

1 AN ACT in relation to environmental matters.

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
5 by changing Sections 39.5, 54.12, 54.13, and 55.3 as follows:

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

7 Sec. 39.5. Clean Air Act Permit Program.

8 1. Definitions.

9 For purposes of this Section:

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

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

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

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

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

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

25 "Applicable Clean Air Act requirement" means all of the
26 following as they apply to emissions units in a source
27 (including regulations that have been promulgated or approved
28 by USEPA pursuant to the Clean Air Act which directly impose
29 requirements upon a source and other such federal
30 requirements which have been adopted by the Board. These may
31 include requirements and regulations which have future

1 effective compliance dates. Requirements and regulations
2 will be exempt if USEPA determines that such requirements
3 need not be contained in a Title V permit):

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

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

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

25 (3) Any standard or other requirement under Section
26 111 of the Clean Air Act, including Section 111(d).

27 (4) Any standard or other requirement under Section
28 112 of the Clean Air Act, including any requirement
29 concerning accident prevention under Section 112(r)(7) of
30 the Clean Air Act.

31 (5) Any standard or other requirement of the acid
32 rain program under Title IV of the Clean Air Act or the
33 regulations promulgated thereunder.

34 (6) Any requirements established pursuant to

1 Section 504(b) or Section 114(a)(3) of the Clean Air Act.

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

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

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

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

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

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

23 "Applicable requirement" means all applicable Clean Air
24 Act requirements and any other standard, limitation, or other
25 requirement contained in this Act or regulations promulgated
26 under this Act as applicable to sources of air contaminants
27 (including requirements that have future effective compliance
28 dates).

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

31 "CAAPP application" means an application for a CAAPP
32 permit.

33 "CAAPP Permit" or "permit" (unless the context suggests
34 otherwise) means any permit issued, renewed, amended,

1 modified or revised pursuant to Title V of the Clean Air Act.

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

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

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

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

19 "Effective date of the CAAPP" means the date that USEPA
20 approves Illinois' CAAPP.

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

26 "Federally enforceable" means enforceable by USEPA.

27 "Final permit action" means the Agency's granting with
28 conditions, refusal to grant, renewal of, or revision of a
29 CAAPP permit, the Agency's determination of incompleteness of
30 a submitted CAAPP application, or the Agency's failure to act
31 on an application for a permit, permit renewal, or permit
32 revision within the time specified in paragraph 5(j),
33 subsection 13, or subsection 14 of this Section.

34 "General permit" means a permit issued to cover numerous

1 similar sources in accordance with subsection 11 of this
2 Section.

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

6 "Maximum achievable control technology" or "MACT" means
7 the maximum degree of reductions in emissions deemed
8 achievable under Section 112 of the Clean Air Act.

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

11 "Permit modification" means a revision to a CAAPP permit
12 that cannot be accomplished under the provisions for
13 administrative permit amendments under subsection 13 of this
14 Section.

15 "Permit revision" means a permit modification or
16 administrative permit amendment.

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

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

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

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

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

9 "Regulated air pollutant" means the following:

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

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

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

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

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

23 (i) Any pollutant subject to requirements
24 under Section 112(j) of the Clean Air Act. Any
25 pollutant listed under Section 112(b) for which the
26 subject source would be major shall be considered to
27 be regulated 18 months after the date on which USEPA
28 was required to promulgate an applicable standard
29 pursuant to Section 112(e) of the Clean Air Act, if
30 USEPA fails to promulgate such standard.

31 (ii) Any pollutant for which the requirements
32 of Section 112(g)(2) of the Clean Air Act have been
33 met, but only with respect to the individual source
34 subject to Section 112(g)(2) requirement.

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

3 "Responsible official" means one of the following:

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

17 (2) For a partnership or sole proprietorship: a
18 general partner or the proprietor, respectively, or in
19 the case of a partnership in which all of the partners
20 are corporations, a duly authorized representative of the
21 partnership if the representative is responsible for the
22 overall operation of one or more manufacturing,
23 production, or operating facilities applying for or
24 subject to a permit and either (i) the facilities employ
25 more than 250 persons or have gross annual sales or
26 expenditures exceeding \$25 million (in second quarter
27 1980 dollars), or (ii) the delegation of authority to
28 such representative is approved in advance by the Agency.

29 (3) For a municipality, State, Federal, or other
30 public agency: either a principal executive officer or
31 ranking elected official. For the purposes of this part,
32 a principal executive officer of a Federal agency
33 includes the chief executive officer having
34 responsibility for the overall operations of a principal

1 geographic unit of the agency (e.g., a Regional
2 Administrator of USEPA).

3 (4) For affected sources for acid deposition:

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

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

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

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

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

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

31 "Stationary source" means any building, structure,
32 facility, or installation that emits or may emit any
33 regulated air pollutant or any pollutant listed under Section
34 112(b) of the Clean Air Act.

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

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

13 1.1. Exclusion From the CAAPP.

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

27 b. An owner or operator of a source seeking
28 exclusion from the CAAPP pursuant to paragraph (a) of
29 this subsection must submit a permit application
30 consistent with the existing State permit program which
31 specifically requests such exclusion through the
32 imposition of such federally enforceable conditions.

33 c. Upon such request, if the Agency determines that
34 the owner or operator of a source has met the

1 requirements for exclusion pursuant to paragraph (a) of
2 this subsection and other applicable requirements for
3 permit issuance under Section 39(a) of this Act, the
4 Agency shall issue a State operating permit for such
5 source under Section 39(a) of this Act, as amended, and
6 regulations promulgated thereunder with federally
7 enforceable conditions limiting the "potential to emit"
8 of the source to a level below the major source threshold
9 for that source as described in paragraph 2(c) of this
10 Section.

11 d. The Agency shall provide an owner or operator of
12 a source which may be excluded from the CAAPP pursuant to
13 this subsection with reasonable notice that the owner or
14 operator may seek such exclusion.

15 e. The Agency shall provide such sources with the
16 necessary permit application forms.

17 2. Applicability.

18 a. Sources subject to this Section shall include:

19 i. Any major source as defined in paragraph
20 (c) of this subsection.

21 ii. Any source subject to a standard or other
22 requirements promulgated under Section 111 (New
23 Source Performance Standards) or Section 112
24 (Hazardous Air Pollutants) of the Clean Air Act,
25 except that a source is not required to obtain a
26 permit solely because it is subject to regulations
27 or requirements under Section 112(r) of the Clean
28 Air Act.

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

31 iv. Any other source subject to this Section
32 under the Clean Air Act or regulations promulgated
33 thereunder, or applicable Board regulations.

34 b. Sources exempted from this Section shall

1 include:

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

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

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

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

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

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

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

32 A. For pollutants other than
33 radionuclides, any stationary source or group
34 of stationary sources located within a

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

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

21 ii. A major stationary source of air
22 pollutants, as defined in Section 302 of the Clean
23 Air Act, that directly emits or has the potential to
24 emit, 100 tpy or more of any air pollutant
25 (including any major source of fugitive emissions of
26 any such pollutant, as determined by rule by USEPA).
27 For purposes of this subsection, "fugitive
28 emissions" means those emissions which could not
29 reasonably pass through a stack, chimney, vent, or
30 other functionally-equivalent opening. The fugitive
31 emissions of a stationary source shall not be
32 considered in determining whether it is a major
33 stationary source for the purposes of Section 302(j)
34 of the Clean Air Act, unless the source belongs to

1 one of the following categories of stationary
2 source:

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

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

4 AA. All other stationary source
5 categories regulated by a standard promulgated
6 under Section 111 or 112 of the Clean Air Act,
7 but only with respect to those air pollutants
8 that have been regulated for that category.

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

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

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

31 B. For ozone transport regions
32 established pursuant to Section 184 of the
33 Clean Air Act, sources with the potential to
34 emit 50 tons or more per year of volatile

1 organic compounds (VOCs).

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

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

13 3. Agency Authority To Issue CAAPP Permits and Federally
14 Enforceable State Operating Permits.

15 a. The Agency shall issue CAAPP permits under this
16 Section consistent with the Clean Air Act and regulations
17 promulgated thereunder and this Act and regulations
18 promulgated thereunder.

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

27 c. The Agency shall have the authority to issue a
28 State operating permit for a source under Section 39(a)
29 of this Act, as amended, and regulations promulgated
30 thereunder, which includes federally enforceable
31 conditions limiting the "potential to emit" of the source
32 to a level below the major source threshold for that
33 source as described in paragraph 2(c) of this Section,
34 thereby excluding the source from the CAAPP, when

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

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

9 4. Transition.

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

28 b. An owner or operator of a CAAPP source shall
29 continue to operate in accordance with the terms and
30 conditions of its applicable State operating permit
31 notwithstanding the expiration of the State operating
32 permit until the source's CAAPP permit has been issued.

33 c. An owner or operator of a CAAPP source shall
34 submit its initial CAAPP application to the Agency no

1 later than 12 months after the effective date of the
2 CAAPP. The Agency may request submittal of initial CAAPP
3 applications during this 12 month period according to a
4 schedule set forth within Agency procedures, however, in
5 no event shall the Agency require such submittal earlier
6 than 3 months after such effective date of the CAAPP. An
7 owner or operator may voluntarily submit its initial
8 CAAPP 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
13 applications in accordance with subsection 5(j) 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 three months advance notice
21 of the date on which their applications are required to
22 be submitted. In determining which sources shall be
23 subject to early submittal, the Agency shall include
24 among its considerations the complexity of the permit
25 application, and the burden that such early submittal
26 will have on the source.

27 g. The CAAPP permit shall upon becoming effective
28 supersede the State operating permit.

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

33 5. Applications and Completeness.

34 a. An owner or operator of a CAAPP source shall

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

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

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

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

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

27 f. The Agency shall provide notice to a CAAPP
28 applicant as to whether a submitted CAAPP application is
29 complete. Unless the Agency notifies the applicant of
30 incompleteness, within 60 days of receipt of the CAAPP
31 application, the application shall be deemed complete.
32 The Agency may request additional information as needed
33 to make the completeness determination. The Agency may
34 to the extent practicable provide the applicant with a

1 reasonable opportunity to correct deficiencies prior to a
2 final determination of completeness.

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

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

17 i. Any applicant who fails to submit any relevant
18 facts necessary to evaluate the subject source and its
19 CAAPP application or who has submitted incorrect
20 information in a CAAPP application shall, upon becoming
21 aware of such failure or incorrect submittal, submit
22 supplementary facts or correct information to the Agency.
23 In addition, an applicant shall provide to the Agency
24 additional information as necessary to address any
25 requirements which become applicable to the source
26 subsequent to the date the applicant submitted its
27 complete CAAPP application but prior to release of the
28 draft CAAPP permit.

29 j. The Agency shall issue or deny the CAAPP permit
30 within 18 months after the date of receipt of the
31 complete CAAPP application, with the following
32 exceptions: (i) permits for affected sources for acid
33 deposition shall be issued or denied within 6 months
34 after receipt of a complete application in accordance

1 with subsection 17 of this Section; (ii) the Agency shall
2 act on initial CAAPP applications within 24 months after
3 the date of receipt of the complete CAAPP application;
4 (iii) the Agency shall act on complete applications
5 containing early reduction demonstrations under Section
6 112(i)(5) of the Clean Air Act within 9 months of receipt
7 of the complete CAAPP application.

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

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

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

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

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

29 o. The terms and conditions of a CAAPP permit shall
30 remain in effect until the issuance of a CAAPP renewal
31 permit provided a timely and complete CAAPP application
32 has been submitted.

33 p. The owner or operator of a CAAPP source seeking
34 a permit shield pursuant to paragraph 7(j) of this

1 Section shall request such permit shield in the CAAPP
2 application regarding that source.

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

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

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

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

23 u. An owner or operator of a CAAPP source which
24 seeks exclusion from the CAAPP through the imposition of
25 federally enforceable conditions, pursuant to paragraph
26 3(c) of this Section, must request such exclusion within
27 a CAAPP application submitted consistent with this
28 subsection on or after the date that the CAAPP
29 application for the source is due. Prior to such date,
30 but in no case later than 9 months after the effective
31 date of the CAAPP, such owner or operator may request the
32 imposition of federally enforceable conditions pursuant
33 to paragraph 1.1(b) of this Section.

34 v. CAAPP applications shall contain accurate

1 information on allowable emissions to implement the fee
2 provisions of subsection 18 of this Section.

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

19 x. The owner or operator of a new CAAPP source
20 shall submit its complete CAAPP application consistent
21 with this subsection within 12 months after commencing
22 operation of such source. The owner or operator of an
23 existing source that has been excluded from the
24 provisions of this Section under subsection 1.1 or
25 subsection 3(c) of this Section and that becomes subject
26 to the CAAPP solely due to a change in operation at the
27 source shall submit its complete CAAPP application
28 consistent with this subsection at least 180 days before
29 commencing operation in accordance with the change in
30 operation.

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

1 6. Prohibitions.

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

12 b. After the applicable CAAPP permit or renewal
13 application submittal date, as specified in subsection 5
14 of this Section, no person shall operate a CAAPP source
15 without a CAAPP permit unless the complete CAAPP permit
16 or renewal application for such source has been timely
17 submitted to the Agency.

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

27 7. Permit Content.

28 a. All CAAPP permits shall contain emission
29 limitations and standards and other enforceable terms and
30 conditions, including but not limited to operational
31 requirements, and schedules for achieving compliance at
32 the earliest reasonable date, which are or will be
33 required to accomplish the purposes and provisions of
34 this Act and to assure compliance with all applicable

1 requirements.

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

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

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

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

32 ii. Where the applicable requirement does not
33 require periodic testing or instrumental or
34 noninstrumental monitoring (which may consist of

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

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

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

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

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

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

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

24 D. The analytical techniques or methods
25 used.

26 E. The results of such analyses.

27 F. The operating conditions as existing
28 at the time of sampling or measurement.

29 ii. Retention of records of all monitoring
30 data and support information for a period of at
31 least 5 years from the date of the monitoring
32 sample, measurement, report, or application.
33 Support information includes all calibration and
34 maintenance records, original strip-chart recordings

1 for continuous monitoring instrumentation, and
2 copies of all reports required by the permit.

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

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

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

22 g. Each CAAPP permit issued under subsection 10 of
23 this Section shall include a condition prohibiting
24 emissions exceeding any allowances that the source
25 lawfully holds under Title IV of the Clean Air Act or the
26 regulations promulgated thereunder, consistent with
27 subsection 17 of this Section and applicable regulations,
28 if any.

29 h. All CAAPP permits shall state that, where
30 another applicable requirement of the Clean Air Act is
31 more stringent than any applicable requirement of
32 regulations promulgated under Title IV of the Clean Air
33 Act, both provisions shall be incorporated into the
34 permit and shall be State and federally enforceable.

1 i. Each CAAPP permit issued under subsection 10 of
 2 this Section shall include a severability clause to
 3 ensure the continued validity of the various permit
 4 requirements in the event of a challenge to any portions
 5 of the permit.

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

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

15 A. The applicable requirement is
 16 specifically identified within the permit; or

17 B. The Agency in acting on the CAAPP
 18 application or revision determines in writing
 19 that other requirements specifically identified
 20 are not applicable to the source, and the
 21 permit includes that determination or a concise
 22 summary thereof.

23 ii. The permit shall identify the requirements
 24 for which the source is shielded. The shield shall
 25 not extend to applicable requirements which are
 26 promulgated after the date of release of the
 27 proposed permit unless the permit has been modified
 28 to reflect such new requirements.

29 iii. A CAAPP permit which does not expressly
 30 indicate the existence of a permit shield shall not
 31 provide such a shield.

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

34 A. The provisions of Section 303

1 (emergency powers) of the Clean Air Act,
2 including USEPA's authority under that section.

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

7 C. The applicable requirements of the
8 acid rain program consistent with Section
9 408(a) of the Clean Air Act.

10 D. The ability of USEPA to obtain
11 information from a source pursuant to Section
12 114 (inspections, monitoring, and entry) of the
13 Clean Air Act.

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

21 i. An emergency occurred and the permittee can
22 identify the cause(s) of the emergency.

23 ii. The permitted facility was at the time
24 being properly operated.

25 iii. The permittee submitted notice of the
26 emergency to the Agency within 2 working days of the
27 time when emission limitations were exceeded due to
28 the emergency. This notice must contain a detailed
29 description of the emergency, any steps taken to
30 mitigate emissions, and corrective actions taken.

31 iv. During the period of the emergency the
32 permittee took all reasonable steps to minimize
33 levels of emissions that exceeded the emission
34 limitations, standards, or requirements in the

1 permit.

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

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

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

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

29 A. Under this subparagraph, the source
30 must record in a log at the permitted facility
31 a record of the scenario under which it is
32 operating contemporaneously with making a
33 change from one operating scenario to another.

34 B. The permit shield described in

1 paragraph 7(j) of this Section shall extend to
2 all terms and conditions under each such
3 operating scenario.

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

12 A. Shall include all terms required under
13 this subsection to determine compliance;

14 B. Must meet all applicable requirements;

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

19 m. The Agency shall specifically designate as not
20 being federally enforceable under the Clean Air Act any
21 terms and conditions included in the permit that are not
22 specifically required under the Clean Air Act or federal
23 regulations promulgated thereunder. Terms or conditions
24 so designated shall be subject to all applicable state
25 requirements, except the requirements of subsection 7
26 (other than this paragraph, paragraph q of subsection 7,
27 subsections 8 through 11, and subsections 13 through 16
28 of this Section. The Agency shall, however, include such
29 terms and conditions in the CAAPP permit issued to the
30 source.

31 n. Each CAAPP permit issued under subsection 10 of
32 this Section shall specify and reference the origin of
33 and authority for each term or condition, and identify
34 any difference in form as compared to the applicable

1 requirement upon which the term or condition is based.

2 o. Each CAAPP permit issued under subsection 10 of
3 this Section shall include provisions stating the
4 following:

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

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

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

28 iv. Property rights. The permit does not
29 convey any property rights of any sort, or any
30 exclusive privilege.

31 v. Duty to provide information. The permittee
32 shall furnish to the Agency within a reasonable time
33 specified by the Agency any information that the
34 Agency may request in writing to determine whether

1 cause exists for modifying, revoking and reissuing,
2 or terminating the permit or to determine compliance
3 with the permit. Upon request, the permittee shall
4 also furnish to the Agency copies of records
5 required to be kept by the permit or, for
6 information claimed to be confidential, the
7 permittee may furnish such records directly to USEPA
8 along with a claim of confidentiality.

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

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

20 p. Each CAAPP permit issued under subsection 10 of
21 this Section shall contain the following elements with
22 respect to compliance:

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

32 ii. Inspection and entry requirements that
33 necessitate that, upon presentation of credentials
34 and other documents as may be required by law and in

1 accordance with constitutional limitations, the
2 permittee shall allow the Agency, or an authorized
3 representative to perform the following:

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

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

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

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

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

23 2. As otherwise authorized by this
24 Act.

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

28 iv. Progress reports consistent with an
29 applicable schedule of compliance pursuant to
30 paragraph 5(d) of this Section and applicable
31 regulations to be submitted semiannually, or more
32 frequently if the Agency determines that such more
33 frequent submittals are necessary for compliance
34 with the Act or regulations promulgated by the Board

1 source, both currently and over the
2 reporting period consistent with
3 subsection 7 of Section 39.5 of the Act.

4 D. A requirement that all compliance
5 certifications be submitted to USEPA as well as
6 to the Agency.

7 E. Additional requirements as may be
8 specified pursuant to Sections 114(a)(3) and
9 504(b) of the Clean Air Act.

10 F. Other provisions as the Agency may
11 require.

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

23 8. Public Notice; Affected State Review.

24 a. The Agency shall provide notice to the public,
25 including an opportunity for public comment and a
26 hearing, on each draft CAAPP permit for issuance, renewal
27 or significant modification, subject to Sections 7(a) and
28 7.1 of this Act.

29 b. The Agency shall prepare a draft CAAPP permit
30 and a statement that sets forth the legal and factual
31 basis for the draft CAAPP permit conditions, including
32 references to the applicable statutory or regulatory
33 provisions. The Agency shall provide this statement to
34 any person who requests it.

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

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

18 e. The Agency shall make available to the public
19 any CAAPP permit application, compliance plan (including
20 the schedule of compliance), CAAPP permit, and emissions
21 or compliance monitoring report. If an owner or operator
22 of a CAAPP source is required to submit information
23 entitled to protection from disclosure under Section 7(a)
24 or Section 7.1 of this Act, the owner or operator shall
25 submit such information separately. The requirements of
26 Section 7(a) or Section 7.1 of this Act shall apply to
27 such information, which shall not be included in a CAAPP
28 permit unless required by law. The contents of a CAAPP
29 permit shall not be entitled to protection under Section
30 7(a) or Section 7.1 of this Act.

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

1 9. USEPA Notice and Objection.

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

15 b. The Agency shall not issue the proposed CAAPP
16 permit if USEPA objects in writing within 45 days of
17 receipt of the proposed CAAPP permit and all necessary
18 supporting information.

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

32 d. Any USEPA objection under this subsection,
33 according to the Clean Air Act, will include a statement
34 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:
4 (1) 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
10 of a permit under this subsection, any person may
11 petition USEPA within 60 days after expiration of the
12 45-day review 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
15 Agency shall not issue the permit until USEPA's objection
16 has been resolved. The Agency shall provide a 10-day
17 comment period in accordance with paragraph c of this
18 subsection. A petition does not, however, stay the
19 effectiveness of a permit or its requirements if the
20 permit was issued after expiration of the 45-day review
21 period and prior to a USEPA objection.

22 g. If the Agency has issued a permit after
23 expiration of the 45-day review period and prior to
24 receipt of a USEPA objection under this subsection in
25 response to a petition submitted pursuant to paragraph e
26 of this subsection, the Agency may, upon receipt of an
27 objection from USEPA, revise and resubmit the permit to
28 USEPA pursuant to this subsection after providing a
29 10-day comment period in accordance with paragraph c of
30 this subsection. If the Agency fails to submit a revised
31 permit in response to the objection, USEPA shall modify,
32 terminate or revoke the permit. In any case, the source
33 will not be in violation of the requirement to have
34 submitted a timely and complete application.

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

5 10. Final Agency Action.

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

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

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

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

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

27 v. The Agency has complied with all applicable
28 provisions regarding public notice and affected
29 State review consistent with subsection 8 of this
30 Section and applicable regulations.

31 vi. The Agency has provided a copy of each
32 CAAPP application, or summary thereof, pursuant to
33 agreement with USEPA and proposed CAAPP permit
34 required under subsection 9 of this Section to

1 USEPA, and USEPA has not objected to the issuance of
2 the permit in accordance with the Clean Air Act and
3 40 CFR Part 70.

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

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
12 possible denial and the reasons for the denial.

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

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

24 For purposes of obtaining judicial review under
25 Sections 40.2 and 41 of this Act, the Agency shall
26 provide to USEPA and each applicant, and, upon
27 request, to affected States, any person who
28 participated in the public comment process, and any
29 other person who could obtain judicial review under
30 Sections 40.2 and 41 of this Act, a copy of each
31 CAAPP permit or notification of denial pertaining to
32 that party.

33 d. The Agency shall have the authority to adopt
34 procedural rules, in accordance with the Illinois

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

3 11. General Permits.

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

8 b. The Agency shall identify, in any general
9 permit, criteria by which sources may qualify for the
10 general permit.

11 c. CAAPP sources that would qualify for a general
12 permit must apply for coverage under the terms of the
13 general permit or must apply for a CAAPP permit
14 consistent with subsection 5 of this Section and
15 applicable regulations.

16 d. The Agency shall comply with the public comment
17 and hearing provisions of this Section as well as the
18 USEPA and affected State review procedures prior to
19 issuance of a general permit.

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

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

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

33 12. Operational Flexibility.

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

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

24 A. For each such change, the written
25 notification required above shall include a
26 brief description of the change within the
27 source, the date on which the change will
28 occur, any change in emissions, and any permit
29 term or condition that is no longer applicable
30 as a result of the change.

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

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

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

24 B. The permit shield described in
25 paragraph 7(j) of this Section shall not apply
26 to any change made pursuant to this
27 subparagraph (a) (ii). Compliance with the
28 permit requirements that the source will meet
29 using the emissions trade shall be determined
30 according to the requirements of the applicable
31 implementation plan authorizing the emissions
32 trade.

33 iii. If requested within a CAAPP application,
34 the Agency shall issue a CAAPP permit which contains

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

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

21 B. The permit shield described in
22 paragraph 7(j) of this Section shall extend to
23 terms and conditions that allow such increases
24 and decreases in emissions.

25 b. An owner or operator of a CAAPP source may make
26 changes that are not addressed or prohibited by the
27 permit, other than those which are subject to any
28 requirements under Title IV of the Clean Air Act or are
29 modifications under any provisions of Title I of the
30 Clean Air Act, without a permit revision, in accordance
31 with the following requirements:

32 (i) Each such change shall meet all applicable
33 requirements and shall not violate any existing
34 permit term or condition;

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

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

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

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

23 13. Administrative Permit Amendments.

24 a. The Agency shall take final action on a request
25 for an administrative permit amendment within 60 days of
26 receipt of the request. Neither notice nor an
27 opportunity for public and affected State comment shall
28 be required for the Agency to incorporate such revisions,
29 provided it designates the permit revisions as having
30 been made pursuant to this subsection.

31 b. The Agency shall submit a copy of the revised
32 permit to USEPA.

33 c. For purposes of this Section the term
34 "administrative permit amendment" shall be defined as: a

1 permit revision that can accomplish one or more of the
2 changes described below:

3 i. Corrects typographical errors;

4 ii. Identifies a change in the name, address,
5 or phone number of any person identified in the
6 permit, or provides a similar minor administrative
7 change at the source;

8 iii. Requires more frequent monitoring or
9 reporting by the permittee;

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

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

24 vi. (Blank) Incorporates-into-the-CAAPP-permit
25 revised-limitations-or-other-requirements--resulting
26 from---the---application--of--an--approved--economic
27 incentives--rule,-a--marketable--permits--rule---or
28 generic--emissions--trading--rule,-where-these-rules
29 have-been-approved--by--USEPA--and--require--changes
30 thereunder----to----meet---procedural---requirements
31 substantially-equivalent-to-those-specified-in--this
32 Section; or

33 vii. Any other type of change which USEPA has
34 determined as part of the approved CAAPP permit

1 program to be similar to those included in this
2 subsection.

3 d. The Agency shall, upon taking final action
4 granting a request for an administrative permit
5 amendment, allow coverage by the permit shield in
6 paragraph 7(j) of this Section for administrative permit
7 amendments made pursuant to subparagraph (c)(v) of this
8 subsection which meet the relevant requirements for
9 significant permit modifications.

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

20 f. The CAAPP source may implement the changes
21 addressed in the request for an administrative permit
22 amendment immediately upon submittal of the request.

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

27 14. Permit Modifications.

28 a. Minor permit modification procedures.

29 i. The Agency shall review a permit
30 modification using the "minor permit" modification
31 procedures only for those permit modifications that:

32 A. Do not violate any applicable
33 requirement;

34 B. Do not involve significant changes to

1 existing monitoring, reporting, or
2 recordkeeping requirements in the permit;

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

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

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

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

22 E. Are not modifications under any
23 provision 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 subparagraphs (a)(i) and
27 (b)(ii) of this subsection, minor permit
28 modification procedures may be used for permit
29 modifications involving the use of economic
30 incentives, marketable permits, emissions trading,
31 and other similar approaches, to the extent that
32 such minor permit modification procedures are
33 explicitly provided for in an applicable
34 implementation plan or in applicable requirements

1 promulgated by USEPA.

2 iii. An applicant requesting the use of minor
3 permit modification procedures shall meet the
4 requirements of subsection 5 of this Section and
5 shall include the following in its application:

6 A. A description of the change, the
7 emissions resulting from the change, and any
8 new applicable requirements that will apply if
9 the change occurs;

10 B. The source's suggested draft permit;

11 C. Certification by a responsible
12 official, consistent with paragraph 5(e) of
13 this Section and applicable regulations, that
14 the proposed modification meets the criteria
15 for use of minor permit modification procedures
16 and a request that such procedures be used; and

17 D. Completed forms for the Agency to use
18 to notify USEPA and affected States as required
19 under subsections 8 and 9 of this Section.

20 iv. Within 5 working days of receipt of a
21 complete permit modification application, the Agency
22 shall notify USEPA and affected States of the
23 requested permit modification in accordance with
24 subsections 8 and 9 of this Section. The Agency
25 promptly shall send any notice required under
26 paragraph 8(d) of this Section to USEPA.

27 v. The Agency may not issue a final permit
28 modification until after the 45-day review period
29 for USEPA or until USEPA has notified the Agency
30 that USEPA will not object to the issuance of the
31 permit modification, whichever comes first, although
32 the Agency can approve the permit modification prior
33 to that time. Within 90 days of the Agency's
34 receipt of an application under the minor permit

1 modification procedures or 15 days after the end of
2 USEPA's 45-day review period under subsection 9 of
3 this Section, whichever is later, the Agency shall:

4 A. Issue the permit modification as
5 proposed;

6 B. Deny the permit modification
7 application;

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

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

17 vi. Any CAAPP source may make the change
18 proposed in its minor permit modification
19 application immediately after it files such
20 application. After the CAAPP source makes the
21 change allowed by the preceding sentence, and until
22 the Agency takes any of the actions specified in
23 subparagraphs (a)(v)(A) through (a)(v)(C) of this
24 subsection, the source must comply with both the
25 applicable requirements governing the change and the
26 proposed permit terms and conditions. During this
27 time period, the source need not comply with the
28 existing permit terms and conditions it seeks to
29 modify. If the source fails to comply with its
30 proposed permit terms and conditions during this
31 time period, the existing permit terms and
32 conditions which it seeks to modify may be enforced
33 against it.

34 vii. The permit shield under subparagraph 7(j)

1 of this Section may not extend to minor permit
2 modifications.

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

19 b. Group Processing of Minor Permit Modifications.

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

26 ii. Permit modifications may be processed in
27 accordance with the procedures for group processing,
28 for those modifications:

29 A. Which meet the criteria for minor
30 permit modification procedures under
31 subparagraph 14(a)(i) of this Section; and

32 B. That collectively are below 10 percent
33 of the emissions allowed by the permit for the
34 emissions unit for which change is requested,

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

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

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

13 B. The source's suggested draft permit.

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

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

27 E. Certification, consistent with
28 paragraph 5(e), that the source has notified
29 USEPA of the proposed modification. Such
30 notification need only contain a brief
31 description of the requested modification.

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

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

12 v. The provisions of subparagraph (a)(v) of
13 this subsection shall apply to modifications
14 eligible for group processing, except that the
15 Agency shall take one of the actions specified in
16 subparagraphs (a)(v)(A) through (a)(v)(D) of this
17 subsection within 180 days of receipt of the
18 application or 15 days after the end of USEPA's
19 45-day review period under subsection 9 of this
20 Section, whichever is later.

21 vi. The provisions of subparagraph (a)(vi) of
22 this subsection shall apply to modifications for
23 group processing.

24 vii. The provisions of paragraph 7(j) of this
25 Section shall not apply to modifications eligible
26 for group processing.

27 c. Significant Permit Modifications.

28 i. Significant modification procedures shall
29 be used for applications requesting significant
30 permit modifications and for those applications that
31 do not qualify as either minor permit modifications
32 or as administrative permit amendments.

33 ii. Every significant change in existing
34 monitoring permit terms or conditions and every

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

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

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

24 15. Reopenings for Cause by the Agency.

25 a. Each issued CAAPP permit shall include
26 provisions specifying the conditions under which the
27 permit will be reopened prior to the expiration of the
28 permit. Such revisions shall be made as expeditiously as
29 practicable. A CAAPP permit shall be reopened and
30 revised under any of the following circumstances, in
31 accordance with procedures adopted by the Agency:

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

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

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

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

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

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

34 c. Proceedings regarding a reopened CAAPP permit

1 shall follow the same procedures as apply to initial
2 permit issuance and shall affect only those parts of the
3 permit for which cause to reopen exists.

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

10 e. 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 16. Reopenings for Cause by USEPA.

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

1 notification from USEPA.

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

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

25 iii. The Board shall cause a copy of its
26 interim order to be served upon all parties to the
27 proceeding as well as upon USEPA. The Agency shall
28 submit the proposed determination to USEPA in
29 accordance with the Board's Interim Order within 180
30 days after receipt of the notification from USEPA.

31 c. USEPA shall review the proposed determination to
32 terminate, modify, or revoke and reissue the permit
33 within 90 days of receipt.

34 i. When USEPA reviews the proposed

1 determination to terminate or revoke and reissue and
2 does not object, the Board shall, within 7 days of
3 receipt of USEPA's final approval, enter the interim
4 order as a final order. The final order may be
5 appealed as provided by Title XI of this Act. The
6 Agency shall take final action in accordance with
7 the Board's final order.

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

20 iii. When USEPA reviews such proposed
21 determination to modify and objects, the Agency
22 shall, within 90 days after receipt of the
23 objection, resolve the objection and modify the
24 permit in accordance with USEPA's objection, based
25 upon the record, the Clean Air Act, regulations
26 promulgated thereunder, this Act, and regulations
27 promulgated thereunder.

28 d. If the Agency fails to submit the proposed
29 determination pursuant to paragraph a of this subsection
30 or fails to resolve any USEPA objection pursuant to
31 paragraph c of this subsection, USEPA will terminate,
32 modify, or revoke and reissue the permit.

33 e. The Agency shall have the authority to adopt
34 procedural rules, in accordance with the Illinois

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

3 17. Title IV; Acid Rain Provisions.

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

20 b. A designated representative of an affected
21 source for acid deposition shall submit a timely and
22 complete Phase II acid rain permit application and
23 compliance plan to the Agency, not later than January 1,
24 1996, that meets the requirements of Titles IV and V of
25 the Clean Air Act and regulations. The Agency shall act
26 on the Phase II acid rain permit application and
27 compliance plan in accordance with this Section and Title
28 V of the Clean Air Act and regulations promulgated
29 thereunder, except as modified by Title IV of the Clean
30 Air Act and regulations promulgated thereunder. The
31 Agency shall issue the Phase II acid rain permit to an
32 affected source for acid deposition no later than
33 December 31, 1997, which shall become effective on
34 January 1, 2000, in accordance with this Section, except

1 as modified by Title IV and regulations promulgated
2 thereunder; provided that the designated representative
3 of the source submitted a timely and complete Phase II
4 permit application and compliance plan to the Agency that
5 meets the requirements of Title IV and V of the Clean Air
6 Act and regulations.

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

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

29 e. A designated representative of an affected
30 source for acid deposition shall submit a timely and
31 complete Title IV NOx permit application to the Agency,
32 not later than January 1, 1998, that meets the
33 requirements of Titles IV and V of the Clean Air Act and
34 its regulations. The Agency shall reopen the Phase II

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

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

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

29 h. The Agency shall not include or implement any
30 measure which would interfere with or modify the
31 requirements of Title IV of the Clean Air Act or
32 regulations promulgated thereunder.

33 i. Nothing in this Section shall be construed as
34 affecting allowances or USEPA's decision regarding an

1 excess emissions offset plan, as set forth in Title IV of
2 the Clean Air Act or regulations promulgated thereunder.

3 i. No permit revision shall be required for
4 increases in emissions that are authorized by
5 allowances acquired pursuant to the acid rain
6 program, provided that such increases do not require
7 a permit revision under any other applicable
8 requirement.

9 ii. No limit shall be placed on the number of
10 allowances held by the source. The source may not,
11 however, use allowances as a defense to
12 noncompliance with any other applicable requirement.

13 iii. Any such allowance shall be accounted for
14 according to the procedures established in
15 regulations promulgated under Title IV of the Clean
16 Air Act.

17 j. To the extent that the federal regulations
18 promulgated under Title IV, including but not limited to
19 40 C.F.R. Part 72, as now or hereafter amended, are
20 inconsistent with the federal regulations promulgated
21 under Title V, the federal regulations promulgated under
22 Title IV shall take precedence.

23 k. The USEPA may intervene as a matter of right in
24 any permit appeal involving a Phase II acid rain permit
25 provision or denial of a Phase II acid rain permit.

26 l. It is unlawful for any owner or operator to
27 violate any terms or conditions of a Phase II acid rain
28 permit issued under this subsection, to operate any
29 affected source for acid deposition except in compliance
30 with a Phase II acid rain permit issued by the Agency
31 under this subsection, or to violate any other applicable
32 requirements.

33 m. The designated representative of an affected
34 source for acid deposition shall submit to the Agency the

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

5 n. The Agency shall act on any petition for
6 exemption of a new unit or retired unit, as those terms
7 are defined in Section 402 of the Clean Air Act, from the
8 requirements of the acid rain program in accordance with
9 Title IV of the 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. For each 12 month period after the date on which
16 the USEPA approves or conditionally approves the CAAPP,
17 but in no event prior to January 1, 1994, a source
18 subject to this Section or excluded under subsection 1.1
19 or paragraph 3(c) of this Section, shall pay a fee as
20 provided in this part (a) of this subsection 18.
21 However, a source that has been excluded from the
22 provisions of this Section under subsection 1.1 or
23 paragraph 3(c) of this Section because the source emits
24 less than 25 tons per year of any combination of
25 regulated air pollutants shall pay fees in accordance
26 with paragraph (1) of subsection (b) of Section 9.6.

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

30 ii. The fee for a source allowed to emit 100
31 tons or more per year of any combination of
32 regulated air pollutants, except for those regulated
33 air pollutants excluded in paragraph 18(f) of this
34 subsection, shall be as follows:

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

29 Notwithstanding the above, any applicant
30 may seek a change in its permit which would
31 result in increases in allowable emissions due
32 to an increase in the hours of operation or
33 production rates of an emission unit or units
34 and such a change shall be consistent with the

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

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

23 b. (Blank). ~~For fiscal year 1999 and each fiscal~~
 24 ~~year thereafter, to the extent that permit fees collected~~
 25 ~~and deposited in the CAA Permit Fund during that fiscal~~
 26 ~~year exceed 115% of the actual expenditures (excluding~~
 27 ~~permit fee reimbursements) from the CAA Permit Fund for~~
 28 ~~that fiscal year (including lapse period spending), the~~
 29 ~~excess shall be reimbursed to the permittees in~~
 30 ~~proportion to their original fee payments. Such~~
 31 ~~reimbursements shall be made during the next fiscal year~~
 32 ~~and may be made in the form of a credit against that~~
 33 ~~fiscal year's permit fee.~~

34 c. There shall be created a CAA Fee Panel of 5

1 persons. The Panel shall:

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

19 ii. Not be compensated for their services, but
20 shall receive reimbursement for their expenses.

21 iii. Be appointed as follows: 4 members by
22 the Director of the Agency from a list of no more
23 than 8 persons, submitted by representatives of
24 associations who represent facilities subject to the
25 provisions of this subsection and the Director of
26 the Agency or designee.

27 d. There is hereby created in the State Treasury a
28 special fund to be known as the "CAA Permit Fund". All
29 Funds collected by the Agency pursuant to this subsection
30 shall be deposited into the Fund. The General Assembly
31 shall appropriate monies from this Fund to the Agency and
32 to the Board to carry out their obligations under this
33 Section. The General Assembly may also authorize monies
34 to be granted by the Agency from this Fund to other State

1 and local agencies which perform duties related to the
 2 CAAPP. Interest generated on the monies deposited in this
 3 Fund shall be returned to the Fund. The General Assembly
 4 may appropriate up to the sum of \$25,000 to the Agency
 5 from the CAA Permit Fund for use by the Panel in carrying
 6 out its responsibilities under this subsection.

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; ~~and~~
- 25 ~~iv. during the years 1995 through 1999~~
 26 ~~inclusive, any emissions from affected sources for~~
 27 ~~acid deposition under Section 408(e)(4) of the Clean~~
 28 ~~Air Act.~~

29 19. Air Toxics Provisions.

30 a. In the event that the USEPA fails to promulgate
 31 in a timely manner a standard pursuant to Section 112(d)
 32 of the Clean Air Act, the Agency shall have the authority
 33 to issue permits, pursuant to Section 112(j) of the Clean
 34 Air Act and regulations promulgated thereunder, which

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

25 b. Any Board proceeding brought under paragraph (a)
26 or (e) of this subsection shall be conducted according to
27 the Board's procedures for adjudicatory hearings and the
28 Board shall render its decision within 120 days of the
29 filing of the petition. Any such decision shall be
30 subject to review pursuant to Section 41 of this Act.
31 Where USEPA promulgates an applicable emission standard
32 prior to the issuance of the CAAPP permit, the Agency
33 shall include in the permit the promulgated standard,
34 provided that the source shall have the compliance period

1 provided under Section 112(i) of the Clean Air Act. Where
2 USEPA promulgates an applicable standard subsequent to
3 the issuance of the CAAPP permit, the Agency shall revise
4 such permit upon the next renewal to reflect the
5 promulgated standard, providing a reasonable time for the
6 applicable source to comply with the standard, but no
7 longer than 8 years after the date on which the source is
8 first required to comply with the emissions limitation
9 established under this subsection.

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

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

22 e. The Agency has the authority to implement
23 Section 112(g) of the Clean Air Act consistent with the
24 Clean Air Act and federal regulations promulgated
25 thereunder. If the Agency refuses to include the emission
26 limitations proposed in an application submitted by an
27 owner or operator for a case-by-case maximum achievable
28 control technology (MACT) determination, the owner or
29 operator may petition the Board to determine whether the
30 emission limitation proposed by the owner or operator or
31 an alternative emission limitation proposed by the Agency
32 provides for a level of control required by Section 112
33 of the Clean Air Act, or to otherwise establish an
34 appropriate emission limitation under Section 112 of the

1 Clean Air Act.

2 20. Small Business.

3 a. For purposes of this subsection:

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

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

15 "Small Business Stationary Source" means a
16 stationary source that:

17 1. is owned or operated by a person that
18 employs 100 or fewer individuals;

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

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

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

25 5. emits less than 75 tons per year of all
26 regulated pollutants.

27 b. The Agency shall adopt and submit to USEPA,
28 after reasonable notice and opportunity for public
29 comment, as a revision to the Illinois state
30 implementation plan, plans for establishing the Program.

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

34 d. The Agency may establish such procedures as it

1 may deem necessary for the purposes of implementing and
2 executing its responsibilities under this subsection.

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

9 f. The State Ombudsman Office shall be located in
10 an existing Ombudsman office within the State or in any
11 State Department.

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

17 h. The selection of Panel members shall be by the
18 following method:

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

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

25 3. The State Legislature shall select four
26 members who are owners or representatives of owners
27 of small business stationary sources. Both the
28 majority and minority leadership in both Houses of
29 the Legislature shall appoint one member of the
30 panel.

31 i. Panel members should serve without compensation
32 but will receive full reimbursement for expenses
33 including travel and per diem as authorized within this
34 State.

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

5 21. Temporary Sources.

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

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

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

20 22. Solid Waste Incineration Units.

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

27 b. During the review in paragraph (a) of this
28 subsection, the Agency shall fully review the previously
29 submitted CAAPP permit application and corresponding
30 reports subsequently submitted to determine whether the
31 source is in compliance with all applicable requirements.

32 c. If the Agency determines that the source is not
33 in compliance with all applicable requirements it shall

1 revise the CAAPP permit as appropriate.

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

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

8 (415 ILCS 5/54.12) (from Ch. 111 1/2, par. 1054.12)

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

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

22 (415 ILCS 5/54.13) (from Ch. 111 1/2, par. 1054.13)

23 Sec. 54.13. "Used tire" means a worn, damaged, or
24 defective tire that ~~which~~ is not mounted on a vehicle wheel
25 rim.

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

27 (415 ILCS 5/55.3) (from Ch. 111 1/2, par. 1055.3)

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

31 (b) Upon making a finding that an accumulation of used

1 or waste tires creates a hazard posing a threat to public
2 health or the environment, the Agency may undertake
3 preventive or corrective action in accordance with this
4 subsection. Such preventive or corrective action may consist
5 of any or all of the following:

6 (1) Treating and handling used or waste tires and
7 other infested materials within the area for control of
8 mosquitoes and other disease vectors.

9 (2) Relocation of ignition sources and any used or
10 waste tires within the area for control and prevention of
11 tire fires.

12 (3) Removal of used and waste tire accumulations
13 from the area.

14 (4) Removal of soil and water contamination related
15 to tire accumulations.

16 (5) Installation of devices to monitor and control
17 groundwater and surface water contamination related to
18 tire accumulations.

19 (6) Such other actions as may be authorized by
20 Board regulations.

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

25 (1) Actions under this subsection shall be taken
26 pursuant to a written agreement between the Agency and
27 the owner of the tire accumulation.

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

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

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

1 (iii) that the owner will hold harmless the
2 Agency or any employee or contractor utilized by the
3 Agency to effect the removal, for any damage to
4 property incurred during the course of action under
5 this subsection, except for gross negligence or
6 intentional misconduct; and

7 (iv) any conditions upon or assistance
8 required from the owner to assure that the tires are
9 so located or arranged as to facilitate their
10 removal.

11 (3) The Agency may by rule establish conditions and
12 priorities for removal of used and waste tires under this
13 subsection.

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

16 (d) The Agency shall have authority to provide notice to
17 the owner or operator, or both, of a site where used or waste
18 tires are located and to the owner or operator, or both, of
19 the accumulation of tires at the site, whenever the Agency
20 finds that the used or waste tires pose a threat to public
21 health or the environment, or that there is no the owner or
22 operator, or both, is not proceeding in accordance with a
23 tire removal agreement approved under Section 55.4.

24 The notice provided by the Agency shall include the
25 identified preventive or corrective action, and shall provide
26 an opportunity for the owner or operator, or both, to perform
27 such action.

28 For sites with more than 250,000 passenger tire
29 equivalents, following the notice provided for by this
30 subsection (d), the Agency may enter into a written
31 reimbursement agreement with the owner or operator of the
32 site. The agreement shall provide a schedule for the owner
33 or operator to reimburse the Agency for costs incurred for
34 preventive or corrective action, which shall not exceed 5

1 years in length. An owner or operator making payments under a
2 written reimbursement agreement pursuant to this subsection
3 (d) shall not be liable for punitive damages under subsection
4 (h) of this Section.

5 (e) In accordance with constitutional limitations, the
6 Agency shall have authority to enter at all reasonable times
7 upon any private or public property for the purpose of taking
8 whatever preventive or corrective action is necessary and
9 appropriate in accordance with the provisions of this
10 Section, including but not limited to removal, processing or
11 treatment of used or waste tires, whenever the Agency finds
12 that used or waste tires pose a threat to public health or
13 the environment.

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

25 (g) Except as otherwise provided in this Section, the
26 owner or operator of any site or accumulation of used or
27 waste tires at which the Agency has undertaken corrective or
28 preventive action under this Section shall be liable for all
29 costs thereof incurred by the State of Illinois, including
30 reasonable costs of collection. Any monies received by the
31 Agency hereunder shall be deposited into the Used Tire
32 Management Fund. The Agency may in its discretion store,
33 dispose of or convey the tires that are removed from an area
34 at which it has undertaken a corrective, preventive or

1 consensual removal action, and may sell or store such tires
2 and other items, including but not limited to rims, that are
3 removed from the area. The net proceeds of any sale shall be
4 credited against the liability incurred by the owner or
5 operator for the costs of any preventive or corrective
6 action.

7 (h) Any person liable to the Agency for costs incurred
8 under subsection (g) of this Section may be liable to the
9 State of Illinois for punitive damages in an amount at least
10 equal to, and not more than 2 times, the costs incurred by
11 the State if such person failed without sufficient cause to
12 take preventive or corrective action pursuant to notice
13 issued under subsection (d) of this Section.

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

- 18 (1) an act of God;
19 (2) an act of war; or
20 (3) an act or omission of a third party other than
21 an employee or agent, and other than a person whose act
22 or omission occurs in connection with a contractual
23 relationship with the person otherwise liable.

24 For the purposes of this subsection, "contractual
25 relationship" includes, but is not limited to, land
26 contracts, deeds and other instruments transferring title or
27 possession, unless the real property upon which the
28 accumulation is located was acquired by the defendant after
29 the disposal or placement of used or waste tires on, in or at
30 the property and one or more of the following circumstances
31 is also established by a preponderance of the evidence:

- 32 (A) at the time the defendant acquired the
33 property, the defendant did not know and had no
34 reason to know that any used or waste tires had been

1 disposed of or placed on, in or at the property, and
2 the defendant undertook, at the time of acquisition,
3 all appropriate inquiries into the previous
4 ownership and uses of the property consistent with
5 good commercial or customary practice in an effort
6 to minimize liability;

7 (B) the defendant is a government entity which
8 acquired the property by escheat or through any
9 other involuntary transfer or acquisition, or
10 through the exercise of eminent domain authority by
11 purchase or condemnation; or

12 (C) the defendant acquired the property by
13 inheritance or bequest.

14 (j) Nothing in this Section shall affect or modify the
15 obligations or liability of any person under any other
16 provision of this Act, federal law, or State law, including
17 the common law, for injuries, damages or losses resulting
18 from the circumstances leading to Agency action under this
19 Section.

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

25 (l) The Agency shall, when feasible, consult with the
26 Department of Public Health prior to taking any action to
27 remove or treat an infested tire accumulation for control of
28 mosquitoes or other disease vectors. The Agency may by
29 contract or agreement secure the services of the Department
30 of Public Health, any local public health department, or any
31 other qualified person in treating any such infestation as
32 part of an emergency or preventive action.

33 (m) Neither the State, the Agency, the Board, the
34 Director, nor any State employee shall be liable for any

1 damage or injury arising out of or resulting from any action
2 taken under this Section.

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

4 Section 99. Effective date. This Act takes effect on
5 July 1, 2001.