,000 per~~  
9 ~~unit for which a determination is requested or~~  
10 ~~otherwise required.~~

11 ~~(J) If the applicant is requesting a construction~~  
12 ~~permit that will alter the source's status so that it~~  
13 ~~is no longer a major source subject to Section 39.5 of~~  
14 ~~this Act, a fee of \$4,000.~~

15 ~~(3) If a public hearing is held regarding the~~  
16 ~~construction permit application, an administrative fee of~~  
17 ~~\$10,000, subject to adjustment under subsection (f) of this~~  
18 ~~Section.~~

19 (c) (Blank). ~~The fee amounts in this subsection (c) apply~~  
20 ~~to construction permit applications relating to a source that,~~  
21 ~~upon issuance of the construction permit, will not (i) be or~~  
22 ~~become subject to Section 39.5 of this Act (the Clean Air Act~~  
23 ~~Permit Program) or (ii) have or require a federally enforceable~~  
24 ~~state operating permit limiting its potential to emit.~~

25 ~~(1) Base fees for each construction permit application~~  
26 ~~shall be assessed as follows:~~

27 ~~(A) For a construction permit application~~  
28 ~~involving a single new emission unit, a fee of \$500.~~

29 ~~(B) For a construction permit application~~  
30 ~~involving more than one new emission unit, a fee of~~  
31 ~~\$1,000.~~

32 ~~(C) For a construction permit application~~  
33 ~~involving no more than 2 modified emission units, a fee~~  
34 ~~of \$500.~~

35 ~~(D) For a construction permit application~~  
36 ~~involving more than 2 modified emission units, a fee of~~



1           ~~\$1,000.~~

2           ~~(2) Supplemental fees for each construction permit~~  
3 ~~application shall be assessed as follows:~~

4           ~~(A) If the source is a new source, i.e., does not~~  
5 ~~currently have an operating permit, an entry fee of~~  
6 ~~\$500,~~

7           ~~(B) If the construction permit application~~  
8 ~~involves (i) a new source or emission unit subject to~~  
9 ~~Section 39.2 of this Act, (ii) a commercial incinerator~~  
10 ~~or a municipal waste, hazardous waste, or waste tire~~  
11 ~~incinerator, (iii) a commercial power generator, or~~  
12 ~~(iv) an emission unit designated as a complex source by~~  
13 ~~Agency rulemaking, a fee of \$15,000.~~

14           ~~(3) If a public hearing is held regarding the~~  
15 ~~construction permit application, an administrative fee of~~  
16 ~~\$10,000.~~

17           (d) (Blank). ~~If no other fee is applicable under this~~  
18 ~~Section, a construction permit application addressing one or~~  
19 ~~more of the following shall be subject to a filing fee of \$500:~~

20           ~~(1) A construction permit application to add or replace~~  
21 ~~a control device on a permitted emission unit.~~

22           ~~(2) A construction permit application to conduct a~~  
23 ~~pilot project or trial burn for a permitted emission unit.~~

24           ~~(3) A construction permit application for a land~~  
25 ~~remediation project.~~

26           ~~(4) A construction permit application for an~~  
27 ~~insignificant activity as described in 35 Ill. Adm. Code~~  
28 ~~201.210.~~

29           ~~(5) A construction permit application to revise an~~  
30 ~~emissions testing methodology or the timing of required~~  
31 ~~emissions testing.~~

32           ~~(6) A construction permit application that provides~~  
33 ~~for a change in the name, address, or phone number of any~~  
34 ~~person identified in the permit, or for a change in the~~  
35 ~~stated ownership or control, or for a similar minor~~  
36 ~~administrative permit change at the source.~~

1           (e) (Blank). ~~No fee shall be assessed for a request to~~  
2 ~~correct an issued permit that involves only an Agency error, if~~  
3 ~~the request is received within the deadline for a permit appeal~~  
4 ~~to the Pollution Control Board.~~

5           (f) The applicant for a new or revised air pollution  
6 construction permit shall submit to the Agency, with the  
7 construction permit application, both a certification of the  
8 fee that he or she estimates to be due under this Section and  
9 the fee itself.

10          (g) Notwithstanding the requirements of Section 39(a) of  
11 this Act, the application for an air pollution construction  
12 permit shall not be deemed to be filed with the Agency until  
13 the Agency receives the initial air pollution construction  
14 permit application fee and the certified estimate of the fee  
15 required by this Section. Unless the Agency has received the  
16 initial air pollution construction permit application fee and  
17 the certified estimate of the fee required by this Section, the  
18 Agency is not required to review or process the application.

19          (h) (Blank). ~~If the Agency determines at any time that a~~  
20 ~~construction permit application is subject to an additional fee~~  
21 ~~under this Section that the applicant has not submitted, the~~  
22 ~~Agency shall notify the applicant in writing of the amount due~~  
23 ~~under this Section. The applicant shall have 60 days to remit~~  
24 ~~the assessed fee to the Agency.~~

25          ~~If the proper fee established under this Section is not~~  
26 ~~submitted within 60 days after the request for further~~  
27 ~~remittance:~~

28           ~~(1) If the construction permit has not yet been issued,~~  
29 ~~the Agency is not required to further review or process,~~  
30 ~~and the provisions of Section 39(a) of this Act do not~~  
31 ~~apply to, the application for a construction permit until~~  
32 ~~such time as the proper fee is remitted.~~

33           ~~(2) If the construction permit has been issued, the~~  
34 ~~Agency may, upon written notice, immediately revoke the~~  
35 ~~construction permit.~~

36          ~~The denial or revocation of a construction permit does not~~

1 ~~excuse the applicant from the duty of paying the fees required~~  
2 ~~under this Section.~~

3 (i) The Agency may deny the issuance of a pending air  
4 pollution construction permit or the subsequent operating  
5 permit if the applicant has not paid the required fees by the  
6 date required for issuance of the permit. The denial or  
7 revocation of a permit for failure to pay a construction permit  
8 fee is subject to review by the Board pursuant to the  
9 provisions of subsection (a) of Section 40 of this Act.

10 (j) If the owner or operator undertakes construction  
11 without obtaining an air pollution construction permit, the fee  
12 under this Section is still required. Payment of the required  
13 fee does not preclude the Agency or the Attorney General or  
14 other authorized persons from pursuing enforcement against the  
15 applicant for failure to have an air pollution construction  
16 permit prior to commencing construction.

17 (k) If an air pollution construction permittee makes a fee  
18 payment under this Section from an account with insufficient  
19 funds to cover the amount of the fee payment, the Agency shall  
20 notify the permittee of the failure to pay the fee. If the  
21 permittee fails to pay the fee within 60 days after such  
22 notification, the Agency may, by written notice, immediately  
23 revoke the air pollution construction permit. Failure of the  
24 Agency to notify the permittee of the permittee's failure to  
25 make payment does not excuse or alter the duty of the permittee  
26 to comply with the provisions of this Section.

27 (l) The Agency may establish procedures for the collection  
28 of air pollution construction permit fees.

29 (m) Fees collected pursuant to this Section shall be  
30 deposited into the Environmental Protection Permit and  
31 Inspection Fund.

32 (Source: P.A. 93-32, eff. 7-1-03.)

33 (415 ILCS 5/12.2) (from Ch. 111 1/2, par. 1012.2)

34 Sec. 12.2. Water pollution construction permit fees.

35 (a) Beginning July 1, 2003, the Agency shall collect a fee

1 in the amount set forth in this Section:

2 (1) for any sewer which requires a construction permit  
3 under paragraph (b) of Section 12, from each applicant for  
4 a sewer construction permit under paragraph (b) of Section  
5 12 or regulations adopted hereunder; and

6 (2) for any treatment works, industrial pretreatment  
7 works, or industrial wastewater source that requires a  
8 construction permit under paragraph (b) of Section 12, from  
9 the applicant for the construction permit. However, no fee  
10 shall be required for a treatment works or wastewater  
11 source directly covered and authorized under an NPDES  
12 permit issued by the Agency, nor for any treatment works,  
13 industrial pretreatment works, or industrial wastewater  
14 source (i) that is under or pending construction authorized  
15 by a valid construction permit issued by the Agency prior  
16 to July 1, 2003, during the term of that construction  
17 permit, or (ii) for which a completed construction permit  
18 application has been received by the Agency prior to July  
19 1, 2003, with respect to the permit issued under that  
20 application.

21 (b) Each applicant or person required to pay a fee under  
22 this Section shall submit the fee to the Agency along with the  
23 permit application. The Agency shall deny any construction  
24 permit application for which a fee is required under this  
25 Section that does not contain the appropriate fee.

26 (c) The amount of the fee is as follows:

27 (1) A \$50 ~~\$100~~ fee shall be required for any sewer  
28 constructed with a design population of 1.

29 (2) A \$200 ~~\$400~~ fee shall be required for any sewer  
30 constructed with a design population of 2 to 20.

31 (3) A \$400 ~~\$800~~ fee shall be required for any sewer  
32 constructed with a design population greater than 20 but  
33 less than 101.

34 (4) A \$600 ~~\$1200~~ fee shall be required for any sewer  
35 constructed with a design population greater than 100 but  
36 less than 500.

1 (5) A \$1,200 ~~\$2400~~ fee shall be required for any sewer  
2 constructed with a design population of 500 or more.

3 (6) (Blank). ~~A \$1,000 fee shall be required for any~~  
4 ~~industrial wastewater source that does not require~~  
5 ~~pretreatment of the wastewater prior to discharge to the~~  
6 ~~publicly owned treatment works or publicly regulated~~  
7 ~~treatment works.~~

8 (7) (Blank). ~~A \$3,000 fee shall be required for any~~  
9 ~~industrial wastewater source that requires pretreatment of~~  
10 ~~the wastewater for non toxic pollutants prior to discharge~~  
11 ~~to the publicly owned treatment works or publicly regulated~~  
12 ~~treatment works.~~

13 (8) (Blank). ~~A \$6,000 fee shall be required for any~~  
14 ~~industrial wastewater source that requires pretreatment of~~  
15 ~~the wastewater for toxic pollutants prior to discharge to~~  
16 ~~the publicly owned treatment works or publicly regulated~~  
17 ~~treatment works.~~

18 (9) (Blank). ~~A \$2,500 fee shall be required for~~  
19 ~~construction relating to land application of industrial~~  
20 ~~sludge or spray irrigation of industrial wastewater.~~

21 ~~All fees collected by the Agency under this Section shall~~  
22 ~~be deposited into the Environmental Protection Permit and~~  
23 ~~Inspection Fund in accordance with Section 22.8.~~

24 (d) Prior to a final Agency decision on a permit  
25 application for which a fee has been paid under this Section,  
26 the applicant may propose modification to the application in  
27 accordance with this Act and regulations adopted hereunder  
28 without any additional fee becoming due, unless the proposed  
29 modifications cause an increase in the design population served  
30 by the sewer specified in the permit application before the  
31 modifications or the modifications cause a change in the  
32 applicable fee category stated in subsection (c). If the  
33 modifications cause such an increase or change the fee category  
34 and the increase results in additional fees being due under  
35 subsection (c), the applicant shall submit the additional fee  
36 to the Agency with the proposed modifications.

1 (e) No fee shall be due under this Section from:

2 (1) any department, agency or unit of State government  
3 for installing or extending a sewer;

4 (2) any unit of local government with which the Agency  
5 has entered into a written delegation agreement under  
6 Section 4 which allows such unit to issue construction  
7 permits under this Title, or regulations adopted  
8 hereunder, for installing or extending a sewer; or

9 (3) any unit of local government or school district for  
10 installing or extending a sewer where both of the following  
11 conditions are met:

12 (i) the cost of the installation or extension is  
13 paid wholly from monies of the unit of local government  
14 or school district, State grants or loans, federal  
15 grants or loans, or any combination thereof; and

16 (ii) the unit of local government or school  
17 district is not given monies, reimbursed or paid,  
18 either in whole or in part, by another person (except  
19 for State grants or loans or federal grants or loans)  
20 for the installation or extension.

21 (f) The Agency may establish procedures relating to the  
22 collection of fees under this Section. The Agency shall not  
23 refund any fee paid to it under this Section. Notwithstanding  
24 the provisions of any rule adopted before July 1, 2003  
25 concerning fees under this Section, the Agency shall assess and  
26 collect the fees imposed under subdivision (a)(2) of this  
27 Section and the increases in the fees imposed under subdivision  
28 (a)(1) of this Section beginning on July 1, 2003, for all  
29 completed applications received on or after that date.

30 (g) Notwithstanding any other provision of this Act, the  
31 Agency shall, not later than 45 days following the receipt of  
32 both an application for a construction permit and the fee  
33 required by this Section, either approve that application and  
34 issue a permit or tender to the applicant a written statement  
35 setting forth with specificity the reasons for the disapproval  
36 of the application and denial of a permit. If the Agency takes

1 no final action within 45 days after the filing of the  
2 application for a permit, the applicant may deem the permit  
3 issued.

4 (h) For purposes of this Section:

5 "Toxic pollutants" means those pollutants defined in  
6 Section 502(13) of the federal Clean Water Act and regulations  
7 adopted pursuant to that Act.

8 "Industrial" refers to those industrial users referenced  
9 in Section 502(13) of the federal Clean Water Act and  
10 regulations adopted pursuant to that Act.

11 "Pretreatment" means the reduction of the amount of  
12 pollutants, the elimination of pollutants, or the alteration of  
13 the nature of pollutant properties in wastewater prior to or in  
14 lieu of discharging or otherwise introducing those pollutants  
15 into a publicly owned treatment works or publicly regulated  
16 treatment works.

17 (Source: P.A. 93-32, eff. 7-1-03.)

18 (415 ILCS 5/12.5)

19 Sec. 12.5. NPDES discharge fees; sludge permit fees.

20 (a) Beginning January 1, 2004, the Agency shall collect  
21 annual fees in the amounts set forth in subsection (c) of this  
22 Section for all discharges that require an NPDES permit under  
23 subsection (f) of Section 12 from each discharger holding an  
24 NPDES permit authorizing those discharges, and for Section 401  
25 water quality certifications. ~~Beginning July 1, 2003, the~~  
26 Agency shall assess and collect annual fees (i) in the amounts  
27 set forth in subsection (c) for all discharges that require an  
28 NPDES permit under subsection (f) of Section 12, from each  
29 person holding an NPDES permit authorizing those discharges  
30 (including a person who continues to discharge under an expired  
31 permit pending renewal), and (ii) in the amounts set forth in  
32 subsection (f) of this Section for all activities that require  
33 a permit under subsection (b) of Section 12, from each person  
34 holding a domestic sewage sludge generator or user permit.

35 ~~Each person subject to this Section must remit the~~

1 ~~applicable annual fee to the Agency in accordance with the~~  
2 ~~requirements set forth in this Section and any rules adopted~~  
3 ~~pursuant to this Section.~~

4 (b) Each discharger required to pay a fee under this  
5 Section shall submit the fee to the Agency on or before the  
6 first day of January following the effective date of the NPDES  
7 permit and the first day of January of each succeeding year  
8 that the NPDES permit remains in effect. The fee shall be based  
9 on the NPDES permit that is in effect upon the date the fee is  
10 due. Within 30 days after the effective date of this Section,  
11 and by May 31 of each year thereafter, the Agency shall send a  
12 fee notice by mail to each existing permittee subject to a fee  
13 under this Section at his or her address of record. The notice  
14 shall state the amount of the applicable annual fee and the  
15 date by which payment is required.

16 ~~Except as provided in subsection (c) with respect to~~  
17 ~~initial fees under new permits and certain modifications of~~  
18 ~~existing permits, fees payable under this Section for the 12~~  
19 ~~months beginning July 1, 2003 are due by the date specified in~~  
20 ~~the fee notice, which shall be no less than 30 days after the~~  
21 ~~date the fee notice is mailed by the Agency, and fees payable~~  
22 ~~under this Section for subsequent years shall be due on July 1~~  
23 ~~or as otherwise required in any rules that may be adopted~~  
24 ~~pursuant to this Section.~~

25 (c) The amounts of the annual fees applicable to  
26 dischargers under NPDES permits and Section 401 certifications  
27 are as follows:

28 (1) The fee for any NPDES permit for publicly owned  
29 treatment works or other sewage discharges including  
30 semi-private and private miscellaneous sewage discharges  
31 and for discharges of waste water from the production of  
32 potable water shall be as follows:

33 (A) For permitted discharges of less than 0.01  
34 million gallons per day (MGD) or less than 100 service  
35 connections as applicable, the fee is \$100;

36 (B) For permitted discharges equal to or greater



1 than 0.01 MGD but less than 0.02 MGD, or greater than  
2 100 but less than 200 service connections as  
3 applicable, the fee is \$200;

4 (C) For permitted discharges equal to or greater  
5 than 0.02 MGD but less than 0.03 MGD, or greater than  
6 200 but less than 300 service connections as  
7 applicable, the fee is \$300;

8 (D) For permitted discharges equal to or greater  
9 than 0.03 MGD but less than 0.04 MGD, or greater than  
10 300 but less than 400 service connections as  
11 applicable, the fee is \$400;

12 (E) For permitted discharges equal to or greater  
13 than 0.04 MGD but less than 0.05 MGD, or greater than  
14 400 but less than 500 service connections as  
15 applicable, the fee is \$500;

16 (F) For permitted discharges equal to or greater  
17 than 0.05 MGD but less than 0.06 MGD, or greater than  
18 500 but less than 600 service connections as  
19 applicable, the fee is \$600;

20 (G) For permitted discharges equal to or greater  
21 than 0.06 MGD but less than 0.07 MGD, or greater than  
22 600 but less than 700 service connections as  
23 applicable, the fee is \$700;

24 (H) For permitted discharges equal to or greater  
25 than 0.07 MGD but less than 0.08 MGD, or greater than  
26 700 but less than 800 service connections as  
27 applicable, the fee is \$800;

28 (I) For permitted discharges equal to or greater  
29 than 0.08 MGD but less than 0.09 MGD, or greater than  
30 800 but less than 900 service connections as  
31 applicable, the fee is \$900;

32 (J) For permitted discharges equal to or greater  
33 than 0.09 MGD but less than 0.10 MGD, or greater than  
34 900 less than 1,000 service connections as applicable,  
35 the fee is \$1,000.

36 (K) For permitted discharges equal to or greater

1 than 0.10 MGD but less than 0.25 MGD, or greater than  
2 1,000 but less than 3,000 service connections as  
3 applicable, the fee is \$2,500;

4 (L) For permitted discharges equal to or greater  
5 than 0.25 MGD but less than 4.0 MGD, or greater than  
6 3,000 but less than 4,000 service connections as  
7 applicable, the fee is \$3,000;

8 (M) For permitted discharges equal to or greater  
9 than 4.0 MGD but less than 10.0 MGD, or greater than  
10 4,000 but less than 5,000 service connections as  
11 applicable, the fee is \$4,000;

12 (N) For permitted discharges greater than 10.0 MGD  
13 or for greater than 5,000 service connections as  
14 applicable, the fee is \$6,000;

15 (2) The fee is \$6,000 for any major NPDES permit to an  
16 industrial discharger.

17 (3) The fee is \$3,000 for any non-major NPDES permit  
18 for an industrial discharger.

19 (4) The fee is \$150 for any NPDES permit issued for the  
20 discharge of storm water that covers less than 5 acres.

21 (5) The fee is \$250 for any NPDES permit issued for the  
22 discharge of storm water that covers greater than 5 acres.

23 (6) The fee is \$1,000 for any NPDES permit for a coal  
24 mine.

25 (7) The fee is \$500 for any NPDES permit for any mine  
26 that is not a coal mine.

27 (8) For a discharger under a general NPDES permit (as  
28 described in subsection (b) of Section 39), the fee is the  
29 same as the fee imposed under this Section for an  
30 equivalent discharge under an individual permit.

31 (9) The fee is \$100 for a discharger under an NPDES  
32 permit where the type of discharge is not included in any  
33 of the categories in items (1) through (8) of this  
34 subsection (c).

35 (10) The fee is \$100 for water quality certifications  
36 required under Section 401 of the federal Clean Water Act.

~~The initial annual fee for discharges under a new individual NPDES permit or for activity under a new individual sludge generator or sludge user permit must be remitted to the Agency prior to the issuance of the permit. The Agency shall provide notice of the amount of the fee to the applicant during its review of the application. In the case of a new individual NPDES or sludge permit issued during the months of January through June, the Agency may prorate the initial annual fee payable under this Section.~~

~~The initial annual fee for discharges or other activity under a general NPDES permit must be remitted to the Agency as part of the application for coverage under that general permit.~~

~~If a requested modification to an existing NPDES permit causes a change in the applicable fee categories under subsection (c) that results in an increase in the required fee, the permittee must pay to the Agency the amount of the increase, prorated for the number of months remaining before the next July 1, before the modification is granted.~~

~~(d) The Agency may establish procedures relating to the collection of fees under this Section. Fees paid to the Agency under this Section are not refundable. Failure to submit the fee required under this Section by the due date constitutes a violation of this Section. Late payments shall incur an interest penalty, calculated at the rate in effect from time to time for tax delinquencies under subsection (a) of Section 1003 of the Illinois Income Tax Act, from the date the fee is due until the date the fee payment is received by the Agency.~~

~~(e) There is hereby created in the State treasury a special fund to be known as the Illinois Clean Water Fund. All fees collected by the Agency under this Section shall be deposited into the Fund. Subject to appropriation, the moneys from this Fund shall be used by the Agency (i) to perform duties related to the NPDES program and (ii) to the extent feasible for any other permit programs. Moneys from the Fund shall not be transferred to the General Revenue Fund. Interest on the moneys deposited in the Fund shall be deposited into the Fund. ~~The~~~~

1 ~~annual fees applicable to discharges under NPDES permits are as~~  
2 ~~follows:~~

3 ~~(1) For NPDES permits for publicly owned treatment~~  
4 ~~works, other facilities for which the wastewater being~~  
5 ~~treated and discharged is primarily domestic sewage, and~~  
6 ~~wastewater discharges from the operation of public water~~  
7 ~~supply treatment facilities, the fee is:~~

8 ~~(i) \$1,500 for facilities with a Design Average~~  
9 ~~Flow rate of less than 100,000 gallons per day;~~

10 ~~(ii) \$5,000 for facilities with a Design Average~~  
11 ~~Flow rate of at least 100,000 gallons per day but less~~  
12 ~~than 500,000 gallons per day;~~

13 ~~(iii) \$7,500 for facilities with a Design Average~~  
14 ~~Flow rate of at least 500,000 gallons per day but less~~  
15 ~~than 1,000,000 gallons per day;~~

16 ~~(iv) \$15,000 for facilities with a Design Average~~  
17 ~~Flow rate of at least 1,000,000 gallons per day but~~  
18 ~~less than 5,000,000 gallons per day;~~

19 ~~(v) \$30,000 for facilities with a Design Average~~  
20 ~~Flow rate of at least 5,000,000 gallons per day but~~  
21 ~~less than 10,000,000 gallons per day; and~~

22 ~~(vi) \$50,000 for facilities with a Design Average~~  
23 ~~Flow rate of 10,000,000 gallons per day or more.~~

24 ~~(2) For NPDES permits for treatment works or sewer~~  
25 ~~collection systems that include combined sewer overflow~~  
26 ~~outfalls, the fee is:~~

27 ~~(i) \$1,000 for systems serving a tributary~~  
28 ~~population of 10,000 or less;~~

29 ~~(ii) \$5,000 for systems serving a tributary~~  
30 ~~population that is greater than 10,000 but not more~~  
31 ~~than 25,000; and~~

32 ~~(iii) \$20,000 for systems serving a tributary~~  
33 ~~population that is greater than 25,000.~~

34 ~~The fee amounts in this subdivision (c) (2) are in~~  
35 ~~addition to the fees stated in subdivision (c) (1) when the~~  
36 ~~combined sewer overflow outfall is contained within a~~

1 ~~permit subject to subsection (e) (1) fees.~~

2 ~~(3) For NPDES permits for mines producing coal, the fee~~  
3 ~~is \$5,000.~~

4 ~~(4) For NPDES permits for mines other than mines~~  
5 ~~producing coal, the fee is \$5,000.~~

6 ~~(5) For NPDES permits for industrial activity where~~  
7 ~~toxic substances are not regulated, other than permits~~  
8 ~~covered under subdivision (e) (3) or (e) (4), the fee is:~~

9 ~~(i) \$1,000 for a facility with a Design Average~~  
10 ~~Flow rate that is not more than 10,000 gallons per day;~~

11 ~~(ii) \$2,500 for a facility with a Design Average~~  
12 ~~Flow rate that is more than 10,000 gallons per day but~~  
13 ~~not more than 100,000 gallons per day; and~~

14 ~~(iii) \$10,000 for a facility with a Design Average~~  
15 ~~Flow rate that is more than 100,000 gallons per day.~~

16 ~~(6) For NPDES permits for industrial activity where~~  
17 ~~toxic substances are regulated, other than permits covered~~  
18 ~~under subdivision (e) (3) or (e) (4), the fee is:~~

19 ~~(i) \$15,000 for a facility with a Design Average~~  
20 ~~Flow rate that is not more than 250,000 gallons per~~  
21 ~~day; and~~

22 ~~(ii) \$20,000 for a facility with a Design Average~~  
23 ~~Flow rate that is more than 250,000 gallons per day.~~

24 ~~(7) For NPDES permits for industrial activity~~  
25 ~~classified by USEPA as a major discharge, other than~~  
26 ~~permits covered under subdivision (e) (3) or (e) (4), the fee~~  
27 ~~is:~~

28 ~~(i) \$30,000 for a facility where toxic substances~~  
29 ~~are not regulated; and~~

30 ~~(ii) \$50,000 for a facility where toxic substances~~  
31 ~~are regulated.~~

32 ~~(8) For NPDES permits for municipal separate storm~~  
33 ~~sewer systems, the fee is \$1,000.~~

34 ~~(9) For NPDES permits for construction site or~~  
35 ~~industrial storm water, the fee is \$500.~~

36 (f) The Agency may deny an application for the issuance or

1 renewal of a NPDES operating permit if any NPDES fee owed by  
2 the applicant has not been paid within 60 days of the due date,  
3 unless the applicant, at the time of the application, pays to  
4 the Agency in advance the NPDES fee for the site that is the  
5 subject of the operating permit, plus any other NPDES fees owed  
6 by the applicant. The denial of an NPDES operating permit for  
7 failure to pay an NPDES fee shall be subject to review by the  
8 Board pursuant to the provisions of subsection (a) of Section  
9 40 of this Act. ~~The annual fee for activities under a permit~~  
10 ~~that authorizes applying sludge on land is \$2,500 for a sludge~~  
11 ~~generator permit and \$5,000 for a sludge user permit.~~

12 (g) (Blank). ~~More than one of the annual fees specified in~~  
13 ~~subsections (e) and (f) may be applicable to a permit holder.~~  
14 ~~These fees are in addition to any other fees required under~~  
15 ~~this Act.~~

16 (h) (Blank). ~~The fees imposed under this Section do not~~  
17 ~~apply to the State or any department or agency of the State,~~  
18 ~~nor to any school district.~~

19 (i) (Blank). ~~The Agency may adopt rules to administer the~~  
20 ~~fee program established in this Section. The Agency may include~~  
21 ~~provisions pertaining to invoices, notice of late payment, and~~  
22 ~~disputes concerning the amount or timeliness of payment. The~~  
23 ~~Agency may set forth procedures and criteria for the acceptance~~  
24 ~~of payments. The absence of such rules does not affect the duty~~  
25 ~~of the Agency to immediately begin the assessment and~~  
26 ~~collection of fees under this Section.~~

27 (j) (Blank). ~~All fees and interest penalties collected by~~  
28 ~~the Agency under this Section shall be deposited into the~~  
29 ~~Illinois Clean Water Fund, which is hereby created as a special~~  
30 ~~fund in the State treasury. Gifts, supplemental environmental~~  
31 ~~project funds, and grants may be deposited into the Fund.~~  
32 ~~Investment earnings on moneys held in the Fund shall be~~  
33 ~~credited to the Fund.~~

34 ~~Subject to appropriation, the moneys in the Fund shall be~~  
35 ~~used by the Agency to carry out the Agency's clean water~~  
36 ~~activities.~~

1 (k) (Blank). ~~Fees paid to the Agency under this Section are~~  
2 ~~not refundable.~~

3 (Source: P.A. 93-32, eff. 7-1-03.)

4 (415 ILCS 5/16.1) (from Ch. 111 1/2, par. 1016.1)

5 Sec. 16.1. Permit fees.

6 (a) Except as provided in subsection (f), the Agency shall  
7 collect a fee in the amount set forth in subsection (d) from:

8 (1) each applicant for a construction permit under this Title,  
9 or regulations adopted hereunder, to install or extend water  
10 main; and (2) each person who submits as-built plans under this  
11 Title, or regulations adopted hereunder, to install or extend  
12 water main.

13 (b) Except as provided in subsection (c), each applicant or  
14 person required to pay a fee under this Section shall submit  
15 the fee to the Agency along with the permit application or  
16 as-built plans. The Agency shall deny any construction permit  
17 application for which a fee is required under this Section that  
18 does not contain the appropriate fee. The Agency shall not  
19 approve any as-built plans for which a fee is required under  
20 this Section that do not contain the appropriate fee.

21 (c) Each applicant for an emergency construction permit  
22 under this Title, or regulations adopted hereunder, to install  
23 or extend a water main shall submit the appropriate fee to the  
24 Agency within 10 calendar days from the date of issuance of the  
25 emergency construction permit.

26 (d) The amount of the fee is as follows:

27 (1) \$120 ~~\$240~~ if the construction permit application is  
28 to install or extend water main that is more than 200 feet,  
29 but not more than 1,000 feet in length;

30 (2) \$360 ~~\$720~~ if the construction permit application is  
31 to install or extend water main that is more than 1,000  
32 feet but not more than 5,000 feet in length;

33 (3) \$600 ~~\$1200~~ if the construction permit application  
34 is to install or extend water main that is more than 5,000  
35 feet in length.

1 (e) Prior to a final Agency decision on a permit  
2 application for which a fee has been paid under this Section,  
3 the applicant may propose modifications to the application in  
4 accordance with this Act and regulations adopted hereunder  
5 without any additional fee becoming due unless the proposed  
6 modifications cause the length of water main to increase beyond  
7 the length specified in the permit application before the  
8 modifications. If the modifications cause such an increase and  
9 the increase results in additional fees being due under  
10 subsection (d), the applicant shall submit the additional fee  
11 to the Agency with the proposed modifications.

12 (f) No fee shall be due under this Section from (1) any  
13 department, agency or unit of State government for installing  
14 or extending a water main; (2) any unit of local government  
15 with which the Agency has entered into a written delegation  
16 agreement under Section 4 of this Act which allows such unit to  
17 issue construction permits under this Title, or regulations  
18 adopted hereunder, for installing or extending a water main; or  
19 (3) any unit of local government or school district for  
20 installing or extending a water main where both of the  
21 following conditions are met: (i) the cost of the installation  
22 or extension is paid wholly from monies of the unit of local  
23 government or school district, State grants or loans, federal  
24 grants or loans, or any combination thereof; and (ii) the unit  
25 of local government or school district is not given monies,  
26 reimbursed or paid, either in whole or in part, by another  
27 person (except for State grants or loans or federal grants or  
28 loans) for the installation or extension.

29 (g) The Agency may establish procedures relating to the  
30 collection of fees under this Section. The Agency shall not  
31 refund any fee paid to it under this Section.

32 (h) For the purposes of this Section, the term "water main"  
33 means any pipe that is to be used for the purpose of  
34 distributing potable water which serves or is accessible to  
35 more than one property, dwelling or rental unit, and that is  
36 exterior to buildings.



1 (i) Notwithstanding any other provision of this Act, the  
2 Agency shall, not later than 45 days following the receipt of  
3 both an application for a construction permit and the fee  
4 required by this Section, either approve that application and  
5 issue a permit or tender to the applicant a written statement  
6 setting forth with specificity the reasons for the disapproval  
7 of the application and denial of a permit. If there is no final  
8 action by the Agency within 45 days after the filing of the  
9 application for a permit, the applicant may deem the permit  
10 issued.

11 (Source: P.A. 93-32, eff. 7-1-03.)

12 (415 ILCS 5/22.8) (from Ch. 111 1/2, par. 1022.8)

13 Sec. 22.8. Environmental Protection Permit and Inspection  
14 Fund.

15 (a) There is hereby created in the State Treasury a special  
16 fund to be known as the Environmental Protection Permit and  
17 Inspection Fund. All fees collected by the Agency pursuant to  
18 this Section, Section 9.6, 12.2, 16.1, 22.2 (j) (6) (E) (v) (IV),  
19 56.4, 56.5, 56.6, and subsection (f) of Section 5 of this Act  
20 or pursuant to Section 22 of the Public Water Supply Operations  
21 Act and funds collected under subsection (b.5) of Section 42 of  
22 this Act shall be deposited into the Fund. In addition to any  
23 monies appropriated from the General Revenue Fund, monies in  
24 the Fund shall be appropriated by the General Assembly to the  
25 Agency in amounts deemed necessary for manifest, permit, and  
26 inspection activities and for processing requests under  
27 Section 22.2 (j) (6) (E) (v) (IV).

28 The General Assembly may appropriate monies in the Fund  
29 deemed necessary for Board regulatory and adjudicatory  
30 proceedings.

31 (b) The Agency shall collect from the owner or operator of  
32 any of the following types of hazardous waste disposal sites or  
33 management facilities which require a RCRA permit under  
34 subsection (f) of Section 21 of this Act, or a UIC permit under  
35 subsection (g) of Section 12 of this Act, an annual fee in the

1 amount of:

2 (1) \$35,000 (\$70,000 beginning in 2004 and returning to  
3 \$35,000 in 2005) for a hazardous waste disposal site  
4 receiving hazardous waste if the hazardous waste disposal  
5 site is located off the site where such waste was produced;

6 (2) \$9,000 (\$18,000 beginning in 2004 and returning to  
7 \$9,000 in 2005) for a hazardous waste disposal site  
8 receiving hazardous waste if the hazardous waste disposal  
9 site is located on the site where such waste was produced;

10 (3) \$7,000 (\$14,000 beginning in 2004 and returning to  
11 \$7,000 in 2005) for a hazardous waste disposal site  
12 receiving hazardous waste if the hazardous waste disposal  
13 site is an underground injection well;

14 (4) \$2,000 (\$4,000 beginning in 2004 and returning to  
15 \$2,000 in 2005) for a hazardous waste management facility  
16 treating hazardous waste by incineration;

17 (5) \$1,000 (\$2,000 beginning in 2004 and returning to  
18 \$1,000 in 2005) for a hazardous waste management facility  
19 treating hazardous waste by a method, technique or process  
20 other than incineration;

21 (6) \$1,000 (\$2,000 beginning in 2004 and returning to  
22 \$1,000 in 2005) for a hazardous waste management facility  
23 storing hazardous waste in a surface impoundment or pile;

24 (7) \$250 (\$500 beginning in 2004 and returning to \$250  
25 in 2005) for a hazardous waste management facility storing  
26 hazardous waste other than in a surface impoundment or  
27 pile; and

28 (8) (Blank). ~~Beginning in 2004, \$500 for a large~~  
29 ~~quantity hazardous waste generator required to submit an~~  
30 ~~annual or biennial report for hazardous waste generation.~~

31 (c) Where two or more operational units are located within  
32 a single hazardous waste disposal site, the Agency shall  
33 collect from the owner or operator of such site an annual fee  
34 equal to the highest fee imposed by subsection (b) of this  
35 Section upon any single operational unit within the site.

36 (d) The fee imposed upon a hazardous waste disposal site

1 under this Section shall be the exclusive permit and inspection  
2 fee applicable to hazardous waste disposal at such site,  
3 provided that nothing in this Section shall be construed to  
4 diminish or otherwise affect any fee imposed upon the owner or  
5 operator of a hazardous waste disposal site by Section 22.2.

6 (e) The Agency shall establish procedures, no later than  
7 December 1, 1984, relating to the collection of the hazardous  
8 waste disposal site fees authorized by this Section. Such  
9 procedures shall include, but not be limited to the time and  
10 manner of payment of fees to the Agency, which shall be  
11 quarterly, payable at the beginning of each quarter for  
12 hazardous waste disposal site fees. Annual fees required under  
13 paragraph (7) of subsection (b) of this Section shall accompany  
14 the annual report required by Board regulations for the  
15 calendar year for which the report applies.

16 (f) For purposes of this Section, a hazardous waste  
17 disposal site consists of one or more of the following  
18 operational units:

19 (1) a landfill receiving hazardous waste for disposal;

20 (2) a waste pile or surface impoundment, receiving  
21 hazardous waste, in which residues which exhibit any of the  
22 characteristics of hazardous waste pursuant to Board  
23 regulations are reasonably expected to remain after  
24 closure;

25 (3) a land treatment facility receiving hazardous  
26 waste; or

27 (4) a well injecting hazardous waste.

28 (g) The Agency shall assess a fee of \$1 for each manifest  
29 provided by the Agency. ~~For manifests provided on or after~~  
30 ~~January 1, 1989 but before July 1, 2003, the fee shall be \$1~~  
31 ~~per manifest. For manifests provided on or after July 1, 2003,~~  
32 ~~the fee shall be \$3 per manifest.~~

33 (Source: P.A. 93-32, eff. 7-1-03.)

34 (415 ILCS 5/22.15) (from Ch. 111 1/2, par. 1022.15)

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

1 (a) There is hereby created within the State Treasury a  
2 special fund to be known as the "Solid Waste Management Fund",  
3 to be constituted from the fees collected by the State pursuant  
4 to this Section and from repayments of loans made from the Fund  
5 for solid waste projects. Moneys received by the Department of  
6 Commerce and Economic Opportunity ~~Community Affairs~~ in  
7 repayment of loans made pursuant to the Illinois Solid Waste  
8 Management Act shall be deposited into the Solid Waste  
9 Management Revolving Loan Fund.

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

22 (1) If more than 150,000 cubic yards of non-hazardous  
23 solid waste is permanently disposed of at a site in a  
24 calendar year, the owner or operator shall either pay a fee  
25 of 45 ~~95~~ cents per cubic yard or, alternatively, the owner  
26 or operator may weigh the quantity of the solid waste  
27 permanently disposed of with a device for which  
28 certification has been obtained under the Weights and  
29 Measures Act and pay a fee of 95 cents ~~\$2.00~~ per ton of  
30 solid waste permanently disposed of. In no case shall the  
31 fee collected or paid by the owner or operator under this  
32 paragraph exceed \$1.05 ~~\$1.55~~ per cubic yard or \$2.22 ~~\$3.27~~  
33 per ton.

34 (2) If more than 100,000 cubic yards but not more than  
35 150,000 cubic yards of non-hazardous waste is permanently  
36 disposed of at a site in a calendar year, the owner or

1 operator shall pay a fee of \$25,000 ~~\$52,630~~.

2 (3) If more than 50,000 cubic yards but not more than  
3 100,000 cubic yards of non-hazardous solid waste is  
4 permanently disposed of at a site in a calendar year, the  
5 owner or operator shall pay a fee of \$11,300 ~~\$23,790~~.

6 (4) If more than 10,000 cubic yards but not more than  
7 50,000 cubic yards of non-hazardous solid waste is  
8 permanently disposed of at a site in a calendar year, the  
9 owner or operator shall pay a fee of \$3,450 ~~\$7,260~~.

10 (5) If not more than 10,000 cubic yards of  
11 non-hazardous solid waste is permanently disposed of at a  
12 site in a calendar year, the owner or operator shall pay a  
13 fee of \$500 ~~\$1050~~.

14 (c) (Blank.)

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

18 (1) necessary records identifying the quantities of  
19 solid waste received or disposed;

20 (2) the form and submission of reports to accompany the  
21 payment of fees to the Agency;

22 (3) the time and manner of payment of fees to the  
23 Agency, which payments shall not be more often than  
24 quarterly; and

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

28 (e) Pursuant to appropriation, all monies in the Solid  
29 Waste Management Fund shall be used by the Agency and the  
30 Department of Commerce and Economic Opportunity ~~Community~~  
31 ~~Affairs~~ for the purposes set forth in this Section and in the  
32 Illinois Solid Waste Management Act, including for the costs of  
33 fee collection and administration.

34 (f) The Agency is authorized to enter into such agreements  
35 and to promulgate such rules as are necessary to carry out its  
36 duties under this Section and the Illinois Solid Waste

1 Management Act.

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

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

12 (i) The Agency is authorized to support the operations of  
13 an industrial materials exchange service, and to conduct  
14 household waste collection and disposal programs.

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

31 (1) 60¢ per cubic yard if more than 150,000 cubic yards  
32 of non-hazardous solid waste is permanently disposed of at  
33 the site in a calendar year, unless the owner or operator  
34 weighs the quantity of the solid waste received with a  
35 device for which certification has been obtained under the  
36 Weights and Measures Act, in which case the fee shall not

1 exceed \$1.27 per ton of solid waste permanently disposed  
2 of.

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

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

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

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

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

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

29 If the fees are to be used to conduct a local sanitary  
30 landfill inspection or enforcement program, the unit of local  
31 government must enter into a written delegation agreement with  
32 the Agency pursuant to subsection (r) of Section 4. The unit of  
33 local government and the Agency shall enter into such a written  
34 delegation agreement within 60 days after the establishment of  
35 such fees. At least annually, the Agency shall conduct an audit  
36 of the expenditures made by units of local government from the

1 funds granted by the Agency to the units of local government  
2 for purposes of local sanitary landfill inspection and  
3 enforcement programs, to ensure that the funds have been  
4 expended for the prescribed purposes under the grant.

5 The fees, taxes or surcharges collected under this  
6 subsection (j) shall be placed by the unit of local government  
7 in a separate fund, and the interest received on the moneys in  
8 the fund shall be credited to the fund. The monies in the fund  
9 may be accumulated over a period of years to be expended in  
10 accordance with this subsection.

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

16 (1) The total monies collected pursuant to this  
17 subsection.

18 (2) The most current balance of monies collected  
19 pursuant to this subsection.

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

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

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

26 The exemptions granted under Sections 22.16 and 22.16a, and  
27 under subsections (c) and (k) of this Section, shall be  
28 applicable to any fee, tax or surcharge imposed under this  
29 subsection (j); except that the fee, tax or surcharge  
30 authorized to be imposed under this subsection (j) may be made  
31 applicable by a unit of local government to the permanent  
32 disposal of solid waste after December 31, 1986, under any  
33 contract lawfully executed before June 1, 1986 under which more  
34 than 150,000 cubic yards (or 50,000 tons) of solid waste is to  
35 be permanently disposed of, even though the waste is exempt  
36 from the fee imposed by the State under subsection (b) of this



1 Section pursuant to an exemption granted under Section 22.16.

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

6 (1) Waste which is hazardous waste; or

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

8 (3) Waste from recycling, reclamation or reuse  
9 processes which have been approved by the Agency as being  
10 designed to remove any contaminant from wastes so as to  
11 render such wastes reusable, provided that the process  
12 renders at least 50% of the waste reusable; or

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

16 (5) Any landfill which is permitted by the Agency to  
17 receive only demolition or construction debris or  
18 landscape waste.

19 (Source: P.A. 92-574, eff. 6-26-02; 93-32, eff. 7-1-03; revised  
20 12-6-03.)

21 (415 ILCS 5/22.44)

22 Sec. 22.44. Subtitle D management fees.

23 (a) There is created within the State treasury a special  
24 fund to be known as the "Subtitle D Management Fund"  
25 constituted from the fees collected by the State under this  
26 Section.

27 (b) The Agency shall assess and collect a fee in the amount  
28 set forth in this subsection from the owner or operator of each  
29 sanitary landfill permitted or required to be permitted by the  
30 Agency to dispose of solid waste if the sanitary landfill is  
31 located off the site where the waste was produced and if the  
32 sanitary landfill is owned, controlled, and operated by a  
33 person other than the generator of the waste. The Agency shall  
34 deposit all fees collected under this subsection into the  
35 Subtitle D Management Fund. If a site is contiguous to one or

1 more landfills owned or operated by the same person, the  
2 volumes permanently disposed of by each landfill shall be  
3 combined for purposes of determining the fee under this  
4 subsection.

5 (1) If more than 150,000 cubic yards of non-hazardous  
6 solid waste is permanently disposed of at a site in a  
7 calendar year, the owner or operator shall either pay a fee  
8 of 6.9 ~~10.1~~ cents per cubic yard or, alternatively, the  
9 owner or operator may weigh the quantity of the solid waste  
10 permanently disposed of with a device for which  
11 certification has been obtained under the Weights and  
12 Measures Act and pay a fee of 15 ~~22~~ cents per ton of waste  
13 permanently disposed of.

14 (2) If more than 100,000 cubic yards, but not more than  
15 150,000 cubic yards, of non-hazardous waste is permanently  
16 disposed of at a site in a calendar year, the owner or  
17 operator shall pay a fee of \$3,825 ~~\$7,020~~.

18 (3) If more than 50,000 cubic yards, but not more than  
19 100,000 cubic yards, of non-hazardous solid waste is  
20 permanently disposed of at a site in a calendar year, the  
21 owner or operator shall pay a fee of \$1,700 ~~\$3,120~~.

22 (4) If more than 10,000 cubic yards, but not more than  
23 50,000 cubic yards, of non-hazardous solid waste is  
24 permanently disposed of at a site in a calendar year, the  
25 owner or operator shall pay a fee of \$530 ~~\$975~~.

26 (5) If not more than 10,000 cubic yards of  
27 non-hazardous solid waste is permanently disposed of at a  
28 site in a calendar year, the owner or operator shall pay a  
29 fee of \$110 ~~\$210~~.

30 (c) The fee under subsection (b) shall not apply to any of  
31 the following:

32 (1) Hazardous waste.

33 (2) Pollution control waste.

34 (3) Waste from recycling, reclamation, or reuse  
35 processes that have been approved by the Agency as being  
36 designed to remove any contaminant from wastes so as to

1 render the wastes reusable, provided that the process  
2 renders at least 50% of the waste reusable.

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

6 (5) Any landfill that is permitted by the Agency to  
7 receive only demolition or construction debris or  
8 landscape waste.

9 (d) The Agency shall establish rules relating to the  
10 collection of the fees authorized by this Section. These rules  
11 shall include, but not be limited to the following:

12 (1) Necessary records identifying the quantities of  
13 solid waste received or disposed.

14 (2) The form and submission of reports to accompany the  
15 payment of fees to the Agency.

16 (3) The time and manner of payment of fees to the  
17 Agency, which payments shall not be more often than  
18 quarterly.

19 (4) Procedures setting forth criteria establishing  
20 when an owner or operator may measure by weight or volume  
21 during any given quarter or other fee payment period.

22 (e) Fees collected under this Section shall be in addition  
23 to any other fees collected under any other Section.

24 (f) The Agency shall not refund any fee paid to it under  
25 this Section.

26 (g) Pursuant to appropriation, all moneys in the Subtitle D  
27 Management Fund shall be used by the Agency to administer the  
28 United States Environmental Protection Agency's Subtitle D  
29 Program provided in Sections 4004 and 4010 of the Resource  
30 Conservation and Recovery Act of 1976 (P.L. 94-580) as it  
31 relates to a municipal solid waste landfill program in Illinois  
32 and to fund a delegation of inspecting, investigating, and  
33 enforcement functions, within the municipality only, pursuant  
34 to subsection (r) of Section 4 of this Act to a municipality  
35 having a population of more than 1,000,000 inhabitants. The  
36 Agency shall execute a delegation agreement pursuant to

1 subsection (r) of Section 4 of this Act with a municipality  
2 having a population of more than 1,000,000 inhabitants within  
3 90 days of September 13, 1993 and shall on an annual basis  
4 distribute from the Subtitle D Management Fund to that  
5 municipality no less than \$150,000.

6 (Source: P.A. 92-574, eff. 6-26-02; 93-32, eff. 7-1-03.)

7 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

8 Sec. 39.5. Clean Air Act Permit Program.

9 1. Definitions.

10 For purposes of this Section:

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

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

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

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

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

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

26 "Applicable Clean Air Act requirement" means all of the  
27 following as they apply to emissions units in a source  
28 (including regulations that have been promulgated or approved  
29 by USEPA pursuant to the Clean Air Act which directly impose  
30 requirements upon a source and other such federal requirements  
31 which have been adopted by the Board. These may include  
32 requirements and regulations which have future effective  
33 compliance dates. Requirements and regulations will be exempt  
34 if USEPA determines that such requirements need not be  
35 contained in a Title V permit):

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

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

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

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

24          (4) Any standard or other requirement under Section 112  
25          of the Clean Air Act, including any requirement concerning  
26          accident prevention under Section 112(r)(7) of the Clean  
27          Air Act.

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

31          (6) Any requirements established pursuant to Section  
32          504(b) or Section 114(a)(3) of the Clean Air Act.

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

35          (8) Any standard or other requirement for consumer and  
36          commercial products, under Section 183(e) of the Clean Air

1 Act.

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

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

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

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

17 "Applicable requirement" means all applicable Clean Air  
18 Act requirements and any other standard, limitation, or other  
19 requirement contained in this Act or regulations promulgated  
20 under this Act as applicable to sources of air contaminants  
21 (including requirements that have future effective compliance  
22 dates).

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

25 "CAAPP application" means an application for a CAAPP  
26 permit.

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

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

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

35 "Designated representative" shall have the meaning given  
36 to it in Section 402(26) of the Clean Air Act and the

1 regulations promulgated thereunder which states that the term  
2 'designated representative' shall mean a responsible person or  
3 official authorized by the owner or operator of a unit to  
4 represent the owner or operator in all matters pertaining to  
5 the holding, transfer, or disposition of allowances allocated  
6 to a unit, and the submission of and compliance with permits,  
7 permit applications, and compliance plans for the unit.

8 "Draft CAAPP permit" means the version of a CAAPP permit  
9 for which public notice and an opportunity for public comment  
10 and hearing is offered by the Agency.

11 "Effective date of the CAAPP" means the date that USEPA  
12 approves Illinois' CAAPP.

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

18 "Federally enforceable" means enforceable by USEPA.

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

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

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

32 "Maximum achievable control technology" or "MACT" means  
33 the maximum degree of reductions in emissions deemed achievable  
34 under Section 112 of the Clean Air Act.

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

1 "Permit modification" means a revision to a CAAPP permit  
2 that cannot be accomplished under the provisions for  
3 administrative permit amendments under subsection 13 of this  
4 Section.

5 "Permit revision" means a permit modification or  
6 administrative permit amendment.

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

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

13 "Potential to emit" means the maximum capacity of a  
14 stationary source to emit any air pollutant under its physical  
15 and operational design. Any physical or operational limitation  
16 on the capacity of a source to emit an air pollutant, including  
17 air pollution control equipment and restrictions on hours of  
18 operation or on the type or amount of material combusted,  
19 stored, or processed, shall be treated as part of its design if  
20 the limitation is enforceable by USEPA. This definition does  
21 not alter or affect the use of this term for any other purposes  
22 under the Clean Air Act, or the term "capacity factor" as used  
23 in Title IV of the Clean Air Act or the regulations promulgated  
24 thereunder.

25 "Preconstruction Permit" or "Construction Permit" means a  
26 permit which is to be obtained prior to commencing or beginning  
27 actual construction or modification of a source or emissions  
28 unit.

29 "Proposed CAAPP permit" means the version of a CAAPP permit  
30 that the Agency proposes to issue and forwards to USEPA for  
31 review in compliance with applicable requirements of the Act  
32 and regulations promulgated thereunder.

33 "Regulated air pollutant" means the following:

34 (1) Nitrogen oxides (NOx) or any volatile organic  
35 compound.

36 (2) Any pollutant for which a national ambient air



1 quality standard has been promulgated.

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

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

7 (5) Any pollutant subject to a standard promulgated  
8 under Section 112 or other requirements established under  
9 Section 112 of the Clean Air Act, including Sections  
10 112(g), (j) and (r).

11 (i) Any pollutant subject to requirements under  
12 Section 112(j) of the Clean Air Act. Any pollutant  
13 listed under Section 112(b) for which the subject  
14 source would be major shall be considered to be  
15 regulated 18 months after the date on which USEPA was  
16 required to promulgate an applicable standard pursuant  
17 to Section 112(e) of the Clean Air Act, if USEPA fails  
18 to promulgate such standard.

19 (ii) Any pollutant for which the requirements of  
20 Section 112(g)(2) of the Clean Air Act have been met,  
21 but only with respect to the individual source subject  
22 to Section 112(g)(2) requirement.

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

25 "Responsible official" means one of the following:

26 (1) For a corporation: a president, secretary,  
27 treasurer, or vice-president of the corporation in charge  
28 of a principal business function, or any other person who  
29 performs similar policy or decision-making functions for  
30 the corporation, or a duly authorized representative of  
31 such person if the representative is responsible for the  
32 overall operation of one or more manufacturing,  
33 production, or operating facilities applying for or  
34 subject to a permit and either (i) the facilities employ  
35 more than 250 persons or have gross annual sales or  
36 expenditures exceeding \$25 million (in second quarter 1980

1           dollars), or (ii) the delegation of authority to such  
2           representative is approved in advance by the Agency.

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

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

22          (4) For affected sources for acid deposition:

23                 (i) The designated representative shall be the  
24                 "responsible official" in so far as actions,  
25                 standards, requirements, or prohibitions under Title  
26                 IV of the Clean Air Act or the regulations promulgated  
27                 thereunder are concerned.

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

31          "Section 502(b)(10) changes" means changes that contravene  
32          express permit terms. "Section 502(b)(10) changes" do not  
33          include changes that would violate applicable requirements or  
34          contravene federally enforceable permit terms or conditions  
35          that are monitoring (including test methods), recordkeeping,  
36          reporting, or compliance certification requirements.

1 "Solid waste incineration unit" means a distinct operating  
2 unit of any facility which combusts any solid waste material  
3 from commercial or industrial establishments or the general  
4 public (including single and multiple residences, hotels, and  
5 motels). The term does not include incinerators or other units  
6 required to have a permit under Section 3005 of the Solid Waste  
7 Disposal Act. The term also does not include (A) materials  
8 recovery facilities (including primary or secondary smelters)  
9 which combust waste for the primary purpose of recovering  
10 metals, (B) qualifying small power production facilities, as  
11 defined in Section 3(17)(C) of the Federal Power Act (16 U.S.C.  
12 769(17)(C)), or qualifying cogeneration facilities, as defined  
13 in Section 3(18)(B) of the Federal Power Act (16 U.S.C.  
14 796(18)(B)), which burn homogeneous waste (such as units which  
15 burn tires or used oil, but not including refuse-derived fuel)  
16 for the production of electric energy or in the case of  
17 qualifying cogeneration facilities which burn homogeneous  
18 waste for the production of electric energy and steam or forms  
19 of useful energy (such as heat) which are used for industrial,  
20 commercial, heating or cooling purposes, or (C) air curtain  
21 incinerators provided that such incinerators only burn wood  
22 wastes, yard waste and clean lumber and that such air curtain  
23 incinerators comply with opacity limitations to be established  
24 by the USEPA by rule.

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

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

10 "Stationary source" means any building, structure,  
11 facility, or installation that emits or may emit any regulated  
12 air pollutant or any pollutant listed under Section 112(b) of  
13 the Clean Air Act.

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

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

26 1.1. Exclusion From the CAAPP.

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

1 permit issued pursuant to Section 39(a) of this Act. After  
2 such date, an exclusion from the CAAPP may be sought under  
3 paragraph 3(c) of this Section.

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

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

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

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

## 27 2. Applicability.

28 a. Sources subject to this Section shall include:

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

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

1 subject to regulations or requirements under Section  
2 112(r) of the Clean Air Act.

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

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

8 b. Sources exempted from this Section shall include:

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

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

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

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

32 v. Any other source categories exempted by USEPA  
33 regulations pursuant to Section 502(a) of the Clean Air  
34 Act.

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

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

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

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

23           ii. A major stationary source of air pollutants, as  
24 defined in Section 302 of the Clean Air Act, that  
25 directly emits or has the potential to emit, 100 tpy or  
26 more of any air pollutant (including any major source  
27 of fugitive emissions of any such pollutant, as  
28 determined by rule by USEPA). For purposes of this  
29 subsection, "fugitive emissions" means those emissions  
30 which could not reasonably pass through a stack,  
31 chimney, vent, or other functionally-equivalent  
32 opening. The fugitive emissions of a stationary source  
33 shall not be considered in determining whether it is a  
34 major stationary source for the purposes of Section  
35 302(j) of the Clean Air Act, unless the source belongs  
36 to one of the following categories of stationary

1 source:

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

3 B. Kraft pulp mills.

4 C. Portland cement plants.

5 D. Primary zinc smelters.

6 E. Iron and steel mills.

7 F. Primary aluminum ore reduction plants.

8 G. Primary copper smelters.

9 H. Municipal incinerators capable of charging  
10 more than 250 tons of refuse per day.

11 I. Hydrofluoric, sulfuric, or nitric acid  
12 plants.

13 J. Petroleum refineries.

14 K. Lime plants.

15 L. Phosphate rock processing plants.

16 M. Coke oven batteries.

17 N. Sulfur recovery plants.

18 O. Carbon black plants (furnace process).

19 P. Primary lead smelters.

20 Q. Fuel conversion plants.

21 R. Sintering plants.

22 S. Secondary metal production plants.

23 T. Chemical process plants.

24 U. Fossil-fuel boilers (or combination  
25 thereof) totaling more than 250 million British  
26 thermal units per hour heat input.

27 V. Petroleum storage and transfer units with a  
28 total storage capacity exceeding 300,000 barrels.

29 W. Taconite ore processing plants.

30 X. Glass fiber processing plants.

31 Y. Charcoal production plants.

32 Z. Fossil fuel-fired steam electric plants of  
33 more than 250 million British thermal units per  
34 hour heat input.

35 AA. All other stationary source categories  
36 regulated by a standard promulgated under Section



1 111 or 112 of the Clean Air Act, but only with  
2 respect to those air pollutants that have been  
3 regulated for that category.

4 BB. Any other stationary source category  
5 designated by USEPA by rule.

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

8 A. For ozone nonattainment areas, sources with  
9 the potential to emit 100 tons or more per year of  
10 volatile organic compounds or oxides of nitrogen  
11 in areas classified as "marginal" or "moderate",  
12 50 tons or more per year in areas classified as  
13 "serious", 25 tons or more per year in areas  
14 classified as "severe", and 10 tons or more per  
15 year in areas classified as "extreme"; except that  
16 the references in this clause to 100, 50, 25, and  
17 10 tons per year of nitrogen oxides shall not apply  
18 with respect to any source for which USEPA has made  
19 a finding, under Section 182(f)(1) or (2) of the  
20 Clean Air Act, that requirements otherwise  
21 applicable to such source under Section 182(f) of  
22 the Clean Air Act do not apply. Such sources shall  
23 remain subject to the major source criteria of  
24 paragraph 2(c)(ii) of this subsection.

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

29 C. For carbon monoxide nonattainment areas (1)  
30 that are classified as "serious", and (2) in which  
31 stationary sources contribute significantly to  
32 carbon monoxide levels as determined under rules  
33 issued by USEPA, sources with the potential to emit  
34 50 tons or more per year of carbon monoxide.

35 D. For particulate matter (PM-10)  
36 nonattainment areas classified as "serious",

1 sources with the potential to emit 70 tons or more  
2 per year of PM-10.

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

5 a. The Agency shall issue CAAPP permits under this  
6 Section consistent with the Clean Air Act and regulations  
7 promulgated thereunder and this Act and regulations  
8 promulgated thereunder.

9 b. The Agency shall issue CAAPP permits for fixed terms  
10 of 5 years, except CAAPP permits issued for solid waste  
11 incineration units combusting municipal waste which shall  
12 be issued for fixed terms of 12 years and except CAAPP  
13 permits for affected sources for acid deposition which  
14 shall be issued for initial terms to expire on December 31,  
15 1999, and for fixed terms of 5 years thereafter.

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

28 d. For purposes of this Act, a permit issued by USEPA  
29 under Section 505 of the Clean Air Act, as now and  
30 hereafter amended, shall be deemed to be a permit issued by  
31 the Agency pursuant to Section 39.5 of this Act.

32 4. Transition.

33 a. An owner or operator of a CAAPP source shall not be  
34 required to renew an existing State operating permit for

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

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

22 c. An owner or operator of a CAAPP source shall submit  
23 its initial CAAPP application to the Agency no later than  
24 12 months after the effective date of the CAAPP. The Agency  
25 may request submittal of initial CAAPP applications during  
26 this 12 month period according to a schedule set forth  
27 within Agency procedures, however, in no event shall the  
28 Agency require such submittal earlier than 3 months after  
29 such effective date of the CAAPP. An owner or operator may  
30 voluntarily submit its initial CAAPP application prior to  
31 the date required within this paragraph or applicable  
32 procedures, if any, subsequent to the date the Agency  
33 submits the CAAPP to USEPA for approval.

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

36 e. For purposes of this Section, the term "initial

1 CAAPP application" shall mean the first CAAPP application  
2 submitted for a source existing as of the effective date of  
3 the CAAPP.

4 f. The Agency shall provide owners or operators of  
5 CAAPP sources with at least three months advance notice of  
6 the date on which their applications are required to be  
7 submitted. In determining which sources shall be subject to  
8 early submittal, the Agency shall include among its  
9 considerations the complexity of the permit application,  
10 and the burden that such early submittal will have on the  
11 source.

12 g. The CAAPP permit shall upon becoming effective  
13 supersede the State operating permit.

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

18 5. Applications and Completeness.

19 a. An owner or operator of a CAAPP source shall submit  
20 its complete CAAPP application consistent with the Act and  
21 applicable regulations.

22 b. An owner or operator of a CAAPP source shall submit  
23 a single complete CAAPP application covering all emission  
24 units at that source.

25 c. To be deemed complete, a CAAPP application must  
26 provide all information, as requested in Agency  
27 application forms, sufficient to evaluate the subject  
28 source and its application and to determine all applicable  
29 requirements, pursuant to the Clean Air Act, and  
30 regulations thereunder, this Act and regulations  
31 thereunder. Such Agency application forms shall be  
32 finalized and made available prior to the date on which any  
33 CAAPP application is required.

34 d. An owner or operator of a CAAPP source shall submit,  
35 as part of its complete CAAPP application, a compliance

1 plan, including a schedule of compliance, describing how  
2 each emission unit will comply with all applicable  
3 requirements. Any such schedule of compliance shall be  
4 supplemental to, and shall not sanction noncompliance  
5 with, the applicable requirements on which it is based.

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

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

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

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

32 i. Any applicant who fails to submit any relevant facts  
33 necessary to evaluate the subject source and its CAAPP  
34 application or who has submitted incorrect information in a  
35 CAAPP application shall, upon becoming aware of such  
36 failure or incorrect submittal, submit supplementary facts

1 or correct information to the Agency. In addition, an  
2 applicant shall provide to the Agency additional  
3 information as necessary to address any requirements which  
4 become applicable to the source subsequent to the date the  
5 applicant submitted its complete CAAPP application but  
6 prior to release of the draft CAAPP permit.

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

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

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

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

33 m. Permits being renewed shall be subject to the same  
34 procedural requirements, including those for public  
35 participation and federal review and objection, that apply  
36 to original permit issuance.

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

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

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

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

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

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

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

32 u. An owner or operator of a CAAPP source which seeks  
33 exclusion from the CAAPP through the imposition of  
34 federally enforceable conditions, pursuant to paragraph  
35 3(c) of this Section, must request such exclusion within a  
36 CAAPP application submitted consistent with this

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

7 v. CAAPP applications shall contain accurate  
8 information on allowable emissions to implement the fee  
9 provisions of subsection 18 of this Section.

10 w. An owner or operator of a CAAPP source shall submit  
11 within its CAAPP application emissions information  
12 regarding all regulated air pollutants emitted at that  
13 source consistent with applicable Agency procedures.  
14 Emissions information regarding insignificant activities  
15 or emission levels, as determined by the Agency pursuant to  
16 Board regulations, may be submitted as a list within the  
17 CAAPP application. The Agency shall propose regulations to  
18 the Board defining insignificant activities or emission  
19 levels, consistent with federal regulations, if any, no  
20 later than 18 months after the effective date of this  
21 amendatory Act of 1992, consistent with Section 112(n)(1)  
22 of the Clean Air Act. The Board shall adopt final  
23 regulations defining insignificant activities or emission  
24 levels no later than 9 months after the date of the  
25 Agency's proposal.

26 x. The owner or operator of a new CAAPP source shall  
27 submit its complete CAAPP application consistent with this  
28 subsection within 12 months after commencing operation of  
29 such source. The owner or operator of an existing source  
30 that has been excluded from the provisions of this Section  
31 under subsection 1.1 or subsection 3(c) of this Section and  
32 that becomes subject to the CAAPP solely due to a change in  
33 operation at the source shall submit its complete CAAPP  
34 application consistent with this subsection at least 180  
35 days before commencing operation in accordance with the  
36 change in operation.



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

5           6. Prohibitions.

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

16           b. After the applicable CAAPP permit or renewal  
17 application submittal date, as specified in subsection 5 of  
18 this Section, no person shall operate a CAAPP source  
19 without a CAAPP permit unless the complete CAAPP permit or  
20 renewal application for such source has been timely  
21 submitted to the Agency.

22           c. No owner or operator of a CAAPP source shall cause  
23 or threaten or allow the continued operation of an emission  
24 source during malfunction or breakdown of the emission  
25 source or related air pollution control equipment if such  
26 operation would cause a violation of the standards or  
27 limitations applicable to the source, unless the CAAPP  
28 permit granted to the source provides for such operation  
29 consistent with this Act and applicable Board regulations.

30           7. Permit Content.

31           a. All CAAPP permits shall contain emission  
32 limitations and standards and other enforceable terms and  
33 conditions, including but not limited to operational  
34 requirements, and schedules for achieving compliance at

1 the earliest reasonable date, which are or will be required  
2 to accomplish the purposes and provisions of this Act and  
3 to assure compliance with all applicable requirements.

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

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

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

26 i. Incorporate and identify all applicable  
27 emissions monitoring and analysis procedures or test  
28 methods required under the Clean Air Act, regulations  
29 promulgated thereunder, this Act, and applicable Board  
30 regulations, including any procedures and methods  
31 promulgated by USEPA pursuant to Section 504(b) or  
32 Section 114 (a) (3) of the Clean Air Act.

33 ii. Where the applicable requirement does not  
34 require periodic testing or instrumental or  
35 noninstrumental monitoring (which may consist of  
36 recordkeeping designed to serve as monitoring),

1           require periodic monitoring sufficient to yield  
2           reliable data from the relevant time period that is  
3           representative of the source's compliance with the  
4           permit, as reported pursuant to paragraph (f) of this  
5           subsection. The Agency may determine that  
6           recordkeeping requirements are sufficient to meet the  
7           requirements of this subparagraph.

8           iii. As necessary, specify requirements concerning  
9           the use, maintenance, and when appropriate,  
10          installation of monitoring equipment or methods.

11          e. To meet the requirements of this subsection with  
12          respect to record keeping, the permit shall incorporate and  
13          identify all applicable recordkeeping requirements and  
14          require, where applicable, the following:

15           i. Records of required monitoring information that  
16           include the following:

17           A. The date, place and time of sampling or  
18           measurements.

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

20           C. The company or entity that performed the  
21           analyses.

22           D. The analytical techniques or methods used.

23           E. The results of such analyses.

24           F. The operating conditions as existing at the  
25           time of sampling or measurement.

26          ii. Retention of records of all monitoring data  
27          and support information for a period of at least 5  
28          years from the date of the monitoring sample,  
29          measurement, report, or application. Support  
30          information includes all calibration and maintenance  
31          records, original strip-chart recordings for  
32          continuous monitoring instrumentation, and copies of  
33          all reports required by the permit.

34          f. To meet the requirements of this subsection with  
35          respect to reporting, the permit shall incorporate and  
36          identify all applicable reporting requirements and require

1 the following:

2 i. Submittal of reports of any required monitoring  
3 every 6 months. More frequent submittals may be  
4 requested by the Agency if such submittals are  
5 necessary to assure compliance with this Act or  
6 regulations promulgated by the Board thereunder. All  
7 instances of deviations from permit requirements must  
8 be clearly identified in such reports. All required  
9 reports must be certified by a responsible official  
10 consistent with subsection 5 of this Section.

11 ii. Prompt reporting of deviations from permit  
12 requirements, including those attributable to upset  
13 conditions as defined in the permit, the probable cause  
14 of such deviations, and any corrective actions or  
15 preventive measures taken.

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

22 h. All CAAPP permits shall state that, where another  
23 applicable requirement of the Clean Air Act is more  
24 stringent than any applicable requirement of regulations  
25 promulgated under Title IV of the Clean Air Act, both  
26 provisions shall be incorporated into the permit and shall  
27 be State and federally enforceable.

28 i. Each CAAPP permit issued under subsection 10 of this  
29 Section shall include a severability clause to ensure the  
30 continued validity of the various permit requirements in  
31 the event of a challenge to any portions of the permit.

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

34 i. The Agency shall include in a CAAPP permit, when  
35 requested by an applicant pursuant to paragraph 5(p) of  
36 this Section, a provision stating that compliance with

1 the conditions of the permit shall be deemed compliance  
2 with applicable requirements which are applicable as  
3 of the date of release of the proposed permit, provided  
4 that:

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

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

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

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

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

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

26 B. The liability of an owner or operator of a  
27 source for any violation of applicable  
28 requirements prior to or at the time of permit  
29 issuance.

30 C. The applicable requirements of the acid  
31 rain program consistent with Section 408(a) of the  
32 Clean Air Act.

33 D. The ability of USEPA to obtain information  
34 from a source pursuant to Section 114  
35 (inspections, monitoring, and entry) of the Clean  
36 Air Act.

1 k. Each CAAPP permit shall include an emergency  
2 provision providing an affirmative defense of emergency to  
3 an action brought for noncompliance with technology-based  
4 emission limitations under a CAAPP permit if the following  
5 conditions are met through properly signed,  
6 contemporaneous operating logs, or other relevant  
7 evidence:

8 i. An emergency occurred and the permittee can  
9 identify the cause(s) of the emergency.

10 ii. The permitted facility was at the time being  
11 properly operated.

12 iii. The permittee submitted notice of the  
13 emergency to the Agency within 2 working days of the  
14 time when emission limitations were exceeded due to the  
15 emergency. This notice must contain a detailed  
16 description of the emergency, any steps taken to  
17 mitigate emissions, and corrective actions taken.

18 iv. During the period of the emergency the  
19 permittee took all reasonable steps to minimize levels  
20 of emissions that exceeded the emission limitations,  
21 standards, or requirements in the permit.

22 For purposes of this subsection, "emergency" means any  
23 situation arising from sudden and reasonably unforeseeable  
24 events beyond the control of the source, such as an act of  
25 God, that requires immediate corrective action to restore  
26 normal operation, and that causes the source to exceed a  
27 technology-based emission limitation under the permit, due  
28 to unavoidable increases in emissions attributable to the  
29 emergency. An emergency shall not include noncompliance to  
30 the extent caused by improperly designed equipment, lack of  
31 preventative maintenance, careless or improper operation,  
32 or operation error.

33 In any enforcement proceeding, the permittee seeking  
34 to establish the occurrence of an emergency has the burden  
35 of proof. This provision is in addition to any emergency or  
36 upset provision contained in any applicable requirement.

1 This provision does not relieve a permittee of any  
2 reporting obligations under existing federal or state laws  
3 or regulations.

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

6 i. Terms and conditions for reasonably anticipated  
7 operating scenarios identified by the source in its  
8 application. The permit terms and conditions for each  
9 such operating scenario shall meet all applicable  
10 requirements and the requirements of this Section.

11 A. Under this subparagraph, the source must  
12 record in a log at the permitted facility a record  
13 of the scenario under which it is operating  
14 contemporaneously with making a change from one  
15 operating scenario to another.

16 B. The permit shield described in paragraph  
17 7(j) of this Section shall extend to all terms and  
18 conditions under each such operating scenario.

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

27 A. Shall include all terms required under this  
28 subsection to determine compliance;

29 B. Must meet all applicable requirements;

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

34 m. The Agency shall specifically designate as not being  
35 federally enforceable under the Clean Air Act any terms and  
36 conditions included in the permit that are not specifically

1 required under the Clean Air Act or federal regulations  
2 promulgated thereunder. Terms or conditions so designated  
3 shall be subject to all applicable state requirements,  
4 except the requirements of subsection 7 (other than this  
5 paragraph, paragraph q of subsection 7, subsections 8  
6 through 11, and subsections 13 through 16 of this Section.  
7 The Agency shall, however, include such terms and  
8 conditions in the CAAPP permit issued to the source.

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

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

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

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

30 iii. Permit actions. The permit may be modified,  
31 revoked, reopened, and reissued, or terminated for  
32 cause in accordance with the applicable subsections of  
33 Section 39.5 of this Act. The filing of a request by  
34 the permittee for a permit modification, revocation  
35 and reissuance, or termination, or of a notification of  
36 planned changes or anticipated noncompliance does not



1 stay any permit condition.

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

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

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

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

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

31 i. Compliance certification, testing, monitoring,  
32 reporting, and record keeping requirements sufficient  
33 to assure compliance with the terms and conditions of  
34 the permit. Any document (including reports) required  
35 by a CAAPP permit shall contain a certification by a  
36 responsible official that meets the requirements of

1 subsection 5 of this Section and applicable  
2 regulations.

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

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

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

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

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

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

26 2. As otherwise authorized by this Act.

27 iii. A schedule of compliance consistent with  
28 subsection 5 of this Section and applicable  
29 regulations.

30 iv. Progress reports consistent with an applicable  
31 schedule of compliance pursuant to paragraph 5(d) of  
32 this Section and applicable regulations to be  
33 submitted semiannually, or more frequently if the  
34 Agency determines that such more frequent submittals  
35 are necessary for compliance with the Act or  
36 regulations promulgated by the Board thereunder. Such

1 progress reports shall contain the following:

2 A. Required dates for achieving the  
3 activities, milestones, or compliance required by  
4 the schedule of compliance and dates when such  
5 activities, milestones or compliance were  
6 achieved.

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

10 v. Requirements for compliance certification with  
11 terms and conditions contained in the permit,  
12 including emission limitations, standards, or work  
13 practices. Permits shall include each of the  
14 following:

15 A. The frequency (annually or more frequently  
16 as specified in any applicable requirement or by  
17 the Agency pursuant to written procedures) of  
18 submissions of compliance certifications.

19 B. A means for assessing or monitoring the  
20 compliance of the source with its emissions  
21 limitations, standards, and work practices.

22 C. A requirement that the compliance  
23 certification include the following:

24 1. The identification of each term or  
25 condition contained in the permit that is the  
26 basis of the certification.

27 2. The compliance status.

28 3. Whether compliance was continuous or  
29 intermittent.

30 4. The method(s) used for determining the  
31 compliance status of the source, both  
32 currently and over the reporting period  
33 consistent with subsection 7 of Section 39.5 of  
34 the Act.

35 D. A requirement that all compliance  
36 certifications be submitted to USEPA as well as to

1 the Agency.

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

5 F. Other provisions as the Agency may require.

6 q. If the owner or operator of CAAPP source can  
7 demonstrate in its CAAPP application, including an  
8 application for a significant modification, that an  
9 alternative emission limit would be equivalent to that  
10 contained in the applicable Board regulations, the Agency  
11 shall include the alternative emission limit in the CAAPP  
12 permit, which shall supersede the emission limit set forth  
13 in the applicable Board regulations, and shall include  
14 conditions that insure that the resulting emission limit is  
15 quantifiable, accountable, enforceable, and based on  
16 replicable procedures.

17 8. Public Notice; Affected State Review.

18 a. The Agency shall provide notice to the public,  
19 including an opportunity for public comment and a hearing,  
20 on each draft CAAPP permit for issuance, renewal or  
21 significant modification, subject to Sections 7(a) and 7.1  
22 of this Act.

23 b. The Agency shall prepare a draft CAAPP permit and a  
24 statement that sets forth the legal and factual basis for  
25 the draft CAAPP permit conditions, including references to  
26 the applicable statutory or regulatory provisions. The  
27 Agency shall provide this statement to any person who  
28 requests it.

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

33 d. The Agency, as part of its submittal of a proposed  
34 permit to USEPA (or as soon as possible after the submittal  
35 for minor permit modification procedures allowed under  
36 subsection 14 of this Section), shall notify USEPA and any

1 affected State in writing of any refusal of the Agency to  
2 accept all of the recommendations for the proposed permit  
3 that an affected State submitted during the public or  
4 affected State review period. The notice shall include the  
5 Agency's reasons for not accepting the recommendations.  
6 The Agency is not required to accept recommendations that  
7 are not based on applicable requirements or the  
8 requirements of this Section.

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

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

#### 26 9. USEPA Notice and Objection.

27 a. The Agency shall provide to USEPA for its review a  
28 copy of each CAAPP application (including any application  
29 for permit modification), statement of basis as provided in  
30 paragraph 8(b) of this Section, proposed CAAPP permit,  
31 CAAPP permit, and, if the Agency does not incorporate any  
32 affected State's recommendations on a proposed CAAPP  
33 permit, a written statement of this decision and its  
34 reasons for not accepting the recommendations, except as  
35 otherwise provided in this Act or by agreement with USEPA.

1 To the extent practicable, the preceding information shall  
2 be provided in computer readable format compatible with  
3 USEPA's national database management system.

4 b. The Agency shall not issue the proposed CAAPP permit  
5 if USEPA objects in writing within 45 days of receipt of  
6 the proposed CAAPP permit and all necessary supporting  
7 information.

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

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

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

35 f. If the permit has not yet been issued and USEPA  
36 objects to the permit as a result of a petition, the Agency

1 shall not issue the permit until USEPA's objection has been  
2 resolved. The Agency shall provide a 10-day comment period  
3 in accordance with paragraph c of this subsection. A  
4 petition does not, however, stay the effectiveness of a  
5 permit or its requirements if the permit was issued after  
6 expiration of the 45-day review period and prior to a USEPA  
7 objection.

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

21 h. 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 10. Final Agency Action.

26 a. The Agency shall issue a CAAPP permit, permit  
27 modification, or permit renewal if all of the following  
28 conditions are met:

29 i. The applicant has submitted a complete and  
30 certified application for a permit, permit  
31 modification, or permit renewal consistent with  
32 subsections 5 and 14 of this Section, as applicable,  
33 and applicable regulations.

34 ii. The applicant has submitted with its complete  
35 application an approvable compliance plan, including a

1 schedule for achieving compliance, consistent with  
2 subsection 5 of this Section and applicable  
3 regulations.

4 iii. The applicant has timely paid the fees  
5 required pursuant to subsection 18 of this Section and  
6 applicable regulations.

7 iv. The Agency has received a complete CAAPP  
8 application and, if necessary, has requested and  
9 received additional information from the applicant  
10 consistent with subsection 5 of this Section and  
11 applicable regulations.

12 v. The Agency has complied with all applicable  
13 provisions regarding public notice and affected State  
14 review consistent with subsection 8 of this Section and  
15 applicable regulations.

16 vi. The Agency has provided a copy of each CAAPP  
17 application, or summary thereof, pursuant to agreement  
18 with USEPA and proposed CAAPP permit required under  
19 subsection 9 of this Section to USEPA, and USEPA has  
20 not objected to the issuance of the permit in  
21 accordance with the Clean Air Act and 40 CFR Part 70.

22 b. The Agency shall have the authority to deny a CAAPP  
23 permit, permit modification, or permit renewal if the  
24 applicant has not complied with the requirements of  
25 paragraphs (a)(i)-(a)(iv) of this subsection or if USEPA  
26 objects to its issuance.

27 c. i. Prior to denial of a CAAPP permit, permit  
28 modification, or permit renewal under this Section,  
29 the Agency shall notify the applicant of the possible  
30 denial and the reasons for the denial.

31 ii. Within such notice, the Agency shall specify an  
32 appropriate date by which the applicant shall  
33 adequately respond to the Agency's notice. Such date  
34 shall not exceed 15 days from the date the notification  
35 is received by the applicant. The Agency may grant a  
36 reasonable extension for good cause shown.



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

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

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

17          11. General Permits.

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

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

25          c. CAAPP sources that would qualify for a general  
26 permit must apply for coverage under the terms of the  
27 general permit or must apply for a CAAPP permit consistent  
28 with subsection 5 of this Section and applicable  
29 regulations.

30          d. The Agency shall comply with the public comment and  
31 hearing provisions of this Section as well as the USEPA and  
32 affected State review procedures prior to issuance of a  
33 general permit.

34          e. When granting a subsequent request by a qualifying  
35 CAAPP source for coverage under the terms of a general

1 permit, the Agency shall not be required to repeat the  
2 public notice and comment procedures. The granting of such  
3 request shall not be considered a final permit action for  
4 purposes of judicial review.

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

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

## 12 12. Operational Flexibility.

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

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

35 A. For each such change, the written

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

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

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

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

31 B. The permit shield described in paragraph  
32 7(j) of this Section shall not apply to any change  
33 made pursuant to this subparagraph (a) (ii).  
34 Compliance with the permit requirements that the  
35 source will meet using the emissions trade shall be  
36 determined according to the requirements of the

1 applicable implementation plan authorizing the  
2 emissions trade.

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

17 A. Under this subparagraph (a)(iii), the  
18 written notification required above shall state  
19 when the change will occur and shall describe the  
20 changes in emissions that will result and how these  
21 increases and decreases in emissions will comply  
22 with the terms and conditions of the permit.

23 B. The permit shield described in paragraph  
24 7(j) of this Section shall extend to terms and  
25 conditions that allow such increases and decreases  
26 in emissions.

27 b. An owner or operator of a CAAPP source may make  
28 changes that are not addressed or prohibited by the permit,  
29 other than those which are subject to any requirements  
30 under Title IV of the Clean Air Act or are modifications  
31 under any provisions of Title I of the Clean Air Act,  
32 without a permit revision, in accordance with the following  
33 requirements:

34 (i) Each such change shall meet all applicable  
35 requirements and shall not violate any existing permit  
36 term or condition;

1 (ii) Sources must provide contemporaneous written  
2 notice to the Agency and USEPA of each such change,  
3 except for changes that qualify as insignificant under  
4 provisions adopted by the Agency or the Board. Such  
5 written notice shall describe each such change,  
6 including the date, any change in emissions,  
7 pollutants emitted, and any applicable requirement  
8 that would apply as a result of the change;

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

11 (iv) The permittee shall keep a record describing  
12 changes made at the source that result in emissions of  
13 a regulated air pollutant subject to an applicable  
14 Clean Air Act requirement, but not otherwise regulated  
15 under the permit, and the emissions resulting from  
16 those changes.

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

21 13. Administrative Permit Amendments.

22 a. The Agency shall take final action on a request for  
23 an administrative permit amendment within 60 days of  
24 receipt of the request. Neither notice nor an opportunity  
25 for public and affected State comment shall be required for  
26 the Agency to incorporate such revisions, provided it  
27 designates the permit revisions as having been made  
28 pursuant to this subsection.

29 b. The Agency shall submit a copy of the revised permit  
30 to USEPA.

31 c. For purposes of this Section the term  
32 "administrative permit amendment" shall be defined as a  
33 permit revision that can accomplish one or more of the  
34 changes described below:

35 i. Corrects typographical errors;

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

5           iii. Requires more frequent monitoring or  
6 reporting by the permittee;

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

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

20           vi. (Blank); or

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

24           d. The Agency shall, upon taking final action granting  
25 a request for an administrative permit amendment, allow  
26 coverage by the permit shield in paragraph 7(j) of this  
27 Section for administrative permit amendments made pursuant  
28 to subparagraph (c)(v) of this subsection which meet the  
29 relevant requirements for significant permit  
30 modifications.

31           e. Permit revisions and modifications, including  
32 administrative amendments and automatic amendments  
33 (pursuant to Sections 408(b) and 403(d) of the Clean Air  
34 Act or regulations promulgated thereunder), for purposes  
35 of the acid rain portion of the permit shall be governed by  
36 the regulations promulgated under Title IV of the Clean Air

1 Act. Owners or operators of affected sources for acid  
2 deposition shall have the flexibility to amend their  
3 compliance plans as provided in the regulations  
4 promulgated under Title IV of the Clean Air Act.

5 f. The CAAPP source may implement the changes addressed  
6 in the request for an administrative permit amendment  
7 immediately upon submittal of the request.

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

12 14. Permit Modifications.

13 a. Minor permit modification procedures.

14 i. The Agency shall review a permit modification  
15 using the "minor permit" modification procedures only  
16 for those permit modifications that:

17 A. Do not violate any applicable requirement;

18 B. Do not involve significant changes to  
19 existing monitoring, reporting, or recordkeeping  
20 requirements in the permit;

21 C. Do not require a case-by-case determination  
22 of an emission limitation or other standard, or a  
23 source-specific determination of ambient impacts,  
24 or a visibility or increment analysis;

25 D. Do not seek to establish or change a permit  
26 term or condition for which there is no  
27 corresponding underlying requirement and which  
28 avoids an applicable requirement to which the  
29 source would otherwise be subject. Such terms and  
30 conditions include:

31 1. A federally enforceable emissions cap  
32 assumed to avoid classification as a  
33 modification under any provision of Title I of  
34 the Clean Air Act; and

35 2. An alternative emissions limit approved

1           pursuant to regulations promulgated under  
2           Section 112(i)(5) of the Clean Air Act;

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

5           F. Are not required to be processed as a  
6           significant modification.

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

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

20           A. A description of the change, the emissions  
21           resulting from the change, and any new applicable  
22           requirements that will apply if the change occurs;

23           B. The source's suggested draft permit;

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

30           D. Completed forms for the Agency to use to  
31           notify USEPA and affected States as required under  
32           subsections 8 and 9 of this Section.

33          iv. Within 5 working days of receipt of a complete  
34          permit modification application, the Agency shall  
35          notify USEPA and affected States of the requested  
36          permit modification in accordance with subsections 8



1 and 9 of this Section. The Agency promptly shall send  
2 any notice required under paragraph 8(d) of this  
3 Section to USEPA.

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

15 A. Issue the permit modification as proposed;

16 B. Deny the permit modification application;

17 C. Determine that the requested modification  
18 does not meet the minor permit modification  
19 criteria and should be reviewed under the  
20 significant modification procedures; or

21 D. Revise the draft permit modification and  
22 transmit to USEPA the new proposed permit  
23 modification as required by subsection 9 of this  
24 Section.

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

1 permit terms and conditions during this time period,  
2 the existing permit terms and conditions which it seeks  
3 to modify may be enforced against it.

4 vii. The permit shield under subparagraph 7(j) of  
5 this Section may not extend to minor permit  
6 modifications.

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

23 b. Group Processing of Minor Permit Modifications.

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

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

32 A. Which meet the criteria for minor permit  
33 modification procedures under subparagraph  
34 14(a)(i) of this Section; and

35 B. That collectively are below 10 percent of  
36 the emissions allowed by the permit for the

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

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

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

12 B. The source's suggested draft permit.

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

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

24 E. Certification, consistent with paragraph  
25 5(e), that the source has notified USEPA of the  
26 proposed modification. Such notification need only  
27 contain a brief description of the requested  
28 modification.

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

32 iv. On a quarterly basis or within 5 business days  
33 of receipt of an application demonstrating that the  
34 aggregate of a source's pending applications equals or  
35 exceeds the threshold level set forth within  
36 subparagraph (b)(ii)(B) of this subsection, whichever

1 is earlier, the Agency shall promptly notify USEPA and  
2 affected States of the requested permit modifications  
3 in accordance with subsections 8 and 9 of this Section.  
4 The Agency shall send any notice required under  
5 paragraph 8(d) of this Section to USEPA.

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

14 vi. The provisions of subparagraph (a)(vi) of this  
15 subsection shall apply to modifications for group  
16 processing.

17 vii. The provisions of paragraph 7(j) of this  
18 Section shall not apply to modifications eligible for  
19 group processing.

20 c. Significant Permit Modifications.

21 i. Significant modification procedures shall be  
22 used for applications requesting significant permit  
23 modifications and for those applications that do not  
24 qualify as either minor permit modifications or as  
25 administrative permit amendments.

26 ii. Every significant change in existing  
27 monitoring permit terms or conditions and every  
28 relaxation of reporting or recordkeeping requirements  
29 shall be considered significant. A modification shall  
30 also be considered significant if in the judgment of  
31 the Agency action on an application for modification  
32 would require decisions to be made on technically  
33 complex issues. Nothing herein shall be construed to  
34 preclude the permittee from making changes consistent  
35 with this Section that would render existing permit  
36 compliance terms and conditions irrelevant.

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

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 15. Reopenings for Cause by the Agency.

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

21           i. Additional requirements under the Clean Air Act  
22 become applicable to a major CAAPP source for which 3  
23 or more years remain on the original term of the  
24 permit. Such a reopening shall be completed not later  
25 than 18 months after the promulgation of the applicable  
26 requirement. No such revision is required if the  
27 effective date of the requirement is later than the  
28 date on which the permit is due to expire.

29           ii. Additional requirements (including excess  
30 emissions requirements) become applicable to an  
31 affected source for acid deposition under the acid rain  
32 program. Excess emissions offset plans shall be deemed  
33 to be incorporated into the permit upon approval by  
34 USEPA.

35           iii. The Agency or USEPA determines that the permit

1 contains a material mistake or that inaccurate  
2 statements were made in establishing the emissions  
3 standards, limitations, or other terms or conditions  
4 of the permit.

5 iv. The Agency or USEPA determines that the permit  
6 must be revised or revoked to assure compliance with  
7 the applicable requirements.

8 b. In the event that the Agency determines that there  
9 are grounds for revoking a CAAPP permit, for cause,  
10 consistent with paragraph a of this subsection, it shall  
11 file a petition before the Board setting forth the basis  
12 for such revocation. In any such proceeding, the Agency  
13 shall have the burden of establishing that the permit  
14 should be revoked under the standards set forth in this Act  
15 and the Clean Air Act. Any such proceeding shall be  
16 conducted pursuant to the Board's procedures for  
17 adjudicatory hearings and the Board shall render its  
18 decision within 120 days of the filing of the petition. The  
19 Agency shall take final action to revoke and reissue a  
20 CAAPP permit consistent with the Board's order.

21 c. Proceedings regarding a reopened CAAPP permit shall  
22 follow the same procedures as apply to initial permit  
23 issuance and shall affect only those parts of the permit  
24 for which cause to reopen exists.

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

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.

35 16. Reopenings for Cause by USEPA.

1           a. When USEPA finds that cause exists to terminate,  
2           modify, or revoke and reissue a CAAPP permit pursuant to  
3           subsection 15 of this Section, and thereafter notifies the  
4           Agency and the permittee of such finding in writing, the  
5           Agency shall forward to USEPA and the permittee a proposed  
6           determination of termination, modification, or revocation  
7           and reissuance as appropriate, in accordance with  
8           paragraph b of this subsection. The Agency's proposed  
9           determination shall be in accordance with the record, the  
10          Clean Air Act, regulations promulgated thereunder, this  
11          Act and regulations promulgated thereunder. Such proposed  
12          determination shall not affect the permit or constitute a  
13          final permit action for purposes of this Act or the  
14          Administrative Review Law. The Agency shall forward to  
15          USEPA such proposed determination within 90 days after  
16          receipt of the notification from USEPA. If additional time  
17          is necessary to submit the proposed determination, the  
18          Agency shall request a 90-day extension from USEPA and  
19          shall submit the proposed determination within 180 days of  
20          receipt of notification from USEPA.

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

30                ii. After due consideration of the written and oral  
31                statements, the testimony and arguments that shall be  
32                submitted at hearing, the Board shall issue and enter  
33                an interim order for the proposed determination, which  
34                shall set forth all changes, if any, required in the  
35                Agency's proposed determination. The interim order  
36                shall comply with the requirements for final orders as

1 set forth in Section 33 of this Act. Issuance of an  
2 interim order by the Board under this paragraph,  
3 however, shall not affect the permit status and does  
4 not constitute a final action for purposes of this Act  
5 or the Administrative Review Law.

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

12 c. USEPA shall review the proposed determination to  
13 terminate, modify, or revoke and reissue the permit within  
14 90 days of receipt.

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

22 ii. When USEPA reviews such proposed determination  
23 to terminate or revoke and reissue and objects, the  
24 Agency shall submit USEPA's objection and the Agency's  
25 comments and recommendation on the objection to the  
26 Board and permittee. The Board shall review its interim  
27 order in response to USEPA's objection and the Agency's  
28 comments and recommendation and issue a final order in  
29 accordance with Sections 32 and 33 of this Act. The  
30 Agency shall, within 90 days after receipt of such  
31 objection, respond to USEPA's objection in accordance  
32 with the Board's final order.

33 iii. When USEPA reviews such proposed  
34 determination to modify and objects, the Agency shall,  
35 within 90 days after receipt of the objection, resolve  
36 the objection and modify the permit in accordance with



1 USEPA's objection, based upon the record, the Clean Air  
2 Act, regulations promulgated thereunder, this Act, and  
3 regulations promulgated thereunder.

4 d. If the Agency fails to submit the proposed  
5 determination pursuant to paragraph a of this subsection or  
6 fails to resolve any USEPA objection pursuant to paragraph  
7 c of this subsection, USEPA will terminate, modify, or  
8 revoke and reissue the permit.

9 e. 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 17. Title IV; Acid Rain Provisions.

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

29 b. A designated representative of an affected source  
30 for acid deposition shall submit a timely and complete  
31 Phase II acid rain permit application and compliance plan  
32 to the Agency, not later than January 1, 1996, that meets  
33 the requirements of Titles IV and V of the Clean Air Act  
34 and regulations. The Agency shall act on the Phase II acid  
35 rain permit application and compliance plan in accordance

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

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

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

35 e. A designated representative of an affected source  
36 for acid deposition shall submit a timely and complete

1 Title IV NOx permit application to the Agency, not later  
2 than January 1, 1998, that meets the requirements of Titles  
3 IV and V of the Clean Air Act and its regulations. The  
4 Agency shall reopen the Phase II acid rain permit for cause  
5 and incorporate the approved NOx provisions into the Phase  
6 II acid rain permit not later than January 1, 1999, in  
7 accordance with this Section, except as modified by Title  
8 IV of the Clean Air Act and regulations promulgated  
9 thereunder. Such reopening shall not affect the term of the  
10 Phase II acid rain permit.

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

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

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

36 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 program,  
7 provided that such increases do not require a permit  
8 revision under any other applicable requirement.

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

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

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

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

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

32 m. The designated representative of an affected source  
33 for acid deposition shall submit to the Agency the data and  
34 information submitted quarterly to USEPA, pursuant to 40  
35 CFR 75.64, concurrently with the submission to USEPA. The  
36 submission shall be in the same electronic format as

1 specified by USEPA.

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

7 o. 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 18. Fee Provisions.

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

24 i. The fee for a source allowed to emit less than  
25 100 tons per year of any combination of regulated air  
26 pollutants shall be \$1,250 ~~\$1,800~~ per year.

27 ii. The fee for a source allowed to emit 100 tons  
28 or more per year of any combination of regulated air  
29 pollutants, except for those regulated air pollutants  
30 excluded in paragraph 18(f) of this subsection, shall  
31 be as follows:

32 A. The Agency shall assess an annual fee of  
33 \$16.75 ~~\$18.00~~ per ton for the allowable emissions  
34 of all regulated air pollutants at that source  
35 during the term of the permit. These fees shall be

1 used by the Agency and the Board to fund the  
2 activities required by Title V of the Clean Air Act  
3 including such activities as may be carried out by  
4 other State or local agencies pursuant to  
5 paragraph (d) of this subsection. The amount of  
6 such fee shall be based on the information supplied  
7 by the applicant in its complete CAAPP permit  
8 application or in the CAAPP permit if the permit  
9 has been granted and shall be determined by the  
10 amount of emissions that the source is allowed to  
11 emit annually, provided however, that no source  
12 shall be required to pay an annual fee in excess of  
13 \$125,000 ~~\$250,000~~. The Agency shall provide as  
14 part of the permit application form required under  
15 subsection 5 of this Section a separate fee  
16 calculation form which will allow the applicant to  
17 identify the allowable emissions and calculate the  
18 fee for the term of the permit. In no event shall  
19 the Agency raise the amount of allowable emissions  
20 requested by the applicant unless such increases  
21 are required to demonstrate compliance with terms  
22 of a CAAPP permit.

23 Notwithstanding the above, any applicant may  
24 seek a change in its permit which would result in  
25 increases in allowable emissions due to an  
26 increase in the hours of operation or production  
27 rates of an emission unit or units and such a  
28 change shall be consistent with the construction  
29 permit requirements of the existing State permit  
30 program, under Section 39(a) of this Act and  
31 applicable provisions of this Section. Where a  
32 construction permit is required, the Agency shall  
33 expeditiously grant such construction permit and  
34 shall, if necessary, modify the CAAPP permit based  
35 on the same application.

36 B. The applicant or permittee may pay the fee

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

12          b. (Blank).

13          c. (Blank).

14          d. There is hereby created in the State Treasury a  
15          special fund to be known as the "CAA Permit Fund". All  
16          Funds collected by the Agency pursuant to this subsection  
17          shall be deposited into the Fund. The General Assembly  
18          shall appropriate monies from this Fund to the Agency and  
19          to the Board to carry out their obligations under this  
20          Section. The General Assembly may also authorize monies to  
21          be granted by the Agency from this Fund to other State and  
22          local agencies which perform duties related to the CAAPP.  
23          Interest generated on the monies deposited in this Fund  
24          shall be returned to the Fund.

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

29          f. For purposes of this subsection, the term "regulated  
30          air pollutant" shall have the meaning given to it under  
31          subsection 1 of this Section but shall exclude the  
32          following:

33                  i. carbon monoxide;

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

1           iii. any pollutant that is a regulated air  
2 pollutant solely because it is subject to a standard or  
3 regulation under Section 112(r) of the Clean Air Act  
4 based on the emissions allowed in the permit effective  
5 in that calendar year, at the time the applicable bill  
6 is generated.

7           19. Air Toxics Provisions.

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



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

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

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

30          e. The Agency has the authority to implement Section  
31          112(g) of the Clean Air Act consistent with the Clean Air  
32          Act and federal regulations promulgated thereunder. If the  
33          Agency refuses to include the emission limitations  
34          proposed in an application submitted by an owner or  
35          operator for a case-by-case maximum achievable control  
36          technology (MACT) determination, the owner or operator may

1 petition the Board to determine whether the emission  
2 limitation proposed by the owner or operator or an  
3 alternative emission limitation proposed by the Agency  
4 provides for a level of control required by Section 112 of  
5 the Clean Air Act, or to otherwise establish an appropriate  
6 emission limitation under Section 112 of the Clean Air Act.

7 20. Small Business.

8 a. For purposes of this subsection:

9 "Program" is the Small Business Stationary Source  
10 Technical and Environmental Compliance Assistance Program  
11 created within this State pursuant to Section 507 of the  
12 Clean Air Act and guidance promulgated thereunder, to  
13 provide technical assistance and compliance information to  
14 small business stationary sources;

15 "Small Business Assistance Program" is a component of  
16 the Program responsible for providing sufficient  
17 communications with small businesses through the  
18 collection and dissemination of information to small  
19 business stationary sources; and

20 "Small Business Stationary Source" means a stationary  
21 source that:

22 1. is owned or operated by a person that employs  
23 100 or fewer individuals;

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

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

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

30 5. emits less than 75 tons per year of all  
31 regulated pollutants.

32 b. The Agency shall adopt and submit to USEPA, after  
33 reasonable notice and opportunity for public comment, as a  
34 revision to the Illinois state implementation plan, plans  
35 for establishing the Program.

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

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

7           e. There shall be appointed a Small Business Ombudsman  
8 (hereinafter in this subsection referred to as  
9 "Ombudsman") to monitor the Small Business Assistance  
10 Program. The Ombudsman shall be a nonpartisan designated  
11 official, with the ability to independently assess whether  
12 the goals of the Program are being met.

13           f. The State Ombudsman Office shall be located in an  
14 existing Ombudsman office within the State or in any State  
15 Department.

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

20           h. The selection of Panel members shall be by the  
21 following method:

22               1. The Governor shall select two members who are  
23 not owners or representatives of owners of small  
24 business stationary sources to represent the general  
25 public;

26               2. The Director of the Agency shall select one  
27 member to represent the Agency; and

28               3. The State Legislature shall select four members  
29 who are owners or representatives of owners of small  
30 business stationary sources. Both the majority and  
31 minority leadership in both Houses of the Legislature  
32 shall appoint one member of the panel.

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

36           j. The Panel shall select its own Chair by a majority

1 vote. The Chair may meet and consult with the Ombudsman and  
2 the head of the Small Business Assistance Program in  
3 planning the activities for the Panel.

4 21. Temporary Sources.

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

10 b. The applicant must demonstrate that the operation is  
11 temporary and will involve at least one change of location  
12 during the term of the permit.

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

19 22. Solid Waste Incineration Units.

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

26 b. During the review in paragraph (a) of this  
27 subsection, the Agency shall fully review the previously  
28 submitted CAAPP permit application and corresponding  
29 reports subsequently submitted to determine whether the  
30 source is in compliance with all applicable requirements.

31 c. If the Agency determines that the source is not in  
32 compliance with all applicable requirements it shall  
33 revise the CAAPP permit as appropriate.

34 d. 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 (Source: P.A. 92-24, eff. 7-1-01; 93-32, eff. 7-1-03.)

5 (415 ILCS 5/12.6 rep.)

6 Section 10. The Environmental Protection Act is amended by  
7 repealing Section 12.6.

8 Section 15. The State Finance Act is amended by adding  
9 Section 5.625 as follows:

10 (30 ILCS 105/5.625 new)

11 Sec. 5.625. The Illinois Clean Water Fund.

12 Section 99. Effective date. This Act takes effect upon  
13 becoming law.