

HB5048



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5048

Introduced 2/8/2024, by Rep. Ann M. Williams

SYNOPSIS AS INTRODUCED:

415 ILCS 5/39.5

from Ch. 111 1/2, par. 1039.5

Amends the Environmental Protection Act. Deletes a provision that requires a Clean Air Act Permit Program (CAAPP) permit to contain a provision which creates an emergency-related affirmative defense if certain requirements are met.

LRB103 37496 JAG 67619 b

A BILL FOR

1 AN ACT concerning safety.

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

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

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

7 Sec. 39.5. Clean Air Act Permit Program.

8 1. Definitions. For purposes of this Section:

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

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

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

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

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

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

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

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

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

26 (ii) Any term or condition as required pursuant to

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 subsection 2 of this Section.

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

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

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

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

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

23 "Federally enforceable" means enforceable by USEPA.

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

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

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

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

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

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

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

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

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

26 "Phase II acid rain permit" means the portion of a CAAPP

1 permit issued, renewed, modified, or revised by the Agency
2 during Phase II for an affected source for acid deposition.

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

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

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

23 "Regulated air pollutant" means the following:

24 (1) Nitrogen oxides (NOx) or any volatile organic
25 compound.

26 (2) Any pollutant for which a national ambient air

1 quality standard has been promulgated.

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

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

7 (5) Any pollutant subject to a standard promulgated
8 under Section 112 or other requirements established under
9 Section 112 of the Clean Air Act, including Sections
10 112(g), (j) and (r).

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

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

23 (6) Greenhouse gases.

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

26 "Responsible official" means one of the following:

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

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

26 (3) For a municipality, State, Federal, or other

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

7 (4) For affected sources for acid deposition:

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

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

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

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

1 required to have a permit under Section 3005 of the Solid Waste
2 Disposal Act. The term also does not include (A) materials
3 recovery facilities (including primary or secondary smelters)
4 which combust waste for the primary purpose of recovering
5 metals, (B) qualifying small power production facilities, as
6 defined in Section 3(17)(C) of the Federal Power Act (16
7 U.S.C. 769(17)(C)), or qualifying cogeneration facilities, as
8 defined in Section 3(18)(B) of the Federal Power Act (16
9 U.S.C. 796(18)(B)), which burn homogeneous waste (such as
10 units which burn tires or used oil, but not including
11 refuse-derived fuel) for the production of electric energy or
12 in the case of qualifying cogeneration facilities which burn
13 homogeneous waste for the production of electric energy and
14 steam or forms of useful energy (such as heat) which are used
15 for industrial, commercial, heating or cooling purposes, or
16 (C) air curtain incinerators provided that such incinerators
17 only burn wood wastes, yard waste and clean lumber and that
18 such air curtain incinerators comply with opacity limitations
19 to be established by the USEPA by rule.

20 "Source" means any stationary source (or any group of
21 stationary sources) that is located on one or more contiguous
22 or adjacent properties that are under common control of the
23 same person (or persons under common control) and that belongs
24 to a single major industrial grouping. For the purposes of
25 defining "source," a stationary source or group of stationary
26 sources shall be considered part of a single major industrial

1 grouping if all of the pollutant emitting activities at such
2 source or group of sources located on contiguous or adjacent
3 properties and under common control belong to the same Major
4 Group (i.e., all have the same two-digit code) as described in
5 the Standard Industrial Classification Manual, 1987, or such
6 pollutant emitting activities at a stationary source (or group
7 of stationary sources) located on contiguous or adjacent
8 properties and under common control constitute a support
9 facility. The determination as to whether any group of
10 stationary sources is located on contiguous or adjacent
11 properties, and/or is under common control, and/or whether the
12 pollutant emitting activities at such group of stationary
13 sources constitute a support facility shall be made on a case
14 by case basis.

15 "Stationary source" means any building, structure,
16 facility, or installation that emits or may emit any regulated
17 air pollutant or any pollutant listed under Section 112(b) of
18 the Clean Air Act, except those emissions resulting directly
19 from an internal combustion engine for transportation purposes
20 or from a nonroad engine or nonroad vehicle as defined in
21 Section 216 of the Clean Air Act.

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

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

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

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

10 1.1. Exclusion From the CAAPP.

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

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

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

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

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

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

23 2. Applicability.

24 a. Sources subject to this Section shall include:

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

1 this subsection.

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

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

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

14 b. Sources exempted from this Section shall include:

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

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

1 standard is promulgated.

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

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

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

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

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

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

26 (C) action by the President of the United

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 4. Transition.

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

1 (a) of Section 39 of this Act, as amended, and regulations
2 promulgated thereunder. The application for such
3 construction permit, operating permit, or both shall be
4 considered an amendment to the CAAPP application submitted
5 for such source.

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

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

24 d. The Agency shall act on initial CAAPP applications
25 in accordance with paragraph (j) of subsection 5 of this
26 Section.

1 e. For purposes of this Section, the term "initial
2 CAAPP application" shall mean the first CAAPP application
3 submitted for a source existing as of the effective date
4 of the CAAPP.

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

13 g. The CAAPP permit shall upon becoming effective
14 supersede the State operating permit.

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

19 5. Applications and Completeness.

20 a. An owner or operator of a CAAPP source shall submit
21 its complete CAAPP application consistent with the Act and
22 applicable regulations.

23 b. An owner or operator of a CAAPP source shall submit
24 a single complete CAAPP application covering all emission
25 units at that source.

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

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

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

21 f. The Agency shall provide notice to a CAAPP
22 applicant as to whether a submitted CAAPP application is
23 complete. Unless the Agency notifies the applicant of
24 incompleteness, within 60 days after receipt of the CAAPP
25 application, the application shall be deemed complete. The
26 Agency may request additional information as needed to

1 make the completeness determination. The Agency may to the
2 extent practicable provide the applicant with a reasonable
3 opportunity to correct deficiencies prior to a final
4 determination of completeness.

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

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

19 i. Any applicant who fails to submit any relevant
20 facts necessary to evaluate the subject source and its
21 CAAPP application or who has submitted incorrect
22 information in a CAAPP application shall, upon becoming
23 aware of such failure or incorrect submittal, submit
24 supplementary facts or correct information to the Agency.
25 In addition, an applicant shall provide to the Agency
26 additional information as necessary to address any

1 requirements which become applicable to the source
2 subsequent to the date the applicant submitted its
3 complete CAAPP application but prior to release of the
4 draft CAAPP permit.

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

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

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

26 1. Unless a timely and complete renewal application

1 has been submitted consistent with this subsection, a
2 CAAPP source operating upon the expiration of its CAAPP
3 permit shall be deemed to be operating without a CAAPP
4 permit. Such operation is prohibited under this Act.

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

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

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

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

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

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

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

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

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

25 v. CAAPP applications shall contain accurate
26 information on allowable emissions to implement the fee

1 provisions of subsection 18 of this Section.

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

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

1 at least 180 days before commencing operation in
2 accordance with the change in operation.

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

7 6. Prohibitions.

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

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

24 c. No owner or operator of a CAAPP source shall cause
25 or threaten or allow the continued operation of an

1 emission source during malfunction or breakdown of the
2 emission source or related air pollution control equipment
3 if such operation would cause a violation of the standards
4 or limitations applicable to the source, unless the CAAPP
5 permit granted to the source provides for such operation
6 consistent with this Act and applicable Board regulations.

7 7. Permit Content.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 D. The analytical techniques or methods used.

20 E. The results of such analyses.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 operating scenario to another.

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

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

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

16 B. Must meet all applicable requirements;

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

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

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

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

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

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

23 ii. Need to halt or reduce activity not a defense.
24 It shall not be a defense for a permittee in an
25 enforcement action that it would have been necessary
26 to halt or reduce the permitted activity in order to

1 maintain compliance with the conditions of this
2 permit.

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

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

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

26 vi. Duty to pay fees. The permittee must pay fees

1 to the Agency consistent with the fee schedule
2 approved pursuant to subsection 18 of this Section,
3 and submit any information relevant thereto.

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

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

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

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

1 representative to perform the following:

2 A. Enter upon the permittee's premises where a
3 CAAPP source is located or emissions-related
4 activity is conducted, or where records must be
5 kept under the conditions of the permit.

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

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

13 D. Sample or monitor any substances or
14 parameters at any location:

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

19 2. As otherwise authorized by this Act.

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

23 iv. Progress reports consistent with an applicable
24 schedule of compliance pursuant to paragraph (d) of
25 subsection 5 of this Section and applicable
26 regulations to be submitted semiannually, or more

1 frequently if the Agency determines that such more
2 frequent submittals are necessary for compliance with
3 the Act or regulations promulgated by the Board
4 thereunder. Such progress reports shall contain the
5 following:

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

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

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

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

24 B. A means for assessing or monitoring the
25 compliance of the source with its emissions
26 limitations, standards, and work practices.

1 C. A requirement that the compliance
2 certification include the following:

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

6 2. The compliance status.

7 3. Whether compliance was continuous or
8 intermittent.

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

13 D. A requirement that all compliance
14 certifications be submitted to the Agency.

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

18 F. Other provisions as the Agency may require.

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

1 conditions that insure that the resulting emission limit
2 is quantifiable, accountable, enforceable, and based on
3 replicable procedures.

4 8. Public Notice; Affected State Review.

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

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

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

20 d. The Agency, as part of its submittal of a proposed
21 permit to USEPA (or as soon as possible after the
22 submittal for minor permit modification procedures allowed
23 under subsection 14 of this Section), shall notify USEPA
24 and any affected State in writing of any refusal of the
25 Agency to accept all of the recommendations for the

1 proposed permit that an affected State submitted during
2 the public or affected State review period. The notice
3 shall include the Agency's reasons for not accepting the
4 recommendations. The Agency is not required to accept
5 recommendations that are not based on applicable
6 requirements or the requirements of this Section.

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

21 f. 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 g. If requested by the permit applicant, the Agency
26 shall provide the permit applicant with a copy of the

1 draft CAAPP permit prior to any public review period. If
2 requested by the permit applicant, the Agency shall
3 provide the permit applicant with a copy of the final
4 CAAPP permit prior to issuance of the CAAPP permit.

5 9. USEPA Notice and Objection.

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

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

23 c. If USEPA objects in writing to the issuance of the
24 proposed CAAPP permit within the 45-day period, the Agency
25 shall respond in writing and may revise and resubmit the

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

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

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

25 f. If the permit has not yet been issued and USEPA
26 objects to the permit as a result of a petition, the Agency

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

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

21 h. 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 10. Final Agency Action.

1 a. The Agency shall issue a CAAPP permit, permit
2 modification, or permit renewal if all of the following
3 conditions are met:

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

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

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

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

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

26 vi. The Agency has provided a copy of each CAAPP

1 application, or summary thereof, pursuant to agreement
2 with USEPA and proposed CAAPP permit required under
3 subsection 9 of this Section to USEPA, and USEPA has
4 not objected to the issuance of the permit in
5 accordance with the Clean Air Act and 40 CFR Part 70.

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

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

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

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

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

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

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

12 11. General Permits.

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

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

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

25 d. The Agency shall comply with the public comment and

1 hearing provisions of this Section as well as the USEPA
2 and affected State review procedures prior to issuance of
3 a general permit.

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

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

13 g. 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 12. Operational Flexibility.

18 a. An owner or operator of a CAAPP source may make
19 changes at the CAAPP source without requiring a prior
20 permit revision, consistent with subparagraphs (i) through
21 (iii) of paragraph (a) of this subsection, so long as the
22 changes are not modifications under any provision of Title
23 I of the Clean Air Act and they do not exceed the emissions
24 allowable under the permit (whether expressed therein as a
25 rate of emissions or in terms of total emissions),

1 provided that the owner or operator of the CAAPP source
2 provides USEPA and the Agency with written notification as
3 required below in advance of the proposed changes, which
4 shall be a minimum of 7 days, unless otherwise provided by
5 the Agency in applicable regulations regarding
6 emergencies. The owner or operator of a CAAPP source and
7 the Agency shall each attach such notice to their copy of
8 the relevant permit.

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

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

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

26 ii. An owner or operator of a CAAPP source may

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

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

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

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

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

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

1 B. The permit shield described in paragraph
2 (j) of subsection 7 of this Section shall extend
3 to terms and conditions that allow such increases
4 and 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
7 permit, other than those which are subject to any
8 requirements under Title IV of the Clean Air Act or are
9 modifications under any provisions of Title I of the Clean
10 Air Act, without a permit revision, in accordance with the
11 following 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
15 for 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
19 permit 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,
2 or provides a similar minor administrative change at
3 the source;

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

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

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

20 vi. (Blank); or

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

25 d. The Agency shall, upon taking final action granting
26 a request for an administrative permit amendment, allow

1 coverage by the permit shield in paragraph (j) of
2 subsection 7 of this Section for administrative permit
3 amendments made pursuant to subparagraph (v) of paragraph
4 (c) of this subsection which meet the relevant
5 requirements for significant permit modifications.

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

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

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

23 14. Permit Modifications.

24 a. Minor permit modification procedures.

25 i. The Agency shall review a permit modification

1 using the "minor permit" modification procedures only
2 for those permit modifications that:

3 A. Do not violate any applicable requirement;

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

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

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

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

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

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

26 F. Are not required to be processed as a

1 significant modification.

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

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

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

19 B. The source's suggested draft permit;

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

26 D. Completed forms for the Agency to use to

1 notify USEPA and affected States as required under
2 subsections 8 and 9 of this Section.

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

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

22 A. Issue the permit modification as proposed;

23 B. Deny the permit modification application;

24 C. Determine that the requested modification
25 does not meet the minor permit modification
26 criteria and should be reviewed under the

1 significant modification procedures; or

2 D. Revise the draft permit modification and
3 transmit to USEPA the new proposed permit
4 modification as required by subsection 9 of this
5 Section.

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

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

25 viii. If a construction permit is required,
26 pursuant to subsection (a) of Section 39 of this Act

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

16 b. Group Processing of Minor Permit Modifications.

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

22 ii. Permit modifications may be processed in
23 accordance with the procedures for group processing,
24 for those modifications:

25 A. Which meet the criteria for minor permit
26 modification procedures under subparagraph (i) of

1 paragraph (a) of subsection 14 of this Section;
2 and

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

9 iii. An applicant requesting the use of group
10 processing procedures shall meet the requirements of
11 subsection 5 of this Section and shall include the
12 following in its application:

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

16 B. The source's suggested draft permit.

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

23 D. A list of the source's other pending
24 applications awaiting group processing, and a
25 determination of whether the requested
26 modification, aggregated with these other

1 applications, equals or exceeds the threshold set
2 under item (B) of subparagraph (ii) of paragraph
3 (b) of this subsection.

4 E. Certification, consistent with paragraph
5 (e) of subsection 5 of this Section, that the
6 source has notified USEPA of the proposed
7 modification. Such notification need only contain
8 a brief description of the requested modification.

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

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

23 v. The provisions of subparagraph (v) of paragraph
24 (a) of this subsection shall apply to modifications
25 eligible for group processing, except that the Agency
26 shall take one of the actions specified in items (A)

1 through (D) of subparagraph (v) of paragraph (a) of
2 this subsection within 180 days after receipt of the
3 application or 15 days after the end of USEPA's 45-day
4 review period under subsection 9 of this Section,
5 whichever is later.

6 vi. The provisions of subparagraph (vi) of
7 paragraph (a) of this subsection shall apply to
8 modifications for group processing.

9 vii. The provisions of paragraph (j) of subsection
10 7 of this Section shall not apply to modifications
11 eligible for group processing.

12 c. Significant Permit Modifications.

13 i. Significant modification procedures shall be
14 used for applications requesting significant permit
15 modifications and for those applications that do not
16 qualify as either minor permit modifications or as
17 administrative permit amendments.

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

1 with this Section that would render existing permit
2 compliance terms and conditions irrelevant.

3 iii. Significant permit modifications must meet
4 all the requirements of this Section, including those
5 for applications (including completeness review),
6 public participation, review by affected States, and
7 review by USEPA applicable to initial permit issuance
8 and permit renewal. The Agency shall take final action
9 on significant permit modifications within 9 months
10 after receipt of a complete application.

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 15. Reopenings for Cause by the Agency.

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

23 i. Additional requirements under the Clean Air Act
24 become applicable to a major CAAPP source for which 3
25 or more years remain on the original term of the

1 permit. Such a reopening shall be completed not later
2 than 18 months after the promulgation of the
3 applicable requirement. No such revision is required
4 if the effective date of the requirement is later than
5 the date on which the permit is due to expire.

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

12 iii. The Agency or USEPA determines that the
13 permit contains a material mistake or that inaccurate
14 statements were made in establishing the emissions
15 standards, limitations, or other terms or conditions
16 of the permit.

17 iv. The Agency or USEPA determines that the permit
18 must be revised or revoked to assure compliance with
19 the applicable requirements.

20 b. In the event that the Agency determines that there
21 are grounds for revoking a CAAPP permit, for cause,
22 consistent with paragraph a of this subsection, it shall
23 file a petition before the Board setting forth the basis
24 for such revocation. In any such proceeding, the Agency
25 shall have the burden of establishing that the permit
26 should be revoked under the standards set forth in this

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

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

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

17 e. 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 16. Reopenings for Cause by USEPA.

22 a. When USEPA finds that cause exists to terminate,
23 modify, or revoke and reissue a CAAPP permit pursuant to
24 subsection 15 of this Section, and thereafter notifies the
25 Agency and the permittee of such finding in writing, the

1 Agency shall forward to USEPA and the permittee a proposed
2 determination of termination, modification, or revocation
3 and reissuance as appropriate, in accordance with
4 paragraph (b) of this subsection. The Agency's proposed
5 determination shall be in accordance with the record, the
6 Clean Air Act, regulations promulgated thereunder, this
7 Act and regulations promulgated thereunder. Such proposed
8 determination shall not affect the permit or constitute a
9 final permit action for purposes of this Act or the
10 Administrative Review Law. The Agency shall forward to
11 USEPA such proposed determination within 90 days after
12 receipt of the notification from USEPA. If additional time
13 is necessary to submit the proposed determination, the
14 Agency shall request a 90-day extension from USEPA and
15 shall submit the proposed determination within 180 days
16 after receipt of notification from USEPA.

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

26 ii. After due consideration of the written and

1 oral statements, the testimony and arguments that
2 shall be submitted at hearing, the Board shall issue
3 and enter an interim order for the proposed
4 determination, which shall set forth all changes, if
5 any, required in the Agency's proposed determination.
6 The interim order shall comply with the requirements
7 for final orders as set forth in Section 33 of this
8 Act. Issuance of an interim order by the Board under
9 this paragraph, however, shall not affect the permit
10 status and does not constitute a final action for
11 purposes of this Act or the Administrative Review Law.

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

18 c. USEPA shall review the proposed determination to
19 terminate, modify, or revoke and reissue the permit within
20 90 days after receipt.

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

1 final action in accordance with the Board's final
2 order.

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

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

21 d. If the Agency fails to submit the proposed
22 determination pursuant to paragraph a of this subsection
23 or fails to resolve any USEPA objection pursuant to
24 paragraph c of this subsection, USEPA will terminate,
25 modify, or revoke and reissue the permit.

26 e. The Agency shall have the authority to adopt

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

4 17. Title IV; Acid Rain Provisions.

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

20 b. A designated representative of an affected source
21 for acid deposition shall submit a timely and complete
22 Phase II acid rain permit application and compliance plan
23 to the Agency, not later than January 1, 1996, that meets
24 the requirements of Titles IV and V of the Clean Air Act
25 and regulations. The Agency shall act on the Phase II acid

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

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

21 d. A designated representative of a new unit, as
22 defined in Section 402 of the Clean Air Act, shall submit a
23 timely and complete Phase II acid rain permit application
24 and compliance plan that meets the requirements of Titles
25 IV and V of the Clean Air Act and its regulations. The
26 Agency shall act on the new unit's Phase II acid rain

1 permit application and compliance plan in accordance with
2 this Section and Title V of the Clean Air Act and its
3 regulations, except as modified by Title IV of the Clean
4 Air Act and its regulations. The Agency shall reopen the
5 new unit's CAAPP permit for cause to incorporate the
6 approved Phase II acid rain permit in accordance with this
7 Section. The Phase II acid rain permit for the new unit
8 shall become effective no later than the date required
9 under Title IV of the Clean Air Act and its regulations.

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

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

1 Title IV of the Clean Air Act and regulations promulgated
2 thereunder.

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

17 h. The Agency shall not include or implement any
18 measure which would interfere with or modify the
19 requirements of Title IV of the Clean Air Act or
20 regulations promulgated thereunder.

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

25 i. No permit revision shall be required for
26 increases in emissions that are authorized by

1 allowances acquired pursuant to the acid rain program,
2 provided that such increases do not require a permit
3 revision under any other applicable requirement.

4 ii. No limit shall be placed on the number of
5 allowances held by the source. The source may not,
6 however, use allowances as a defense to noncompliance
7 with any other applicable requirement.

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

11 j. To the extent that the federal regulations
12 promulgated under Title IV, including but not limited to
13 40 C.F.R. Part 72, as now or hereafter amended, are
14 inconsistent with the federal regulations promulgated
15 under Title V, the federal regulations promulgated under
16 Title IV shall take precedence.

17 k. The USEPA may intervene as a matter of right in any
18 permit appeal involving a Phase II acid rain permit
19 provision or denial of a Phase II acid rain permit.

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

1 m. The designated representative of an affected source
2 for acid deposition shall submit to the Agency the data
3 and information submitted quarterly to USEPA, pursuant to
4 40 CFR 75.64, concurrently with the submission to USEPA.
5 The submission shall be in the same electronic format as
6 specified by USEPA.

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

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

16 18. Fee Provisions.

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

1 subsection (b) of Section 9.6.

2 i. The fee for a source allowed to emit less than
3 100 tons per year of any combination of regulated air
4 pollutants, except greenhouse gases, shall be \$1,800
5 per year, and that fee shall increase, beginning
6 January 1, 2012, to \$2,150 per year.

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

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

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

21 Notwithstanding the above, any applicant may
22 seek a change in its permit which would result in
23 increases in allowable emissions due to an
24 increase in the hours of operation or production
25 rates of an emission unit or units and such a
26 change shall be consistent with the construction

1 permit requirements of the existing State permit
2 program, under subsection (a) of Section 39 of
3 this Act and applicable provisions of this
4 Section. Where a construction permit is required,
5 the Agency shall expeditiously grant such
6 construction permit and shall, if necessary,
7 modify the CAAPP permit based on the same
8 application.

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

21 b. (Blank).

22 c. (Blank).

23 d. There is hereby created in the State Treasury a
24 special fund to be known as the Clean Air Act Permit Fund
25 (formerly known as the CAA Permit Fund). All Funds
26 collected by the Agency pursuant to this subsection shall

1 be deposited into the Fund. The General Assembly shall
2 appropriate monies from this Fund to the Agency and to the
3 Board to carry out their obligations under this Section.
4 The General Assembly may also authorize monies to be
5 granted by the Agency from this Fund to other State and
6 local agencies which perform duties related to the CAAPP.
7 Interest generated on the monies deposited in this Fund
8 shall be returned to the Fund.

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

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

17 i. carbon monoxide;

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

21 iii. any pollutant that is a regulated air
22 pollutant solely because it is subject to a standard
23 or regulation under Section 112(r) of the Clean Air
24 Act based on the emissions allowed in the permit
25 effective in that calendar year, at the time the
26 applicable bill is generated.

1 19. Air Toxics Provisions.

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

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

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

24 c. The Agency shall have the authority to implement
25 and enforce complete or partial emission standards
26 promulgated by USEPA pursuant to Section 112(d), and

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

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

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

24 20. Small Business.

25 a. For purposes of this subsection:

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

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

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

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

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

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

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

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

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

1 for establishing the Program.

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

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

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

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

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

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

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

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

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

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

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

15 21. Temporary Sources.

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

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

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

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

5 22. Solid Waste Incineration Units.

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

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

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

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

24 (Source: P.A. 99-380, eff. 8-17-15; 99-933, eff. 1-27-17;
25 100-103, eff. 8-11-17.)