

1 AMENDMENT TO HOUSE BILL 3373

2 AMENDMENT NO. _____. Amend House Bill 3373 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended
5 by changing Sections 39.5, 54.12, 54.13, and 55.3 as follows:

6 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)
7 Sec. 39.5. Clean Air Act Permit Program.

8 1. Definitions.

9 For purposes of this Section:

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

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

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

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

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

22 "Affected unit for acid deposition" shall have the

1 meaning given to the term "affected unit" in the regulations
2 promulgated under Title IV of the Clean Air Act.

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

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

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

28 (ii) Any term or condition as required
29 pursuant to Section 39.5 of any federally
30 enforceable State operating permit issued pursuant
31 to regulations approved or promulgated by USEPA
32 under Title I of the Clean Air Act, including Part C
33 or D of the Clean Air Act.

34 (3) Any standard or other requirement under Section

1 111 of the Clean Air Act, including Section 111(d).

2 (4) Any standard or other requirement under Section
3 112 of the Clean Air Act, including any requirement
4 concerning accident prevention under Section 112(r)(7) of
5 the Clean Air Act.

6 (5) Any standard or other requirement of the acid
7 rain program under Title IV of the Clean Air Act or the
8 regulations promulgated thereunder.

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

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

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

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

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

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

27 (12) Any national ambient air quality standard or
28 increment or visibility requirement under Part C of Title
29 I of the Clean Air Act, but only as it would apply to
30 temporary sources permitted pursuant to Section 504(e) of
31 the Clean Air Act.

32 "Applicable requirement" means all applicable Clean Air
33 Act requirements and any other standard, limitation, or other
34 requirement contained in this Act or regulations promulgated

1 under this Act as applicable to sources of air contaminants
2 (including requirements that have future effective compliance
3 dates).

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

6 "CAAPP application" means an application for a CAAPP
7 permit.

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

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

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

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

25 "Draft CAAPP permit" means the version of a CAAPP permit
26 for which public notice and an opportunity for public comment
27 and hearing is offered by the Agency.

28 "Effective date of the CAAPP" means the date that USEPA
29 approves Illinois' CAAPP.

30 "Emission unit" means any part or activity of a
31 stationary source that emits or has the potential to emit any
32 air pollutant. This term is not meant to alter or affect the
33 definition of the term "unit" for purposes of Title IV of the
34 Clean Air Act.

1 "Federally enforceable" means enforceable by USEPA.

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

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

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

15 "Maximum achievable control technology" or "MACT" means
16 the maximum degree of reductions in emissions deemed
17 achievable under Section 112 of the Clean Air Act.

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

20 "Permit modification" means a revision to a CAAPP permit
21 that cannot be accomplished under the provisions for
22 administrative permit amendments under subsection 13 of this
23 Section.

24 "Permit revision" means a permit modification or
25 administrative permit amendment.

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

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

32 "Potential to emit" means the maximum capacity of a
33 stationary source to emit any air pollutant under its
34 physical and operational design. Any physical or operational

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

10 "Preconstruction Permit" or "Construction Permit" means a
11 permit which is to be obtained prior to commencing or
12 beginning actual construction or modification of a source or
13 emissions unit.

14 "Proposed CAAPP permit" means the version of a CAAPP
15 permit that the Agency proposes to issue and forwards to
16 USEPA for review in compliance with applicable requirements
17 of the Act and regulations promulgated thereunder.

18 "Regulated air pollutant" means the following:

19 (1) Nitrogen oxides (NOx) or any volatile organic
20 compound.

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

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

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

28 (5) Any pollutant subject to a standard promulgated
29 under Section 112 or other requirements established under
30 Section 112 of the Clean Air Act, including Sections
31 112(g), (j) and (r).

32 (i) Any pollutant subject to requirements
33 under Section 112(j) of the Clean Air Act. Any
34 pollutant listed under Section 112(b) for which the

1 subject source would be major shall be considered to
2 be regulated 18 months after the date on which USEPA
3 was required to promulgate an applicable standard
4 pursuant to Section 112(e) of the Clean Air Act, if
5 USEPA fails to promulgate such standard.

6 (ii) Any pollutant for which the requirements
7 of Section 112(g)(2) of the Clean Air Act have been
8 met, but only with respect to the individual source
9 subject to Section 112(g)(2) requirement.

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

12 "Responsible official" means one of the following:

13 (1) For a corporation: a president, secretary,
14 treasurer, or vice-president of the corporation in charge
15 of a principal business function, or any other person who
16 performs similar policy or decision-making functions for
17 the corporation, or a duly authorized representative of
18 such person if the representative is responsible for the
19 overall operation of one or more manufacturing,
20 production, or operating facilities applying for or
21 subject to a permit and either (i) the facilities employ
22 more than 250 persons or have gross annual sales or
23 expenditures exceeding \$25 million (in second quarter
24 1980 dollars), or (ii) the delegation of authority to
25 such representative is approved in advance by the Agency.

26 (2) For a partnership or sole proprietorship: a
27 general partner or the proprietor, respectively, or in
28 the case of a partnership in which all of the partners
29 are corporations, a duly authorized representative of the
30 partnership if the representative is responsible for the
31 overall operation of one or more manufacturing,
32 production, or operating facilities applying for or
33 subject to a permit and either (i) the facilities employ
34 more than 250 persons or have gross annual sales or

1 expenditures exceeding \$25 million (in second quarter
2 1980 dollars), or (ii) the delegation of authority to
3 such representative is approved in advance by the Agency.

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

12 (4) For affected sources for acid deposition:

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

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

21 "Section 502(b)(10) changes" means changes that
22 contravene express permit terms. "Section 502(b)(10) changes"
23 do not include changes that would violate applicable
24 requirements or contravene federally enforceable permit terms
25 or conditions that are monitoring (including test methods),
26 recordkeeping, reporting, or compliance certification
27 requirements.

28 "Solid waste incineration unit" means a distinct
29 operating unit of any facility which combusts any solid waste
30 material from commercial or industrial establishments or the
31 general public (including single and multiple residences,
32 hotels, and motels). The term does not include incinerators
33 or other units required to have a permit under Section 3005
34 of the Solid Waste Disposal Act. The term also does not

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

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

1 determination as to whether any group of stationary sources
2 are located on contiguous or adjacent properties, and/or are
3 under common control, and/or whether the pollutant emitting
4 activities at such group of stationary sources constitute a
5 support facility shall be made on a case by case basis.

6 "Stationary source" means any building, structure,
7 facility, or installation that emits or may emit any
8 regulated air pollutant or any pollutant listed under Section
9 112(b) of the Clean Air Act.

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

19 "USEPA" means the Administrator of the United States
20 Environmental Protection Agency (USEPA) or a person
21 designated by the Administrator.

22 1.1. Exclusion From the CAAPP.

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

1 Section.

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

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

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

24 e. The Agency shall provide such sources with the
25 necessary permit application forms.

26 2. Applicability.

27 a. Sources subject to this Section shall include:

28 i. Any major source as defined in paragraph
29 (c) of this subsection.

30 ii. Any source subject to a standard or other
31 requirements promulgated under Section 111 (New
32 Source Performance Standards) or Section 112
33 (Hazardous Air Pollutants) of the Clean Air Act,
34 except that a source is not required to obtain a

1 permit solely because it is subject to regulations
2 or requirements under Section 112(r) of the Clean
3 Air Act.

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

6 iv. Any other source subject to this Section
7 under the Clean Air Act or regulations promulgated
8 thereunder, or applicable Board regulations.

9 b. Sources exempted from this Section shall
10 include:

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

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

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

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

34 v. Any other source categories exempted by

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

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

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

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

27 B. For radionuclides, "major source"
28 shall have the meaning specified by the USEPA
29 by rule.

30 ii. A major stationary source of air
31 pollutants, as defined in Section 302 of the Clean
32 Air Act, that directly emits or has the potential to
33 emit, 100 tpy or more of any air pollutant
34 (including any major source of fugitive emissions of

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

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

1 U. Fossil-fuel boilers (or combination
2 thereof) totaling more than 250 million British
3 thermal units per hour heat input.

4 V. Petroleum storage and transfer units
5 with a total storage capacity exceeding 300,000
6 barrels.

7 W. Taconite ore processing plants.

8 X. Glass fiber processing plants.

9 Y. Charcoal production plants.

10 Z. Fossil fuel-fired steam electric
11 plants of more than 250 million British thermal
12 units per hour heat input.

13 AA. All other stationary source
14 categories regulated by a standard promulgated
15 under Section 111 or 112 of the Clean Air Act,
16 but only with respect to those air pollutants
17 that have been regulated for that category.

18 BB. Any other stationary source category
19 designated by USEPA by rule.

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

22 A. For ozone nonattainment areas, sources
23 with the potential to emit 100 tons or more per
24 year of volatile organic compounds or oxides of
25 nitrogen in areas classified as "marginal" or
26 "moderate", 50 tons or more per year in areas
27 classified as "serious", 25 tons or more per
28 year in areas classified as "severe", and 10
29 tons or more per year in areas classified as
30 "extreme"; except that the references in this
31 clause to 100, 50, 25, and 10 tons per year of
32 nitrogen oxides shall not apply with respect to
33 any source for which USEPA has made a finding,
34 under Section 182(f)(1) or (2) of the Clean Air

1 Act, that requirements otherwise applicable to
2 such source under Section 182(f) of the Clean
3 Air Act do not apply. Such sources shall
4 remain subject to the major source criteria of
5 paragraph 2(c)(ii) of this subsection.

6 B. For ozone transport regions
7 established pursuant to Section 184 of the
8 Clean Air Act, sources with the potential to
9 emit 50 tons or more per year of volatile
10 organic compounds (VOCs).

11 C. For carbon monoxide nonattainment
12 areas (1) that are classified as "serious", and
13 (2) in which stationary sources contribute
14 significantly to carbon monoxide levels as
15 determined under rules issued by USEPA, sources
16 with the potential to emit 50 tons or more per
17 year of carbon monoxide.

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

22 3. Agency Authority To Issue CAAPP Permits and Federally
23 Enforceable State Operating Permits.

24 a. The Agency shall issue CAAPP permits under this
25 Section consistent with the Clean Air Act and regulations
26 promulgated thereunder and this Act and regulations
27 promulgated thereunder.

28 b. The Agency shall issue CAAPP permits for fixed
29 terms of 5 years, except CAAPP permits issued for solid
30 waste incineration units combusting municipal waste which
31 shall be issued for fixed terms of 12 years and except
32 CAAPP permits for affected sources for acid deposition
33 which shall be issued for initial terms to expire on
34 December 31, 1999, and for fixed terms of 5 years

1 thereafter.

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

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

18 4. Transition.

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

1 shall be considered an amendment to the CAAPP application
2 submitted for such source.

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

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

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

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

28 f. The Agency shall provide owners or operators of
29 CAAPP sources with at least three months advance notice
30 of the date on which their applications are required to
31 be submitted. In determining which sources shall be
32 subject to early submittal, the Agency shall include
33 among its considerations the complexity of the permit
34 application, and the burden that such early submittal

1 will have on the source.

2 g. The CAAPP permit shall upon becoming effective
3 supersede the State operating permit.

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

8 5. Applications and Completeness.

9 a. An owner or operator of a CAAPP source shall
10 submit its complete CAAPP application consistent with the
11 Act and applicable regulations.

12 b. An owner or operator of a CAAPP source shall
13 submit a single complete CAAPP application covering all
14 emission units at that source.

15 c. To be deemed complete, a CAAPP application must
16 provide all information, as requested in Agency
17 application forms, sufficient to evaluate the subject
18 source and its application and to determine all
19 applicable requirements, pursuant to the Clean Air Act,
20 and regulations thereunder, this Act and regulations
21 thereunder. Such Agency application forms shall be
22 finalized and made available prior to the date on which
23 any CAAPP application is required.

24 d. An owner or operator of a CAAPP source shall
25 submit, as part of its complete CAAPP application, a
26 compliance plan, including a schedule of compliance,
27 describing how each emission unit will comply with all
28 applicable requirements. Any such schedule of compliance
29 shall be supplemental to, and shall not sanction
30 noncompliance with, the applicable requirements on which
31 it is based.

32 e. Each submitted CAAPP application shall be
33 certified for truth, accuracy, and completeness by a
34 responsible official in accordance with applicable

1 regulations.

2 f. The Agency shall provide notice to a CAAPP
3 applicant as to whether a submitted CAAPP application is
4 complete. Unless the Agency notifies the applicant of
5 incompleteness, within 60 days of receipt of the CAAPP
6 application, the application shall be deemed complete.
7 The Agency may request additional information as needed
8 to make the completeness determination. The Agency may
9 to the extent practicable provide the applicant with a
10 reasonable opportunity to correct deficiencies prior to a
11 final determination of completeness.

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

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

26 i. Any applicant who fails to submit any relevant
27 facts necessary to evaluate the subject source and its
28 CAAPP application or who has submitted incorrect
29 information in a CAAPP application shall, upon becoming
30 aware of such failure or incorrect submittal, submit
31 supplementary facts or correct information to the Agency.
32 In addition, an applicant shall provide to the Agency
33 additional information as necessary to address any
34 requirements which become applicable to the source

1 subsequent to the date the applicant submitted its
2 complete CAAPP application but prior to release of the
3 draft CAAPP permit.

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

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

22 k. The submittal of a complete CAAPP application
23 shall not affect the requirement that any source have a
24 preconstruction permit under Title I of the Clean Air
25 Act.

26 l. Unless a timely and complete renewal application
27 has been submitted consistent with this subsection, a
28 CAAPP source operating upon the expiration of its CAAPP
29 permit shall be deemed to be operating without a CAAPP
30 permit. Such operation is prohibited under this Act.

31 m. Permits being renewed shall be subject to the
32 same procedural requirements, including those for public
33 participation and federal review and objection, that
34 apply to original permit issuance.

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

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

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

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

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

23 s. An owner or operator of a CAAPP source may
24 include within its CAAPP application a request for
25 permission to operate during a startup, malfunction, or
26 breakdown consistent with applicable Board regulations.

27 t. An owner or operator of a CAAPP source, in order
28 to utilize the operational flexibility provided under
29 paragraph 7(l) of this Section, must request such use and
30 provide the necessary information within its CAAPP
31 application.

32 u. An owner or operator of a CAAPP source which
33 seeks exclusion from the CAAPP through the imposition of
34 federally enforceable conditions, pursuant to paragraph

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

9 v. CAAPP applications shall contain accurate
10 information on allowable emissions to implement the fee
11 provisions of subsection 18 of this Section.

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

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

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

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

10 6. Prohibitions.

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

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

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

1 applicable Board regulations.

2 7. Permit Content.

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

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

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

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

33 i. Incorporate and identify all applicable
34 emissions monitoring and analysis procedures or test

1 methods required under the Clean Air Act,
2 regulations promulgated thereunder, this Act, and
3 applicable Board regulations, including any
4 procedures and methods promulgated by USEPA pursuant
5 to Section 504(b) or Section 114 (a)(3) of the Clean
6 Air Act.

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

18 iii. As necessary, specify requirements
19 concerning the use, maintenance, and when
20 appropriate, installation of monitoring equipment or
21 methods.

22 e. To meet the requirements of this subsection with
23 respect to record keeping, the permit shall incorporate
24 and identify all applicable recordkeeping requirements
25 and require, where applicable, the following:

26 i. Records of required monitoring information
27 that include the following:

28 A. The date, place and time of sampling
29 or measurements.

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

31 C. The company or entity that performed
32 the analyses.

33 D. The analytical techniques or methods
34 used.

1 E. The results of such analyses.

2 F. The operating conditions as existing
3 at the time of sampling or measurement.

4 ii. Retention of records of all monitoring
5 data and support information for a period of at
6 least 5 years from the date of the monitoring
7 sample, measurement, report, or application.
8 Support information includes all calibration and
9 maintenance records, original strip-chart recordings
10 for continuous monitoring instrumentation, and
11 copies of all reports required by the permit.

12 f. To meet the requirements of this subsection with
13 respect to reporting, the permit shall incorporate and
14 identify all applicable reporting requirements and
15 require the following:

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

26 ii. Prompt reporting of deviations from permit
27 requirements, including those attributable to upset
28 conditions as defined in the permit, the probable
29 cause of such deviations, and any corrective actions
30 or preventive measures taken.

31 g. Each CAAPP permit issued under subsection 10 of
32 this Section shall include a condition prohibiting
33 emissions exceeding any allowances that the source
34 lawfully holds under Title IV of the Clean Air Act or the

1 regulations promulgated thereunder, consistent with
2 subsection 17 of this Section and applicable regulations,
3 if any.

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

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

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

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

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

26 B. The Agency in acting on the CAAPP
27 application or revision determines in writing
28 that other requirements specifically identified
29 are not applicable to the source, and the
30 permit includes that determination or a concise
31 summary thereof.

32 ii. The permit shall identify the requirements
33 for which the source is shielded. The shield shall
34 not extend to applicable requirements which are

1 promulgated after the date of release of the
2 proposed permit unless the permit has been modified
3 to reflect such new requirements.

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

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

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

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

16 C. The applicable requirements of the
17 acid rain program consistent with Section
18 408(a) of the Clean Air Act.

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

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

30 i. An emergency occurred and the permittee can
31 identify the cause(s) of the emergency.

32 ii. The permitted facility was at the time
33 being properly operated.

34 iii. The permittee submitted notice of the

1 emergency to the Agency within 2 working days of the
2 time when emission limitations were exceeded due to
3 the emergency. This notice must contain a detailed
4 description of the emergency, any steps taken to
5 mitigate emissions, and corrective actions taken.

6 iv. During the period of the emergency the
7 permittee took all reasonable steps to minimize
8 levels of emissions that exceeded the emission
9 limitations, standards, or requirements in the
10 permit.

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

23 In any enforcement proceeding, the permittee
24 seeking to establish the occurrence of an emergency has
25 the burden of proof. This provision is in addition to
26 any emergency or upset provision contained in any
27 applicable requirement. This provision does not relieve
28 a permittee of any reporting obligations under existing
29 federal or state laws or regulations.

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

32 i. Terms and conditions for reasonably
33 anticipated operating scenarios identified by the
34 source in its application. The permit terms and

1 conditions for each such operating scenario shall
2 meet all applicable requirements and the
3 requirements of this Section.

4 A. Under this subparagraph, the source
5 must record in a log at the permitted facility
6 a record of the scenario under which it is
7 operating contemporaneously with making a
8 change from one operating scenario to another.

9 B. The permit shield described in
10 paragraph 7(j) of this Section shall extend to
11 all terms and conditions under each such
12 operating scenario.

13 ii. Where requested by an applicant, all terms
14 and conditions allowing for trading of emissions
15 increases and decreases between different emission
16 units at the CAAPP source, to the extent that the
17 applicable requirements provide for trading of such
18 emissions increases and decreases without a
19 case-by-case approval of each emissions trade. Such
20 terms and conditions:

21 A. Shall include all terms required under
22 this subsection to determine compliance;

23 B. Must meet all applicable requirements;

24 C. Shall extend the permit shield
25 described in paragraph 7(j) of this Section to
26 all terms and conditions that allow such
27 increases and decreases in emissions.

28 m. The Agency shall specifically designate as not
29 being federally enforceable under the Clean Air Act any
30 terms and conditions included in the permit that are not
31 specifically required under the Clean Air Act or federal
32 regulations promulgated thereunder. Terms or conditions
33 so designated shall be subject to all applicable state
34 requirements, except the requirements of subsection 7

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

6 n. Each CAAPP permit issued under subsection 10 of
7 this Section shall specify and reference the origin of
8 and authority for each term or condition, and identify
9 any 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
12 this Section shall include provisions stating the
13 following:

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

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

28 iii. Permit actions. The permit may be
29 modified, revoked, reopened, and reissued, or
30 terminated for cause in accordance with the
31 applicable subsections of Section 39.5 of this Act.
32 The filing of a request by the permittee for a
33 permit modification, revocation and reissuance, or
34 termination, or of a notification of planned changes

1 or anticipated noncompliance does not stay any
2 permit condition.

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

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

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

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

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

32 i. Compliance certification, testing,
33 monitoring, reporting, and record keeping
34 requirements sufficient to assure compliance with

1 the terms and conditions of the permit. Any
2 document (including reports) required by a CAAPP
3 permit shall contain a certification by a
4 responsible official that meets the requirements of
5 subsection 5 of this Section and applicable
6 regulations.

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

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

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

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

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

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

32 2. As otherwise authorized by this
33 Act.

34 iii. A schedule of compliance consistent with

1 subsection 5 of this Section and applicable
2 regulations.

3 iv. Progress reports consistent with an
4 applicable schedule of compliance pursuant to
5 paragraph 5(d) of this Section and applicable
6 regulations to be submitted semiannually, or more
7 frequently if the Agency determines that such more
8 frequent submittals are necessary for compliance
9 with the Act or regulations promulgated by the Board
10 thereunder. Such progress reports shall contain the
11 following:

12 A. Required dates for achieving the
13 activities, milestones, or compliance required
14 by the schedule of compliance and dates when
15 such activities, milestones or compliance were
16 achieved.

17 B. An explanation of why any dates in the
18 schedule of compliance were not or will not be
19 met, and any preventive or corrective measures
20 adopted.

21 v. Requirements for compliance certification
22 with terms and conditions contained in the permit,
23 including emission limitations, standards, or work
24 practices. Permits shall include each of the
25 following:

26 A. The frequency (annually or more
27 frequently as specified in any applicable
28 requirement or by the Agency pursuant to
29 written procedures) of submissions of
30 compliance certifications.

31 B. A means for assessing or monitoring
32 the compliance of the source with its emissions
33 limitations, standards, and work practices.

34 C. A requirement that the compliance

1 certification include the following:

2 1. The identification of each term
3 or condition contained in the permit that
4 is the basis of the certification.

5 2. The compliance status.

6 3. Whether compliance was continuous
7 or intermittent.

8 4. The method(s) used for
9 determining the compliance status of the
10 source, both currently and over the
11 reporting period consistent with
12 subsection 7 of Section 39.5 of the Act.

13 D. A requirement that all compliance
14 certifications be submitted to USEPA as well as
15 to the Agency.

16 E. Additional requirements as may be
17 specified pursuant to Sections 114(a)(3) and
18 504(b) of the Clean Air Act.

19 F. Other provisions as the Agency may
20 require.

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

32 8. Public Notice; Affected State Review.

33 a. The Agency shall provide notice to the public,
34 including an opportunity for public comment and a

1 hearing, on each draft CAAPP permit for issuance, renewal
2 or significant modification, subject to Sections 7(a) and
3 7.1 of this Act.

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

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

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

27 e. The Agency shall make available to the public
28 any CAAPP permit application, compliance plan (including
29 the schedule of compliance), CAAPP permit, and emissions
30 or compliance monitoring report. If an owner or operator
31 of a CAAPP source is required to submit information
32 entitled to protection from disclosure under Section 7(a)
33 or Section 7.1 of this Act, the owner or operator shall
34 submit such information separately. The requirements of

1 Section 7(a) or Section 7.1 of this Act shall apply to
2 such information, which shall not be included in a CAAPP
3 permit unless required by law. The contents of a CAAPP
4 permit shall not be entitled to protection under Section
5 7(a) or Section 7.1 of this Act.

6 f. 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 9. USEPA Notice and Objection.

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

24 b. The Agency shall not issue the proposed CAAPP
25 permit if USEPA objects in writing within 45 days of
26 receipt of the proposed CAAPP permit and all necessary
27 supporting information.

28 c. If USEPA objects in writing to the issuance of
29 the proposed CAAPP permit within the 45-day period, the
30 Agency shall respond in writing and may revise and
31 resubmit the proposed CAAPP permit in response to the
32 stated objection, to the extent supported by the record,
33 within 90 days after the date of the objection. Prior to
34 submitting a revised permit to USEPA, the Agency shall

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

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

18 e. If USEPA does not object in writing to issuance
19 of a permit under this subsection, any person may
20 petition USEPA within 60 days after expiration of the
21 45-day review period 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
24 Agency shall not issue the permit until USEPA's objection
25 has been resolved. The Agency shall provide a 10-day
26 comment period in accordance with paragraph c of this
27 subsection. A petition does not, however, stay the
28 effectiveness of a permit or its requirements if the
29 permit was issued after expiration of the 45-day review
30 period and prior to a USEPA objection.

31 g. If the Agency has issued a permit after
32 expiration of the 45-day review period and prior to
33 receipt of a USEPA objection under this subsection in
34 response to a petition submitted pursuant to paragraph e

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

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

14 10. Final Agency Action.

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

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

23 ii. The applicant has submitted with its
24 complete application an approvable compliance plan,
25 including a schedule for achieving compliance,
26 consistent with subsection 5 of this Section and
27 applicable regulations.

28 iii. The applicant has timely paid the fees
29 required pursuant to subsection 18 of this Section
30 and applicable regulations.

31 iv. The Agency has received a complete CAAPP
32 application and, if necessary, has requested and
33 received additional information from the applicant
34 consistent with subsection 5 of this Section and

1 applicable regulations.

2 v. The Agency has complied with all applicable
3 provisions regarding public notice and affected
4 State review consistent with subsection 8 of this
5 Section and applicable regulations.

6 vi. The Agency has provided a copy of each
7 CAAPP application, or summary thereof, pursuant to
8 agreement with USEPA and proposed CAAPP permit
9 required under subsection 9 of this Section to
10 USEPA, and USEPA has not objected to the issuance of
11 the permit in accordance with the Clean Air Act and
12 40 CFR Part 70.

13 b. The Agency shall have the authority to deny a
14 CAAPP permit, permit modification, or permit renewal if
15 the applicant has not complied with the requirements of
16 paragraphs (a)(i)-(a)(iv) of this subsection or if USEPA
17 objects to its issuance.

18 c. i. Prior to denial of a CAAPP permit, permit
19 modification, or permit renewal under this Section,
20 the Agency shall notify the applicant of the
21 possible denial and the reasons for the denial.

22 ii. Within such notice, the Agency shall
23 specify an appropriate date by which the applicant
24 shall adequately respond to the Agency's notice.
25 Such date shall not exceed 15 days from the date the
26 notification is received by the applicant. The
27 Agency may grant a reasonable extension for good
28 cause shown.

29 iii. Failure by the applicant to adequately
30 respond by the date specified in the notification or
31 by any granted extension date shall be grounds for
32 denial of the permit.

33 For purposes of obtaining judicial review under
34 Sections 40.2 and 41 of this Act, the Agency shall

1 provide to USEPA and each applicant, and, upon
2 request, to affected States, any person who
3 participated in the public comment process, and any
4 other person who could obtain judicial review under
5 Sections 40.2 and 41 of this Act, a copy of each
6 CAAPP permit or notification of denial pertaining to
7 that party.

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

12 11. General Permits.

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

17 b. The Agency shall identify, in any general
18 permit, criteria by which sources may qualify for the
19 general permit.

20 c. CAAPP sources that would qualify for a general
21 permit must apply for coverage under the terms of the
22 general permit or must apply for a CAAPP permit
23 consistent with subsection 5 of this Section and
24 applicable regulations.

25 d. The Agency shall comply with the public comment
26 and hearing provisions of this Section as well as the
27 USEPA and affected State review procedures prior to
28 issuance of a general permit.

29 e. When granting a subsequent request by a
30 qualifying CAAPP source for coverage under the terms of a
31 general permit, the Agency shall not be required to
32 repeat the public notice and comment procedures. The
33 granting of such request shall not be considered a final
34 permit action for purposes of judicial review.

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

4 g. 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 12. Operational Flexibility.

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

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

32 A. For each such change, the written
33 notification required above shall include a
34 brief description of the change within the

1 source, the date on which the change will
2 occur, any change in emissions, and any permit
3 term or condition that is no longer applicable
4 as a result of the change.

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

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

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

32 B. The permit shield described in
33 paragraph 7(j) of this Section shall not apply
34 to any change made pursuant to this

1 subparagraph (a) (ii). Compliance with the
2 permit requirements that the source will meet
3 using the emissions trade shall be determined
4 according to the requirements of the applicable
5 implementation plan authorizing the emissions
6 trade.

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

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

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

33 b. An owner or operator of a CAAPP source may make
34 changes that are not addressed or prohibited by the

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

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

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

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

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

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

31 13. Administrative Permit Amendments.

32 a. The Agency shall take final action on a request
33 for an administrative permit amendment within 60 days of
34 receipt of the request. Neither notice nor an

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

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

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

- 11 i. Corrects typographical errors;
- 12 ii. Identifies a change in the name, address,
 13 or phone number of any person identified in the
 14 permit, or provides a similar minor administrative
 15 change at the source;
- 16 iii. Requires more frequent monitoring or
 17 reporting by the permittee;
- 18 iv. Allows for a change in ownership or
 19 operational control of a source where the Agency
 20 determines that no other change in the permit is
 21 necessary, provided that a written agreement
 22 containing a specific date for transfer of permit
 23 responsibility, coverage, and liability between the
 24 current and new permittees has been submitted to the
 25 Agency;
- 26 v. Incorporates into the CAAPP permit the
 27 requirements from preconstruction review permits
 28 authorized under a USEPA-approved program, provided
 29 the program meets procedural and compliance
 30 requirements substantially equivalent to those
 31 contained in this Section;
- 32 vi. ~~(Blank) Incorporates into the CAAPP permit~~
 33 ~~revised limitations or other requirements resulting~~
 34 ~~from the application of an approved economic~~

1 incentives--rule,--a--marketable--permits--rule---or
2 generic--emissions--trading--rule,--where--these--rules
3 have--been--approved--by--USEPA--and--require--changes
4 thereunder----to----meet---procedural---requirements
5 substantially-equivalent-to-those-specified-in--this
6 Section; or

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

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

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

28 f. The CAAPP source may implement the changes
29 addressed in the request for an administrative permit
30 amendment immediately upon submittal of the request.

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

1 14. Permit Modifications.

2 a. Minor permit modification procedures.

3 i. The Agency shall review a permit
4 modification using the "minor permit" modification
5 procedures only for those permit modifications that:

6 A. Do not violate any applicable
7 requirement;

8 B. Do not involve significant changes to
9 existing monitoring, reporting, or
10 recordkeeping requirements in the permit;

11 C. Do not require a case-by-case
12 determination of an emission limitation or
13 other standard, or a source-specific
14 determination of ambient impacts, or a
15 visibility or increment analysis;

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

22 1. A federally enforceable emissions
23 cap assumed to avoid classification as a
24 modification under any provision of Title
25 I of the Clean Air Act; and

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

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

32 F. Are not required to be processed as a
33 significant modification.

34 ii. Notwithstanding subparagraphs (a)(i) and

1 (b)(ii) of this subsection, minor permit
2 modification procedures may be used for permit
3 modifications involving the use of economic
4 incentives, marketable permits, emissions trading,
5 and other similar approaches, to the extent that
6 such minor permit modification procedures are
7 explicitly provided for in an applicable
8 implementation plan or in applicable requirements
9 promulgated by USEPA.

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

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

18 B. The source's suggested draft permit;

19 C. Certification by a responsible
20 official, consistent with paragraph 5(e) of
21 this Section and applicable regulations, that
22 the proposed modification meets the criteria
23 for use of minor permit modification procedures
24 and a request that such procedures be used; and

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

28 iv. Within 5 working days of receipt of a
29 complete permit modification application, the Agency
30 shall notify USEPA and affected States of the
31 requested permit modification in accordance with
32 subsections 8 and 9 of this Section. The Agency
33 promptly shall send any notice required under
34 paragraph 8(d) of this Section to USEPA.

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

12 A. Issue the permit modification as
13 proposed;

14 B. Deny the permit modification
15 application;

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

21 D. Revise the draft permit modification
22 and transmit to USEPA the new proposed permit
23 modification as required by subsection 9 of
24 this Section.

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

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

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

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

27 b. Group Processing of Minor Permit Modifications.

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

34 ii. Permit modifications may be processed in

1 accordance with the procedures for group processing,
2 for those modifications:

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

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

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

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

21 B. The source's suggested draft permit.

22 C. Certification by a responsible
23 official consistent with paragraph 5(e) of this
24 Section, that the proposed modification meets
25 the criteria for use of group processing
26 procedures and a request that such procedures
27 be used.

28 D. A list of the source's other pending
29 applications awaiting group processing, and a
30 determination of whether the requested
31 modification, aggregated with these other
32 applications, equals or exceeds the threshold
33 set under subparagraph (b)(ii)(B) of this
34 subsection.

1 E. Certification, consistent with
2 paragraph 5(e), that the source has notified
3 USEPA of the proposed modification. Such
4 notification need only contain a brief
5 description of the requested modification.

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

9 iv. On a quarterly basis or within 5 business
10 days of receipt of an application demonstrating that
11 the aggregate of a source's pending applications
12 equals or exceeds the threshold level set forth
13 within subparagraph (b)(ii)(B) of this subsection,
14 whichever is earlier, the Agency shall promptly
15 notify USEPA and affected States of the requested
16 permit modifications in accordance with subsections
17 8 and 9 of this Section. The Agency shall send any
18 notice required under paragraph 8(d) of this Section
19 to USEPA.

20 v. The provisions of subparagraph (a)(v) of
21 this subsection shall apply to modifications
22 eligible for group processing, except that the
23 Agency shall take one of the actions specified in
24 subparagraphs (a)(v)(A) through (a)(v)(D) of this
25 subsection within 180 days of receipt of the
26 application or 15 days after the end of USEPA's
27 45-day review period under subsection 9 of this
28 Section, whichever is later.

29 vi. The provisions of subparagraph (a)(vi) of
30 this subsection shall apply to modifications for
31 group processing.

32 vii. The provisions of paragraph 7(j) of this
33 Section shall not apply to modifications eligible
34 for group processing.

1 c. Significant Permit Modifications.

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

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

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

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

32 15. Reopenings for Cause by the Agency.

33 a. Each issued CAAPP permit shall include
34 provisions specifying the conditions under which the

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

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

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

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

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

29 b. In the event that the Agency determines that
30 there are grounds for revoking a CAAPP permit, for cause,
31 consistent with paragraph a of this subsection, it shall
32 file a petition before the Board setting forth the basis
33 for such revocation. In any such proceeding, the Agency
34 shall have the burden of establishing that the permit

1 should be revoked under the standards set forth in this
2 Act and the Clean Air Act. Any such proceeding shall be
3 conducted pursuant to the Board's procedures for
4 adjudicatory hearings and the Board shall render its
5 decision within 120 days of the filing of the petition.
6 The Agency shall take final action to revoke and reissue
7 a CAAPP permit consistent with the Board's order.

8 c. Proceedings regarding a reopened CAAPP permit
9 shall follow the same procedures as apply to initial
10 permit issuance and shall affect only those parts of the
11 permit for which cause to reopen exists.

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

18 e. 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 16. Reopenings for Cause by USEPA.

23 a. When USEPA finds that cause exists to terminate,
24 modify, or revoke and reissue a CAAPP permit pursuant to
25 subsection 15 of this Section, and thereafter notifies
26 the Agency and the permittee of such finding in writing,
27 the Agency shall forward to USEPA and the permittee a
28 proposed determination of termination, modification, or
29 revocation and reissuance as appropriate, in accordance
30 with paragraph b of this subsection. The Agency's
31 proposed determination shall be in accordance with the
32 record, the Clean Air Act, regulations promulgated
33 thereunder, this Act and regulations promulgated
34 thereunder. Such proposed determination shall not affect

1 the permit or constitute a final permit action for
2 purposes of this Act or the Administrative Review Law.
3 The Agency shall forward to USEPA such proposed
4 determination within 90 days after receipt of the
5 notification from USEPA. If additional time is necessary
6 to submit the proposed determination, the Agency shall
7 request a 90-day extension from USEPA and shall submit
8 the proposed determination within 180 days of receipt of
9 notification from USEPA.

10 b. i. Prior to the Agency's submittal to USEPA
11 of a proposed determination to terminate or revoke
12 and reissue the permit, the Agency shall file a
13 petition before the Board setting forth USEPA's
14 objection, the permit record, the Agency's proposed
15 determination, and the justification for its
16 proposed determination. The Board shall conduct a
17 hearing pursuant to the rules prescribed by Section
18 32 of this Act, and the burden of proof shall be on
19 the Agency.

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

33 iii. The Board shall cause a copy of its
34 interim order to be served upon all parties to the

1 proceeding as well as upon USEPA. The Agency shall
2 submit the proposed determination to USEPA in
3 accordance with the Board's Interim Order within 180
4 days after receipt of the notification from USEPA.

5 c. USEPA shall review the proposed determination to
6 terminate, modify, or revoke and reissue the permit
7 within 90 days of receipt.

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

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

28 iii. When USEPA reviews such proposed
29 determination to modify and objects, the Agency
30 shall, within 90 days after receipt of the
31 objection, resolve the objection and modify the
32 permit in accordance with USEPA's objection, based
33 upon the record, the Clean Air Act, regulations
34 promulgated thereunder, this Act, and regulations

1 promulgated thereunder.

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

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

11 17. Title IV; Acid Rain Provisions.

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

28 b. A designated representative of an affected
29 source for acid deposition shall submit a timely and
30 complete Phase II acid rain permit application and
31 compliance plan to the Agency, not later than January 1,
32 1996, that meets the requirements of Titles IV and V of
33 the Clean Air Act and regulations. The Agency shall act
34 on the Phase II acid rain permit application and

1 compliance plan in accordance with this Section and Title
2 V of the Clean Air Act and regulations promulgated
3 thereunder, except as modified by Title IV of the Clean
4 Air Act and regulations promulgated thereunder. The
5 Agency shall issue the Phase II acid rain permit to an
6 affected source for acid deposition no later than
7 December 31, 1997, which shall become effective on
8 January 1, 2000, in accordance with this Section, except
9 as modified by Title IV and regulations promulgated
10 thereunder; provided that the designated representative
11 of the source submitted a timely and complete Phase II
12 permit application and compliance plan to the Agency that
13 meets the requirements of Title IV and V of the Clean Air
14 Act and regulations.

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

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

1 than the date required under Title IV of the Clean Air
2 Act and its regulations.

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

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

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

1 acid rain permit application until a Phase II acid rain
2 permit is issued or denied by the Agency.

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

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

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

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

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

25 j. To the extent that the federal regulations
26 promulgated under Title IV, including but not limited to
27 40 C.F.R. Part 72, as now or hereafter amended, are
28 inconsistent with the federal regulations promulgated
29 under Title V, the federal regulations promulgated under
30 Title IV shall take precedence.

31 k. The USEPA may intervene as a matter of right in
32 any permit appeal involving a Phase II acid rain permit
33 provision or denial of a Phase II acid rain permit.

34 l. It is unlawful for any owner or operator to

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

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

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

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

22 18. Fee Provisions.

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

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

4 ii. The fee for a source allowed to emit 100
5 tons or more per year of any combination of
6 regulated air pollutants, except for those regulated
7 air pollutants excluded in paragraph 18(f) of this
8 subsection, shall be as follows:

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

1 demonstrate compliance with terms of a CAAPP
2 permit.

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

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

31 b. (Blank). ~~For fiscal year 1999 and each fiscal~~
32 ~~year thereafter,~~ to the extent that permit fees collected
33 and deposited in the CAA Permit Fund during that fiscal
34 year exceed 115% of the actual expenditures (excluding

1 permit--fee--reimbursements}-from-the-CAA-Permit-Fund-for
 2 that-fiscal-year-(including-lapse-period--spending)},--the
 3 excess---shall---be---reimbursed--to--the--permittees--in
 4 proportion--to--their--original---fee---payments.----Such
 5 reimbursements--shall-be-made-during-the-next-fiscal-year
 6 and-may-be-made-in-the-form--of--a--credit--against--that
 7 fiscal-year's-permit-fee.

8 c. There shall be created a CAA Fee Panel of 5
 9 persons. The Panel shall:

10 i. If it deems necessary on an annual basis,
 11 render advisory opinions to the Agency and the
 12 General Assembly regarding the appropriate level of
 13 Title V Clean Air Act fees for the next fiscal year.
 14 Such advisory opinions shall be based on a study of
 15 the operations of the Agency and any other entity
 16 requesting appropriations from the CAA Permit Fund.
 17 This study shall recommend changes in the fee
 18 structure, if warranted. The study will be based on
 19 the ability of the Agency or other entity to
 20 effectively utilize the funds generated as well as
 21 the entity's conformance with the objectives and
 22 measurable benchmarks identified by the Agency as
 23 justification for the prior year's fee. Such
 24 advisory opinions shall be submitted to the
 25 appropriation committees no later than April 15th of
 26 each year.

27 ii. Not be compensated for their services, but
 28 shall receive reimbursement for their expenses.

29 iii. Be appointed as follows: 4 members by
 30 the Director of the Agency from a list of no more
 31 than 8 persons, submitted by representatives of
 32 associations who represent facilities subject to the
 33 provisions of this subsection and the Director of
 34 the Agency or designee.

1 d. There is hereby created in the State Treasury a
 2 special fund to be known as the "CAA Permit Fund". All
 3 Funds collected by the Agency pursuant to this subsection
 4 shall be deposited into the Fund. The General Assembly
 5 shall appropriate monies from this Fund to the Agency and
 6 to the Board to carry out their obligations under this
 7 Section. The General Assembly may also authorize monies
 8 to be granted by the Agency from this Fund to other State
 9 and local agencies which perform duties related to the
 10 CAAPP. Interest generated on the monies deposited in this
 11 Fund shall be returned to the Fund. The General Assembly
 12 may appropriate up to the sum of \$25,000 to the Agency
 13 from the CAA Permit Fund for use by the Panel in carrying
 14 out its responsibilities under this subsection.

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

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

- 23 i. carbon monoxide;
- 24 ii. any Class I or II substance which is a
 25 regulated air pollutant solely because it is listed
 26 pursuant to Section 602 of the Clean Air Act; and
- 27 iii. any pollutant that is a regulated air
 28 pollutant solely because it is subject to a standard
 29 or regulation under Section 112(r) of the Clean Air
 30 Act based on the emissions allowed in the permit
 31 effective in that calendar year, at the time the
 32 applicable bill is generated; ~~and~~

33 ~~iv. during the years 1995 through 1999~~
 34 ~~inclusive, any emissions from affected sources for~~

1 acid-deposition-under-Section-408(e)(4)-of-the-Clean
2 Air-Act.

3 19. Air Toxics Provisions.

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

33 b. Any Board proceeding brought under paragraph (a)
34 or (e) of this subsection shall be conducted according to

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

18 c. The Agency shall have the authority to implement
19 and enforce complete or partial emission standards
20 promulgated by USEPA pursuant to Section 112(d), and
21 standards promulgated by USEPA pursuant to Sections
22 112(f), 112(h), 112(m), and 112(n), and may accept
23 delegation of authority from USEPA to implement and
24 enforce Section 112(l) and requirements for the
25 prevention and detection of accidental releases pursuant
26 to Section 112(r) of the Clean Air Act.

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

30 e. The Agency has the authority to implement
31 Section 112(g) of the Clean Air Act consistent with the
32 Clean Air Act and federal regulations promulgated
33 thereunder. If the Agency refuses to include the emission
34 limitations proposed in an application submitted by an

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

10 20. Small Business.

11 a. For purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 3. The State Legislature shall select four
34 members who are owners or representatives of owners

1 of small business stationary sources. Both the
2 majority and minority leadership in both Houses of
3 the Legislature shall appoint one member of the
4 panel.

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

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

13 21. Temporary Sources.

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

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

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

28 22. Solid Waste Incineration Units.

29 a. A CAAPP permit for a solid waste incineration
30 unit combusting municipal waste subject to standards
31 promulgated under Section 129(e) of the Clean Air Act
32 shall be issued for a period of 12 years and shall be
33 reviewed every 5 years, unless the Agency requires more

1 frequent review through Agency procedures.

2 b. During the review in paragraph (a) of this
3 subsection, the Agency shall fully review the previously
4 submitted CAAPP permit application and corresponding
5 reports subsequently submitted to determine whether the
6 source is in compliance with all applicable requirements.

7 c. If the Agency determines that the source is not
8 in compliance with all applicable requirements it shall
9 revise the CAAPP permit as appropriate.

10 d. 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 (Source: P.A. 89-79, eff. 6-30-95; 90-14, eff. 7-1-97;
15 90-367, eff. 8-10-97; 90-773, eff. 8-14-98.)

16 (415 ILCS 5/54.12) (from Ch. 111 1/2, par. 1054.12)

17 Sec. 54.12. "Tire storage site" means a site where used
18 tires are stored or processed, other than (1) the site at
19 which the tires were separated from the vehicle wheel rim,
20 (2) the site where the used tires were accepted in trade as
21 part of a sale of new tires, or (3) a site at which ~~both--new~~
22 ~~and--used~~ tires are sold at retail in the regular course of
23 business, and at which not more than 250 used tires are kept
24 at any time or (4) a facility at which tires are sold at
25 retail provided that the facility maintains less than 1300
26 recyclable tires, 1300 tire carcasses, and 1300 used tires on
27 site and those tires are stored inside a building or so that
28 they are prevented from accumulating water.

29 (Source: P.A. 89-200, eff. 1-1-96.)

30 (415 ILCS 5/54.13) (from Ch. 111 1/2, par. 1054.13)

31 Sec. 54.13. "Used tire" means a worn, damaged, or
32 defective tire that ~~which~~ is not mounted on a vehicle wheel

1 rim.

2 (Source: P.A. 86-452.)

3 (415 ILCS 5/55.3) (from Ch. 111 1/2, par. 1055.3)

4 Sec. 55.3. (a) Upon finding that an accumulation of used
5 or waste tires creates an immediate danger to health, the
6 Agency may take action pursuant to Section 34 of this Act.

7 (b) Upon making a finding that an accumulation of used
8 or waste tires creates a hazard posing a threat to public
9 health or the environment, the Agency may undertake
10 preventive or corrective action in accordance with this
11 subsection. Such preventive or corrective action may consist
12 of any or all of the following:

13 (1) Treating and handling used or waste tires and
14 other infested materials within the area for control of
15 mosquitoes and other disease vectors.

16 (2) Relocation of ignition sources and any used or
17 waste tires within the area for control and prevention of
18 tire fires.

19 (3) Removal of used and waste tire accumulations
20 from the area.

21 (4) Removal of soil and water contamination related
22 to tire accumulations.

23 (5) Installation of devices to monitor and control
24 groundwater and surface water contamination related to
25 tire accumulations.

26 (6) Such other actions as may be authorized by
27 Board regulations.

28 (c) The Agency may, subject to the availability of
29 appropriated funds, undertake a consensual removal action for
30 the removal of up to 1,000 used or waste tires at no cost to
31 the owner according to the following requirements:

32 (1) Actions under this subsection shall be taken
33 pursuant to a written agreement between the Agency and

1 the owner of the tire accumulation.

2 (2) The written agreement shall at a minimum
3 specify:

4 (i) that the owner relinquishes any claim of
5 an ownership interest in any tires that are removed,
6 or in any proceeds from their sale;

7 (ii) that tires will no longer be allowed to
8 be accumulated at the site;

9 (iii) that the owner will hold harmless the
10 Agency or any employee or contractor utilized by the
11 Agency to effect the removal, for any damage to
12 property incurred during the course of action under
13 this subsection, except for gross negligence or
14 intentional misconduct; and

15 (iv) any conditions upon or assistance
16 required from the owner to assure that the tires are
17 so located or arranged as to facilitate their
18 removal.

19 (3) The Agency may by rule establish conditions and
20 priorities for removal of used and waste tires under this
21 subsection.

22 (4) The Agency shall prescribe the form of written
23 agreements under this subsection.

24 (d) The Agency shall have authority to provide notice to
25 the owner or operator, or both, of a site where used or waste
26 tires are located and to the owner or operator, or both, of
27 the accumulation of tires at the site, whenever the Agency
28 finds that the used or waste tires pose a threat to public
29 health or the environment, or that there is no the owner or
30 operator, ~~or both,~~ ~~is not~~ proceeding in accordance with a
31 tire removal agreement approved under Section 55.4.

32 The notice provided by the Agency shall include the
33 identified preventive or corrective action, and shall provide
34 an opportunity for the owner or operator, or both, to perform

1 such action.

2 For sites with more than 250,000 passenger tire
3 equivalents, following the notice provided for by this
4 subsection (d), the Agency may enter into a written
5 reimbursement agreement with the owner or operator of the
6 site. The agreement shall provide a schedule for the owner
7 or operator to reimburse the Agency for costs incurred for
8 preventive or corrective action, which shall not exceed 5
9 years in length. An owner or operator making payments under a
10 written reimbursement agreement pursuant to this subsection
11 (d) shall not be liable for punitive damages under subsection
12 (h) of this Section.

13 (e) In accordance with constitutional limitations, the
14 Agency shall have authority to enter at all reasonable times
15 upon any private or public property for the purpose of taking
16 whatever preventive or corrective action is necessary and
17 appropriate in accordance with the provisions of this
18 Section, including but not limited to removal, processing or
19 treatment of used or waste tires, whenever the Agency finds
20 that used or waste tires pose a threat to public health or
21 the environment.

22 (f) In undertaking preventive, corrective or consensual
23 removal action under this Section the Agency may consider use
24 of the following: rubber reuse alternatives, shredding or
25 other conversion through use of mobile or fixed facilities,
26 energy recovery through burning or incineration, and landfill
27 disposal. To the extent practicable, the Agency shall
28 consult with the Department of Commerce and Community Affairs
29 regarding the availability of alternatives to landfilling
30 used and waste tires, and shall make every reasonable effort
31 to coordinate tire cleanup projects with applicable programs
32 that relate to such alternative practices.

33 (g) Except as otherwise provided in this Section, the
34 owner or operator of any site or accumulation of used or

1 waste tires at which the Agency has undertaken corrective or
2 preventive action under this Section shall be liable for all
3 costs thereof incurred by the State of Illinois, including
4 reasonable costs of collection. Any monies received by the
5 Agency hereunder shall be deposited into the Used Tire
6 Management Fund. The Agency may in its discretion store,
7 dispose of or convey the tires that are removed from an area
8 at which it has undertaken a corrective, preventive or
9 consensual removal action, and may sell or store such tires
10 and other items, including but not limited to rims, that are
11 removed from the area. The net proceeds of any sale shall be
12 credited against the liability incurred by the owner or
13 operator for the costs of any preventive or corrective
14 action.

15 (h) Any person liable to the Agency for costs incurred
16 under subsection (g) of this Section may be liable to the
17 State of Illinois for punitive damages in an amount at least
18 equal to, and not more than 2 times, the costs incurred by
19 the State if such person failed without sufficient cause to
20 take preventive or corrective action pursuant to notice
21 issued under subsection (d) of this Section.

22 (i) There shall be no liability under subsection (g) of
23 this Section for a person otherwise liable who can establish
24 by a preponderance of the evidence that the hazard created by
25 the tires was caused solely by:

- 26 (1) an act of God;
- 27 (2) an act of war; or
- 28 (3) an act or omission of a third party other than
29 an employee or agent, and other than a person whose act
30 or omission occurs in connection with a contractual
31 relationship with the person otherwise liable.

32 For the purposes of this subsection, "contractual
33 relationship" includes, but is not limited to, land
34 contracts, deeds and other instruments transferring title or

1 possession, unless the real property upon which the
2 accumulation is located was acquired by the defendant after
3 the disposal or placement of used or waste tires on, in or at
4 the property and one or more of the following circumstances
5 is also established by a preponderance of the evidence:

6 (A) at the time the defendant acquired the
7 property, the defendant did not know and had no
8 reason to know that any used or waste tires had been
9 disposed of or placed on, in or at the property, and
10 the defendant undertook, at the time of acquisition,
11 all appropriate inquiries into the previous
12 ownership and uses of the property consistent with
13 good commercial or customary practice in an effort
14 to minimize liability;

15 (B) the defendant is a government entity which
16 acquired the property by escheat or through any
17 other involuntary transfer or acquisition, or
18 through the exercise of eminent domain authority by
19 purchase or condemnation; or

20 (C) the defendant acquired the property by
21 inheritance or bequest.

22 (j) Nothing in this Section shall affect or modify the
23 obligations or liability of any person under any other
24 provision of this Act, federal law, or State law, including
25 the common law, for injuries, damages or losses resulting
26 from the circumstances leading to Agency action under this
27 Section.

28 (k) The costs and damages provided for in this Section
29 may be imposed by the Board in an action brought before the
30 Board in accordance with Title VIII of this Act, except that
31 subsection (c) of Section 33 of this Act shall not apply to
32 any such action.

33 (l) The Agency shall, when feasible, consult with the
34 Department of Public Health prior to taking any action to

1 remove or treat an infested tire accumulation for control of
2 mosquitoes or other disease vectors. The Agency may by
3 contract or agreement secure the services of the Department
4 of Public Health, any local public health department, or any
5 other qualified person in treating any such infestation as
6 part of an emergency or preventive action.

7 (m) Neither the State, the Agency, the Board, the
8 Director, nor any State employee shall be liable for any
9 damage or injury arising out of or resulting from any action
10 taken under this Section.

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

12 Section 99. Effective date. This Act takes effect on
13 July 1, 2001."