



Rep. Michael W. Tryon

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1 AMENDMENT TO HOUSE BILL 3341

2 AMENDMENT NO. _____. Amend House Bill 3341, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

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

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

8 Sec. 39.5. Clean Air Act Permit Program.

9 1. Definitions.

10 For purposes of this Section:

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

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

16 "Affected States" for purposes of formal distribution of a

1 draft CAAPP permit to other States for comments prior to
2 issuance, means all States:

3 (1) Whose air quality may be affected by the source
4 covered by the draft permit and that are contiguous to
5 Illinois; or

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

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

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

20 (1) Any standard or other requirement provided for in
21 the applicable state implementation plan approved or
22 promulgated by USEPA under Title I of the Clean Air Act
23 that implements the relevant requirements of the Clean Air
24 Act, including any revisions to the state Implementation
25 Plan promulgated in 40 CFR Part 52, Subparts A and O and
26 other subparts applicable to Illinois. For purposes of this

1 paragraph (1) of this definition, "any standard or other
2 requirement" means only such standards or requirements
3 directly enforceable against an individual source under
4 the Clean Air Act.

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

9 (ii) Any term or condition as required pursuant to
10 Section 39.5 of any federally enforceable State
11 operating permit issued pursuant to regulations
12 approved or promulgated by USEPA under Title I of the
13 Clean Air Act, including Part C or D of the Clean Air
14 Act.

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

17 (4) Any standard or other requirement under Section 112
18 of the Clean Air Act, including any requirement concerning
19 accident prevention under Section 112(r)(7) of the Clean
20 Air Act.

21 (5) Any standard or other requirement of the acid rain
22 program under Title IV of the Clean Air Act or the
23 regulations promulgated thereunder.

24 (6) Any requirements established pursuant to Section
25 504(b) or Section 114(a)(3) of the Clean Air Act.

26 (7) Any standard or other requirement governing solid

1 waste incineration, under Section 129 of the Clean Air Act.

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

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

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

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

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

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

26 "CAAPP" means the Clean Air Act Permit Program, developed

1 pursuant to Title V of the Clean Air Act.

2 "CAAPP application" means an application for a CAAPP
3 permit.

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

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

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

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

21 "Draft CAAPP permit" means the version of a CAAPP permit
22 for which public notice and an opportunity for public comment
23 and hearing is offered by the Agency.

24 "Effective date of the CAAPP" means the date that USEPA
25 approves Illinois' CAAPP.

26 "Emission unit" means any part or activity of a stationary

1 source that emits or has the potential to emit any air
2 pollutant. This term is not meant to alter or affect the
3 definition of the term "unit" for purposes of Title IV of the
4 Clean Air Act.

5 "Federally enforceable" means enforceable by USEPA.

6 "Final permit action" means the Agency's granting with
7 conditions, refusal to grant, renewal of, or revision of a
8 CAAPP permit, the Agency's determination of incompleteness of a
9 submitted CAAPP application, or the Agency's failure to act on
10 an application for a permit, permit renewal, or permit revision
11 within the time specified in subsection 13, subsection 14, or
12 paragraph (j) of subsection 5 of this Section.

13 "General permit" means a permit issued to cover numerous
14 similar sources in accordance with subsection 11 of this
15 Section.

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

19 "Maximum achievable control technology" or "MACT" means
20 the maximum degree of reductions in emissions deemed achievable
21 under Section 112 of the Clean Air Act.

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

24 "Permit modification" means a revision to a CAAPP permit
25 that cannot be accomplished under the provisions for
26 administrative permit amendments under subsection 13 of this

1 Section.

2 "Permit revision" means a permit modification or
3 administrative permit amendment.

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

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

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

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

26 "Proposed CAAPP permit" means the version of a CAAPP permit

1 that the Agency proposes to issue and forwards to USEPA for
2 review in compliance with applicable requirements of the Act
3 and regulations promulgated thereunder.

4 "Regulated air pollutant" means the following:

5 (1) Nitrogen oxides (NO_x) or any volatile organic
6 compound.

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

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

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

14 (5) Any pollutant subject to a standard promulgated
15 under Section 112 or other requirements established under
16 Section 112 of the Clean Air Act, including Sections
17 112(g), (j) and (r).

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

26 (ii) Any pollutant for which the requirements of

1 Section 112(g) (2) of the Clean Air Act have been met,
2 but only with respect to the individual source subject
3 to Section 112(g) (2) requirement.

4 (6) Greenhouse gases.

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

7 "Responsible official" means one of the following:

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

21 (2) For a partnership or sole proprietorship: a general
22 partner or the proprietor, respectively, or in the case of
23 a partnership in which all of the partners are
24 corporations, a duly authorized representative of the
25 partnership if the representative is responsible for the
26 overall operation of one or more manufacturing,

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

7 (3) For a municipality, State, Federal, or other public
8 agency: either a principal executive officer or ranking
9 elected official. For the purposes of this part, a
10 principal executive officer of a Federal agency includes
11 the chief executive officer having responsibility for the
12 overall operations of a principal geographic unit of the
13 agency (e.g., a Regional Administrator of USEPA).

14 (4) For affected sources for acid deposition:

15 (i) The designated representative shall be the
16 "responsible official" in so far as actions,
17 standards, requirements, or prohibitions under Title
18 IV of the Clean Air Act or the regulations promulgated
19 thereunder are concerned.

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

23 "Section 502(b)(10) changes" means changes that contravene
24 express permit terms. "Section 502(b)(10) changes" do not
25 include changes that would violate applicable requirements or
26 contravene federally enforceable permit terms or conditions

1 that are monitoring (including test methods), recordkeeping,
2 reporting, or compliance certification requirements.

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

1 "Source" means any stationary source (or any group of
2 stationary sources) that is located on one or more contiguous
3 or adjacent properties that are under common control of the
4 same person (or persons under common control) and that belongs
5 to a single major industrial grouping. For the purposes of
6 defining "source," a stationary source or group of stationary
7 sources shall be considered part of a single major industrial
8 grouping if all of the pollutant emitting activities at such
9 source or group of sources located on contiguous or adjacent
10 properties and under common control belong to the same Major
11 Group (i.e., all have the same two-digit code) as described in
12 the Standard Industrial Classification Manual, 1987, or such
13 pollutant emitting activities at a stationary source (or group
14 of stationary sources) located on contiguous or adjacent
15 properties and under common control constitute a support
16 facility. The determination as to whether any group of
17 stationary sources is located on contiguous or adjacent
18 properties, and/or is under common control, and/or whether the
19 pollutant emitting activities at such group of stationary
20 sources constitute a support facility shall be made on a case
21 by case basis.

22 "Stationary source" means any building, structure,
23 facility, or installation that emits or may emit any regulated
24 air pollutant or any pollutant listed under Section 112(b) of
25 the Clean Air Act, except those emissions resulting directly
26 from an internal combustion engine for transportation purposes

1 or from a nonroad engine or nonroad vehicle as defined in
2 Section 216 of the Clean Air Act.

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

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

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

17 1.1. Exclusion From the CAAPP.

18 a. An owner or operator of a source which determines
19 that the source could be excluded from the CAAPP may seek
20 such exclusion prior to the date that the CAAPP application
21 for the source is due but in no case later than 9 months
22 after the effective date of the CAAPP through the
23 imposition of federally enforceable conditions limiting
24 the "potential to emit" of the source to a level below the
25 major source threshold for that source as described in

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

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

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

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

1 operator may seek such exclusion.

2 e. The Agency shall provide such sources with the
3 necessary permit application forms.

4 2. Applicability.

5 a. Sources subject to this Section shall include:

6 i. Any major source as defined in paragraph (c) of
7 this subsection.

8 ii. Any source subject to a standard or other
9 requirements promulgated under Section 111 (New Source
10 Performance Standards) or Section 112 (Hazardous Air
11 Pollutants) of the Clean Air Act, except that a source
12 is not required to obtain a permit solely because it is
13 subject to regulations or requirements under Section
14 112(r) of the Clean Air Act.

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

17 iv. Any other source subject to this Section under
18 the Clean Air Act or regulations promulgated
19 thereunder, or applicable Board regulations.

20 b. Sources exempted from this Section shall include:

21 i. All sources listed in paragraph (a) of this
22 subsection that are not major sources, affected
23 sources for acid deposition or solid waste
24 incineration units required to obtain a permit
25 pursuant to Section 129(e) of the Clean Air Act, until

1 the source is required to obtain a CAAPP permit
2 pursuant to the Clean Air Act or regulations
3 promulgated thereunder.

4 ii. Nonmajor sources subject to a standard or other
5 requirements subsequently promulgated by USEPA under
6 Section 111 or 112 of the Clean Air Act that are
7 determined by USEPA to be exempt at the time a new
8 standard is promulgated.

9 iii. All sources and source categories that would
10 be required to obtain a permit solely because they are
11 subject to Part 60, Subpart AAA - Standards of
12 Performance for New Residential Wood Heaters (40 CFR
13 Part 60).

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

19 v. Any other source categories exempted by USEPA
20 regulations pursuant to Section 502(a) of the Clean Air
21 Act.

22 vi. Major sources of greenhouse gas emissions
23 required to obtain a CAAPP permit under this Section if
24 any of the following occurs:

25 (A) enactment of federal legislation depriving
26 the Administrator of the USEPA of authority to

1 regulate greenhouse gases under the Clean Air Act;

2 (B) the issuance of any opinion, ruling,
3 judgment, order, or decree by a federal court
4 depriving the Administrator of the USEPA of
5 authority to regulate greenhouse gases under the
6 Clean Air Act; or

7 (C) action by the President of the United
8 States or the President's authorized agent,
9 including the Administrator of the USEPA, to
10 repeal or withdraw the Greenhouse Gas Tailoring
11 Rule (75 Fed. Reg. 31514, June 3, 2010).

12 If any event listed in this subparagraph (vi)
13 occurs, CAAPP permits issued after such event shall not
14 impose permit terms or conditions addressing
15 greenhouse gases during the effectiveness of any event
16 listed in subparagraph (vi). If any event listed in
17 this subparagraph (vi) occurs, any owner or operator
18 with a CAAPP permit that includes terms or conditions
19 addressing greenhouse gases may elect to submit an
20 application to the Agency to address a revision or
21 repeal of such terms or conditions. If any owner or
22 operator submits such an application, the Agency shall
23 expeditiously process the permit application in
24 accordance with applicable laws and regulations.
25 Nothing in this subparagraph (vi) shall relieve an
26 owner or operator of a source from the requirement to

1 obtain a CAAPP permit for its emissions of regulated
2 air pollutants other than greenhouse gases, as
3 required by this Section.

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

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

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

26 B. For radionuclides, "major source" shall

1 have the meaning specified by the USEPA by rule.

2 ii. A major stationary source of air pollutants, as
3 defined in Section 302 of the Clean Air Act, that
4 directly emits or has the potential to emit, 100 tpy or
5 more of any air pollutant subject to regulation
6 (including any major source of fugitive emissions of
7 any such pollutant, as determined by rule by USEPA).
8 For purposes of this subsection, "fugitive emissions"
9 means those emissions which could not reasonably pass
10 through a stack, chimney, vent, or other
11 functionally-equivalent opening. The fugitive
12 emissions of a stationary source shall not be
13 considered in determining whether it is a major
14 stationary source for the purposes of Section 302(j) of
15 the Clean Air Act, unless the source belongs to one of
16 the following categories of stationary source:

- 17 A. Coal cleaning plants (with thermal dryers).
18 B. Kraft pulp mills.
19 C. Portland cement plants.
20 D. Primary zinc smelters.
21 E. Iron and steel mills.
22 F. Primary aluminum ore reduction plants.
23 G. Primary copper smelters.
24 H. Municipal incinerators capable of charging
25 more than 250 tons of refuse per day.
26 I. Hydrofluoric, sulfuric, or nitric acid

1 plants.

2 J. Petroleum refineries.

3 K. Lime plants.

4 L. Phosphate rock processing plants.

5 M. Coke oven batteries.

6 N. Sulfur recovery plants.

7 O. Carbon black plants (furnace process).

8 P. Primary lead smelters.

9 Q. Fuel conversion plants.

10 R. Sintering plants.

11 S. Secondary metal production plants.

12 T. Chemical process plants.

13 U. Fossil-fuel boilers (or combination
14 thereof) totaling more than 250 million British
15 thermal units per hour heat input.

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

18 W. Taconite ore processing plants.

19 X. Glass fiber processing plants.

20 Y. Charcoal production plants.

21 Z. Fossil fuel-fired steam electric plants of
22 more than 250 million British thermal units per
23 hour heat input.

24 AA. All other stationary source categories,
25 which as of August 7, 1980 are being regulated by a
26 standard promulgated under Section 111 or 112 of

1 the Clean Air Act.

2 BB. Any other stationary source category
3 designated by USEPA by rule.

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

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

24 B. For ozone transport regions established
25 pursuant to Section 184 of the Clean Air Act,
26 sources with the potential to emit 50 tons or more

1 per year of volatile organic compounds (VOCs).

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

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

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

14 a. The Agency shall issue CAAPP permits under this
15 Section consistent with the Clean Air Act and regulations
16 promulgated thereunder and this Act and regulations
17 promulgated thereunder.

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

25 c. The Agency shall have the authority to issue a State

1 operating permit for a source under subsection (a) of
2 Section 39 of this Act, as amended, and regulations
3 promulgated thereunder, which includes federally
4 enforceable conditions limiting the "potential to emit" of
5 the source to a level below the major source threshold for
6 that source as described in paragraph(c) of subsection 2 of
7 this Section, thereby excluding the source from the CAAPP,
8 when requested by the applicant pursuant to paragraph(u) of
9 subsection 5 of this Section. The public notice
10 requirements of this Section applicable to CAAPP permits
11 shall also apply to the initial issuance of permits under
12 this paragraph.

13 d. For purposes of this Act, a permit issued by USEPA
14 under Section 505 of the Clean Air Act, as now and
15 hereafter amended, shall be deemed to be a permit issued by
16 the Agency pursuant to Section 39.5 of this Act.

17 4. Transition.

18 a. An owner or operator of a CAAPP source shall not be
19 required to renew an existing State operating permit for
20 any emission unit at such CAAPP source once a CAAPP
21 application timely submitted prior to expiration of the
22 State operating permit has been deemed complete. For
23 purposes other than permit renewal, the obligation upon the
24 owner or operator of a CAAPP source to obtain a State
25 operating permit is not removed upon submittal of the

1 complete CAAPP permit application. An owner or operator of
2 a CAAPP source seeking to make a modification to a source
3 prior to the issuance of its CAAPP permit shall be required
4 to obtain a construction permit, operating permit, or both
5 as required for such modification in accordance with the
6 State permit program under subsection (a) of Section 39 of
7 this Act, as amended, and regulations promulgated
8 thereunder. The application for such construction permit,
9 operating permit, or both shall be considered an amendment
10 to the CAAPP application submitted for such source.

11 b. An owner or operator of a CAAPP source shall
12 continue to operate in accordance with the terms and
13 conditions of its applicable State operating permit
14 notwithstanding the expiration of the State operating
15 permit until the source's CAAPP permit has been issued.

16 c. An owner or operator of a CAAPP source shall submit
17 its initial CAAPP application to the Agency no later than
18 12 months after the effective date of the CAAPP. The Agency
19 may request submittal of initial CAAPP applications during
20 this 12-month period according to a schedule set forth
21 within Agency procedures, however, in no event shall the
22 Agency require such submittal earlier than 3 months after
23 such effective date of the CAAPP. An owner or operator may
24 voluntarily submit its initial CAAPP application prior to
25 the date required within this paragraph or applicable
26 procedures, if any, subsequent to the date the Agency

1 submits the CAAPP to USEPA for approval.

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

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

9 f. The Agency shall provide owners or operators of
10 CAAPP sources with at least 3 months advance notice of the
11 date on which their applications are required to be
12 submitted. In determining which sources shall be subject to
13 early submittal, the Agency shall include among its
14 considerations the complexity of the permit application,
15 and the burden that such early submittal will have on the
16 source.

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

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

23 5. Applications and Completeness.

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

1 applicable regulations.

2 b. An owner or operator of a CAAPP source shall submit
3 a single complete CAAPP application covering all emission
4 units at that source.

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

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

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

24 f. The Agency shall provide notice to a CAAPP applicant
25 as to whether a submitted CAAPP application is complete.
26 Unless the Agency notifies the applicant of

1 incompleteness, within 60 days after receipt of the CAAPP
2 application, the application shall be deemed complete. The
3 Agency may request additional information as needed to make
4 the completeness determination. The Agency may to the
5 extent practicable provide the applicant with a reasonable
6 opportunity to correct deficiencies prior to a final
7 determination of completeness.

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

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

22 i. Any applicant who fails to submit any relevant facts
23 necessary to evaluate the subject source and its CAAPP
24 application or who has submitted incorrect information in a
25 CAAPP application shall, upon becoming aware of such
26 failure or incorrect submittal, submit supplementary facts

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

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

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

25 k. The submittal of a complete CAAPP application shall
26 not affect the requirement that any source have a

1 preconstruction permit under Title I of the Clean Air Act.

2 l. Unless a timely and complete renewal application has
3 been submitted consistent with this subsection, a CAAPP
4 source operating upon the expiration of its CAAPP permit
5 shall be deemed to be operating without a CAAPP permit.
6 Such operation is prohibited under this Act.

7 m. Permits being renewed shall be subject to the same
8 procedural requirements, including those for public
9 participation and federal review and objection, that apply
10 to original permit issuance.

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

14 o. The terms and conditions of a CAAPP permit shall
15 remain in effect until the issuance of a CAAPP renewal
16 permit provided a timely and complete CAAPP application has
17 been submitted.

18 p. The owner or operator of a CAAPP source seeking a
19 permit shield pursuant to paragraph(j) of subsection 7 of
20 this Section shall request such permit shield in the CAAPP
21 application regarding that source.

22 q. The Agency shall make available to the public all
23 documents submitted by the applicant to the Agency,
24 including each CAAPP application, compliance plan
25 (including the schedule of compliance), and emissions or
26 compliance monitoring report, with the exception of

1 information entitled to confidential treatment pursuant to
2 Section 7 of this Act.

3 r. The Agency shall use the standardized forms required
4 under Title IV of the Clean Air Act and regulations
5 promulgated thereunder for affected sources for acid
6 deposition.

7 s. An owner or operator of a CAAPP source may include
8 within its CAAPP application a request for permission to
9 operate during a startup, malfunction, or breakdown
10 consistent with applicable Board regulations.

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

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

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

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

20 x. The owner or operator of a new CAAPP source shall
21 submit its complete CAAPP application consistent with this
22 subsection within 12 months after commencing operation of
23 such source. The owner or operator of an existing source
24 that has been excluded from the provisions of this Section
25 under subsection 1.1 or paragraph (c) of subsection 3 of
26 this Section and that becomes subject to the CAAPP solely

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

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

9 6. Prohibitions.

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

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

1 c. No owner or operator of a CAAPP source shall cause
2 or threaten or allow the continued operation of an emission
3 source during malfunction or breakdown of the emission
4 source or related air pollution control equipment if such
5 operation would cause a violation of the standards or
6 limitations applicable to the source, unless the CAAPP
7 permit granted to the source provides for such operation
8 consistent with this Act and applicable Board regulations.

9 7. Permit Content.

10 a. All CAAPP permits shall contain emission
11 limitations and standards and other enforceable terms and
12 conditions, including but not limited to operational
13 requirements, and schedules for achieving compliance at
14 the earliest reasonable date, which are or will be required
15 to accomplish the purposes and provisions of this Act and
16 to assure compliance with all applicable requirements.

17 b. The Agency shall include among such conditions
18 applicable monitoring, reporting, record keeping and
19 compliance certification requirements, as authorized by
20 paragraphs (d), (e), and (f) of this subsection, that the
21 Agency deems necessary to assure compliance with the Clean
22 Air Act, the regulations promulgated thereunder, this Act,
23 and applicable Board regulations. When monitoring,
24 reporting, record keeping, and compliance certification
25 requirements are specified within the Clean Air Act,

1 regulations promulgated thereunder, this Act, or
2 applicable regulations, such requirements shall be
3 included within the CAAPP permit. The Board shall have
4 authority to promulgate additional regulations where
5 necessary to accomplish the purposes of the Clean Air Act,
6 this Act, and regulations promulgated thereunder.

7 c. The Agency shall assure, within such conditions, the
8 use of terms, test methods, units, averaging periods, and
9 other statistical conventions consistent with the
10 applicable emission limitations, standards, and other
11 requirements contained in the permit.

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

14 i. Incorporate and identify all applicable
15 emissions monitoring and analysis procedures or test
16 methods required under the Clean Air Act, regulations
17 promulgated thereunder, this Act, and applicable Board
18 regulations, including any procedures and methods
19 promulgated by USEPA pursuant to Section 504(b) or
20 Section 114 (a) (3) of the Clean Air Act.

21 ii. Where the applicable requirement does not
22 require periodic testing or instrumental or
23 noninstrumental monitoring (which may consist of
24 recordkeeping designed to serve as monitoring),
25 require periodic monitoring sufficient to yield
26 reliable data from the relevant time period that is

1 representative of the source's compliance with the
2 permit, as reported pursuant to paragraph (f) of this
3 subsection. The Agency may determine that
4 recordkeeping requirements are sufficient to meet the
5 requirements of this subparagraph.

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

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

13 i. Records of required monitoring information that
14 include the following:

15 A. The date, place and time of sampling or
16 measurements.

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

18 C. The company or entity that performed the
19 analyses.

20 D. The analytical techniques or methods used.

21 E. The results of such analyses.

22 F. The operating conditions as existing at the
23 time of sampling or measurement.

24 ii. Retention of records of all monitoring data
25 and support information for a period of at least 5
26 years from the date of the monitoring sample,

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

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

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

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

24 g. Each CAAPP permit issued under subsection 10 of this
25 Section shall include a condition prohibiting emissions
26 exceeding any allowances that the source lawfully holds

1 under Title IV of the Clean Air Act or the regulations
2 promulgated thereunder, consistent with subsection 17 of
3 this Section and applicable regulations, if any.

4 h. All CAAPP permits shall state that, where another
5 applicable requirement of the Clean Air Act is more
6 stringent than any applicable requirement of regulations
7 promulgated under Title IV of the Clean Air Act, both
8 provisions shall be incorporated into the permit and shall
9 be State and federally enforceable.

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

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

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

23 A. The applicable requirement is specifically
24 identified within the permit; or

25 B. The Agency in acting on the CAAPP
26 application or revision determines in writing that

1 other requirements specifically identified are not
2 applicable to the source, and the permit includes
3 that determination or a concise summary thereof.

4 ii. The permit shall identify the requirements for
5 which the source is shielded. The shield shall not
6 extend to applicable requirements which are
7 promulgated after the date of release of the proposed
8 permit unless the permit has been modified to reflect
9 such new requirements.

10 iii. A CAAPP permit which does not expressly
11 indicate the existence of a permit shield shall not
12 provide such a shield.

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

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

18 B. The liability of an owner or operator of a
19 source for any violation of applicable
20 requirements prior to or at the time of permit
21 issuance.

22 C. The applicable requirements of the acid
23 rain program consistent with Section 408(a) of the
24 Clean Air Act.

25 D. The ability of USEPA to obtain information
26 from a source pursuant to Section 114

1 (inspections, monitoring, and entry) of the Clean
2 Air Act.

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

10 i. An emergency occurred and the permittee can
11 identify the cause(s) of the emergency.

12 ii. The permitted facility was at the time being
13 properly operated.

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

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

24 For purposes of this subsection, "emergency" means any
25 situation arising from sudden and reasonably unforeseeable
26 events beyond the control of the source, such as an act of

1 God, that requires immediate corrective action to restore
2 normal operation, and that causes the source to exceed a
3 technology-based emission limitation under the permit, due
4 to unavoidable increases in emissions attributable to the
5 emergency. An emergency shall not include noncompliance to
6 the extent caused by improperly designed equipment, lack of
7 preventative maintenance, careless or improper operation,
8 or operation error.

9 In any enforcement proceeding, the permittee seeking
10 to establish the occurrence of an emergency has the burden
11 of proof. This provision is in addition to any emergency or
12 upset provision contained in any applicable requirement.
13 This provision does not relieve a permittee of any
14 reporting obligations under existing federal or state laws
15 or regulations.

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

18 i. Terms and conditions for reasonably anticipated
19 operating scenarios identified by the source in its
20 application. The permit terms and conditions for each
21 such operating scenario shall meet all applicable
22 requirements and the requirements of this Section.

23 A. Under this subparagraph, the source must
24 record in a log at the permitted facility a record
25 of the scenario under which it is operating
26 contemporaneously with making a change from one

1 operating scenario to another.

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

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

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

16 B. Must meet all applicable requirements;

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

21 m. The Agency shall specifically designate as not being
22 federally enforceable under the Clean Air Act any terms and
23 conditions included in the permit that are not specifically
24 required under the Clean Air Act or federal regulations
25 promulgated thereunder. Terms or conditions so designated
26 shall be subject to all applicable state requirements,

1 except the requirements of subsection 7 (other than this
2 paragraph, paragraph q of subsection 7, subsections 8
3 through 11, and subsections 13 through 16 of this Section.
4 The Agency shall, however, include such terms and
5 conditions in the CAAPP permit issued to the source.

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

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

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

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

1 iii. Permit actions. The permit may be modified,
2 revoked, reopened, and reissued, or terminated for
3 cause in accordance with the applicable subsections of
4 Section 39.5 of this Act. The filing of a request by
5 the permittee for a permit modification, revocation
6 and reissuance, or termination, or of a notification of
7 planned changes or anticipated noncompliance does not
8 stay any permit condition.

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

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

24 vi. Duty to pay fees. The permittee must pay fees
25 to the Agency consistent with the fee schedule approved
26 pursuant to subsection 18 of this Section, and submit

1 any information relevant thereto.

2 vii. Emissions trading. No permit revision shall
3 be required for increases in emissions allowed under
4 any approved economic incentives, marketable permits,
5 emissions trading, and other similar programs or
6 processes for changes that are provided for in the
7 permit and that are authorized by the applicable
8 requirement.

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

12 i. Compliance certification, testing, monitoring,
13 reporting, and record keeping requirements sufficient
14 to assure compliance with the terms and conditions of
15 the permit. Any document (including reports) required
16 by a CAAPP permit shall contain a certification by a
17 responsible official that meets the requirements of
18 subsection 5 of this Section and applicable
19 regulations.

20 ii. Inspection and entry requirements that
21 necessitate that, upon presentation of credentials and
22 other documents as may be required by law and in
23 accordance with constitutional limitations, the
24 permittee shall allow the Agency, or an authorized
25 representative to perform the following:

26 A. Enter upon the permittee's premises where a

1 CAAPP source is located or emissions-related
2 activity is conducted, or where records must be
3 kept under the conditions of the permit.

4 B. Have access to and copy, at reasonable
5 times, any records that must be kept under the
6 conditions of the permit.

7 C. Inspect at reasonable times any facilities,
8 equipment (including monitoring and air pollution
9 control equipment), practices, or operations
10 regulated or required under the permit.

11 D. Sample or monitor any substances or
12 parameters at any location:

13 1. As authorized by the Clean Air Act, at
14 reasonable times, for the purposes of assuring
15 compliance with the CAAPP permit or applicable
16 requirements; or

17 2. As otherwise authorized by this Act.

18 iii. A schedule of compliance consistent with
19 subsection 5 of this Section and applicable
20 regulations.

21 iv. Progress reports consistent with an applicable
22 schedule of compliance pursuant to paragraph(d) of
23 subsection 5 of this Section and applicable
24 regulations to be submitted semiannually, or more
25 frequently if the Agency determines that such more
26 frequent submittals are necessary for compliance with

1 the Act or regulations promulgated by the Board
2 thereunder. Such progress reports shall contain the
3 following:

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

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

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

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

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

24 C. A requirement that the compliance
25 certification include the following:

26 1. The identification of each term or

1 condition contained in the permit that is the
2 basis of the certification.

3 2. The compliance status.

4 3. Whether compliance was continuous or
5 intermittent.

6 4. The method(s) used for determining the
7 compliance status of the source, both
8 currently and over the reporting period
9 consistent with subsection 7 of this Section.

10 D. A requirement that all compliance
11 certifications be submitted to USEPA as well as to
12 the Agency.

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

16 F. Other provisions as the Agency may require.

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

1 replicable procedures.

2 8. Public Notice; Affected State Review.

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

8 b. The Agency shall prepare a draft CAAPP permit and a
9 statement that sets forth the legal and factual basis for
10 the draft CAAPP permit conditions, including references to
11 the applicable statutory or regulatory provisions. The
12 Agency shall provide this statement to any person who
13 requests it.

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

18 d. The Agency, as part of its submittal of a proposed
19 permit to USEPA (or as soon as possible after the submittal
20 for minor permit modification procedures allowed under
21 subsection 14 of this Section), shall notify USEPA and any
22 affected State in writing of any refusal of the Agency to
23 accept all of the recommendations for the proposed permit
24 that an affected State submitted during the public or
25 affected State review period. The notice shall include the
26 Agency's reasons for not accepting the recommendations.

1 The Agency is not required to accept recommendations that
2 are not based on applicable requirements or the
3 requirements of this Section.

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

18 f. 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 g. If requested by the permit applicant, the Agency
23 shall provide the permit applicant with a copy of the draft
24 CAAPP permit prior to any public review period. If
25 requested by the permit applicant, the Agency shall provide
26 the permit applicant with a copy of the final CAAPP permit

1 prior to issuance of the CAAPP permit.

2 9. USEPA Notice and Objection.

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

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

20 c. If USEPA objects in writing to the issuance of the
21 proposed CAAPP permit within the 45-day period, the Agency
22 shall respond in writing and may revise and resubmit the
23 proposed CAAPP permit in response to the stated objection,
24 to the extent supported by the record, within 90 days after
25 the date of the objection. Prior to submitting a revised

1 permit to USEPA, the Agency shall provide the applicant and
2 any person who participated in the public comment process,
3 pursuant to subsection 8 of this Section, with a 10-day
4 period to comment on any revision which the Agency is
5 proposing to make to the permit in response to USEPA's
6 objection in accordance with Agency procedures.

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

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

22 f. If the permit has not yet been issued and USEPA
23 objects to the permit as a result of a petition, the Agency
24 shall not issue the permit until USEPA's objection has been
25 resolved. The Agency shall provide a 10-day comment period
26 in accordance with paragraph c of this subsection. A

1 petition does not, however, stay the effectiveness of a
2 permit or its requirements if the permit was issued after
3 expiration of the 45-day review period and prior to a USEPA
4 objection.

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

18 h. 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 10. Final Agency Action.

23 a. The Agency shall issue a CAAPP permit, permit
24 modification, or permit renewal if all of the following
25 conditions are met:

1 i. The applicant has submitted a complete and
2 certified application for a permit, permit
3 modification, or permit renewal consistent with
4 subsections 5 and 14 of this Section, as applicable,
5 and applicable regulations.

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

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

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

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

23 vi. The Agency has provided a copy of each CAAPP
24 application, or summary thereof, pursuant to agreement
25 with USEPA and proposed CAAPP permit required under
26 subsection 9 of this Section to USEPA, and USEPA has

1 not objected to the issuance of the permit in
2 accordance with the Clean Air Act and 40 CFR Part 70.

3 b. The Agency shall have the authority to deny a CAAPP
4 permit, permit modification, or permit renewal if the
5 applicant has not complied with the requirements of
6 subparagraphs (i) through (iv) of paragraph (a) of this
7 subsection or if USEPA objects to its issuance.

8 c. i. Prior to denial of a CAAPP permit, permit
9 modification, or permit renewal under this Section,
10 the Agency shall notify the applicant of the possible
11 denial and the reasons for the denial.

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

18 iii. Failure by the applicant to adequately
19 respond by the date specified in the notification or by
20 any granted extension date shall be grounds for denial
21 of the permit.

22 For purposes of obtaining judicial review under
23 Sections 40.2 and 41 of this Act, the Agency shall
24 provide to USEPA and each applicant, and, upon request,
25 to affected States, any person who participated in the
26 public comment process, and any other person who could

1 obtain judicial review under Sections 40.2 and 41 of
2 this Act, a copy of each CAAPP permit or notification
3 of denial pertaining to that party.

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

8 11. General Permits.

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

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

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

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

25 e. When granting a subsequent request by a qualifying

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

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

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

13 12. Operational Flexibility.

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

1 in applicable regulations regarding emergencies. The owner
2 or operator of a CAAPP source and the Agency shall each
3 attach such notice to their copy of the relevant permit.

4 i. An owner or operator of a CAAPP source may make
5 Section 502 (b) (10) changes without a permit revision,
6 if the changes are not modifications under any
7 provision of Title I of the Clean Air Act and the
8 changes do not exceed the emissions allowable under the
9 permit (whether expressed therein as a rate of
10 emissions or in terms of total emissions).

11 A. For each such change, the written
12 notification required above shall include a brief
13 description of the change within the source, the
14 date on which the change will occur, any change in
15 emissions, and any permit term or condition that is
16 no longer applicable as a result of the change.

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

20 ii. An owner or operator of a CAAPP source may
21 trade increases and decreases in emissions in the CAAPP
22 source, where the applicable implementation plan
23 provides for such emission trades without requiring a
24 permit revision. This provision is available in those
25 cases where the permit does not already provide for
26 such emissions trading.

1 A. Under this subparagraph(ii) of paragraph
2 (a) of this subsection, the written notification
3 required above shall include such information as
4 may be required by the provision in the applicable
5 implementation plan authorizing the emissions
6 trade, including at a minimum, when the proposed
7 changes will occur, a description of each such
8 change, any change in emissions, the permit
9 requirements with which the source will comply
10 using the emissions trading provisions of the
11 applicable implementation plan, and the pollutants
12 emitted subject to the emissions trade. The notice
13 shall also refer to the provisions in the
14 applicable implementation plan with which the
15 source will comply and provide for the emissions
16 trade.

17 B. The permit shield described in paragraph(j)
18 of subsection 7 of this Section shall not apply to
19 any change made pursuant to subparagraph (ii) of
20 paragraph (a) of this subsection. Compliance with
21 the permit requirements that the source will meet
22 using the emissions trade shall be determined
23 according to the requirements of the applicable
24 implementation plan authorizing the emissions
25 trade.

26 iii. If requested within a CAAPP application, the

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

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

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

24 b. An owner or operator of a CAAPP source may make
25 changes that are not addressed or prohibited by the permit,
26 other than those which are subject to any requirements

1 under Title IV of the Clean Air Act or are modifications
2 under any provisions of Title I of the Clean Air Act,
3 without a permit revision, in accordance with the following
4 requirements:

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

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

16 (iii) The change shall not qualify for the shield
17 described in paragraph (j) of subsection 7 of this
18 Section; and

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

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

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

3 13. Administrative Permit Amendments.

4 a. The Agency shall take final action on a request for
5 an administrative permit amendment within 60 days after
6 receipt of the request. Neither notice nor an opportunity
7 for public and affected State comment shall be required for
8 the Agency to incorporate such revisions, provided it
9 designates the permit revisions as having been made
10 pursuant to this subsection.

11 b. The Agency shall submit a copy of the revised permit
12 to USEPA.

13 c. For purposes of this Section the term
14 "administrative permit amendment" shall be defined as a
15 permit revision that can accomplish one or more of the
16 changes described below:

17 i. Corrects typographical errors;

18 ii. Identifies a change in the name, address, or
19 phone number of any person identified in the permit, or
20 provides a similar minor administrative change at the
21 source;

22 iii. Requires more frequent monitoring or
23 reporting by the permittee;

24 iv. Allows for a change in ownership or operational
25 control of a source where the Agency determines that no

1 other change in the permit is necessary, provided that
2 a written agreement containing a specific date for
3 transfer of permit responsibility, coverage, and
4 liability between the current and new permittees has
5 been submitted to the Agency;

6 v. Incorporates into the CAAPP permit the
7 requirements from preconstruction review permits
8 authorized under a USEPA-approved program, provided
9 the program meets procedural and compliance
10 requirements substantially equivalent to those
11 contained in this Section;

12 vi. (Blank); or

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

16 d. The Agency shall, upon taking final action granting
17 a request for an administrative permit amendment, allow
18 coverage by the permit shield in paragraph(j) of subsection
19 7 of this Section for administrative permit amendments made
20 pursuant to subparagraph(v) of paragraph (c) of this
21 subsection which meet the relevant requirements for
22 significant permit modifications.

23 e. Permit revisions and modifications, including
24 administrative amendments and automatic amendments
25 (pursuant to Sections 408(b) and 403(d) of the Clean Air
26 Act or regulations promulgated thereunder), for purposes

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

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

10 g. 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 14. Permit Modifications.

15 a. Minor permit modification procedures.

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

19 A. Do not violate any applicable requirement;

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

23 C. Do not require a case-by-case determination
24 of an emission limitation or other standard, or a
25 source-specific determination of ambient impacts,

1 or a visibility or increment analysis;

2 D. Do not seek to establish or change a permit
3 term or condition for which there is no
4 corresponding underlying requirement and which
5 avoids an applicable requirement to which the
6 source would otherwise be subject. Such terms and
7 conditions include:

8 1. A federally enforceable emissions cap
9 assumed to avoid classification as a
10 modification under any provision of Title I of
11 the Clean Air Act; and

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

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

17 F. Are not required to be processed as a
18 significant modification.

19 ii. Notwithstanding subparagraph(i) of paragraph
20 (a) and subparagraph(ii) of paragraph (b) of this
21 subsection, minor permit modification procedures may
22 be used for permit modifications involving the use of
23 economic incentives, marketable permits, emissions
24 trading, and other similar approaches, to the extent
25 that such minor permit modification procedures are
26 explicitly provided for in an applicable

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

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

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

10 B. The source's suggested draft permit;

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

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

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

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

12 A. Issue the permit modification as proposed;

13 B. Deny the permit modification application;

14 C. Determine that the requested modification
15 does not meet the minor permit modification
16 criteria and should be reviewed under the
17 significant modification procedures; or

18 D. Revise the draft permit modification and
19 transmit to USEPA the new proposed permit
20 modification as required by subsection 9 of this
21 Section.

22 vi. Any CAAPP source may make the change proposed
23 in its minor permit modification application
24 immediately after it files such application. After the
25 CAAPP source makes the change allowed by the preceding
26 sentence, and until the Agency takes any of the actions

1 specified in items(A) through(C) of subparagraph (v)
2 of paragraph (a) of this subsection, the source must
3 comply with both the applicable requirements governing
4 the change and the proposed permit terms and
5 conditions. During this time period, the source need
6 not comply with the existing permit terms and
7 conditions it seeks to modify. If the source fails to
8 comply with its proposed permit terms and conditions
9 during this time period, the existing permit terms and
10 conditions which it seeks to modify may be enforced
11 against it.

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

15 viii. If a construction permit is required,
16 pursuant to subsection (a) of Section 39 of this Act
17 and regulations thereunder, for a change for which the
18 minor permit modification procedures are applicable,
19 the source may request that the processing of the
20 construction permit application be consolidated with
21 the processing of the application for the minor permit
22 modification. In such cases, the provisions of this
23 Section, including those within subsections 5, 8, and
24 9, shall apply and the Agency shall act on such
25 applications pursuant to subparagraph(v) of paragraph
26 (a) of subsection 14 of this Section. The source may

1 make the proposed change immediately after filing its
2 application for the minor permit modification. Nothing
3 in this subparagraph shall otherwise affect the
4 requirements and procedures applicable to construction
5 permits.

6 b. Group Processing of Minor Permit Modifications.

7 i. Where requested by an applicant within its
8 application, the Agency shall process groups of a
9 source's applications for certain modifications
10 eligible for minor permit modification processing in
11 accordance with the provisions of this paragraph (b).

12 ii. Permit modifications may be processed in
13 accordance with the procedures for group processing,
14 for those modifications:

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

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

24 iii. An applicant requesting the use of group
25 processing procedures shall meet the requirements of
26 subsection 5 of this Section and shall include the

1 following in its application:

2 A. A description of the change, the emissions
3 resulting from the change, and any new applicable
4 requirements that will apply if the change occurs.

5 B. The source's suggested draft permit.

6 C. Certification by a responsible official
7 consistent with paragraph (e) of subsection 5 of
8 this Section, that the proposed modification meets
9 the criteria for use of group processing
10 procedures and a request that such procedures be
11 used.

12 D. A list of the source's other pending
13 applications awaiting group processing, and a
14 determination of whether the requested
15 modification, aggregated with these other
16 applications, equals or exceeds the threshold set
17 under item(B) of subparagraph (ii) of paragraph
18 (b) of this subsection.

19 E. Certification, consistent with paragraph(e)
20 of subsection 5 of this Section, that the source
21 has notified USEPA of the proposed modification.
22 Such notification need only contain a brief
23 description of the requested modification.

24 F. Completed forms for the Agency to use to
25 notify USEPA and affected states as required under
26 subsections 8 and 9 of this Section.

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

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

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

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

1 c. Significant Permit Modifications.

2 i. Significant modification procedures shall be
3 used for applications requesting significant permit
4 modifications and for those applications that do not
5 qualify as either minor permit modifications or as
6 administrative permit amendments.

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

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

26 d. The Agency shall have the authority to adopt

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

4 15. Reopenings for Cause by the Agency.

5 a. Each issued CAAPP permit shall include provisions
6 specifying the conditions under which the permit will be
7 reopened prior to the expiration of the permit. Such
8 revisions shall be made as expeditiously as practicable. A
9 CAAPP permit shall be reopened and revised under any of the
10 following circumstances, in accordance with procedures
11 adopted by the Agency:

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

20 ii. Additional requirements (including excess
21 emissions requirements) become applicable to an
22 affected source for acid deposition under the acid rain
23 program. Excess emissions offset plans shall be deemed
24 to be incorporated into the permit upon approval by
25 USEPA.

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

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

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

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

26 d. Reopenings under paragraph (a) of this subsection

1 shall not be initiated before a notice of such intent is
2 provided to the CAAPP source by the Agency at least 30 days
3 in advance of the date that the permit is to be reopened,
4 except that the Agency may provide a shorter time period in
5 the case of an emergency.

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 16. Reopenings for Cause by USEPA.

11 a. When USEPA finds that cause exists to terminate,
12 modify, or revoke and reissue a CAAPP permit pursuant to
13 subsection 15 of this Section, and thereafter notifies the
14 Agency and the permittee of such finding in writing, the
15 Agency shall forward to USEPA and the permittee a proposed
16 determination of termination, modification, or revocation
17 and reissuance as appropriate, in accordance with
18 paragraph (b) of this subsection. The Agency's proposed
19 determination shall be in accordance with the record, the
20 Clean Air Act, regulations promulgated thereunder, this
21 Act and regulations promulgated thereunder. Such proposed
22 determination shall not affect the permit or constitute a
23 final permit action for purposes of this Act or the
24 Administrative Review Law. The Agency shall forward to
25 USEPA such proposed determination within 90 days after

1 receipt of the notification from USEPA. If additional time
2 is necessary to submit the proposed determination, the
3 Agency shall request a 90-day extension from USEPA and
4 shall submit the proposed determination within 180 days
5 after receipt of notification from USEPA.

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

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

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

7 c. USEPA shall review the proposed determination to
8 terminate, modify, or revoke and reissue the permit within
9 90 days after receipt.

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

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

1 with the Board's final order.

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

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

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

18 17. Title IV; Acid Rain Provisions.

19 a. The Agency shall act on initial CAAPP applications
20 for affected sources for acid deposition in accordance with
21 this Section and Title V of the Clean Air Act and
22 regulations promulgated thereunder, except as modified by
23 Title IV of the Clean Air Act and regulations promulgated
24 thereunder. The Agency shall issue initial CAAPP permits to
25 the affected sources for acid deposition which shall become

1 effective no earlier than January 1, 1995, and which shall
2 terminate on December 31, 1999, in accordance with this
3 Section. Subsequent CAAPP permits issued to affected
4 sources for acid deposition shall be issued for a fixed
5 term of 5 years. Title IV of the Clean Air Act and
6 regulations promulgated thereunder, including but not
7 limited to 40 C.F.R. Part 72, as now or hereafter amended,
8 are applicable to and enforceable under this Act.

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

1 the requirements of Title IV and V of the Clean Air Act and
2 regulations.

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

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

24 e. A designated representative of an affected source
25 for acid deposition shall submit a timely and complete
26 Title IV NO_x permit application to the Agency, not later

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

10 f. The designated representative of the affected
11 source for acid deposition shall renew the initial CAAPP
12 permit and Phase II acid rain permit 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.

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

1 acid rain permit for purposes of Titles IV and V of the
2 Clean Air Act, from the date of submission of the acid rain
3 permit application until a Phase II acid rain permit is
4 issued or denied by the Agency.

5 h. The Agency shall not include or implement any
6 measure which would interfere with or modify the
7 requirements of Title IV of the Clean Air Act or
8 regulations promulgated thereunder.

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

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

18 ii. No limit shall be placed on the number of
19 allowances held by the source. The source may not,
20 however, use allowances as a defense to noncompliance
21 with any other applicable requirement.

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

25 j. To the extent that the federal regulations
26 promulgated under Title IV, including but not limited to 40

1 C.F.R. Part 72, as now or hereafter amended, are
2 inconsistent with the federal regulations promulgated
3 under Title V, the federal regulations promulgated under
4 Title IV shall take precedence.

5 k. The USEPA may intervene as a matter of right in any
6 permit appeal involving a Phase II acid rain permit
7 provision or denial of a Phase II acid rain permit.

8 l. It is unlawful for any owner or operator to violate
9 any terms or conditions of a Phase II acid rain permit
10 issued under this subsection, to operate any affected
11 source for acid deposition except in compliance with a
12 Phase II acid rain permit issued by the Agency under this
13 subsection, or to violate any other applicable
14 requirements.

15 m. The designated representative of an affected source
16 for acid deposition shall submit to the Agency the data and
17 information submitted quarterly to USEPA, pursuant to 40
18 CFR 75.64, concurrently with the submission to USEPA. The
19 submission shall be in the same electronic format as
20 specified by USEPA.

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

26 o. The Agency shall have the authority to adopt

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

4 18. Fee Provisions.

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

15 i. The fee for a source allowed to emit less than
16 100 tons per year of any combination of regulated air
17 pollutants, except greenhouse gases, shall be \$1,800
18 per year, and that fee shall increase, beginning
19 January 1, 2012, to \$2,150 per year.

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

25 A. The Agency shall assess a fee of \$18 per

1 ton, per year for the allowable emissions of
2 regulated air pollutants subject to this
3 subparagraph (ii) of paragraph (a) of subsection
4 18, and that fee shall increase, beginning January
5 1, 2012, to \$21.50 per ton, per year. These fees
6 shall be used by the Agency and the Board to fund
7 the activities required by Title V of the Clean Air
8 Act including such activities as may be carried out
9 by other State or local agencies pursuant to
10 paragraph (d) of this subsection. The amount of
11 such fee shall be based on the information supplied
12 by the applicant in its complete CAAPP permit
13 application or in the CAAPP permit if the permit
14 has been granted and shall be determined by the
15 amount of emissions that the source is allowed to
16 emit annually, provided however, that the maximum
17 fee for a CAAPP permit under this subparagraph (ii)
18 of paragraph (a) of subsection 18 is \$250,000, and
19 increases, beginning January 1, 2012, to \$294,000.
20 Beginning January 1, 2012, the maximum fee under
21 this subparagraph (ii) of paragraph (a) of
22 subsection 18 for a source that has been excluded
23 under subsection 1.1 of this Section or under
24 paragraph (c) of subsection 3 of this Section is
25 \$4,112. The Agency shall provide as part of the
26 permit application form required under subsection

1 5 of this Section a separate fee calculation form
2 which will allow the applicant to identify the
3 allowable emissions and calculate the fee. In no
4 event shall the Agency raise the amount of
5 allowable emissions requested by the applicant
6 unless such increases are required to demonstrate
7 compliance with terms of a CAAPP permit.

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

21 B. The applicant or permittee may pay the fee
22 annually or semiannually for those fees greater
23 than \$5,000. However, any applicant paying a fee
24 equal to or greater than \$100,000 shall pay the
25 full amount on July 1, for the subsequent fiscal
26 year, or pay 50% of the fee on July 1 and the

1 remaining 50% by the next January 1. The Agency may
2 change any annual billing date upon reasonable
3 notice, but shall prorate the new bill so that the
4 permittee or applicant does not pay more than its
5 required fees for the fee period for which payment
6 is made.

7 b. (Blank).

8 c. (Blank).

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

20 e. 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 f. For purposes of this subsection, the term "regulated
25 air pollutant" shall have the meaning given to it under
26 subsection 1 of this Section but shall exclude the

1 following:

2 i. carbon monoxide;

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

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

12 19. Air Toxics Provisions.

13 a. In the event that the USEPA fails to promulgate in a
14 timely manner a standard pursuant to Section 112(d) of the
15 Clean Air Act, the Agency shall have the authority to issue
16 permits, pursuant to Section 112(j) of the Clean Air Act
17 and regulations promulgated thereunder, which contain
18 emission limitations which are equivalent to the emission
19 limitations that would apply to a source if an emission
20 standard had been promulgated in a timely manner by USEPA
21 pursuant to Section 112(d). Provided, however, that the
22 owner or operator of a source shall have the opportunity to
23 submit to the Agency a proposed emission limitation which
24 it determines to be equivalent to the emission limitations
25 that would apply to such source if an emission standard had

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

16 b. Any Board proceeding brought under paragraph (a) or
17 (e) of this subsection shall be conducted according to the
18 Board's procedures for adjudicatory hearings and the Board
19 shall render its decision within 120 days of the filing of
20 the petition. Any such decision shall be subject to review
21 pursuant to Section 41 of this Act. Where USEPA promulgates
22 an applicable emission standard prior to the issuance of
23 the CAAPP permit, the Agency shall include in the permit
24 the promulgated standard, provided that the source shall
25 have the compliance period provided under Section 112(i) of
26 the Clean Air Act. Where USEPA promulgates an applicable

1 standard subsequent to the issuance of the CAAPP permit,
2 the Agency shall revise such permit upon the next renewal
3 to reflect the promulgated standard, providing a
4 reasonable time for the applicable source to comply with
5 the standard, but no longer than 8 years after the date on
6 which the source is first required to comply with the
7 emissions limitation established under this subsection.

8 c. The Agency shall have the authority to implement and
9 enforce complete or partial emission standards promulgated
10 by USEPA pursuant to Section 112(d), and standards
11 promulgated by USEPA pursuant to Sections 112(f), 112(h),
12 112(m), and 112(n), and may accept delegation of authority
13 from USEPA to implement and enforce Section 112(l) and
14 requirements for the prevention and detection of
15 accidental releases pursuant to Section 112(r) of the Clean
16 Air Act.

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

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

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

6 20. Small Business.

7 a. For purposes of this subsection:

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

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

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

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

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

25 3. is not a major source as that term is defined in

1 subsection 2 of this Section;

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

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

6 b. The Agency shall adopt and submit to USEPA, after
7 reasonable notice and opportunity for public comment, as a
8 revision to the Illinois state implementation plan, plans
9 for establishing the Program.

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

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

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

22 f. The State Ombudsman Office shall be located in an
23 existing Ombudsman office within the State or in any State
24 Department.

25 g. There is hereby created a State Compliance Advisory
26 Panel (hereinafter in this subsection referred to as

1 "Panel") for determining the overall effectiveness of the
2 Small Business Assistance Program within this State.

3 h. The selection of Panel members shall be by the
4 following method:

5 1. The Governor shall select two members who are
6 not owners or representatives of owners of small
7 business stationary sources to represent the general
8 public;

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

11 3. The State Legislature shall select four members
12 who are owners or representatives of owners of small
13 business stationary sources. Both the majority and
14 minority leadership in both Houses of the Legislature
15 shall appoint one member of the panel.

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

19 j. The Panel shall select its own Chair by a majority
20 vote. The Chair may meet and consult with the Ombudsman and
21 the head of the Small Business Assistance Program in
22 planning the activities for the Panel.

23 21. Temporary Sources.

24 a. The Agency may issue a single permit authorizing
25 emissions from similar operations by the same source owner

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

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

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

13 22. Solid Waste Incineration Units.

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

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

25 c. If the Agency determines that the source is not in

1 compliance with all applicable requirements it shall
2 revise the CAAPP permit as appropriate.

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

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

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.".