



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB2520

Introduced 2/15/2023, by Rep. Sonya M. Harper

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Environmental Protection Act. Requires the Environmental Protection Agency to annually review and update the underlying data for, and use of, indicators used to determine whether a community is designated as an environmental justice community and 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 to be located in an environmental justice community or a new source that has or will require a federally enforceable State operating permit and that 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 \$100,000 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. Contains provisions regarding environmental justice grievances. Defines terms. Contains other provisions.

LRB103 25620 CPF 51969 b

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by  
5 adding Sections 3.178, 3.186, 3.187, 3.188, 3.189, 3.281,  
6 34.5, 39.15, and 40.4 and by changing Sections 9.12, 39, 39.2,  
7 39.5, and 40 as follows:

8 (415 ILCS 5/3.178 new)

9 Sec. 3.178. Cumulative impact. "Cumulative impact" means  
10 the total burden from chemical and nonchemical stressors and  
11 their interactions that affect the health, well-being, and  
12 quality of life of an individual, community, or population at  
13 a given point of time or over a period of time.

14 (415 ILCS 5/3.186 new)

15 Sec. 3.186. Disproportionate harm. "Disproportionate harm"  
16 means the combination of cumulative impacts, including, but  
17 not limited to, disproportionately high and adverse human  
18 health impacts and disproportionately high and adverse  
19 environmental impacts.

20 (415 ILCS 5/3.187 new)

21 Sec. 3.187. Disproportionately high and adverse

1 environmental impact. "Disproportionately high and adverse  
2 environmental impact" means an environmental impact that is  
3 disproportionately high and adverse based on the following  
4 factors:

5 (1) Whether there is or will be an impact on the  
6 natural or physical environment that significantly and  
7 adversely affects an environmental justice community. Such  
8 impacts may include, but are not limited to, ecological,  
9 cultural, human health, economic, or social impacts on  
10 minority communities, low-income communities, or Indian  
11 tribes when those impacts are interrelated to impacts on  
12 the natural or physical environment.

13 (2) Whether environmental impacts are significant and  
14 are or may be having an adverse impact on an environmental  
15 justice community that appreciably exceeds, or is likely  
16 to appreciably exceed, the adverse impact on the general  
17 population or other appropriate comparison group.

18 (3) Whether the environmental impacts occur or would  
19 occur in an environmental justice community by cumulative  
20 or multiple adverse exposures from environmental hazards.

21 (415 ILCS 5/3.188 new)

22 Sec. 3.188. Disproportionately high and adverse human  
23 health impact. "Disproportionately high and adverse human  
24 health impact" means an impact on human health that is  
25 disproportionately high and adverse based on the following

1 factors:

2 (1) Whether the health outcomes, which may be measured  
3 in risks and rates, are significant or above generally  
4 accepted norms. Adverse health impacts include, but are  
5 not limited to, bodily impairment, infirmity, illness, or  
6 death.

7 (2) Whether the risk or rate of hazard exposure for an  
8 environmental justice community to an environmental hazard  
9 is significant and appreciably exceeds, or is likely to  
10 appreciably exceed, the risk or rate of hazard exposure  
11 for the general population or in comparison to another  
12 appropriate group.

13 (3) Whether health impacts occur in an environmental  
14 justice community affected by cumulative or multiple  
15 adverse exposures from environmental hazards.

16 (415 ILCS 5/3.189 new)

17 Sec. 3.189. Environmental justice community.

18 "Environmental justice community" means any geographic area in  
19 the State that is contained within:

20 (1) an environmental justice community under the  
21 Illinois Solar for All Program, as that definition is  
22 updated from time to time by the Illinois Power Agency and  
23 the Administrator of that Program, so long as the  
24 community is designated as an environmental justice  
25 community within 60 days of a community receiving

1       notification of a permit under the federal Clean Air Act;  
2       or  
3       (2) an R3 Area established under Section 10-40 of the  
4       Cannabis Regulation and Tax Act.

5       (415 ILCS 5/3.281 new)

6       Sec. 3.281. Linguistically isolated community.

7       "Linguistically isolated community" means the population  
8       within a United States Census Bureau tract comprised of  
9       individuals at least 20% of whom are age 14 years or older and  
10       who speak English less than very well, based on data in the  
11       United States Census Bureau's latest one-year or 5-year  
12       American Community Survey.

13       (415 ILCS 5/9.12)

14       Sec. 9.12. Construction permit fees for air pollution  
15       sources.

16       (a) An applicant for a new or revised air pollution  
17       construction permit shall pay a fee, as established in this  
18       Section, to the Agency at the time that he or she submits the  
19       application for a construction permit. Except as set forth  
20       below, the fee for each activity or category listed in this  
21       Section is separate and is cumulative with any other  
22       applicable fee listed in this Section.

23       (b) The fee amounts in this subsection (b) apply to  
24       construction permit applications relating to (i) a source

1 subject to Section 39.5 of this Act (the Clean Air Act Permit  
2 Program); (ii) a source that, upon issuance of the requested  
3 construction permit, will become a major source subject to  
4 Section 39.5; or (iii) a source that has or will require a  
5 federally enforceable State operating permit limiting its  
6 potential to emit.

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

9 (A) If the construction permit application relates  
10 to one or more new emission units or to a combination  
11 of new and modified emission units, a fee of \$4,000 for  
12 the first new emission unit and a fee of \$1,000 for  
13 each additional new or modified emission unit;  
14 provided that the total base fee under this  
15 subdivision (A) shall not exceed \$10,000.

16 (B) If the construction permit application relates  
17 to one or more modified emission units but not to any  
18 new emission unit, a fee of \$2,000 for the first  
19 modified emission unit and a fee of \$1,000 for each  
20 additional modified emission unit; provided that the  
21 total base fee under this subdivision (B) shall not  
22 exceed \$5,000.

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

25 (A) If, based on the construction permit  
26 application, the source will be, but is not currently,

1 subject to Section 39.5 of this Act, a CAAPP entry fee  
2 of \$5,000.

3 (B) If the construction permit application  
4 involves (i) a new source or emission unit subject to  
5 Section 39.2 of this Act, (ii) a commercial  
6 incinerator or other municipal waste, hazardous waste,  
7 or waste tire incinerator, (iii) a commercial power  
8 generator, or (iv) one or more other emission units  
9 designated as a complex source by Agency rulemaking, a  
10 fee of \$25,000.

11 (C) If the construction permit application  
12 involves an emissions netting exercise or reliance on  
13 a contemporaneous emissions decrease for a pollutant  
14 to avoid application of the PSD permit program or  
15 nonattainment new source review, a fee of \$3,000 for  
16 each such pollutant.

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

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

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

26 (G) If the construction permit application is for

1 a major modification subject to nonattainment new  
2 source review, a fee of \$12,000.

3 (H) (Blank).

4 (I) If the construction permit application review  
5 involves a determination of the Maximum Achievable  
6 Control Technology standard for a pollutant and the  
7 project is not otherwise subject to BACT or LAER for a  
8 related pollutant under the PSD permit program or  
9 nonattainment new source review, a fee of \$5,000 per  
10 unit for which a determination is requested or  
11 otherwise required.

12 (J) (Blank).

13 (K) If the construction permit application is  
14 subject to the requirements of subsection (aa) or  
15 subsection (bb) of Section 39, a fee of \$200,000.

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

23 (c) The fee amounts in this subsection (c) apply to  
24 construction permit applications relating to a source that,  
25 upon issuance of the construction permit, will not (i) be or  
26 become subject to Section 39.5 of this Act (the Clean Air Act



1 Permit Program) or (ii) have or require a federally  
2 enforceable state operating permit limiting its potential to  
3 emit.

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

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

8 (B) For a construction permit application  
9 involving more than one new emission unit, a fee of  
10 \$1,000.

11 (C) For a construction permit application  
12 involving no more than 2 modified emission units, a  
13 fee of \$500.

14 (D) For a construction permit application  
15 involving more than 2 modified emission units, a fee  
16 of \$1,000.

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

19 (A) If the source is a new source, i.e., does not  
20 currently have an operating permit, an entry fee of  
21 \$500;

22 (B) If the construction permit application  
23 involves (i) a new source or emission unit subject to  
24 Section 39.2 of this Act, (ii) a commercial  
25 incinerator or a municipal waste, hazardous waste, or  
26 waste tire incinerator, (iii) a commercial power

1 generator, or (iv) an emission unit designated as a  
2 complex source by Agency rulemaking, a fee of \$15,000.

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

10 (d) If no other fee is applicable under this Section, a  
11 construction permit application addressing one or more of the  
12 following shall be subject to a filing fee of \$500:

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

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

17 (3) A construction permit application for a land  
18 remediation project.

19 (4) (Blank).

20 (5) A construction permit application to revise an  
21 emissions testing methodology or the timing of required  
22 emissions testing.

23 (6) A construction permit application that provides  
24 for a change in the name, address, or phone number of any  
25 person identified in the permit, or for a change in the  
26 stated ownership or control, or for a similar minor

1 administrative permit change at the source.

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

6 (f) The applicant for a new or revised air pollution  
7 construction permit shall submit to the Agency, with the  
8 construction permit application, both a certification of the  
9 fee that he or she estimates to be due under this Section and  
10 the fee itself.

11 (g) Notwithstanding the requirements of subsection (a) of  
12 Section 39 of this Act, the application for an air pollution  
13 construction permit shall not be deemed to be filed with the  
14 Agency until the Agency receives the initial air pollution  
15 construction permit application fee and the certified estimate  
16 of the fee required by this Section. Unless the Agency has  
17 received the initial air pollution construction permit  
18 application fee and the certified estimate of the fee required  
19 by this Section, the Agency is not required to review or  
20 process the application.

21 (h) If the Agency determines at any time that a  
22 construction permit application is subject to an additional  
23 fee under this Section that the applicant has not submitted,  
24 the Agency shall notify the applicant in writing of the amount  
25 due under this Section. The applicant shall have 60 days to  
26 remit the assessed fee to the Agency.

1           If the proper fee established under this Section is not  
2 submitted within 60 days after the request for further  
3 remittance:

4           (1) If the construction permit has not yet been  
5 issued, the Agency is not required to further review or  
6 process, and the provisions of subsection (a) of Section  
7 39 of this Act do not apply to, the application for a  
8 construction permit until such time as the proper fee is  
9 remitted.

10          (2) If the construction permit has been issued, the  
11 Agency may, upon written notice, immediately revoke the  
12 construction permit.

13          The denial or revocation of a construction permit does not  
14 excuse the applicant from the duty of paying the fees required  
15 under this Section.

16          (i) The Agency may deny the issuance of a pending air  
17 pollution construction permit or the subsequent operating  
18 permit if the applicant has not paid the required fees by the  
19 date required for issuance of the permit. The denial or  
20 revocation of a permit for failure to pay a construction  
21 permit fee is subject to review by the Board pursuant to the  
22 provisions of subsection (a) of Section 40 of this Act.

23          (j) If the owner or operator undertakes construction  
24 without obtaining an air pollution construction permit, the  
25 fee under this Section is still required. Payment of the  
26 required fee does not preclude the Agency or the Attorney

1 General or other authorized persons from pursuing enforcement  
2 against the applicant for failure to have an air pollution  
3 construction permit prior to commencing construction.

4 (k) If an air pollution construction permittee makes a fee  
5 payment under this Section from an account with insufficient  
6 funds to cover the amount of the fee payment, the Agency shall  
7 notify the permittee of the failure to pay the fee. If the  
8 permittee fails to pay the fee within 60 days after such  
9 notification, the Agency may, by written notice, immediately  
10 revoke the air pollution construction permit. Failure of the  
11 Agency to notify the permittee of the permittee's failure to  
12 make payment does not excuse or alter the duty of the permittee  
13 to comply with the provisions of this Section.

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

16 (m) Fees collected pursuant to this Section shall be  
17 deposited into the Environmental Protection Permit and  
18 Inspection Fund.

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

20 (415 ILCS 5/34.5 new)

21 Sec. 34.5. Environmentally beneficial project bank.

22 (a) The Agency shall establish and maintain on its website  
23 a bank of potential environmentally beneficial projects. The  
24 website must permit members of the public to submit  
25 suggestions for environmentally beneficial projects. The

1 Agency shall assess the submissions for feasibility and  
2 clarity before inclusion in the bank.

3 (b) A supplemental environmental project is not required  
4 to be included within the environmentally beneficial project  
5 bank required under subsection (a) in order to offset a civil  
6 penalty.

7 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

8 Sec. 39. Issuance of permits; procedures.

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

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

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

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

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

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

23 If there is no final action by the Agency within 90 days  
24 after the filing of the application for permit, the applicant  
25 may deem the permit issued; except that this time period shall  
26 be extended to 180 days when (1) notice and opportunity for

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

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

19 After January 1, 1994 and until July 1, 1998, operating  
20 permits issued under this Section by the Agency for sources of  
21 air pollution permitted to emit less than 25 tons per year of  
22 any combination of regulated air pollutants, as defined in  
23 Section 39.5 of this Act, shall be required to be renewed only  
24 upon written request by the Agency consistent with applicable  
25 provisions of this Act and regulations promulgated hereunder.  
26 Such operating permits shall expire 180 days after the date of



1 such a request. The Board shall revise its regulations for the  
2 existing State air pollution operating permit program  
3 consistent with this provision by January 1, 1994.

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

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

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

25 The Agency may issue general NPDES permits for discharges  
26 from categories of point sources which are subject to the same

1 permit limitations and conditions. Such general permits may be  
2 issued without individual applications and shall conform to  
3 regulations promulgated under Section 402 of the Federal Water  
4 Pollution Control Act, as now or hereafter amended.

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

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

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

23 (c) Except for those facilities owned or operated by  
24 sanitary districts organized under the Metropolitan Water  
25 Reclamation District Act, no permit for the development or  
26 construction of a new pollution control facility may be

1 granted by the Agency unless the applicant submits proof to  
2 the Agency that the location of the facility has been approved  
3 by the county board of the county if in an unincorporated area,  
4 or the governing body of the municipality when in an  
5 incorporated area, in which the facility is to be located in  
6 accordance with Section 39.2 of this Act. For purposes of this  
7 subsection (c), and for purposes of Section 39.2 of this Act,  
8 the appropriate county board or governing body of the  
9 municipality shall be the county board of the county or the  
10 governing body of the municipality in which the facility is to  
11 be located as of the date when the application for siting  
12 approval is filed.

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

1 waste management operations in the manner conducted under  
2 subsection (i) of Section 39 of this Act.

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

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

1 the location of the facility has been approved by the  
2 appropriate county board or municipal governing body pursuant  
3 to Section 39.2 of this Act.

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

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

26 Before beginning construction on any new sewage treatment

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

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

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

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

24 (3) the operator can demonstrate that the county board  
25 of the county, if the municipal waste transfer station is  
26 in an unincorporated area, or the governing body of the

1           municipality, if the station is in an incorporated area,  
2           does not object to resumption of the operation of the  
3           station; and

4           (4) the site has local zoning approval.

5           The Agency shall not issue any of the following  
6           construction permits unless the applicant for the permit  
7           submits proof to the Agency that the location of the source has  
8           been approved under Section 39.2 by the county board of the  
9           county, if in an unincorporated area, or the governing body of  
10           a municipality, if in an incorporated area: (i) a construction  
11           permit for a new or modified source that is to be located in an  
12           environmental justice community, that will require a CAAPP  
13           permit or a federally enforceable State operating permit, and  
14           that would be authorized under that permit to increase annual  
15           permitted emissions; (ii) a construction permit for any new or  
16           modified source that is located in an environmental justice  
17           community, that, on the effective date of this amendatory Act  
18           of the 103rd General Assembly, possesses a CAAPP permit or  
19           federally enforceable State operating permit, and that would  
20           be authorized under that permit to increase annual permitted  
21           emissions; or (iii) a construction permit for any existing  
22           source that is located in an environmental justice community,  
23           that would require a new CAAPP permit or new federally  
24           enforceable State operating permit for the first time, and  
25           that would be authorized under that permit to increase annual  
26           permitted emissions. For purposes of this subsection (c), and

1 for purposes of Section 39.2, the appropriate county board or  
2 governing body of the municipality shall be the county board  
3 of the county or the governing body of the municipality in  
4 which the source is to be located on the date when the  
5 application for siting approval is filed. The provisions added  
6 to this subsection (c) by this amendatory Act of the 103rd  
7 General Assembly do not apply to permits for modifications or  
8 expansions at existing federally enforceable State operating  
9 permit or CAAPP sources unless the modification will result in  
10 an increase in the hourly rate of emissions or the total annual  
11 emissions of any air pollutant.

12 (d) The Agency may issue RCRA permits exclusively under  
13 this subsection to persons owning or operating a facility for  
14 the treatment, storage, or disposal of hazardous waste as  
15 defined under this Act. Subsection (y) of this Section, rather  
16 than this subsection (d), shall apply to permits issued for  
17 CCR surface impoundments.

18 All RCRA permits shall contain those terms and conditions,  
19 including, but not limited to, schedules of compliance, which  
20 may be required to accomplish the purposes and provisions of  
21 this Act. The Agency may include among such conditions  
22 standards and other requirements established under this Act,  
23 Board regulations, the Resource Conservation and Recovery Act  
24 of 1976 (P.L. 94-580), as amended, and regulations pursuant  
25 thereto, and may include schedules for achieving compliance  
26 therewith as soon as possible. The Agency shall require that a



1 performance bond or other security be provided as a condition  
2 for the issuance of a RCRA permit.

3 In the case of a permit to operate a hazardous waste or PCB  
4 incinerator as defined in subsection (k) of Section 44, the  
5 Agency shall require, as a condition of the permit, that the  
6 operator of the facility perform such analyses of the waste to  
7 be incinerated as may be necessary and appropriate to ensure  
8 the safe operation of the incinerator.

9 The Agency shall adopt filing requirements and procedures  
10 which are necessary and appropriate for the issuance of RCRA  
11 permits, and which are consistent with the Act or regulations  
12 adopted by the Board, and with the Resource Conservation and  
13 Recovery Act of 1976 (P.L. 94-580), as amended, and  
14 regulations pursuant thereto.

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

24 (e) The Agency may issue UIC permits exclusively under  
25 this subsection to persons owning or operating a facility for  
26 the underground injection of contaminants as defined under

1 this Act.

2 All UIC permits shall contain those terms and conditions,  
3 including, but not limited to, schedules of compliance, which  
4 may be required to accomplish the purposes and provisions of  
5 this Act. The Agency may include among such conditions  
6 standards and other requirements established under this Act,  
7 Board regulations, the Safe Drinking Water Act (P.L. 93-523),  
8 as amended, and regulations pursuant thereto, and may include  
9 schedules for achieving compliance therewith. The Agency shall  
10 require that a performance bond or other security be provided  
11 as a condition for the issuance of a UIC permit.

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

17 The applicant shall make available to the public for  
18 inspection all documents submitted by the applicant to the  
19 Agency in furtherance of an application, with the exception of  
20 trade secrets, at the office of the county board or governing  
21 body of the municipality. Such documents may be copied upon  
22 payment of the actual cost of reproduction during regular  
23 business hours of the local office. The Agency shall issue a  
24 written statement concurrent with its grant or denial of the  
25 permit explaining the basis for its decision.

26 (f) In making any determination pursuant to Section 9.1 of

1 this Act:

2 (1) The Agency shall have authority to make the  
3 determination of any question required to be determined by  
4 the Clean Air Act, as now or hereafter amended, this Act,  
5 or the regulations of the Board, including the  
6 determination of the Lowest Achievable Emission Rate,  
7 Maximum Achievable Control Technology, or Best Available  
8 Control Technology, consistent with the Board's  
9 regulations, if any.

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

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

24 (4) The Agency shall, after conferring with the  
25 applicant, give written notice to the applicant of its  
26 proposed decision on the application, including the terms

1 and conditions of the permit to be issued and the facts,  
2 conduct, or other basis upon which the Agency will rely to  
3 support its proposed action.

4 (g) The Agency shall include as conditions upon all  
5 permits issued for hazardous waste disposal sites such  
6 restrictions upon the future use of such sites as are  
7 reasonably necessary to protect public health and the  
8 environment, including permanent prohibition of the use of  
9 such sites for purposes which may create an unreasonable risk  
10 of injury to human health or to the environment. After  
11 administrative and judicial challenges to such restrictions  
12 have been exhausted, the Agency shall file such restrictions  
13 of record in the Office of the Recorder of the county in which  
14 the hazardous waste disposal site is located.

15 (h) A hazardous waste stream may not be deposited in a  
16 permitted hazardous waste site unless specific authorization  
17 is obtained from the Agency by the generator and disposal site  
18 owner and operator for the deposit of that specific hazardous  
19 waste stream. The Agency may grant specific authorization for  
20 disposal of hazardous waste streams only after the generator  
21 has reasonably demonstrated that, considering technological  
22 feasibility and economic reasonableness, the hazardous waste  
23 cannot be reasonably recycled for reuse, nor incinerated or  
24 chemically, physically, or biologically treated so as to  
25 neutralize the hazardous waste and render it nonhazardous. In  
26 granting authorization under this Section, the Agency may

1 impose such conditions as may be necessary to accomplish the  
2 purposes of the Act and are consistent with this Act and  
3 regulations promulgated by the Board hereunder. If the Agency  
4 refuses to grant authorization under this Section, the  
5 applicant may appeal as if the Agency refused to grant a  
6 permit, pursuant to the provisions of subsection (a) of  
7 Section 40 of this Act. For purposes of this subsection (h),  
8 the term "generator" has the meaning given in Section 3.205 of  
9 this Act, unless: (1) the hazardous waste is treated,  
10 incinerated, or partially recycled for reuse prior to  
11 disposal, in which case the last person who treats,  
12 incinerates, or partially recycles the hazardous waste prior  
13 to disposal is the generator; or (2) the hazardous waste is  
14 from a response action, in which case the person performing  
15 the response action is the generator. This subsection (h) does  
16 not apply to any hazardous waste that is restricted from land  
17 disposal under 35 Ill. Adm. Code 728.

18 (i) Before issuing any RCRA permit, any permit for a waste  
19 storage site, sanitary landfill, waste disposal site, waste  
20 transfer station, waste treatment facility, waste incinerator,  
21 or any waste-transportation operation, any permit or interim  
22 authorization for a clean construction or demolition debris  
23 fill operation, or any permit required under subsection (d-5)  
24 of Section 55, the Agency shall conduct an evaluation of the  
25 prospective owner's or operator's prior experience in waste  
26 management operations, clean construction or demolition debris

1 fill operations, and tire storage site management. The Agency  
2 may deny such a permit, or deny or revoke interim  
3 authorization, if the prospective owner or operator or any  
4 employee or officer of the prospective owner or operator has a  
5 history of:

6 (1) repeated violations of federal, State, or local  
7 laws, regulations, standards, or ordinances in the  
8 operation of waste management facilities or sites, clean  
9 construction or demolition debris fill operation  
10 facilities or sites, or tire storage sites; or

11 (2) conviction in this or another State of any crime  
12 which is a felony under the laws of this State, or  
13 conviction of a felony in a federal court; or conviction  
14 in this or another state or federal court of any of the  
15 following crimes: forgery, official misconduct, bribery,  
16 perjury, or knowingly submitting false information under  
17 any environmental law, regulation, or permit term or  
18 condition; or

19 (3) proof of gross carelessness or incompetence in  
20 handling, storing, processing, transporting, or disposing  
21 of waste, clean construction or demolition debris, or used  
22 or waste tires, or proof of gross carelessness or  
23 incompetence in using clean construction or demolition  
24 debris as fill.

25 (i-5) Before issuing any permit or approving any interim  
26 authorization for a clean construction or demolition debris

1 fill operation in which any ownership interest is transferred  
2 between January 1, 2005, and the effective date of the  
3 prohibition set forth in Section 22.52 of this Act, the Agency  
4 shall conduct an evaluation of the operation if any previous  
5 activities at the site or facility may have caused or allowed  
6 contamination of the site. It shall be the responsibility of  
7 the owner or operator seeking the permit or interim  
8 authorization to provide to the Agency all of the information  
9 necessary for the Agency to conduct its evaluation. The Agency  
10 may deny a permit or interim authorization if previous  
11 activities at the site may have caused or allowed  
12 contamination at the site, unless such contamination is  
13 authorized under any permit issued by the Agency.

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

19 (k) A development permit issued under subsection (a) of  
20 Section 39 for any facility or site which is required to have a  
21 permit under subsection (d) of Section 21 shall expire at the  
22 end of 2 calendar years from the date upon which it was issued,  
23 unless within that period the applicant has taken action to  
24 develop the facility or the site. In the event that review of  
25 the conditions of the development permit is sought pursuant to  
26 Section 40 or 41, or permittee is prevented from commencing

1 development of the facility or site by any other litigation  
2 beyond the permittee's control, such two-year period shall be  
3 deemed to begin on the date upon which such review process or  
4 litigation is concluded.

5 (l) No permit shall be issued by the Agency under this Act  
6 for construction or operation of any facility or site located  
7 within the boundaries of any setback zone established pursuant  
8 to this Act, where such construction or operation is  
9 prohibited.

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

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

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



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

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

7           If no final action is taken by the Agency within 90 days  
8           after the filing of the application for permit, the applicant  
9           may deem the permit issued. Any applicant for a permit may  
10          waive the 90-day limitation by filing a written statement with  
11          the Agency.

12          The Agency shall issue permits for such facilities upon  
13          receipt of an application that includes a legal description of  
14          the site, a topographic map of the site drawn to the scale of  
15          200 feet to the inch or larger, a description of the operation,  
16          including the area served, an estimate of the volume of  
17          materials to be processed, and documentation that:

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

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

22                 (3) the facility is located so as to minimize  
23                 incompatibility with the character of the surrounding  
24                 area, including at least a 200 foot setback from any  
25                 residence, and in the case of a facility that is developed  
26                 or the permitted composting area of which is expanded

1 after November 17, 1991, the composting area is located at  
2 least 1/8 mile from the nearest residence (other than a  
3 residence located on the same property as the facility);

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

9 (5) the operation of the facility will include  
10 appropriate dust and odor control measures, limitations on  
11 operating hours, appropriate noise control measures for  
12 shredding, chipping and similar equipment, management  
13 procedures for composting, containment and disposal of  
14 non-compostable wastes, procedures to be used for  
15 terminating operations at the site, and recordkeeping  
16 sufficient to document the amount of materials received,  
17 composted, and otherwise disposed of; and

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

20 The Agency shall issue renewable permits of not longer  
21 than 10 years in duration for the composting of landscape  
22 wastes, as defined in Section 3.155 of this Act, based on the  
23 above requirements.

24 The operator of any facility permitted under this  
25 subsection (m) must submit a written annual statement to the  
26 Agency on or before April 1 of each year that includes an

1 estimate of the amount of material, in tons, received for  
2 composting.

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

7 (o) (Blank).

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

26 When a permit applicant submits information to the Agency

1 to supplement a permit application being reviewed by the  
2 Agency, the applicant shall not be required to reissue the  
3 notice under this subsection.

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

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

23 (q) Within 6 months after July 12, 2011 (the effective  
24 date of Public Act 97-95), the Agency, in consultation with  
25 the regulated community, shall develop a web portal to be  
26 posted on its website for the purpose of enhancing review and

1 promoting timely issuance of permits required by this Act. At  
2 a minimum, the Agency shall make the following information  
3 available on the web portal:

4 (1) Checklists and guidance relating to the completion  
5 of permit applications, developed pursuant to subsection  
6 (s) of this Section, which may include, but are not  
7 limited to, existing instructions for completing the  
8 applications and examples of complete applications. As the  
9 Agency develops new checklists and develops guidance, it  
10 shall supplement the web portal with those materials.

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

16 (3) Within 2 years after July 12, 2011 (the effective  
17 date of Public Act 97-95), an online tracking system where  
18 an applicant may review the status of its pending  
19 application, including the name and contact information of  
20 the permit analyst assigned to the application. Until the  
21 online tracking system has been developed, the Agency  
22 shall post on its website semi-annual permitting  
23 efficiency tracking reports that include statistics on the  
24 timeframes for Agency action on the following types of  
25 permits received after July 12, 2011 (the effective date  
26 of Public Act 97-95): air construction permits, new NPDES

1 permits and associated water construction permits, and  
2 modifications of major NPDES permits and associated water  
3 construction permits. The reports must be posted by  
4 February 1 and August 1 each year and shall include:

5 (A) the number of applications received for each  
6 type of permit, the number of applications on which  
7 the Agency has taken action, and the number of  
8 applications still pending; and

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

25 (r) Upon the request of the applicant, the Agency shall  
26 notify the applicant of the permit analyst assigned to the

1 application upon its receipt.

2 (s) The Agency is authorized to prepare and distribute  
3 guidance documents relating to its administration of this  
4 Section and procedural rules implementing this Section.  
5 Guidance documents prepared under this subsection shall not be  
6 considered rules and shall not be subject to the Illinois  
7 Administrative Procedure Act. Such guidance shall not be  
8 binding on any party.

9 (t) Except as otherwise prohibited by federal law or  
10 regulation, any person submitting an application for a permit  
11 may include with the application suggested permit language for  
12 Agency consideration. The Agency is not obligated to use the  
13 suggested language or any portion thereof in its permitting  
14 decision. If requested by the permit applicant, the Agency  
15 shall meet with the applicant to discuss the suggested  
16 language.

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

20 (v) If requested by the permit applicant, the Agency shall  
21 provide the permit applicant with a copy of the final permit  
22 prior to its issuance.

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

26 (x) If, before the expiration of a State operating permit

1 that is issued pursuant to subsection (a) of this Section and  
2 contains federally enforceable conditions limiting the  
3 potential to emit of the source to a level below the major  
4 source threshold for that source so as to exclude the source  
5 from the Clean Air Act Permit Program, the Agency receives a  
6 complete application for the renewal of that permit, then all  
7 of the terms and conditions of the permit shall remain in  
8 effect until final administrative action has been taken on the  
9 application for the renewal of the permit.

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

13 (z) If a mass animal mortality event is declared by the  
14 Department of Agriculture in accordance with the Animal  
15 Mortality Act:

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

18 (i) obtaining a permit for the construction,  
19 installation, or operation of any type of facility or  
20 equipment issued in accordance with subsection (a) of  
21 this Section;

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

24 (iii) registering the disposal of dead animals as  
25 an eligible small source with the Agency in accordance  
26 with Section 9.14 of this Act;



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

4                   (i) an NPDES permit in accordance with subsection  
5                   (b) of this Section;

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

8                   (iii) a lifetime State operating permit or a  
9                   federally enforceable State operating permit, in  
10                  accordance with subsection (a) of this Section; or

11                  (iv) a CAAPP permit, in accordance with Section  
12                  39.5 of this Act.

13           All CCR surface impoundment permits shall contain those  
14           terms and conditions, including, but not limited to, schedules  
15           of compliance, which may be required to accomplish the  
16           purposes and provisions of this Act, Board regulations, the  
17           Illinois Groundwater Protection Act and regulations pursuant  
18           thereto, and the Resource Conservation and Recovery Act and  
19           regulations pursuant thereto, and may include schedules for  
20           achieving compliance therewith as soon as possible.

21           The Board shall adopt filing requirements and procedures  
22           that are necessary and appropriate for the issuance of CCR  
23           surface impoundment permits and that are consistent with this  
24           Act or regulations adopted by the Board, and with the RCRA, as  
25           amended, and regulations pursuant thereto.

26           The applicant shall make available to the public for

1 inspection all documents submitted by the applicant to the  
2 Agency in furtherance of an application, with the exception of  
3 trade secrets, on its public internet website as well as at the  
4 office of the county board or governing body of the  
5 municipality where CCR from the CCR surface impoundment will  
6 be permanently disposed. Such documents may be copied upon  
7 payment of the actual cost of reproduction during regular  
8 business hours of the local office.

9 The Agency shall issue a written statement concurrent with  
10 its grant or denial of the permit explaining the basis for its  
11 decision.

12 (aa) The Agency shall not issue any of the following  
13 construction permits unless the applicant for the permit  
14 submits to the Agency with its permit application proof that  
15 the permit applicant has conducted a public meeting pursuant  
16 to this subsection (aa) and submitted an environmental justice  
17 assessment pursuant to subsection (bb): (i) a construction  
18 permit for a new source that is to be located in an  
19 environmental justice community, that will require a CAAPP  
20 permit or a federally enforceable State operating permit, and  
21 that would be authorized under that permit to increase annual  
22 permitted emissions; (ii) a construction permit for any  
23 existing source that is located in an environmental justice  
24 community, that, on the effective date of this amendatory Act  
25 of the 103rd General Assembly, possesses a CAAPP permit or  
26 federally enforceable State operating permit, and that would

1 be authorized under that permit to increase annual permitted  
2 emissions; or (iii) a construction permit for any existing  
3 source that is located in an environmental justice community,  
4 that would require a new CAAPP permit or new federally  
5 enforceable State operating permit for the first time, and  
6 that would be authorized under that permit to increase annual  
7 permitted emissions. This subsection (aa) also applies to  
8 permit applications for modifications or expansions to  
9 existing sources that will result in an increase in the hourly  
10 rate of emissions or the total annual emissions of any air  
11 pollutant. The public meeting required under this subsection  
12 (aa) shall be held within the environmental justice community  
13 where the proposed source is located or to be located, and the  
14 applicant shall collect public comments at the meeting.

15 (1) Notice of the public meeting shall be provided 30  
16 days in advance to:

17 (A) local elected officials in the area where the  
18 proposed source is to be located, including the mayor  
19 or village president, municipal clerk, county board  
20 chairman, county clerk, and State's Attorney;

21 (B) members of the General Assembly from the  
22 legislative district in which the proposed source is  
23 to be located; and

24 (C) directors of child care centers licensed by  
25 the Department of Children and Family Services, school  
26 principals, and public park superintendents who

1 oversee facilities located within one mile of the  
2 proposed source.

3 (2) Notice of the public meeting shall be published in  
4 a newspaper of general circulation.

5 (3) Notice of the public meeting shall be posted on a  
6 website of the applicant with a link provided to the  
7 Agency for posting on the Agency's website.

8 (4) Notice of the public meeting shall include all of  
9 the following:

10 (A) the name and address of the applicant and the  
11 proposed source;

12 (B) the activity or activities at the proposed  
13 source to be permitted;

14 (C) the proposed source's anticipated potential to  
15 emit and allowable emissions of regulated pollutants;

16 (D) the date, time, and location of the public  
17 meeting;

18 (E) the deadline for submission of written  
19 comments;

20 (F) the mailing address or email address where  
21 written comments can be submitted; and

22 (G) the website where the summary of the  
23 environmental justice assessment required under  
24 subsection (bb) can be accessed.

25 (5) If the population of individuals who reside within  
26 one mile of the source includes individuals within a

1       linguistically isolated community, then the applicant  
2       shall provide the public notice in a multilingual format  
3       appropriate to the needs of the linguistically isolated  
4       community and shall provide oral and written translation  
5       services at the public meeting.

6       At the public meeting, the applicant shall present a  
7       summary of the environmental justice assessment required under  
8       subsection (bb).

9       The applicant must accept written public comments from the  
10      date public notice of the meeting is provided until at least 30  
11      days after the date of the public meeting.

12      The applicant must provide with its permit application a  
13      copy of the meeting notice and a certification, under penalty  
14      of law, signed by a responsible official for the permit  
15      applicant attesting (i) to the fact that a public meeting was  
16      held, (ii) to the information that was provided by the  
17      applicant at the public meeting, and (iii) that the applicant  
18      collected written comments and transcribed oral public  
19      comments in accordance with the requirements of this  
20      subsection (aa).

21      The failure of the applicant to comply with the express  
22      procedural requirements under this subsection (aa) shall  
23      result in denial of a permit application submitted to the  
24      Agency.

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

1       (bb) The Agency shall not issue any of the construction  
2 permits described in subsection (aa) unless the applicant for  
3 the permit submits to the Agency with its permit application  
4 proof that the permit applicant has conducted an environmental  
5 justice assessment for the proposed project. The environmental  
6 justice assessment shall consist of the following:

7           (1) Air dispersion modeling examining the air  
8 quality-related impacts from the proposed project in  
9 combination with existing mobile and stationary air  
10 pollutant emitting sources.

11           The air dispersion modeling must address emissions  
12 associated with issuance of the permit.

13           If the air dispersion modeling reveals estimated  
14 off-site impacts from the proposed project, the applicant  
15 shall also identify efforts that will be undertaken by the  
16 applicant during the construction or operation of the new  
17 source to mitigate such impacts.

18           (2) A modeling protocol submitted to the Agency for  
19 review and consideration prior to performance of the air  
20 dispersion modeling. The modeling protocol shall include  
21 analyses sufficient to evaluate short-term impacts to air  
22 quality and impacts to air quality from nonstandard  
23 operating conditions, such as worst-case emission  
24 estimates under a variety of weather and atmospheric  
25 conditions and emissions associated with startup,  
26 shutdown, maintenance, and outages. Any Agency

1 recommendations for revisions to the modeling protocol  
2 shall be provided in writing to the applicant within 120  
3 days after receipt of the modeling protocol. The modeling  
4 shall be performed using accepted USEPA methodologies.

5 (3) An environmental impact review evaluating the  
6 direct, indirect, and cumulative environmental impacts  
7 within the environmental justice community that are  
8 associated with the proposed project. The environmental  
9 impact review shall include, but shall not be limited to,  
10 the following:

11 (A) a qualitative and quantitative assessment of  
12 emissions-related impacts of the project on the area,  
13 including an estimate of the maximum allowable  
14 emissions of criteria pollutants and hazardous air  
15 pollutants from the source; and

16 (B) an assessment of the health-based indicators  
17 for inhalation exposure, including, but not limited  
18 to, impacts to the respiratory, hematological,  
19 neurological, cardiovascular, renal, and hepatic  
20 systems and cancer rates.

21 The environmental justice assessment must be completed by  
22 an independent third party.

23 If the environmental justice assessment shows that the  
24 proposed project will cause harm to the environment or public  
25 health, the Agency shall impose conditions in the permit that  
26 will mitigate such harm, or it shall deny the permit if such

1 harm is unavoidable and causes or contributes to  
2 disproportionate harm.

3 The Agency shall propose and the Board shall adopt rules  
4 regarding the implementation of this subsection (bb),  
5 including, at a minimum, the type and nature of air dispersion  
6 modeling, the contents of the modeling protocol and  
7 environmental impact review, and a description of harm and  
8 disproportionate harm that may be evidenced by the  
9 environmental justice assessment.

10 (cc) The Agency shall not issue any of the following  
11 construction permits unless the Agency conducts an evaluation  
12 of the prospective owner's or operator's prior experience in  
13 owning and operating sources of air pollution: (i) a  
14 construction permit for a new source that is to be located in  
15 an environmental justice community, that will require a CAAPP  
16 permit or a federally enforceable State operating permit, and  
17 that would be authorized under that permit to increase annual  
18 permitted emissions; (ii) a construction permit for any  
19 existing source that is located in an environmental justice  
20 community, that, on the effective date of this amendatory Act  
21 of the 103rd General Assembly, possesses a CAAPP permit or  
22 federally enforceable State operating permit, and that would  
23 be authorized under that permit to increase annual permitted  
24 emissions; or (iii) a construction permit for any existing  
25 source that is located in an environmental justice community,  
26 that would require a new CAAPP permit or new federally



1 enforceable State operating permit for the first time, and  
2 that would be authorized under that permit to increase annual  
3 permitted emissions. The Agency may deny the permit if the  
4 prospective owner or operator or any employee or officer of  
5 the prospective owner or operator or any board member has a  
6 history of:

7 (1) repeated violations of federal, State, or local  
8 laws, rules, regulations, standards, or ordinances in the  
9 ownership or operation of sources of air pollution;

10 (2) conviction in this State, another state, or  
11 federal court of knowingly submitting false information  
12 under any environmental law, rule, regulation, or permit  
13 term or condition; or

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

16 (Source: P.A. 101-171, eff. 7-30-19; 102-216, eff. 1-1-22;  
17 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

18 (415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)

19 Sec. 39.2. Local siting review.

20 (a) The county board of the county or the governing body of  
21 the municipality, as determined by paragraph (c) of Section 39  
22 of this Act, shall, subject to review, approve or disapprove  
23 the request for local siting approval for each pollution  
24 control facility and each of the following construction  
25 permits: (i) a construction permit for a new source that is to

1 be located in an environmental justice community, that will  
2 require a CAAPP permit or a federally enforceable State  
3 operating permit, and that would be authorized under that  
4 permit to increase annual permitted emissions; (ii) a  
5 construction permit for any existing source that is located in  
6 an environmental justice community, that, on the effective  
7 date of this amendatory Act of the 103rd General Assembly,  
8 possesses a CAAPP permit or federally enforceable State  
9 operating permit, and that would be authorized under that  
10 permit to increase annual permitted emissions; or (iii) a  
11 construction permit for any existing source that is located in  
12 an environmental justice community, that would require a new  
13 CAAPP permit or new federally enforceable State operating  
14 permit for the first time, and that would be authorized under  
15 that permit to increase annual permitted emissions. ~~which is~~

16 ~~subject to such review.~~ An applicant for local siting approval  
17 shall submit sufficient details describing the proposed  
18 facility and evidence to demonstrate compliance, and local  
19 siting approval shall be granted only if the proposed facility  
20 meets the following criteria:

21 (i) the pollution control facility is necessary to  
22 accommodate the waste needs of the area it is intended to  
23 serve;

24 (ii) the pollution control facility or air pollution  
25 source is so designed, located, and proposed to be  
26 operated that the public health, safety, and welfare will

1 be protected;

2 (iii) the pollution control facility or air pollution  
3 source is located so as to minimize incompatibility with  
4 the character of the surrounding area and to minimize the  
5 effect on the value of the surrounding property;

6 (iv) (A) for a pollution control facility other than a  
7 sanitary landfill or waste disposal site, the pollution  
8 control facility is located outside the boundary of the  
9 100-year ~~100-year~~ flood plain or the site is  
10 flood-proofed; (B) for a pollution control facility that  
11 is a sanitary landfill or waste disposal site, the  
12 pollution control facility is located outside the boundary  
13 of the 100-year floodplain, or if the pollution control  
14 facility is a facility described in subsection (b) (3) of  
15 Section 22.19a, the site is flood-proofed;

16 (v) the plan of operations for the pollution control  
17 facility or air pollution source is designed to minimize  
18 the danger to the surrounding area from fire, spills, or  
19 other operational accidents;

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

23 (vii) if the pollution control facility will be  
24 treating, storing, or disposing of hazardous waste, an  
25 emergency response plan exists for the facility which  
26 includes notification, containment, and evacuation

1 procedures to be used in case of an accidental release;

2 (viii) if the pollution control facility is to be  
3 located in a county where the county board has adopted a  
4 solid waste management plan consistent with the planning  
5 requirements of the Local Solid Waste Disposal Act or the  
6 Solid Waste Planning and Recycling Act, the pollution  
7 control facility is consistent with that plan; for  
8 purposes of this criterion (viii), the "solid waste  
9 management plan" means the plan that is in effect as of the  
10 date the application for siting approval is filed; and

11 (ix) if the pollution control facility will be located  
12 within a regulated recharge area, any applicable  
13 requirements specified by the Board for such areas have  
14 been met.

15 The county board or the governing body of the municipality  
16 may also consider as evidence the previous operating  
17 experience and past record of convictions or admissions of  
18 violations of the pollution control facility applicant (and  
19 any subsidiary or parent corporation) in the field of solid  
20 waste management when considering criteria (ii) and (v) under  
21 this Section.

22 If the pollution control facility is subject to the  
23 location restrictions in Section 22.14 of this Act, compliance  
24 with that Section shall be determined as of the date the  
25 application for siting approval is filed.

26 (b) No later than 14 days before the date on which the

1 county board or governing body of the municipality receives a  
2 request for site approval, the applicant shall cause written  
3 notice of such request to be served either in person or by  
4 registered mail, return receipt requested, on the owners of  
5 all property within the subject area not solely owned by the  
6 applicant, and on the owners of all property within 250 feet in  
7 each direction of the lot line of the subject property, said  
8 owners being such persons or entities which appear from the  
9 authentic tax records of the county ~~County~~ in which such  
10 pollution control facility or air pollution source is to be  
11 located; provided, that the number of all feet occupied by all  
12 public roads, streets, alleys, and other public ways shall be  
13 excluded in computing the 250 feet requirement; provided  
14 further, that in no event shall this requirement exceed 400  
15 feet, including public streets, alleys, and other public ways.

16 Such written notice shall also be served upon members of  
17 the General Assembly from the legislative district in which  
18 the proposed pollution control facility or air pollution  
19 source is located and shall be published in a newspaper of  
20 general circulation published in the county in which the site  
21 is located.

22 Such notice shall state the name and address of the  
23 applicant, the location of the proposed site, the nature and  
24 size of the development, the nature of the activity proposed,  
25 the probable life of the proposed activity, the date when the  
26 request for site approval will be submitted, and a description

1 of the right of persons to comment on such request as hereafter  
2 provided.

3 (c) An applicant shall file a copy of its request with the  
4 county board of the county or the governing body of the  
5 municipality in which the proposed site is located. The  
6 request shall include (i) the substance of the applicant's  
7 proposal and (ii) all documents, if any, submitted as of that  
8 date to the Agency pertaining to the proposed pollution  
9 control facility or air pollution source, except trade secrets  
10 as determined under Section 7.1 of this Act. All such  
11 documents or other materials on file with the county board or  
12 governing body of the municipality shall be made available for  
13 public inspection at the office of the county board or the  
14 governing body of the municipality and may be copied upon  
15 payment of the actual cost of reproduction.

16 Any person may file written comment with the county board  
17 or governing body of the municipality concerning the  
18 appropriateness of the proposed site for its intended purpose.  
19 The county board or governing body of the municipality shall  
20 consider any comment received or postmarked not later than 30  
21 days after the date of the last public hearing.

22 (d) At least one public hearing, at which an applicant  
23 shall present at least one witness to testify subject to  
24 cross-examination, is to be held by the county board or  
25 governing body of the municipality no sooner than 90 days but  
26 no later than 120 days after the date on which it received the

1 request for site approval. No later than 14 days prior to such  
2 hearing, notice shall be published in a newspaper of general  
3 circulation published in the county of the proposed site, and  
4 delivered by certified mail to all members of the General  
5 Assembly from the district in which the proposed site is  
6 located, to the governing authority of every municipality  
7 contiguous to the proposed site or contiguous to the  
8 municipality in which the proposed site is to be located, to  
9 the county board of the county where the proposed site is to be  
10 located, if the proposed site is located within the boundaries  
11 of a municipality, and to the Agency. Members or  
12 representatives of the governing authority of a municipality  
13 contiguous to the proposed site or contiguous to the  
14 municipality in which the proposed site is to be located and,  
15 if the proposed site is located in a municipality, members or  
16 representatives of the county board of a county in which the  
17 proposed site is to be located may appear at and participate in  
18 public hearings held pursuant to this Section. The public  
19 hearing shall develop a record sufficient to form the basis of  
20 appeal of the decision in accordance with Section 40.1 of this  
21 Act. The fact that a member of the county board or governing  
22 body of the municipality has publicly expressed an opinion on  
23 an issue related to a site review proceeding shall not  
24 preclude the member from taking part in the proceeding and  
25 voting on the issue.

26 (e) Decisions of the county board or governing body of the

1 municipality are to be in writing, confirming a public hearing  
2 was held with testimony from at least one witness presented by  
3 the applicant, specifying the reasons for the decision, such  
4 reasons to be in conformance with subsection (a) of this  
5 Section. In granting approval for a site the county board or  
6 governing body of the municipality may impose such conditions  
7 as may be reasonable and necessary to accomplish the purposes  
8 of this Section and as are not inconsistent with regulations  
9 promulgated by the Board. Such decision shall be available for  
10 public inspection at the office of the county board or  
11 governing body of the municipality and may be copied upon  
12 payment of the actual cost of reproduction. If there is no  
13 final action by the county board or governing body of the  
14 municipality within 180 days after the date on which it  
15 received the request for site approval, the applicant may deem  
16 the request approved.

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

26 If, prior to making a final local siting decision, a



1 county board or governing body of a municipality has  
2 negotiated and entered into a host agreement with the local  
3 siting applicant, the terms and conditions of the host  
4 agreement, whether written or oral, shall be disclosed and  
5 made a part of the hearing record for that local siting  
6 proceeding. In the case of an oral agreement, the disclosure  
7 shall be made in the form of a written summary jointly prepared  
8 and submitted by the county board or governing body of the  
9 municipality and the siting applicant and shall describe the  
10 terms and conditions of the oral agreement.

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

1 the prior owner or operator and the appropriate county board  
2 or governing body.

3 (f) A local siting approval granted under this Section  
4 shall expire at the end of 2 calendar years from the date upon  
5 which it was granted, unless the local siting approval granted  
6 under this Section is for a sanitary landfill operation, in  
7 which case the approval shall expire at the end of 3 calendar  
8 years from the date upon which it was granted, and unless  
9 within that period the applicant has made application to the  
10 Agency for a permit to develop the site. In the event that the  
11 local siting decision has been appealed, such expiration  
12 period shall be deemed to begin on the date upon which the  
13 appeal process is concluded.

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

18 If a first development permit for a municipal waste  
19 incineration facility expires under subsection (k) of Section  
20 39 after September 30, 1989 due to circumstances beyond the  
21 control of the applicant, any associated local siting approval  
22 granted for the facility under this Section may be used to  
23 fulfill the local siting approval requirement upon application  
24 for a second development permit for the same site, provided  
25 that the proposal in the new application is materially the  
26 same, with respect to the criteria in subsection (a) of this

1 Section, as the proposal that received the original siting  
2 approval, and application for the second development permit is  
3 made before January 1, 1990.

4 (g) The siting approval procedures, criteria and appeal  
5 procedures provided for in this Act for new pollution control  
6 facilities shall be the exclusive siting procedures and rules  
7 and appeal procedures for facilities subject to such  
8 procedures. Local zoning or other local land use requirements  
9 shall not be applicable to such siting decisions.

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

13 (i) (Blank.)

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

24 (j) Any new pollution control facility which has never  
25 obtained local siting approval under the provisions of this  
26 Section shall be required to obtain such approval after a

1 final decision on an appeal of a permit denial.

2 (k) A county board or governing body of a municipality may  
3 charge applicants for siting review under this Section a  
4 reasonable fee to cover the reasonable and necessary costs  
5 incurred by such county or municipality in the siting review  
6 process.

7 (l) The governing Authority as determined by subsection  
8 (c) of Section 39 of this Act may request the Department of  
9 Transportation to perform traffic impact studies of proposed  
10 or potential locations for required pollution control  
11 facilities.

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

17 (n) In any review proceeding of a decision of the county  
18 board or governing body of a municipality made pursuant to the  
19 local siting review process, the petitioner in the review  
20 proceeding shall pay to the county or municipality the cost of  
21 preparing and certifying the record of proceedings. Should the  
22 petitioner in the review proceeding fail to make payment, the  
23 provisions of Section 3-109 of the Code of Civil Procedure  
24 shall apply.

25 In the event the petitioner is a citizens' group that  
26 participated in the siting proceeding and is so located as to

1 be affected by the proposed facility, such petitioner shall be  
2 exempt from paying the costs of preparing and certifying the  
3 record.

4 (o) Notwithstanding any other provision of this Section, a  
5 transfer station used exclusively for landscape waste, where  
6 landscape waste is held no longer than 24 hours from the time  
7 it was received, is not subject to the requirements of local  
8 siting approval under this Section, but is subject only to  
9 local zoning approval.

10 (p) The siting approval procedures, criteria, and appeal  
11 procedures provided for in this Act for new air pollution  
12 sources shall be in addition to the applicable local land use  
13 and zoning standards, procedures, rules, and appeal  
14 procedures, including separate environmental justice and  
15 cumulative environmental impact reviews and requirements as  
16 may be adopted locally. Local zoning or other local land use  
17 requirements shall continue to be applicable to siting  
18 decisions for new air pollution sources in addition to the  
19 siting approval procedures, criteria, and appeal procedures  
20 provided in this Act.

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

22 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

23 Sec. 39.5. Clean Air Act Permit Program.

24 1. Definitions. For purposes of this Section:

25 "Administrative permit amendment" means a permit revision

1 subject to subsection 13 of this Section.

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

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

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

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

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

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

25 (1) Any standard or other requirement provided for in  
26 the applicable state implementation plan approved or

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

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

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

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

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

26 (5) Any standard or other requirement of the acid rain

1 program under Title IV of the Clean Air Act or the  
2 regulations promulgated thereunder.

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

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

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

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

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

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

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

26 "Applicable requirement" means all applicable Clean Air



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

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

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

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

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

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

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

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

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

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

11 "Federally enforceable" means enforceable by USEPA.

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

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

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

26 "Maximum achievable control technology" or "MACT" means

1 the maximum degree of reductions in emissions deemed  
2 achievable under Section 112 of the Clean Air Act.

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

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

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

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

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

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

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

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

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

11 "Regulated air pollutant" means the following:

12 (1) Nitrogen oxides (NO<sub>x</sub>) or any volatile organic  
13 compound.

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

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

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

21 (5) Any pollutant subject to a standard promulgated  
22 under Section 112 or other requirements established under  
23 Section 112 of the Clean Air Act, including Sections  
24 112(g), (j) and (r).

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

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

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

11 (6) Greenhouse gases.

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

14 "Responsible official" means one of the following:

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

1 representative is approved in advance by the Agency.

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

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

21 (4) For affected sources for acid deposition:

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

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

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

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

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

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



1 sources constitute a support facility shall be made on a case  
2 by case basis.

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

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

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

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

24 1.1. Exclusion From the CAAPP.

25 a. An owner or operator of a source which determines

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

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

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

1 enforceable conditions limiting the "potential to emit" of  
2 the source to a level below the major source threshold for  
3 that source as described in paragraph (c) of subsection 2  
4 of this Section.

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

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

## 11 2. Applicability.

12 a. Sources subject to this Section shall include:

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

15 ii. Any source subject to a standard or other  
16 requirements promulgated under Section 111 (New Source  
17 Performance Standards) or Section 112 (Hazardous Air  
18 Pollutants) of the Clean Air Act, except that a source  
19 is not required to obtain a permit solely because it is  
20 subject to regulations or requirements under Section  
21 112(r) of the Clean Air Act.

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

24 iv. Any other source subject to this Section under  
25 the Clean Air Act or regulations promulgated

1           thereunder, or applicable Board regulations.

2           b. Sources exempted from this Section shall include:

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

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

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

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

26               v. Any other source categories exempted by USEPA

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 B. Kraft pulp mills.

26 C. Portland cement plants.

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



1           Y. Charcoal production plants.

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

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

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

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

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

1 the Clean Air Act do not apply. Such sources shall  
2 remain subject to the major source criteria of  
3 subparagraph (ii) of paragraph (c) of this  
4 subsection.

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

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

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

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

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

25 b. The Agency shall issue CAAPP permits for fixed

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

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

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

25 4. Transition.

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

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

25           c. An owner or operator of a CAAPP source shall submit  
26 its initial CAAPP application to the Agency no later than

1 12 months after the effective date of the CAAPP. The  
2 Agency may request submittal of initial CAAPP applications  
3 during this 12-month period according to a schedule set  
4 forth within Agency procedures, however, in no event shall  
5 the Agency require such submittal earlier than 3 months  
6 after such effective date of the CAAPP. An owner or  
7 operator may voluntarily submit its initial CAAPP  
8 application prior to the date required within this  
9 paragraph or applicable procedures, if any, subsequent to  
10 the date the Agency submits the CAAPP to USEPA for  
11 approval.

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

15 e. For purposes of this Section, the term "initial  
16 CAAPP application" shall mean the first CAAPP application  
17 submitted for a source existing as of the effective date  
18 of the CAAPP.

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

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

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

7           5. Applications and Completeness.

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

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

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

23          d. An owner or operator of a CAAPP source shall  
24          submit, as part of its complete CAAPP application, a  
25          compliance plan, including a schedule of compliance,

1 describing how each emission unit will comply with all  
2 applicable requirements. Any such schedule of compliance  
3 shall be supplemental to, and shall not sanction  
4 noncompliance with, the applicable requirements on which  
5 it is based.

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

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

19 g. If after the determination of completeness the  
20 Agency finds that additional information is necessary to  
21 evaluate or take final action on the CAAPP application,  
22 the Agency may request in writing such information from  
23 the source with a reasonable deadline for response.

24 h. If the owner or operator of a CAAPP source submits a  
25 timely and complete CAAPP application, the source's  
26 failure to have a CAAPP permit shall not be a violation of

1           this Section until the Agency takes final action on the  
2           submitted CAAPP application, provided, however, where the  
3           applicant fails to submit the requested information under  
4           paragraph (g) of this subsection 5 within the time frame  
5           specified by the Agency, this protection shall cease to  
6           apply.

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

19          j. The Agency shall issue or deny the CAAPP permit  
20          within 18 months after the date of receipt of the complete  
21          CAAPP application, with the following exceptions: (i)  
22          permits for affected sources for acid deposition shall be  
23          issued or denied within 6 months after receipt of a  
24          complete application in accordance with subsection 17 of  
25          this Section; (ii) the Agency shall act on initial CAAPP  
26          applications within 24 months after the date of receipt of



1 the complete CAAPP application; (iii) the Agency shall act  
2 on complete applications containing early reduction  
3 demonstrations under Section 112(i)(5) of the Clean Air  
4 Act within 9 months of receipt of the complete CAAPP  
5 application.

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

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

14 l. Unless a timely and complete renewal application  
15 has been submitted consistent with this subsection, a  
16 CAAPP source operating upon the expiration of its CAAPP  
17 permit shall be deemed to be operating without a CAAPP  
18 permit. Such operation is prohibited under this Act.

19 m. Permits being renewed shall be subject to the same  
20 procedural requirements, including those for public  
21 participation and federal review and objection, that apply  
22 to original permit issuance.

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

26 o. The terms and conditions of a CAAPP permit shall

1 remain in effect until the issuance of a CAAPP renewal  
2 permit provided a timely and complete CAAPP application  
3 has been submitted.

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

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

15 r. The Agency shall use the standardized forms  
16 required under Title IV of the Clean Air Act and  
17 regulations promulgated thereunder for affected sources  
18 for acid deposition.

19 s. An owner or operator of a CAAPP source may include  
20 within its CAAPP application a request for permission to  
21 operate during a startup, malfunction, or breakdown  
22 consistent with applicable Board regulations.

23 t. An owner or operator of a CAAPP source, in order to  
24 utilize the operational flexibility provided under  
25 paragraph (1) of subsection 7 of this Section, must  
26 request such use and provide the necessary information

1 within its CAAPP application.

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

13 v. CAAPP applications shall contain accurate  
14 information on allowable emissions to implement the fee  
15 provisions of subsection 18 of this Section.

16 w. An owner or operator of a CAAPP source shall submit  
17 within its CAAPP application emissions information  
18 regarding all regulated air pollutants emitted at that  
19 source consistent with applicable Agency procedures.  
20 Emissions information regarding insignificant activities  
21 or emission levels, as determined by the Agency pursuant  
22 to Board regulations, may be submitted as a list within  
23 the CAAPP application. The Agency shall propose  
24 regulations to the Board defining insignificant activities  
25 or emission levels, consistent with federal regulations,  
26 if any, no later than 18 months after the effective date of

1           this amendatory Act of 1992, consistent with Section  
2           112(n)(1) of the Clean Air Act. The Board shall adopt  
3           final regulations defining insignificant activities or  
4           emission levels no later than 9 months after the date of  
5           the Agency's proposal.

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

17          y. 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          6. Prohibitions.

22          a. It shall be unlawful for any person to violate any  
23          terms or conditions of a permit issued under this Section,  
24          to operate any CAAPP source except in compliance with a  
25          permit issued by the Agency under this Section or to

1 violate any other applicable requirements. All terms and  
2 conditions of a permit issued under this Section are  
3 enforceable by USEPA and citizens under the Clean Air Act,  
4 except those, if any, that are specifically designated as  
5 not being federally enforceable in the permit pursuant to  
6 paragraph (m) of subsection 7 of this Section.

7 b. After the applicable CAAPP permit or renewal  
8 application submittal date, as specified in subsection 5  
9 of this Section, no person shall operate a CAAPP source  
10 without a CAAPP permit unless the complete CAAPP permit or  
11 renewal application for such source has been timely  
12 submitted to the Agency.

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

21 7. Permit Content.

22 a. All CAAPP permits shall contain emission  
23 limitations and standards and other enforceable terms and  
24 conditions, including but not limited to operational  
25 requirements, and schedules for achieving compliance at

1 the earliest reasonable date, which are or will be  
2 required to accomplish the purposes and provisions of this  
3 Act and to assure compliance with all applicable  
4 requirements.

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

20 c. The Agency shall assure, within such conditions,  
21 the use of terms, test methods, units, averaging periods,  
22 and other statistical conventions consistent with the  
23 applicable emission limitations, standards, and other  
24 requirements contained in the permit.

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

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

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

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

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

26           i. Records of required monitoring information that

1 include the following:

2 A. The date, place and time of sampling or  
3 measurements.

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

5 C. The company or entity that performed the  
6 analyses.

7 D. The analytical techniques or methods used.

8 E. The results of such analyses.

9 F. The operating conditions as existing at the  
10 time of sampling or measurement.

11 ii. Retention of records of all monitoring data  
12 and support information for a period of at least 5  
13 years from the date of the monitoring sample,  
14 measurement, report, or application. Support  
15 information includes all calibration and maintenance  
16 records, original strip-chart recordings for  
17 continuous monitoring instrumentation, and copies of  
18 all reports required by the permit.

19 f. To meet the requirements of this subsection with  
20 respect to reporting, the permit shall incorporate and  
21 identify all applicable reporting requirements and require  
22 the following:

23 i. Submittal of reports of any required monitoring  
24 every 6 months. More frequent submittals may be  
25 requested by the Agency if such submittals are  
26 necessary to assure compliance with this Act or



1 regulations promulgated by the Board thereunder. All  
2 instances of deviations from permit requirements must  
3 be clearly identified in such reports. All required  
4 reports must be certified by a responsible official  
5 consistent with subsection 5 of this Section.

6 ii. Prompt reporting of deviations from permit  
7 requirements, including those attributable to upset  
8 conditions as defined in the permit, the probable  
9 cause of such deviations, and any corrective actions  
10 or preventive measures taken.

11 g. Each CAAPP permit issued under subsection 10 of  
12 this Section shall include a condition prohibiting  
13 emissions exceeding any allowances that the source  
14 lawfully holds under Title IV of the Clean Air Act or the  
15 regulations promulgated thereunder, consistent with  
16 subsection 17 of this Section and applicable regulations,  
17 if any.

18 h. All CAAPP permits shall state that, where another  
19 applicable requirement of the Clean Air Act is more  
20 stringent than any applicable requirement of regulations  
21 promulgated under Title IV of the Clean Air Act, both  
22 provisions shall be incorporated into the permit and shall  
23 be State and federally enforceable.

24 i. Each CAAPP permit issued under subsection 10 of  
25 this Section shall include a severability clause to ensure  
26 the continued validity of the various permit requirements

1 in the event of a challenge to any portions of the permit.

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

4 i. The Agency shall include in a CAAPP permit,  
5 when requested by an applicant pursuant to paragraph  
6 (p) of subsection 5 of this Section, a provision  
7 stating that compliance with the conditions of the  
8 permit shall be deemed compliance with applicable  
9 requirements which are applicable as of the date of  
10 release of the proposed permit, provided that:

11 A. The applicable requirement is specifically  
12 identified within the permit; or

13 B. The Agency in acting on the CAAPP  
14 application or revision determines in writing that  
15 other requirements specifically identified are not  
16 applicable to the source, and the permit includes  
17 that determination or a concise summary thereof.

18 ii. The permit shall identify the requirements for  
19 which the source is shielded. The shield shall not  
20 extend to applicable requirements which are  
21 promulgated after the date of release of the proposed  
22 permit unless the permit has been modified to reflect  
23 such new requirements.

24 iii. A CAAPP permit which does not expressly  
25 indicate the existence of a permit shield shall not  
26 provide such a shield.

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

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

6           B. The liability of an owner or operator of a  
7 source for any violation of applicable  
8 requirements prior to or at the time of permit  
9 issuance.

10          C. The applicable requirements of the acid  
11 rain program consistent with Section 408(a) of the  
12 Clean Air Act.

13          D. The ability of USEPA to obtain information  
14 from a source pursuant to Section 114  
15 (inspections, monitoring, and entry) of the Clean  
16 Air Act.

17          k. Each CAAPP permit shall include an emergency  
18 provision providing an affirmative defense of emergency to  
19 an action brought for noncompliance with technology-based  
20 emission limitations under a CAAPP permit if the following  
21 conditions are met through properly signed,  
22 contemporaneous operating logs, or other relevant  
23 evidence:

24           i. An emergency occurred and the permittee can  
25 identify the cause(s) of the emergency.

26           ii. The permitted facility was at the time being

1 properly operated.

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

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

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

23 In any enforcement proceeding, the permittee seeking  
24 to establish the occurrence of an emergency has the burden  
25 of proof. This provision is in addition to any emergency  
26 or upset provision contained in any applicable

1 requirement. This provision does not relieve a permittee  
2 of any reporting obligations under existing federal or  
3 state laws or regulations.

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

6 i. Terms and conditions for reasonably anticipated  
7 operating scenarios identified by the source in its  
8 application. The permit terms and conditions for each  
9 such operating scenario shall meet all applicable  
10 requirements and the requirements of this Section.

11 A. Under this subparagraph, the source must  
12 record in a log at the permitted facility a record  
13 of the scenario under which it is operating  
14 contemporaneously with making a change from one  
15 operating scenario to another.

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

20 ii. Where requested by an applicant, all terms and  
21 conditions allowing for trading of emissions increases  
22 and decreases between different emission units at the  
23 CAAPP source, to the extent that the applicable  
24 requirements provide for trading of such emissions  
25 increases and decreases without a case-by-case  
26 approval of each emissions trade. Such terms and

1 conditions:

2 A. Shall include all terms required under this  
3 subsection to determine compliance;

4 B. Must meet all applicable requirements;

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

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

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

26 o. Each CAAPP permit issued under subsection 10 of

1           this Section shall include provisions stating the  
2           following:

3                   i. Duty to comply. The permittee must comply with  
4                   all terms and conditions of the CAAPP permit. Any  
5                   permit noncompliance constitutes a violation of the  
6                   Clean Air Act and the Act, and is grounds for any or  
7                   all of the following: enforcement action; permit  
8                   termination, revocation and reissuance, or  
9                   modification; or denial of a permit renewal  
10                  application.

11                  ii. Need to halt or reduce activity not a defense.  
12                  It shall not be a defense for a permittee in an  
13                  enforcement action that it would have been necessary  
14                  to halt or reduce the permitted activity in order to  
15                  maintain compliance with the conditions of this  
16                  permit.

17                  iii. Permit actions. The permit may be modified,  
18                  revoked, reopened, and reissued, or terminated for  
19                  cause in accordance with the applicable subsections of  
20                  Section 39.5 of this Act. The filing of a request by  
21                  the permittee for a permit modification, revocation  
22                  and reissuance, or termination, or of a notification  
23                  of planned changes or anticipated noncompliance does  
24                  not stay any permit condition.

25                  iv. Property rights. The permit does not convey  
26                  any property rights of any sort, or any exclusive

1 privilege.

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

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

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

25 p. Each CAAPP permit issued under subsection 10 of  
26 this Section shall contain the following elements with





1           D. Sample or monitor any substances or  
2 parameters at any location:

3           1. As authorized by the Clean Air Act, at  
4 reasonable times, for the purposes of assuring  
5 compliance with the CAAPP permit or applicable  
6 requirements; or

7           2. As otherwise authorized by this Act.

8           iii. A schedule of compliance consistent with  
9 subsection 5 of this Section and applicable  
10 regulations.

11           iv. Progress reports consistent with an applicable  
12 schedule of compliance pursuant to paragraph (d) of  
13 subsection 5 of this Section and applicable  
14 regulations to be submitted semiannually, or more  
15 frequently if the Agency determines that such more  
16 frequent submittals are necessary for compliance with  
17 the Act or regulations promulgated by the Board  
18 thereunder. Such progress reports shall contain the  
19 following:

20           A. Required dates for achieving the  
21 activities, milestones, or compliance required by  
22 the schedule of compliance and dates when such  
23 activities, milestones or compliance were  
24 achieved.

25           B. An explanation of why any dates in the  
26 schedule of compliance were not or will not be

1 met, and any preventive or corrective measures  
2 adopted.

3 v. Requirements for compliance certification with  
4 terms and conditions contained in the permit,  
5 including emission limitations, standards, or work  
6 practices. Permits shall include each of the  
7 following:

8 A. The frequency (annually or more frequently  
9 as specified in any applicable requirement or by  
10 the Agency pursuant to written procedures) of  
11 submissions of compliance certifications.

12 B. A means for assessing or monitoring the  
13 compliance of the source with its emissions  
14 limitations, standards, and work practices.

15 C. A requirement that the compliance  
16 certification include the following:

17 1. The identification of each term or  
18 condition contained in the permit that is the  
19 basis of the certification.

20 2. The compliance status.

21 3. Whether compliance was continuous or  
22 intermittent.

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

1           D. A requirement that all compliance  
2           certifications be submitted to the Agency.

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

6           F. Other provisions as the Agency may require.

7           q. If the owner or operator of CAAPP source can  
8           demonstrate in its CAAPP application, including an  
9           application for a significant modification, that an  
10          alternative emission limit would be equivalent to that  
11          contained in the applicable Board regulations, the Agency  
12          shall include the alternative emission limit in the CAAPP  
13          permit, which shall supersede the emission limit set forth  
14          in the applicable Board regulations, and shall include  
15          conditions that insure that the resulting emission limit  
16          is quantifiable, accountable, enforceable, and based on  
17          replicable procedures.

18          8. Public Notice; Affected State Review.

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

24           b. The Agency shall prepare a draft CAAPP permit and a  
25           statement that sets forth the legal and factual basis for

1 the draft CAAPP permit conditions, including references to  
2 the applicable statutory or regulatory provisions. The  
3 Agency shall provide this statement to any person who  
4 requests it.

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

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

21 e. The Agency shall make available to the public any  
22 CAAPP permit application, compliance plan (including the  
23 schedule of compliance), CAAPP permit, and emissions or  
24 compliance monitoring report. If an owner or operator of a  
25 CAAPP source is required to submit information entitled to  
26 protection from disclosure under Section 7.1 and

1 subsection (a) of Section 7 of this Act, the owner or  
2 operator shall submit such information separately. The  
3 requirements of Section 7.1 and subsection (a) of Section  
4 7 of this Act shall apply to such information, which shall  
5 not be included in a CAAPP permit unless required by law.  
6 The contents of a CAAPP permit shall not be entitled to  
7 protection under Section 7.1 and subsection (a) of Section  
8 7 of this Act.

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

13 g. If requested by the permit applicant, the Agency  
14 shall provide the permit applicant with a copy of the  
15 draft CAAPP permit prior to any public review period. If  
16 requested by the permit applicant, the Agency shall  
17 provide the permit applicant with a copy of the final  
18 CAAPP permit prior to issuance of the CAAPP permit.

19 9. USEPA Notice and Objection.

20 a. The Agency shall provide to USEPA for its review a  
21 copy of each CAAPP application (including any application  
22 for permit modification), statement of basis as provided  
23 in paragraph (b) of subsection 8 of this Section, proposed  
24 CAAPP permit, CAAPP permit, and, if the Agency does not  
25 incorporate any affected State's recommendations on a

1 proposed CAAPP permit, a written statement of this  
2 decision and its reasons for not accepting the  
3 recommendations, except as otherwise provided in this Act  
4 or by agreement with USEPA. To the extent practicable, the  
5 preceding information shall be provided in computer  
6 readable format compatible with USEPA's national database  
7 management system.

8 b. The Agency shall not issue the proposed CAAPP  
9 permit if USEPA objects in writing within 45 days after  
10 receipt of the proposed CAAPP permit and all necessary  
11 supporting information.

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

24 d. Any USEPA objection under this subsection,  
25 according to the Clean Air Act, will include a statement  
26 of reasons for the objection and a description of the

1 terms and conditions that must be in the permit, in order  
2 to adequately respond to the objections. Grounds for a  
3 USEPA objection include the failure of the Agency to: (1)  
4 submit the items and notices required under this  
5 subsection; (2) submit any other information necessary to  
6 adequately review the proposed CAAPP permit; or (3)  
7 process the permit under subsection 8 of this Section  
8 except for minor permit modifications.

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

13 f. If the permit has not yet been issued and USEPA  
14 objects to the permit as a result of a petition, the Agency  
15 shall not issue the permit until USEPA's objection has  
16 been resolved. The Agency shall provide a 10-day comment  
17 period in accordance with paragraph c of this subsection.  
18 A petition does not, however, stay the effectiveness of a  
19 permit or its requirements if the permit was issued after  
20 expiration of the 45-day review period and prior to a  
21 USEPA objection.

22 g. If the Agency has issued a permit after expiration  
23 of the 45-day review period and prior to receipt of a USEPA  
24 objection under this subsection in response to a petition  
25 submitted pursuant to paragraph e of this subsection, the  
26 Agency may, upon receipt of an objection from USEPA,



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

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

13      10. Final Agency Action.

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

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

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

1 regulations.

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

5 iv. The Agency has received a complete CAAPP  
6 application and, if necessary, has requested and  
7 received additional information from the applicant  
8 consistent with subsection 5 of this Section and  
9 applicable regulations.

10 v. The Agency has complied with all applicable  
11 provisions regarding public notice and affected State  
12 review consistent with subsection 8 of this Section  
13 and applicable regulations.

14 vi. The Agency has provided a copy of each CAAPP  
15 application, or summary thereof, pursuant to agreement  
16 with USEPA and proposed CAAPP permit required under  
17 subsection 9 of this Section to USEPA, and USEPA has  
18 not objected to the issuance of the permit in  
19 accordance with the Clean Air Act and 40 CFR Part 70.

20 b. The Agency shall have the authority to deny a CAAPP  
21 permit, permit modification, or permit renewal if the  
22 applicant has not complied with the requirements of  
23 subparagraphs (i) through (iv) of paragraph (a) of this  
24 subsection or if USEPA objects to its issuance. Further,  
25 for any of the following construction permits, the Agency  
26 shall conduct an evaluation of the prospective owner's or

1 operator's prior experience in owning and operating  
2 sources of air pollution: (i) a construction permit for a  
3 new source that is to be located in an environmental  
4 justice community, that will require a CAAPP permit or a  
5 federally enforceable State operating permit, and that  
6 would be authorized under that permit to increase annual  
7 permitted emissions; (ii) a construction permit for any  
8 existing source that is located in an environmental  
9 justice community that, on the effective date of this  
10 amendatory Act of the 103rd General Assembly, possesses a  
11 CAAPP permit or federally enforceable State operating  
12 permit and that would be authorized under that permit to  
13 increase annual permitted emissions; or (iii) a  
14 construction permit for any existing source that is  
15 located in an environmental justice community that would  
16 require a new CAAPP permit or new federally enforceable  
17 State operating permit for the first time and that would  
18 be authorized under that permit to increase annual  
19 permitted emissions. The Agency has the authority to deny  
20 such a permit transaction if the prospective owner or  
21 operator or any employee or officer of the prospective  
22 owner or operator or board member or manager has a history  
23 of:

24 i. repeated violations of federal, State, or local  
25 laws, rules, regulations, standards, or ordinances in  
26 the ownership or operation of sources of air

1           pollution;

2           ii. conviction in this State, another state, or  
3           federal court of knowingly submitting false  
4           information under any law, rule, regulation, or permit  
5           term or condition regarding the environment; or

6           iii. proof of gross carelessness or incompetence  
7           in the ownership or operation of a source of air  
8           pollution.

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

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

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

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

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

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 11. General Permits.

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

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

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

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

1 a general permit.

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

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

11 g. 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 12. Operational Flexibility.

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

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

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

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

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

24 ii. An owner or operator of a CAAPP source may  
25 trade increases and decreases in emissions in the  
26 CAAPP source, where the applicable implementation plan

1 provides for such emission trades without requiring a  
2 permit revision. This provision is available in those  
3 cases where the permit does not already provide for  
4 such emissions trading.

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

21 B. The permit shield described in paragraph  
22 (j) of subsection 7 of this Section shall not  
23 apply to any change made pursuant to subparagraph  
24 (ii) of paragraph (a) of this subsection.  
25 Compliance with the permit requirements that the  
26 source will meet using the emissions trade shall



1           be determined according to the requirements of the  
2           applicable implementation plan authorizing the  
3           emissions trade.

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

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

25           B. The permit shield described in paragraph  
26           (j) of subsection 7 of this Section shall extend

1 to terms and conditions that allow such increases  
2 and decreases in emissions.

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

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

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

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

24 (iv) The permittee shall keep a record describing  
25 changes made at the source that result in emissions of  
26 a regulated air pollutant subject to an applicable

1 Clean Air Act requirement, but not otherwise regulated  
2 under the permit, and the emissions resulting from  
3 those changes.

4 c. 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 13. Administrative Permit Amendments.

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

16 b. The Agency shall submit a copy of the revised  
17 permit to USEPA.

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

22 i. Corrects typographical errors;

23 ii. Identifies a change in the name, address, or  
24 phone number of any person identified in the permit,  
25 or provides a similar minor administrative change at

1 the source;

2 iii. Requires more frequent monitoring or  
3 reporting by the permittee;

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

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

18 vi. (Blank); or

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

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

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

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

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

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

21 14. Permit Modifications.

22 a. Minor permit modification procedures.

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

1           A. Do not violate any applicable requirement;

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

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

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

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

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

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

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

26           ii. Notwithstanding subparagraph (i) of paragraph

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

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

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

17 B. The source's suggested draft permit;

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

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

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

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

20                   A. Issue the permit modification as proposed;

21                   B. Deny the permit modification application;

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

26                   D. Revise the draft permit modification and



1 transmit to USEPA the new proposed permit  
2 modification as required by subsection 9 of this  
3 Section.

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

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

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

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

14 b. Group Processing of Minor Permit Modifications.

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

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

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

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

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

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

14           B. The source's suggested draft permit.

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

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

1 (b) of this subsection.

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

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

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

21 v. The provisions of subparagraph (v) of paragraph  
22 (a) of this subsection shall apply to modifications  
23 eligible for group processing, except that the Agency  
24 shall take one of the actions specified in items (A)  
25 through (D) of subparagraph (v) of paragraph (a) of  
26 this subsection within 180 days after receipt of the

1 application or 15 days after the end of USEPA's 45-day  
2 review period under subsection 9 of this Section,  
3 whichever is later.

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

7 vii. The provisions of paragraph (j) of subsection  
8 7 of this Section shall not apply to modifications  
9 eligible for group processing.

10 c. Significant Permit Modifications.

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

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

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

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

13           15. Reopenings for Cause by the Agency.

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

21           i. Additional requirements under the Clean Air Act  
22 become applicable to a major CAAPP source for which 3  
23 or more years remain on the original term of the  
24 permit. Such a reopening shall be completed not later  
25 than 18 months after the promulgation of the

1 applicable requirement. No such revision is required  
2 if the effective date of the requirement is later than  
3 the date on which the permit is due to expire.

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

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

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

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

1 adjudicatory hearings and the Board shall render its  
2 decision within 120 days of the filing of the petition.  
3 The Agency shall take final action to revoke and reissue a  
4 CAAPP permit consistent with the Board's order.

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

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

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

19 16. Reopenings for Cause by USEPA.

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



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

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

24 ii. After due consideration of the written and  
25 oral statements, the testimony and arguments that  
26 shall be submitted at hearing, the Board shall issue

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23                  i. No permit revision shall be required for  
24                  increases in emissions that are authorized by  
25                  allowances acquired pursuant to the acid rain program,  
26                  provided that such increases do not require a permit

1 revision under any other applicable requirement.

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

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

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

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

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

25 m. The designated representative of an affected source  
26 for acid deposition shall submit to the Agency the data



1 and information submitted quarterly to USEPA, pursuant to  
2 40 CFR 75.64, concurrently with the submission to USEPA.  
3 The submission shall be in the same electronic format as  
4 specified by USEPA.

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

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

14 18. Fee Provisions.

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

25 i. The fee for a source allowed to emit less than

1           100 tons per year of any combination of regulated air  
2           pollutants, except greenhouse gases, shall be \$1,800  
3           per year, and that fee shall increase, beginning  
4           January 1, 2012, to \$2,150 per year.

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

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

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

19                 Notwithstanding the above, any applicant may  
20                 seek a change in its permit which would result in  
21                 increases in allowable emissions due to an  
22                 increase in the hours of operation or production  
23                 rates of an emission unit or units and such a  
24                 change shall be consistent with the construction  
25                 permit requirements of the existing State permit  
26                 program, under subsection (a) of Section 39 of

1           this Act and applicable provisions of this  
2           Section. Where a construction permit is required,  
3           the Agency shall expeditiously grant such  
4           construction permit and shall, if necessary,  
5           modify the CAAPP permit based on the same  
6           application.

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

19          b. (Blank).

20          c. (Blank).

21          d. There is hereby created in the State Treasury a  
22          special fund to be known as the Clean Air Act Permit Fund  
23          (formerly known as the CAA Permit Fund). All Funds  
24          collected by the Agency pursuant to this subsection shall  
25          be deposited into the Fund. The General Assembly shall  
26          appropriate monies from this Fund to the Agency and to the

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

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

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

15 i. carbon monoxide;

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

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

25 19. Air Toxics Provisions.

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

1 otherwise establish an appropriate emission limitation,  
2 pursuant to Section 112 of the Clean Air Act.

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

22 c. The Agency shall have the authority to implement  
23 and enforce complete or partial emission standards  
24 promulgated by USEPA pursuant to Section 112(d), and  
25 standards promulgated by USEPA pursuant to Sections  
26 112(f), 112(h), 112(m), and 112(n), and may accept

1 delegation of authority from USEPA to implement and  
2 enforce Section 112(l) and requirements for the prevention  
3 and detection of accidental releases pursuant to Section  
4 112(r) of the Clean Air Act.

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

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

22 20. Small Business.

23 a. For purposes of this subsection:

24 "Program" is the Small Business Stationary Source  
25 Technical and Environmental Compliance Assistance Program



1 created within this State pursuant to Section 507 of the  
2 Clean Air Act and guidance promulgated thereunder, to  
3 provide technical assistance and compliance information to  
4 small business stationary sources;

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

10 "Small Business Stationary Source" means a stationary  
11 source that:

12 1. is owned or operated by a person that employs  
13 100 or fewer individuals;

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

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

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

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

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

26 c. The Agency shall have the authority to enter into

1 such contracts and agreements as the Agency deems  
2 necessary to carry out the purposes of this subsection.

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

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

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

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

19 h. The selection of Panel members shall be by the  
20 following method:

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

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

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

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

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

13          21. Temporary Sources.

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

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

22          c. Any such permit shall meet all applicable  
23          requirements of this Section and applicable regulations,  
24          and include conditions assuring compliance with all  
25          applicable requirements at all authorized locations and

1 requirements that the owner or operator notify the Agency  
2 at least 10 days in advance of each change in location.

3 22. Solid Waste Incineration Units.

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

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

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

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

22 (Source: P.A. 99-380, eff. 8-17-15; 99-933, eff. 1-27-17;  
23 100-103, eff. 8-11-17.)

24 (415 ILCS 5/39.15 new)

1       Sec. 39.15. Environmental justice considerations in  
2 permitting.

3       (a) The following public participation requirements for  
4 permitting transactions in an environmental justice community  
5 must be complied with:

6           (1) If an application for a permit, permit renewal, or  
7 permit modification is subject to public notice and  
8 comment requirements under this Act, rules adopted by the  
9 Board, or rules adopted by the Agency, and the application  
10 is for a facility or source in an environmental justice  
11 community, the Agency must comply with existing applicable  
12 requirements for public notice.

13           (2) In addition to the public notice requirements  
14 referenced in paragraph (1), the Agency shall provide the  
15 public with notice of an application for a permit, permit  
16 renewal, or permit modification if the facility or  
17 proposed facility is located or is to be located in an  
18 environmental justice community for the following types of  
19 permitting transactions: (i) permits for pollution control  
20 facilities subject to local siting review under Section  
21 39.2; and (ii) individual minor or major NPDES permits  
22 issued under subsection (b) of Section 39.

23           The public notice shall be provided: (i) by prominent  
24 placement at a dedicated page on the Agency's website;  
25 (ii) to local elected officials in the area where the  
26 facility or proposed facility is located or is to be

1 located, including the mayor or president, clerk, county  
2 board chairman, county clerk, and State's Attorney; and  
3 (iii) to members of the General Assembly from the  
4 legislative district in which the facility or proposed  
5 facility is located or is to be located.

6 The public notice shall include: (i) the name and  
7 address of the permit applicant and the facility or  
8 proposed facility; and (ii) the activity or activities at  
9 the facility or proposed facility being permitted.

10 (b) If the population of individuals who reside within one  
11 mile of the site or facility includes individuals within a  
12 linguistically isolated community, then the Agency must also  
13 provide:

14 (1) all public notices required by this Section in a  
15 multilingual format appropriate to the needs of the  
16 linguistically isolated community; and

17 (2) oral and written translation services at public  
18 hearings.

19 (c) For permit applications for facilities in an  
20 environmental justice community, the Director of the Agency  
21 may grant extensions of any permitting deadlines established  
22 in this Act by up to an additional 180 days to allow for  
23 additional review of the permit application by the Agency or  
24 additional public participation. Any exercise of this  
25 authority shall be provided in writing to the permit applicant  
26 with the specific reason and new permitting deadline.

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

2 Sec. 40. Appeal of permit denial.

3 (a)(1) If the Agency refuses to grant or grants with  
4 conditions a permit under Section 39 of this Act, the  
5 applicant may, within 35 days after the date on which the  
6 Agency served its decision on the applicant, petition for a  
7 hearing before the Board to contest the decision of the  
8 Agency. However, the 35-day period for petitioning for a  
9 hearing may be extended for an additional period of time not to  
10 exceed 90 days by written notice provided to the Board from the  
11 applicant and the Agency within the initial appeal period. The  
12 Board shall give 21 days' notice to any person in the county  
13 where is located the facility in issue who has requested  
14 notice of enforcement proceedings and to each member of the  
15 General Assembly in whose legislative district that  
16 installation or property is located; and shall publish that  
17 21-day notice in a newspaper of general circulation in that  
18 county. The Agency shall appear as respondent in such hearing.  
19 At such hearing the rules prescribed in Section 32 and  
20 subsection (a) of Section 33 of this Act shall apply, and the  
21 burden of proof shall be on the petitioner. If, however, the  
22 Agency issues an NPDES permit that imposes limits which are  
23 based upon a criterion or denies a permit based upon  
24 application of a criterion, then the Agency shall have the  
25 burden of going forward with the basis for the derivation of

1 those limits or criterion which were derived under the Board's  
2 rules.

3 (2) Except as provided in paragraph (a)(3), if there is no  
4 final action by the Board within 120 days after the date on  
5 which it received the petition, the petitioner may deem the  
6 permit issued under this Act, provided, however, that that  
7 period of 120 days shall not run for any period of time, not to  
8 exceed 30 days, during which the Board is without sufficient  
9 membership to constitute the quorum required by subsection (a)  
10 of Section 5 of this Act, and provided further that such 120  
11 day period shall not be stayed for lack of quorum beyond 30  
12 days regardless of whether the lack of quorum exists at the  
13 beginning of such 120-day period or occurs during the running  
14 of such 120-day period.

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

21 (b) If the Agency grants a RCRA permit for a hazardous  
22 waste disposal site, a third party, other than the permit  
23 applicant or Agency, may, within 35 days after the date on  
24 which the Agency issued its decision, petition the Board for a  
25 hearing to contest the issuance of the permit. Unless the  
26 Board determines that such petition is duplicative or



1 frivolous, or that the petitioner is so located as to not be  
2 affected by the permitted facility, the Board shall hear the  
3 petition in accordance with the terms of subsection (a) of  
4 this Section and its procedural rules governing denial  
5 appeals, such hearing to be based exclusively on the record  
6 before the Agency. The burden of proof shall be on the  
7 petitioner. The Agency and the permit applicant shall be named  
8 co-respondents.

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

12 (c) Any party to an Agency proceeding conducted pursuant  
13 to Section 39.3 of this Act may petition as of right to the  
14 Board for review of the Agency's decision within 35 days from  
15 the date of issuance of the Agency's decision, provided that  
16 such appeal is not duplicative or frivolous. However, the  
17 35-day period for petitioning for a hearing may be extended by  
18 the applicant for a period of time not to exceed 90 days by  
19 written notice provided to the Board from the applicant and  
20 the Agency within the initial appeal period. If another person  
21 with standing to appeal wishes to obtain an extension, there  
22 must be a written notice provided to the Board by that person,  
23 the Agency, and the applicant, within the initial appeal  
24 period. The decision of the Board shall be based exclusively  
25 on the record compiled in the Agency proceeding. In other  
26 respects the Board's review shall be conducted in accordance

1 with subsection (a) of this Section and the Board's procedural  
2 rules governing permit denial appeals.

3 (d) In reviewing the denial or any condition of a NA NSR  
4 permit issued by the Agency pursuant to rules and regulations  
5 adopted under subsection (c) of Section 9.1 of this Act, the  
6 decision of the Board shall be based exclusively on the record  
7 before the Agency including the record of the hearing, if any,  
8 unless the parties agree to supplement the record. The Board  
9 shall, if it finds the Agency is in error, make a final  
10 determination as to the substantive limitations of the permit  
11 including a final determination of Lowest Achievable Emission  
12 Rate.

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

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

20 (A) a demonstration that the petitioner raised the  
21 issues contained within the petition during the public  
22 notice period or during the public hearing on the NPDES  
23 permit application, if a public hearing was held; and

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

26 (3) If the Board determines that the petition is not

1 duplicative or frivolous and contains a satisfactory  
2 demonstration under subdivision (2) of this subsection, the  
3 Board shall hear the petition (i) in accordance with the terms  
4 of subsection (a) of this Section and its procedural rules  
5 governing permit denial appeals and (ii) exclusively on the  
6 basis of the record before the Agency. The burden of proof  
7 shall be on the petitioner. The Agency and permit applicant  
8 shall be named co-respondents.

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

11 (g) If the Agency grants or denies a permit under  
12 subsection (y) of Section 39, a third party, other than the  
13 permit applicant or Agency, may appeal the Agency's decision  
14 as provided under federal law for CCR surface impoundment  
15 permits.

16 (h) If the Agency grants a permit to construct, modify, or  
17 operate a facility that emits air pollutants and is classified  
18 as a minor source, a third party, other than the permit  
19 applicant or Agency, may, within 35 days after the date on  
20 which the Agency issued its decision, petition the Board for a  
21 hearing to contest the issuance of the permit. Unless the  
22 Board determines that the petition is duplicative or frivolous  
23 or that the petitioner is so located as to not be affected by  
24 the permitted facility, the Board shall hear the petition in  
25 accordance with the terms of subsection (a) of this Section  
26 and its procedural rules governing denial appeals. The hearing

1 shall be based exclusively on the record before the Agency.  
2 The burden of proof shall be on the petitioner. The Agency and  
3 the permit applicant shall be named co-respondents.

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

5 (415 ILCS 5/40.4 new)

6 Sec. 40.4. Environmental justice grievance.

7 (a) An environmental justice grievance process, subject to  
8 the provisions of this Section, applies to complaints alleging  
9 violations of Section 601 of the federal Civil Rights Act of  
10 1964.

11 (b) An environmental justice grievance must allege  
12 discrimination on the basis of an individual's actual or  
13 perceived race, color, religion, national origin, citizenship,  
14 ancestry, age, sex, marital status, order of protection  
15 status, conviction record, arrest record, disability, military  
16 status, sexual orientation, gender identity, gender  
17 expression, pregnancy, or unfavorable discharge from military  
18 service.

19 (c) To initiate the environmental justice grievance  
20 process a person must file a complaint with the Agency within  
21 60 days after an alleged violation. The Agency, in its  
22 discretion, may waive the 60-day deadline for good cause. The  
23 complaint must:

24 (1) be in writing;

25 (2) describe with specificity the discrimination

1 alleged; and

2 (3) identify the parties impacted by the alleged  
3 discrimination.

4 (d) The complaint under subsection (c) must be addressed  
5 as follows:

6 Illinois Environmental Protection Agency

7 Environmental Justice Officer

8 1021 North Grand Avenue East

9 P.O. Box 19276

10 Springfield, IL 62794

11 (e) Within 10 days after receiving the complaint filed  
12 under subsection (c), the Agency shall provide written notice  
13 of receipt and acceptance of the complaint. If the Agency  
14 determines that it has jurisdiction to review the complaint,  
15 the complaint will be considered meritorious, unless:

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

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

20 (3) the Agency, within the time allotted to  
21 investigate the complaint, voluntarily concedes  
22 noncompliance and agrees to take appropriate remedial  
23 action or agrees to an informal resolution of the  
24 complaint; or

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

1       (f) Within 120 days after the date it provides written  
2       notice of receipt and acceptance of the complaint under  
3       subsection (e), the Agency shall make a determination of  
4       jurisdiction and the merits of the complaint, conduct an  
5       investigation, and provide a proposed resolution, if  
6       appropriate, to the extent practicable and allowable under  
7       existing laws and regulations.

8       (g) The Agency may propose, and the Board may adopt, rules  
9       for the implementation and administration of this Section.

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