



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4197

Introduced 10/25/2023, by Rep. Sonya M. Harper

SYNOPSIS AS INTRODUCED:

See Index

Amends the Environmental Protection Act. Requires the Environmental Protection Agency to annually review and update the underlying data for, and use of, indicators used to determine whether a community is designated as an environmental justice community and to establish a process by which communities not designated as environmental justice communities may petition for such a designation. Provides that an applicant for a permit for the construction of a new source that will become a major source subject to the Clean Air Act Permit Program to be located in an environmental justice community or a new source that has or will require a federally enforceable State operating permit and that will be located in an environmental justice community must conduct a public meeting prior to submission of the permit application and must submit with the permit application an environmental justice assessment identifying the potential environmental and health impacts to the area associated with the proposed project. Provides requirements for the environmental justice assessment. Provides that a supplemental fee of \$100,000 for each construction permit application shall be assessed if the construction permit application is subject to the requirements regarding the construction of a new source located in an environmental justice community. Contains provisions regarding public participation requirements for permitting transactions in an environmental justice community. Provides that, if the Agency grants a permit to construct, modify, or operate a facility that emits air pollutants and is classified as a minor source, a third party may petition the Pollution Control Board for a hearing to contest the issuance of the permit. Contains provisions regarding environmental justice grievances. Defines terms. Contains other provisions.

LRB103 34760 LNS 64610 b

1 AN ACT concerning safety.

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

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

8 (415 ILCS 5/3.178 new)

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

14 (415 ILCS 5/3.186 new)

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

20 (415 ILCS 5/3.187 new)

21 Sec. 3.187. Disproportionately high and adverse

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

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

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

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

21 (415 ILCS 5/3.188 new)

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

1 factors:

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

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

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

16 (415 ILCS 5/3.189 new)

17 Sec. 3.189. Environmental justice community.
18 "Environmental justice community" means any geographic area in
19 the State that is contained within:

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

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

5 (415 ILCS 5/3.281 new)

6 Sec. 3.281. Linguistically isolated community.

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

13 (415 ILCS 5/34.5 new)

14 Sec. 34.5. Environmentally beneficial project bank.

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

21 (b) A supplemental environmental project is not required
22 to be included within the environmentally beneficial project
23 bank required under subsection (a) in order to offset a civil
24 penalty.

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

2 Sec. 39. Issuance of permits; procedures.

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

1 the Agency denies any permit under this Section, the Agency
2 shall transmit to the applicant within the time limitations of
3 this Section specific, detailed statements as to the reasons
4 the permit application was denied. Such statements shall
5 include, but not be limited to, the following:

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

8 (ii) the provision of the regulations, promulgated
9 under this Act, which may be violated if the permit were
10 granted;

11 (iii) the specific type of information, if any, which
12 the Agency deems the applicant did not provide the Agency;
13 and

14 (iv) a statement of specific reasons why the Act and
15 the regulations might not be met if the permit were
16 granted.

17 If there is no final action by the Agency within 90 days
18 after the filing of the application for permit, the applicant
19 may deem the permit issued; except that this time period shall
20 be extended to 180 days when (1) notice and opportunity for
21 public hearing are required by State or federal law or
22 regulation, (2) the application which was filed is for any
23 permit to develop a landfill subject to issuance pursuant to
24 this subsection, or (3) the application that was filed is for a
25 MSWLF unit required to issue public notice under subsection
26 (p) of Section 39. The 90-day and 180-day time periods for the

1 Agency to take final action do not apply to NPDES permit
2 applications under subsection (b) of this Section, to RCRA
3 permit applications under subsection (d) of this Section, to
4 UIC permit applications under subsection (e) of this Section,
5 or to CCR surface impoundment applications under subsection
6 (y) of this Section.

7 The Agency shall publish notice of all final permit
8 determinations for development permits for MSWLF units and for
9 significant permit modifications for lateral expansions for
10 existing MSWLF units one time in a newspaper of general
11 circulation in the county in which the unit is or is proposed
12 to be located.

13 After January 1, 1994 and until July 1, 1998, operating
14 permits issued under this Section by the Agency for sources of
15 air pollution permitted to emit less than 25 tons per year of
16 any combination of regulated air pollutants, as defined in
17 Section 39.5 of this Act, shall be required to be renewed only
18 upon written request by the Agency consistent with applicable
19 provisions of this Act and regulations promulgated hereunder.
20 Such operating permits shall expire 180 days after the date of
21 such a request. The Board shall revise its regulations for the
22 existing State air pollution operating permit program
23 consistent with this provision by January 1, 1994.

24 After June 30, 1998, operating permits issued under this
25 Section by the Agency for sources of air pollution that are not
26 subject to Section 39.5 of this Act and are not required to

1 have a federally enforceable State operating permit shall be
2 required to be renewed only upon written request by the Agency
3 consistent with applicable provisions of this Act and its
4 rules. Such operating permits shall expire 180 days after the
5 date of such a request. Before July 1, 1998, the Board shall
6 revise its rules for the existing State air pollution
7 operating permit program consistent with this paragraph and
8 shall adopt rules that require a source to demonstrate that it
9 qualifies for a permit under this paragraph.

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

15 All NPDES permits shall contain those terms and
16 conditions, including, but not limited to, schedules of
17 compliance, which may be required to accomplish the purposes
18 and provisions of this Act.

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

25 The Agency may include, among such conditions, effluent
26 limitations and other requirements established under this Act,

1 Board regulations, the Federal Water Pollution Control Act, as
2 now or hereafter amended, and regulations pursuant thereto,
3 and schedules for achieving compliance therewith at the
4 earliest reasonable date.

5 The Agency shall adopt filing requirements and procedures
6 which are necessary and appropriate for the issuance of NPDES
7 permits, and which are consistent with the Act or regulations
8 adopted by the Board, and with the Federal Water Pollution
9 Control Act, as now or hereafter amended, and regulations
10 pursuant thereto.

11 The Agency, subject to any conditions which may be
12 prescribed by Board regulations, may issue NPDES permits to
13 allow discharges beyond deadlines established by this Act or
14 by regulations of the Board without the requirement of a
15 variance, subject to the Federal Water Pollution Control Act,
16 as now or hereafter amended, and regulations pursuant thereto.

17 (c) Except for those facilities owned or operated by
18 sanitary districts organized under the Metropolitan Water
19 Reclamation District Act, no permit for the development or
20 construction of a new pollution control facility may be
21 granted by the Agency unless the applicant submits proof to
22 the Agency that the location of the facility has been approved
23 by the county board of the county if in an unincorporated area,
24 or the governing body of the municipality when in an
25 incorporated area, in which the facility is to be located in
26 accordance with Section 39.2 of this Act. For purposes of this

1 subsection (c), and for purposes of Section 39.2 of this Act,
2 the appropriate county board or governing body of the
3 municipality shall be the county board of the county or the
4 governing body of the municipality in which the facility is to
5 be located as of the date when the application for siting
6 approval is filed.

7 In the event that siting approval granted pursuant to
8 Section 39.2 has been transferred to a subsequent owner or
9 operator, that subsequent owner or operator may apply to the
10 Agency for, and the Agency may grant, a development or
11 construction permit for the facility for which local siting
12 approval was granted. Upon application to the Agency for a
13 development or construction permit by that subsequent owner or
14 operator, the permit applicant shall cause written notice of
15 the permit application to be served upon the appropriate
16 county board or governing body of the municipality that
17 granted siting approval for that facility and upon any party
18 to the siting proceeding pursuant to which siting approval was
19 granted. In that event, the Agency shall conduct an evaluation
20 of the subsequent owner or operator's prior experience in
21 waste management operations in the manner conducted under
22 subsection (i) of Section 39 of this Act.

23 Beginning August 20, 1993, if the pollution control
24 facility consists of a hazardous or solid waste disposal
25 facility for which the proposed site is located in an
26 unincorporated area of a county with a population of less than

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

14 In the case of a pollution control facility for which a
15 development permit was issued before November 12, 1981, if an
16 operating permit has not been issued by the Agency prior to
17 August 31, 1989 for any portion of the facility, then the
18 Agency may not issue or renew any development permit nor issue
19 an original operating permit for any portion of such facility
20 unless the applicant has submitted proof to the Agency that
21 the location of the facility has been approved by the
22 appropriate county board or municipal governing body pursuant
23 to Section 39.2 of this Act.

24 After January 1, 1994, if a solid waste disposal facility,
25 any portion for which an operating permit has been issued by
26 the Agency, has not accepted waste disposal for 5 or more

1 consecutive calendar years, before that facility may accept
2 any new or additional waste for disposal, the owner and
3 operator must obtain a new operating permit under this Act for
4 that facility unless the owner and operator have applied to
5 the Agency for a permit authorizing the temporary suspension
6 of waste acceptance. The Agency may not issue a new operation
7 permit under this Act for the facility unless the applicant
8 has submitted proof to the Agency that the location of the
9 facility has been approved or re-approved by the appropriate
10 county board or municipal governing body under Section 39.2 of
11 this Act after the facility ceased accepting waste.

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

20 Before beginning construction on any new sewage treatment
21 plant or sludge drying site to be owned or operated by a
22 sanitary district organized under the Metropolitan Water
23 Reclamation District Act for which a new permit (rather than
24 the renewal or amendment of an existing permit) is required,
25 such sanitary district shall hold a public hearing within the
26 municipality within which the proposed facility is to be

1 located, or within the nearest community if the proposed
2 facility is to be located within an unincorporated area, at
3 which information concerning the proposed facility shall be
4 made available to the public, and members of the public shall
5 be given the opportunity to express their views concerning the
6 proposed facility.

7 The Agency may issue a permit for a municipal waste
8 transfer station without requiring approval pursuant to
9 Section 39.2 provided that the following demonstration is
10 made:

11 (1) the municipal waste transfer station was in
12 existence on or before January 1, 1979 and was in
13 continuous operation from January 1, 1979 to January 1,
14 1993;

15 (2) the operator submitted a permit application to the
16 Agency to develop and operate the municipal waste transfer
17 station during April of 1994;

18 (3) the operator can demonstrate that the county board
19 of the county, if the municipal waste transfer station is
20 in an unincorporated area, or the governing body of the
21 municipality, if the station is in an incorporated area,
22 does not object to resumption of the operation of the
23 station; and

24 (4) the site has local zoning approval.

25 The Agency shall not issue any of the following
26 construction permits unless the applicant for the permit

1 submits proof to the Agency that the location of the source has
2 been approved under Section 39.2 by the county board of the
3 county, if in an unincorporated area, or the governing body of
4 a municipality, if in an incorporated area: (i) a construction
5 permit for a new or modified source that is to be located in an
6 environmental justice community, that will require a CAAPP
7 permit or a federally enforceable State operating permit, and
8 that would be authorized under that permit to increase annual
9 permitted emissions; (ii) a construction permit for any new or
10 modified source that is located in an environmental justice
11 community, that, on the effective date of this amendatory Act
12 of the 103rd General Assembly, possesses a CAAPP permit or
13 federally enforceable State operating permit, and that would
14 be authorized under that permit to increase annual permitted
15 emissions; or (iii) a construction permit for any existing
16 source that is located in an environmental justice community,
17 that would require a new CAAPP permit or new federally
18 enforceable State operating permit for the first time, and
19 that would be authorized under that permit to increase annual
20 permitted emissions. For purposes of this subsection (c), and
21 for purposes of Section 39.2, the appropriate county board or
22 governing body of the municipality shall be the county board
23 of the county or the governing body of the municipality in
24 which the source is to be located on the date when the
25 application for siting approval is filed. The provisions added
26 to this subsection (c) by this amendatory Act of the 103rd

1 General Assembly do not apply to permits for modifications or
2 expansions at existing federally enforceable State operating
3 permit or CAAPP sources unless the modification will result in
4 an increase in the hourly rate of emissions or the total annual
5 emissions of any air pollutant.

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

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

23 In the case of a permit to operate a hazardous waste or PCB
24 incinerator as defined in subsection (k) of Section 44, the
25 Agency shall require, as a condition of the permit, that the
26 operator of the facility perform such analyses of the waste to

1 be incinerated as may be necessary and appropriate to ensure
2 the safe operation of the incinerator.

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

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

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

22 All UIC permits shall contain those terms and conditions,
23 including, but not limited to, schedules of compliance, which
24 may be required to accomplish the purposes and provisions of
25 this Act. The Agency may include among such conditions
26 standards and other requirements established under this Act,

1 Board regulations, the Safe Drinking Water Act (P.L. 93-523),
2 as amended, and regulations pursuant thereto, and may include
3 schedules for achieving compliance therewith. The Agency shall
4 require that a performance bond or other security be provided
5 as a condition for the issuance of a UIC permit.

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

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

20 (f) In making any determination pursuant to Section 9.1 of
21 this Act:

22 (1) The Agency shall have authority to make the
23 determination of any question required to be determined by
24 the Clean Air Act, as now or hereafter amended, this Act,
25 or the regulations of the Board, including the
26 determination of the Lowest Achievable Emission Rate,

1 Maximum Achievable Control Technology, or Best Available
2 Control Technology, consistent with the Board's
3 regulations, if any.

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

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

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

24 (g) The Agency shall include as conditions upon all
25 permits issued for hazardous waste disposal sites such
26 restrictions upon the future use of such sites as are

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

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

1 Section 40 of this Act. For purposes of this subsection (h),
2 the term "generator" has the meaning given in Section 3.205 of
3 this Act, unless: (1) the hazardous waste is treated,
4 incinerated, or partially recycled for reuse prior to
5 disposal, in which case the last person who treats,
6 incinerates, or partially recycles the hazardous waste prior
7 to disposal is the generator; or (2) the hazardous waste is
8 from a response action, in which case the person performing
9 the response action is the generator. This subsection (h) does
10 not apply to any hazardous waste that is restricted from land
11 disposal under 35 Ill. Adm. Code 728.

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

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

1 laws, regulations, standards, or ordinances in the
2 operation of waste management facilities or sites, clean
3 construction or demolition debris fill operation
4 facilities or sites, or tire storage sites; or

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

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

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

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

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

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

25 (l) No permit shall be issued by the Agency under this Act
26 for construction or operation of any facility or site located

1 within the boundaries of any setback zone established pursuant
2 to this Act, where such construction or operation is
3 prohibited.

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

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

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

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

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

1 If no final action is taken by the Agency within 90 days
2 after the filing of the application for permit, the applicant
3 may deem the permit issued. Any applicant for a permit may
4 waive the 90-day limitation by filing a written statement with
5 the Agency.

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

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

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

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

24 (4) the design of the facility will prevent any
25 compost material from being placed within 5 feet of the
26 water table, will adequately control runoff from the site,

1 and will collect and manage any leachate that is generated
2 on the site;

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

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

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

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

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

1 (o) (Blank).

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

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

24 (2) The Agency shall accept written comments concerning
25 the permit application that are postmarked no later than 30
26 days after the filing of the permit application, unless the

1 time period to accept comments is extended by the Agency.

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

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

24 (1) Checklists and guidance relating to the completion
25 of permit applications, developed pursuant to subsection
26 (s) of this Section, which may include, but are not

1 limited to, existing instructions for completing the
2 applications and examples of complete applications. As the
3 Agency develops new checklists and develops guidance, it
4 shall supplement the web portal with those materials.

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

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

25 (A) the number of applications received for each
26 type of permit, the number of applications on which

1 the Agency has taken action, and the number of
2 applications still pending; and

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

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

22 (s) The Agency is authorized to prepare and distribute
23 guidance documents relating to its administration of this
24 Section and procedural rules implementing this Section.
25 Guidance documents prepared under this subsection shall not be
26 considered rules and shall not be subject to the Illinois

1 Administrative Procedure Act. Such guidance shall not be
2 binding on any party.

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

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

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

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

20 (x) If, before the expiration of a State operating permit
21 that is issued pursuant to subsection (a) of this Section and
22 contains federally enforceable conditions limiting the
23 potential to emit of the source to a level below the major
24 source threshold for that source so as to exclude the source
25 from the Clean Air Act Permit Program, the Agency receives a
26 complete application for the renewal of that permit, then all

1 of the terms and conditions of the permit shall remain in
2 effect until final administrative action has been taken on the
3 application for the renewal of the permit.

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

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

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

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

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

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

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

24 (i) an NPDES permit in accordance with subsection

25 (b) of this Section;

26 (ii) a PSD permit or an NA NSR permit in accordance

1 with Section 9.1 of this Act;

2 (iii) a lifetime State operating permit or a
3 federally enforceable State operating permit, in
4 accordance with subsection (a) of this Section; or

5 (iv) a CAAPP permit, in accordance with Section
6 39.5 of this Act.

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

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

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

1 payment of the actual cost of reproduction during regular
2 business hours of the local office.

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

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

1 permitted emissions. This subsection (aa) also applies to
2 permit applications for modifications or expansions to
3 existing sources that will result in an increase in the hourly
4 rate of emissions or the total annual emissions of any air
5 pollutant. The public meeting required under this subsection
6 (aa) shall be held within the environmental justice community
7 where the proposed source is located or to be located, and the
8 applicant shall collect public comments at the meeting.

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

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

15 (B) members of the General Assembly from the
16 legislative district in which the proposed source is
17 to be located; and

18 (C) directors of child care centers licensed by
19 the Department of Children and Family Services, school
20 principals, and public park superintendents who
21 oversee facilities located within one mile of the
22 proposed source.

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

25 (3) Notice of the public meeting shall be posted on a
26 website of the applicant with a link provided to the

1 Agency for posting on the Agency's website.

2 (4) Notice of the public meeting shall include all of
3 the following:

4 (A) the name and address of the applicant and the
5 proposed source;

6 (B) the activity or activities at the proposed
7 source to be permitted;

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

10 (D) the date, time, and location of the public
11 meeting;

12 (E) the deadline for submission of written
13 comments;

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

16 (G) the website where the summary of the
17 environmental justice assessment required under
18 subsection (bb) can be accessed.

19 (5) If the population of individuals who reside within
20 one mile of the source includes individuals within a
21 linguistically isolated community, then the applicant
22 shall provide the public notice in a multilingual format
23 appropriate to the needs of the linguistically isolated
24 community and shall provide oral and written translation
25 services at the public meeting.

26 At the public meeting, the applicant shall present a

1 summary of the environmental justice assessment required under
2 subsection (bb).

3 The applicant must accept written public comments from the
4 date public notice of the meeting is provided until at least 30
5 days after the date of the public meeting.

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

15 The failure of the applicant to comply with the express
16 procedural requirements under this subsection (aa) shall
17 result in denial of a permit application submitted to the
18 Agency.

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

21 (bb) The Agency shall not issue any of the construction
22 permits described in subsection (aa) unless the applicant for
23 the permit submits to the Agency with its permit application
24 proof that the permit applicant has conducted an environmental
25 justice assessment for the proposed project. The environmental
26 justice assessment shall consist of the following:

1 (1) Air dispersion modeling examining the air
2 quality-related impacts from the proposed project in
3 combination with existing mobile and stationary air
4 pollutant emitting sources.

5 The air dispersion modeling must address emissions
6 associated with issuance of the permit.

7 If the air dispersion modeling reveals estimated
8 off-site impacts from the proposed project, the applicant
9 shall also identify efforts that will be undertaken by the
10 applicant during the construction or operation of the new
11 source to mitigate such impacts.

12 (2) A modeling protocol submitted to the Agency for
13 review and consideration prior to performance of the air
14 dispersion modeling. The modeling protocol shall include
15 analyses sufficient to evaluate short-term impacts to air
16 quality and impacts to air quality from nonstandard
17 operating conditions, such as worst-case emission
18 estimates under a variety of weather and atmospheric
19 conditions and emissions associated with startup,
20 shutdown, maintenance, and outages. Any Agency
21 recommendations for revisions to the modeling protocol
22 shall be provided in writing to the applicant within 120
23 days after receipt of the modeling protocol. The modeling
24 shall be performed using accepted USEPA methodologies.

25 (3) An environmental impact review evaluating the
26 direct, indirect, and cumulative environmental impacts

1 within the environmental justice community that are
2 associated with the proposed project. The environmental
3 impact review shall include, but shall not be limited to,
4 the following:

5 (A) a qualitative and quantitative assessment of
6 emissions-related impacts of the project on the area,
7 including an estimate of the maximum allowable
8 emissions of criteria pollutants and hazardous air
9 pollutants from the source; and

10 (B) an assessment of the health-based indicators
11 for inhalation exposure, including, but not limited
12 to, impacts to the respiratory, hematological,
13 neurological, cardiovascular, renal, and hepatic
14 systems and cancer rates.

15 The environmental justice assessment must be completed by
16 an independent third party.

17 If the environmental justice assessment shows that the
18 proposed project will cause harm to the environment or public
19 health, the Agency shall impose conditions in the permit that
20 will mitigate such harm, or it shall deny the permit if such
21 harm is unavoidable and causes or contributes to
22 disproportionate harm.

23 The Agency shall propose and the Board shall adopt rules
24 regarding the implementation of this subsection (bb),
25 including, at a minimum, the type and nature of air dispersion
26 modeling, the contents of the modeling protocol and

1 environmental impact review, and a description of harm and
2 disproportionate harm that may be evidenced by the
3 environmental justice assessment.

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

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

4 (2) conviction in this State, another state, or
5 federal court of knowingly submitting false information
6 under any environmental law, rule, regulation, or permit
7 term or condition; or

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

10 (Source: P.A. 101-171, eff. 7-30-19; 102-216, eff. 1-1-22;
11 102-558, eff. 8-20-21; 102-813, eff. 5-13-22.)

12 (415 ILCS 5/39.2) (from Ch. 111 1/2, par. 1039.2)

13 Sec. 39.2. Local siting review.

14 (a) The county board of the county or the governing body of
15 the municipality, as determined by paragraph (c) of Section 39
16 of this Act, shall, subject to review, approve or disapprove
17 the request for local siting approval for each pollution
18 control facility and each of the following construction
19 permits: (i) a construction permit for a new source that is to
20 be located in an environmental justice community, that will
21 require a CAAPP permit or a federally enforceable State
22 operating permit, and that would be authorized under that
23 permit to increase annual permitted emissions; (ii) a
24 construction permit for any existing source that is located in
25 an environmental justice community, that, on the effective

1 date of this amendatory Act of the 103rd General Assembly,
2 possesses a CAAPP permit or federally enforceable State
3 operating permit, and that would be authorized under that
4 permit to increase annual permitted emissions; or (iii) a
5 construction permit for any existing source that is located in
6 an environmental justice community, that would require a new
7 CAAPP permit or new federally enforceable State operating
8 permit for the first time, and that would be authorized under
9 that permit to increase annual permitted emissions ~~which is~~
10 ~~subject to such review.~~ An applicant for local siting approval
11 shall submit sufficient details describing the proposed
12 facility and evidence to demonstrate compliance, and local
13 siting approval shall be granted only if the proposed facility
14 meets the following criteria:

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

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

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

26 (iv) (A) for a pollution control facility other than a

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

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

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

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

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

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

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

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

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

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

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

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

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

23 (c) An applicant shall file a copy of its request with the
24 county board of the county or the governing body of the
25 municipality in which the proposed site is located. The
26 request shall include (i) the substance of the applicant's

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

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

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

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

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

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

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

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

1 shall be made in the form of a written summary jointly prepared
2 and submitted by the county board or governing body of the
3 municipality and the siting applicant and shall describe the
4 terms and conditions of the oral agreement.

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

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

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

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

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

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

1 and appeal procedures for facilities subject to such
2 procedures. Local zoning or other local land use requirements
3 shall not be applicable to such siting decisions.

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

7 (i) (Blank.)

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

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

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

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

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

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

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

24 (o) Notwithstanding any other provision of this Section, a
25 transfer station used exclusively for landscape waste, where
26 landscape waste is held no longer than 24 hours from the time

1 it was received, is not subject to the requirements of local
2 siting approval under this Section, but is subject only to
3 local zoning approval.

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

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

16 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

17 Sec. 39.5. Clean Air Act Permit Program.

18 1. Definitions. For purposes of this Section:

19 "Administrative permit amendment" means a permit revision
20 subject to subsection 13 of this Section.

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

24 "Affected States" for purposes of formal distribution of a
25 draft CAAPP permit to other States for comments prior to

1 issuance, means all States:

2 (1) Whose air quality may be affected by the source
3 covered by the draft permit and that are contiguous to
4 Illinois; or

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

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

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

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

1 other requirement" means only such standards or
2 requirements directly enforceable against an individual
3 source under the Clean Air Act.

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

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

14 (3) Any standard or other requirement under Section
15 111 of the Clean Air Act, including Section 111(d).

16 (4) Any standard or other requirement under Section
17 112 of the Clean Air Act, including any requirement
18 concerning accident prevention under Section 112(r)(7) of
19 the Clean Air Act.

20 (5) Any standard or other requirement of the acid rain
21 program under Title IV of the Clean Air Act or the
22 regulations promulgated thereunder.

23 (6) Any requirements established pursuant to Section
24 504(b) or Section 114(a)(3) of the Clean Air Act.

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

1 Act.

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

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

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

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

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

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

26 "CAAPP" means the Clean Air Act Permit Program, developed

1 pursuant to Title V of the Clean Air Act.

2 "CAAPP application" means an application for a CAAPP
3 permit.

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

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

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

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

21 "Draft CAAPP permit" means the version of a CAAPP permit
22 for which public notice and an opportunity for public comment
23 and hearing is offered by the Agency.

24 "Effective date of the CAAPP" means the date that USEPA
25 approves Illinois' CAAPP.

26 "Emission unit" means any part or activity of a stationary

1 source that emits or has the potential to emit any air
2 pollutant. This term is not meant to alter or affect the
3 definition of the term "unit" for purposes of Title IV of the
4 Clean Air Act.

5 "Federally enforceable" means enforceable by USEPA.

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

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

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

20 "Maximum achievable control technology" or "MACT" means
21 the maximum degree of reductions in emissions deemed
22 achievable under Section 112 of the Clean Air Act.

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

25 "Permit modification" means a revision to a CAAPP permit
26 that cannot be accomplished under the provisions for

1 administrative permit amendments under subsection 13 of this
2 Section.

3 "Permit revision" means a permit modification or
4 administrative permit amendment.

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

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

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

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

1 "Proposed CAAPP permit" means the version of a CAAPP
2 permit that the Agency proposes to issue and forwards to USEPA
3 for review in compliance with applicable requirements of the
4 Act and regulations promulgated thereunder.

5 "Regulated air pollutant" means the following:

6 (1) Nitrogen oxides (NOx) or any volatile organic
7 compound.

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

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

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

15 (5) Any pollutant subject to a standard promulgated
16 under Section 112 or other requirements established under
17 Section 112 of the Clean Air Act, including Sections
18 112(g), (j) and (r).

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

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

5 (6) Greenhouse gases.

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

8 "Responsible official" means one of the following:

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

22 (2) For a partnership or sole proprietorship: a
23 general partner or the proprietor, respectively, or in the
24 case of a partnership in which all of the partners are
25 corporations, a duly authorized representative of the
26 partnership if the representative is responsible for the

1 overall operation of one or more manufacturing,
2 production, or operating facilities applying for or
3 subject to a permit and either (i) the facilities employ
4 more than 250 persons or have gross annual sales or
5 expenditures exceeding \$25 million (in second quarter 1980
6 dollars), or (ii) the delegation of authority to such
7 representative is approved in advance by the Agency.

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

15 (4) For affected sources for acid deposition:

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

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

24 "Section 502(b)(10) changes" means changes that contravene
25 express permit terms. "Section 502(b)(10) changes" do not
26 include changes that would violate applicable requirements or

1 contravene federally enforceable permit terms or conditions
2 that are monitoring (including test methods), recordkeeping,
3 reporting, or compliance certification requirements.

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

1 to be established by the USEPA by rule.

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

23 "Stationary source" means any building, structure,
24 facility, or installation that emits or may emit any regulated
25 air pollutant or any pollutant listed under Section 112(b) of
26 the Clean Air Act, except those emissions resulting directly

1 from an internal combustion engine for transportation purposes
2 or from a nonroad engine or nonroad vehicle as defined in
3 Section 216 of the Clean Air Act.

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

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

15 "USEPA" means the Administrator of the United States
16 Environmental Protection Agency (USEPA) or a person designated
17 by the Administrator.

18 1.1. Exclusion From the CAAPP.

19 a. An owner or operator of a source which determines
20 that the source could be excluded from the CAAPP may seek
21 such exclusion prior to the date that the CAAPP
22 application for the source is due but in no case later than
23 9 months after the effective date of the CAAPP through the
24 imposition of federally enforceable conditions limiting
25 the "potential to emit" of the source to a level below the

1 major source threshold for that source as described in
2 paragraph (c) of subsection 2 of this Section, within a
3 State operating permit issued pursuant to subsection (a)
4 of Section 39 of this Act. After such date, an exclusion
5 from the CAAPP may be sought under paragraph (c) of
6 subsection 3 of this Section.

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

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

25 d. The Agency shall provide an owner or operator of a
26 source which may be excluded from the CAAPP pursuant to

1 this subsection with reasonable notice that the owner or
2 operator may seek such exclusion.

3 e. The Agency shall provide such sources with the
4 necessary permit application forms.

5 2. Applicability.

6 a. Sources subject to this Section shall include:

7 i. Any major source as defined in paragraph (c) of
8 this subsection.

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

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

18 iv. Any other source subject to this Section under
19 the Clean Air Act or regulations promulgated
20 thereunder, or applicable Board regulations.

21 b. Sources exempted from this Section shall include:

22 i. All sources listed in paragraph (a) of this
23 subsection that are not major sources, affected
24 sources for acid deposition or solid waste
25 incineration units required to obtain a permit

1 pursuant to Section 129(e) of the Clean Air Act, until
2 the source is required to obtain a CAAPP permit
3 pursuant to the Clean Air Act or regulations
4 promulgated thereunder.

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

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

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

20 v. Any other source categories exempted by USEPA
21 regulations pursuant to Section 502(a) of the Clean
22 Air Act.

23 vi. Major sources of greenhouse gas emissions
24 required to obtain a CAAPP permit under this Section
25 if any of the following occurs:

26 (A) enactment of federal legislation depriving

1 the Administrator of the USEPA of authority to
2 regulate greenhouse gases under the Clean Air Act;

3 (B) the issuance of any opinion, ruling,
4 judgment, order, or decree by a federal court
5 depriving the Administrator of the USEPA of
6 authority to regulate greenhouse gases under the
7 Clean Air Act; or

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

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

1 owner or operator of a source from the requirement to
2 obtain a CAAPP permit for its emissions of regulated
3 air pollutants other than greenhouse gases, as
4 required by this Section.

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

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

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

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

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

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

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

1 standard promulgated under Section 111 or 112 of
2 the Clean Air Act.

3 BB. Any other stationary source category
4 designated by USEPA by rule.

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

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

25 B. For ozone transport regions established
26 pursuant to Section 184 of the Clean Air Act,

1 sources with the potential to emit 50 tons or more
2 per year of volatile organic compounds (VOCs).

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

1 thereafter.

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

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

19 4. Transition.

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

1 the owner or operator of a CAAPP source to obtain a State
2 operating permit is not removed upon submittal of the
3 complete CAAPP permit application. An owner or operator of
4 a CAAPP source seeking to make a modification to a source
5 prior to the issuance of its CAAPP permit shall be
6 required to obtain a construction permit, operating
7 permit, or both as required for such modification in
8 accordance with the State permit program under subsection
9 (a) of Section 39 of this Act, as amended, and regulations
10 promulgated thereunder. The application for such
11 construction permit, operating permit, or both shall be
12 considered an amendment to the CAAPP application submitted
13 for such source.

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

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

1 operator may voluntarily submit its initial CAAPP
2 application prior to the date required within this
3 paragraph or applicable procedures, if any, subsequent to
4 the date the Agency submits the CAAPP to USEPA for
5 approval.

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

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

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

21 g. The CAAPP permit shall upon becoming effective
22 supersede the State operating permit.

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

1 5. Applications and Completeness.

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

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

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

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

25 e. Each submitted CAAPP application shall be certified

1 for truth, accuracy, and completeness by a responsible
2 official in accordance with applicable regulations.

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

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

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

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

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

26 Where the Agency does not take final action on the

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

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

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

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

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

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

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

1 application regarding that source.

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

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

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

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

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

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

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

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

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

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

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

15 6. Prohibitions.

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

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

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

15 7. Permit Content.

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

24 b. The Agency shall include among such conditions
25 applicable monitoring, reporting, record keeping and

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

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

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

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

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

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

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

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

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

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

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

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

1 D. The analytical techniques or methods used.

2 E. The results of such analyses.

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

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

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

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

26 ii. Prompt reporting of deviations from permit

1 requirements, including those attributable to upset
2 conditions as defined in the permit, the probable
3 cause of such deviations, and any corrective actions
4 or preventive measures taken.

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

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

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

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

24 i. The Agency shall include in a CAAPP permit,
25 when requested by an applicant pursuant to paragraph
26 (p) of subsection 5 of this Section, a provision

1 stating that compliance with the conditions of the
2 permit shall be deemed compliance with applicable
3 requirements which are applicable as of the date of
4 release of the proposed permit, provided that:

5 A. The applicable requirement is specifically
6 identified within the permit; or

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

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

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

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

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

26 B. The liability of an owner or operator of a

1 source for any violation of applicable
2 requirements prior to or at the time of permit
3 issuance.

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

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

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

18 i. An emergency occurred and the permittee can
19 identify the cause(s) of the emergency.

20 ii. The permitted facility was at the time being
21 properly operated.

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

1 mitigate emissions, and corrective actions taken.

2 iv. During the period of the emergency the
3 permittee took all reasonable steps to minimize levels
4 of emissions that exceeded the emission limitations,
5 standards, or requirements in the permit.

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

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

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

26 i. Terms and conditions for reasonably anticipated

1 operating scenarios identified by the source in its
2 application. The permit terms and conditions for each
3 such operating scenario shall meet all applicable
4 requirements and the requirements of this Section.

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

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

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

22 A. Shall include all terms required under this
23 subsection to determine compliance;

24 B. Must meet all applicable requirements;

25 C. Shall extend the permit shield described in
26 paragraph (j) of subsection 7 of this Section to

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

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

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

20 o. Each CAAPP permit issued under subsection 10 of
21 this Section shall include provisions stating the
22 following:

23 i. Duty to comply. The permittee must comply with
24 all terms and conditions of the CAAPP permit. Any
25 permit noncompliance constitutes a violation of the
26 Clean Air Act and the Act, and is grounds for any or

1 all of the following: enforcement action; permit
2 termination, revocation and reissuance, or
3 modification; or denial of a permit renewal
4 application.

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

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

19 iv. Property rights. The permit does not convey
20 any property rights of any sort, or any exclusive
21 privilege.

22 v. Duty to provide information. The permittee
23 shall furnish to the Agency within a reasonable time
24 specified by the Agency any information that the
25 Agency may request in writing to determine whether
26 cause exists for modifying, revoking and reissuing, or

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

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

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

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

22 i. Compliance certification, testing, monitoring,
23 reporting, and record keeping requirements sufficient
24 to assure compliance with the terms and conditions of
25 the permit. Any document (including reports) required
26 by a CAAPP permit shall contain a certification by a

1 responsible official that meets the requirements of
2 subsection 5 of this Section and applicable
3 regulations.

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

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

14 B. Have access to and copy, at reasonable
15 times, any records that must be kept under the
16 conditions of the permit.

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

21 D. Sample or monitor any substances or
22 parameters at any location:

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

1 2. As otherwise authorized by this Act.

2 iii. A schedule of compliance consistent with
3 subsection 5 of this Section and applicable
4 regulations.

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

14 A. Required dates for achieving the
15 activities, milestones, or compliance required by
16 the schedule of compliance and dates when such
17 activities, milestones or compliance were
18 achieved.

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

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

1 following:

2 A. The frequency (annually or more frequently
3 as specified in any applicable requirement or by
4 the Agency pursuant to written procedures) of
5 submissions of compliance certifications.

6 B. A means for assessing or monitoring the
7 compliance of the source with its emissions
8 limitations, standards, and work practices.

9 C. A requirement that the compliance
10 certification include the following:

11 1. The identification of each term or
12 condition contained in the permit that is the
13 basis of the certification.

14 2. The compliance status.

15 3. Whether compliance was continuous or
16 intermittent.

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

21 D. A requirement that all compliance
22 certifications be submitted to the Agency.

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

26 F. Other provisions as the Agency may require.

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

12 8. Public Notice; Affected State Review.

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

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

24 c. The Agency shall give notice of each draft CAAPP
25 permit to the applicant and to any affected State on or

1 before the time that the Agency has provided notice to the
2 public, except as otherwise provided in this Act.

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

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

1 protection under Section 7.1 and subsection (a) of Section
2 7 of this Act.

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

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

13 9. USEPA Notice and Objection.

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

1 management system.

2 b. The Agency shall not issue the proposed CAAPP
3 permit if USEPA objects in writing within 45 days after
4 receipt of the proposed CAAPP permit and all necessary
5 supporting information.

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

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

1 process the permit under subsection 8 of this Section
2 except for minor permit modifications.

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

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

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

1 the requirement to have submitted a timely and complete
2 application.

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

7 10. Final Agency Action.

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

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

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

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

24 iv. The Agency has received a complete CAAPP
25 application and, if necessary, has requested and

1 received additional information from the applicant
2 consistent with subsection 5 of this Section and
3 applicable regulations.

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

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

14 b. The Agency shall have the authority to deny a CAAPP
15 permit, permit modification, or permit renewal if the
16 applicant has not complied with the requirements of
17 subparagraphs (i) through (iv) of paragraph (a) of this
18 subsection or if USEPA objects to its issuance. Further,
19 for any of the following construction permits, the Agency
20 shall conduct an evaluation of the prospective owner's or
21 operator's prior experience in owning and operating
22 sources of air pollution: (i) a construction permit for a
23 new source that is to be located in an environmental
24 justice community, that will require a CAAPP permit or a
25 federally enforceable State operating permit, and that
26 would be authorized under that permit to increase annual

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

18 i. repeated violations of federal, State, or local
19 laws, rules, regulations, standards, or ordinances in
20 the ownership or operation of sources of air
21 pollution;

22 ii. conviction in this State, another state, or
23 federal court of knowingly submitting false
24 information under any law, rule, regulation, or permit
25 term or condition regarding the environment; or

26 iii. proof of gross carelessness or incompetence

1 in the ownership or operation of a source of air
2 pollution.

3 c. i. Prior to denial of a CAAPP permit, permit
4 modification, or permit renewal under this Section,
5 the Agency shall notify the applicant of the possible
6 denial and the reasons for the denial.

7 ii. Within such notice, the Agency shall specify
8 an appropriate date by which the applicant shall
9 adequately respond to the Agency's notice. Such date
10 shall not exceed 15 days from the date the
11 notification is received by the applicant. The Agency
12 may grant a reasonable extension for good cause shown.

13 iii. Failure by the applicant to adequately
14 respond by the date specified in the notification or
15 by any granted extension date shall be grounds for
16 denial of the permit.

17 For purposes of obtaining judicial review under
18 Sections 40.2 and 41 of this Act, the Agency shall
19 provide to USEPA and each applicant, and, upon
20 request, to affected States, any person who
21 participated in the public comment process, and any
22 other person who could obtain judicial review under
23 Sections 40.2 and 41 of this Act, a copy of each CAAPP
24 permit or notification of denial pertaining to that
25 party.

26 d. The Agency shall have the authority to adopt

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

4 11. General Permits.

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

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

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

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

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

1 purposes of judicial review.

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

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

9 12. Operational Flexibility.

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

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

8 A. For each such change, the written
9 notification required above shall include a brief
10 description of the change within the source, the
11 date on which the change will occur, any change in
12 emissions, and any permit term or condition that
13 is no longer applicable as a result of the change.

14 B. The permit shield described in paragraph
15 (j) of subsection 7 of this Section shall not
16 apply to any change made pursuant to this
17 subparagraph.

18 ii. An owner or operator of a CAAPP source may
19 trade increases and decreases in emissions in the
20 CAAPP source, where the applicable implementation plan
21 provides for such emission trades without requiring a
22 permit revision. This provision is available in those
23 cases where the permit does not already provide for
24 such emissions trading.

25 A. Under this subparagraph (ii) of paragraph
26 (a) of this subsection, the written notification

1 required above shall include such information as
2 may be required by the provision in the applicable
3 implementation plan authorizing the emissions
4 trade, including at a minimum, when the proposed
5 changes will occur, a description of each such
6 change, any change in emissions, the permit
7 requirements with which the source will comply
8 using the emissions trading provisions of the
9 applicable implementation plan, and the pollutants
10 emitted subject to the emissions trade. The notice
11 shall also refer to the provisions in the
12 applicable implementation plan with which the
13 source will comply and provide for the emissions
14 trade.

15 B. The permit shield described in paragraph
16 (j) of subsection 7 of this Section shall not
17 apply to any change made pursuant to subparagraph
18 (ii) of paragraph (a) of this subsection.
19 Compliance with the permit requirements that the
20 source will meet using the emissions trade shall
21 be determined according to the requirements of the
22 applicable implementation plan authorizing the
23 emissions trade.

24 iii. If requested within a CAAPP application, the
25 Agency shall issue a CAAPP permit which contains terms
26 and conditions, including all terms required under

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

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

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

23 b. An owner or operator of a CAAPP source may make
24 changes that are not addressed or prohibited by the
25 permit, other than those which are subject to any
26 requirements under Title IV of the Clean Air Act or are

1 modifications under any provisions of Title I of the Clean
2 Air Act, without a permit revision, in accordance with the
3 following requirements:

4 (i) Each such change shall meet all applicable
5 requirements and shall not violate any existing permit
6 term or condition;

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

15 (iii) The change shall not qualify for the shield
16 described in paragraph (j) of subsection 7 of this
17 Section; and

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

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

1 necessary to implement this subsection.

2 13. Administrative Permit Amendments.

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

10 b. The Agency shall submit a copy of the revised
11 permit to USEPA.

12 c. For purposes of this Section the term
13 "administrative permit amendment" shall be defined as a
14 permit revision that can accomplish one or more of the
15 changes described below:

16 i. Corrects typographical errors;

17 ii. Identifies a change in the name, address, or
18 phone number of any person identified in the permit,
19 or provides a similar minor administrative change at
20 the source;

21 iii. Requires more frequent monitoring or
22 reporting by the permittee;

23 iv. Allows for a change in ownership or
24 operational control of a source where the Agency
25 determines that no other change in the permit is

1 necessary, provided that a written agreement
2 containing a specific date for transfer of permit
3 responsibility, coverage, and liability between the
4 current and new permittees has been submitted to the
5 Agency;

6 v. Incorporates into the CAAPP permit the
7 requirements from preconstruction review permits
8 authorized under a USEPA-approved program, provided
9 the program meets procedural and compliance
10 requirements substantially equivalent to those
11 contained in this Section;

12 vi. (Blank); or

13 vii. Any other type of change which USEPA has
14 determined as part of the approved CAAPP permit
15 program to be similar to those included in this
16 subsection.

17 d. The Agency shall, upon taking final action granting
18 a request for an administrative permit amendment, allow
19 coverage by the permit shield in paragraph (j) of
20 subsection 7 of this Section for administrative permit
21 amendments made pursuant to subparagraph (v) of paragraph
22 (c) of this subsection which meet the relevant
23 requirements for significant permit modifications.

24 e. Permit revisions and modifications, including
25 administrative amendments and automatic amendments
26 (pursuant to Sections 408(b) and 403(d) of the Clean Air

1 Act or regulations promulgated thereunder), for purposes
2 of the acid rain portion of the permit shall be governed by
3 the regulations promulgated under Title IV of the Clean
4 Air Act. Owners or operators of affected sources for acid
5 deposition shall have the flexibility to amend their
6 compliance plans as provided in the regulations
7 promulgated under Title IV of the Clean Air Act.

8 f. The CAAPP source may implement the changes
9 addressed in the request for an administrative permit
10 amendment immediately upon submittal of the request.

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

15 14. Permit Modifications.

16 a. Minor permit modification procedures.

17 i. The Agency shall review a permit modification
18 using the "minor permit" modification procedures only
19 for those permit modifications that:

20 A. Do not violate any applicable requirement;

21 B. Do not involve significant changes to
22 existing monitoring, reporting, or recordkeeping
23 requirements in the permit;

24 C. Do not require a case-by-case determination
25 of an emission limitation or other standard, or a

1 source-specific determination of ambient impacts,
2 or a visibility or increment analysis;

3 D. Do not seek to establish or change a permit
4 term or condition for which there is no
5 corresponding underlying requirement and which
6 avoids an applicable requirement to which the
7 source would otherwise be subject. Such terms and
8 conditions include:

9 1. A federally enforceable emissions cap
10 assumed to avoid classification as a
11 modification under any provision of Title I of
12 the Clean Air Act; and

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

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

18 F. Are not required to be processed as a
19 significant modification.

20 ii. Notwithstanding subparagraph (i) of paragraph
21 (a) and subparagraph (ii) of paragraph (b) of this
22 subsection, minor permit modification procedures may
23 be used for permit modifications involving the use of
24 economic incentives, marketable permits, emissions
25 trading, and other similar approaches, to the extent
26 that such minor permit modification procedures are

1 explicitly provided for in an applicable
2 implementation plan or in applicable requirements
3 promulgated by USEPA.

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

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

11 B. The source's suggested draft permit;

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

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

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

1 paragraph (d) of subsection 8 of this Section to
2 USEPA.

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

14 A. Issue the permit modification as proposed;

15 B. Deny the permit modification application;

16 C. Determine that the requested modification
17 does not meet the minor permit modification
18 criteria and should be reviewed under the
19 significant modification procedures; or

20 D. Revise the draft permit modification and
21 transmit to USEPA the new proposed permit
22 modification as required by subsection 9 of this
23 Section.

24 vi. Any CAAPP source may make the change proposed
25 in its minor permit modification application
26 immediately after it files such application. After the

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

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

17 viii. If a construction permit is required,
18 pursuant to subsection (a) of Section 39 of this Act
19 and regulations thereunder, for a change for which the
20 minor permit modification procedures are applicable,
21 the source may request that the processing of the
22 construction permit application be consolidated with
23 the processing of the application for the minor permit
24 modification. In such cases, the provisions of this
25 Section, including those within subsections 5, 8, and
26 9, shall apply and the Agency shall act on such

1 applications pursuant to subparagraph (v) of paragraph
2 (a) of subsection 14 of this Section. The source may
3 make the proposed change immediately after filing its
4 application for the minor permit modification. Nothing
5 in this subparagraph shall otherwise affect the
6 requirements and procedures applicable to construction
7 permits.

8 b. Group Processing of Minor Permit Modifications.

9 i. Where requested by an applicant within its
10 application, the Agency shall process groups of a
11 source's applications for certain modifications
12 eligible for minor permit modification processing in
13 accordance with the provisions of this paragraph (b).

14 ii. Permit modifications may be processed in
15 accordance with the procedures for group processing,
16 for those modifications:

17 A. Which meet the criteria for minor permit
18 modification procedures under subparagraph (i) of
19 paragraph (a) of subsection 14 of this Section;
20 and

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

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

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

8 B. The source's suggested draft permit.

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

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

22 E. Certification, consistent with paragraph
23 (e) of subsection 5 of this Section, that the
24 source has notified USEPA of the proposed
25 modification. Such notification need only contain
26 a brief description of the requested modification.

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

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

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

24 vi. The provisions of subparagraph (vi) of
25 paragraph (a) of this subsection shall apply to
26 modifications for group processing.

1 vii. The provisions of paragraph (j) of subsection
2 7 of this Section shall not apply to modifications
3 eligible for group processing.

4 c. Significant Permit Modifications.

5 i. Significant modification procedures shall be
6 used for applications requesting significant permit
7 modifications and for those applications that do not
8 qualify as either minor permit modifications or as
9 administrative permit amendments.

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

21 iii. Significant permit modifications must meet
22 all the requirements of this Section, including those
23 for applications (including completeness review),
24 public participation, review by affected States, and
25 review by USEPA applicable to initial permit issuance
26 and permit renewal. The Agency shall take final action

1 on significant permit modifications within 9 months
2 after receipt of a complete application.

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

7 15. Reopenings for Cause by the Agency.

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

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

23 ii. Additional requirements (including excess
24 emissions requirements) become applicable to an
25 affected source for acid deposition under the acid

1 rain program. Excess emissions offset plans shall be
2 deemed to be incorporated into the permit upon
3 approval by USEPA.

4 iii. The Agency or USEPA determines that the
5 permit contains a material mistake or that inaccurate
6 statements were made in establishing the emissions
7 standards, limitations, or other terms or conditions
8 of the permit.

9 iv. The Agency or USEPA determines that the permit
10 must be revised or revoked to assure compliance with
11 the applicable requirements.

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

25 c. Proceedings regarding a reopened CAAPP permit shall
26 follow the same procedures as apply to initial permit

1 issuance and shall affect only those parts of the permit
2 for which cause to reopen exists.

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

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

13 16. Reopenings for Cause by USEPA.

14 a. When USEPA finds that cause exists to terminate,
15 modify, or revoke and reissue a CAAPP permit pursuant to
16 subsection 15 of this Section, and thereafter notifies the
17 Agency and the permittee of such finding in writing, the
18 Agency shall forward to USEPA and the permittee a proposed
19 determination of termination, modification, or revocation
20 and reissuance as appropriate, in accordance with
21 paragraph (b) of this subsection. The Agency's proposed
22 determination shall be in accordance with the record, the
23 Clean Air Act, regulations promulgated thereunder, this
24 Act and regulations promulgated thereunder. Such proposed
25 determination shall not affect the permit or constitute a

1 final permit action for purposes of this Act or the
2 Administrative Review Law. The Agency shall forward to
3 USEPA such proposed determination within 90 days after
4 receipt of the notification from USEPA. If additional time
5 is necessary to submit the proposed determination, the
6 Agency shall request a 90-day extension from USEPA and
7 shall submit the proposed determination within 180 days
8 after receipt of notification from USEPA.

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

18 ii. After due consideration of the written and
19 oral statements, the testimony and arguments that
20 shall be submitted at hearing, the Board shall issue
21 and enter an interim order for the proposed
22 determination, which shall set forth all changes, if
23 any, required in the Agency's proposed determination.
24 The interim order shall comply with the requirements
25 for final orders as set forth in Section 33 of this
26 Act. Issuance of an interim order by the Board under

1 this paragraph, however, shall not affect the permit
2 status and does not constitute a final action for
3 purposes of this Act or the Administrative Review Law.

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

10 c. USEPA shall review the proposed determination to
11 terminate, modify, or revoke and reissue the permit within
12 90 days after receipt.

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

21 ii. When USEPA reviews such proposed determination
22 to terminate or revoke and reissue and objects, the
23 Agency shall submit USEPA's objection and the Agency's
24 comments and recommendation on the objection to the
25 Board and permittee. The Board shall review its
26 interim order in response to USEPA's objection and the

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

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

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

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

22 17. Title IV; Acid Rain Provisions.

23 a. The Agency shall act on initial CAAPP applications
24 for affected sources for acid deposition in accordance
25 with this Section and Title V of the Clean Air Act and

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

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

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

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

1 under Title IV of the Clean Air Act and its regulations.

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

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

21 g. In the case of an affected source for acid
22 deposition for which a complete Phase II acid rain permit
23 application and compliance plan are timely received under
24 this subsection, the complete permit application and
25 compliance plan, including amendments thereto, shall be
26 binding on the owner, operator and designated

1 representative, all affected units for acid deposition at
2 the affected source, and any other unit, as defined in
3 Section 402 of the Clean Air Act, governed by the Phase II
4 acid rain permit application and shall be enforceable as
5 an acid rain permit for purposes of Titles IV and V of the
6 Clean Air Act, from the date of submission of the acid rain
7 permit application until a Phase II acid rain permit is
8 issued or denied by the Agency.

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

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

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

22 ii. No limit shall be placed on the number of
23 allowances held by the source. The source may not,
24 however, use allowances as a defense to noncompliance
25 with any other applicable requirement.

26 iii. Any such allowance shall be accounted for

1 according to the procedures established in regulations
2 promulgated under Title IV of the Clean Air Act.

3 j. To the extent that the federal regulations
4 promulgated under Title IV, including but not limited to
5 40 C.F.R. Part 72, as now or hereafter amended, are
6 inconsistent with the federal regulations promulgated
7 under Title V, the federal regulations promulgated under
8 Title IV shall take precedence.

9 k. The USEPA may intervene as a matter of right in any
10 permit appeal involving a Phase II acid rain permit
11 provision or denial of a Phase II acid rain permit.

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

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

25 n. The Agency shall act on any petition for exemption
26 of a new unit or retired unit, as those terms are defined

1 in Section 402 of the Clean Air Act, from the requirements
2 of the acid rain program in accordance with Title IV of the
3 Clean Air Act and its regulations.

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

8 18. Fee Provisions.

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

19 i. The fee for a source allowed to emit less than
20 100 tons per year of any combination of regulated air
21 pollutants, except greenhouse gases, shall be \$1,800
22 per year, and that fee shall increase, beginning
23 January 1, 2012, to \$2,150 per year.

24 ii. The fee for a source allowed to emit 100 tons
25 or more per year of any combination of regulated air

1 pollutants, except greenhouse gases and those
2 regulated air pollutants excluded in paragraph (f) of
3 this subsection 18, shall be as follows:

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

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

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

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

13 b. (Blank).

14 c. (Blank).

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

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

9 i. carbon monoxide;

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

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

19 19. Air Toxics Provisions.

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

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

23 b. Any Board proceeding brought under paragraph (a) or
24 (e) of this subsection shall be conducted according to the
25 Board's procedures for adjudicatory hearings and the Board
26 shall render its decision within 120 days of the filing of

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

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

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

1 Act.

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

16 20. Small Business.

17 a. For purposes of this subsection:

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

24 "Small Business Assistance Program" is a component of
25 the Program responsible for providing sufficient

1 communications with small businesses through the
2 collection and dissemination of information to small
3 business stationary sources; and

4 "Small Business Stationary Source" means a stationary
5 source that:

6 1. is owned or operated by a person that employs
7 100 or fewer individuals;

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

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

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

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

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

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

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

26 e. There shall be appointed a Small Business Ombudsman

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

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

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

13 h. The selection of Panel members shall be by the
14 following method:

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

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

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

26 i. Panel members should serve without compensation but

1 will receive full reimbursement for expenses including
2 travel and per diem as authorized within this State.

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

7 21. Temporary Sources.

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

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

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

22 22. Solid Waste Incineration Units.

23 a. A CAAPP permit for a solid waste incineration unit
24 combusting municipal waste subject to standards

1 promulgated under Section 129(e) of the Clean Air Act
2 shall be issued for a period of 12 years and shall be
3 reviewed every 5 years, unless the Agency requires more
4 frequent review through Agency procedures.

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

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

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

17 (Source: P.A. 99-380, eff. 8-17-15; 99-933, eff. 1-27-17;
18 100-103, eff. 8-11-17.)

19 (415 ILCS 5/39.15 new)

20 Sec. 39.15. Environmental justice considerations in
21 permitting.

22 (a) The following public participation requirements for
23 permitting transactions in an environmental justice community
24 must be complied with:

25 (1) If an application for a permit, permit renewal, or

1 permit modification is subject to public notice and
2 comment requirements under this Act, rules adopted by the
3 Board, or rules adopted by the Agency, and the application
4 is for a facility or source in an environmental justice
5 community, the Agency must comply with existing applicable
6 requirements for public notice.

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

17 The public notice shall be provided: (i) by prominent
18 placement at a dedicated page on the Agency's website;
19 (ii) to local elected officials in the area where the
20 facility or proposed facility is located or is to be
21 located, including the mayor or president, clerk, county
22 board chairman, county clerk, and State's Attorney; and
23 (iii) to members of the General Assembly from the
24 legislative district in which the facility or proposed
25 facility is located or is to be located.

26 The public notice shall include: (i) the name and

1 address of the permit applicant and the facility or
2 proposed facility; and (ii) the activity or activities at
3 the facility or proposed facility being permitted.

4 (b) If the population of individuals who reside within one
5 mile of the site or facility includes individuals within a
6 linguistically isolated community, then the Agency must also
7 provide:

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

11 (2) oral and written translation services at public
12 hearings.

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

21 (415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

22 Sec. 40. Appeal of permit denial.

23 (a)(1) If the Agency refuses to grant or grants with
24 conditions a permit under Section 39 of this Act, the
25 applicant may, within 35 days after the date on which the

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

23 (2) Except as provided in paragraph (a)(3), if there is no
24 final action by the Board within 120 days after the date on
25 which it received the petition, the petitioner may deem the
26 permit issued under this Act, provided, however, that that

1 period of 120 days shall not run for any period of time, not to
2 exceed 30 days, during which the Board is without sufficient
3 membership to constitute the quorum required by subsection (a)
4 of Section 5 of this Act, and provided further that such 120
5 day period shall not be stayed for lack of quorum beyond 30
6 days regardless of whether the lack of quorum exists at the
7 beginning of such 120-day period or occurs during the running
8 of such 120-day period.

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

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

1 petitioner. The Agency and the permit applicant shall be named
2 co-respondents.

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

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

23 (d) In reviewing the denial or any condition of a NA NSR
24 permit issued by the Agency pursuant to rules and regulations
25 adopted under subsection (c) of Section 9.1 of this Act, the
26 decision of the Board shall be based exclusively on the record

1 before the Agency including the record of the hearing, if any,
2 unless the parties agree to supplement the record. The Board
3 shall, if it finds the Agency is in error, make a final
4 determination as to the substantive limitations of the permit
5 including a final determination of Lowest Achievable Emission
6 Rate.

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

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

14 (A) a demonstration that the petitioner raised the
15 issues contained within the petition during the public
16 notice period or during the public hearing on the NPDES
17 permit application, if a public hearing was held; and

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

20 (3) If the Board determines that the petition is not
21 duplicative or frivolous and contains a satisfactory
22 demonstration under subdivision (2) of this subsection, the
23 Board shall hear the petition (i) in accordance with the terms
24 of subsection (a) of this Section and its procedural rules
25 governing permit denial appeals and (ii) exclusively on the
26 basis of the record before the Agency. The burden of proof

1 shall be on the petitioner. The Agency and permit applicant
2 shall be named co-respondents.

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

5 (g) If the Agency grants or denies a permit under
6 subsection (y) of Section 39, a third party, other than the
7 permit applicant or Agency, may appeal the Agency's decision
8 as provided under federal law for CCR surface impoundment
9 permits.

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

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

25 (415 ILCS 5/40.4 new)

1 Sec. 40.4. Environmental justice grievance.

2 (a) An environmental justice grievance process, subject to
3 the provisions of this Section, applies to complaints alleging
4 violations of Section 601 of the federal Civil Rights Act of
5 1964.

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

14 (c) To initiate the environmental justice grievance
15 process a person must file a complaint with the Agency within
16 60 days after an alleged violation. The Agency, in its
17 discretion, may waive the 60-day deadline for good cause. The
18 complaint must:

19 (1) be in writing;

20 (2) describe with specificity the discrimination
21 alleged; and

22 (3) identify the parties impacted by the alleged
23 discrimination.

24 (d) The complaint under subsection (c) must be addressed
25 to the Agency as the Agency provides by rule.

26 (e) Within 10 days after receiving the complaint filed

1 under subsection (c), the Agency shall provide written notice
2 of receipt and acceptance of the complaint. If the Agency
3 determines that it has jurisdiction to review the complaint,
4 the complaint will be considered meritorious, unless:

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

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

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

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

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

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

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2		Statutes amended in order of appearance
3	415 ILCS 5/3.178 new	
4	415 ILCS 5/3.186 new	
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7	415 ILCS 5/3.189 new	
8	415 ILCS 5/3.281 new	
9	415 ILCS 5/34.5 new	
10	415 ILCS 5/39	from Ch. 111 1/2, par. 1039
11	415 ILCS 5/39.2	from Ch. 111 1/2, par. 1039.2
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