

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<sub>x</sub>) 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, except those emissions resulting directly  
18 from an internal combustion engine for transportation purposes  
19 or from a nonroad engine or nonroad vehicle as defined in  
20 Section 216 of the Clean Air Act.

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

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

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

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

9 1.1. Exclusion From the CAAPP.

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

23 b. An owner or operator of a source seeking exclusion  
24 from the CAAPP pursuant to paragraph (a) of this subsection  
25 must submit a permit application consistent with the

1 existing State permit program which specifically requests  
2 such exclusion through the imposition of such federally  
3 enforceable conditions.

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

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

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

## 22 2. Applicability.

23 a. Sources subject to this Section shall include:

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

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

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

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

13 b. Sources exempted from this Section shall include:

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

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

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

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

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

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

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

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

25                (C) action by the President of the United  
26                States or the President's authorized agent,



1 including the Administrator of the USEPA, to  
2 repeal or withdraw the Greenhouse Gas Tailoring  
3 Rule (75 Fed. Reg. 31514, June 3, 2010).

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

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

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

26 A. For pollutants other than radionuclides,

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

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

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

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

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

1 Q. Fuel conversion plants.

2 R. Sintering plants.

3 S. Secondary metal production plants.

4 T. Chemical process plants.

5 U. Fossil-fuel boilers (or combination  
6 thereof) totaling more than 250 million British  
7 thermal units per hour heat input.

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

10 W. Taconite ore processing plants.

11 X. Glass fiber processing plants.

12 Y. Charcoal production plants.

13 Z. Fossil fuel-fired steam electric plants of  
14 more than 250 million British thermal units per  
15 hour heat input.

16 AA. All other stationary source categories,  
17 which as of August 7, 1980 are being regulated by a  
18 standard promulgated under Section 111 or 112 of  
19 the Clean Air Act.

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

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

24 A. For ozone nonattainment areas, sources with  
25 the potential to emit 100 tons or more per year of  
26 volatile organic compounds or oxides of nitrogen

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

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

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

26 D. For particulate matter (PM-10)

1 nonattainment areas classified as "serious",  
2 sources with the potential to emit 70 tons or more  
3 per year of PM-10.

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

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

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

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

1 subsection 5 of this Section. The public notice  
2 requirements of this Section applicable to CAAPP permits  
3 shall also apply to the initial issuance of permits under  
4 this paragraph.

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

9 4. Transition.

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

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

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

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

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

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



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

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

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           5. Applications and Completeness.

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

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

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

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

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

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

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

26 g. If after the determination of completeness the

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

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

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

25 j. The Agency shall issue or deny the CAAPP permit  
26 within 18 months after the date of receipt of the complete

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

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

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

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

25 m. Permits being renewed shall be subject to the same  
26 procedural requirements, including those for public

1 participation and federal review and objection, that apply  
2 to original permit issuance.

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

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

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

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

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

25 s. An owner or operator of a CAAPP source may include  
26 within its CAAPP application a request for permission to

1 operate during a startup, malfunction, or breakdown  
2 consistent with applicable Board regulations.

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

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

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

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

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

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

23 y. 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           6. Prohibitions.

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

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

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



1           7. Permit Content.

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

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

24           c. The Agency shall assure, within such conditions, the  
25 use of terms, test methods, units, averaging periods, and

1 other statistical conventions consistent with the  
2 applicable emission limitations, standards, and other  
3 requirements contained in the permit.

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

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

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

24 iii. As necessary, specify requirements concerning  
25 the use, maintenance, and when appropriate,  
26 installation of monitoring equipment or methods.

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

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

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

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

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

12 D. The analytical techniques or methods used.

13 E. The results of such analyses.

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

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

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

1 the following:

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

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

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

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

1 be State and federally enforceable.

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

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

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

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

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

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

1 such new requirements.

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

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

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

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

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

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

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

1 evidence:

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

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

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

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

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

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

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

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

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

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

24           ii. Where requested by an applicant, all terms and  
25           conditions allowing for trading of emissions increases  
26           and decreases between different emission units at the



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

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

8 B. Must meet all applicable requirements;

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

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

24 n. Each CAAPP permit issued under subsection 10 of this  
25 Section shall specify and reference the origin of and  
26 authority for each term or condition, and identify any

1 difference in form as compared to the applicable  
2 requirement upon which the term or condition is based.

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

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

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

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

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

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

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

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

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

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

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

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

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

25           C. Inspect at reasonable times any facilities,  
26 equipment (including monitoring and air pollution

1 control equipment), practices, or operations  
2 regulated or required under the permit.

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

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

9 2. As otherwise authorized by this Act.

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

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

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

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

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

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

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

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

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

21           2. The compliance status.

22           3. Whether compliance was continuous or  
23           intermittent.

24           4. The method(s) used for determining the  
25           compliance status of the source, both  
26           currently and over the reporting period

1 consistent with subsection 7 of this Section.

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

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

8 F. Other provisions as the Agency may require.

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

20 8. Public Notice; Affected State Review.

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

26 b. The Agency shall prepare a draft CAAPP permit and a

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

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

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

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



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

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

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

20 9. USEPA Notice and Objection.

21 a. The Agency shall provide to USEPA for its review a  
22 copy of each CAAPP application (including any application  
23 for permit modification), statement of basis as provided in  
24 paragraph(b) of subsection 8 of this Section, proposed  
25 CAAPP permit, CAAPP permit, and, if the Agency does not

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

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

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

25 d. Any USEPA objection under this subsection,  
26 according to the Clean Air Act, will include a statement of

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

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

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

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

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

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

14 10. Final Agency Action.

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

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

23 ii. The applicant has submitted with its complete  
24 application an approvable compliance plan, including a  
25 schedule for achieving compliance, consistent with

1 subsection 5 of this Section and applicable  
2 regulations.

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

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

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

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

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

26 c. i. Prior to denial of a CAAPP permit, permit

1 modification, or permit renewal under this Section,  
2 the Agency shall notify the applicant of the possible  
3 denial and the reasons for the denial.

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

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

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

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

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  
26 CAAPP permit covers emission units at the source.

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

5           12. Operational Flexibility.

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

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



1 permit (whether expressed therein as a rate of  
2 emissions or in terms of total emissions).

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

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

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

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

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

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

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

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

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

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

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

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

26 (ii) Sources must provide contemporaneous written

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

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

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

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

21 13. Administrative Permit Amendments.

22 a. The Agency shall take final action on a request for  
23 an administrative permit amendment within 60 days after  
24 receipt of the request. Neither notice nor an opportunity  
25 for public and affected State comment shall be required for

1 the Agency to incorporate such revisions, provided it  
2 designates the permit revisions as having been made  
3 pursuant to this subsection.

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

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

10 i. Corrects typographical errors;

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

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

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

24 v. Incorporates into the CAAPP permit the  
25 requirements from preconstruction review permits  
26 authorized under a USEPA-approved program, provided

1           the program meets procedural and compliance  
2           requirements substantially equivalent to those  
3           contained in this Section;

4           vi. (Blank); or

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

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

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

25          f. The CAAPP source may implement the changes addressed  
26          in the request for an administrative permit amendment

1 immediately upon submittal of the request.

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 14. Permit Modifications.

7 a. Minor permit modification procedures.

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

11 A. Do not violate any applicable requirement;

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

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

19 D. Do not seek to establish or change a permit  
20 term or condition for which there is no  
21 corresponding underlying requirement and which  
22 avoids an applicable requirement to which the  
23 source would otherwise be subject. Such terms and  
24 conditions include:

25 1. A federally enforceable emissions cap

1 assumed to avoid classification as a  
2 modification under any provision of Title I of  
3 the Clean Air Act; and

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

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

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

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

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

25 A. A description of the change, the emissions  
26 resulting from the change, and any new applicable



1 requirements that will apply if the change occurs;

2 B. The source's suggested draft permit;

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

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

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

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

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

4 A. Issue the permit modification as proposed;

5 B. Deny the permit modification application;

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

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

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

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

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

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

24          b. Group Processing of Minor Permit Modifications.

25                 i. Where requested by an applicant within its  
26                 application, the Agency shall process groups of a

1 source's applications for certain modifications  
2 eligible for minor permit modification processing in  
3 accordance with the provisions of this paragraph (b).

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

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

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

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

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

23 B. The source's suggested draft permit.

24 C. Certification by a responsible official  
25 consistent with paragraph (e) of subsection 5 of  
26 this Section, that the proposed modification meets

1           the criteria for use of group processing  
2           procedures and a request that such procedures be  
3           used.

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

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

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

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

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

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

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

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

19 c. Significant Permit Modifications.

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

25 ii. Every significant change in existing  
26 monitoring permit terms or conditions and every

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

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

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

22 15. Reopenings for Cause by the Agency.

23 a. Each issued CAAPP permit shall include provisions  
24 specifying the conditions under which the permit will be  
25 reopened prior to the expiration of the permit. Such

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

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

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

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

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



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

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

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

24          e. 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           16. Reopenings for Cause by USEPA.

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

23          b. i. Prior to the Agency's submittal to USEPA of a  
24          proposed determination to terminate or revoke and  
25          reissue the permit, the Agency shall file a petition

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

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

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

25 c. USEPA shall review the proposed determination to  
26 terminate, modify, or revoke and reissue the permit within

1           90 days after receipt.

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

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

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

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

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

10           17. Title IV; Acid Rain Provisions.

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

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

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

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

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

1 Phase II acid rain permit.

2 f. The designated representative of the affected  
3 source for acid deposition shall renew the initial CAAPP  
4 permit and Phase II acid rain permit in accordance with  
5 this Section and Title V of the Clean Air Act and  
6 regulations promulgated thereunder, except as modified by  
7 Title IV of the Clean Air Act and regulations promulgated  
8 thereunder.

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

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



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

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

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

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

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

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

26          l. It is unlawful for any owner or operator to violate

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

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

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

18 o. 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 18. Fee Provisions.

23 a. A source subject to this Section or excluded under  
24 subsection 1.1 or paragraph (c) of subsection 3 of this  
25 Section, shall pay a fee as provided in this paragraph (a)

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

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

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

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

1 by other State or local agencies pursuant to  
2 paragraph (d) of this subsection. The amount of  
3 such fee shall be based on the information supplied  
4 by the applicant in its complete CAAPP permit  
5 application or in the CAAPP permit if the permit  
6 has been granted and shall be determined by the  
7 amount of emissions that the source is allowed to  
8 emit annually, provided however, that the maximum  
9 fee for a CAAPP permit under this subparagraph (ii)  
10 of paragraph (a) of subsection 18 is \$250,000, and  
11 increases, beginning January 1, 2012, to \$294,000.  
12 Beginning January 1, 2012, the maximum fee under  
13 this subparagraph (ii) of paragraph (a) of  
14 subsection 18 for a source that has been excluded  
15 under subsection 1.1 of this Section or under  
16 paragraph (c) of subsection 3 of this Section is  
17 \$4,112. The Agency shall provide as part of the  
18 permit application form required under subsection  
19 5 of this Section a separate fee calculation form  
20 which will allow the applicant to identify the  
21 allowable emissions and calculate the fee. In no  
22 event shall the Agency raise the amount of  
23 allowable emissions requested by the applicant  
24 unless such increases are required to demonstrate  
25 compliance with terms of a CAAPP permit.

26 Notwithstanding the above, any applicant may

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

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

25 b. (Blank).

26 c. (Blank).

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

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

20           i. carbon monoxide;

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

24           iii. any pollutant that is a regulated air  
25 pollutant solely because it is subject to a standard or  
26 regulation under Section 112(r) of the Clean Air Act

1 based on the emissions allowed in the permit effective  
2 in that calendar year, at the time the applicable bill  
3 is generated.

4 19. Air Toxics Provisions.

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

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

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

26          c. The Agency shall have the authority to implement and



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

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

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

24 20. Small Business.

25 a. For purposes of this subsection:

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

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

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

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

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

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

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

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

24          b. The Agency shall adopt and submit to USEPA, after  
25          reasonable notice and opportunity for public comment, as a  
26          revision to the Illinois state implementation plan, plans

1 for establishing the Program.

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

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

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

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

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

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

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

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

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

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

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

15           21. Temporary Sources.

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

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

24           c. Any such permit shall meet all applicable  
25 requirements of this Section and applicable regulations,

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

5 22. Solid Waste Incineration Units.

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

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

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

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

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

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.