

1 AN ACT concerning pollution.

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

4 Section 1. Short title. This Act shall be cited as the
5 Northeastern Illinois Nonattainment Area Planning Council
6 Act.

7 Section 5. Legislative findings.

8 (a) There is an increasing concern about the cumulative
9 effects of all pollution sources in the Chicagoland
10 nonattainment area. A permit issued by the Environmental
11 Protection Agency considers the effects of the individual
12 source proposed and not the cumulative effects of that source
13 in combination with other existing sources. A large number
14 of new pollution sources, including but not limited to peaker
15 plants, seek construction and operating permits from the
16 Environmental Protection Agency each year. Local governments
17 regulate these sources through zoning and land use
18 ordinances, but often do not have the necessary expertise to
19 evaluate the environmental impact of these sources.

20 (b) There is currently no comprehensive regional plan
21 for analyzing the cumulative effects of current pollutant
22 sources, for determining the location of new pollution
23 sources, or for limiting the number of new sources in the
24 Chicagoland nonattainment areas.

25 (c) It is the goal of this legislation to develop and
26 implement a comprehensive regional plan to provide the
27 necessary expertise for the consideration of current
28 pollution sources and the siting of new pollution sources.

29 Section 10. Definitions. For the purposes of this Act:

30 "Northeastern Illinois nonattainment area" means the

1 counties of Cook, Lake, McHenry, Will, DuPage, and Kane, the
2 townships of Aux Sable and Goose Lake in Grundy County, the
3 township of Oswego in Kendall County, and any other portion
4 of Northeastern Illinois that may be designated as part of
5 the Chicago Ozone Nonattainment Area by the United States
6 Environmental Protection Agency.

7 "Source" means any source of air, water, or noise
8 pollution whether or not permitted by the Environmental
9 Protection Agency.

10 Section 15. Northeastern Illinois Nonattainment Area
11 Planning Council.

12 (a) There is created a Northeastern Illinois
13 Nonattainment Area Planning Council. It shall consist of the
14 following members: the Director of the Environmental
15 Protection Agency, or his or her designee; the Director of
16 Natural Resources, or his or her designee; the Director of
17 Commerce and Community Affairs, or his or her designee; the
18 Chairman of the Illinois Commerce Commission, or his or her
19 designee; the Chairman of the Pollution Control Board, or his
20 or her designee; one representative of the Illinois
21 Environmental Council; one representative of the Illinois
22 Manufacturers Association; 3 representatives of municipal
23 governments in the Northeastern Illinois nonattainment area
24 designated by the Illinois Municipal League; and 3
25 representatives of county governments in the nonattainment
26 area designated by the Illinois Association of County Board
27 Members and Commissioners.

28 (b) The Council shall have the following duties:

29 (1) to develop standards by which the Environmental
30 Protection Agency shall comprehensively review permit
31 applications for the cumulative effect of a facility and
32 for the cumulative effect of air, water, land, and noise
33 pollutants;

1 (2) to develop additional and more restrictive
2 standards by which the Environmental Protection Agency
3 shall comprehensively review permit applications for the
4 cumulative effect of a facility and for the cumulative
5 effect of air, water, land, and noise pollutants that
6 must be met depending on the proximity of the proposed
7 facility to a school;

8 (3) to provide guidelines for local governments to
9 use when making zoning and land use decisions for
10 facilities;

11 (4) to provide expertise for local governments who
12 are making zoning and land use decisions by serving as a
13 resource for local governments regarding environmental
14 considerations in the siting process;

15 (5) to develop a database with cumulative
16 information about all pollution sources in the
17 Northeastern Illinois nonattainment area that will be
18 available to the public on the internet;

19 (6) to develop regionalized siting criteria for new
20 pollution sources; and

21 (7) to make recommendations for regulations and
22 legislation necessary to develop regional planning for
23 siting of pollution sources.

24 (c) Council members may not be compensated for their
25 services, but shall receive reimbursement for their expenses.

26 (d) The Council may hire an executive director and the
27 technical staff necessary to implement its duties.

28 (e) The necessary expenses of the Council shall be
29 appropriated from the Environmental Protection Trust Fund and
30 the CAA Permit Fund.

31 Section 905. The Environmental Protection Trust Fund Act
32 is amended by changing Section 1 as follows:

1 (30 ILCS 125/1) (from Ch. 111 1/2, par. 1061)

2 Sec. 1. There is hereby created the Environmental
3 Protection Trust Fund Commission to be composed of the
4 following ex officio members: the Attorney General, the
5 Director of Natural Resources, the Chairman of the Pollution
6 Control Board, and the Director of the Environmental
7 Protection Agency. Each member may designate a proxy to act
8 in his stead. The Commission shall elect from its number a
9 chairman and a majority of the Commissioners shall constitute
10 a quorum for the conduct of business, the affirmative votes
11 of at least 3 members being necessary for any action.
12 Members of the Commission shall serve without compensation.

13 The Commission may accept, receive and administer on
14 behalf of the State any grants, gifts, loans, or other funds
15 made available to the Commission from any source for purposes
16 of environmental protection and related enforcement programs.
17 Any such funds received by the Commission under this Section
18 shall be appropriated by the General Assembly, and shall be
19 deposited in a trust fund designated as the Environmental
20 Protection Trust Fund with the State Treasurer and held and
21 disbursed by the State Treasurer in accordance with "An Act
22 in relation to the receipt, custody, and disbursement of
23 money allotted by the United States of America or any Agency
24 thereof for the use in this State", approved July 3, 1939, as
25 amended, provided that such monies shall be used only for the
26 purposes for which they are contributed and any balance
27 remaining shall be returned to the contributor, and provided
28 further that such monies received from the United States of
29 America or any Agency thereof may be used only if first
30 appropriated by the General Assembly. Monies in the
31 Environmental Protection Trust Fund may be appropriated to
32 cover the expenses incurred under the Northeastern Illinois
33 Nonattainment Area Planning Council Act.

34 The Commission has the authority to approve grants from

1 the Environmental Protection Trust Fund to the Office of the
2 Attorney General, the Environmental Protection Agency, the
3 Pollution Control Board or the Department of Natural
4 Resources in order to carry out the provisions of this
5 Section.

6 (Source: P.A. 89-445, eff. 2-7-96.)

7 Section 910. The Environmental Protection Act is amended
8 by changing Section 39.5 as follows:

9 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

10 Sec. 39.5. Clean Air Act Permit Program.

11 1. Definitions.

12 For purposes of this Section:

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

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

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

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

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

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

28 "Applicable Clean Air Act requirement" means all of the
29 following as they apply to emissions units in a source
30 (including regulations that have been promulgated or approved
31 by USEPA pursuant to the Clean Air Act which directly impose
32 requirements upon a source and other such federal

1 requirements which have been adopted by the Board. These may
2 include requirements and regulations which have future
3 effective compliance dates. Requirements and regulations
4 will be exempt if USEPA determines that such requirements
5 need not be contained in a Title V permit):

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

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

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

27 (3) Any standard or other requirement under Section
28 111 of the Clean Air Act, including Section 111(d).

29 (4) Any standard or other requirement under Section
30 112 of the Clean Air Act, including any requirement
31 concerning accident prevention under Section 112(r)(7) of
32 the Clean Air Act.

33 (5) Any standard or other requirement of the acid
34 rain program under Title IV of the Clean Air Act or the

1 regulations promulgated thereunder.

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

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

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

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

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

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

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

25 "Applicable requirement" means all applicable Clean Air
26 Act requirements and any other standard, limitation, or other
27 requirement contained in this Act or regulations promulgated
28 under this Act as applicable to sources of air contaminants
29 (including requirements that have future effective compliance
30 dates).

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

33 "CAAPP application" means an application for a CAAPP
34 permit.

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

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

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

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

18 "Draft CAAPP permit" means the version of a CAAPP permit
19 for which public notice and an opportunity for public comment
20 and hearing is offered by the Agency.

21 "Effective date of the CAAPP" means the date that USEPA
22 approves Illinois' CAAPP.

23 "Emission unit" means any part or activity of a
24 stationary source that emits or has the potential to emit any
25 air pollutant. This term is not meant to alter or affect the
26 definition of the term "unit" for purposes of Title IV of the
27 Clean Air Act.

28 "Federally enforceable" means enforceable by USEPA.

29 "Final permit action" means the Agency's granting with
30 conditions, refusal to grant, renewal of, or revision of a
31 CAAPP permit, the Agency's determination of incompleteness of
32 a submitted CAAPP application, or the Agency's failure to act
33 on an application for a permit, permit renewal, or permit
34 revision within the time specified in paragraph 5(j),

1 subsection 13, or subsection 14 of this Section.

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

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

8 "Maximum achievable control technology" or "MACT" means
9 the maximum degree of reductions in emissions deemed
10 achievable under Section 112 of the Clean Air Act.

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

13 "Permit modification" means a revision to a CAAPP permit
14 that cannot be accomplished under the provisions for
15 administrative permit amendments under subsection 13 of this
16 Section.

17 "Permit revision" means a permit modification or
18 administrative permit amendment.

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

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

25 "Potential to emit" means the maximum capacity of a
26 stationary source to emit any air pollutant under its
27 physical and operational design. Any physical or operational
28 limitation on the capacity of a source to emit an air
29 pollutant, including air pollution control equipment and
30 restrictions on hours of operation or on the type or amount
31 of material combusted, stored, or processed, shall be treated
32 as part of its design if the limitation is enforceable by
33 USEPA. This definition does not alter or affect the use of
34 this term for any other purposes under the Clean Air Act, or

1 the term "capacity factor" as used in Title IV of the Clean
2 Air Act or the regulations promulgated thereunder.

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

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

11 "Regulated air pollutant" means the following:

12 (1) Nitrogen oxides (NOx) or any volatile organic
13 compound.

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

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

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

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

25 (i) Any pollutant subject to requirements
26 under Section 112(j) of the Clean Air Act. Any
27 pollutant listed under Section 112(b) for which the
28 subject source would be major shall be considered to
29 be regulated 18 months after the date on which USEPA
30 was required to promulgate an applicable standard
31 pursuant to Section 112(e) of the Clean Air Act, if
32 USEPA fails to promulgate such standard.

33 (ii) Any pollutant for which the requirements
34 of Section 112(g)(2) of the Clean Air Act have been

1 met, but only with respect to the individual source
2 subject to Section 112(g)(2) requirement.

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

5 "Responsible official" means one of the following:

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

19 (2) For a partnership or sole proprietorship: a
20 general partner or the proprietor, respectively, or in
21 the case of a partnership in which all of the partners
22 are corporations, a duly authorized representative of the
23 partnership if the representative is responsible for the
24 overall operation of one or more manufacturing,
25 production, or operating facilities applying for or
26 subject to a permit and either (i) the facilities employ
27 more than 250 persons or have gross annual sales or
28 expenditures exceeding \$25 million (in second quarter
29 1980 dollars), or (ii) the delegation of authority to
30 such representative is approved in advance by the Agency.

31 (3) For a municipality, State, Federal, or other
32 public agency: either a principal executive officer or
33 ranking elected official. For the purposes of this part,
34 a principal executive officer of a Federal agency

1 includes the chief executive officer having
2 responsibility for the overall operations of a principal
3 geographic unit of the agency (e.g., a Regional
4 Administrator of USEPA).

5 (4) For affected sources for acid deposition:

6 (i) The designated representative shall be the
7 "responsible official" in so far as actions,
8 standards, requirements, or prohibitions under Title
9 IV of the Clean Air Act or the regulations
10 promulgated thereunder are concerned.

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

14 "Section 502(b)(10) changes" means changes that
15 contravene express permit terms. "Section 502(b)(10) changes"
16 do not include changes that would violate applicable
17 requirements or contravene federally enforceable permit terms
18 or conditions that are monitoring (including test methods),
19 recordkeeping, reporting, or compliance certification
20 requirements.

21 "Solid waste incineration unit" means a distinct
22 operating unit of any facility which combusts any solid waste
23 material from commercial or industrial establishments or the
24 general public (including single and multiple residences,
25 hotels, and motels). The term does not include incinerators
26 or other units required to have a permit under Section 3005
27 of the Solid Waste Disposal Act. The term also does not
28 include (A) materials recovery facilities (including primary
29 or secondary smelters) which combust waste for the primary
30 purpose of recovering metals, (B) qualifying small power
31 production facilities, as defined in Section 3(17)(C) of the
32 Federal Power Act (16 U.S.C. 769(17)(C)), or qualifying
33 cogeneration facilities, as defined in Section 3(18)(B) of
34 the Federal Power Act (16 U.S.C. 796(18)(B)), which burn

1 homogeneous waste (such as units which burn tires or used
2 oil, but not including refuse-derived fuel) for the
3 production of electric energy or in the case of qualifying
4 cogeneration facilities which burn homogeneous waste for the
5 production of electric energy and steam or forms of useful
6 energy (such as heat) which are used for industrial,
7 commercial, heating or cooling purposes, or (C) air curtain
8 incinerators provided that such incinerators only burn wood
9 wastes, yard waste and clean lumber and that such air curtain
10 incinerators comply with opacity limitations to be
11 established by the USEPA by rule.

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

33 "Stationary source" means any building, structure,
34 facility, or installation that emits or may emit any

1 regulated air pollutant or any pollutant listed under Section
2 112(b) of the Clean Air Act.

3 "Support facility" means any stationary source (or group
4 of stationary sources) that conveys, stores, or otherwise
5 assists to a significant extent in the production of a
6 principal product at another stationary source (or group of
7 stationary sources). A support facility shall be considered
8 to be part of the same source as the stationary source (or
9 group of stationary sources) that it supports regardless of
10 the 2-digit Standard Industrial Classification code for the
11 support facility.

12 "USEPA" means the Administrator of the United States
13 Environmental Protection Agency (USEPA) or a person
14 designated by the Administrator.

15 1.1. Exclusion From the CAAPP.

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

29 b. An owner or operator of a source seeking
30 exclusion from the CAAPP pursuant to paragraph (a) of
31 this subsection must submit a permit application
32 consistent with the existing State permit program which
33 specifically requests such exclusion through the
34 imposition of such federally enforceable conditions.

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

13 d. The Agency shall provide an owner or operator of
14 a source which may be excluded from the CAAPP pursuant to
15 this subsection with reasonable notice that the owner or
16 operator may seek such exclusion.

17 e. The Agency shall provide such sources with the
18 necessary permit application forms.

19 2. Applicability.

20 a. Sources subject to this Section shall include:

21 i. Any major source as defined in paragraph
22 (c) of this subsection.

23 ii. Any source subject to a standard or other
24 requirements promulgated under Section 111 (New
25 Source Performance Standards) or Section 112
26 (Hazardous Air Pollutants) of the Clean Air Act,
27 except that a source is not required to obtain a
28 permit solely because it is subject to regulations
29 or requirements under Section 112(r) of the Clean
30 Air Act.

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

33 iv. Any other source subject to this Section
34 under the Clean Air Act or regulations promulgated

1 thereunder, or applicable Board regulations.

2 b. Sources exempted from this Section shall
3 include:

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

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

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

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

27 v. Any other source categories exempted by
28 USEPA regulations pursuant to Section 502(a) of the
29 Clean Air Act.

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

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

34 A. For pollutants other than

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

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

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

1 stationary source for the purposes of Section 302(j)
2 of the Clean Air Act, unless the source belongs to
3 one of the following categories of stationary
4 source:

5 A. Coal cleaning plants (with thermal
6 dryers).

7 B. Kraft pulp mills.

8 C. Portland cement plants.

9 D. Primary zinc smelters.

10 E. Iron and steel mills.

11 F. Primary aluminum ore reduction plants.

12 G. Primary copper smelters.

13 H. Municipal incinerators capable of
14 charging more than 250 tons of refuse per day.

15 I. Hydrofluoric, sulfuric, or nitric acid
16 plants.

17 J. Petroleum refineries.

18 K. Lime plants.

19 L. Phosphate rock processing plants.

20 M. Coke oven batteries.

21 N. Sulfur recovery plants.

22 O. Carbon black plants (furnace process).

23 P. Primary lead smelters.

24 Q. Fuel conversion plants.

25 R. Sintering plants.

26 S. Secondary metal production plants.

27 T. Chemical process plants.

28 U. Fossil-fuel boilers (or combination
29 thereof) totaling more than 250 million British
30 thermal units per hour heat input.

31 V. Petroleum storage and transfer units
32 with a total storage capacity exceeding 300,000
33 barrels.

34 W. Taconite ore processing plants.

1 X. Glass fiber processing plants.

2 Y. Charcoal production plants.

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

6 AA. All other stationary source
7 categories regulated by a standard promulgated
8 under Section 111 or 112 of the Clean Air Act,
9 but only with respect to those air pollutants
10 that have been regulated for that category.

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

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

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

33 B. For ozone transport regions
34 established pursuant to Section 184 of the

1 Clean Air Act, sources with the potential to
2 emit 50 tons or more per year of volatile
3 organic compounds (VOCs).

4 C. For carbon monoxide nonattainment
5 areas (1) that are classified as "serious", and
6 (2) in which stationary sources contribute
7 significantly to carbon monoxide levels as
8 determined under rules issued by USEPA, sources
9 with the potential to emit 50 tons or more per
10 year of carbon monoxide.

11 D. For particulate matter (PM-10)
12 nonattainment areas classified as "serious",
13 sources with the potential to emit 70 tons or
14 more per year of PM-10.

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

17 a. The Agency shall issue CAAPP permits under this
18 Section consistent with the Clean Air Act and regulations
19 promulgated thereunder and this Act and regulations
20 promulgated thereunder.

21 b. The Agency shall issue CAAPP permits for fixed
22 terms of 5 years, except CAAPP permits issued for solid
23 waste incineration units combusting municipal waste which
24 shall be issued for fixed terms of 12 years and except
25 CAAPP permits for affected sources for acid deposition
26 which shall be issued for initial terms to expire on
27 December 31, 1999, and for fixed terms of 5 years
28 thereafter.

29 c. The Agency shall have the authority to issue a
30 State operating permit for a source under Section 39(a)
31 of this Act, as amended, and regulations promulgated
32 thereunder, which includes federally enforceable
33 conditions limiting the "potential to emit" of the source
34 to a level below the major source threshold for that

1 source as described in paragraph 2(c) of this Section,
2 thereby excluding the source from the CAAPP, when
3 requested by the applicant pursuant to paragraph 5(u) of
4 this Section. The public notice requirements of this
5 Section applicable to CAAPP permits shall also apply to
6 the initial issuance of permits under this paragraph.

7 d. For purposes of this Act, a permit issued by
8 USEPA under Section 505 of the Clean Air Act, as now and
9 hereafter amended, shall be deemed to be a permit issued
10 by the Agency pursuant to Section 39.5 of this Act.

11 4. Transition.

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

30 b. An owner or operator of a CAAPP source shall
31 continue to operate in accordance with the terms and
32 conditions of its applicable State operating permit
33 notwithstanding the expiration of the State operating
34 permit until the source's CAAPP permit has been issued.

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

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

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

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

29 g. The CAAPP permit shall upon becoming effective
30 supersede the State operating permit.

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

1 5. Applications and Completeness.

2 a. An owner or operator of a CAAPP source shall
3 submit its complete CAAPP application consistent with the
4 Act and applicable regulations.

5 b. An owner or operator of a CAAPP source shall
6 submit a single complete CAAPP application covering all
7 emission units at that source.

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

17 d. An owner or operator of a CAAPP source shall
18 submit, as part of its complete CAAPP application, a
19 compliance plan, including a schedule of compliance,
20 describing how each emission unit will comply with all
21 applicable requirements. Any such schedule of compliance
22 shall be supplemental to, and shall not sanction
23 noncompliance with, the applicable requirements on which
24 it is based.

25 e. Each submitted CAAPP application shall be
26 certified for truth, accuracy, and completeness by a
27 responsible official in accordance with applicable
28 regulations.

29 f. The Agency shall provide notice to a CAAPP
30 applicant as to whether a submitted CAAPP application is
31 complete. Unless the Agency notifies the applicant of
32 incompleteness, within 60 days of receipt of the CAAPP
33 application, the application shall be deemed complete.
34 The Agency may request additional information as needed

1 to make the completeness determination. The Agency may
2 to the extent practicable provide the applicant with a
3 reasonable opportunity to correct deficiencies prior to a
4 final determination of completeness.

5 g. If after the determination of completeness the
6 Agency finds that additional information is necessary to
7 evaluate or take final action on the CAAPP application,
8 the Agency may request in writing such information from
9 the source with a reasonable deadline for response.

10 h. If the owner or operator of a CAAPP source
11 submits a timely and complete CAAPP application, the
12 source's failure to have a CAAPP permit shall not be a
13 violation of this Section until the Agency takes final
14 action on the submitted CAAPP application, provided,
15 however, where the applicant fails to submit the
16 requested information under paragraph 5(g) within the
17 time frame specified by the Agency, this protection shall
18 cease to apply.

19 i. Any applicant who fails to submit any relevant
20 facts necessary to evaluate the subject source and its
21 CAAPP application or who has submitted incorrect
22 information in a CAAPP application shall, upon becoming
23 aware of such failure or incorrect submittal, submit
24 supplementary facts or correct information to the Agency.
25 In addition, an applicant shall provide to the Agency
26 additional information as necessary to address any
27 requirements which become applicable to the source
28 subsequent to the date the applicant submitted its
29 complete CAAPP application but prior to release of the
30 draft CAAPP permit.

31 j. The Agency shall issue or deny the CAAPP permit
32 within 18 months after the date of receipt of the
33 complete CAAPP application, with the following
34 exceptions: (i) permits for affected sources for acid

1 deposition shall be issued or denied within 6 months
2 after receipt of a complete application in accordance
3 with subsection 17 of this Section; (ii) the Agency shall
4 act on initial CAAPP applications within 24 months after
5 the date of receipt of the complete CAAPP application;
6 (iii) the Agency shall act on complete applications
7 containing early reduction demonstrations under Section
8 112(i)(5) of the Clean Air Act within 9 months of receipt
9 of the complete CAAPP application.

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

15 k. The submittal of a complete CAAPP application
16 shall not affect the requirement that any source have a
17 preconstruction permit under Title I of the Clean Air
18 Act.

19 l. Unless a timely and complete renewal application
20 has been submitted consistent with this subsection, a
21 CAAPP source operating upon the expiration of its CAAPP
22 permit shall be deemed to be operating without a CAAPP
23 permit. Such operation is prohibited under this Act.

24 m. Permits being renewed shall be subject to the
25 same procedural requirements, including those for public
26 participation and federal review and objection, that
27 apply to original permit issuance.

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

31 o. The terms and conditions of a CAAPP permit shall
32 remain in effect until the issuance of a CAAPP renewal
33 permit provided a timely and complete CAAPP application
34 has been submitted.

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

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

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

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

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

25 u. An owner or operator of a CAAPP source which
26 seeks exclusion from the CAAPP through the imposition of
27 federally enforceable conditions, pursuant to paragraph
28 3(c) of this Section, must request such exclusion within
29 a CAAPP application submitted consistent with this
30 subsection on or after the date that the CAAPP
31 application for the source is due. Prior to such date,
32 but in no case later than 9 months after the effective
33 date of the CAAPP, such owner or operator may request the
34 imposition of federally enforceable conditions pursuant

1 to paragraph 1.1(b) of this Section.

2 v. CAAPP applications shall contain accurate
3 information on allowable emissions to implement the fee
4 provisions of subsection 18 of this Section.

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

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

33 y. The Agency shall have the authority to adopt
34 procedural rules, in accordance with the Illinois

1 Administrative Procedure Act, as the Agency deems
2 necessary to implement this subsection.

3 6. Prohibitions.

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

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

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

29 7. Permit Content.

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

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

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

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

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

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

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

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

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

20 i. Records of required monitoring information
21 that include the following:

22 A. The date, place and time of sampling
23 or measurements.

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

25 C. The company or entity that performed
26 the analyses.

27 D. The analytical techniques or methods
28 used.

29 E. The results of such analyses.

30 F. The operating conditions as existing
31 at the time of sampling or measurement.

32 ii. Retention of records of all monitoring
33 data and support information for a period of at
34 least 5 years from the date of the monitoring

1 sample, measurement, report, or application.
2 Support information includes all calibration and
3 maintenance records, original strip-chart recordings
4 for continuous monitoring instrumentation, and
5 copies of all reports required by the permit.

6 f. To meet the requirements of this subsection with
7 respect to reporting, the permit shall incorporate and
8 identify all applicable reporting requirements and
9 require the following:

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

20 ii. Prompt reporting of deviations from permit
21 requirements, including those attributable to upset
22 conditions as defined in the permit, the probable
23 cause of such deviations, and any corrective actions
24 or preventive measures taken.

25 g. Each CAAPP permit issued under subsection 10 of
26 this Section shall include a condition prohibiting
27 emissions exceeding any allowances that the source
28 lawfully holds under Title IV of the Clean Air Act or the
29 regulations promulgated thereunder, consistent with
30 subsection 17 of this Section and applicable regulations,
31 if any.

32 h. All CAAPP permits shall state that, where
33 another applicable requirement of the Clean Air Act is
34 more stringent than any applicable requirement of

1 regulations promulgated under Title IV of the Clean Air
2 Act, both provisions shall be incorporated into the
3 permit and shall be State and federally enforceable.

4 i. Each CAAPP permit issued under subsection 10 of
5 this Section shall include a severability clause to
6 ensure the continued validity of the various permit
7 requirements in the event of a challenge to any portions
8 of the permit.

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

11 i. The Agency shall include in a CAAPP permit,
12 when requested by an applicant pursuant to paragraph
13 5(p) of this Section, a provision stating that
14 compliance with the conditions of the permit shall
15 be deemed compliance with applicable requirements
16 which are applicable as of the date of release of
17 the proposed permit, provided that:

18 A. The applicable requirement is
19 specifically identified within the permit; or

20 B. The Agency in acting on the CAAPP
21 application or revision determines in writing
22 that other requirements specifically identified
23 are not applicable to the source, and the
24 permit includes that determination or a concise
25 summary thereof.

26 ii. The permit shall identify the requirements
27 for which the source is shielded. The shield shall
28 not extend to applicable requirements which are
29 promulgated after the date of release of the
30 proposed permit unless the permit has been modified
31 to reflect such new requirements.

32 iii. A CAAPP permit which does not expressly
33 indicate the existence of a permit shield shall not
34 provide such a shield.

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

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

6 B. The liability of an owner or operator
7 of a source for any violation of applicable
8 requirements prior to or at the time of permit
9 issuance.

10 C. The applicable requirements of the
11 acid rain program consistent with Section
12 408(a) of the Clean Air Act.

13 D. The ability of USEPA to obtain
14 information from a source pursuant to Section
15 114 (inspections, monitoring, and entry) of the
16 Clean Air Act.

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

24 i. An emergency occurred and the permittee can
25 identify the cause(s) of the emergency.

26 ii. The permitted facility was at the time
27 being properly operated.

28 iii. The permittee submitted notice of the
29 emergency to the Agency within 2 working days of the
30 time when emission limitations were exceeded due to
31 the emergency. This notice must contain a detailed
32 description of the emergency, any steps taken to
33 mitigate emissions, and corrective actions taken.

34 iv. During the period of the emergency the

1 permittee took all reasonable steps to minimize
2 levels of emissions that exceeded the emission
3 limitations, standards, or requirements in the
4 permit.

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

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

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

26 i. Terms and conditions for reasonably
27 anticipated operating scenarios identified by the
28 source in its application. The permit terms and
29 conditions for each such operating scenario shall
30 meet all applicable requirements and the
31 requirements of this Section.

32 A. Under this subparagraph, the source
33 must record in a log at the permitted facility
34 a record of the scenario under which it is

1 operating contemporaneously with making a
2 change from one operating scenario to another.

3 B. The permit shield described in
4 paragraph 7(j) of this Section shall extend to
5 all terms and conditions under each such
6 operating scenario.

7 ii. Where requested by an applicant, all terms
8 and conditions allowing for trading of emissions
9 increases and decreases between different emission
10 units at the CAAPP source, to the extent that the
11 applicable requirements provide for trading of such
12 emissions increases and decreases without a
13 case-by-case approval of each emissions trade. Such
14 terms and conditions:

15 A. Shall include all terms required under
16 this subsection to determine compliance;

17 B. Must meet all applicable requirements;

18 C. Shall extend the permit shield
19 described in paragraph 7(j) of this Section to
20 all terms and conditions that allow such
21 increases and decreases in emissions.

22 m. The Agency shall specifically designate as not
23 being federally enforceable under the Clean Air Act any
24 terms and conditions included in the permit that are not
25 specifically required under the Clean Air Act or federal
26 regulations promulgated thereunder. Terms or conditions
27 so designated shall be subject to all applicable state
28 requirements, except the requirements of subsection 7
29 (other than this paragraph, paragraph q of subsection 7,
30 subsections 8 through 11, and subsections 13 through 16
31 of this Section. The Agency shall, however, include such
32 terms and conditions in the CAAPP permit issued to the
33 source.

34 n. Each CAAPP permit issued under subsection 10 of

1 this Section shall specify and reference the origin of
2 and authority for each term or condition, and identify
3 any difference in form as compared to the applicable
4 requirement upon which the term or condition is based.

5 o. Each CAAPP permit issued under subsection 10 of
6 this Section shall include provisions stating the
7 following:

8 i. Duty to comply. The permittee must comply
9 with all terms and conditions of the CAAPP permit.
10 Any permit noncompliance constitutes a violation of
11 the Clean Air Act and the Act, and is grounds for
12 any or all of the following: enforcement action;
13 permit termination, revocation and reissuance, or
14 modification; or denial of a permit renewal
15 application.

16 ii. Need to halt or reduce activity not a
17 defense. It shall not be a defense for a permittee
18 in an enforcement action that it would have been
19 necessary to halt or reduce the permitted activity
20 in order to maintain compliance with the conditions
21 of this permit.

22 iii. Permit actions. The permit may be
23 modified, revoked, reopened, and reissued, or
24 terminated for cause in accordance with the
25 applicable subsections of Section 39.5 of this Act.
26 The filing of a request by the permittee for a
27 permit modification, revocation and reissuance, or
28 termination, or of a notification of planned changes
29 or anticipated noncompliance does not stay any
30 permit condition.

31 iv. Property rights. The permit does not
32 convey any property rights of any sort, or any
33 exclusive privilege.

34 v. Duty to provide information. The permittee

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

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

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

23 p. Each CAAPP permit issued under subsection 10 of
24 this Section shall contain the following elements with
25 respect to compliance:

26 i. Compliance certification, testing,
27 monitoring, reporting, and record keeping
28 requirements sufficient to assure compliance with
29 the terms and conditions of the permit. Any
30 document (including reports) required by a CAAPP
31 permit shall contain a certification by a
32 responsible official that meets the requirements of
33 subsection 5 of this Section and applicable
34 regulations.

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

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

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

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

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

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

26 2. As otherwise authorized by this
27 Act.

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

31 iv. Progress reports consistent with an
32 applicable schedule of compliance pursuant to
33 paragraph 5(d) of this Section and applicable
34 regulations to be submitted semiannually, or more

1 frequently if the Agency determines that such more
2 frequent submittals are necessary for compliance
3 with the Act or regulations promulgated by the Board
4 thereunder. Such progress reports shall contain the
5 following:

6 A. Required dates for achieving the
7 activities, milestones, or compliance required
8 by the schedule of compliance and dates when
9 such activities, milestones or compliance were
10 achieved.

11 B. An explanation of why any dates in the
12 schedule of compliance were not or will not be
13 met, and any preventive or corrective measures
14 adopted.

15 v. Requirements for compliance certification
16 with terms and conditions contained in the permit,
17 including emission limitations, standards, or work
18 practices. Permits shall include each of the
19 following:

20 A. The frequency (annually or more
21 frequently as specified in any applicable
22 requirement or by the Agency pursuant to
23 written procedures) of submissions of
24 compliance certifications.

25 B. A means for assessing or monitoring
26 the compliance of the source with its emissions
27 limitations, standards, and work practices.

28 C. A requirement that the compliance
29 certification include the following:

30 1. The identification of each term
31 or condition contained in the permit that
32 is the basis of the certification.

33 2. The compliance status.

34 3. Whether compliance was continuous

1 or intermittent.

2 4. The method(s) used for
3 determining the compliance status of the
4 source, both currently and over the
5 reporting period consistent with
6 subsection 7 of Section 39.5 of the Act.

7 D. A requirement that all compliance
8 certifications be submitted to USEPA as well as
9 to the Agency.

10 E. Additional requirements as may be
11 specified pursuant to Sections 114(a)(3) and
12 504(b) of the Clean Air Act.

13 F. Other provisions as the Agency may
14 require.

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

26 8. Public Notice; Affected State Review.

27 a. The Agency shall provide notice to the public,
28 including an opportunity for public comment and a
29 hearing, on each draft CAAPP permit for issuance, renewal
30 or significant modification, subject to Sections 7(a) and
31 7.1 of this Act.

32 b. The Agency shall prepare a draft CAAPP permit
33 and a statement that sets forth the legal and factual
34 basis for the draft CAAPP permit conditions, including

1 references to the applicable statutory or regulatory
2 provisions. The Agency shall provide this statement to
3 any person who requests it.

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

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

21 e. The Agency shall make available to the public
22 any CAAPP permit application, compliance plan (including
23 the schedule of compliance), CAAPP permit, and emissions
24 or compliance monitoring report. If an owner or operator
25 of a CAAPP source is required to submit information
26 entitled to protection from disclosure under Section 7(a)
27 or Section 7.1 of this Act, the owner or operator shall
28 submit such information separately. The requirements of
29 Section 7(a) or Section 7.1 of this Act shall apply to
30 such information, which shall not be included in a CAAPP
31 permit unless required by law. The contents of a CAAPP
32 permit shall not be entitled to protection under Section
33 7(a) or Section 7.1 of this Act.

34 f. 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 9. USEPA Notice and Objection.

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

18 b. The Agency shall not issue the proposed CAAPP
19 permit if USEPA objects in writing within 45 days of
20 receipt of the proposed CAAPP permit and all necessary
21 supporting information.

22 c. If USEPA objects in writing to the issuance of
23 the proposed CAAPP permit within the 45-day period, the
24 Agency shall respond in writing and may revise and
25 resubmit the proposed CAAPP permit in response to the
26 stated objection, to the extent supported by the record,
27 within 90 days after the date of the objection. Prior to
28 submitting a revised permit to USEPA, the Agency shall
29 provide the applicant and any person who participated in
30 the public comment process, pursuant to subsection 8 of
31 this Section, with a 10-day period to comment on any
32 revision which the Agency is proposing to make to the
33 permit in response to USEPA's objection in accordance
34 with Agency procedures.

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

12 e. If USEPA does not object in writing to issuance
13 of a permit under this subsection, any person may
14 petition USEPA within 60 days after expiration of the
15 45-day review period to make such objection.

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

25 g. If the Agency has issued a permit after
26 expiration of the 45-day review period and prior to
27 receipt of a USEPA objection under this subsection in
28 response to a petition submitted pursuant to paragraph e
29 of this subsection, the Agency may, upon receipt of an
30 objection from USEPA, revise and resubmit the permit to
31 USEPA pursuant to this subsection after providing a
32 10-day comment period in accordance with paragraph c of
33 this subsection. If the Agency fails to submit a revised
34 permit in response to the objection, USEPA shall modify,

1 terminate or revoke the permit. In any case, the source
2 will not be in violation of the requirement to have
3 submitted a timely and complete application.

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

8 10. Final Agency Action.

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

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

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

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

25 iv. The Agency has received a complete CAAPP
26 application and, if necessary, has requested and
27 received additional information from the applicant
28 consistent with subsection 5 of this Section and
29 applicable regulations.

30 v. The Agency has complied with all applicable
31 provisions regarding public notice and affected
32 State review consistent with subsection 8 of this
33 Section and applicable regulations.

34 vi. The Agency has provided a copy of each

1 CAAPP application, or summary thereof, pursuant to
2 agreement with USEPA and proposed CAAPP permit
3 required under subsection 9 of this Section to
4 USEPA, and USEPA has not objected to the issuance of
5 the permit in accordance with the Clean Air Act and
6 40 CFR Part 70.

7 b. The Agency shall have the authority to deny a
8 CAAPP permit, permit modification, or permit renewal if
9 the applicant has not complied with the requirements of
10 paragraphs (a)(i)-(a)(iv) of this subsection or if USEPA
11 objects to its issuance.

12 c. i. Prior to denial of a CAAPP permit, permit
13 modification, or permit renewal under this Section,
14 the Agency shall notify the applicant of the
15 possible denial and the reasons for the denial.

16 ii. Within such notice, the Agency shall
17 specify an appropriate date by which the applicant
18 shall adequately respond to the Agency's notice.
19 Such date shall not exceed 15 days from the date the
20 notification is received by the applicant. The
21 Agency may grant a reasonable extension for good
22 cause shown.

23 iii. Failure by the applicant to adequately
24 respond by the date specified in the notification or
25 by any granted extension date shall be grounds for
26 denial of the permit.

27 For purposes of obtaining judicial review under
28 Sections 40.2 and 41 of this Act, the Agency shall
29 provide to USEPA and each applicant, and, upon
30 request, to affected States, any person who
31 participated in the public comment process, and any
32 other person who could obtain judicial review under
33 Sections 40.2 and 41 of this Act, a copy of each
34 CAAPP permit or notification of denial pertaining to

1 that party.

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

6 11. General Permits.

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

11 b. The Agency shall identify, in any general
12 permit, criteria by which sources may qualify for the
13 general permit.

14 c. CAAPP sources that would qualify for a general
15 permit must apply for coverage under the terms of the
16 general permit or must apply for a CAAPP permit
17 consistent with subsection 5 of this Section and
18 applicable regulations.

19 d. The Agency shall comply with the public comment
20 and hearing provisions of this Section as well as the
21 USEPA and affected State review procedures prior to
22 issuance of a general permit.

23 e. When granting a subsequent request by a
24 qualifying CAAPP source for coverage under the terms of a
25 general permit, the Agency shall not be required to
26 repeat the public notice and comment procedures. The
27 granting of such request shall not be considered a final
28 permit action for purposes of judicial review.

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

32 g. The Agency shall have the authority to adopt
33 procedural rules, in accordance with the Illinois
34 Administrative Procedure Act, as the Agency deems

1 necessary, to implement this subsection.

2 12. Operational Flexibility.

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

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

26 A. For each such change, the written
27 notification required above shall include a
28 brief description of the change within the
29 source, the date on which the change will
30 occur, any change in emissions, and any permit
31 term or condition that is no longer applicable
32 as a result of the change.

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

1 to any change made pursuant to this
2 subparagraph.

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

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

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

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

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

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

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

34 (i) Each such change shall meet all applicable

1 requirements and shall not violate any existing
2 permit term or condition;

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

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

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

21 c. 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 13. Administrative Permit Amendments.

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

33 b. The Agency shall submit a copy of the revised
34 permit to USEPA.

1 c. For purposes of this Section the term
2 "administrative permit amendment" shall be defined as: a
3 permit revision that can accomplish one or more of the
4 changes described below:

5 i. Corrects typographical errors;

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

10 iii. Requires more frequent monitoring or
11 reporting by the permittee;

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

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

26 vi. Incorporates into the CAAPP permit revised
27 limitations or other requirements resulting from the
28 application of an approved economic incentives rule,
29 a marketable permits rule or generic emissions
30 trading rule, where these rules have been approved
31 by USEPA and require changes thereunder to meet
32 procedural requirements substantially equivalent to
33 those specified in this Section; or

34 vii. Any other type of change which USEPA has

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

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

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

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

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

28 14. Permit Modifications.

29 a. Minor permit modification procedures.

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

33 A. Do not violate any applicable
34 requirement;

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

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

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

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

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

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

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

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

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

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

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

11 B. The source's suggested draft permit;

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

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

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

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

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

5 A. Issue the permit modification as
6 proposed;

7 B. Deny the permit modification
8 application;

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

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

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

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

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

20 b. Group Processing of Minor Permit Modifications.

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

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

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

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

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

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

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

14 B. The source's suggested draft permit.

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

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

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

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

1 under subsections 8 and 9 of this Section.

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

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

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

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

28 c. Significant Permit Modifications.

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

34 ii. Every significant change in existing

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

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

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

25 15. Reopenings for Cause by the Agency.

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

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

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

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

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

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

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

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

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

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

15 16. Reopenings for Cause by USEPA.

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

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

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

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

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

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

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

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

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

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

34 e. The Agency shall have the authority to adopt

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

4 17. Title IV; Acid Rain Provisions.

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

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

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

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

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

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

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

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

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

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

34 i. Nothing in this Section shall be construed as

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

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

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

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

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

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

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

34 m. The designated representative of an affected

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

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

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

15 18. Fee Provisions.

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

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

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

1 subsection, shall be as follows:

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

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

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

10 B. Except for the first year of the
11 CAAPP, the applicant or permittee may pay the
12 fee annually or semiannually for those fees
13 greater than \$5,000.

14 b. For fiscal year 1999 and each fiscal year
15 thereafter, to the extent that permit fees collected and
16 deposited in the CAA Permit Fund during that fiscal year
17 exceed 115% of the actual expenditures (excluding permit
18 fee reimbursements) from the CAA Permit Fund for that
19 fiscal year (including lapse period spending and
20 appropriations for expenses incurred under the
21 Northeastern Illinois Nonattainment Area Planning Council
22 Act), the excess shall be reimbursed to the permittees in
23 proportion to their original fee payments. Such
24 reimbursements shall be made during the next fiscal year
25 and may be made in the form of a credit against that
26 fiscal year's permit fee.

27 c. There shall be created a CAA Fee Panel of 5
28 persons. The Panel shall:

29 i. If it deems necessary on an annual basis,
30 render advisory opinions to the Agency and the
31 General Assembly regarding the appropriate level of
32 Title V Clean Air Act fees for the next fiscal year.
33 Such advisory opinions shall be based on a study of
34 the operations of the Agency and any other entity

1 requesting appropriations from the CAA Permit Fund.
2 This study shall recommend changes in the fee
3 structure, if warranted. The study will be based on
4 the ability of the Agency or other entity to
5 effectively utilize the funds generated as well as
6 the entity's conformance with the objectives and
7 measurable benchmarks identified by the Agency as
8 justification for the prior year's fee. Such
9 advisory opinions shall be submitted to the
10 appropriation committees no later than April 15th of
11 each year.

12 ii. Not be compensated for their services, but
13 shall receive reimbursement for their expenses.

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

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

34 e. The Agency shall have the authority to adopt

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

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

8 i. carbon monoxide;

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

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

18 iv. during the years 1995 through 1999
19 inclusive, any emissions from affected sources for
20 acid deposition under Section 408(c)(4) of the Clean
21 Air Act.

22 19. Air Toxics Provisions.

23 a. In the event that the USEPA fails to promulgate
24 in a timely manner a standard pursuant to Section 112(d)
25 of the Clean Air Act, the Agency shall have the authority
26 to issue permits, pursuant to Section 112(j) of the Clean
27 Air Act and regulations promulgated thereunder, which
28 contain emission limitations which are equivalent to the
29 emission limitations that would apply to a source if an
30 emission standard had been promulgated in a timely manner
31 by USEPA pursuant to Section 112(d). Provided, however,
32 that the owner or operator of a source shall have the
33 opportunity to submit to the Agency a proposed emission
34 limitation which it determines to be equivalent to the

1 emission limitations that would apply to such source if
2 an emission standard had been promulgated in a timely
3 manner by USEPA. If the Agency refuses to include the
4 emission limitation proposed by the owner or operator in
5 a CAAPP permit, the owner or operator may petition the
6 Board to establish whether the emission limitation
7 proposal submitted by the owner or operator provides for
8 emission limitations which are equivalent to the emission
9 limitations that would apply to the source if the
10 emission standard had been promulgated by USEPA in a
11 timely manner. The Board shall determine whether the
12 emission limitation proposed by the owner or operator or
13 an alternative emission limitation proposed by the Agency
14 provides for the level of control required under Section
15 112 of the Clean Air Act, or shall otherwise establish an
16 appropriate emission limitation, pursuant to Section 112
17 of the Clean Air Act.

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

1 first required to comply with the emissions limitation
2 established under this subsection.

3 c. The Agency shall have the authority to implement
4 and enforce complete or partial emission standards
5 promulgated by USEPA pursuant to Section 112(d), and
6 standards promulgated by USEPA pursuant to Sections
7 112(f), 112(h), 112(m), and 112(n), and may accept
8 delegation of authority from USEPA to implement and
9 enforce Section 112(l) and requirements for the
10 prevention and detection of accidental releases pursuant
11 to Section 112(r) of the Clean Air Act.

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

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

29 20. Small Business.

30 a. For purposes of this subsection:

31 "Program" is the Small Business Stationary Source
32 Technical and Environmental Compliance Assistance Program
33 created within this State pursuant to Section 507 of the
34 Clean Air Act and guidance promulgated thereunder, to

1 provide technical assistance and compliance information
2 to small business stationary sources;

3 "Small Business Assistance Program" is a component
4 of the Program responsible for providing sufficient
5 communications with small businesses through the
6 collection and dissemination of information to small
7 business stationary sources; and

8 "Small Business Stationary Source" means a
9 stationary source that:

10 1. is owned or operated by a person that
11 employs 100 or fewer individuals;

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

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

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

18 5. emits less than 75 tons per year of all
19 regulated pollutants.

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

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

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

30 e. There shall be appointed a Small Business
31 Ombudsman (hereinafter in this subsection referred to as
32 "Ombudsman") to monitor the Small Business Assistance
33 Program. The Ombudsman shall be a nonpartisan designated
34 official, with the ability to independently assess

1 whether the goals of the Program are being met.

2 f. The State Ombudsman Office shall be located in
3 an existing Ombudsman office within the State or in any
4 State Department.

5 g. There is hereby created a State Compliance
6 Advisory Panel (hereinafter in this subsection referred
7 to as "Panel") for determining the overall effectiveness
8 of the Small Business Assistance Program within this
9 State.

10 h. The selection of Panel members shall be by the
11 following method:

12 1. The Governor shall select two members who
13 are not owners or representatives of owners of small
14 business stationary sources to represent the general
15 public;

16 2. The Director of the Agency shall select one
17 member to represent the Agency; and

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

24 i. Panel members should serve without compensation
25 but will receive full reimbursement for expenses
26 including travel and per diem as authorized within this
27 State.

28 j. The Panel shall select its own Chair by a
29 majority vote. The Chair may meet and consult with the
30 Ombudsman and the head of the Small Business Assistance
31 Program in planning the activities for the Panel.

32 21. Temporary Sources.

33 a. The Agency may issue a single permit authorizing
34 emissions from similar operations by the same source

1 owner or operator at multiple temporary locations, except
2 for sources which are affected sources for acid
3 deposition under Title IV of the Clean Air Act.

4 b. The applicant must demonstrate that the
5 operation is temporary and will involve at least one
6 change of location during the term of the permit.

7 c. Any such permit shall meet all applicable
8 requirements of this Section and applicable regulations,
9 and include conditions assuring compliance with all
10 applicable requirements at all authorized locations and
11 requirements that the owner or operator notify the Agency
12 at least 10 days in advance of each change in location.

13 22. Solid Waste Incineration Units.

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

20 b. During the review in paragraph (a) of this
21 subsection, the Agency shall fully review the previously
22 submitted CAAPP permit application and corresponding
23 reports subsequently submitted to determine whether the
24 source is in compliance with all applicable requirements.

25 c. If the Agency determines that the source is not
26 in compliance with all applicable requirements it shall
27 revise the CAAPP permit as appropriate.

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

32 (Source: P.A. 89-79, eff. 6-30-95; 90-14, eff. 7-1-97;
33 90-367, eff. 8-10-97; 90-773, eff. 8-14-98.)

1 Section 999. Effective date. This Act takes effect upon
2 becoming law.