



Sen. David Koehler

Filed: 3/7/2017

10000SB1943sam001

LRB100 11390 MJP 22717 a

1 AMENDMENT TO SENATE BILL 1943

2 AMENDMENT NO. _____. Amend Senate Bill 1943 on page 5, by
3 replacing lines 20 through 22 with the following:

4 "water before collection, (B) a ~~an Illinois Environmental~~
5 ~~Protection Agency-accredited~~ laboratory described in
6 subdivision (2) of this subsection analyzed the samples in
7 accordance with a test method described in that subdivision,
8 (C) test results were obtained prior to the"; and

9 on page 7, line 2, immediately after "22.29," by inserting
10 "39.5,"; and

11 on page 37, immediately below line 23, by inserting the
12 following:

13 "(415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

14 Sec. 39.5. Clean Air Act Permit Program.

15 1. Definitions. For purposes of this Section:

1 "Administrative permit amendment" means a permit revision
2 subject to subsection 13 of this Section.

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

6 "Affected States" for purposes of formal distribution of a
7 draft CAAPP permit to other States for comments prior to
8 issuance, means all States:

9 (1) Whose air quality may be affected by the source
10 covered by the draft permit and that are contiguous to
11 Illinois; or

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

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

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

26 (1) Any standard or other requirement provided for in

1 the applicable state implementation plan approved or
2 promulgated by USEPA under Title I of the Clean Air Act
3 that implements the relevant requirements of the Clean Air
4 Act, including any revisions to the state Implementation
5 Plan promulgated in 40 CFR Part 52, Subparts A and O and
6 other subparts applicable to Illinois. For purposes of this
7 paragraph (1) of this definition, "any standard or other
8 requirement" means only such standards or requirements
9 directly enforceable against an individual source under
10 the Clean Air Act.

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

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

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

23 (4) Any standard or other requirement under Section 112
24 of the Clean Air Act, including any requirement concerning
25 accident prevention under Section 112(r)(7) of the Clean
26 Air Act.

1 (5) Any standard or other requirement of the acid rain
2 program under Title IV of the Clean Air Act or the
3 regulations promulgated thereunder.

4 (6) Any requirements established pursuant to Section
5 504(b) or Section 114(a) (3) of the Clean Air Act.

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

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

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

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

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

21 (12) Any national ambient air quality standard or
22 increment or visibility requirement under Part C of Title I
23 of the Clean Air Act, but only as it would apply to
24 temporary sources permitted pursuant to Section 504(e) of
25 the Clean Air Act.

26 "Applicable requirement" means all applicable Clean Air

1 Act requirements and any other standard, limitation, or other
2 requirement contained in this Act or regulations promulgated
3 under this Act as applicable to sources of air contaminants
4 (including requirements that have future effective compliance
5 dates).

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

8 "CAAPP application" means an application for a CAAPP
9 permit.

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

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

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

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

1 "Draft CAAPP permit" means the version of a CAAPP permit
2 for which public notice and an opportunity for public comment
3 and hearing is offered by the Agency.

4 "Effective date of the CAAPP" means the date that USEPA
5 approves Illinois' CAAPP.

6 "Emission unit" means any part or activity of a stationary
7 source that emits or has the potential to emit any air
8 pollutant. This term is not meant to alter or affect the
9 definition of the term "unit" for purposes of Title IV of the
10 Clean Air Act.

11 "Federally enforceable" means enforceable by USEPA.

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

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

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

25 "Maximum achievable control technology" or "MACT" means
26 the maximum degree of reductions in emissions deemed achievable

1 under Section 112 of the Clean Air Act.

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

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

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

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

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

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

1 thereunder.

2 "Preconstruction Permit" or "Construction Permit" means a
3 permit which is to be obtained prior to commencing or beginning
4 actual construction or modification of a source or emissions
5 unit.

6 "Proposed CAAPP permit" means the version of a CAAPP permit
7 that the Agency proposes to issue and forwards to USEPA for
8 review in compliance with applicable requirements of the Act
9 and regulations promulgated thereunder.

10 "Regulated air pollutant" means the following:

11 (1) Nitrogen oxides (NOx) or any volatile organic
12 compound.

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

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

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

20 (5) Any pollutant subject to a standard promulgated
21 under Section 112 or other requirements established under
22 Section 112 of the Clean Air Act, including Sections
23 112(g), (j) and (r).

24 (i) Any pollutant subject to requirements under
25 Section 112(j) of the Clean Air Act. Any pollutant
26 listed under Section 112(b) for which the subject

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

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

10 (6) Greenhouse gases.

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

13 "Responsible official" means one of the following:

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

1 (2) For a partnership or sole proprietorship: a general
2 partner or the proprietor, respectively, or in the case of
3 a partnership in which all of the partners are
4 corporations, a duly authorized representative of the
5 partnership if the representative is responsible for the
6 overall operation of one or more manufacturing,
7 production, or operating facilities applying for or
8 subject to a permit and either (i) the facilities employ
9 more than 250 persons or have gross annual sales or
10 expenditures exceeding \$25 million (in second quarter 1980
11 dollars), or (ii) the delegation of authority to such
12 representative is approved in advance by the Agency.

13 (3) For a municipality, State, Federal, or other public
14 agency: either a principal executive officer or ranking
15 elected official. For the purposes of this part, a
16 principal executive officer of a Federal agency includes
17 the chief executive officer having responsibility for the
18 overall operations of a principal geographic unit of the
19 agency (e.g., a Regional Administrator of USEPA).

20 (4) For affected sources for acid deposition:

21 (i) The designated representative shall be the
22 "responsible official" in so far as actions,
23 standards, requirements, or prohibitions under Title
24 IV of the Clean Air Act or the regulations promulgated
25 thereunder are concerned.

26 (ii) The designated representative may also be the

1 "responsible official" for any other purposes with
2 respect to air pollution control.

3 "Section 502(b)(10) changes" means changes that contravene
4 express permit terms. "Section 502(b)(10) changes" do not
5 include changes that would violate applicable requirements or
6 contravene federally enforceable permit terms or conditions
7 that are monitoring (including test methods), recordkeeping,
8 reporting, or compliance certification requirements.

9 "Solid waste incineration unit" means a distinct operating
10 unit of any facility which combusts any solid waste material
11 from commercial or industrial establishments or the general
12 public (including single and multiple residences, hotels, and
13 motels). The term does not include incinerators or other units
14 required to have a permit under Section 3005 of the Solid Waste
15 Disposal Act. The term also does not include (A) materials
16 recovery facilities (including primary or secondary smelters)
17 which combust waste for the primary purpose of recovering
18 metals, (B) qualifying small power production facilities, as
19 defined in Section 3(17)(C) of the Federal Power Act (16 U.S.C.
20 769(17)(C)), or qualifying cogeneration facilities, as defined
21 in Section 3(18)(B) of the Federal Power Act (16 U.S.C.
22 796(18)(B)), which burn homogeneous waste (such as units which
23 burn tires or used oil, but not including refuse-derived fuel)
24 for the production of electric energy or in the case of
25 qualifying cogeneration facilities which burn homogeneous
26 waste for the production of electric energy and steam or forms

1 of useful energy (such as heat) which are used for industrial,
2 commercial, heating or cooling purposes, or (C) air curtain
3 incinerators provided that such incinerators only burn wood
4 wastes, yard waste and clean lumber and that such air curtain
5 incinerators comply with opacity limitations to be established
6 by the USEPA by rule.

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

1 by case basis.

2 "Stationary source" means any building, structure,
3 facility, or installation that emits or may emit any regulated
4 air pollutant or any pollutant listed under Section 112(b) of
5 the Clean Air Act, except those emissions resulting directly
6 from an internal combustion engine for transportation purposes
7 or from a nonroad engine or nonroad vehicle as defined in
8 Section 216 of the Clean Air Act.

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

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

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

23 1.1. Exclusion From the CAAPP.

24 a. An owner or operator of a source which determines
25 that the source could be excluded from the CAAPP may seek

1 such exclusion prior to the date that the CAAPP application
2 for the source is due but in no case later than 9 months
3 after the effective date of the CAAPP through the
4 imposition of federally enforceable conditions limiting
5 the "potential to emit" of the source to a level below the
6 major source threshold for that source as described in
7 paragraph (c) of subsection 2 of this Section, within a
8 State operating permit issued pursuant to subsection (a) of
9 Section 39 of this Act. After such date, an exclusion from
10 the CAAPP may be sought under paragraph (c) of subsection 3
11 of this Section.

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

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

1 the source to a level below the major source threshold for
2 that source as described in paragraph (c) of subsection 2
3 of this Section.

4 d. The Agency shall provide an owner or operator of a
5 source which may be excluded from the CAAPP pursuant to
6 this subsection with reasonable notice that the owner or
7 operator may seek such exclusion.

8 e. The Agency shall provide such sources with the
9 necessary permit application forms.

10 2. Applicability.

11 a. Sources subject to this Section shall include:

12 i. Any major source as defined in paragraph (c) of
13 this subsection.

14 ii. Any source subject to a standard or other
15 requirements promulgated under Section 111 (New Source
16 Performance Standards) or Section 112 (Hazardous Air
17 Pollutants) of the Clean Air Act, except that a source
18 is not required to obtain a permit solely because it is
19 subject to regulations or requirements under Section
20 112(r) of the Clean Air Act.

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

23 iv. Any other source subject to this Section under
24 the Clean Air Act or regulations promulgated
25 thereunder, or applicable Board regulations.

1 b. Sources exempted from this Section shall include:

2 i. All sources listed in paragraph (a) of this
3 subsection that are not major sources, affected
4 sources for acid deposition or solid waste
5 incineration units required to obtain a permit
6 pursuant to Section 129(e) of the Clean Air Act, until
7 the source is required to obtain a CAAPP permit
8 pursuant to the Clean Air Act or regulations
9 promulgated thereunder.

10 ii. Nonmajor sources subject to a standard or other
11 requirements subsequently promulgated by USEPA under
12 Section 111 or 112 of the Clean Air Act that are
13 determined by USEPA to be exempt at the time a new
14 standard is promulgated.

15 iii. All sources and source categories that would
16 be required to obtain a permit solely because they are
17 subject to Part 60, Subpart AAA - Standards of
18 Performance for New Residential Wood Heaters (40 CFR
19 Part 60).

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

25 v. Any other source categories exempted by USEPA
26 regulations pursuant to Section 502(a) of the Clean Air

1 Act.

2 vi. Major sources of greenhouse gas emissions
3 required to obtain a CAAPP permit under this Section if
4 any of the following occurs:

5 (A) enactment of federal legislation depriving
6 the Administrator of the USEPA of authority to
7 regulate greenhouse gases under the Clean Air Act;

8 (B) the issuance of any opinion, ruling,
9 judgment, order, or decree by a federal court
10 depriving the Administrator of the USEPA of
11 authority to regulate greenhouse gases under the
12 Clean Air Act; or

13 (C) action by the President of the United
14 States or the President's authorized agent,
15 including the Administrator of the USEPA, to
16 repeal or withdraw the Greenhouse Gas Tailoring
17 Rule (75 Fed. Reg. 31514, June 3, 2010).

18 If any event listed in this subparagraph (vi)
19 occurs, CAAPP permits issued after such event shall not
20 impose permit terms or conditions addressing
21 greenhouse gases during the effectiveness of any event
22 listed in subparagraph (vi). If any event listed in
23 this subparagraph (vi) occurs, any owner or operator
24 with a CAAPP permit that includes terms or conditions
25 addressing greenhouse gases may elect to submit an
26 application to the Agency to address a revision or

1 repeal of such terms or conditions. If any owner or
2 operator submits such an application, the Agency shall
3 expeditiously process the permit application in
4 accordance with applicable laws and regulations.
5 Nothing in this subparagraph (vi) shall relieve an
6 owner or operator of a source from the requirement to
7 obtain a CAAPP permit for its emissions of regulated
8 air pollutants other than greenhouse gases, as
9 required by this Section.

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

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

14 A. For pollutants other than radionuclides,
15 any stationary source or group of stationary
16 sources located within a contiguous area and under
17 common control that emits or has the potential to
18 emit, in the aggregate, 10 tons per year (tpy) or
19 more of any hazardous air pollutant which has been
20 listed pursuant to Section 112(b) of the Clean Air
21 Act, 25 tpy or more of any combination of such
22 hazardous air pollutants, or such lesser quantity
23 as USEPA may establish by rule. Notwithstanding
24 the preceding sentence, emissions from any oil or
25 gas exploration or production well (with its
26 associated equipment) and emissions from any

1 pipeline compressor or pump station shall not be
2 aggregated with emissions from other similar
3 units, whether or not such units are in a
4 contiguous area or under common control, to
5 determine whether such stations are major sources.

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

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

23 A. Coal cleaning plants (with thermal dryers).

24 B. Kraft pulp mills.

25 C. Portland cement plants.

26 D. Primary zinc smelters.

- 1 E. Iron and steel mills.
- 2 F. Primary aluminum ore reduction plants.
- 3 G. Primary copper smelters.
- 4 H. Municipal incinerators capable of charging
5 more than 250 tons of refuse per day.
- 6 I. Hydrofluoric, sulfuric, or nitric acid
7 plants.
- 8 J. Petroleum refineries.
- 9 K. Lime plants.
- 10 L. Phosphate rock processing plants.
- 11 M. Coke oven batteries.
- 12 N. Sulfur recovery plants.
- 13 O. Carbon black plants (furnace process).
- 14 P. Primary lead smelters.
- 15 Q. Fuel conversion plants.
- 16 R. Sintering plants.
- 17 S. Secondary metal production plants.
- 18 T. Chemical process plants.
- 19 U. Fossil-fuel boilers (or combination
20 thereof) totaling more than 250 million British
21 thermal units per hour heat input.
- 22 V. Petroleum storage and transfer units with a
23 total storage capacity exceeding 300,000 barrels.
- 24 W. Taconite ore processing plants.
- 25 X. Glass fiber processing plants.
- 26 Y. Charcoal production plants.

1 Z. Fossil fuel-fired steam electric plants of
2 more than 250 million British thermal units per
3 hour heat input.

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

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

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

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

1 remain subject to the major source criteria of
2 subparagraph (ii) of paragraph (c) of this
3 subsection.

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

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

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

18 3. Agency Authority To Issue CAAPP Permits and Federally
19 Enforceable State Operating Permits.

20 a. The Agency shall issue CAAPP permits under this
21 Section consistent with the Clean Air Act and regulations
22 promulgated thereunder and this Act and regulations
23 promulgated thereunder.

24 b. The Agency shall issue CAAPP permits for fixed terms
25 of 5 years, except CAAPP permits issued for solid waste

1 incineration units combusting municipal waste which shall
2 be issued for fixed terms of 12 years and except CAAPP
3 permits for affected sources for acid deposition which
4 shall be issued for initial terms to expire on December 31,
5 1999, and for fixed terms of 5 years thereafter.

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

19 d. For purposes of this Act, a permit issued by USEPA
20 under Section 505 of the Clean Air Act, as now and
21 hereafter amended, shall be deemed to be a permit issued by
22 the Agency pursuant to Section 39.5 of this Act.

23 4. Transition.

24 a. An owner or operator of a CAAPP source shall not be
25 required to renew an existing State operating permit for

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

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

22 c. An owner or operator of a CAAPP source shall submit
23 its initial CAAPP application to the Agency no later than
24 12 months after the effective date of the CAAPP. The Agency
25 may request submittal of initial CAAPP applications during
26 this 12-month period according to a schedule set forth

1 within Agency procedures, however, in no event shall the
2 Agency require such submittal earlier than 3 months after
3 such effective date of the CAAPP. An owner or operator may
4 voluntarily submit its initial CAAPP application prior to
5 the date required within this paragraph or applicable
6 procedures, if any, subsequent to the date the Agency
7 submits the CAAPP to USEPA for approval.

8 d. The Agency shall act on initial CAAPP applications
9 in accordance with paragraph (j) of subsection 5 of this
10 Section.

11 e. For purposes of this Section, the term "initial
12 CAAPP application" shall mean the first CAAPP application
13 submitted for a source existing as of the effective date of
14 the CAAPP.

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

23 g. The CAAPP permit shall upon becoming effective
24 supersede the State operating permit.

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

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

3 5. Applications and Completeness.

4 a. An owner or operator of a CAAPP source shall submit
5 its complete CAAPP application consistent with the Act and
6 applicable regulations.

7 b. An owner or operator of a CAAPP source shall submit
8 a single complete CAAPP application covering all emission
9 units at that source.

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

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

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

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

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

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

1 apply.

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

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

26 Where the Agency does not take final action on the

1 permit within the required time period, the permit shall
2 not be deemed issued; rather, the failure to act shall be
3 treated as a final permit action for purposes of judicial
4 review pursuant to Sections 40.2 and 41 of this Act.

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

8 l. Unless a timely and complete renewal application has
9 been submitted consistent with this subsection, a CAAPP
10 source operating upon the expiration of its CAAPP permit
11 shall be deemed to be operating without a CAAPP permit.
12 Such operation is prohibited under this Act.

13 m. Permits being renewed shall be subject to the same
14 procedural requirements, including those for public
15 participation and federal review and objection, that apply
16 to original permit issuance.

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

20 o. The terms and conditions of a CAAPP permit shall
21 remain in effect until the issuance of a CAAPP renewal
22 permit provided a timely and complete CAAPP application has
23 been submitted.

24 p. The owner or operator of a CAAPP source seeking a
25 permit shield pursuant to paragraph (j) of subsection 7 of
26 this Section shall request such permit shield in the CAAPP

1 application regarding that source.

2 q. The Agency shall make available to the public all
3 documents submitted by the applicant to the Agency,
4 including each CAAPP application, compliance plan
5 (including the schedule of compliance), and emissions or
6 compliance monitoring report, with the exception of
7 information entitled to confidential treatment pursuant to
8 Section 7 of this Act.

9 r. The Agency shall use the standardized forms required
10 under Title IV of the Clean Air Act and regulations
11 promulgated thereunder for affected sources for acid
12 deposition.

13 s. An owner or operator of a CAAPP source may include
14 within its CAAPP application a request for permission to
15 operate during a startup, malfunction, or breakdown
16 consistent with applicable Board regulations.

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

22 u. An owner or operator of a CAAPP source which seeks
23 exclusion from the CAAPP through the imposition of
24 federally enforceable conditions, pursuant to paragraph
25 (c) of subsection 3 of this Section, must request such
26 exclusion within a CAAPP application submitted consistent

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

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

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

26 x. The owner or operator of a new CAAPP source shall

1 submit its complete CAAPP application consistent with this
2 subsection within 12 months after commencing operation of
3 such source. The owner or operator of an existing source
4 that has been excluded from the provisions of this Section
5 under subsection 1.1 or paragraph (c) of subsection 3 of
6 this Section and that becomes subject to the CAAPP solely
7 due to a change in operation at the source shall submit its
8 complete CAAPP application consistent with this subsection
9 at least 180 days before commencing operation in accordance
10 with the change in operation.

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

15 6. Prohibitions.

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

1 b. After the applicable CAAPP permit or renewal
2 application submittal date, as specified in subsection 5 of
3 this Section, no person shall operate a CAAPP source
4 without a CAAPP permit unless the complete CAAPP permit or
5 renewal application for such source has been timely
6 submitted to the Agency.

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

15 7. Permit Content.

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

23 b. The Agency shall include among such conditions
24 applicable monitoring, reporting, record keeping and
25 compliance certification requirements, as authorized by

1 paragraphs (d), (e), and (f) of this subsection, that the
2 Agency deems necessary to assure compliance with the Clean
3 Air Act, the regulations promulgated thereunder, this Act,
4 and applicable Board regulations. When monitoring,
5 reporting, record keeping, and compliance certification
6 requirements are specified within the Clean Air Act,
7 regulations promulgated thereunder, this Act, or
8 applicable regulations, such requirements shall be
9 included within the CAAPP permit. The Board shall have
10 authority to promulgate additional regulations where
11 necessary to accomplish the purposes of the Clean Air Act,
12 this Act, and regulations promulgated thereunder.

13 c. The Agency shall assure, within such conditions, the
14 use of terms, test methods, units, averaging periods, and
15 other statistical conventions consistent with the
16 applicable emission limitations, standards, and other
17 requirements contained in the permit.

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

20 i. Incorporate and identify all applicable
21 emissions monitoring and analysis procedures or test
22 methods required under the Clean Air Act, regulations
23 promulgated thereunder, this Act, and applicable Board
24 regulations, including any procedures and methods
25 promulgated by USEPA pursuant to Section 504(b) or
26 Section 114 (a) (3) of the Clean Air Act.

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

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

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

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

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

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

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

26 D. The analytical techniques or methods used.

1 E. The results of such analyses.

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

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

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

25 ii. Prompt reporting of deviations from permit
26 requirements, including those attributable to upset

1 conditions as defined in the permit, the probable cause
2 of such deviations, and any corrective actions or
3 preventive measures taken.

4 g. Each CAAPP permit issued under subsection 10 of this
5 Section shall include a condition prohibiting emissions
6 exceeding any allowances that the source lawfully holds
7 under Title IV of the Clean Air Act or the regulations
8 promulgated thereunder, consistent with subsection 17 of
9 this Section and applicable regulations, if any.

10 h. All CAAPP permits shall state that, where another
11 applicable requirement of the Clean Air Act is more
12 stringent than any applicable requirement of regulations
13 promulgated under Title IV of the Clean Air Act, both
14 provisions shall be incorporated into the permit and shall
15 be State and federally enforceable.

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

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

22 i. The Agency shall include in a CAAPP permit, when
23 requested by an applicant pursuant to paragraph (p) of
24 subsection 5 of this Section, a provision stating that
25 compliance with the conditions of the permit shall be
26 deemed compliance with applicable requirements which

1 are applicable as of the date of release of the
2 proposed permit, provided that:

3 A. The applicable requirement is specifically
4 identified within the permit; or

5 B. The Agency in acting on the CAAPP
6 application or revision determines in writing that
7 other requirements specifically identified are not
8 applicable to the source, and the permit includes
9 that determination or a concise summary thereof.

10 ii. The permit shall identify the requirements for
11 which the source is shielded. The shield shall not
12 extend to applicable requirements which are
13 promulgated after the date of release of the proposed
14 permit unless the permit has been modified to reflect
15 such new requirements.

16 iii. A CAAPP permit which does not expressly
17 indicate the existence of a permit shield shall not
18 provide such a shield.

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

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

24 B. The liability of an owner or operator of a
25 source for any violation of applicable
26 requirements prior to or at the time of permit

1 issuance.

2 C. The applicable requirements of the acid
3 rain program consistent with Section 408(a) of the
4 Clean Air Act.

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

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

16 i. An emergency occurred and the permittee can
17 identify the cause(s) of the emergency.

18 ii. The permitted facility was at the time being
19 properly operated.

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

26 iv. During the period of the emergency the

1 permittee took all reasonable steps to minimize levels
2 of emissions that exceeded the emission limitations,
3 standards, or requirements in the permit.

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

15 In any enforcement proceeding, the permittee seeking
16 to establish the occurrence of an emergency has the burden
17 of proof. This provision is in addition to any emergency or
18 upset provision contained in any applicable requirement.
19 This provision does not relieve a permittee of any
20 reporting obligations under existing federal or state laws
21 or regulations.

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

24 i. Terms and conditions for reasonably anticipated
25 operating scenarios identified by the source in its
26 application. The permit terms and conditions for each

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

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

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

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

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

22 B. Must meet all applicable requirements;

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

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

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

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

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

1 ii. Need to halt or reduce activity not a defense.
2 It shall not be a defense for a permittee in an
3 enforcement action that it would have been necessary to
4 halt or reduce the permitted activity in order to
5 maintain compliance with the conditions of this
6 permit.

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

15 iv. Property rights. The permit does not convey any
16 property rights of any sort, or any exclusive
17 privilege.

18 v. Duty to provide information. The permittee
19 shall furnish to the Agency within a reasonable time
20 specified by the Agency any information that the Agency
21 may request in writing to determine whether cause
22 exists for modifying, revoking and reissuing, or
23 terminating the permit or to determine compliance with
24 the permit. Upon request, the permittee shall also
25 furnish to the Agency copies of records required to be
26 kept by the permit or, for information claimed to be

1 confidential, the permittee may furnish such records
2 directly to USEPA along with a claim of
3 confidentiality.

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

8 vii. Emissions trading. No permit revision shall
9 be required for increases in emissions allowed under
10 any approved economic incentives, marketable permits,
11 emissions trading, and other similar programs or
12 processes for changes that are provided for in the
13 permit and that are authorized by the applicable
14 requirement.

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

18 i. Compliance certification, testing, monitoring,
19 reporting, and record keeping requirements sufficient
20 to assure compliance with the terms and conditions of
21 the permit. Any document (including reports) required
22 by a CAAPP permit shall contain a certification by a
23 responsible official that meets the requirements of
24 subsection 5 of this Section and applicable
25 regulations.

26 ii. Inspection and entry requirements that

1 necessitate that, upon presentation of credentials and
2 other documents as may be required by law and in
3 accordance with constitutional limitations, the
4 permittee shall allow the Agency, or an authorized
5 representative to perform the following:

6 A. Enter upon the permittee's premises where a
7 CAAPP source is located or emissions-related
8 activity is conducted, or where records must be
9 kept under the conditions of the permit.

10 B. Have access to and copy, at reasonable
11 times, any records that must be kept under the
12 conditions of the permit.

13 C. Inspect at reasonable times any facilities,
14 equipment (including monitoring and air pollution
15 control equipment), practices, or operations
16 regulated or required under the permit.

17 D. Sample or monitor any substances or
18 parameters at any location:

19 1. As authorized by the Clean Air Act, at
20 reasonable times, for the purposes of assuring
21 compliance with the CAAPP permit or applicable
22 requirements; or

23 2. As otherwise authorized by this Act.

24 iii. A schedule of compliance consistent with
25 subsection 5 of this Section and applicable
26 regulations.

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

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

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

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

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

1 B. A means for assessing or monitoring the
2 compliance of the source with its emissions
3 limitations, standards, and work practices.

4 C. A requirement that the compliance
5 certification include the following:

6 1. The identification of each term or
7 condition contained in the permit that is the
8 basis of the certification.

9 2. The compliance status.

10 3. Whether compliance was continuous or
11 intermittent.

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

16 D. A requirement that all compliance
17 certifications be submitted to ~~USEPA as well as to~~
18 the Agency.

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

22 F. Other provisions as the Agency may require.

23 q. If the owner or operator of CAAPP source can
24 demonstrate in its CAAPP application, including an
25 application for a significant modification, that an
26 alternative emission limit would be equivalent to that

1 contained in the applicable Board regulations, the Agency
2 shall include the alternative emission limit in the CAAPP
3 permit, which shall supersede the emission limit set forth
4 in the applicable Board regulations, and shall include
5 conditions that insure that the resulting emission limit is
6 quantifiable, accountable, enforceable, and based on
7 replicable procedures.

8 8. Public Notice; Affected State Review.

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

14 b. The Agency shall prepare a draft CAAPP permit and a
15 statement that sets forth the legal and factual basis for
16 the draft CAAPP permit conditions, including references to
17 the applicable statutory or regulatory provisions. The
18 Agency shall provide this statement to any person who
19 requests it.

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

24 d. The Agency, as part of its submittal of a proposed
25 permit to USEPA (or as soon as possible after the submittal

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

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

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

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

3 g. If requested by the permit applicant, the Agency
4 shall provide the permit applicant with a copy of the draft
5 CAAPP permit prior to any public review period. If
6 requested by the permit applicant, the Agency shall provide
7 the permit applicant with a copy of the final CAAPP permit
8 prior to issuance of the CAAPP permit.

9 9. USEPA Notice and Objection.

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

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

1 information.

2 c. If USEPA objects in writing to the issuance of the
3 proposed CAAPP permit within the 45-day period, the Agency
4 shall respond in writing and may revise and resubmit the
5 proposed CAAPP permit in response to the stated objection,
6 to the extent supported by the record, within 90 days after
7 the date of the objection. Prior to submitting a revised
8 permit to USEPA, the Agency shall provide the applicant and
9 any person who participated in the public comment process,
10 pursuant to subsection 8 of this Section, with a 10-day
11 period to comment on any revision which the Agency is
12 proposing to make to the permit in response to USEPA's
13 objection in accordance with Agency procedures.

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

25 e. If USEPA does not object in writing to issuance of a
26 permit under this subsection, any person may petition USEPA

1 within 60 days after expiration of the 45-day review period
2 to make such objection.

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

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

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

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

3 10. Final Agency Action.

4 a. The Agency shall issue a CAAPP permit, permit
5 modification, or permit renewal if all of the following
6 conditions are met:

7 i. The applicant has submitted a complete and
8 certified application for a permit, permit
9 modification, or permit renewal consistent with
10 subsections 5 and 14 of this Section, as applicable,
11 and applicable regulations.

12 ii. The applicant has submitted with its complete
13 application an approvable compliance plan, including a
14 schedule for achieving compliance, consistent with
15 subsection 5 of this Section and applicable
16 regulations.

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

20 iv. The Agency has received a complete CAAPP
21 application and, if necessary, has requested and
22 received additional information from the applicant
23 consistent with subsection 5 of this Section and
24 applicable regulations.

25 v. The Agency has complied with all applicable

1 provisions regarding public notice and affected State
2 review consistent with subsection 8 of this Section and
3 applicable regulations.

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

10 b. The Agency shall have the authority to deny a CAAPP
11 permit, permit modification, or permit renewal if the
12 applicant has not complied with the requirements of
13 subparagraphs (i) through (iv) of paragraph (a) of this
14 subsection or if USEPA objects to its issuance.

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

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

25 iii. Failure by the applicant to adequately
26 respond by the date specified in the notification or by

1 any granted extension date shall be grounds for denial
2 of the permit.

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

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

15 11. General Permits.

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

20 b. The Agency shall identify, in any general permit,
21 criteria by which sources may qualify for the general
22 permit.

23 c. CAAPP sources that would qualify for a general
24 permit must apply for coverage under the terms of the
25 general permit or must apply for a CAAPP permit consistent

1 with subsection 5 of this Section and applicable
2 regulations.

3 d. The Agency shall comply with the public comment and
4 hearing provisions of this Section as well as the USEPA and
5 affected State review procedures prior to issuance of a
6 general permit.

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

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

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

20 12. Operational Flexibility.

21 a. An owner or operator of a CAAPP source may make
22 changes at the CAAPP source without requiring a prior
23 permit revision, consistent with subparagraphs (i) through
24 (iii) of paragraph (a) of this subsection, so long as the
25 changes are not modifications under any provision of Title

1 I of the Clean Air Act and they do not exceed the emissions
2 allowable under the permit (whether expressed therein as a
3 rate of emissions or in terms of total emissions), provided
4 that the owner or operator of the CAAPP source provides
5 USEPA and the Agency with written notification as required
6 below in advance of the proposed changes, which shall be a
7 minimum of 7 days, unless otherwise provided by the Agency
8 in applicable regulations regarding emergencies. The owner
9 or operator of a CAAPP source and the Agency shall each
10 attach such notice to their copy of the relevant permit.

11 i. An owner or operator of a CAAPP source may make
12 Section 502 (b) (10) changes without a permit revision,
13 if the changes are not modifications under any
14 provision of Title I of the Clean Air Act and the
15 changes do not exceed the emissions allowable under the
16 permit (whether expressed therein as a rate of
17 emissions or in terms of total emissions).

18 A. For each such change, the written
19 notification required above shall include a brief
20 description of the change within the source, the
21 date on which the change will occur, any change in
22 emissions, and any permit term or condition that is
23 no longer applicable as a result of the change.

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

1 ii. An owner or operator of a CAAPP source may
2 trade increases and decreases in emissions in the CAAPP
3 source, where the applicable implementation plan
4 provides for such emission trades without requiring a
5 permit revision. This provision is available in those
6 cases where the permit does not already provide for
7 such emissions trading.

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

24 B. The permit shield described in paragraph
25 (j) of subsection 7 of this Section shall not apply
26 to any change made pursuant to subparagraph (ii) of

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

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

1 B. The permit shield described in paragraph
2 (j) of subsection 7 of this Section shall extend to
3 terms and conditions that allow such increases and
4 decreases in emissions.

5 b. An owner or operator of a CAAPP source may make
6 changes that are not addressed or prohibited by the permit,
7 other than those which are subject to any requirements
8 under Title IV of the Clean Air Act or are modifications
9 under any provisions of Title I of the Clean Air Act,
10 without a permit revision, in accordance with the following
11 requirements:

12 (i) Each such change shall meet all applicable
13 requirements and shall not violate any existing permit
14 term or condition;

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

23 (iii) The change shall not qualify for the shield
24 described in paragraph (j) of subsection 7 of this
25 Section; and

26 (iv) The permittee shall keep a record describing

1 changes made at the source that result in emissions of
2 a regulated air pollutant subject to an applicable
3 Clean Air Act requirement, but not otherwise regulated
4 under the permit, and the emissions resulting from
5 those changes.

6 c. 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 13. Administrative Permit Amendments.

11 a. The Agency shall take final action on a request for
12 an administrative permit amendment within 60 days after
13 receipt of the request. Neither notice nor an opportunity
14 for public and affected State comment shall be required for
15 the Agency to incorporate such revisions, provided it
16 designates the permit revisions as having been made
17 pursuant to this subsection.

18 b. The Agency shall submit a copy of the revised permit
19 to USEPA.

20 c. For purposes of this Section the term
21 "administrative permit amendment" shall be defined as a
22 permit revision that can accomplish one or more of the
23 changes described below:

24 i. Corrects typographical errors;

25 ii. Identifies a change in the name, address, or

1 phone number of any person identified in the permit, or
2 provides a similar minor administrative change at the
3 source;

4 iii. Requires more frequent monitoring or
5 reporting by the permittee;

6 iv. Allows for a change in ownership or operational
7 control of a source where the Agency determines that no
8 other change in the permit is necessary, provided that
9 a written agreement containing a specific date for
10 transfer of permit responsibility, coverage, and
11 liability between the current and new permittees has
12 been submitted to the Agency;

13 v. Incorporates into the CAAPP permit the
14 requirements from preconstruction review permits
15 authorized under a USEPA-approved program, provided
16 the program meets procedural and compliance
17 requirements substantially equivalent to those
18 contained in this Section;

19 vi. (Blank); or

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

23 d. The Agency shall, upon taking final action granting
24 a request for an administrative permit amendment, allow
25 coverage by the permit shield in paragraph (j) of
26 subsection 7 of this Section for administrative permit

1 amendments made pursuant to subparagraph (v) of paragraph
2 (c) of this subsection which meet the relevant requirements
3 for significant permit modifications.

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

14 f. The CAAPP source may implement the changes addressed
15 in the request for an administrative permit amendment
16 immediately upon submittal of the request.

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

21 14. Permit Modifications.

22 a. Minor permit modification procedures.

23 i. The Agency shall review a permit modification
24 using the "minor permit" modification procedures only
25 for those permit modifications that:

1 A. Do not violate any applicable requirement;

2 B. Do not involve significant changes to
3 existing monitoring, reporting, or recordkeeping
4 requirements in the permit;

5 C. Do not require a case-by-case determination
6 of an emission limitation or other standard, or a
7 source-specific determination of ambient impacts,
8 or a visibility or increment analysis;

9 D. Do not seek to establish or change a permit
10 term or condition for which there is no
11 corresponding underlying requirement and which
12 avoids an applicable requirement to which the
13 source would otherwise be subject. Such terms and
14 conditions include:

15 1. A federally enforceable emissions cap
16 assumed to avoid classification as a
17 modification under any provision of Title I of
18 the Clean Air Act; and

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

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

24 F. Are not required to be processed as a
25 significant modification.

26 ii. Notwithstanding subparagraph (i) of paragraph

1 (a) and subparagraph (ii) of paragraph (b) of this
2 subsection, minor permit modification procedures may
3 be used for permit modifications involving the use of
4 economic incentives, marketable permits, emissions
5 trading, and other similar approaches, to the extent
6 that 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 shall
13 include the following in its application:

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

17 B. The source's suggested draft permit;

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

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

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

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

19 A. Issue the permit modification as proposed;

20 B. Deny the permit modification application;

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

25 D. Revise the draft permit modification and
26 transmit to USEPA the new proposed permit

1 modification as required by subsection 9 of this
2 Section.

3 vi. Any CAAPP source may make the change proposed
4 in its minor permit modification application
5 immediately after it files such application. After the
6 CAAPP source makes the change allowed by the preceding
7 sentence, and until the Agency takes any of the actions
8 specified in items (A) through (C) of subparagraph (v)
9 of paragraph (a) of this subsection, the source must
10 comply with both the applicable requirements governing
11 the change and the proposed permit terms and
12 conditions. During this time period, the source need
13 not comply with the existing permit terms and
14 conditions it seeks to modify. If the source fails to
15 comply with its proposed permit terms and conditions
16 during this time period, the existing permit terms and
17 conditions which it seeks to modify may be enforced
18 against it.

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

22 viii. If a construction permit is required,
23 pursuant to subsection (a) of Section 39 of this Act
24 and regulations thereunder, for a change for which the
25 minor permit modification procedures are applicable,
26 the source may request that the processing of the

1 construction permit application be consolidated with
2 the processing of the application for the minor permit
3 modification. In such cases, the provisions of this
4 Section, including those within subsections 5, 8, and
5 9, shall apply and the Agency shall act on such
6 applications pursuant to subparagraph (v) of paragraph
7 (a) of subsection 14 of this Section. The source may
8 make the proposed change immediately after filing its
9 application for the minor permit modification. Nothing
10 in this subparagraph shall otherwise affect the
11 requirements and procedures applicable to construction
12 permits.

13 b. Group Processing of Minor Permit Modifications.

14 i. Where requested by an applicant within its
15 application, the Agency shall process groups of a
16 source's applications for certain modifications
17 eligible for minor permit modification processing in
18 accordance with the provisions of this paragraph (b).

19 ii. Permit modifications may be processed in
20 accordance with the procedures for group processing,
21 for those modifications:

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

25 B. That collectively are below 10 percent of
26 the emissions allowed by the permit for the

1 emissions unit for which change is requested, 20
2 percent of the applicable definition of major
3 source set forth in subsection 2 of this Section,
4 or 5 tons per year, whichever is least.

5 iii. An applicant requesting the use of group
6 processing procedures shall meet the requirements of
7 subsection 5 of this Section and shall include the
8 following in its application:

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

12 B. The source's suggested draft permit.

13 C. Certification by a responsible official
14 consistent with paragraph (e) of subsection 5 of
15 this Section, that the proposed modification meets
16 the criteria for use of group processing
17 procedures and a request that such procedures be
18 used.

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

26 E. Certification, consistent with paragraph

1 (e) of subsection 5 of this Section, that the
2 source has notified USEPA of the proposed
3 modification. Such notification need only contain
4 a brief description of the requested modification.

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

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

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

1 whichever is later.

2 vi. The provisions of subparagraph (vi) of
3 paragraph (a) of this subsection shall apply to
4 modifications for group processing.

5 vii. The provisions of paragraph (j) of subsection
6 7 of this Section shall not apply to modifications
7 eligible for group processing.

8 c. Significant Permit Modifications.

9 i. Significant modification procedures shall be
10 used for applications requesting significant permit
11 modifications and for those applications that do not
12 qualify as either minor permit modifications or as
13 administrative permit amendments.

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

25 iii. Significant permit modifications must meet
26 all the requirements of this Section, including those

1 for applications (including completeness review),
2 public participation, review by affected States, and
3 review by USEPA applicable to initial permit issuance
4 and permit renewal. The Agency shall take final action
5 on significant permit modifications within 9 months
6 after receipt of a complete application.

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

12 a. Each issued CAAPP permit shall include provisions
13 specifying the conditions under which the permit will be
14 reopened prior to the expiration of the permit. Such
15 revisions shall be made as expeditiously as practicable. A
16 CAAPP permit shall be reopened and revised under any of the
17 following circumstances, in accordance with procedures
18 adopted by the Agency:

19 i. Additional requirements under the Clean Air Act
20 become applicable to a major CAAPP source for which 3
21 or more years remain on the original term of the
22 permit. Such a reopening shall be completed not later
23 than 18 months after the promulgation of the applicable
24 requirement. No such revision is required if the
25 effective date of the requirement is later than the

1 date on which the permit is due to expire.

2 ii. Additional requirements (including excess
3 emissions requirements) become applicable to an
4 affected source for acid deposition under the acid rain
5 program. Excess emissions offset plans shall be deemed
6 to be incorporated into the permit upon approval by
7 USEPA.

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

13 iv. The Agency or USEPA determines that the permit
14 must be revised or revoked to assure compliance with
15 the applicable requirements.

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

1 Agency shall take final action to revoke and reissue a
2 CAAPP permit consistent with the Board's order.

3 c. Proceedings regarding a reopened CAAPP permit shall
4 follow the same procedures as apply to initial permit
5 issuance and shall affect only those parts of the permit
6 for which cause to reopen exists.

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

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

17 16. Reopenings for Cause by USEPA.

18 a. When USEPA finds that cause exists to terminate,
19 modify, or revoke and reissue a CAAPP permit pursuant to
20 subsection 15 of this Section, and thereafter notifies the
21 Agency and the permittee of such finding in writing, the
22 Agency shall forward to USEPA and the permittee a proposed
23 determination of termination, modification, or revocation
24 and reissuance as appropriate, in accordance with
25 paragraph (b) of this subsection. The Agency's proposed

1 determination shall be in accordance with the record, the
2 Clean Air Act, regulations promulgated thereunder, this
3 Act and regulations promulgated thereunder. Such proposed
4 determination shall not affect the permit or constitute a
5 final permit action for purposes of this Act or the
6 Administrative Review Law. The Agency shall forward to
7 USEPA such proposed determination within 90 days after
8 receipt of the notification from USEPA. If additional time
9 is necessary to submit the proposed determination, the
10 Agency shall request a 90-day extension from USEPA and
11 shall submit the proposed determination within 180 days
12 after receipt of notification from USEPA.

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

22 ii. After due consideration of the written and oral
23 statements, the testimony and arguments that shall be
24 submitted at hearing, the Board shall issue and enter
25 an interim order for the proposed determination, which
26 shall set forth all changes, if any, required in the

1 Agency's proposed determination. The interim order
2 shall comply with the requirements for final orders as
3 set forth in Section 33 of this Act. Issuance of an
4 interim order by the Board under this paragraph,
5 however, shall not affect the permit status and does
6 not constitute a final action for purposes of this Act
7 or the Administrative Review Law.

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

14 c. USEPA shall review the proposed determination to
15 terminate, modify, or revoke and reissue the permit within
16 90 days after receipt.

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

24 ii. When USEPA reviews such proposed determination
25 to terminate or revoke and reissue and objects, the
26 Agency shall submit USEPA's objection and the Agency's

1 comments and recommendation on the objection to the
2 Board and permittee. The Board shall review its interim
3 order in response to USEPA's objection and the Agency's
4 comments and recommendation and issue a final order in
5 accordance with Sections 32 and 33 of this Act. The
6 Agency shall, within 90 days after receipt of such
7 objection, respond to USEPA's objection in accordance
8 with the Board's final order.

9 iii. When USEPA reviews such proposed
10 determination to modify and objects, the Agency shall,
11 within 90 days after receipt of the objection, resolve
12 the objection and modify the permit in accordance with
13 USEPA's objection, based upon the record, the Clean Air
14 Act, regulations promulgated thereunder, this Act, and
15 regulations promulgated thereunder.

16 d. If the Agency fails to submit the proposed
17 determination pursuant to paragraph a of this subsection or
18 fails to resolve any USEPA objection pursuant to paragraph
19 c of this subsection, USEPA will terminate, modify, or
20 revoke and reissue the permit.

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

25 17. Title IV; Acid Rain Provisions.

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

16 b. A designated representative of an affected source
17 for acid deposition shall submit a timely and complete
18 Phase II acid rain permit application and compliance plan
19 to the Agency, not later than January 1, 1996, that meets
20 the requirements of Titles IV and V of the Clean Air Act
21 and regulations. The Agency shall act on the Phase II acid
22 rain permit application and compliance plan in accordance
23 with this Section and Title V of the Clean Air Act and
24 regulations promulgated thereunder, except as modified by
25 Title IV of the Clean Air Act and regulations promulgated
26 thereunder. The Agency shall issue the Phase II acid rain

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

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

16 d. A designated representative of a new unit, as
17 defined in Section 402 of the Clean Air Act, shall submit a
18 timely and complete Phase II acid rain permit application
19 and compliance plan that meets the requirements of Titles
20 IV and V of the Clean Air Act and its regulations. The
21 Agency shall act on the new unit's Phase II acid rain
22 permit application and compliance plan in accordance with
23 this Section and Title V of the Clean Air Act and its
24 regulations, except as modified by Title IV of the Clean
25 Air Act and its regulations. The Agency shall reopen the
26 new unit's CAAPP permit for cause to incorporate the

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

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

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

24 g. In the case of an affected source for acid
25 deposition for which a complete Phase II acid rain permit
26 application and compliance plan are timely received under

1 this subsection, the complete permit application and
2 compliance plan, including amendments thereto, shall be
3 binding on the owner, operator and designated
4 representative, all affected units for acid deposition at
5 the affected source, and any other unit, as defined in
6 Section 402 of the Clean Air Act, governed by the Phase II
7 acid rain permit application and shall be enforceable as an
8 acid rain permit for purposes of Titles IV and V of the
9 Clean Air Act, from the date of submission of the acid rain
10 permit application until a Phase II acid rain permit is
11 issued or denied by the Agency.

12 h. The Agency shall not include or implement any
13 measure which would interfere with or modify the
14 requirements of Title IV of the Clean Air Act or
15 regulations promulgated thereunder.

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

20 i. No permit revision shall be required for
21 increases in emissions that are authorized by
22 allowances acquired pursuant to the acid rain program,
23 provided that such increases do not require a permit
24 revision under any other applicable requirement.

25 ii. No limit shall be placed on the number of
26 allowances held by the source. The source may not,

1 however, use allowances as a defense to noncompliance
2 with any other applicable requirement.

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

6 j. To the extent that the federal regulations
7 promulgated under Title IV, including but not limited to 40
8 C.F.R. Part 72, as now or hereafter amended, are
9 inconsistent with the federal regulations promulgated
10 under Title V, the federal regulations promulgated under
11 Title IV shall take precedence.

12 k. The USEPA may intervene as a matter of right in any
13 permit appeal involving a Phase II acid rain permit
14 provision or denial of a Phase II acid rain permit.

15 l. It is unlawful for any owner or operator to violate
16 any terms or conditions of a Phase II acid rain permit
17 issued under this subsection, to operate any affected
18 source for acid deposition except in compliance with a
19 Phase II acid rain permit issued by the Agency under this
20 subsection, or to violate any other applicable
21 requirements.

22 m. The designated representative of an affected source
23 for acid deposition shall submit to the Agency the data and
24 information submitted quarterly to USEPA, pursuant to 40
25 CFR 75.64, concurrently with the submission to USEPA. The
26 submission shall be in the same electronic format as

1 specified by USEPA.

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

7 o. 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 18. Fee Provisions.

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

22 i. The fee for a source allowed to emit less than
23 100 tons per year of any combination of regulated air
24 pollutants, except greenhouse gases, shall be \$1,800
25 per year, and that fee shall increase, beginning

1 January 1, 2012, to \$2,150 per year.

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

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

1 Beginning January 1, 2012, the maximum fee under
2 this subparagraph (ii) of paragraph (a) of
3 subsection 18 for a source that has been excluded
4 under subsection 1.1 of this Section or under
5 paragraph (c) of subsection 3 of this Section is
6 \$4,112. The Agency shall provide as part of the
7 permit application form required under subsection
8 5 of this Section a separate fee calculation form
9 which will allow the applicant to identify the
10 allowable emissions and calculate the fee. In no
11 event shall the Agency raise the amount of
12 allowable emissions requested by the applicant
13 unless such increases are required to demonstrate
14 compliance with terms of a CAAPP permit.

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

1 permit based on the same application.

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

14 b. (Blank).

15 c. (Blank).

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

1 shall be returned to the Fund.

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

6 f. For purposes of this subsection, the term "regulated
7 air pollutant" shall have the meaning given to it under
8 subsection 1 of this Section but shall exclude the
9 following:

10 i. carbon monoxide;

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

14 iii. any pollutant that is a regulated air
15 pollutant solely because it is subject to a standard or
16 regulation under Section 112(r) of the Clean Air Act
17 based on the emissions allowed in the permit effective
18 in that calendar year, at the time the applicable bill
19 is generated.

20 19. Air Toxics Provisions.

21 a. In the event that the USEPA fails to promulgate in a
22 timely manner a standard pursuant to Section 112(d) of the
23 Clean Air Act, the Agency shall have the authority to issue
24 permits, pursuant to Section 112(j) of the Clean Air Act
25 and regulations promulgated thereunder, which contain

1 emission limitations which are equivalent to the emission
2 limitations that would apply to a source if an emission
3 standard had been promulgated in a timely manner by USEPA
4 pursuant to Section 112(d). Provided, however, that the
5 owner or operator of a source shall have the opportunity to
6 submit to the Agency a proposed emission limitation which
7 it determines to be equivalent to the emission limitations
8 that would apply to such source if an emission standard had
9 been promulgated in a timely manner by USEPA. If the Agency
10 refuses to include the emission limitation proposed by the
11 owner or operator in a CAAPP permit, the owner or operator
12 may petition the Board to establish whether the emission
13 limitation proposal submitted by the owner or operator
14 provides for emission limitations which are equivalent to
15 the emission limitations that would apply to the source if
16 the emission standard had been promulgated by USEPA in a
17 timely manner. The Board shall determine whether the
18 emission limitation proposed by the owner or operator or an
19 alternative emission limitation proposed by the Agency
20 provides for the level of control required under Section
21 112 of the Clean Air Act, or shall otherwise establish an
22 appropriate emission limitation, pursuant to Section 112
23 of the Clean Air Act.

24 b. Any Board proceeding brought under paragraph (a) or
25 (e) of this subsection shall be conducted according to the
26 Board's procedures for adjudicatory hearings and the Board

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

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

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

1 e. The Agency has the authority to implement Section
2 112(g) of the Clean Air Act consistent with the Clean Air
3 Act and federal regulations promulgated thereunder. If the
4 Agency refuses to include the emission limitations
5 proposed in an application submitted by an owner or
6 operator for a case-by-case maximum achievable control
7 technology (MACT) determination, the owner or operator may
8 petition the Board to determine whether the emission
9 limitation proposed by the owner or operator or an
10 alternative emission limitation proposed by the Agency
11 provides for a level of control required by Section 112 of
12 the Clean Air Act, or to otherwise establish an appropriate
13 emission limitation under Section 112 of the Clean Air Act.

14 20. Small Business.

15 a. For purposes of this subsection:

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

22 "Small Business Assistance Program" is a component of
23 the Program responsible for providing sufficient
24 communications with small businesses through the
25 collection and dissemination of information to small

1 business stationary sources; and

2 "Small Business Stationary Source" means a stationary
3 source that:

4 1. is owned or operated by a person that employs
5 100 or fewer individuals;

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

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

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

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

14 b. The Agency shall adopt and submit to USEPA, after
15 reasonable notice and opportunity for public comment, as a
16 revision to the Illinois state implementation plan, plans
17 for establishing the Program.

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

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

24 e. There shall be appointed a Small Business Ombudsman
25 (hereinafter in this subsection referred to as
26 "Ombudsman") to monitor the Small Business Assistance

1 Program. The Ombudsman shall be a nonpartisan designated
2 official, with the ability to independently assess whether
3 the goals of the Program are being met.

4 f. The State Ombudsman Office shall be located in an
5 existing Ombudsman office within the State or in any State
6 Department.

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

11 h. The selection of Panel members shall be by the
12 following method:

13 1. The Governor shall select two members who are
14 not owners or representatives of owners of small
15 business stationary sources to represent the general
16 public;

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

19 3. The State Legislature shall select four members
20 who are owners or representatives of owners of small
21 business stationary sources. Both the majority and
22 minority leadership in both Houses of the Legislature
23 shall appoint one member of the panel.

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

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

5 21. Temporary Sources.

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

11 b. The applicant must demonstrate that the operation is
12 temporary and will involve at least one change of location
13 during the term of the permit.

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

20 22. Solid Waste Incineration Units.

21 a. A CAAPP permit for a solid waste incineration unit
22 combusting municipal waste subject to standards
23 promulgated under Section 129(e) of the Clean Air Act shall
24 be issued for a period of 12 years and shall be reviewed

1 every 5 years, unless the Agency requires more frequent
2 review through Agency procedures.

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

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

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

15 (Source: P.A. 99-380, eff. 8-17-15; 99-933, eff. 1-27-17.)".