

1 AN ACT concerning environmental protection.

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

4 Section 5. The Environmental Protection Act is amended by
5 changing Sections 25b-3, 25b-4, 39.5 and 42 as follows:

6 (415 ILCS 5/25b-3) (from Ch. 111 1/2, par. 1025b-3)

7 Sec. 25b-3. In cooperation with the United States
8 Environmental Protection Agency, the ~~The~~ Agency shall provide
9 ~~establish and maintain~~ in a computer data base an Illinois
10 Toxic Chemical Inventory. The Inventory shall be based on ~~the~~
11 ~~information submitted to the Agency on~~ the toxic chemical
12 release forms filed pursuant to Section 313 of the federal
13 Emergency Planning and Community Right-to-know Act of 1986 ~~this~~
14 ~~Title~~ and may include, to the extent practicable, any other
15 information on emissions, discharges, source reduction
16 activities, and recycling of toxic contaminants submitted to
17 the Agency pursuant to this Act. The Agency shall maintain the
18 data in the Inventory by individual facility and company name,
19 standard industrial classification, type of chemical, and
20 geographic location.

21 (Source: P.A. 87-1213.)

22 (415 ILCS 5/25b-4) (from Ch. 111 1/2, par. 1025b-4)

23 Sec. 25b-4. On or before September 1 of each year ~~January~~
24 ~~1, 1989, and by each April 1 thereafter,~~ the Agency shall
25 publish an annual toxic chemical report. Such report shall
26 summarize the information on releases of toxic chemicals into
27 the environment and the source reduction and recycling of toxic
28 chemicals contained in ~~the~~ toxic chemical release ~~report~~ forms
29 filed ~~with the Agency~~ pursuant to Section 313 of the federal
30 Emergency Planning and Community Right-to-know Act of 1986
31 ~~25b-2~~ and any other information contained in the Illinois Toxic

1 Chemical Inventory. Such report, at a minimum, shall contain
2 information on the types and quantities of toxic chemicals
3 discharged, emitted or disposed into the environment in
4 Illinois, the types and quantities of toxic chemicals recycled
5 or reduced at the source in Illinois, and a summary of such
6 data by county or region and type of business. The Agency shall
7 send copies of such annual report to the chief executive
8 officer of each county in the State, to local public health
9 departments, and to members of the General Assembly.

10 (Source: P.A. 87-1213.)

11 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

12 Sec. 39.5. Clean Air Act Permit Program.

13 1. Definitions.

14 For purposes of this Section:

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

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

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

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

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

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

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

1 requirements and regulations which have future effective
2 compliance dates. Requirements and regulations will be exempt
3 if USEPA determines that such requirements need not be
4 contained in a Title V permit):

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

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

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

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

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

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

35 (6) Any requirements established pursuant to Section
36 504(b) or Section 114(a)(3) of the Clean Air Act.

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

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

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

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

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

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

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

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

29 "CAAPP application" means an application for a CAAPP
30 permit.

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

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

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

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

12 "Draft CAAPP permit" means the version of a CAAPP permit
13 for which public notice and an opportunity for public comment
14 and hearing is offered by the Agency.

15 "Effective date of the CAAPP" means the date that USEPA
16 approves Illinois' CAAPP.

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

22 "Federally enforceable" means enforceable by USEPA.

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

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

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

36 "Maximum achievable control technology" or "MACT" means

1 the maximum degree of reductions in emissions deemed achievable
2 under Section 112 of the Clean Air Act.

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

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

9 "Permit revision" means a permit modification or
10 administrative permit amendment.

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

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

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

29 "Preconstruction Permit" or "Construction Permit" means a
30 permit which is to be obtained prior to commencing or beginning
31 actual construction or modification of a source or emissions
32 unit.

33 "Proposed CAAPP permit" means the version of a CAAPP permit
34 that the Agency proposes to issue and forwards to USEPA for
35 review in compliance with applicable requirements of the Act
36 and regulations promulgated thereunder.

1 "Regulated air pollutant" means the following:

2 (1) Nitrogen oxides (NOx) or any volatile organic
3 compound.

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

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

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

11 (5) Any pollutant subject to a standard promulgated
12 under Section 112 or other requirements established under
13 Section 112 of the Clean Air Act, including Sections
14 112(g), (j) and (r).

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

23 (ii) Any pollutant for which the requirements of
24 Section 112(g)(2) of the Clean Air Act have been met,
25 but only with respect to the individual source subject
26 to Section 112(g)(2) requirement.

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

29 "Responsible official" means one of the following:

30 (1) For a corporation: a president, secretary,
31 treasurer, or vice-president of the corporation in charge
32 of a principal business function, or any other person who
33 performs similar policy or decision-making functions for
34 the corporation, or a duly authorized representative of
35 such person if the representative is responsible for the
36 overall operation of one or more manufacturing,

1 production, or operating facilities applying for or
2 subject to a permit and either (i) the facilities employ
3 more than 250 persons or have gross annual sales or
4 expenditures exceeding \$25 million (in second quarter 1980
5 dollars), or (ii) the delegation of authority to such
6 representative is approved in advance by the Agency.

7 (2) For a partnership or sole proprietorship: a general
8 partner or the proprietor, respectively, or in the case of
9 a partnership in which all of the partners are
10 corporations, a duly authorized representative of the
11 partnership 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 1980
17 dollars), or (ii) the delegation of authority to such
18 representative is approved in advance by the Agency.

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

26 (4) For affected sources for acid deposition:

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

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

35 "Section 502(b)(10) changes" means changes that contravene
36 express permit terms. "Section 502(b)(10) changes" do not

1 include changes that would violate applicable requirements or
2 contravene federally enforceable permit terms or conditions
3 that are monitoring (including test methods), recordkeeping,
4 reporting, or compliance certification requirements.

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

29 "Source" means any stationary source (or any group of
30 stationary sources) that are located on one or more contiguous
31 or adjacent properties that are under common control of the
32 same person (or persons under common control) and that belongs
33 to a single major industrial grouping. For the purposes of
34 defining "source," a stationary source or group of stationary
35 sources shall be considered part of a single major industrial
36 grouping if all of the pollutant emitting activities at such

1 source or group of sources located on contiguous or adjacent
2 properties and under common control belong to the same Major
3 Group (i.e., all have the same two-digit code) as described in
4 the Standard Industrial Classification Manual, 1987, or such
5 pollutant emitting activities at a stationary source (or group
6 of stationary sources) located on contiguous or adjacent
7 properties and under common control constitute a support
8 facility. The determination as to whether any group of
9 stationary sources are located on contiguous or adjacent
10 properties, and/or are under common control, and/or whether the
11 pollutant emitting activities at such group of stationary
12 sources constitute a support facility shall be made on a case
13 by case basis.

14 "Stationary source" means any building, structure,
15 facility, or installation that emits or may emit any regulated
16 air pollutant or any pollutant listed under Section 112(b) of
17 the Clean Air Act.

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

27 "USEPA" means the Administrator of the United States
28 Environmental Protection Agency (USEPA) or a person designated
29 by the Administrator.

30 1.1. Exclusion From the CAAPP.

31 a. An owner or operator of a source which determines
32 that the source could be excluded from the CAAPP may seek
33 such exclusion prior to the date that the CAAPP application
34 for the source is due but in no case later than 9 months
35 after the effective date of the CAAPP through the

1 imposition of federally enforceable conditions limiting
2 the "potential to emit" of the source to a level below the
3 major source threshold for that source as described in
4 paragraph 2(c) of this Section, within a State operating
5 permit issued pursuant to Section 39(a) of this Act. After
6 such date, an exclusion from the CAAPP may be sought under
7 paragraph 3(c) of this Section.

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

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

25 d. The Agency shall provide an owner or operator of a
26 source which may be excluded from the CAAPP pursuant to
27 this subsection with reasonable notice that the owner or
28 operator may seek such exclusion.

29 e. The Agency shall provide such sources with the
30 necessary permit application forms.

31 2. Applicability.

32 a. Sources subject to this Section shall include:

33 i. Any major source as defined in paragraph (c) of
34 this subsection.

35 ii. Any source subject to a standard or other

1 requirements promulgated under Section 111 (New Source
2 Performance Standards) or Section 112 (Hazardous Air
3 Pollutants) of the Clean Air Act, except that a source
4 is not required to obtain a permit solely because it is
5 subject to regulations or requirements under Section
6 112(r) of the Clean Air Act.

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

9 iv. Any other source subject to this Section under
10 the Clean Air Act or regulations promulgated
11 thereunder, or applicable Board regulations.

12 b. Sources exempted from this Section shall include:

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

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

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

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

36 v. Any other source categories exempted by USEPA

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

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

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

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

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

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

1 shall not be considered in determining whether it is a
2 major stationary source for the purposes of Section
3 302(j) of the Clean Air Act, unless the source belongs
4 to one of the following categories of stationary
5 source:

- 6 A. Coal cleaning plants (with thermal 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 charging
14 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 with a
32 total storage capacity exceeding 300,000 barrels.
- 33 W. Taconite ore processing plants.
- 34 X. Glass fiber processing plants.
- 35 Y. Charcoal production plants.
- 36 Z. Fossil fuel-fired steam electric plants of

1 more than 250 million British thermal units per
2 hour heat input.

3 AA. All other stationary source categories, which as of August 7, 1980 are being regulated by a
4 standard promulgated under Section 111 or 112 of
5 the Clean Air Act, ~~but only with respect to those~~
6 ~~air pollutants that have been regulated for that~~
7 ~~category.~~

8
9 BB. Any other stationary source category
10 designated by USEPA by rule.

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

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

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

34 C. For carbon monoxide nonattainment areas (1)
35 that are classified as "serious", and (2) in which
36 stationary sources contribute significantly to

1 carbon monoxide levels as determined under rules
2 issued by USEPA, sources with the potential to emit
3 50 tons or more per year of carbon monoxide.

4 D. For particulate matter (PM-10)
5 nonattainment areas classified as "serious",
6 sources with the potential to emit 70 tons or more
7 per year of PM-10.

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

10 a. The Agency shall issue CAAPP permits under this
11 Section consistent with the Clean Air Act and regulations
12 promulgated thereunder and this Act and regulations
13 promulgated thereunder.

14 b. The Agency shall issue CAAPP permits for fixed terms
15 of 5 years, except CAAPP permits issued for solid waste
16 incineration units combusting municipal waste which shall
17 be issued for fixed terms of 12 years and except CAAPP
18 permits for affected sources for acid deposition which
19 shall be issued for initial terms to expire on December 31,
20 1999, and for fixed terms of 5 years thereafter.

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

33 d. For purposes of this Act, a permit issued by USEPA
34 under Section 505 of the Clean Air Act, as now and
35 hereafter amended, shall be deemed to be a permit issued by

1 the Agency pursuant to Section 39.5 of this Act.

2 4. Transition.

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

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

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

1 procedures, if any, subsequent to the date the Agency
2 submits the CAAPP to USEPA for approval.

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

5 e. For purposes of this Section, the term "initial
6 CAAPP application" shall mean the first CAAPP application
7 submitted for a source existing as of the effective date of
8 the CAAPP.

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

17 g. The CAAPP permit shall upon becoming effective
18 supersede the State operating permit.

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

23 5. Applications and Completeness.

24 a. An owner or operator of a CAAPP source shall submit
25 its complete CAAPP application consistent with the Act and
26 applicable regulations.

27 b. An owner or operator of a CAAPP source shall submit
28 a single complete CAAPP application covering all emission
29 units at that source.

30 c. To be deemed complete, a CAAPP application must
31 provide all information, as requested in Agency
32 application forms, sufficient to evaluate the subject
33 source and its application and to determine all applicable
34 requirements, pursuant to the Clean Air Act, and
35 regulations thereunder, this Act and regulations

1 thereunder. Such Agency application forms shall be
2 finalized and made available prior to the date on which any
3 CAAPP application is required.

4 d. An owner or operator of a CAAPP source shall submit,
5 as part of its complete CAAPP application, a compliance
6 plan, including a schedule of compliance, describing how
7 each emission unit will comply with all applicable
8 requirements. Any such schedule of compliance shall be
9 supplemental to, and shall not sanction noncompliance
10 with, the applicable requirements on which it is based.

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

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

24 g. If after the determination of completeness the
25 Agency finds that additional information is necessary to
26 evaluate or take final action on the CAAPP application, the
27 Agency may request in writing such information from the
28 source with a reasonable deadline for response.

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

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

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

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

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

33 l. Unless a timely and complete renewal application has
34 been submitted consistent with this subsection, a CAAPP
35 source operating upon the expiration of its CAAPP permit
36 shall be deemed to be operating without a CAAPP permit.

1 Such operation is prohibited under this Act.

2 m. Permits being renewed shall be subject to the same
3 procedural requirements, including those for public
4 participation and federal review and objection, that apply
5 to original permit issuance.

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

9 o. The terms and conditions of a CAAPP permit shall
10 remain in effect until the issuance of a CAAPP renewal
11 permit provided a timely and complete CAAPP application has
12 been submitted.

13 p. The owner or operator of a CAAPP source seeking a
14 permit shield pursuant to paragraph 7(j) of this Section
15 shall request such permit shield in the CAAPP application
16 regarding that source.

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

24 r. The Agency shall use the standardized forms required
25 under Title IV of the Clean Air Act and regulations
26 promulgated thereunder for affected sources for acid
27 deposition.

28 s. An owner or operator of a CAAPP source may include
29 within its CAAPP application a request for permission to
30 operate during a startup, malfunction, or breakdown
31 consistent with applicable Board regulations.

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

1 u. An owner or operator of a CAAPP source which seeks
2 exclusion from the CAAPP through the imposition of
3 federally enforceable conditions, pursuant to paragraph
4 3(c) of this Section, must request such exclusion within a
5 CAAPP application submitted consistent with this
6 subsection on or after the date that the CAAPP application
7 for the source is due. Prior to such date, but in no case
8 later than 9 months after the effective date of the CAAPP,
9 such owner or operator may request the imposition of
10 federally enforceable conditions pursuant to paragraph
11 1.1(b) of this Section.

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

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

31 x. The owner or operator of a new CAAPP source shall
32 submit its complete CAAPP application consistent with this
33 subsection within 12 months after commencing operation of
34 such source. The owner or operator of an existing source
35 that has been excluded from the provisions of this Section
36 under subsection 1.1 or subsection 3(c) of this Section and

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

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

10 6. Prohibitions.

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

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

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

1 7. Permit Content.

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

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

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

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

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

1 Section 114 (a) (3) of the Clean Air Act.

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

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

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

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

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

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

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

27 D. The analytical techniques or methods used.

28 E. The results of such analyses.

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

31 ii. Retention of records of all monitoring data
32 and support information for a period of at least 5
33 years from the date of the monitoring sample,
34 measurement, report, or application. Support
35 information includes all calibration and maintenance
36 records, original strip-chart recordings for

1 continuous monitoring instrumentation, and copies of
2 all reports required by the permit.

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

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

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

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

27 h. All CAAPP permits shall state that, where another
28 applicable requirement of the Clean Air Act is more
29 stringent than any applicable requirement of regulations
30 promulgated under Title IV of the Clean Air Act, both
31 provisions shall be incorporated into the permit and shall
32 be State and federally enforceable.

33 i. Each CAAPP permit issued under subsection 10 of this
34 Section shall include a severability clause to ensure the
35 continued validity of the various permit requirements in
36 the event of a challenge to any portions of the permit.

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

3 i. The Agency shall include in a CAAPP permit, when
4 requested by an applicant pursuant to paragraph 5(p) of
5 this Section, a provision stating that compliance with
6 the conditions of the permit shall be deemed compliance
7 with applicable requirements which are applicable as
8 of the date of release of the proposed permit, provided
9 that:

10 A. The applicable requirement is specifically
11 identified within the permit; or

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

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

23 iii. A CAAPP permit which does not expressly
24 indicate the existence of a permit shield shall not
25 provide such a shield.

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

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

31 B. The liability of an owner or operator of a
32 source for any violation of applicable
33 requirements prior to or at the time of permit
34 issuance.

35 C. The applicable requirements of the acid
36 rain program consistent with Section 408(a) of the

1 Clean Air Act.

2 D. The ability of USEPA to obtain information
3 from a source pursuant to Section 114
4 (inspections, monitoring, and entry) of the Clean
5 Air Act.

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

13 i. An emergency occurred and the permittee can
14 identify the cause(s) of the emergency.

15 ii. The permitted facility was at the time being
16 properly operated.

17 iii. The permittee submitted notice of the
18 emergency to the Agency within 2 working days of the
19 time when emission limitations were exceeded due to the
20 emergency. This notice must contain a detailed
21 description of the emergency, any steps taken to
22 mitigate emissions, and corrective actions taken.

23 iv. During the period of the emergency the
24 permittee took all reasonable steps to minimize levels
25 of emissions that exceeded the emission limitations,
26 standards, or requirements in the permit.

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

1 or operation error.

2 In any enforcement proceeding, the permittee seeking
3 to establish the occurrence of an emergency has the burden
4 of proof. This provision is in addition to any emergency or
5 upset provision contained in any applicable requirement.
6 This provision does not relieve a permittee of any
7 reporting obligations under existing federal or state laws
8 or regulations.

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

11 i. Terms and conditions for reasonably anticipated
12 operating scenarios identified by the source in its
13 application. The permit terms and conditions for each
14 such operating scenario shall meet all applicable
15 requirements and the requirements of this Section.

16 A. Under this subparagraph, the source must
17 record in a log at the permitted facility a record
18 of the scenario under which it is operating
19 contemporaneously with making a change from one
20 operating scenario to another.

21 B. The permit shield described in paragraph
22 7(j) of this Section shall extend to all terms and
23 conditions under each such operating scenario.

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

32 A. Shall include all terms required under this
33 subsection to determine compliance;

34 B. Must meet all applicable requirements;

35 C. Shall extend the permit shield described in
36 paragraph 7(j) of this Section to all terms and

1 conditions that allow such increases and decreases
2 in emissions.

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

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

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

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

29 ii. Need to halt or reduce activity not a defense.
30 It shall not be a defense for a permittee in an
31 enforcement action that it would have been necessary to
32 halt or reduce the permitted activity in order to
33 maintain compliance with the conditions of this
34 permit.

35 iii. Permit actions. The permit may be modified,
36 revoked, reopened, and reissued, or terminated for

1 cause in accordance with the applicable subsections of
2 Section 39.5 of this Act. The filing of a request by
3 the permittee for a permit modification, revocation
4 and reissuance, or termination, or of a notification of
5 planned changes or anticipated noncompliance does not
6 stay any permit condition.

7 iv. Property rights. The permit does not convey any
8 property rights of any sort, or any exclusive
9 privilege.

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

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

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

33 p. Each CAAPP permit issued under subsection 10 of this
34 Section shall contain the following elements with respect
35 to compliance:

36 i. Compliance certification, testing, monitoring,

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

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

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

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

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

25 D. Sample or monitor any substances or
26 parameters at any location:

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

31 2. As otherwise authorized by this Act.

32 iii. A schedule of compliance consistent with
33 subsection 5 of this Section and applicable
34 regulations.

35 iv. Progress reports consistent with an applicable
36 schedule of compliance pursuant to paragraph 5(d) of

1 currently and over the reporting period
2 consistent with subsection 7 of Section 39.5 of
3 the Act.

4 D. A requirement that all compliance
5 certifications be submitted to USEPA as well as to
6 the Agency.

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

10 F. Other provisions as the Agency may require.

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

22 8. Public Notice; Affected State Review.

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

28 b. The Agency shall prepare a draft CAAPP permit and a
29 statement that sets forth the legal and factual basis for
30 the draft CAAPP permit conditions, including references to
31 the applicable statutory or regulatory provisions. The
32 Agency shall provide this statement to any person who
33 requests it.

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

1 public, except as otherwise provided in this Act.

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

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

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

31 9. USEPA Notice and Objection.

32 a. The Agency shall provide to USEPA for its review a
33 copy of each CAAPP application (including any application
34 for permit modification), statement of basis as provided in
35 paragraph 8(b) of this Section, proposed CAAPP permit,

1 CAAPP permit, and, if the Agency does not incorporate any
2 affected State's recommendations on a proposed CAAPP
3 permit, a written statement of this decision and its
4 reasons for not accepting the recommendations, except as
5 otherwise provided in this Act or by agreement with USEPA.
6 To the extent practicable, the preceding information shall
7 be provided in computer readable format compatible with
8 USEPA's national database management system.

9 b. The Agency shall not issue the proposed CAAPP permit
10 if USEPA objects in writing within 45 days of receipt of
11 the proposed CAAPP permit and all necessary supporting
12 information.

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

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

36 e. If USEPA does not object in writing to issuance of a

1 permit under this subsection, any person may petition USEPA
2 within 60 days after expiration of the 45-day review period
3 to make such objection.

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

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

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

30 10. Final Agency Action.

31 a. The Agency shall issue a CAAPP permit, permit
32 modification, or permit renewal if all of the following
33 conditions are met:

34 i. The applicant has submitted a complete and
35 certified application for a permit, permit

1 modification, or permit renewal consistent with
2 subsections 5 and 14 of this Section, as applicable,
3 and applicable regulations.

4 ii. The applicant has submitted with its complete
5 application an approvable compliance plan, including a
6 schedule for achieving compliance, consistent with
7 subsection 5 of this Section and applicable
8 regulations.

9 iii. The applicant has timely paid the fees
10 required pursuant to subsection 18 of this Section and
11 applicable regulations.

12 iv. The Agency has received a complete CAAPP
13 application and, if necessary, has requested and
14 received additional information from the applicant
15 consistent with subsection 5 of this Section and
16 applicable regulations.

17 v. The Agency has complied with all applicable
18 provisions regarding public notice and affected State
19 review consistent with subsection 8 of this Section and
20 applicable regulations.

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

27 b. The Agency shall have the authority to deny a CAAPP
28 permit, permit modification, or permit renewal if the
29 applicant has not complied with the requirements of
30 paragraphs (a)(i)-(a)(iv) of this subsection or if USEPA
31 objects to its issuance.

32 c. i. Prior to denial of a CAAPP permit, permit
33 modification, or permit renewal under this Section,
34 the Agency shall notify the applicant of the possible
35 denial and the reasons for the denial.

36 ii. Within such notice, the Agency shall specify an

1 appropriate date by which the applicant shall
2 adequately respond to the Agency's notice. Such date
3 shall not exceed 15 days from the date the notification
4 is received by the applicant. The Agency may grant a
5 reasonable extension for good cause shown.

6 iii. Failure by the applicant to adequately
7 respond by the date specified in the notification or by
8 any granted extension date shall be grounds for denial
9 of the permit.

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

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

22 11. General Permits.

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

27 b. The Agency shall identify, in any general permit,
28 criteria by which sources may qualify for the general
29 permit.

30 c. CAAPP sources that would qualify for a general
31 permit must apply for coverage under the terms of the
32 general permit or must apply for a CAAPP permit consistent
33 with subsection 5 of this Section and applicable
34 regulations.

35 d. The Agency shall comply with the public comment and

1 hearing provisions of this Section as well as the USEPA and
2 affected State review procedures prior to issuance of a
3 general permit.

4 e. When granting a subsequent request by a qualifying
5 CAAPP source for coverage under the terms of a general
6 permit, the Agency shall not be required to repeat the
7 public notice and comment procedures. The granting of such
8 request shall not be considered a final permit action for
9 purposes of judicial review.

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

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

17 12. Operational Flexibility.

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

33 i. An owner or operator of a CAAPP source may make
34 Section 502 (b) (10) changes without a permit revision,
35 if the changes are not modifications under any

1 provision of Title I of the Clean Air Act and the
2 changes do not exceed the emissions allowable under the
3 permit (whether expressed therein as a rate of
4 emissions or in terms of total emissions).

5 A. For each such change, the written
6 notification required above shall include a brief
7 description of the change within the source, the
8 date on which the change will occur, any change in
9 emissions, and any permit term or condition that is
10 no longer applicable as a result of the change.

11 B. The permit shield described in paragraph
12 7(j) of this Section shall not apply to any change
13 made pursuant to this subparagraph.

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

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

36 B. The permit shield described in paragraph

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

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

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

28 B. The permit shield described in paragraph
29 7(j) of this Section shall extend to terms and
30 conditions that allow such increases and decreases
31 in emissions.

32 b. An owner or operator of a CAAPP source may make
33 changes that are not addressed or prohibited by the permit,
34 other than those which are subject to any requirements
35 under Title IV of the Clean Air Act or are modifications
36 under any provisions of Title I of the Clean Air Act,

1 without a permit revision, in accordance with the following
2 requirements:

3 (i) Each such change shall meet all applicable
4 requirements and shall not violate any existing permit
5 term or condition;

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

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

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

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

26 13. Administrative Permit Amendments.

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

34 b. The Agency shall submit a copy of the revised permit
35 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, or
7 phone number of any person identified in the permit, or
8 provides a similar minor administrative change at the
9 source;

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

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

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

25 vi. (Blank); or

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

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

36 e. Permit revisions and modifications, including

1 administrative amendments and automatic amendments
2 (pursuant to Sections 408(b) and 403(d) of the Clean Air
3 Act or regulations promulgated thereunder), for purposes
4 of the acid rain portion of the permit shall be governed by
5 the regulations promulgated under Title IV of the Clean Air
6 Act. Owners or operators of affected sources for acid
7 deposition shall have the flexibility to amend their
8 compliance plans as provided in the regulations
9 promulgated under Title IV of the Clean Air Act.

10 f. The CAAPP source may implement the changes addressed
11 in the request for an administrative permit amendment
12 immediately upon submittal of the request.

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

17 14. Permit Modifications.

18 a. Minor permit modification procedures.

19 i. The Agency shall review a permit modification
20 using the "minor permit" modification procedures only
21 for those permit modifications that:

22 A. Do not violate any applicable requirement;

23 B. Do not involve significant changes to
24 existing monitoring, reporting, or recordkeeping
25 requirements in the permit;

26 C. Do not require a case-by-case determination
27 of an emission limitation or other standard, or a
28 source-specific determination of ambient impacts,
29 or a visibility or increment analysis;

30 D. Do not seek to establish or change a permit
31 term or condition for which there is no
32 corresponding underlying requirement and which
33 avoids an applicable requirement to which the
34 source would otherwise be subject. Such terms and
35 conditions include:

1 1. A federally enforceable emissions cap
2 assumed to avoid classification as a
3 modification under any provision of Title I of
4 the Clean Air Act; and

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

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

10 F. Are not required to be processed as a
11 significant modification.

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

21 iii. An applicant requesting the use of minor
22 permit modification procedures shall meet the
23 requirements of subsection 5 of this Section and shall
24 include the following in its application:

25 A. A description of the change, the emissions
26 resulting from the change, and any new applicable
27 requirements that will apply if the change occurs;

28 B. The source's suggested draft permit;

29 C. Certification by a responsible official,
30 consistent with paragraph 5(e) of this Section and
31 applicable regulations, that the proposed
32 modification meets the criteria for use of minor
33 permit modification procedures and a request that
34 such procedures be used; and

35 D. Completed forms for the Agency to use to
36 notify USEPA and affected States as required under

1 subsections 8 and 9 of this Section.

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

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

20 A. Issue the permit modification as proposed;

21 B. Deny the permit modification application;

22 C. Determine that the requested modification
23 does not meet the minor permit modification
24 criteria and should be reviewed under the
25 significant modification procedures; or

26 D. Revise the draft permit modification and
27 transmit to USEPA the new proposed permit
28 modification as required by subsection 9 of this
29 Section.

30 vi. Any CAAPP source may make the change proposed
31 in its minor permit modification application
32 immediately after it files such application. After the
33 CAAPP source makes the change allowed by the preceding
34 sentence, and until the Agency takes any of the actions
35 specified in subparagraphs (a) (v) (A) through (a) (v) (C)
36 of this subsection, the source must comply with both

1 the applicable requirements governing the change and
2 the proposed permit terms and conditions. During this
3 time period, the source need not comply with the
4 existing permit terms and conditions it seeks to
5 modify. If the source fails to comply with its proposed
6 permit terms and conditions during this time period,
7 the existing permit terms and conditions which it seeks
8 to modify may be enforced against it.

9 vii. The permit shield under subparagraph 7(j) of
10 this Section may not extend to minor permit
11 modifications.

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

28 b. Group Processing of Minor Permit Modifications.

29 i. Where requested by an applicant within its
30 application, the Agency shall process groups of a
31 source's applications for certain modifications
32 eligible for minor permit modification processing in
33 accordance with the provisions of this paragraph (b).

34 ii. Permit modifications may be processed in
35 accordance with the procedures for group processing,
36 for those modifications:

1 A. Which meet the criteria for minor permit
2 modification procedures under subparagraph
3 14(a) (i) of this Section; and

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

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

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

17 B. The source's suggested draft permit.

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

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

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

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

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

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

19 vi. The provisions of subparagraph (a)(vi) of this
20 subsection shall apply to modifications for group
21 processing.

22 vii. The provisions of paragraph 7(j) of this
23 Section shall not apply to modifications eligible for
24 group processing.

25 c. Significant Permit Modifications.

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

31 ii. Every significant change in existing
32 monitoring permit terms or conditions and every
33 relaxation of reporting or recordkeeping requirements
34 shall be considered significant. A modification shall
35 also be considered significant if in the judgment of
36 the Agency action on an application for modification

1 would require decisions to be made on technically
2 complex issues. Nothing herein shall be construed to
3 preclude the permittee from making changes consistent
4 with this Section that would render existing permit
5 compliance terms and conditions irrelevant.

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

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

18 15. Reopenings for Cause by the Agency.

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

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

34 ii. Additional requirements (including excess
35 emissions requirements) become applicable to an

1 affected source for acid deposition under the acid rain
2 program. Excess emissions offset plans shall be deemed
3 to be incorporated into the permit upon approval by
4 USEPA.

5 iii. The Agency or USEPA determines that the permit
6 contains a material mistake or that inaccurate
7 statements were made in establishing the emissions
8 standards, limitations, or other terms or conditions
9 of the permit.

10 iv. The Agency or USEPA determines that the permit
11 must be revised or revoked to assure compliance with
12 the applicable requirements.

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

26 c. Proceedings regarding a reopened CAAPP permit shall
27 follow the same procedures as apply to initial permit
28 issuance and shall affect only those parts of the permit
29 for which cause to reopen exists.

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

36 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 16. Reopenings for Cause by USEPA.

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

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

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

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

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

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

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

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

1 with the Board's final order.

2 iii. When USEPA reviews such proposed
3 determination to modify and objects, the Agency shall,
4 within 90 days after receipt of the objection, resolve
5 the objection and modify the permit in accordance with
6 USEPA's objection, based upon the record, the Clean Air
7 Act, regulations promulgated thereunder, this Act, and
8 regulations promulgated thereunder.

9 d. If the Agency fails to submit the proposed
10 determination pursuant to paragraph a of this subsection or
11 fails to resolve any USEPA objection pursuant to paragraph
12 c of this subsection, USEPA will terminate, modify, or
13 revoke and reissue the permit.

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

18 17. Title IV; Acid Rain Provisions.

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

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

1 Phase II acid rain permit application and compliance plan
2 to the Agency, not later than January 1, 1996, that meets
3 the requirements of Titles IV and V of the Clean Air Act
4 and regulations. The Agency shall act on the Phase II acid
5 rain permit application and compliance plan in accordance
6 with this Section and Title V of the Clean Air Act and
7 regulations promulgated thereunder, except as modified by
8 Title IV of the Clean Air Act and regulations promulgated
9 thereunder. The Agency shall issue the Phase II acid rain
10 permit to an affected source for acid deposition no later
11 than December 31, 1997, which shall become effective on
12 January 1, 2000, in accordance with this Section, except as
13 modified by Title IV and regulations promulgated
14 thereunder; provided that the designated representative of
15 the source submitted a timely and complete Phase II permit
16 application and compliance plan to the Agency that meets
17 the requirements of Title IV and V of the Clean Air Act and
18 regulations.

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

25 d. A designated representative of a new unit, as
26 defined in Section 402 of the Clean Air Act, shall submit a
27 timely and complete Phase II acid rain permit application
28 and compliance plan that meets the requirements of Titles
29 IV and V of the Clean Air Act and its regulations. The
30 Agency shall act on the new unit's Phase II acid rain
31 permit application and compliance plan in accordance with
32 this Section and Title V of the Clean Air Act and its
33 regulations, except as modified by Title IV of the Clean
34 Air Act and its regulations. The Agency shall reopen the
35 new unit's CAAPP permit for cause to incorporate the
36 approved Phase II acid rain permit in accordance with this

1 Section. The Phase II acid rain permit for the new unit
2 shall become effective no later than the date required
3 under Title IV of the Clean Air Act and its regulations.

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

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

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

1 h. The Agency shall not include or implement any
2 measure which would interfere with or modify the
3 requirements of Title IV of the Clean Air Act or
4 regulations promulgated thereunder.

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

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

14 ii. No limit shall be placed on the number of
15 allowances held by the source. The source may not,
16 however, use allowances as a defense to noncompliance
17 with any other applicable requirement.

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

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

27 k. The USEPA may intervene as a matter of right in any
28 permit appeal involving a Phase II acid rain permit
29 provision or denial of a Phase II acid rain permit.

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

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

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

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

16 18. Fee Provisions.

17 a. For each 12 month period after the date on which the
18 USEPA approves or conditionally approves the CAAPP, but in
19 no event prior to January 1, 1994, a source subject to this
20 Section or excluded under subsection 1.1 or paragraph 3(c)
21 of this Section, shall pay a fee as provided in this part
22 (a) of this subsection 18. However, a source that has been
23 excluded from the provisions of this Section under
24 subsection 1.1 or paragraph 3(c) of this Section because
25 the source emits less than 25 tons per year of any
26 combination of regulated air pollutants shall pay fees in
27 accordance with paragraph (1) of subsection (b) of Section
28 9.6.

29 i. The fee for a source allowed to emit less than
30 100 tons per year of any combination of regulated air
31 pollutants shall be \$1,800 per year.

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

1 be as follows:

2 A. The Agency shall assess an annual fee of
3 \$18.00 per ton for the allowable emissions of all
4 regulated air pollutants at that source during the
5 term of the permit. These fees shall be used by the
6 Agency and the Board to fund the activities
7 required by Title V of the Clean Air Act including
8 such activities as may be carried out by other
9 State or local agencies pursuant to paragraph (d)
10 of this subsection. The amount of such fee shall be
11 based on the information supplied by the applicant
12 in its complete CAAPP permit application or in the
13 CAAPP permit if the permit has been granted and
14 shall be determined by the amount of emissions that
15 the source is allowed to emit annually, provided
16 however, that no source shall be required to pay an
17 annual fee in excess of \$250,000. The Agency shall
18 provide as part of the permit application form
19 required under subsection 5 of this Section a
20 separate fee calculation form which will allow the
21 applicant to identify the allowable emissions and
22 calculate the fee for the term of the permit. In no
23 event shall the Agency raise the amount of
24 allowable emissions requested by the applicant
25 unless such increases are required to demonstrate
26 compliance with terms of a CAAPP permit.

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

1 expeditiously grant such construction permit and
2 shall, if necessary, modify the CAAPP permit based
3 on the same application.

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

16 b. (Blank).

17 c. (Blank).

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

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

33 f. For purposes of this subsection, the term "regulated
34 air pollutant" shall have the meaning given to it under
35 subsection 1 of this Section but shall exclude the
36 following:

- 1 i. carbon monoxide;
- 2 ii. any Class I or II substance which is a
- 3 regulated air pollutant solely because it is listed
- 4 pursuant to Section 602 of the Clean Air Act; and
- 5 iii. any pollutant that is a regulated air
- 6 pollutant solely because it is subject to a standard or
- 7 regulation under Section 112(r) of the Clean Air Act
- 8 based on the emissions allowed in the permit effective
- 9 in that calendar year, at the time the applicable bill
- 10 is generated.

11 19. Air Toxics Provisions.

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

1 provides for the level of control required under Section
2 112 of the Clean Air Act, or shall otherwise establish an
3 appropriate emission limitation, pursuant to Section 112
4 of the Clean Air Act.

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

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

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

34 e. The Agency has the authority to implement Section
35 112(g) of the Clean Air Act consistent with the Clean Air
36 Act and federal regulations promulgated thereunder. If the

1 Agency refuses to include the emission limitations
2 proposed in an application submitted by an owner or
3 operator for a case-by-case maximum achievable control
4 technology (MACT) determination, the owner or operator may
5 petition the Board to determine whether the emission
6 limitation proposed by the owner or operator or an
7 alternative emission limitation proposed by the Agency
8 provides for a level of control required by Section 112 of
9 the Clean Air Act, or to otherwise establish an appropriate
10 emission limitation under Section 112 of the Clean Air Act.

11 20. Small Business.

12 a. For purposes of this subsection:

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

19 "Small Business Assistance Program" is a component of
20 the Program responsible for providing sufficient
21 communications with small businesses through the
22 collection and dissemination of information to small
23 business stationary sources; and

24 "Small Business Stationary Source" means a stationary
25 source that:

26 1. is owned or operated by a person that employs
27 100 or fewer individuals;

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

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

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

34 5. emits less than 75 tons per year of all
35 regulated pollutants.

1 b. The Agency shall adopt and submit to USEPA, after
2 reasonable notice and opportunity for public comment, as a
3 revision to the Illinois state implementation plan, plans
4 for establishing the Program.

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

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

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

17 f. The State Ombudsman Office shall be located in an
18 existing Ombudsman office within the State or in any State
19 Department.

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

24 h. The selection of Panel members shall be by the
25 following method:

26 1. The Governor shall select two members who are
27 not owners or representatives of owners of small
28 business stationary sources to represent the general
29 public;

30 2. The Director of the Agency shall select one
31 member to represent the Agency; and

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

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

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

8 21. Temporary Sources.

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

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

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

23 22. Solid Waste Incineration Units.

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

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

1 c. If the Agency determines that the source is not in
2 compliance with all applicable requirements it shall
3 revise the CAAPP permit as appropriate.

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

9 (415 ILCS 5/42) (from Ch. 111 1/2, par. 1042)

10 Sec. 42. Civil penalties.

11 (a) Except as provided in this Section, any person that
12 violates any provision of this Act or any regulation adopted by
13 the Board, or any permit or term or condition thereof, or that
14 violates any order of the Board pursuant to this Act, shall be
15 liable for a civil penalty of not to exceed \$50,000 for the
16 violation and an additional civil penalty of not to exceed
17 \$10,000 for each day during which the violation continues; such
18 penalties may, upon order of the Board or a court of competent
19 jurisdiction, be made payable to the Environmental Protection
20 Trust Fund, to be used in accordance with the provisions of the
21 Environmental Protection Trust Fund Act.

22 (b) Notwithstanding the provisions of subsection (a) of
23 this Section:

24 (1) Any person that violates Section 12(f) of this Act
25 or any NPDES permit or term or condition thereof, or any
26 filing requirement, regulation or order relating to the
27 NPDES permit program, shall be liable to a civil penalty of
28 not to exceed \$10,000 per day of violation.

29 (2) Any person that violates Section 12(g) of this Act
30 or any UIC permit or term or condition thereof, or any
31 filing requirement, regulation or order relating to the
32 State UIC program for all wells, except Class II wells as
33 defined by the Board under this Act, shall be liable to a
34 civil penalty not to exceed \$2,500 per day of violation;
35 provided, however, that any person who commits such

1 violations relating to the State UIC program for Class II
2 wells, as defined by the Board under this Act, shall be
3 liable to a civil penalty of not to exceed \$10,000 for the
4 violation and an additional civil penalty of not to exceed
5 \$1,000 for each day during which the violation continues.

6 (3) Any person that violates Sections 21(f), 21(g),
7 21(h) or 21(i) of this Act, or any RCRA permit or term or
8 condition thereof, or any filing requirement, regulation
9 or order relating to the State RCRA program, shall be
10 liable to a civil penalty of not to exceed \$25,000 per day
11 of violation.

12 (4) In an administrative citation action under Section
13 31.1 of this Act, any person found to have violated any
14 provision of subsection (o) of Section 21 of this Act shall
15 pay a civil penalty of \$500 for each violation of each such
16 provision, plus any hearing costs incurred by the Board and
17 the Agency. Such penalties shall be made payable to the
18 Environmental Protection Trust Fund, to be used in
19 accordance with the provisions of the Environmental
20 Protection Trust Fund Act; except that if a unit of local
21 government issued the administrative citation, 50% of the
22 civil penalty shall be payable to the unit of local
23 government.

24 (4-5) In an administrative citation action under
25 Section 31.1 of this Act, any person found to have violated
26 any provision of subsection (p) of Section 21 of this Act
27 shall pay a civil penalty of \$1,500 for each violation of
28 each such provision, plus any hearing costs incurred by the
29 Board and the Agency, except that the civil penalty amount
30 shall be \$3,000 for each violation of any provision of
31 subsection (p) of Section 21 that is the person's second or
32 subsequent adjudication violation of that provision. The
33 penalties shall be deposited into the Environmental
34 Protection Trust Fund, to be used in accordance with the
35 provisions of the Environmental Protection Trust Fund Act;
36 except that if a unit of local government issued the

1 administrative citation, 50% of the civil penalty shall be
2 payable to the unit of local government.

3 (5) Any person who violates subsection 6 of Section
4 39.5 of this Act or any CAAPP permit, or term or condition
5 thereof, or any fee or filing requirement, or any duty to
6 allow or carry out inspection, entry or monitoring
7 activities, or any regulation or order relating to the
8 CAAPP shall be liable for a civil penalty not to exceed
9 \$10,000 per day of violation.

10 (b.5) In lieu of the penalties set forth in subsections (a)
11 and (b) of this Section, any person who fails to file, in a
12 timely manner, toxic chemical release forms with the Agency
13 pursuant to Section 25b-2 of this Act shall be liable for a
14 civil penalty of \$100 per day for each day the forms are late,
15 not to exceed a maximum total penalty of \$6,000. This daily
16 penalty shall begin accruing on the thirty-first day after the
17 date that the person receives the warning notice issued by the
18 Agency pursuant to Section 25b-6 of this Act; and the penalty
19 shall be paid to the Agency. The daily accrual of penalties
20 shall cease as of January 1 of the following year. All
21 penalties collected by the Agency pursuant to this subsection
22 shall be deposited into the Environmental Protection Permit and
23 Inspection Fund.

24 (c) Any person that violates this Act, any rule or
25 regulation adopted under this Act, any permit or term or
26 condition of a permit, or any Board order and causes the death
27 of fish or aquatic life shall, in addition to the other
28 penalties provided by this Act, be liable to pay to the State
29 an additional sum for the reasonable value of the fish or
30 aquatic life destroyed. Any money so recovered shall be placed
31 in the Wildlife and Fish Fund in the State Treasury.

32 (d) The penalties provided for in this Section may be
33 recovered in a civil action.

34 (e) The State's Attorney of the county in which the
35 violation occurred, or the Attorney General, may, at the
36 request of the Agency or on his own motion, institute a civil

1 action for an injunction, prohibitory or mandatory, to restrain
2 violations of this Act, any rule or regulation adopted under
3 this Act, any permit or term or condition of a permit, or any
4 Board order, or to require such other actions as may be
5 necessary to address violations of this Act, any rule or
6 regulation adopted under this Act, any permit or term or
7 condition of a permit, or any Board order.

8 (f) The State's Attorney of the county in which the
9 violation occurred, or the Attorney General, shall bring such
10 actions in the name of the people of the State of Illinois.
11 Without limiting any other authority which may exist for the
12 awarding of attorney's fees and costs, the Board or a court of
13 competent jurisdiction may award costs and reasonable
14 attorney's fees, including the reasonable costs of expert
15 witnesses and consultants, to the State's Attorney or the
16 Attorney General in a case where he has prevailed against a
17 person who has committed a wilful, knowing or repeated
18 violation of this Act, any rule or regulation adopted under
19 this Act, any permit or term or condition of a permit, or any
20 Board order.

21 Any funds collected under this subsection (f) in which the
22 Attorney General has prevailed shall be deposited in the
23 Hazardous Waste Fund created in Section 22.2 of this Act. Any
24 funds collected under this subsection (f) in which a State's
25 Attorney has prevailed shall be retained by the county in which
26 he serves.

27 (g) All final orders imposing civil penalties pursuant to
28 this Section shall prescribe the time for payment of such
29 penalties. If any such penalty is not paid within the time
30 prescribed, interest on such penalty at the rate set forth in
31 subsection (a) of Section 1003 of the Illinois Income Tax Act,
32 shall be paid for the period from the date payment is due until
33 the date payment is received. However, if the time for payment
34 is stayed during the pendency of an appeal, interest shall not
35 accrue during such stay.

36 (h) In determining the appropriate civil penalty to be

1 imposed under subdivisions (a), (b) (1), (b) (2), (b) (3), or
2 (b) (5) of this Section, the Board is authorized to consider any
3 matters of record in mitigation or aggravation of penalty,
4 including but not limited to the following factors:

5 (1) the duration and gravity of the violation;

6 (2) the presence or absence of due diligence on the
7 part of the respondent in attempting to comply with
8 requirements of this Act and regulations thereunder or to
9 secure relief therefrom as provided by this Act;

10 (3) any economic benefits accrued by the respondent
11 because of delay in compliance with requirements, in which
12 case the economic benefits shall be determined by the
13 lowest cost alternative for achieving compliance;

14 (4) the amount of monetary penalty which will serve to
15 deter further violations by the respondent and to otherwise
16 aid in enhancing voluntary compliance with this Act by the
17 respondent and other persons similarly subject to the Act;

18 (5) the number, proximity in time, and gravity of
19 previously adjudicated violations of this Act by the
20 respondent;

21 (6) whether the respondent voluntarily self-disclosed,
22 in accordance with subsection (i) of this Section, the
23 non-compliance to the Agency; and

24 (7) whether the respondent has agreed to undertake a
25 "supplemental environmental project," which means an
26 environmentally beneficial project that a respondent
27 agrees to undertake in settlement of an enforcement action
28 brought under this Act, but which the respondent is not
29 otherwise legally required to perform.

30 In determining the appropriate civil penalty to be imposed
31 under subsection (a) or paragraph (1), (2), (3), or (5) of
32 subsection (b) of this Section, the Board shall ensure, in all
33 cases, that the penalty is at least as great as the economic
34 benefits, if any, accrued by the respondent as a result of the
35 violation, unless the Board finds that imposition of such
36 penalty would result in an arbitrary or unreasonable financial

1 hardship. However, such civil penalty may be off-set in whole
2 or in part pursuant to a supplemental environmental project
3 agreed to by the complainant and the respondent.

4 (i) A person who voluntarily self-discloses non-compliance
5 to the Agency, of which the Agency had been unaware, is
6 entitled to a 100% reduction in the portion of the penalty that
7 is not based on the economic benefit of non-compliance if the
8 person can establish the following:

9 (1) that the non-compliance was discovered through an
10 environmental audit or a compliance management system
11 documented by the regulated entity as reflecting the
12 regulated entity's due diligence in preventing, detecting,
13 and correcting violations, ~~as defined in Section 52.2 of~~
14 ~~this Act, and the person waives the environmental audit~~
15 ~~privileges as provided in that Section with respect to that~~
16 ~~non-compliance;~~

17 (2) that the non-compliance was disclosed in writing
18 within 30 days of the date on which the person discovered
19 it;

20 (3) that the non-compliance was discovered and
21 disclosed prior to:

22 (i) the commencement of an Agency inspection,
23 investigation, or request for information;

24 (ii) notice of a citizen suit;

25 (iii) the filing of a complaint by a citizen, the
26 Illinois Attorney General, or the State's Attorney of
27 the county in which the violation occurred;

28 (iv) the reporting of the non-compliance by an
29 employee of the person without that person's
30 knowledge; or

31 (v) imminent discovery of the non-compliance by
32 the Agency;

33 (4) that the non-compliance is being corrected and any
34 environmental harm is being remediated in a timely fashion;

35 (5) that the person agrees to prevent a recurrence of
36 the non-compliance;

1 (6) that no related non-compliance events have
2 occurred in the past 3 years at the same facility or in the
3 past 5 years as part of a pattern at multiple facilities
4 owned or operated by the person;

5 (7) that the non-compliance did not result in serious
6 actual harm or present an imminent and substantial
7 endangerment to human health or the environment or violate
8 the specific terms of any judicial or administrative order
9 or consent agreement;

10 (8) that the person cooperates as reasonably requested
11 by the Agency after the disclosure; and

12 (9) that the non-compliance was identified voluntarily
13 and not through a monitoring, sampling, or auditing
14 procedure that is required by statute, rule, permit,
15 judicial or administrative order, or consent agreement.

16 If a person can establish all of the elements under this
17 subsection except the element set forth in paragraph (1) of
18 this subsection, the person is entitled to a 75% reduction in
19 the portion of the penalty that is not based upon the economic
20 benefit of non-compliance.

21 (Source: P.A. 93-152, eff. 7-10-03; 93-575, eff. 1-1-04;
22 93-831, eff. 7-28-04.)

23 (415 ILCS 5/52.2 rep.)

24 Section 10. The Environmental Protection Act is amended by
25 repealing Section 52.2.

26 Section 99. Effective date. This Act takes effect upon
27 becoming law.