



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB1323

Introduced 2/6/2023, by Sen. Celina Villanueva

SYNOPSIS AS INTRODUCED:

415 ILCS 5/3.187 new	
415 ILCS 5/3.281 new	
415 ILCS 5/9.12	
415 ILCS 5/22.63 new	
415 ILCS 5/34.5 new	
415 ILCS 5/39	from Ch. 111 1/2, par. 1039
415 ILCS 5/39.2	from Ch. 111 1/2, par. 1039.2
415 ILCS 5/39.5	from Ch. 111 1/2, par. 1039.5
415 ILCS 5/39.15 new	
415 ILCS 5/40	from Ch. 111 1/2, par. 1040
415 ILCS 5/40.4 new	

Amends the Environmental Protection Act. Requires the Environmental Protection Agency to establish a process by which communities not designated as environmental justice communities may petition for such a designation. Provides that an applicant for a permit for the construction of a new source that will become a major source subject to the Clean Air Act Permit Program and will be located in an environmental justice community or a new source that has required or will require a federally enforceable State operating permit and will be located in an environmental justice community must conduct a public meeting prior to submission of the permit application and must submit with the permit application an environmental justice assessment identifying the potential environmental and health impacts to the area associated with the proposed project. Provides requirements for the environmental justice assessment. Provides that a supplemental fee of \$200,000 for each construction permit application shall be assessed if the construction permit application is subject to the requirements regarding the construction of a new source located in an environmental justice community. Contains provisions regarding public participation requirements for permitting transactions in an environmental justice community. Provides that, if the Agency grants a permit to construct, modify, or operate a facility that emits air pollutants and is classified as a minor source, a third party may petition the Pollution Control Board for a hearing to contest the issuance of the permit. Allows the Agency to deny the issuance of certain permits to persons with a history of violating specified environmental laws. Contains provisions regarding environmental justice grievances. Defines "environmental justice community". Contains other provisions.

1 AN ACT concerning health.

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 Sections 9.12, 39, 39.2, 39.5, and 40 and by adding
6 Sections 3.187, 3.281, 22.63, 34.5, 39.15, and 40.4 as
7 follows:

8 (415 ILCS 5/3.187 new)

9 Sec. 3.187. Environmental justice community.

10 "Environmental justice community" has the same meaning, based
11 on existing methodologies and findings, as used in the
12 Illinois Solar for All Program, as updated from time to time by
13 the Illinois Power Agency and the Program Administrator of
14 that Program.

15 (415 ILCS 5/3.281 new)

16 Sec. 3.281. Linguistic isolation. "Linguistic isolation"
17 means a situation in which members of a household who are 14
18 years of age and older speak a non-English language and speak
19 English less than very well. A community surrounding a
20 facility is in linguistic isolation if 20% of the households
21 in the community's surrounding one-mile radius meet the United
22 States Census Bureau's definition for linguistic isolation

1 based on the Bureau's latest one-year or 5-year American
2 Community Survey.

3 (415 ILCS 5/9.12)

4 Sec. 9.12. Construction permit fees for air pollution
5 sources.

6 (a) An applicant for a new or revised air pollution
7 construction permit shall pay a fee, as established in this
8 Section, to the Agency at the time that he or she submits the
9 application for a construction permit. Except as set forth
10 below, the fee for each activity or category listed in this
11 Section is separate and is cumulative with any other
12 applicable fee listed in this Section.

13 (b) The fee amounts in this subsection (b) apply to
14 construction permit applications relating to (i) a source
15 subject to Section 39.5 of this Act (the Clean Air Act Permit
16 Program); (ii) a source that, upon issuance of the requested
17 construction permit, will become a major source subject to
18 Section 39.5; or (iii) a source that has or will require a
19 federally enforceable State operating permit limiting its
20 potential to emit.

21 (1) Base fees for each construction permit application
22 shall be assessed as follows:

23 (A) If the construction permit application relates
24 to one or more new emission units or to a combination
25 of new and modified emission units, a fee of \$4,000 for

1 the first new emission unit and a fee of \$1,000 for
2 each additional new or modified emission unit;
3 provided that the total base fee under this
4 subdivision (A) shall not exceed \$10,000.

5 (B) If the construction permit application relates
6 to one or more modified emission units but not to any
7 new emission unit, a fee of \$2,000 for the first
8 modified emission unit and a fee of \$1,000 for each
9 additional modified emission unit; provided that the
10 total base fee under this subdivision (B) shall not
11 exceed \$5,000.

12 (2) Supplemental fees for each construction permit
13 application shall be assessed as follows:

14 (A) If, based on the construction permit
15 application, the source will be, but is not currently,
16 subject to Section 39.5 of this Act, a CAAPP entry fee
17 of \$5,000.

18 (B) If the construction permit application
19 involves (i) a new source or emission unit subject to
20 Section 39.2 of this Act, (ii) a commercial
21 incinerator or other municipal waste, hazardous waste,
22 or waste tire incinerator, (iii) a commercial power
23 generator, or (iv) one or more other emission units
24 designated as a complex source by Agency rulemaking, a
25 fee of \$25,000.

26 (C) If the construction permit application

1 involves an emissions netting exercise or reliance on
2 a contemporaneous emissions decrease for a pollutant
3 to avoid application of the PSD permit program or
4 nonattainment new source review, a fee of \$3,000 for
5 each such pollutant.

6 (D) If the construction permit application is for
7 a new major source subject to the PSD permit program, a
8 fee of \$12,000.

9 (E) If the construction permit application is for
10 a new major source subject to nonattainment new source
11 review, a fee of \$20,000.

12 (F) If the construction permit application is for
13 a major modification subject to the PSD permit
14 program, a fee of \$6,000.

15 (G) If the construction permit application is for
16 a major modification subject to nonattainment new
17 source review, a fee of \$12,000.

18 (H) (Blank).

19 (I) If the construction permit application review
20 involves a determination of the Maximum Achievable
21 Control Technology standard for a pollutant and the
22 project is not otherwise subject to BACT or LAER for a
23 related pollutant under the PSD permit program or
24 nonattainment new source review, a fee of \$5,000 per
25 unit for which a determination is requested or
26 otherwise required.

1 (J) (Blank).

2 (K) If the construction permit application is
3 subject to the requirements under subsection (z) or
4 subsection (aa) of Section 39, a fee of \$200,000.

5 (3) If a public hearing is held regarding the
6 construction permit application, an administrative fee of
7 \$10,000. This fee shall be submitted at the time the
8 applicant requests a public hearing or, if a public
9 hearing is not requested by the applicant, then within 30
10 days after the applicant is informed by the Agency that a
11 public hearing will be held.

12 (c) The fee amounts in this subsection (c) apply to
13 construction permit applications relating to a source that,
14 upon issuance of the construction permit, will not (i) be or
15 become subject to Section 39.5 of this Act (the Clean Air Act
16 Permit Program) or (ii) have or require a federally
17 enforceable state operating permit limiting its potential to
18 emit.

19 (1) Base fees for each construction permit application
20 shall be assessed as follows:

21 (A) For a construction permit application
22 involving a single new emission unit, a fee of \$500.

23 (B) For a construction permit application
24 involving more than one new emission unit, a fee of
25 \$1,000.

26 (C) For a construction permit application

1 involving no more than 2 modified emission units, a
2 fee of \$500.

3 (D) For a construction permit application
4 involving more than 2 modified emission units, a fee
5 of \$1,000.

6 (2) Supplemental fees for each construction permit
7 application shall be assessed as follows:

8 (A) If the source is a new source, i.e., does not
9 currently have an operating permit, an entry fee of
10 \$500;

11 (B) If the construction permit application
12 involves (i) a new source or emission unit subject to
13 Section 39.2 of this Act, (ii) a commercial
14 incinerator or a municipal waste, hazardous waste, or
15 waste tire incinerator, (iii) a commercial power
16 generator, or (iv) an emission unit designated as a
17 complex source by Agency rulemaking, a fee of \$15,000.

18 (3) If a public hearing is held regarding the
19 construction permit application, an administrative fee of
20 \$10,000. This fee shall be submitted at the time the
21 applicant requests a public hearing or, if a public
22 hearing is not requested by the applicant, then within 30
23 days after the applicant is informed by the Agency that a
24 public hearing will be held.

25 (d) If no other fee is applicable under this Section, a
26 construction permit application addressing one or more of the

1 following shall be subject to a filing fee of \$500:

2 (1) A construction permit application to add or
3 replace a control device on a permitted emission unit.

4 (2) A construction permit application to conduct a
5 pilot project or trial burn for a permitted emission unit.

6 (3) A construction permit application for a land
7 remediation project.

8 (4) (Blank).

9 (5) A construction permit application to revise an
10 emissions testing methodology or the timing of required
11 emissions testing.

12 (6) A construction permit application that provides
13 for a change in the name, address, or phone number of any
14 person identified in the permit, or for a change in the
15 stated ownership or control, or for a similar minor
16 administrative permit change at the source.

17 (e) No fee shall be assessed for a request to correct an
18 issued permit that involves only an Agency error, if the
19 request is received within the deadline for a permit appeal to
20 the Pollution Control Board.

21 (f) The applicant for a new or revised air pollution
22 construction permit shall submit to the Agency, with the
23 construction permit application, both a certification of the
24 fee that he or she estimates to be due under this Section and
25 the fee itself.

26 (g) Notwithstanding the requirements of subsection (a) of

1 Section 39 of this Act, the application for an air pollution
2 construction permit shall not be deemed to be filed with the
3 Agency until the Agency receives the initial air pollution
4 construction permit application fee and the certified estimate
5 of the fee required by this Section. Unless the Agency has
6 received the initial air pollution construction permit
7 application fee and the certified estimate of the fee required
8 by this Section, the Agency is not required to review or
9 process the application.

10 (h) If the Agency determines at any time that a
11 construction permit application is subject to an additional
12 fee under this Section that the applicant has not submitted,
13 the Agency shall notify the applicant in writing of the amount
14 due under this Section. The applicant shall have 60 days to
15 remit the assessed fee to the Agency.

16 If the proper fee established under this Section is not
17 submitted within 60 days after the request for further
18 remittance:

19 (1) If the construction permit has not yet been
20 issued, the Agency is not required to further review or
21 process, and the provisions of subsection (a) of Section
22 39 of this Act do not apply to, the application for a
23 construction permit until such time as the proper fee is
24 remitted.

25 (2) If the construction permit has been issued, the
26 Agency may, upon written notice, immediately revoke the

1 construction permit.

2 The denial or revocation of a construction permit does not
3 excuse the applicant from the duty of paying the fees required
4 under this Section.

5 (i) The Agency may deny the issuance of a pending air
6 pollution construction permit or the subsequent operating
7 permit if the applicant has not paid the required fees by the
8 date required for issuance of the permit. The denial or
9 revocation of a permit for failure to pay a construction
10 permit fee is subject to review by the Board pursuant to the
11 provisions of subsection (a) of Section 40 of this Act.

12 (j) If the owner or operator undertakes construction
13 without obtaining an air pollution construction permit, the
14 fee under this Section is still required. Payment of the
15 required fee does not preclude the Agency or the Attorney
16 General or other authorized persons from pursuing enforcement
17 against the applicant for failure to have an air pollution
18 construction permit prior to commencing construction.

19 (k) If an air pollution construction permittee makes a fee
20 payment under this Section from an account with insufficient
21 funds to cover the amount of the fee payment, the Agency shall
22 notify the permittee of the failure to pay the fee. If the
23 permittee fails to pay the fee within 60 days after such
24 notification, the Agency may, by written notice, immediately
25 revoke the air pollution construction permit. Failure of the
26 Agency to notify the permittee of the permittee's failure to

1 make payment does not excuse or alter the duty of the permittee
2 to comply with the provisions of this Section.

3 (l) The Agency may establish procedures for the collection
4 of air pollution construction permit fees.

5 (m) Fees collected pursuant to this Section shall be
6 deposited into the Environmental Protection Permit and
7 Inspection Fund.

8 (Source: P.A. 99-463, eff. 1-1-16.)

9 (415 ILCS 5/22.63 new)

10 Sec. 22.63. Environmental justice community designation.
11 The Agency shall establish a process by which communities not
12 designated as environmental justice communities may petition
13 for such a designation.

14 (415 ILCS 5/34.5 new)

15 Sec. 34.5. Environmentally beneficial project bank.

16 (a) The Agency shall establish and maintain on its website
17 a bank of potential environmentally beneficial projects. The
18 website must permit members of the public to submit
19 suggestions for environmentally beneficial projects. The
20 Agency shall assess the submissions for feasibility and
21 clarity before inclusion in the bank.

22 (b) A respondent or defendant may propose to undertake an
23 environmentally beneficial project that is not contained in
24 the environmentally beneficial project bank established under

1 subsection (a).

2 (c) If funds for an environmentally beneficial project are
3 derived from penalties resulting from an administrative,
4 civil, or criminal enforcement action arising from an alleged
5 violation by a facility, site, or activity in an environmental
6 justice community, the Agency must require that the funds be
7 used for an environmentally beneficial project in the
8 environmental justice community where the alleged violation
9 occurred.

10 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

11 Sec. 39. Issuance of permits; procedures.

12 (a) When the Board has by regulation required a permit for
13 the construction, installation, or operation of any type of
14 facility, equipment, vehicle, vessel, or aircraft, the
15 applicant shall apply to the Agency for such permit and it
16 shall be the duty of the Agency to issue such a permit upon
17 proof by the applicant that the facility, equipment, vehicle,
18 vessel, or aircraft will not cause a violation of this Act or
19 of regulations hereunder. The Agency shall adopt such
20 procedures as are necessary to carry out its duties under this
21 Section. In making its determinations on permit applications
22 under this Section the Agency shall ~~may~~ consider prior
23 adjudications of noncompliance with this Act by the applicant
24 that involved a release of a contaminant into the environment.
25 In granting permits, the Agency shall ~~may~~ impose reasonable

1 conditions specifically related to the applicant's past
2 compliance history with this Act as necessary to correct,
3 detect, or prevent noncompliance. The Agency shall ~~may~~ impose
4 such other conditions as ~~may be~~ necessary to accomplish the
5 purposes of this Act, and as are not inconsistent with the
6 regulations promulgated by the Board hereunder. Except as
7 otherwise provided in this Act, a bond or other security shall
8 not be required as a condition for the issuance of a permit. If
9 the Agency denies any permit under this Section, the Agency
10 shall transmit to the applicant within the time limitations of
11 this Section specific, detailed statements as to the reasons
12 the permit application was denied. Such statements shall
13 include, but not be limited to, the following:

14 (i) the Sections of this Act which may be violated if
15 the permit were granted;

16 (ii) the provision of the regulations, promulgated
17 under this Act, which may be violated if the permit were
18 granted;

19 (iii) the specific type of information, if any, which
20 the Agency deems the applicant did not provide the Agency;
21 and

22 (iv) a statement of specific reasons why the Act and
23 the regulations might not be met if the permit were
24 granted.

25 If there is no final action by the Agency within 90 days
26 after the filing of the application for permit, the applicant

1 may deem the permit issued; except that this time period shall
2 be extended to 180 days when (1) notice and opportunity for
3 public hearing are required by State or federal law or
4 regulation, (2) the application which was filed is for any
5 permit to develop a landfill subject to issuance pursuant to
6 this subsection, or (3) the application that was filed is for a
7 MSWLF unit required to issue public notice under subsection
8 (p) of Section 39. The 90-day and 180-day time periods for the
9 Agency to take final action do not apply to NPDES permit
10 applications under subsection (b) of this Section, to RCRA
11 permit applications under subsection (d) of this Section, to
12 UIC permit applications under subsection (e) of this Section,
13 or to CCR surface impoundment applications under subsection
14 (y) of this Section.

15 The Agency shall publish notice of all final permit
16 determinations for development permits for MSWLF units and for
17 significant permit modifications for lateral expansions for
18 existing MSWLF units one time in a newspaper of general
19 circulation in the county in which the unit is or is proposed
20 to be located.

21 After January 1, 1994 and until July 1, 1998, operating
22 permits issued under this Section by the Agency for sources of
23 air pollution permitted to emit less than 25 tons per year of
24 any combination of regulated air pollutants, as defined in
25 Section 39.5 of this Act, shall be required to be renewed only
26 upon written request by the Agency consistent with applicable

1 provisions of this Act and regulations promulgated hereunder.
2 Such operating permits shall expire 180 days after the date of
3 such a request. The Board shall revise its regulations for the
4 existing State air pollution operating permit program
5 consistent with this provision by January 1, 1994.

6 After June 30, 1998, operating permits issued under this
7 Section by the Agency for sources of air pollution that are not
8 subject to Section 39.5 of this Act and are not required to
9 have a federally enforceable State operating permit shall be
10 required to be renewed only upon written request by the Agency
11 consistent with applicable provisions of this Act and its
12 rules. Such operating permits shall expire 180 days after the
13 date of such a request. Before July 1, 1998, the Board shall
14 revise its rules for the existing State air pollution
15 operating permit program consistent with this paragraph and
16 shall adopt rules that require a source to demonstrate that it
17 qualifies for a permit under this paragraph.

18 (b) The Agency may issue NPDES permits exclusively under
19 this subsection for the discharge of contaminants from point
20 sources into navigable waters, all as defined in the Federal
21 Water Pollution Control Act, as now or hereafter amended,
22 within the jurisdiction of the State, or into any well.

23 All NPDES permits shall contain those terms and
24 conditions, including, but not limited to, schedules of
25 compliance, which may be required to accomplish the purposes
26 and provisions of this Act.

1 The Agency may issue general NPDES permits for discharges
2 from categories of point sources which are subject to the same
3 permit limitations and conditions. Such general permits may be
4 issued without individual applications and shall conform to
5 regulations promulgated under Section 402 of the Federal Water
6 Pollution Control Act, as now or hereafter amended.

7 The Agency may include, among such conditions, effluent
8 limitations and other requirements established under this Act,
9 Board regulations, the Federal Water Pollution Control Act, as
10 now or hereafter amended, and regulations pursuant thereto,
11 and schedules for achieving compliance therewith at the
12 earliest reasonable date.

13 The Agency shall adopt filing requirements and procedures
14 which are necessary and appropriate for the issuance of NPDES
15 permits, and which are consistent with the Act or regulations
16 adopted by the Board, and with the Federal Water Pollution
17 Control Act, as now or hereafter amended, and regulations
18 pursuant thereto.

19 The Agency, subject to any conditions which may be
20 prescribed by Board regulations, may issue NPDES permits to
21 allow discharges beyond deadlines established by this Act or
22 by regulations of the Board without the requirement of a
23 variance, subject to the Federal Water Pollution Control Act,
24 as now or hereafter amended, and regulations pursuant thereto.

25 (c) Except for those facilities owned or operated by
26 sanitary districts organized under the Metropolitan Water

1 Reclamation District Act, no permit for the development or
2 construction of a new pollution control facility may be
3 granted by the Agency unless the applicant submits proof to
4 the Agency that the location of the facility has been approved
5 by the county board of the county if in an unincorporated area,
6 or the governing body of the municipality when in an
7 incorporated area, in which the facility is to be located in
8 accordance with Section 39.2 of this Act. For purposes of this
9 subsection (c), and for purposes of Section 39.2 of this Act,
10 the appropriate county board or governing body of the
11 municipality shall be the county board of the county or the
12 governing body of the municipality in which the facility is to
13 be located as of the date when the application for siting
14 approval is filed.

15 In the event that siting approval granted pursuant to
16 Section 39.2 has been transferred to a subsequent owner or
17 operator, that subsequent owner or operator may apply to the
18 Agency for, and the Agency may grant, a development or
19 construction permit for the facility for which local siting
20 approval was granted. Upon application to the Agency for a
21 development or construction permit by that subsequent owner or
22 operator, the permit applicant shall cause written notice of
23 the permit application to be served upon the appropriate
24 county board or governing body of the municipality that
25 granted siting approval for that facility and upon any party
26 to the siting proceeding pursuant to which siting approval was

1 granted. In that event, the Agency shall conduct an evaluation
2 of the subsequent owner or operator's prior experience in
3 waste management operations in the manner conducted under
4 subsection (i) of Section 39 of this Act.

5 Beginning August 20, 1993, if the pollution control
6 facility consists of a hazardous or solid waste disposal
7 facility for which the proposed site is located in an
8 unincorporated area of a county with a population of less than
9 100,000 and includes all or a portion of a parcel of land that
10 was, on April 1, 1993, adjacent to a municipality having a
11 population of less than 5,000, then the local siting review
12 required under this subsection (c) in conjunction with any
13 permit applied for after that date shall be performed by the
14 governing body of that adjacent municipality rather than the
15 county board of the county in which the proposed site is
16 located; and for the purposes of that local siting review, any
17 references in this Act to the county board shall be deemed to
18 mean the governing body of that adjacent municipality;
19 provided, however, that the provisions of this paragraph shall
20 not apply to any proposed site which was, on April 1, 1993,
21 owned in whole or in part by another municipality.

22 In the case of a pollution control facility for which a
23 development permit was issued before November 12, 1981, if an
24 operating permit has not been issued by the Agency prior to
25 August 31, 1989 for any portion of the facility, then the
26 Agency may not issue or renew any development permit nor issue

1 an original operating permit for any portion of such facility
2 unless the applicant has submitted proof to the Agency that
3 the location of the facility has been approved by the
4 appropriate county board or municipal governing body pursuant
5 to Section 39.2 of this Act.

6 After January 1, 1994, if a solid waste disposal facility,
7 any portion for which an operating permit has been issued by
8 the Agency, has not accepted waste disposal for 5 or more
9 consecutive calendar years, before that facility may accept
10 any new or additional waste for disposal, the owner and
11 operator must obtain a new operating permit under this Act for
12 that facility unless the owner and operator have applied to
13 the Agency for a permit authorizing the temporary suspension
14 of waste acceptance. The Agency may not issue a new operation
15 permit under this Act for the facility unless the applicant
16 has submitted proof to the Agency that the location of the
17 facility has been approved or re-approved by the appropriate
18 county board or municipal governing body under Section 39.2 of
19 this Act after the facility ceased accepting waste.

20 Except for those facilities owned or operated by sanitary
21 districts organized under the Metropolitan Water Reclamation
22 District Act, and except for new pollution control facilities
23 governed by Section 39.2, and except for fossil fuel mining
24 facilities, the granting of a permit under this Act shall not
25 relieve the applicant from meeting and securing all necessary
26 zoning approvals from the unit of government having zoning

1 jurisdiction over the proposed facility.

2 Before beginning construction on any new sewage treatment
3 plant or sludge drying site to be owned or operated by a
4 sanitary district organized under the Metropolitan Water
5 Reclamation District Act for which a new permit (rather than
6 the renewal or amendment of an existing permit) is required,
7 such sanitary district shall hold a public hearing within the
8 municipality within which the proposed facility is to be
9 located, or within the nearest community if the proposed
10 facility is to be located within an unincorporated area, at
11 which information concerning the proposed facility shall be
12 made available to the public, and members of the public shall
13 be given the opportunity to express their views concerning the
14 proposed facility.

15 The Agency may issue a permit for a municipal waste
16 transfer station without requiring approval pursuant to
17 Section 39.2 provided that the following demonstration is
18 made:

19 (1) the municipal waste transfer station was in
20 existence on or before January 1, 1979 and was in
21 continuous operation from January 1, 1979 to January 1,
22 1993;

23 (2) the operator submitted a permit application to the
24 Agency to develop and operate the municipal waste transfer
25 station during April of 1994;

26 (3) the operator can demonstrate that the county board

1 of the county, if the municipal waste transfer station is
2 in an unincorporated area, or the governing body of the
3 municipality, if the station is in an incorporated area,
4 does not object to resumption of the operation of the
5 station; and

6 (4) the site has local zoning approval.

7 No permit for the development or construction of any of
8 the following will be granted by the Agency unless the
9 applicant submits proof to the Agency that the location of the
10 source has been approved by the county board of the county, if
11 in an unincorporated area, or the governing body of a
12 municipality, when in an incorporated area, in which the
13 source is to be located in accordance with Section 39.2: (i) a
14 new or modified source that, upon issuance of the requested
15 construction permit, will become a major source subject to
16 Section 39.5 and will be located in an environmental justice
17 community; or (ii) a new source that has required or will
18 require a federally enforceable State operating permit and
19 will be located in an environmental justice community. For
20 purposes of this subsection (c), and for purposes of Section
21 39.2, the appropriate county board or governing body of the
22 municipality shall be the county board of the county or the
23 governing body of the municipality in which the source is to be
24 located as of the date when the application for siting
25 approval is filed. This provision does not apply to permits
26 for modifications or expansions at existing FESOP or CAAPP

1 sources unless the modification will result in an increase in
2 the hourly rate of emissions or the total annual emissions of
3 any air pollutant.

4 (d) The Agency may issue RCRA permits exclusively under
5 this subsection to persons owning or operating a facility for
6 the treatment, storage, or disposal of hazardous waste as
7 defined under this Act. Subsection (y) of this Section, rather
8 than this subsection (d), shall apply to permits issued for
9 CCR surface impoundments.

10 All RCRA permits shall contain those terms and conditions,
11 including, but not limited to, schedules of compliance, which
12 may be required to accomplish the purposes and provisions of
13 this Act. The Agency may include among such conditions
14 standards and other requirements established under this Act,
15 Board regulations, the Resource Conservation and Recovery Act
16 of 1976 (P.L. 94-580), as amended, and regulations pursuant
17 thereto, and may include schedules for achieving compliance
18 therewith as soon as possible. The Agency shall require that a
19 performance bond or other security be provided as a condition
20 for the issuance of a RCRA permit.

21 In the case of a permit to operate a hazardous waste or PCB
22 incinerator as defined in subsection (k) of Section 44, the
23 Agency shall require, as a condition of the permit, that the
24 operator of the facility perform such analyses of the waste to
25 be incinerated as may be necessary and appropriate to ensure
26 the safe operation of the incinerator.

1 The Agency shall adopt filing requirements and procedures
2 which are necessary and appropriate for the issuance of RCRA
3 permits, and which are consistent with the Act or regulations
4 adopted by the Board, and with the Resource Conservation and
5 Recovery Act of 1976 (P.L. 94-580), as amended, and
6 regulations pursuant thereto.

7 The applicant shall make available to the public for
8 inspection all documents submitted by the applicant to the
9 Agency in furtherance of an application, with the exception of
10 trade secrets, at the office of the county board or governing
11 body of the municipality. Such documents may be copied upon
12 payment of the actual cost of reproduction during regular
13 business hours of the local office. The Agency shall issue a
14 written statement concurrent with its grant or denial of the
15 permit explaining the basis for its decision.

16 (e) The Agency may issue UIC permits exclusively under
17 this subsection to persons owning or operating a facility for
18 the underground injection of contaminants as defined under
19 this Act.

20 All UIC permits shall contain those terms and conditions,
21 including, but not limited to, schedules of compliance, which
22 may be required to accomplish the purposes and provisions of
23 this Act. The Agency may include among such conditions
24 standards and other requirements established under this Act,
25 Board regulations, the Safe Drinking Water Act (P.L. 93-523),
26 as amended, and regulations pursuant thereto, and may include

1 schedules for achieving compliance therewith. The Agency shall
2 require that a performance bond or other security be provided
3 as a condition for the issuance of a UIC permit.

4 The Agency shall adopt filing requirements and procedures
5 which are necessary and appropriate for the issuance of UIC
6 permits, and which are consistent with the Act or regulations
7 adopted by the Board, and with the Safe Drinking Water Act
8 (P.L. 93-523), as amended, and regulations pursuant thereto.

9 The applicant shall make available to the public for
10 inspection all documents submitted by the applicant to the
11 Agency in furtherance of an application, with the exception of
12 trade secrets, at the office of the county board or governing
13 body of the municipality. Such documents may be copied upon
14 payment of the actual cost of reproduction during regular
15 business hours of the local office. The Agency shall issue a
16 written statement concurrent with its grant or denial of the
17 permit explaining the basis for its decision.

18 (f) In making any determination pursuant to Section 9.1 of
19 this Act:

20 (1) The Agency shall have authority to make the
21 determination of any question required to be determined by
22 the Clean Air Act, as now or hereafter amended, this Act,
23 or the regulations of the Board, including the
24 determination of the Lowest Achievable Emission Rate,
25 Maximum Achievable Control Technology, or Best Available
26 Control Technology, consistent with the Board's

1 regulations, if any.

2 (2) The Agency shall adopt requirements as necessary
3 to implement public participation procedures, including,
4 but not limited to, public notice, comment, and an
5 opportunity for hearing, which must accompany the
6 processing of applications for PSD permits. The Agency
7 shall briefly describe and respond to all significant
8 comments on the draft permit raised during the public
9 comment period or during any hearing. The Agency may group
10 related comments together and provide one unified response
11 for each issue raised.

12 (3) Any complete permit application submitted to the
13 Agency under this subsection for a PSD permit shall be
14 granted or denied by the Agency not later than one year
15 after the filing of such completed application.

16 (4) The Agency shall, after conferring with the
17 applicant, give written notice to the applicant of its
18 proposed decision on the application, including the terms
19 and conditions of the permit to be issued and the facts,
20 conduct, or other basis upon which the Agency will rely to
21 support its proposed action.

22 (g) The Agency shall include as conditions upon all
23 permits issued for hazardous waste disposal sites such
24 restrictions upon the future use of such sites as are
25 reasonably necessary to protect public health and the
26 environment, including permanent prohibition of the use of

1 such sites for purposes which may create an unreasonable risk
2 of injury to human health or to the environment. After
3 administrative and judicial challenges to such restrictions
4 have been exhausted, the Agency shall file such restrictions
5 of record in the Office of the Recorder of the county in which
6 the hazardous waste disposal site is located.

7 (h) A hazardous waste stream may not be deposited in a
8 permitted hazardous waste site unless specific authorization
9 is obtained from the Agency by the generator and disposal site
10 owner and operator for the deposit of that specific hazardous
11 waste stream. The Agency may grant specific authorization for
12 disposal of hazardous waste streams only after the generator
13 has reasonably demonstrated that, considering technological
14 feasibility and economic reasonableness, the hazardous waste
15 cannot be reasonably recycled for reuse, nor incinerated or
16 chemically, physically, or biologically treated so as to
17 neutralize the hazardous waste and render it nonhazardous. In
18 granting authorization under this Section, the Agency may
19 impose such conditions as may be necessary to accomplish the
20 purposes of the Act and are consistent with this Act and
21 regulations promulgated by the Board hereunder. If the Agency
22 refuses to grant authorization under this Section, the
23 applicant may appeal as if the Agency refused to grant a
24 permit, pursuant to the provisions of subsection (a) of
25 Section 40 of this Act. For purposes of this subsection (h),
26 the term "generator" has the meaning given in Section 3.205 of

1 this Act, unless: (1) the hazardous waste is treated,
2 incinerated, or partially recycled for reuse prior to
3 disposal, in which case the last person who treats,
4 incinerates, or partially recycles the hazardous waste prior
5 to disposal is the generator; or (2) the hazardous waste is
6 from a response action, in which case the person performing
7 the response action is the generator. This subsection (h) does
8 not apply to any hazardous waste that is restricted from land
9 disposal under 35 Ill. Adm. Code 728.

10 (i) Before issuing any RCRA permit, any permit for a waste
11 storage site, sanitary landfill, waste disposal site, waste
12 transfer station, waste treatment facility, waste incinerator,
13 or any waste-transportation operation, any permit or interim
14 authorization for a clean construction or demolition debris
15 fill operation, or any permit required under subsection (d-5)
16 of Section 55, the Agency shall conduct an evaluation of the
17 prospective owner's or operator's prior experience in waste
18 management operations, clean construction or demolition debris
19 fill operations, and tire storage site management. The Agency
20 may deny such a permit, or deny or revoke interim
21 authorization, if the prospective owner or operator or any
22 employee or officer of the prospective owner or operator has a
23 history of:

24 (1) repeated violations of federal, State, or local
25 laws, regulations, standards, or ordinances in the
26 operation of waste management facilities or sites, clean

1 construction or demolition debris fill operation
2 facilities or sites, or tire storage sites; or

3 (2) conviction in this or another State of any crime
4 which is a felony under the laws of this State, or
5 conviction of a felony in a federal court; or conviction
6 in this or another state or federal court of any of the
7 following crimes: forgery, official misconduct, bribery,
8 perjury, or knowingly submitting false information under
9 any environmental law, regulation, or permit term or
10 condition; or

11 (3) proof of gross carelessness or incompetence in
12 handling, storing, processing, transporting, or disposing
13 of waste, clean construction or demolition debris, or used
14 or waste tires, or proof of gross carelessness or
15 incompetence in using clean construction or demolition
16 debris as fill.

17 (i-5) Before issuing any permit or approving any interim
18 authorization for a clean construction or demolition debris
19 fill operation in which any ownership interest is transferred
20 between January 1, 2005, and the effective date of the
21 prohibition set forth in Section 22.52 of this Act, the Agency
22 shall conduct an evaluation of the operation if any previous
23 activities at the site or facility may have caused or allowed
24 contamination of the site. It shall be the responsibility of
25 the owner or operator seeking the permit or interim
26 authorization to provide to the Agency all of the information

1 necessary for the Agency to conduct its evaluation. The Agency
2 may deny a permit or interim authorization if previous
3 activities at the site may have caused or allowed
4 contamination at the site, unless such contamination is
5 authorized under any permit issued by the Agency.

6 (j) The issuance under this Act of a permit to engage in
7 the surface mining of any resources other than fossil fuels
8 shall not relieve the permittee from its duty to comply with
9 any applicable local law regulating the commencement,
10 location, or operation of surface mining facilities.

11 (k) A development permit issued under subsection (a) of
12 Section 39 for any facility or site which is required to have a
13 permit under subsection (d) of Section 21 shall expire at the
14 end of 2 calendar years from the date upon which it was issued,
15 unless within that period the applicant has taken action to
16 develop the facility or the site. In the event that review of
17 the conditions of the development permit is sought pursuant to
18 Section 40 or 41, or permittee is prevented from commencing
19 development of the facility or site by any other litigation
20 beyond the permittee's control, such two-year period shall be
21 deemed to begin on the date upon which such review process or
22 litigation is concluded.

23 (l) No permit shall be issued by the Agency under this Act
24 for construction or operation of any facility or site located
25 within the boundaries of any setback zone established pursuant
26 to this Act, where such construction or operation is

1 prohibited.

2 (m) The Agency may issue permits to persons owning or
3 operating a facility for composting landscape waste. In
4 granting such permits, the Agency may impose such conditions
5 as may be necessary to accomplish the purposes of this Act, and
6 as are not inconsistent with applicable regulations
7 promulgated by the Board. Except as otherwise provided in this
8 Act, a bond or other security shall not be required as a
9 condition for the issuance of a permit. If the Agency denies
10 any permit pursuant to this subsection, the Agency shall
11 transmit to the applicant within the time limitations of this
12 subsection specific, detailed statements as to the reasons the
13 permit application was denied. Such statements shall include
14 but not be limited to the following:

15 (1) the Sections of this Act that may be violated if
16 the permit were granted;

17 (2) the specific regulations promulgated pursuant to
18 this Act that may be violated if the permit were granted;

19 (3) the specific information, if any, the Agency deems
20 the applicant did not provide in its application to the
21 Agency; and

22 (4) a statement of specific reasons why the Act and
23 the regulations might be violated if the permit were
24 granted.

25 If no final action is taken by the Agency within 90 days
26 after the filing of the application for permit, the applicant

1 may deem the permit issued. Any applicant for a permit may
2 waive the 90-day limitation by filing a written statement with
3 the Agency.

4 The Agency shall issue permits for such facilities upon
5 receipt of an application that includes a legal description of
6 the site, a topographic map of the site drawn to the scale of
7 200 feet to the inch or larger, a description of the operation,
8 including the area served, an estimate of the volume of
9 materials to be processed, and documentation that:

10 (1) the facility includes a setback of at least 200
11 feet from the nearest potable water supply well;

12 (2) the facility is located outside the boundary of
13 the 10-year floodplain or the site will be floodproofed;

14 (3) the facility is located so as to minimize
15 incompatibility with the character of the surrounding
16 area, including at least a 200 foot setback from any
17 residence, and in the case of a facility that is developed
18 or the permitted composting area of which is expanded
19 after November 17, 1991, the composting area is located at
20 least 1/8 mile from the nearest residence (other than a
21 residence located on the same property as the facility);

22 (4) the design of the facility will prevent any
23 compost material from being placed within 5 feet of the
24 water table, will adequately control runoff from the site,
25 and will collect and manage any leachate that is generated
26 on the site;

1 (5) the operation of the facility will include
2 appropriate dust and odor control measures, limitations on
3 operating hours, appropriate noise control measures for
4 shredding, chipping and similar equipment, management
5 procedures for composting, containment and disposal of
6 non-compostable wastes, procedures to be used for
7 terminating operations at the site, and recordkeeping
8 sufficient to document the amount of materials received,
9 composted, and otherwise disposed of; and

10 (6) the operation will be conducted in accordance with
11 any applicable rules adopted by the Board.

12 The Agency shall issue renewable permits of not longer
13 than 10 years in duration for the composting of landscape
14 wastes, as defined in Section 3.155 of this Act, based on the
15 above requirements.

16 The operator of any facility permitted under this
17 subsection (m) must submit a written annual statement to the
18 Agency on or before April 1 of each year that includes an
19 estimate of the amount of material, in tons, received for
20 composting.

21 (n) The Agency shall issue permits jointly with the
22 Department of Transportation for the dredging or deposit of
23 material in Lake Michigan in accordance with Section 18 of the
24 Rivers, Lakes, and Streams Act.

25 (o) (Blank).

26 (p) (1) Any person submitting an application for a permit

1 for a new MSWLF unit or for a lateral expansion under
2 subsection (t) of Section 21 of this Act for an existing MSWLF
3 unit that has not received and is not subject to local siting
4 approval under Section 39.2 of this Act shall publish notice
5 of the application in a newspaper of general circulation in
6 the county in which the MSWLF unit is or is proposed to be
7 located. The notice must be published at least 15 days before
8 submission of the permit application to the Agency. The notice
9 shall state the name and address of the applicant, the
10 location of the MSWLF unit or proposed MSWLF unit, the nature
11 and size of the MSWLF unit or proposed MSWLF unit, the nature
12 of the activity proposed, the probable life of the proposed
13 activity, the date the permit application will be submitted,
14 and a statement that persons may file written comments with
15 the Agency concerning the permit application within 30 days
16 after the filing of the permit application unless the time
17 period to submit comments is extended by the Agency.

18 When a permit applicant submits information to the Agency
19 to supplement a permit application being reviewed by the
20 Agency, the applicant shall not be required to reissue the
21 notice under this subsection.

22 (2) The Agency shall accept written comments concerning
23 the permit application that are postmarked no later than 30
24 days after the filing of the permit application, unless the
25 time period to accept comments is extended by the Agency.

26 (3) Each applicant for a permit described in part (1) of

1 this subsection shall file a copy of the permit application
2 with the county board or governing body of the municipality in
3 which the MSWLF unit is or is proposed to be located at the
4 same time the application is submitted to the Agency. The
5 permit application filed with the county board or governing
6 body of the municipality shall include all documents submitted
7 to or to be submitted to the Agency, except trade secrets as
8 determined under Section 7.1 of this Act. The permit
9 application and other documents on file with the county board
10 or governing body of the municipality shall be made available
11 for public inspection during regular business hours at the
12 office of the county board or the governing body of the
13 municipality and may be copied upon payment of the actual cost
14 of reproduction.

15 (q) Within 6 months after July 12, 2011 (the effective
16 date of Public Act 97-95), the Agency, in consultation with
17 the regulated community, shall develop a web portal to be
18 posted on its website for the purpose of enhancing review and
19 promoting timely issuance of permits required by this Act. At
20 a minimum, the Agency shall make the following information
21 available on the web portal:

22 (1) Checklists and guidance relating to the completion
23 of permit applications, developed pursuant to subsection
24 (s) of this Section, which may include, but are not
25 limited to, existing instructions for completing the
26 applications and examples of complete applications. As the

1 Agency develops new checklists and develops guidance, it
2 shall supplement the web portal with those materials.

3 (2) Within 2 years after July 12, 2011 (the effective
4 date of Public Act 97-95), permit application forms or
5 portions of permit applications that can be completed and
6 saved electronically, and submitted to the Agency
7 electronically with digital signatures.

8 (3) Within 2 years after July 12, 2011 (the effective
9 date of Public Act 97-95), an online tracking system where
10 an applicant may review the status of its pending
11 application, including the name and contact information of
12 the permit analyst assigned to the application. Until the
13 online tracking system has been developed, the Agency
14 shall post on its website semi-annual permitting
15 efficiency tracking reports that include statistics on the
16 timeframes for Agency action on the following types of
17 permits received after July 12, 2011 (the effective date
18 of Public Act 97-95): air construction permits, new NPDES
19 permits and associated water construction permits, and
20 modifications of major NPDES permits and associated water
21 construction permits. The reports must be posted by
22 February 1 and August 1 each year and shall include:

23 (A) the number of applications received for each
24 type of permit, the number of applications on which
25 the Agency has taken action, and the number of
26 applications still pending; and

1 (B) for those applications where the Agency has
2 not taken action in accordance with the timeframes set
3 forth in this Act, the date the application was
4 received and the reasons for any delays, which may
5 include, but shall not be limited to, (i) the
6 application being inadequate or incomplete, (ii)
7 scientific or technical disagreements with the
8 applicant, USEPA, or other local, state, or federal
9 agencies involved in the permitting approval process,
10 (iii) public opposition to the permit, or (iv) Agency
11 staffing shortages. To the extent practicable, the
12 tracking report shall provide approximate dates when
13 cause for delay was identified by the Agency, when the
14 Agency informed the applicant of the problem leading
15 to the delay, and when the applicant remedied the
16 reason for the delay.

17 (r) Upon the request of the applicant, the Agency shall
18 notify the applicant of the permit analyst assigned to the
19 application upon its receipt.

20 (s) The Agency is authorized to prepare and distribute
21 guidance documents relating to its administration of this
22 Section and procedural rules implementing this Section.
23 Guidance documents prepared under this subsection shall not be
24 considered rules and shall not be subject to the Illinois
25 Administrative Procedure Act. Such guidance shall not be
26 binding on any party.

1 (t) Except as otherwise prohibited by federal law or
2 regulation, any person submitting an application for a permit
3 may include with the application suggested permit language for
4 Agency consideration. The Agency is not obligated to use the
5 suggested language or any portion thereof in its permitting
6 decision. If requested by the permit applicant, the Agency
7 shall meet with the applicant to discuss the suggested
8 language.

9 (u) If requested by the permit applicant, the Agency shall
10 provide the permit applicant with a copy of the draft permit
11 prior to any public review period.

12 (v) If requested by the permit applicant, the Agency shall
13 provide the permit applicant with a copy of the final permit
14 prior to its issuance.

15 (w) An air pollution permit shall not be required due to
16 emissions of greenhouse gases, as specified by Section 9.15 of
17 this Act.

18 (x) If, before the expiration of a State operating permit
19 that is issued pursuant to subsection (a) of this Section and
20 contains federally enforceable conditions limiting the
21 potential to emit of the source to a level below the major
22 source threshold for that source so as to exclude the source
23 from the Clean Air Act Permit Program, the Agency receives a
24 complete application for the renewal of that permit, then all
25 of the terms and conditions of the permit shall remain in
26 effect until final administrative action has been taken on the

1 application for the renewal of the permit.

2 (y) The Agency may issue permits exclusively under this
3 subsection to persons owning or operating a CCR surface
4 impoundment subject to Section 22.59.

5 (z) If a mass animal mortality event is declared by the
6 Department of Agriculture in accordance with the Animal
7 Mortality Act:

8 (1) the owner or operator responsible for the disposal
9 of dead animals is exempted from the following:

10 (i) obtaining a permit for the construction,
11 installation, or operation of any type of facility or
12 equipment issued in accordance with subsection (a) of
13 this Section;

14 (ii) obtaining a permit for open burning in
15 accordance with the rules adopted by the Board; and

16 (iii) registering the disposal of dead animals as
17 an eligible small source with the Agency in accordance
18 with Section 9.14 of this Act;

19 (2) as applicable, the owner or operator responsible
20 for the disposal of dead animals is required to obtain the
21 following permits:

22 (i) an NPDES permit in accordance with subsection
23 (b) of this Section;

24 (ii) a PSD permit or an NA NSR permit in accordance
25 with Section 9.1 of this Act;

26 (iii) a lifetime State operating permit or a

1 federally enforceable State operating permit, in
2 accordance with subsection (a) of this Section; or

3 (iv) a CAAPP permit, in accordance with Section
4 39.5 of this Act.

5 All CCR surface impoundment permits shall contain those
6 terms and conditions, including, but not limited to, schedules
7 of compliance, which may be required to accomplish the
8 purposes and provisions of this Act, Board regulations, the
9 Illinois Groundwater Protection Act and regulations pursuant
10 thereto, and the Resource Conservation and Recovery Act and
11 regulations pursuant thereto, and may include schedules for
12 achieving compliance therewith as soon as possible.

13 The Board shall adopt filing requirements and procedures
14 that are necessary and appropriate for the issuance of CCR
15 surface impoundment permits and that are consistent with this
16 Act or regulations adopted by the Board, and with the RCRA, as
17 amended, and regulations pursuant thereto.

18 The applicant shall make available to the public for
19 inspection all documents submitted by the applicant to the
20 Agency in furtherance of an application, with the exception of
21 trade secrets, on its public internet website as well as at the
22 office of the county board or governing body of the
23 municipality where CCR from the CCR surface impoundment will
24 be permanently disposed. Such documents may be copied upon
25 payment of the actual cost of reproduction during regular
26 business hours of the local office.

1 The Agency shall issue a written statement concurrent with
2 its grant or denial of the permit explaining the basis for its
3 decision.

4 (aa) An applicant for a permit for the construction of a
5 new source that will become a major source subject to the Clean
6 Air Act Permit Program under Section 39.5 and will be located
7 in an environmental justice community or a new source that has
8 required or will require a federally enforceable State
9 operating permit and will be located in an environmental
10 justice community must conduct a public meeting prior to
11 submission of the permit application and must submit with the
12 permit application an environmental justice assessment
13 identifying the potential environmental and health impacts to
14 the area associated with the proposed project. This subsection
15 (aa) also applies to permit applications for modifications or
16 expansions to existing sources that will result in an increase
17 in the hourly rate of emissions or the total annual emissions
18 of any air pollutant.

19 Before submitting the permit application to the Agency and
20 after obtaining local siting approval under Section 39.2, the
21 applicant must conduct a public meeting within the
22 environmental justice community where the proposed source is
23 to be located and collect public comments. Notice of the
24 public meeting must be provided 30 days in advance of the
25 meeting and in accordance with the following requirements:

26 (1) The notice shall be:

1 (A) provided to local elected officials in the
2 area where the proposed source is to be located,
3 including the mayor or village president, municipal
4 clerk, county board chairman, county clerk, and
5 State's Attorney;

6 (B) provided to members of the General Assembly
7 from the legislative district in which the proposed
8 source is to be located;

9 (C) provided to directors of child care centers
10 licensed by the Department of Children and Family
11 Services, school principals, and public park
12 superintendents who oversee facilities located within
13 one mile of the proposed source;

14 (D) published in a newspaper of general
15 circulation; and

16 (E) posted on a website of the applicant with a
17 link provided to the Agency for posting on the
18 Agency's website.

19 (2) The notice of the public meeting shall include the
20 following:

21 (A) The name and address of the applicant and the
22 proposed source.

23 (B) The activity or activities at the proposed
24 source to be permitted.

25 (C) The anticipated potential to emit and
26 allowable emissions for regulated pollutants of the

1 proposed source.

2 (D) The date, time, and location of the public
3 meeting.

4 (E) The deadline for submission of written
5 comments.

6 (F) The mailing address or email address where
7 written comments can be submitted.

8 (G) The website where the summary of the
9 environmental justice assessment required under
10 subsection (bb) can be accessed.

11 (3) For a community determined to be in linguistic
12 isolation, the applicant shall provide the public notice
13 in a multilingual format appropriate to the needs of the
14 linguistically isolated community and shall provide oral
15 and written translation services at the public meeting.

16 The applicant shall present a summary of the environmental
17 justice assessment required under subsection (bb) at the
18 public meeting.

19 The applicant must accept written public comments from the
20 date the public notice is provided through at least 30 days
21 following the public meeting.

22 The applicant must provide with its permit application a
23 copy of the notice and a certification, subject to penalty of
24 law, signed by a responsible official for the permit applicant
25 attesting to the fact that a public meeting was held, the
26 information that was provided by the applicant and the permit

1 applicant collected written and transcribed oral public
2 comments collected by the applicant in accordance with the
3 requirements of this subsection (aa).

4 The failure of the applicant to comply with the procedural
5 requirements of this subsection (aa) will result in a finding
6 of incompleteness or denial of the subsequent permit
7 application by the Agency.

8 The Agency may propose and the Board may adopt rules
9 regarding the implementation of this subsection (aa).

10 (bb) The permit application under subsection (aa) shall
11 include an environmental justice assessment. The environmental
12 justice assessment shall consist of the following:

13 (1) Air dispersion modeling examining the air
14 quality-related impacts from the proposed project in
15 combination with existing mobile and stationary sources of
16 emissions.

17 The air dispersion modeling must address emissions
18 associated with a new or modified CAAPP source as well as
19 emissions from any existing source that will comprise part
20 of a single stationary source with the new or modified
21 CAAPP source under the requirements of Section 39.5.

22 If the air dispersion modeling reveals estimated
23 off-site impacts from the proposed project of a
24 significant nature, the applicant shall also identify
25 efforts that will be undertaken by the applicant during
26 the construction or operation of the new source to

1 mitigate such impacts.

2 (2) A modeling protocol submitted to the Agency for
3 review and consideration prior to performance of the air
4 dispersion modeling. The modeling protocol shall include
5 analyses sufficient to evaluate short-term impacts to air
6 quality and impacts to air quality from nonstandard
7 operating conditions, such as worst case emission
8 estimates under a variety of weather and atmospheric
9 conditions and emissions associated with startup,
10 shutdown, maintenance, and outages. Any Agency
11 recommendations for revisions to the modeling protocol
12 shall be provided in writing to the applicant within 120
13 days after receipt of the modeling protocol. The modeling
14 shall be performed using accepted USEPA methodologies.

15 (3) An environmental impact review evaluating the
16 direct, indirect, and cumulative environmental impacts to
17 the environmental justice community that are associated
18 with the proposed project. The environmental impact review
19 shall include, but shall not be limited to, the following:

20 (A) A qualitative and quantitative assessment of
21 emissions-related impacts to the area from the
22 project, including identifying the maximum allowable
23 emissions of criteria pollutants and hazardous air
24 pollutant emissions to be anticipated from the
25 proposed new source.

26 (B) An assessment of the health-based indicators

1 for inhalation exposure, including, but not limited
2 to, impacts to the respiratory, hematological,
3 neurological, cardiovascular, renal, and hepatic
4 systems and cancer rates.

5 The environmental justice assessment must be completed by
6 an independent third party.

7 If the environmental justice assessment shows that the
8 proposed project will cause harm to the environment or public
9 health, the Agency shall impose conditions in the permit that
10 will mitigate such harm or deny the permit if such harm is
11 unavoidable and causes or contributes to disproportionate
12 harm.

13 The Agency shall propose and the Board shall adopt rules
14 regarding the implementation of this subsection, including, at
15 a minimum, the type and nature of air dispersion modeling, the
16 contents of the modeling protocol and environmental impact
17 review, and a description of harm and disproportionate harm
18 that may be evidenced by the environmental justice assessment.

19 (cc) Before issuing any covered non-CAAPP permit, the
20 Agency shall conduct an evaluation of the prospective owner's
21 or operator's prior experience in owning and operating sources
22 of air pollution. The Agency may deny the permit if the
23 prospective owner or operator or any employee or officer of
24 the prospective owner or operator or any board member has a
25 history of:

26 (1) repeated violations of federal, State, or local

1 laws, rules, regulations, standards, or ordinances
2 involving the ownership or operation of sources of air
3 pollution;

4 (2) conviction:

5 (A) in this or another state of any crime that is a
6 felony under the laws of this State;

7 (B) of a felony in a federal court; or

8 (C) in this or another state or federal court of
9 any of the following crimes:

10 (i) forgery;

11 (ii) official misconduct;

12 (iii) bribery;

13 (iv) perjury; or

14 (v) knowingly submitting false information
15 under any environmental law, rule, regulation, or
16 permit term or condition; or

17 (3) proof of gross carelessness or incompetence in the
18 ownership or operation of a source of air pollution.

19 (Source: P.A. 101-171, eff. 7-30-19; 102-216, eff. 1-1-22;
20 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

21 (415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)

22 Sec. 39.2. Local siting review.

23 (a) The county board of the county or the governing body of
24 the municipality, as determined by paragraph (c) of Section 39
25 of this Act, shall, subject to review, approve or disapprove

1 the request for local siting approval for the following: (i)
2 each pollution control facility; (ii) an air pollution source
3 that, upon issuance of the requested construction permit, will
4 become a major source subject to Section 39.5 and will be
5 located in an environmental justice community; or (iii) an air
6 pollution source that has required or will require a federally
7 enforceable State operating permit and will be located in an
8 environmental justice community ~~which is subject to such~~
9 ~~review~~. An applicant for local siting approval shall submit
10 sufficient details describing the proposed facility and
11 evidence to demonstrate compliance, and local siting approval
12 shall be granted only if the proposed facility meets the
13 following criteria:

14 (i) the pollution control facility is necessary to
15 accommodate the waste needs of the area it is intended to
16 serve;

17 (ii) the pollution control facility or air pollution
18 source is so designed, located, and proposed to be
19 operated that the public health, safety, and welfare will
20 be protected;

21 (iii) the pollution control facility or air pollution
22 source is located so as to minimize incompatibility with
23 the character of the surrounding area and to minimize the
24 effect on the value of the surrounding property;

25 (iv) (A) for a pollution control facility other than a
26 sanitary landfill or waste disposal site, the pollution

1 control facility is located outside the boundary of the
2 100-year ~~100-year~~ flood plain or the site is
3 flood-proofed; (B) for a pollution control facility that
4 is a sanitary landfill or waste disposal site, the
5 pollution control facility is located outside the boundary
6 of the 100-year floodplain, or if the pollution control
7 facility is a facility described in subsection (b) (3) of
8 Section 22.19a, the site is flood-proofed;

9 (v) the plan of operations for the pollution control
10 facility or air pollution source is designed to minimize
11 the danger to the surrounding area from fire, spills, or
12 other operational accidents;

13 (vi) the traffic patterns to or from the pollution
14 control facility or air pollution source are so designed
15 as to minimize the impact on existing traffic flows;

16 (vii) if the pollution control facility will be
17 treating, storing, or disposing of hazardous waste, an
18 emergency response plan exists for the facility which
19 includes notification, containment, and evacuation
20 procedures to be used in case of an accidental release;

21 (viii) if the pollution control facility is to be
22 located in a county where the county board has adopted a
23 solid waste management plan consistent with the planning
24 requirements of the Local Solid Waste Disposal Act or the
25 Solid Waste Planning and Recycling Act, the pollution
26 control facility is consistent with that plan; for

1 purposes of this criterion (viii), the "solid waste
2 management plan" means the plan that is in effect as of the
3 date the application for siting approval is filed; and

4 (ix) if the pollution control facility will be located
5 within a regulated recharge area, any applicable
6 requirements specified by the Board for such areas have
7 been met.

8 The county board or the governing body of the municipality
9 may also consider as evidence the previous operating
10 experience and past record of convictions or admissions of
11 violations of the pollution control facility applicant (and
12 any subsidiary or parent corporation) in the field of solid
13 waste management when considering criteria (ii) and (v) under
14 this Section.

15 If the pollution control facility is subject to the
16 location restrictions in Section 22.14 of this Act, compliance
17 with that Section shall be determined as of the date the
18 application for siting approval is filed.

19 (b) No later than 14 days before the date on which the
20 county board or governing body of the municipality receives a
21 request for site approval, the applicant shall cause written
22 notice of such request to be served either in person or by
23 registered mail, return receipt requested, on the owners of
24 all property within the subject area not solely owned by the
25 applicant, and on the owners of all property within 250 feet in
26 each direction of the lot line of the subject property, said

1 owners being such persons or entities which appear from the
2 authentic tax records of the county ~~County~~ in which such
3 pollution control facility or air pollution source is to be
4 located; provided, that the number of all feet occupied by all
5 public roads, streets, alleys, and other public ways shall be
6 excluded in computing the 250 feet requirement; provided
7 further, that in no event shall this requirement exceed 400
8 feet, including public streets, alleys, and other public ways.

9 Such written notice shall also be served upon members of
10 the General Assembly from the legislative district in which
11 the proposed pollution control facility or air pollution
12 source is located and shall be published in a newspaper of
13 general circulation published in the county in which the site
14 is located.

15 Such notice shall state the name and address of the
16 applicant, the location of the proposed site, the nature and
17 size of the development, the nature of the activity proposed,
18 the probable life of the proposed activity, the date when the
19 request for site approval will be submitted, and a description
20 of the right of persons to comment on such request as hereafter
21 provided.

22 (c) An applicant shall file a copy of its request with the
23 county board of the county or the governing body of the
24 municipality in which the proposed site is located. The
25 request shall include (i) the substance of the applicant's
26 proposal and (ii) all documents, if any, submitted as of that

1 date to the Agency pertaining to the proposed pollution
2 control facility or air pollution source, except trade secrets
3 as determined under Section 7.1 of this Act. All such
4 documents or other materials on file with the county board or
5 governing body of the municipality shall be made available for
6 public inspection at the office of the county board or the
7 governing body of the municipality and may be copied upon
8 payment of the actual cost of reproduction.

9 Any person may file written comment with the county board
10 or governing body of the municipality concerning the
11 appropriateness of the proposed site for its intended purpose.
12 The county board or governing body of the municipality shall
13 consider any comment received or postmarked not later than 30
14 days after the date of the last public hearing.

15 (d) At least one public hearing, at which an applicant
16 shall present at least one witness to testify subject to
17 cross-examination, is to be held by the county board or
18 governing body of the municipality no sooner than 90 days but
19 no later than 120 days after the date on which it received the
20 request for site approval. No later than 14 days prior to such
21 hearing, notice shall be published in a newspaper of general
22 circulation published in the county of the proposed site, and
23 delivered by certified mail to all members of the General
24 Assembly from the district in which the proposed site is
25 located, to the governing authority of every municipality
26 contiguous to the proposed site or contiguous to the

1 municipality in which the proposed site is to be located, to
2 the county board of the county where the proposed site is to be
3 located, if the proposed site is located within the boundaries
4 of a municipality, and to the Agency. Members or
5 representatives of the governing authority of a municipality
6 contiguous to the proposed site or contiguous to the
7 municipality in which the proposed site is to be located and,
8 if the proposed site is located in a municipality, members or
9 representatives of the county board of a county in which the
10 proposed site is to be located may appear at and participate in
11 public hearings held pursuant to this Section. The public
12 hearing shall develop a record sufficient to form the basis of
13 appeal of the decision in accordance with Section 40.1 of this
14 Act. The fact that a member of the county board or governing
15 body of the municipality has publicly expressed an opinion on
16 an issue related to a site review proceeding shall not
17 preclude the member from taking part in the proceeding and
18 voting on the issue.

19 (e) Decisions of the county board or governing body of the
20 municipality are to be in writing, confirming a public hearing
21 was held with testimony from at least one witness presented by
22 the applicant, specifying the reasons for the decision, such
23 reasons to be in conformance with subsection (a) of this
24 Section. In granting approval for a site the county board or
25 governing body of the municipality may impose such conditions
26 as may be reasonable and necessary to accomplish the purposes

1 of this Section and as are not inconsistent with regulations
2 promulgated by the Board. Such decision shall be available for
3 public inspection at the office of the county board or
4 governing body of the municipality and may be copied upon
5 payment of the actual cost of reproduction. If there is no
6 final action by the county board or governing body of the
7 municipality within 180 days after the date on which it
8 received the request for site approval, the applicant may deem
9 the request approved.

10 At the public hearing, at any time prior to completion by
11 the applicant of the presentation of the applicant's factual
12 evidence, testimony, and an opportunity for cross-examination
13 by the county board or governing body of the municipality and
14 any participants, the applicant may file not more than one
15 amended application upon payment of additional fees pursuant
16 to subsection (k); in which case the time limitation for final
17 action set forth in this subsection (e) shall be extended for
18 an additional period of 90 days.

19 If, prior to making a final local siting decision, a
20 county board or governing body of a municipality has
21 negotiated and entered into a host agreement with the local
22 siting applicant, the terms and conditions of the host
23 agreement, whether written or oral, shall be disclosed and
24 made a part of the hearing record for that local siting
25 proceeding. In the case of an oral agreement, the disclosure
26 shall be made in the form of a written summary jointly prepared

1 and submitted by the county board or governing body of the
2 municipality and the siting applicant and shall describe the
3 terms and conditions of the oral agreement.

4 (e-5) Siting approval obtained pursuant to this Section is
5 transferable and may be transferred to a subsequent owner or
6 operator. In the event that siting approval has been
7 transferred to a subsequent owner or operator, that subsequent
8 owner or operator assumes and takes subject to any and all
9 conditions imposed upon the prior owner or operator by the
10 county board of the county or governing body of the
11 municipality pursuant to subsection (e). However, any such
12 conditions imposed pursuant to this Section may be modified by
13 agreement between the subsequent owner or operator and the
14 appropriate county board or governing body. Further, in the
15 event that siting approval obtained pursuant to this Section
16 has been transferred to a subsequent owner or operator, that
17 subsequent owner or operator assumes all rights and
18 obligations and takes the facility subject to any and all
19 terms and conditions of any existing host agreement between
20 the prior owner or operator and the appropriate county board
21 or governing body.

22 (f) A local siting approval granted under this Section
23 shall expire at the end of 2 calendar years from the date upon
24 which it was granted, unless the local siting approval granted
25 under this Section is for a sanitary landfill operation, in
26 which case the approval shall expire at the end of 3 calendar

1 years from the date upon which it was granted, and unless
2 within that period the applicant has made application to the
3 Agency for a permit to develop the site. In the event that the
4 local siting decision has been appealed, such expiration
5 period shall be deemed to begin on the date upon which the
6 appeal process is concluded.

7 Except as otherwise provided in this subsection, upon the
8 expiration of a development permit under subsection (k) of
9 Section 39, any associated local siting approval granted for
10 the facility under this Section shall also expire.

11 If a first development permit for a municipal waste
12 incineration facility expires under subsection (k) of Section
13 39 after September 30, 1989 due to circumstances beyond the
14 control of the applicant, any associated local siting approval
15 granted for the facility under this Section may be used to
16 fulfill the local siting approval requirement upon application
17 for a second development permit for the same site, provided
18 that the proposal in the new application is materially the
19 same, with respect to the criteria in subsection (a) of this
20 Section, as the proposal that received the original siting
21 approval, and application for the second development permit is
22 made before January 1, 1990.

23 (g) The siting approval procedures, criteria and appeal
24 procedures provided for in this Act for new pollution control
25 facilities shall be the exclusive siting procedures and rules
26 and appeal procedures for facilities subject to such

1 procedures. Local zoning or other local land use requirements
2 shall not be applicable to such siting decisions.

3 (h) Nothing in this Section shall apply to any existing or
4 new pollution control facility located within the corporate
5 limits of a municipality with a population of over 1,000,000.

6 (i) (Blank.)

7 The Board shall adopt regulations establishing the
8 geologic and hydrologic siting criteria necessary to protect
9 usable groundwater resources which are to be followed by the
10 Agency in its review of permit applications for new pollution
11 control facilities. Such regulations, insofar as they apply to
12 new pollution control facilities authorized to store, treat or
13 dispose of any hazardous waste, shall be at least as stringent
14 as the requirements of the Resource Conservation and Recovery
15 Act and any State or federal regulations adopted pursuant
16 thereto.

17 (j) Any new pollution control facility which has never
18 obtained local siting approval under the provisions of this
19 Section shall be required to obtain such approval after a
20 final decision on an appeal of a permit denial.

21 (k) A county board or governing body of a municipality may
22 charge applicants for siting review under this Section a
23 reasonable fee to cover the reasonable and necessary costs
24 incurred by such county or municipality in the siting review
25 process.

26 (l) The governing Authority as determined by subsection

1 (c) of Section 39 of this Act may request the Department of
2 Transportation to perform traffic impact studies of proposed
3 or potential locations for required pollution control
4 facilities.

5 (m) An applicant may not file a request for local siting
6 approval which is substantially the same as a request which
7 was disapproved pursuant to a finding against the applicant
8 under any of criteria (i) through (ix) of subsection (a) of
9 this Section within the preceding 2 years.

10 (n) In any review proceeding of a decision of the county
11 board or governing body of a municipality made pursuant to the
12 local siting review process, the petitioner in the review
13 proceeding shall pay to the county or municipality the cost of
14 preparing and certifying the record of proceedings. Should the
15 petitioner in the review proceeding fail to make payment, the
16 provisions of Section 3-109 of the Code of Civil Procedure
17 shall apply.

18 In the event the petitioner is a citizens' group that
19 participated in the siting proceeding and is so located as to
20 be affected by the proposed facility, such petitioner shall be
21 exempt from paying the costs of preparing and certifying the
22 record.

23 (o) Notwithstanding any other provision of this Section, a
24 transfer station used exclusively for landscape waste, where
25 landscape waste is held no longer than 24 hours from the time
26 it was received, is not subject to the requirements of local

1 siting approval under this Section, but is subject only to
2 local zoning approval.

3 (p) The siting approval procedures, criteria, and appeal
4 procedures provided for in this Act for new air pollution
5 sources shall be in addition to the applicable local land use
6 and zoning standards, procedures, rules, and appeal
7 procedures. Local zoning or other local land use requirements
8 shall continue to be applicable to such siting decisions for
9 new air pollution sources in addition to the siting approval
10 procedures, criteria, and appeal procedures provided in this
11 Act.

12 (Source: P.A. 100-382, eff. 8-25-17.)

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

14 Sec. 39.5. Clean Air Act Permit Program.

15 1. Definitions. For purposes of this Section:

16 "Administrative permit amendment" means a permit revision
17 subject to subsection 13 of this Section.

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

21 "Affected States" for purposes of formal distribution of a
22 draft CAAPP permit to other States for comments prior to
23 issuance, means all States:

24 (1) Whose air quality may be affected by the source
25 covered by the draft permit and that are contiguous to

1 Illinois; or

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

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

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

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

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

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

11 (3) Any standard or other requirement under Section
12 111 of the Clean Air Act, including Section 111(d).

13 (4) Any standard or other requirement under Section
14 112 of the Clean Air Act, including any requirement
15 concerning accident prevention under Section 112(r)(7) of
16 the Clean Air Act.

17 (5) Any standard or other requirement of the acid rain
18 program under Title IV of the Clean Air Act or the
19 regulations promulgated thereunder.

20 (6) Any requirements established pursuant to Section
21 504(b) or Section 114(a)(3) of the Clean Air Act.

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

25 (8) Any standard or other requirement for consumer and
26 commercial products, under Section 183(e) of the Clean Air

1 Act.

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

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

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

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

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

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

25 "CAAPP application" means an application for a CAAPP
26 permit.

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

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

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

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

18 "Draft CAAPP permit" means the version of a CAAPP permit
19 for which public notice and an opportunity for public comment
20 and hearing is offered by the Agency.

21 "Effective date of the CAAPP" means the date that USEPA
22 approves Illinois' CAAPP.

23 "Emission unit" means any part or activity of a stationary
24 source that emits or has the potential to emit any air
25 pollutant. This term is not meant to alter or affect the
26 definition of the term "unit" for purposes of Title IV of the

1 Clean Air Act.

2 "Federally enforceable" means enforceable by USEPA.

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

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

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

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

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

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

26 "Permit revision" means a permit modification or

1 administrative permit amendment.

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

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

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

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

24 "Proposed CAAPP permit" means the version of a CAAPP
25 permit that the Agency proposes to issue and forwards to USEPA
26 for review in compliance with applicable requirements of the

1 Act and regulations promulgated thereunder.

2 "Regulated air pollutant" means the following:

3 (1) Nitrogen oxides (NOx) or any volatile organic
4 compound.

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

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

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

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

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

24 (ii) Any pollutant for which the requirements of
25 Section 112(g)(2) of the Clean Air Act have been met,
26 but only with respect to the individual source subject

1 to Section 112(g)(2) requirement.

2 (6) Greenhouse gases.

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

5 "Responsible official" means one of the following:

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

19 (2) For a partnership or sole proprietorship: a
20 general partner or the proprietor, respectively, or in the
21 case of a partnership in which all of the partners are
22 corporations, a duly authorized representative of the
23 partnership if the representative is responsible for the
24 overall operation of one or more manufacturing,
25 production, or operating facilities applying for or
26 subject to a permit and either (i) the facilities employ

1 more than 250 persons or have gross annual sales or
2 expenditures exceeding \$25 million (in second quarter 1980
3 dollars), or (ii) the delegation of authority to such
4 representative is approved in advance by the Agency.

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

12 (4) For affected sources for acid deposition:

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

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

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

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

25 "Source" means any stationary source (or any group of
26 stationary sources) that is located on one or more contiguous

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

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

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

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

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

15 1.1. Exclusion From the CAAPP.

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

1 of Section 39 of this Act. After such date, an exclusion
2 from the CAAPP may be sought under paragraph (c) of
3 subsection 3 of this Section.

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

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

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

26 e. The Agency shall provide such sources with the

1 necessary permit application forms.

2 2. Applicability.

3 a. Sources subject to this Section shall include:

4 i. Any major source as defined in paragraph (c) of
5 this subsection.

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

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

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

18 b. Sources exempted from this Section shall include:

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

1 promulgated thereunder.

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

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

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

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

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

23 (A) enactment of federal legislation depriving
24 the Administrator of the USEPA of authority to
25 regulate greenhouse gases under the Clean Air Act;

26 (B) the issuance of any opinion, ruling,

1 judgment, order, or decree by a federal court
2 depriving the Administrator of the USEPA of
3 authority to regulate greenhouse gases under the
4 Clean Air Act; or

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

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

1 required by this Section.

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

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

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

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

26 ii. A major stationary source of air pollutants,

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

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

- 1 K. Lime plants.
- 2 L. Phosphate rock processing plants.
- 3 M. Coke oven batteries.
- 4 N. Sulfur recovery plants.
- 5 O. Carbon black plants (furnace process).
- 6 P. Primary lead smelters.
- 7 Q. Fuel conversion plants.
- 8 R. Sintering plants.
- 9 S. Secondary metal production plants.
- 10 T. Chemical process plants.
- 11 U. Fossil-fuel boilers (or combination
12 thereof) totaling more than 250 million British
13 thermal units per hour heat input.
- 14 V. Petroleum storage and transfer units with a
15 total storage capacity exceeding 300,000 barrels.
- 16 W. Taconite ore processing plants.
- 17 X. Glass fiber processing plants.
- 18 Y. Charcoal production plants.
- 19 Z. Fossil fuel-fired steam electric plants of
20 more than 250 million British thermal units per
21 hour heat input.
- 22 AA. All other stationary source categories,
23 which as of August 7, 1980 are being regulated by a
24 standard promulgated under Section 111 or 112 of
25 the Clean Air Act.
- 26 BB. Any other stationary source category

1 designated by USEPA by rule.

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

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

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

26 C. For carbon monoxide nonattainment areas (1)

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

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

10 3. Agency Authority To Issue CAAPP Permits and Federally
11 Enforceable State Operating Permits.

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

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

24 c. The Agency shall have the authority to issue a
25 State operating permit for a source under subsection (a)

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

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

16 4. Transition.

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

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

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

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

1 the date the Agency submits the CAAPP to USEPA for
2 approval.

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

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

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

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

20 h. 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 5. Applications and Completeness.

25 a. An owner or operator of a CAAPP source shall submit

1 its complete CAAPP application consistent with the Act and
2 applicable regulations.

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

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

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

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

26 f. The Agency shall provide notice to a CAAPP

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

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

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

24 i. Any applicant who fails to submit any relevant
25 facts necessary to evaluate the subject source and its
26 CAAPP application or who has submitted incorrect

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

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

23 Where the Agency does not take final action on the
24 permit within the required time period, the permit shall
25 not be deemed issued; rather, the failure to act shall be
26 treated as a final permit action for purposes of judicial

1 review pursuant to Sections 40.2 and 41 of this Act.

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

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

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

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

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

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

25 q. The Agency shall make available to the public all
26 documents submitted by the applicant to the Agency,

1 including each CAAPP application, compliance plan
2 (including the schedule of compliance), and emissions or
3 compliance monitoring report, with the exception of
4 information entitled to confidential treatment pursuant to
5 Section 7 of this Act.

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

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

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

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

1 the CAAPP, such owner or operator may request the
2 imposition of federally enforceable conditions pursuant to
3 paragraph (b) of subsection 1.1 of this Section.

4 v. CAAPP applications shall contain accurate
5 information on allowable emissions to implement the fee
6 provisions of subsection 18 of this Section.

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

23 x. The owner or operator of a new CAAPP source shall
24 submit its complete CAAPP application consistent with this
25 subsection within 12 months after commencing operation of
26 such source. The owner or operator of an existing source

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

8 y. 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 6. Prohibitions.

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

23 b. After the applicable CAAPP permit or renewal
24 application submittal date, as specified in subsection 5
25 of this Section, no person shall operate a CAAPP source

1 without a CAAPP permit unless the complete CAAPP permit or
2 renewal application for such source has been timely
3 submitted to the Agency.

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

12 7. Permit Content.

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

21 b. The Agency shall include among such conditions
22 applicable monitoring, reporting, record keeping and
23 compliance certification requirements, as authorized by
24 paragraphs (d), (e), and (f) of this subsection, that the
25 Agency deems necessary to assure compliance with the Clean

1 Air Act, the regulations promulgated thereunder, this Act,
2 and applicable Board regulations. When monitoring,
3 reporting, record keeping, and compliance certification
4 requirements are specified within the Clean Air Act,
5 regulations promulgated thereunder, this Act, or
6 applicable regulations, such requirements shall be
7 included within the CAAPP permit. The Board shall have
8 authority to promulgate additional regulations where
9 necessary to accomplish the purposes of the Clean Air Act,
10 this Act, and regulations promulgated thereunder.

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

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

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

25 ii. Where the applicable requirement does not
26 require periodic testing or instrumental or

1 noninstrumental monitoring (which may consist of
2 recordkeeping designed to serve as monitoring),
3 require periodic monitoring sufficient to yield
4 reliable data from the relevant time period that is
5 representative of the source's compliance with the
6 permit, as reported pursuant to paragraph (f) of this
7 subsection. The Agency may determine that
8 recordkeeping requirements are sufficient to meet the
9 requirements of this subparagraph.

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

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

17 i. Records of required monitoring information that
18 include the following:

19 A. The date, place and time of sampling or
20 measurements.

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

22 C. The company or entity that performed the
23 analyses.

24 D. The analytical techniques or methods used.

25 E. The results of such analyses.

26 F. The operating conditions as existing at the

1 time of sampling or measurement.

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

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

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

23 ii. Prompt reporting of deviations from permit
24 requirements, including those attributable to upset
25 conditions as defined in the permit, the probable
26 cause of such deviations, and any corrective actions

1 or preventive measures taken.

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

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

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

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

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

1 release of the proposed permit, provided that:

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

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

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

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

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

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

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

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

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

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

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

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

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

25 iv. During the period of the emergency the
26 permittee took all reasonable steps to minimize levels

1 of emissions that exceeded the emission limitations,
2 standards, or requirements in the permit.

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

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

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

23 i. Terms and conditions for reasonably anticipated
24 operating scenarios identified by the source in its
25 application. The permit terms and conditions for each
26 such operating scenario shall meet all applicable

1 requirements and the requirements of this Section.

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

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

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

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

21 B. Must meet all applicable requirements;

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

26 m. The Agency shall specifically designate as not

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

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

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

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

1 application.

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

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

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

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

1 kept by the permit or, for information claimed to be
2 confidential, the permittee may furnish such records
3 directly to USEPA along with a claim of
4 confidentiality.

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

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

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

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

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

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

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

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

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

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

24 2. As otherwise authorized by this Act.

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

1 regulations.

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

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

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

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

25 A. The frequency (annually or more frequently
26 as specified in any applicable requirement or by

1 the Agency pursuant to written procedures) of
2 submissions of compliance certifications.

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

6 C. A requirement that the compliance
7 certification include the following:

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

11 2. The compliance status.

12 3. Whether compliance was continuous or
13 intermittent.

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

18 D. A requirement that all compliance
19 certifications be submitted to the Agency.

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

23 F. Other provisions as the Agency may require.

24 q. If the owner or operator of CAAPP source can
25 demonstrate in its CAAPP application, including an
26 application for a significant modification, that an

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

9 8. Public Notice; Affected State Review.

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

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

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

25 d. The Agency, as part of its submittal of a proposed

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

12 e. The Agency shall make available to the public any
13 CAAPP permit application, compliance plan (including the
14 schedule of compliance), CAAPP permit, and emissions or
15 compliance monitoring report. If an owner or operator of a
16 CAAPP source is required to submit information entitled to
17 protection from disclosure under Section 7.1 and
18 subsection (a) of Section 7 of this Act, the owner or
19 operator shall submit such information separately. The
20 requirements of Section 7.1 and subsection (a) of Section
21 7 of this Act shall apply to such information, which shall
22 not be included in a CAAPP permit unless required by law.
23 The contents of a CAAPP permit shall not be entitled to
24 protection under Section 7.1 and subsection (a) of Section
25 7 of this Act.

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

10 9. USEPA Notice and Objection.

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

24 b. The Agency shall not issue the proposed CAAPP
25 permit if USEPA objects in writing within 45 days after

1 receipt of the proposed CAAPP permit and all necessary
2 supporting information.

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

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

26 e. If USEPA does not object in writing to issuance of a

1 permit under this subsection, any person may petition
2 USEPA within 60 days after expiration of the 45-day review
3 period to make such objection.

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

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

26 h. 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 10. Final Agency Action.

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

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

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

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

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

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

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

11 vii. The Agency has concluded, following a review
12 of the prospective owner's or operator's compliance
13 history as required by paragraph b of subsection 10 of
14 this Section, that previous noncompliance does not
15 justify permit denial.

16 b. The Agency shall have the authority to deny a CAAPP
17 permit, permit modification, or permit renewal if the
18 applicant has not complied with the requirements of
19 subparagraphs (i) through (iv) of paragraph (a) of this
20 subsection or if USEPA objects to its issuance. Further,
21 for a covered permit transaction, the Agency shall conduct
22 an evaluation of the prospective owner's or operator's
23 prior experience in owning and operating sources of air
24 pollution. The Agency has the authority to deny a covered
25 permit transaction if the prospective owner or operator or
26 any employee or officer of the prospective owner or

1 operator or board member or manager has a history of:

2 i. repeated violations of federal, State, or local
3 laws, rules, regulations, standards, or ordinances
4 involving the ownership or operation of sources of air
5 pollution;

6 ii. conviction:

7 (A) in this or another state of any crime that
8 is a felony under the laws of this State;

9 (B) of a felony in a federal court; or

10 (C) in this or another state or federal court
11 of any of the following crimes:

12 (i) forgery;

13 (ii) official misconduct;

14 (iii) bribery;

15 (iv) perjury; or

16 (v) knowingly submitting false information
17 under any environmental law, rule, regulation,
18 or permit term or condition; or

19 iii. proof of gross carelessness or incompetence
20 in the ownership or operation of a source of air
21 pollution.

22 c. i. Prior to denial of a CAAPP permit, permit
23 modification, or permit renewal under this Section,
24 the Agency shall notify the applicant of the possible
25 denial and the reasons for the denial.

26 ii. Within such notice, the Agency shall specify

1 an appropriate date by which the applicant shall
2 adequately respond to the Agency's notice. Such date
3 shall not exceed 15 days from the date the
4 notification is received by the applicant. The Agency
5 may grant a reasonable extension for good cause shown.

6 iii. Failure by the applicant to adequately
7 respond by the date specified in the notification or
8 by any granted extension date shall be grounds for
9 denial of the permit.

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

19 d. 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 11. General Permits.

24 a. The Agency may issue a general permit covering
25 numerous similar sources, except for affected sources for

1 acid deposition unless otherwise provided in regulations
2 promulgated under Title IV of the Clean Air Act.

3 b. The Agency shall identify, in any general permit,
4 criteria by which sources may qualify for the general
5 permit.

6 c. CAAPP sources that would qualify for a general
7 permit must apply for coverage under the terms of the
8 general permit or must apply for a CAAPP permit consistent
9 with subsection 5 of this Section and applicable
10 regulations.

11 d. The Agency shall comply with the public comment and
12 hearing provisions of this Section as well as the USEPA
13 and affected State review procedures prior to issuance of
14 a general permit.

15 e. When granting a subsequent request by a qualifying
16 CAAPP source for coverage under the terms of a general
17 permit, the Agency shall not be required to repeat the
18 public notice and comment procedures. The granting of such
19 request shall not be considered a final permit action for
20 purposes of judicial review.

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

24 g. The Agency shall have the authority to adopt
25 procedural rules, in accordance with the Illinois
26 Administrative Procedure Act, as the Agency deems

1 necessary, to implement this subsection.

2 12. Operational Flexibility.

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

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

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

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

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

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

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

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

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

1 application proposed replicable procedures and permit
2 terms that ensure the emissions trades are
3 quantifiable and enforceable. The permit shall also
4 require compliance with all applicable requirements.

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

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

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

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

26 (ii) Sources must provide contemporaneous written

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

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

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

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

21 13. Administrative Permit Amendments.

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

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

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

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

10 i. Corrects typographical errors;

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

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

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

25 v. Incorporates into the CAAPP permit the
26 requirements from preconstruction review permits

1 authorized under a USEPA-approved program, provided
2 the program meets procedural and compliance
3 requirements substantially equivalent to those
4 contained in this Section;

5 vi. (Blank); or

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

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

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

1 f. The CAAPP source may implement the changes
2 addressed in the request for an administrative permit
3 amendment immediately upon submittal of the request.

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

8 14. Permit Modifications.

9 a. Minor permit modification procedures.

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

13 A. Do not violate any applicable requirement;

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

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

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

1 conditions include:

2 1. A federally enforceable emissions cap
3 assumed to avoid classification as a
4 modification under any provision of Title I of
5 the Clean Air Act; and

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

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

11 F. Are not required to be processed as a
12 significant modification.

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

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

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

4 B. The source's suggested draft permit;

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

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

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

22 v. The Agency may not issue a final permit
23 modification until after the 45-day review period for
24 USEPA or until USEPA has notified the Agency that
25 USEPA will not object to the issuance of the permit
26 modification, whichever comes first, although the

1 Agency can approve the permit modification prior to
2 that time. Within 90 days after the Agency's receipt
3 of an application under the minor permit modification
4 procedures or 15 days after the end of USEPA's 45-day
5 review period under subsection 9 of this Section,
6 whichever is later, the Agency shall:

7 A. Issue the permit modification as proposed;

8 B. Deny the permit modification application;

9 C. Determine that the requested modification
10 does not meet the minor permit modification
11 criteria and should be reviewed under the
12 significant modification procedures; or

13 D. Revise the draft permit modification and
14 transmit to USEPA the new proposed permit
15 modification as required by subsection 9 of this
16 Section.

17 vi. Any CAAPP source may make the change proposed
18 in its minor permit modification application
19 immediately after it files such application. After the
20 CAAPP source makes the change allowed by the preceding
21 sentence, and until the Agency takes any of the
22 actions specified in items (A) through (C) of
23 subparagraph (v) of paragraph (a) of this subsection,
24 the source must comply with both the applicable
25 requirements governing the change and the proposed
26 permit terms and conditions. During this time period,

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

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

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

1 b. Group Processing of Minor Permit Modifications.

2 i. Where requested by an applicant within its
3 application, the Agency shall process groups of a
4 source's applications for certain modifications
5 eligible for minor permit modification processing in
6 accordance with the provisions of this paragraph (b).

7 ii. Permit modifications may be processed in
8 accordance with the procedures for group processing,
9 for those modifications:

10 A. Which meet the criteria for minor permit
11 modification procedures under subparagraph (i) of
12 paragraph (a) of subsection 14 of this Section;
13 and

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

20 iii. An applicant requesting the use of group
21 processing procedures shall meet the requirements of
22 subsection 5 of this Section and shall include the
23 following in its application:

24 A. A description of the change, the emissions
25 resulting from the change, and any new applicable
26 requirements that will apply if the change occurs.

1 B. The source's suggested draft permit.

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

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

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

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

23 iv. On a quarterly basis or within 5 business days
24 after receipt of an application demonstrating that the
25 aggregate of a source's pending applications equals or
26 exceeds the threshold level set forth within item (B)

1 of subparagraph (ii) of paragraph (b) of this
2 subsection, whichever is earlier, the Agency shall
3 promptly notify USEPA and affected States of the
4 requested permit modifications in accordance with
5 subsections 8 and 9 of this Section. The Agency shall
6 send any notice required under paragraph (d) of
7 subsection 8 of this Section to USEPA.

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

17 vi. The provisions of subparagraph (vi) of
18 paragraph (a) of this subsection shall apply to
19 modifications for group processing.

20 vii. The provisions of paragraph (j) of subsection
21 7 of this Section shall not apply to modifications
22 eligible for group processing.

23 c. Significant Permit Modifications.

24 i. Significant modification procedures shall be
25 used for applications requesting significant permit
26 modifications and for those applications that do not

1 qualify as either minor permit modifications or as
2 administrative permit amendments.

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

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

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

1 15. Reopenings for Cause by the Agency.

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

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

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

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

1 of the permit.

2 iv. The Agency or USEPA determines that the permit
3 must be revised or revoked to assure compliance with
4 the applicable requirements.

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

18 c. Proceedings regarding a reopened CAAPP permit shall
19 follow the same procedures as apply to initial permit
20 issuance and shall affect only those parts of the permit
21 for which cause to reopen exists.

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

1 in the case of an emergency.

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

6 16. Reopenings for Cause by USEPA.

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

1 after receipt of notification from USEPA.

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

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

23 iii. The Board shall cause a copy of its interim
24 order to be served upon all parties to the proceeding
25 as well as upon USEPA. The Agency shall submit the
26 proposed determination to USEPA in accordance with the

1 Board's Interim Order within 180 days after receipt of
2 the notification from USEPA.

3 c. USEPA shall review the proposed determination to
4 terminate, modify, or revoke and reissue the permit within
5 90 days after receipt.

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

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

25 iii. When USEPA reviews such proposed
26 determination to modify and objects, the Agency shall,

1 within 90 days after receipt of the objection, resolve
2 the objection and modify the permit in accordance with
3 USEPA's objection, based upon the record, the Clean
4 Air Act, regulations promulgated thereunder, this Act,
5 and regulations promulgated thereunder.

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

11 e. 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 17. Title IV; Acid Rain Provisions.

16 a. The Agency shall act on initial CAAPP applications
17 for affected sources for acid deposition in accordance
18 with this Section and Title V of the Clean Air Act and
19 regulations promulgated thereunder, except as modified by
20 Title IV of the Clean Air Act and regulations promulgated
21 thereunder. The Agency shall issue initial CAAPP permits
22 to the affected sources for acid deposition which shall
23 become effective no earlier than January 1, 1995, and
24 which shall terminate on December 31, 1999, in accordance
25 with this Section. Subsequent CAAPP permits issued to

1 affected sources for acid deposition shall be issued for a
2 fixed term of 5 years. Title IV of the Clean Air Act and
3 regulations promulgated thereunder, including but not
4 limited to 40 C.F.R. Part 72, as now or hereafter amended,
5 are applicable to and enforceable under this Act.

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

26 c. Each Phase II acid rain permit issued in accordance

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

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

21 e. A designated representative of an affected source
22 for acid deposition shall submit a timely and complete
23 Title IV NOx permit application to the Agency, not later
24 than January 1, 1998, that meets the requirements of
25 Titles IV and V of the Clean Air Act and its regulations.
26 The Agency shall reopen the Phase II acid rain permit for

1 cause and incorporate the approved NOx provisions into the
2 Phase II acid rain permit not later than January 1, 1999,
3 in accordance with this Section, except as modified by
4 Title IV of the Clean Air Act and regulations promulgated
5 thereunder. Such reopening shall not affect the term of
6 the Phase II acid rain permit.

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

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

1 issued or denied by the Agency.

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

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

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

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

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

22 j. To the extent that the federal regulations
23 promulgated under Title IV, including but not limited to
24 40 C.F.R. Part 72, as now or hereafter amended, are
25 inconsistent with the federal regulations promulgated
26 under Title V, the federal regulations promulgated under

1 Title IV shall take precedence.

2 k. The USEPA may intervene as a matter of right in any
3 permit appeal involving a Phase II acid rain permit
4 provision or denial of a Phase II acid rain permit.

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

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

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

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

1 18. Fee Provisions.

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

12 i. The fee for a source allowed to emit less than
13 100 tons per year of any combination of regulated air
14 pollutants, except greenhouse gases, shall be \$1,800
15 per year, and that fee shall increase, beginning
16 January 1, 2012, to \$2,150 per year.

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

22 A. The Agency shall assess a fee of \$18 per
23 ton, per year for the allowable emissions of
24 regulated air pollutants subject to this
25 subparagraph (ii) of paragraph (a) of subsection

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

1 emissions and calculate the fee. In no event shall
2 the Agency raise the amount of allowable emissions
3 requested by the applicant unless such increases
4 are required to demonstrate compliance with terms
5 of a CAAPP permit.

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

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

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

6 b. (Blank).

7 c. (Blank).

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

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

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

1 the following:

2 i. carbon monoxide;

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

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

12 19. Air Toxics Provisions.

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

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

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

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

9 c. The Agency shall have the authority to implement
10 and enforce complete or partial emission standards
11 promulgated by USEPA pursuant to Section 112(d), and
12 standards promulgated by USEPA pursuant to Sections
13 112(f), 112(h), 112(m), and 112(n), and may accept
14 delegation of authority from USEPA to implement and
15 enforce Section 112(l) and requirements for the prevention
16 and detection of accidental releases pursuant to Section
17 112(r) of the Clean Air Act.

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

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

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

9 20. Small Business.

10 a. For purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

25 f. The State Ombudsman Office shall be located in an
26 existing Ombudsman office within the State or in any State

1 Department.

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

6 h. The selection of Panel members shall be by the
7 following method:

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

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

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

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

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

1 21. Temporary Sources.

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

7 b. The applicant must demonstrate that the operation
8 is temporary and will involve at least one change of
9 location during the term of the permit.

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

16 22. Solid Waste Incineration Units.

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

23 b. During the review in paragraph (a) of this
24 subsection, the Agency shall fully review the previously
25 submitted CAAPP permit application and corresponding

1 reports subsequently submitted to determine whether the
2 source is in compliance with all applicable requirements.

3 c. If the Agency determines that the source is not in
4 compliance with all applicable requirements it shall
5 revise the CAAPP permit as appropriate.

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

12 (415 ILCS 5/39.15 new)

13 Sec. 39.15. Environmental justice considerations in
14 permitting.

15 (a) The following public participation requirements for
16 permitting transactions in an environmental justice community
17 must be complied with:

18 (1) If an application for a permit, permit renewal, or
19 permit modification is subject to public notice and
20 comment requirements under this Act, rules adopted by the
21 Board, or rules adopted by the Agency and if the
22 application is for a facility or source in an
23 environmental justice community, then the Agency must
24 comply with existing applicable requirements.

25 (2) In addition to the public notice requirements

1 referenced in paragraph (1), the Agency shall provide the
2 public with notice of an application for a permit, permit
3 renewal, or permit modification if the facility or
4 proposed facility is located or is to be located in an
5 environmental justice community for the following types of
6 permitting transactions: (i) permits for pollution control
7 facilities subject to local siting review under Section
8 39.2; and (ii) individual minor or major NPDES permits
9 issued under subsection (b) of Section 39. The public
10 notice required under this Section shall:

11 (A) be provided: (i) by prominent placement at a
12 dedicated page on the Agency's website; (ii) to local
13 elected officials in the area where the facility or
14 proposed facility is located or is to be located,
15 including the mayor or president, clerk, county board
16 chairman, county clerk, and State's Attorney; and
17 (iii) to members of the General Assembly from the
18 legislative district in which the facility or proposed
19 facility is located or is to be located; and

20 (B) include: (i) the name and address of the
21 permit applicant and the facility or proposed facility
22 and (ii) the activity or activities at the facility or
23 proposed facility being permitted.

24 (b) The Agency must comply with the following requirements
25 regarding linguistically isolated communities:

26 (1) For a community determined to be in linguistic

1 isolation, the Agency shall provide all public notices
2 required by this Section in a multilingual format
3 appropriate to the needs of the linguistically isolated
4 community.

5 (2) For a community determined to be in linguistic
6 isolation, the Agency shall provide oral and written
7 translation services at public hearings.

8 (c) For permit applications for facilities in an
9 environmental justice community, the Director of the Agency
10 may grant extensions of any permitting deadlines established
11 in this Act by up to 180 days to allow for additional review of
12 the permit application by the Agency or additional public
13 participation. Any exercise of this authority shall be
14 provided in writing to the permit applicant with the specific
15 reason and new permitting deadline.

16 (415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

17 Sec. 40. Appeal of permit denial.

18 (a)(1) If the Agency refuses to grant or grants with
19 conditions a permit under Section 39 of this Act, the
20 applicant may, within 35 days after the date on which the
21 Agency served its decision on the applicant, petition for a
22 hearing before the Board to contest the decision of the
23 Agency. However, the 35-day period for petitioning for a
24 hearing may be extended for an additional period of time not to
25 exceed 90 days by written notice provided to the Board from the

1 applicant and the Agency within the initial appeal period. The
2 Board shall give 21 days' notice to any person in the county
3 where is located the facility in issue who has requested
4 notice of enforcement proceedings and to each member of the
5 General Assembly in whose legislative district that
6 installation or property is located; and shall publish that
7 21-day notice in a newspaper of general circulation in that
8 county. The Agency shall appear as respondent in such hearing.
9 At such hearing the rules prescribed in Section 32 and
10 subsection (a) of Section 33 of this Act shall apply, and the
11 burden of proof shall be on the petitioner. If, however, the
12 Agency issues an NPDES permit that imposes limits which are
13 based upon a criterion or denies a permit based upon
14 application of a criterion, then the Agency shall have the
15 burden of going forward with the basis for the derivation of
16 those limits or criterion which were derived under the Board's
17 rules.

18 (2) Except as provided in paragraph (a)(3), if there is no
19 final action by the Board within 120 days after the date on
20 which it received the petition, the petitioner may deem the
21 permit issued under this Act, provided, however, that that
22 period of 120 days shall not run for any period of time, not to
23 exceed 30 days, during which the Board is without sufficient
24 membership to constitute the quorum required by subsection (a)
25 of Section 5 of this Act, and provided further that such 120
26 day period shall not be stayed for lack of quorum beyond 30

1 days regardless of whether the lack of quorum exists at the
2 beginning of such 120-day period or occurs during the running
3 of such 120-day period.

4 (3) Paragraph (a)(2) shall not apply to any permit which
5 is subject to subsection (b), (d) or (e) of Section 39. If
6 there is no final action by the Board within 120 days after the
7 date on which it received the petition, the petitioner shall
8 be entitled to an Appellate Court order pursuant to subsection
9 (d) of Section 41 of this Act.

10 (b) If the Agency grants a RCRA permit for a hazardous
11 waste disposal site, a third party, other than the permit
12 applicant or Agency, may, within 35 days after the date on
13 which the Agency issued its decision, petition the Board for a
14 hearing to contest the issuance of the permit. Unless the
15 Board determines that such petition is duplicative or
16 frivolous, or that the petitioner is so located as to not be
17 affected by the permitted facility, the Board shall hear the
18 petition in accordance with the terms of subsection (a) of
19 this Section and its procedural rules governing denial
20 appeals, such hearing to be based exclusively on the record
21 before the Agency. The burden of proof shall be on the
22 petitioner. The Agency and the permit applicant shall be named
23 co-respondents.

24 The provisions of this subsection do not apply to the
25 granting of permits issued for the disposal or utilization of
26 sludge from publicly owned sewage works.

1 (c) Any party to an Agency proceeding conducted pursuant
2 to Section 39.3 of this Act may petition as of right to the
3 Board for review of the Agency's decision within 35 days from
4 the date of issuance of the Agency's decision, provided that
5 such appeal is not duplicative or frivolous. However, the
6 35-day period for petitioning for a hearing may be extended by
7 the applicant for a period of time not to exceed 90 days by
8 written notice provided to the Board from the applicant and
9 the Agency within the initial appeal period. If another person
10 with standing to appeal wishes to obtain an extension, there
11 must be a written notice provided to the Board by that person,
12 the Agency, and the applicant, within the initial appeal
13 period. The decision of the Board shall be based exclusively
14 on the record compiled in the Agency proceeding. In other
15 respects the Board's review shall be conducted in accordance
16 with subsection (a) of this Section and the Board's procedural
17 rules governing permit denial appeals.

18 (d) In reviewing the denial or any condition of a NA NSR
19 permit issued by the Agency pursuant to rules and regulations
20 adopted under subsection (c) of Section 9.1 of this Act, the
21 decision of the Board shall be based exclusively on the record
22 before the Agency including the record of the hearing, if any,
23 unless the parties agree to supplement the record. The Board
24 shall, if it finds the Agency is in error, make a final
25 determination as to the substantive limitations of the permit
26 including a final determination of Lowest Achievable Emission

1 Rate.

2 (e)(1) If the Agency grants or denies a permit under
3 subsection (b) of Section 39 of this Act, a third party, other
4 than the permit applicant or Agency, may petition the Board
5 within 35 days from the date of issuance of the Agency's
6 decision, for a hearing to contest the decision of the Agency.

7 (2) A petitioner shall include the following within a
8 petition submitted under subdivision (1) of this subsection:

9 (A) a demonstration that the petitioner raised the
10 issues contained within the petition during the public
11 notice period or during the public hearing on the NPDES
12 permit application, if a public hearing was held; and

13 (B) a demonstration that the petitioner is so situated
14 as to be affected by the permitted facility.

15 (3) If the Board determines that the petition is not
16 duplicative or frivolous and contains a satisfactory
17 demonstration under subdivision (2) of this subsection, the
18 Board shall hear the petition (i) in accordance with the terms
19 of subsection (a) of this Section and its procedural rules
20 governing permit denial appeals and (ii) exclusively on the
21 basis of the record before the Agency. The burden of proof
22 shall be on the petitioner. The Agency and permit applicant
23 shall be named co-respondents.

24 (f) Any person who files a petition to contest the
25 issuance of a permit by the Agency shall pay a filing fee.

26 (g) If the Agency grants or denies a permit under

1 subsection (y) of Section 39, a third party, other than the
2 permit applicant or Agency, may appeal the Agency's decision
3 as provided under federal law for CCR surface impoundment
4 permits.

5 (h) If the Agency grants a permit to construct, modify, or
6 operate a facility that emits air pollutants and is classified
7 as a minor source, a third party, other than the permit
8 applicant or Agency, may, within 35 days after the date on
9 which the Agency issued its decision, petition the Board for a
10 hearing to contest the issuance of the permit. Unless the
11 Board determines that the petition is duplicative or frivolous
12 or that the petitioner is so located as to not be affected by
13 the permitted facility, the Board shall hear the petition in
14 accordance with the terms of subsection (a) of this Section
15 and its procedural rules governing denial appeals. The hearing
16 shall be based exclusively on the record before the Agency.
17 The burden of proof shall be on the petitioner. The Agency and
18 the permit applicant shall be named correspondents.

19 (Source: P.A. 101-171, eff. 7-30-19; 102-558, eff. 8-20-21.)

20 (415 ILCS 5/40.4 new)

21 Sec. 40.4. Environmental justice grievance.

22 (a) An environmental justice grievance process applies,
23 subject to the provisions of this Section, to complaints
24 alleging violations of Section 601 of the federal Civil Rights
25 Act of 1964.

1 (b) An environmental justice grievance must allege
2 discrimination on the basis of an individual's actual or
3 perceived race, color, religion, national origin, citizenship,
4 ancestry, age, sex, marital status, order of protection
5 status, conviction record, arrest record, disability, military
6 status, sexual orientation, gender identity, gender
7 expression, pregnancy, or unfavorable discharge from military
8 service.

9 (c) To initiate an environmental justice grievance process
10 a person must file a complaint with the Agency within 60 days
11 after an alleged violation. The Agency, in its discretion, may
12 waive the 60-day deadline for good cause. The complaint must:

13 (1) be in writing;

14 (2) describe with specificity the discrimination
15 alleged; and

16 (3) identify the parties impacted by the alleged
17 discrimination.

18 (d) The complaint under subsection (c) must be addressed
19 as follows:

20 Illinois Environmental Protection Agency

21 Environmental Justice Officer

22 1021 North Grand Avenue East

23 P.O. Box 19276

24 Springfield, IL 62794

25 (e) Within 10 days after receiving the complaint filed
26 under subsection (c), the Agency shall provide written notice

1 of receipt and acceptance of the complainant. If the Agency
2 determines that it has jurisdiction to review the complaint,
3 the complaint will be considered meritorious, unless:

4 (1) the complaint clearly appears on its face to be
5 frivolous or trivial;

6 (2) the complaint is not timely and good cause does
7 not exist to waive timeliness;

8 (3) the Agency, within the time allotted to
9 investigate the complaint, voluntarily concedes
10 noncompliance and agrees to take appropriate remedial
11 action or agrees to an informal resolution of the
12 complaint; or

13 (4) the complainant, within the time allotted for the
14 complaint to be investigated, withdraws the complaint.

15 (f) Within 120 days after the date it provides written
16 notice of receipt and acceptance of the complaint under
17 subsection (e), the Agency shall make a determination of
18 jurisdiction and the merits of the complaint, conduct an
19 investigation, and provide a proposed resolution, if
20 appropriate, to the extent practicable and allowable under
21 existing laws, rules, and regulations.