

HB3341



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB3341

by Rep. Michael W. Tryon

SYNOPSIS AS INTRODUCED:

415 ILCS 5/39.5

from Ch. 111 1/2, par. 1039.5

Amends the Environmental Protection Act. Provides that "stationary source" does not include a building, structure, facility, or installation causing emissions resulting directly from internal combustion engines for transportation purposes or from a nonroad engine or a nonroad vehicle as defined in a specified provision of the federal Clean Air Act.

LRB099 10047 MGM 30270 b

A BILL FOR

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by
5 changing Section 39.5 as follows:

6 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

7 Sec. 39.5. Clean Air Act Permit Program.

8 1. Definitions.

9 For purposes of this Section:

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

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

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

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

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

22 "Affected unit for acid deposition" shall have the meaning
23 given to the term "affected unit" in the regulations

1 promulgated under Title IV of the Clean Air Act.

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

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

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

1 (ii) Any term or condition as required pursuant to
2 Section 39.5 of any federally enforceable State
3 operating permit issued pursuant to regulations
4 approved or promulgated by USEPA under Title I of the
5 Clean Air Act, including Part C or D of the Clean Air
6 Act.

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

9 (4) Any standard or other requirement under Section 112
10 of the Clean Air Act, including any requirement concerning
11 accident prevention under Section 112(r)(7) of the Clean
12 Air Act.

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

16 (6) Any requirements established pursuant to Section
17 504(b) or Section 114(a)(3) of the Clean Air Act.

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

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

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

25 (10) Any standard or other requirement of the program
26 to control air pollution from Outer Continental Shelf

1 sources, under Section 328 of the Clean Air Act.

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

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

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

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

20 "CAAPP application" means an application for a CAAPP
21 permit.

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

25 "CAAPP source" means any source for which the owner or
26 operator is required to obtain a CAAPP permit pursuant to

1 subsection 2 of this Section.

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

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

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

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

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

23 "Federally enforceable" means enforceable by USEPA.

24 "Final permit action" means the Agency's granting with
25 conditions, refusal to grant, renewal of, or revision of a
26 CAAPP permit, the Agency's determination of incompleteness of a

1 submitted CAAPP application, or the Agency's failure to act on
2 an application for a permit, permit renewal, or permit revision
3 within the time specified in subsection 13, subsection 14, or
4 paragraph (j) of subsection 5 of this Section.

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

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

11 "Maximum achievable control technology" or "MACT" means
12 the maximum degree of reductions in emissions deemed achievable
13 under Section 112 of the Clean Air Act.

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

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

20 "Permit revision" means a permit modification or
21 administrative permit amendment.

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

25 "Phase II acid rain permit" means the portion of a CAAPP
26 permit issued, renewed, modified, or revised by the Agency

1 during Phase II for an affected source for acid deposition.

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

14 "Preconstruction Permit" or "Construction Permit" means a
15 permit which is to be obtained prior to commencing or beginning
16 actual construction or modification of a source or emissions
17 unit.

18 "Proposed CAAPP permit" means the version of a CAAPP permit
19 that the Agency proposes to issue and forwards to USEPA for
20 review in compliance with applicable requirements of the Act
21 and regulations promulgated thereunder.

22 "Regulated air pollutant" means the following:

23 (1) Nitrogen oxides (NO_x) or any volatile organic
24 compound.

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

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

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

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

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

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

22 (6) Greenhouse gases.

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

25 "Responsible official" means one of the following:

26 (1) For a corporation: a president, secretary,

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

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

25 (3) For a municipality, State, Federal, or other public
26 agency: either a principal executive officer or ranking

1 elected official. For the purposes of this part, a
2 principal executive officer of a Federal agency includes
3 the chief executive officer having responsibility for the
4 overall operations of a principal geographic unit of the
5 agency (e.g., a Regional Administrator of USEPA).

6 (4) For affected sources for acid deposition:

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

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

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

21 "Solid waste incineration unit" means a distinct operating
22 unit of any facility which combusts any solid waste material
23 from commercial or industrial establishments or the general
24 public (including single and multiple residences, hotels, and
25 motels). The term does not include incinerators or other units
26 required to have a permit under Section 3005 of the Solid Waste

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

19 "Source" means any stationary source (or any group of
20 stationary sources) that is located on one or more contiguous
21 or adjacent properties that are under common control of the
22 same person (or persons under common control) and that belongs
23 to a single major industrial grouping. For the purposes of
24 defining "source," a stationary source or group of stationary
25 sources shall be considered part of a single major industrial
26 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 is located on contiguous or adjacent
10 properties, and/or is 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. "Stationary source" does not include a
18 building, structure, facility, or installation causing
19 emissions resulting directly from internal combustion engines
20 for transportation purposes or from a nonroad engine or a
21 nonroad vehicle as defined in Section 216 of the Clean Air Act.

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

24 "Support facility" means any stationary source (or group of
25 stationary sources) that conveys, stores, or otherwise assists
26 to a significant extent in the production of a principal

1 product at another stationary source (or group of stationary
2 sources). A support facility shall be considered to be part of
3 the same source as the stationary source (or group of
4 stationary sources) that it supports regardless of the 2-digit
5 Standard Industrial Classification code for the support
6 facility.

7 "USEPA" means the Administrator of the United States
8 Environmental Protection Agency (USEPA) or a person designated
9 by the Administrator.

10 1.1. Exclusion From the CAAPP.

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

24 b. An owner or operator of a source seeking exclusion
25 from the CAAPP pursuant to paragraph (a) of this subsection

1 must submit a permit application consistent with the
2 existing State permit program which specifically requests
3 such exclusion through the imposition of such federally
4 enforceable conditions.

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

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

21 e. The Agency shall provide such sources with the
22 necessary permit application forms.

23 2. Applicability.

24 a. Sources subject to this Section shall include:

25 i. Any major source as defined in paragraph (c) of

1 this subsection.

2 ii. Any source subject to a standard or other
3 requirements promulgated under Section 111 (New Source
4 Performance Standards) or Section 112 (Hazardous Air
5 Pollutants) of the Clean Air Act, except that a source
6 is not required to obtain a permit solely because it is
7 subject to regulations or requirements under Section
8 112(r) of the Clean Air Act.

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

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

14 b. Sources exempted from this Section shall include:

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

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

1 standard is promulgated.

2 iii. All sources and source categories that would
3 be required to obtain a permit solely because they are
4 subject to Part 60, Subpart AAA - Standards of
5 Performance for New Residential Wood Heaters (40 CFR
6 Part 60).

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

12 v. Any other source categories exempted by USEPA
13 regulations pursuant to Section 502(a) of the Clean Air
14 Act.

15 vi. Major sources of greenhouse gas emissions
16 required to obtain a CAAPP permit under this Section if
17 any of the following occurs:

18 (A) enactment of federal legislation depriving
19 the Administrator of the USEPA of authority to
20 regulate greenhouse gases under the Clean Air Act;

21 (B) the issuance of any opinion, ruling,
22 judgment, order, or decree by a federal court
23 depriving the Administrator of the USEPA of
24 authority to regulate greenhouse gases under the
25 Clean Air Act; or

26 (C) action by the President of the United

1 States or the President's authorized agent,
2 including the Administrator of the USEPA, to
3 repeal or withdraw the Greenhouse Gas Tailoring
4 Rule (75 Fed. Reg. 31514, June 3, 2010).

5 If any event listed in this subparagraph (vi)
6 occurs, CAAPP permits issued after such event shall not
7 impose permit terms or conditions addressing
8 greenhouse gases during the effectiveness of any event
9 listed in subparagraph (vi). If any event listed in
10 this subparagraph (vi) occurs, any owner or operator
11 with a CAAPP permit that includes terms or conditions
12 addressing greenhouse gases may elect to submit an
13 application to the Agency to address a revision or
14 repeal of such terms or conditions. If any owner or
15 operator submits such an application, the Agency shall
16 expeditiously process the permit application in
17 accordance with applicable laws and regulations.
18 Nothing in this subparagraph (vi) shall relieve an
19 owner or operator of a source from the requirement to
20 obtain a CAAPP permit for its emissions of regulated
21 air pollutants other than greenhouse gases, as
22 required by this Section.

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

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

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

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

21 ii. A major stationary source of air pollutants, as
22 defined in Section 302 of the Clean Air Act, that
23 directly emits or has the potential to emit, 100 tpy or
24 more of any air pollutant subject to regulation
25 (including any major source of fugitive emissions of
26 any such pollutant, as determined by rule by USEPA).

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

- 10 A. Coal cleaning plants (with thermal dryers).
- 11 B. Kraft pulp mills.
- 12 C. Portland cement plants.
- 13 D. Primary zinc smelters.
- 14 E. Iron and steel mills.
- 15 F. Primary aluminum ore reduction plants.
- 16 G. Primary copper smelters.
- 17 H. Municipal incinerators capable of charging
18 more than 250 tons of refuse per day.
- 19 I. Hydrofluoric, sulfuric, or nitric acid
20 plants.
- 21 J. Petroleum refineries.
- 22 K. Lime plants.
- 23 L. Phosphate rock processing plants.
- 24 M. Coke oven batteries.
- 25 N. Sulfur recovery plants.
- 26 O. Carbon black plants (furnace process).

- 1 P. Primary lead smelters.
- 2 Q. Fuel conversion plants.
- 3 R. Sintering plants.
- 4 S. Secondary metal production plants.
- 5 T. Chemical process plants.
- 6 U. Fossil-fuel boilers (or combination
7 thereof) totaling more than 250 million British
8 thermal units per hour heat input.
- 9 V. Petroleum storage and transfer units with a
10 total storage capacity exceeding 300,000 barrels.
- 11 W. Taconite ore processing plants.
- 12 X. Glass fiber processing plants.
- 13 Y. Charcoal production plants.
- 14 Z. Fossil fuel-fired steam electric plants of
15 more than 250 million British thermal units per
16 hour heat input.
- 17 AA. All other stationary source categories,
18 which as of August 7, 1980 are being regulated by a
19 standard promulgated under Section 111 or 112 of
20 the Clean Air Act.
- 21 BB. Any other stationary source category
22 designated by USEPA by rule.
- 23 iii. A major stationary source as defined in part D
24 of Title I of the Clean Air Act including:
- 25 A. For ozone nonattainment areas, sources with
26 the potential to emit 100 tons or more per year of

1 volatile organic compounds or oxides of nitrogen
2 in areas classified as "marginal" or "moderate",
3 50 tons or more per year in areas classified as
4 "serious", 25 tons or more per year in areas
5 classified as "severe", and 10 tons or more per
6 year in areas classified as "extreme"; except that
7 the references in this clause to 100, 50, 25, and
8 10 tons per year of nitrogen oxides shall not apply
9 with respect to any source for which USEPA has made
10 a finding, under Section 182(f)(1) or (2) of the
11 Clean Air Act, that requirements otherwise
12 applicable to such source under Section 182(f) of
13 the Clean Air Act do not apply. Such sources shall
14 remain subject to the major source criteria of
15 subparagraph (ii) of paragraph(c) of this
16 subsection.

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

21 C. For carbon monoxide nonattainment areas (1)
22 that are classified as "serious", and (2) in which
23 stationary sources contribute significantly to
24 carbon monoxide levels as determined under rules
25 issued by USEPA, sources with the potential to emit
26 50 tons or more per year of carbon monoxide.

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

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

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

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

18 c. The Agency shall have the authority to issue a State
19 operating permit for a source under subsection (a) of
20 Section 39 of this Act, as amended, and regulations
21 promulgated thereunder, which includes federally
22 enforceable conditions limiting the "potential to emit" of
23 the source to a level below the major source threshold for
24 that source as described in paragraph(c) of subsection 2 of
25 this Section, thereby excluding the source from the CAAPP,

1 when requested by the applicant pursuant to paragraph(u) of
2 subsection 5 of this Section. The public notice
3 requirements of this Section applicable to CAAPP permits
4 shall also apply to the initial issuance of permits under
5 this paragraph.

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

10 4. Transition.

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

1 thereunder. The application for such construction permit,
2 operating permit, or both shall be considered an amendment
3 to the CAAPP application submitted for such source.

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

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

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

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

1 the CAAPP.

2 f. The Agency shall provide owners or operators of
3 CAAPP sources with at least 3 months advance notice of the
4 date on which their applications are required to be
5 submitted. In determining which sources shall be subject to
6 early submittal, the Agency shall include among its
7 considerations the complexity of the permit application,
8 and the burden that such early submittal will have on the
9 source.

10 g. The CAAPP permit shall upon becoming effective
11 supersede the State operating permit.

12 h. 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 5. Applications and Completeness.

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

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

23 c. To be deemed complete, a CAAPP application must
24 provide all information, as requested in Agency
25 application forms, sufficient to evaluate the subject

1 source and its application and to determine all applicable
2 requirements, pursuant to the Clean Air Act, and
3 regulations thereunder, this Act and regulations
4 thereunder. Such Agency application forms shall be
5 finalized and made available prior to the date on which any
6 CAAPP application is required.

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

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

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

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

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

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

26 j. The Agency shall issue or deny the CAAPP permit

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

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

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

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

26 m. Permits being renewed shall be subject to the same

1 procedural requirements, including those for public
2 participation and federal review and objection, that apply
3 to original permit issuance.

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

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

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

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

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

26 s. An owner or operator of a CAAPP source may include

1 within its CAAPP application a request for permission to
2 operate during a startup, malfunction, or breakdown
3 consistent with applicable Board regulations.

4 t. An owner or operator of a CAAPP source, in order to
5 utilize the operational flexibility provided under
6 paragraph(1) of subsection 7 of this Section, must request
7 such use and provide the necessary information within its
8 CAAPP application.

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

20 v. CAAPP applications shall contain accurate
21 information on allowable emissions to implement the fee
22 provisions of subsection 18 of this Section.

23 w. An owner or operator of a CAAPP source shall submit
24 within its CAAPP application emissions information
25 regarding all regulated air pollutants emitted at that
26 source consistent with applicable Agency procedures.

1 Emissions information regarding insignificant activities
2 or emission levels, as determined by the Agency pursuant to
3 Board regulations, may be submitted as a list within the
4 CAAPP application. The Agency shall propose regulations to
5 the Board defining insignificant activities or emission
6 levels, consistent with federal regulations, if any, no
7 later than 18 months after the effective date of this
8 amendatory Act of 1992, consistent with Section 112(n)(1)
9 of the Clean Air Act. The Board shall adopt final
10 regulations defining insignificant activities or emission
11 levels no later than 9 months after the date of the
12 Agency's proposal.

13 x. The owner or operator of a new CAAPP source shall
14 submit its complete CAAPP application consistent with this
15 subsection within 12 months after commencing operation of
16 such source. The owner or operator of an existing source
17 that has been excluded from the provisions of this Section
18 under subsection 1.1 or paragraph (c) of subsection 3 of
19 this Section and that becomes subject to the CAAPP solely
20 due to a change in operation at the source shall submit its
21 complete CAAPP application consistent with this subsection
22 at least 180 days before commencing operation in accordance
23 with the change in operation.

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

1 necessary to implement this subsection.

2 6. Prohibitions.

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

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

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

1 consistent with this Act and applicable Board regulations.

2 7. Permit Content.

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

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

25 c. The Agency shall assure, within such conditions, the

1 use of terms, test methods, units, averaging periods, and
2 other statistical conventions consistent with the
3 applicable emission limitations, standards, and other
4 requirements contained in the permit.

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

7 i. Incorporate and identify all applicable
8 emissions monitoring and analysis procedures or test
9 methods required under the Clean Air Act, regulations
10 promulgated thereunder, this Act, and applicable Board
11 regulations, including any procedures and methods
12 promulgated by USEPA pursuant to Section 504(b) or
13 Section 114 (a) (3) of the Clean Air Act.

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

25 iii. As necessary, specify requirements concerning
26 the use, maintenance, and when appropriate,

1 installation of monitoring equipment or methods.

2 e. To meet the requirements of this subsection with
3 respect to record keeping, the permit shall incorporate and
4 identify all applicable recordkeeping requirements and
5 require, where applicable, the following:

6 i. Records of required monitoring information that
7 include the following:

8 A. The date, place and time of sampling or
9 measurements.

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

11 C. The company or entity that performed the
12 analyses.

13 D. The analytical techniques or methods used.

14 E. The results of such analyses.

15 F. The operating conditions as existing at the
16 time of sampling or measurement.

17 ii. Retention of records of all monitoring data
18 and support information for a period of at least 5
19 years from the date of the monitoring sample,
20 measurement, report, or application. Support
21 information includes all calibration and maintenance
22 records, original strip-chart recordings for
23 continuous monitoring instrumentation, and copies of
24 all reports required by the permit.

25 f. To meet the requirements of this subsection with
26 respect to reporting, the permit shall incorporate and

1 identify all applicable reporting requirements and require
2 the following:

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

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

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

23 h. All CAAPP permits shall state that, where another
24 applicable requirement of the Clean Air Act is more
25 stringent than any applicable requirement of regulations
26 promulgated under Title IV of the Clean Air Act, both

1 provisions shall be incorporated into the permit and shall
2 be State and federally enforceable.

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

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

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

16 A. The applicable requirement is specifically
17 identified within the permit; or

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

23 ii. The permit shall identify the requirements for
24 which the source is shielded. The shield shall not
25 extend to applicable requirements which are
26 promulgated after the date of release of the proposed

1 permit unless the permit has been modified to reflect
2 such new requirements.

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

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

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

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

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

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

22 k. Each CAAPP permit shall include an emergency
23 provision providing an affirmative defense of emergency to
24 an action brought for noncompliance with technology-based
25 emission limitations under a CAAPP permit if the following
26 conditions are met through properly signed,

1 contemporaneous operating logs, or other relevant
2 evidence:

3 i. An emergency occurred and the permittee can
4 identify the cause(s) of the emergency.

5 ii. The permitted facility was at the time being
6 properly operated.

7 iii. The permittee submitted notice of the
8 emergency to the Agency within 2 working days after the
9 time when emission limitations were exceeded due to the
10 emergency. This notice must contain a detailed
11 description of the emergency, any steps taken to
12 mitigate emissions, and corrective actions taken.

13 iv. During the period of the emergency the
14 permittee took all reasonable steps to minimize levels
15 of emissions that exceeded the emission limitations,
16 standards, or requirements in the permit.

17 For purposes of this subsection, "emergency" means any
18 situation arising from sudden and reasonably unforeseeable
19 events beyond the control of the source, such as an act of
20 God, that requires immediate corrective action to restore
21 normal operation, and that causes the source to exceed a
22 technology-based emission limitation under the permit, due
23 to unavoidable increases in emissions attributable to the
24 emergency. An emergency shall not include noncompliance to
25 the extent caused by improperly designed equipment, lack of
26 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(j)
22 of subsection 7 of this Section shall extend to all
23 terms and conditions under each such operating
24 scenario.

25 ii. Where requested by an applicant, all terms and
26 conditions allowing for trading of emissions increases

1 and decreases between different emission units at the
2 CAAPP source, to the extent that the applicable
3 requirements provide for trading of such emissions
4 increases and decreases without a case-by-case
5 approval of each emissions trade. Such terms and
6 conditions:

7 A. Shall include all terms required under this
8 subsection to determine compliance;

9 B. Must meet all applicable requirements;

10 C. Shall extend the permit shield described in
11 paragraph(j) of subsection 7 of this Section to all
12 terms and conditions that allow such increases and
13 decreases in emissions.

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

25 n. Each CAAPP permit issued under subsection 10 of this
26 Section shall specify and reference the origin of and

1 authority for each term or condition, and identify any
2 difference in form as compared to the applicable
3 requirement upon which the term or condition is based.

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

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

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

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

1 stay any permit condition.

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

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

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

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

1 requirement.

2 p. Each CAAPP permit issued under subsection 10 of this
3 Section shall contain the following elements with respect
4 to compliance:

5 i. Compliance certification, testing, monitoring,
6 reporting, and record keeping requirements sufficient
7 to assure compliance with the terms and conditions of
8 the permit. Any document (including reports) required
9 by a CAAPP permit shall contain a certification by a
10 responsible official that meets the requirements of
11 subsection 5 of this Section and applicable
12 regulations.

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

19 A. Enter upon the permittee's premises where a
20 CAAPP source is located or emissions-related
21 activity is conducted, or where records must be
22 kept under the conditions of the permit.

23 B. Have access to and copy, at reasonable
24 times, any records that must be kept under the
25 conditions of the permit.

26 C. Inspect at reasonable times any facilities,

1 equipment (including monitoring and air pollution
2 control equipment), practices, or operations
3 regulated or required under the permit.

4 D. Sample or monitor any substances or
5 parameters at any location:

6 1. As authorized by the Clean Air Act, at
7 reasonable times, for the purposes of assuring
8 compliance with the CAAPP permit or applicable
9 requirements; or

10 2. As otherwise authorized by this Act.

11 iii. A schedule of compliance consistent with
12 subsection 5 of this Section and applicable
13 regulations.

14 iv. Progress reports consistent with an applicable
15 schedule of compliance pursuant to paragraph(d) of
16 subsection 5 of this Section and applicable
17 regulations to be submitted semiannually, or more
18 frequently if the Agency determines that such more
19 frequent submittals are necessary for compliance with
20 the Act or regulations promulgated by the Board
21 thereunder. Such progress reports shall contain the
22 following:

23 A. Required dates for achieving the
24 activities, milestones, or compliance required by
25 the schedule of compliance and dates when such
26 activities, milestones or compliance were

1 achieved.

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

5 v. Requirements for compliance certification with
6 terms and conditions contained in the permit,
7 including emission limitations, standards, or work
8 practices. Permits shall include each of the
9 following:

10 A. The frequency (annually or more frequently
11 as specified in any applicable requirement or by
12 the Agency pursuant to written procedures) of
13 submissions of compliance certifications.

14 B. A means for assessing or monitoring the
15 compliance of the source with its emissions
16 limitations, standards, and work practices.

17 C. A requirement that the compliance
18 certification include the following:

19 1. The identification of each term or
20 condition contained in the permit that is the
21 basis of the certification.

22 2. The compliance status.

23 3. Whether compliance was continuous or
24 intermittent.

25 4. The method(s) used for determining the
26 compliance status of the source, both

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

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

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

23 e. The Agency shall make available to the public any
24 CAAPP permit application, compliance plan (including the
25 schedule of compliance), CAAPP permit, and emissions or
26 compliance monitoring report. If an owner or operator of a

1 CAAPP source is required to submit information entitled to
2 protection from disclosure under Section 7.1 and
3 subsection (a) of Section 7 of this Act, the owner or
4 operator shall submit such information separately. The
5 requirements of Section 7.1 and subsection (a) of Section 7
6 of this Act shall apply to such information, which shall
7 not be included in a CAAPP permit unless required by law.
8 The contents of a CAAPP permit shall not be entitled to
9 protection under Section 7.1 and subsection (a) of Section
10 7 of this Act.

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

15 g. If requested by the permit applicant, the Agency
16 shall provide the permit applicant with a copy of the draft
17 CAAPP permit prior to any public review period. If
18 requested by the permit applicant, the Agency shall provide
19 the permit applicant with a copy of the final CAAPP permit
20 prior to issuance of the CAAPP permit.

21 9. USEPA Notice and Objection.

22 a. The Agency shall provide to USEPA for its review a
23 copy of each CAAPP application (including any application
24 for permit modification), statement of basis as provided in
25 paragraph(b) of subsection 8 of this Section, proposed

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

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

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

26 d. Any USEPA objection under this subsection,

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

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

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

24 g. If the Agency has issued a permit after expiration
25 of the 45-day review period and prior to receipt of a USEPA
26 objection under this subsection in response to a petition

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

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

15 10. Final Agency Action.

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

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

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

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

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

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

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

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

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

1 c. i. Prior to denial of a CAAPP permit, permit
2 modification, or permit renewal under this Section,
3 the Agency shall notify the applicant of the possible
4 denial and the reasons for the denial.

5 ii. Within such notice, the Agency shall specify an
6 appropriate date by which the applicant shall
7 adequately respond to the Agency's notice. Such date
8 shall not exceed 15 days from the date the notification
9 is received by the applicant. The Agency may grant a
10 reasonable extension for good cause shown.

11 iii. Failure by the applicant to adequately
12 respond by the date specified in the notification or by
13 any granted extension date shall be grounds for denial
14 of the permit.

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

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

1 11. General Permits.

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

6 b. The Agency shall identify, in any general permit,
7 criteria by which sources may qualify for the general
8 permit.

9 c. CAAPP sources that would qualify for a general
10 permit must apply for coverage under the terms of the
11 general permit or must apply for a CAAPP permit consistent
12 with subsection 5 of this Section and applicable
13 regulations.

14 d. The Agency shall comply with the public comment and
15 hearing provisions of this Section as well as the USEPA and
16 affected State review procedures prior to issuance of a
17 general permit.

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

24 f. The Agency may not issue a general permit to cover
25 any discrete emission unit at a CAAPP source if another

1 CAAPP permit covers emission units at the source.

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

6 12. Operational Flexibility.

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

22 i. An owner or operator of a CAAPP source may make
23 Section 502 (b) (10) changes without a permit revision,
24 if the changes are not modifications under any
25 provision of Title I of the Clean Air Act and the

1 changes do not exceed the emissions allowable under the
2 permit (whether expressed therein as a rate of
3 emissions or in terms of total emissions).

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

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

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

20 A. Under this subparagraph(ii) of paragraph
21 (a) of this subsection, the written notification
22 required above shall include such information as
23 may be required by the provision in the applicable
24 implementation plan authorizing the emissions
25 trade, including at a minimum, when the proposed
26 changes will occur, a description of each such

1 change, any change in emissions, the permit
2 requirements with which the source will comply
3 using the emissions trading provisions of the
4 applicable implementation plan, and the pollutants
5 emitted subject to the emissions trade. The notice
6 shall also refer to the provisions in the
7 applicable implementation plan with which the
8 source will comply and provide for the emissions
9 trade.

10 B. The permit shield described in paragraph(j)
11 of subsection 7 of this Section shall not apply to
12 any change made pursuant to subparagraph (ii) of
13 paragraph (a) of this subsection. Compliance with
14 the permit requirements that the source will meet
15 using the emissions trade shall be determined
16 according to the requirements of the applicable
17 implementation plan authorizing the emissions
18 trade.

19 iii. If requested within a CAAPP application, the
20 Agency shall issue a CAAPP permit which contains terms
21 and conditions, including all terms required under
22 subsection 7 of this Section to determine compliance,
23 allowing for the trading of emissions increases and
24 decreases at the CAAPP source solely for the purpose of
25 complying with a federally-enforceable emissions cap
26 that is established in the permit independent of

1 otherwise applicable requirements. The owner or
2 operator of a CAAPP source shall include in its CAAPP
3 application proposed replicable procedures and permit
4 terms that ensure the emissions trades are
5 quantifiable and enforceable. The permit shall also
6 require compliance with all applicable requirements.

7 A. Under this subparagraph(iii) of paragraph
8 (a), the written notification required above shall
9 state when the change will occur and shall describe
10 the changes in emissions that will result and how
11 these increases and decreases in emissions will
12 comply with the terms and conditions of the permit.

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

17 b. An owner or operator of a CAAPP source may make
18 changes that are not addressed or prohibited by the permit,
19 other than those which are subject to any requirements
20 under Title IV of the Clean Air Act or are modifications
21 under any provisions of Title I of the Clean Air Act,
22 without a permit revision, in accordance with the following
23 requirements:

24 (i) Each such change shall meet all applicable
25 requirements and shall not violate any existing permit
26 term or condition;

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

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

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

18 c. 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 13. Administrative Permit Amendments.

23 a. The Agency shall take final action on a request for
24 an administrative permit amendment within 60 days after
25 receipt of the request. Neither notice nor an opportunity

1 for public and affected State comment shall be required for
2 the Agency to incorporate such revisions, provided it
3 designates the permit revisions as having been made
4 pursuant to this subsection.

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

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

11 i. Corrects typographical errors;

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

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

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

25 v. Incorporates into the CAAPP permit the
26 requirements from preconstruction review permits

1 authorized under a USEPA-approved program, provided
2 the program meets procedural and compliance
3 requirements substantially equivalent to those
4 contained in this Section;

5 vi. (Blank); or

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

9 d. The Agency shall, upon taking final action granting
10 a request for an administrative permit amendment, allow
11 coverage by the permit shield in paragraph(j) of subsection
12 7 of this Section for administrative permit amendments made
13 pursuant to subparagraph(v) of paragraph (c) of this
14 subsection which meet the relevant requirements for
15 significant permit modifications.

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

26 f. The CAAPP source may implement the changes addressed

1 in the request for an administrative permit amendment
2 immediately upon submittal of the request.

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

7 14. Permit Modifications.

8 a. Minor permit modification procedures.

9 i. The Agency shall review a permit modification
10 using the "minor permit" modification procedures only
11 for those permit modifications that:

12 A. Do not violate any applicable requirement;

13 B. Do not involve significant changes to
14 existing monitoring, reporting, or recordkeeping
15 requirements in the permit;

16 C. Do not require a case-by-case determination
17 of an emission limitation or other standard, or a
18 source-specific determination of ambient impacts,
19 or a visibility or increment analysis;

20 D. Do not seek to establish or change a permit
21 term or condition for which there is no
22 corresponding underlying requirement and which
23 avoids an applicable requirement to which the
24 source would otherwise be subject. Such terms and
25 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 subparagraph(i) of paragraph
13 (a) and subparagraph(ii) of paragraph (b) of this
14 subsection, minor permit modification procedures may
15 be used for permit modifications involving the use of
16 economic incentives, marketable permits, emissions
17 trading, and other similar approaches, to the extent
18 that such minor permit modification procedures are
19 explicitly provided for in an applicable
20 implementation plan or in applicable requirements
21 promulgated by USEPA.

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

26 A. A description of the change, the emissions

1 resulting from the change, and any new applicable
2 requirements that will apply if the change occurs;

3 B. The source's suggested draft permit;

4 C. Certification by a responsible official,
5 consistent with paragraph(e) of subsection 5 of
6 this Section and applicable regulations, that the
7 proposed modification meets the criteria for use
8 of minor permit modification procedures and a
9 request that such procedures be used; and

10 D. Completed forms for the Agency to use to
11 notify USEPA and affected States as required under
12 subsections 8 and 9 of this Section.

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

20 v. The Agency may not issue a final permit
21 modification until after the 45-day review period for
22 USEPA or until USEPA has notified the Agency that USEPA
23 will not object to the issuance of the permit
24 modification, whichever comes first, although the
25 Agency can approve the permit modification prior to
26 that time. Within 90 days after the Agency's receipt of

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

5 A. Issue the permit modification as proposed;

6 B. Deny the permit modification application;

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

11 D. Revise the draft permit modification and
12 transmit to USEPA the new proposed permit
13 modification as required by subsection 9 of this
14 Section.

15 vi. Any CAAPP source may make the change proposed
16 in its minor permit modification application
17 immediately after it files such application. After the
18 CAAPP source makes the change allowed by the preceding
19 sentence, and until the Agency takes any of the actions
20 specified in items(A) through(C) of subparagraph (v)
21 of paragraph (a) of this subsection, the source must
22 comply with both the applicable requirements governing
23 the change and the proposed permit terms and
24 conditions. During this time period, the source need
25 not comply with the existing permit terms and
26 conditions it seeks to modify. If the source fails to

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

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

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

25 b. Group Processing of Minor Permit Modifications.

26 i. Where requested by an applicant within its

1 application, the Agency shall process groups of a
2 source's applications for certain modifications
3 eligible for minor permit modification processing in
4 accordance with the provisions of this paragraph (b).

5 ii. Permit modifications may be processed in
6 accordance with the procedures for group processing,
7 for those modifications:

8 A. Which meet the criteria for minor permit
9 modification procedures under subparagraph(i) of
10 paragraph (a) of subsection 14 of this Section; and

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

17 iii. An applicant requesting the use of group
18 processing procedures shall meet the requirements of
19 subsection 5 of this Section and shall include the
20 following in its application:

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

24 B. The source's suggested draft permit.

25 C. Certification by a responsible official
26 consistent with paragraph (e) of subsection 5 of

1 this Section, that the proposed modification meets
2 the criteria for use of group processing
3 procedures and a request that such procedures be
4 used.

5 D. A list of the source's other pending
6 applications awaiting group processing, and a
7 determination of whether the requested
8 modification, aggregated with these other
9 applications, equals or exceeds the threshold set
10 under item(B) of subparagraph (ii) of paragraph
11 (b) of this subsection.

12 E. Certification, consistent with paragraph(e)
13 of subsection 5 of this Section, that the source
14 has notified USEPA of the proposed modification.
15 Such notification need only contain a brief
16 description of the requested modification.

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

20 iv. On a quarterly basis or within 5 business days
21 after receipt of an application demonstrating that the
22 aggregate of a source's pending applications equals or
23 exceeds the threshold level set forth within item (B)
24 of subparagraph (ii) of paragraph (b) of this
25 subsection, whichever is earlier, the Agency shall
26 promptly notify USEPA and affected States of the

1 requested permit modifications in accordance with
2 subsections 8 and 9 of this Section. The Agency shall
3 send any notice required under paragraph(d) of
4 subsection 8 of this Section to USEPA.

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

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

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

20 c. Significant Permit Modifications.

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

26 ii. Every significant change in existing

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

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

19 d. 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 15. Reopenings for Cause by the Agency.

24 a. Each issued CAAPP permit shall include provisions
25 specifying the conditions under which the permit will be

1 reopened prior to the expiration of the permit. Such
2 revisions shall be made as expeditiously as practicable. A
3 CAAPP permit shall be reopened and revised under any of the
4 following circumstances, in accordance with procedures
5 adopted by the Agency:

6 i. Additional requirements under the Clean Air Act
7 become applicable to a major CAAPP source for which 3
8 or more years remain on the original term of the
9 permit. Such a reopening shall be completed not later
10 than 18 months after the promulgation of the applicable
11 requirement. No such revision is required if the
12 effective date of the requirement is later than the
13 date on which the permit is due to expire.

14 ii. Additional requirements (including excess
15 emissions requirements) become applicable to an
16 affected source for acid deposition under the acid rain
17 program. Excess emissions offset plans shall be deemed
18 to be incorporated into the permit upon approval by
19 USEPA.

20 iii. The Agency or USEPA determines that the permit
21 contains a material mistake or that inaccurate
22 statements were made in establishing the emissions
23 standards, limitations, or other terms or conditions
24 of the permit.

25 iv. The Agency or USEPA determines that the permit
26 must be revised or revoked to assure compliance with

1 the applicable requirements.

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

15 c. Proceedings regarding a reopened CAAPP permit shall
16 follow the same procedures as apply to initial permit
17 issuance and shall affect only those parts of the permit
18 for which cause to reopen exists.

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

25 e. The Agency shall have the authority to adopt
26 procedural rules, in accordance with the Illinois

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

3 16. Reopenings for Cause by USEPA.

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

24 b. i. Prior to the Agency's submittal to USEPA of a
25 proposed determination to terminate or revoke and

1 reissue the permit, the Agency shall file a petition
2 before the Board setting forth USEPA's objection, the
3 permit record, the Agency's proposed determination,
4 and the justification for its proposed determination.
5 The Board shall conduct a hearing pursuant to the rules
6 prescribed by Section 32 of this Act, and the burden of
7 proof shall be on the Agency.

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

20 iii. The Board shall cause a copy of its interim
21 order to be served upon all parties to the proceeding
22 as well as upon USEPA. The Agency shall submit the
23 proposed determination to USEPA in accordance with the
24 Board's Interim Order within 180 days after receipt of
25 the notification from USEPA.

26 c. USEPA shall review the proposed determination to

1 terminate, modify, or revoke and reissue the permit within
2 90 days after receipt.

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

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

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

1 regulations promulgated thereunder.

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

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

11 17. Title IV; Acid Rain Provisions.

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

1 are applicable to and enforceable under this Act.

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

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

1 compliance plan.

2 d. A designated representative of a new unit, as
3 defined in Section 402 of the Clean Air Act, shall submit a
4 timely and complete Phase II acid rain permit application
5 and compliance plan that meets the requirements of Titles
6 IV and V of the Clean Air Act and its regulations. The
7 Agency shall act on the new unit's Phase II acid rain
8 permit application and compliance plan in accordance with
9 this Section and Title V of the Clean Air Act and its
10 regulations, except as modified by Title IV of the Clean
11 Air Act and its regulations. The Agency shall reopen the
12 new unit's CAAPP permit for cause to incorporate the
13 approved Phase II acid rain permit in accordance with this
14 Section. The Phase II acid rain permit for the new unit
15 shall become effective no later than the date required
16 under Title IV of the Clean Air Act and its regulations.

17 e. A designated representative of an affected source
18 for acid deposition shall submit a timely and complete
19 Title IV NOx permit application to the Agency, not later
20 than January 1, 1998, that meets the requirements of Titles
21 IV and V of the Clean Air Act and its regulations. The
22 Agency shall reopen the Phase II acid rain permit for cause
23 and incorporate the approved NOx provisions into the Phase
24 II acid rain permit not later than January 1, 1999, in
25 accordance with this Section, except as modified by Title
26 IV of the Clean Air Act and regulations promulgated

1 thereunder. Such reopening shall not affect the term of the
2 Phase II acid rain permit.

3 f. The designated representative of the affected
4 source for acid deposition shall renew the initial CAAPP
5 permit and Phase II acid rain permit in accordance with
6 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.

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

24 h. The Agency shall not include or implement any
25 measure which would interfere with or modify the
26 requirements of Title IV of the Clean Air Act or

1 regulations promulgated thereunder.

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

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

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

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

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

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

1 l. It is unlawful for any owner or operator to violate
2 any terms or conditions of a Phase II acid rain permit
3 issued under this subsection, to operate any affected
4 source for acid deposition except in compliance with a
5 Phase II acid rain permit issued by the Agency under this
6 subsection, or to violate any other applicable
7 requirements.

8 m. The designated representative of an affected source
9 for acid deposition shall submit to the Agency the data and
10 information submitted quarterly to USEPA, pursuant to 40
11 CFR 75.64, concurrently with the submission to USEPA. The
12 submission shall be in the same electronic format as
13 specified by USEPA.

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

19 o. 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 18. Fee Provisions.

24 a. A source subject to this Section or excluded under
25 subsection 1.1 or paragraph (c) of subsection 3 of this

1 Section, shall pay a fee as provided in this paragraph (a)
2 of subsection 18. However, a source that has been excluded
3 from the provisions of this Section under subsection 1.1 or
4 under paragraph (c) of subsection 3 of this Section because
5 the source emits less than 25 tons per year of any
6 combination of regulated air pollutants, except greenhouse
7 gases, shall pay fees in accordance with paragraph (1) of
8 subsection (b) of Section 9.6.

9 i. The fee for a source allowed to emit less than
10 100 tons per year of any combination of regulated air
11 pollutants, except greenhouse gases, shall be \$1,800
12 per year, and that fee shall increase, beginning
13 January 1, 2012, to \$2,150 per year.

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

19 A. The Agency shall assess a fee of \$18 per
20 ton, per year for the allowable emissions of
21 regulated air pollutants subject to this
22 subparagraph (ii) of paragraph (a) of subsection
23 18, and that fee shall increase, beginning January
24 1, 2012, to \$21.50 per ton, per year. These fees
25 shall be used by the Agency and the Board to fund
26 the activities required by Title V of the Clean Air

1 Act including such activities as may be carried out
2 by other State or local agencies pursuant to
3 paragraph (d) of this subsection. The amount of
4 such fee shall be based on the information supplied
5 by the applicant in its complete CAAPP permit
6 application or in the CAAPP permit if the permit
7 has been granted and shall be determined by the
8 amount of emissions that the source is allowed to
9 emit annually, provided however, that the maximum
10 fee for a CAAPP permit under this subparagraph (ii)
11 of paragraph (a) of subsection 18 is \$250,000, and
12 increases, beginning January 1, 2012, to \$294,000.
13 Beginning January 1, 2012, the maximum fee under
14 this subparagraph (ii) of paragraph (a) of
15 subsection 18 for a source that has been excluded
16 under subsection 1.1 of this Section or under
17 paragraph (c) of subsection 3 of this Section is
18 \$4,112. The Agency shall provide as part of the
19 permit application form required under subsection
20 5 of this Section a separate fee calculation form
21 which will allow the applicant to identify the
22 allowable emissions and calculate the fee. 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.

1 Notwithstanding the above, any applicant may
2 seek a change in its permit which would result in
3 increases in allowable emissions due to an
4 increase in the hours of operation or production
5 rates of an emission unit or units and such a
6 change shall be consistent with the construction
7 permit requirements of the existing State permit
8 program, under subsection (a) of Section 39 of this
9 Act and applicable provisions of this Section.
10 Where a construction permit is required, the
11 Agency shall expeditiously grant such construction
12 permit and shall, if necessary, modify the CAAPP
13 permit based on the same application.

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

26 b. (Blank).

1 c. (Blank).

2 d. There is hereby created in the State Treasury a
3 special fund to be known as the "CAA Permit Fund". All
4 Funds collected by the Agency pursuant to this subsection
5 shall be deposited into the Fund. The General Assembly
6 shall appropriate monies from this Fund to the Agency and
7 to the Board to carry out their obligations under this
8 Section. The General Assembly may also authorize monies to
9 be granted by the Agency from this Fund to other State and
10 local agencies which perform duties related to the CAAPP.
11 Interest generated on the monies deposited in this Fund
12 shall be returned to the Fund.

13 e. 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 f. For purposes of this subsection, the term "regulated
18 air pollutant" shall have the meaning given to it under
19 subsection 1 of this Section but shall exclude the
20 following:

21 i. carbon monoxide;

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

25 iii. any pollutant that is a regulated air
26 pollutant solely because it is subject to a standard or

1 regulation under Section 112(r) of the Clean Air Act
2 based on the emissions allowed in the permit effective
3 in that calendar year, at the time the applicable bill
4 is generated.

5 19. Air Toxics Provisions.

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

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

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

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

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

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

25 20. Small Business.

1 a. For purposes of this subsection:

2 "Program" is the Small Business Stationary Source
3 Technical and Environmental Compliance Assistance Program
4 created within this State pursuant to Section 507 of the
5 Clean Air Act and guidance promulgated thereunder, to
6 provide technical assistance and compliance information to
7 small business stationary sources;

8 "Small Business Assistance Program" is a component of
9 the Program responsible for providing sufficient
10 communications with small businesses through the
11 collection and dissemination of information to small
12 business stationary sources; and

13 "Small Business Stationary Source" means a stationary
14 source that:

15 1. is owned or operated by a person that employs
16 100 or fewer individuals;

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

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

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

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

25 b. The Agency shall adopt and submit to USEPA, after
26 reasonable notice and opportunity for public comment, as a

1 revision to the Illinois state implementation plan, plans
2 for establishing the Program.

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

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

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

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

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

22 h. The selection of Panel members shall be by the
23 following method:

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

1 public;

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

4 3. The State Legislature shall select four members
5 who are owners or representatives of owners of small
6 business stationary sources. Both the majority and
7 minority leadership in both Houses of the Legislature
8 shall appoint one member of the panel.

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

12 j. The Panel shall select its own Chair by a majority
13 vote. The Chair may meet and consult with the Ombudsman and
14 the head of the Small Business Assistance Program in
15 planning the activities for the Panel.

16 21. Temporary Sources.

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

22 b. The applicant must demonstrate that the operation is
23 temporary and will involve at least one change of location
24 during the term of the permit.

25 c. Any such permit shall meet all applicable

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

6 22. Solid Waste Incineration Units.

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

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

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

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

25 (Source: P.A. 97-95, eff. 7-12-11.)