

1 AN ACT concerning environmental protection.

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

4 Section 5. The Environmental Protection Act is amended
5 by adding Section 9.11 and changing Section 39.5 as follows:

6 (415 ILCS 5/9.11 new)

7 Section 9.11. Construction permit fees.

8 (a) For any source for which an air pollution
9 construction permit is required, the owner or operator of
10 that source shall pay a fee as established in this Section to
11 the Agency upon submission of an application for an air
12 pollution construction permit.

13 (b) The following fee amounts shall apply:

14 (1) Where the estimated capital cost of the project
15 is less than \$300,000 or if the project consists of new
16 facilities controlled and operated by the federal
17 government or this State and is not subject to the
18 requirements of the federal Prevention of Significant
19 Deterioration (PSD) program or the New Source Review
20 (NSR) program, the fee is \$450 per application for an air
21 pollution construction permit. If the Agency grants a
22 request for expedited review of an application for an air
23 pollution construction permit, the review will be
24 completed within 45 days of the date that a complete
25 permit application is filed with the Agency, and the fee
26 is \$900. The Agency shall not grant a request for
27 expedited review of an application for an air pollution
28 construction permit if a public notice and the
29 opportunity for hearing are required. If a public notice
30 and opportunity for hearing is required, the fee per
31 application is \$5,450.

1 (2) Where the estimated capital cost of the project
2 is \$300,000 or more and not subject to PSD or NSR, the
3 fee is 0.15% of the estimated capital cost of the
4 project, not to exceed \$75,000, per application for an
5 air pollution construction permit.

6 (3) Where the requested construction permit is for
7 activities not involving capital expenditure, the fee is
8 \$450 per application for an air pollution construction
9 permit. If the Agency grants a request for expedited
10 review of an application for an air pollution
11 construction permit, the review will be completed within
12 45 days of the date that a complete permit application is
13 filed with the Agency, and the fee is \$900. The Agency
14 shall not grant a request for expedited review of an
15 application for an air pollution construction permit if a
16 public notice and the opportunity for hearing are
17 required. If a notice and the opportunity for a public
18 hearing are required, the fee per application is \$5,450.

19 (4) Where the project requires a PSD or NSR permit
20 or a permit to avoid PSD or NSR:

21 (i) If the estimated capital cost of the
22 project is less than \$300,000 or if the project
23 consists of new facilities controlled and operated
24 directly by the federal government or this State,
25 the fee is \$1,500 per application for an air
26 pollution construction permit. If a notice and the
27 opportunity for public hearing are required, the fee
28 per application is \$6,500.

29 (ii) If the estimated capital cost of the
30 project is \$300,000 or more, the fee is 0.5% of the
31 estimated capital cost of the project, not to exceed
32 \$75,000, per application for an air pollution
33 construction permit.

34 (5) A fee of \$450, or \$900 if the Agency grants a

1 request for expedited review of an application for an air
2 pollution construction permit, or \$5,450 if a public
3 hearing is held, for projects not subject to PSD or NSR
4 or a fee of \$75,000 for projects subject to PSD or NSR is
5 required for each application for an air pollution
6 construction permit if the application does not include
7 an estimate of the capital cost of the project.

8 (6) Where a permit holder seeks a revision to an
9 air pollution control construction permit that has been
10 issued, fees for each request for revision shall be as
11 follows:

12 (i) For revisions to change names, addresses,
13 or phone numbers identified in the permit, or to
14 provide for a similar minor administrative change at
15 the source, \$450, or \$900 if the Agency grants a
16 request for expedited review of the revision.

17 (ii) For modifications to permits subject to
18 the fees required by subsection (b)(1) or (b)(3) of
19 this Section, \$450, or \$900 if the Agency grants a
20 request for expedited review of the modification.

21 (iii) For modifications to permits subject to
22 the fees required by subsection (b)(2) or (b)(4)(ii)
23 of this Section, 0.005% of the estimated capital
24 cost of the project.

25 (iv) For modifications to permits subject to
26 the fees required by subsection (b)(4)(i) of this
27 Section, \$1,500.

28 (v) For modifications to permits subject to
29 the fees required by subsection (b)(5) of this
30 Section, \$450, or \$900 if the Agency grants a
31 request for expedited review of the modification, if
32 the modification does not cause the project to be
33 subject to PSD or NSR or \$75,000 if the project was
34 initially subject to PSD or NSR or the modification

1 causes the project to be subject to PSD or NSR.

2 (vi) For modifications requiring a notice and
3 opportunity for public hearing, an additional
4 \$5,000.

5 (7) In the event that an applicant issued an air
6 pollution construction permit makes the fee payment from
7 an account with insufficient funds to cover the amount of
8 a fee payment, the air pollution construction permit
9 shall be deemed revoked immediately. The Agency shall
10 notify the permittee within 30 days of receipt of the
11 notice of insufficient funds by the bank.

12 (c) The applicant for an air pollution construction
13 permit or the permit holder seeking a modification of an
14 issued air pollution control construction permit shall
15 include a certification of the estimated capital cost of the
16 project, issued by a duly authorized officer, with each
17 application or request for modification submitted to the
18 Agency. The estimated capital cost of the project shall be
19 updated quarterly and provided to the Agency with a
20 certification of the revised estimated capital cost.

21 (d) The estimated capital cost of the project shall
22 include both direct and indirect costs.

23 (1) Direct costs include the following:

24 (i) process and control equipment not
25 previously owned by the applicant and not currently
26 included in a construction or operating permit
27 issued for the source;

28 (ii) auxiliary equipment, including exhaust
29 hoods, ducting, fans, pumps, piping, conveyors,
30 stacks, storage tanks, waste-disposal facilities,
31 and air pollution control equipment specifically
32 needed to meet permit and regulatory requirements;

33 (iii) freight charges;

34 (iv) site preparation including demolition,

1 construction of fences, outdoor lighting, road, and
2 parking areas;

3 (v) installation including foundations,
4 erection of supporting structures, enclosures, or
5 weather protection, insulation and painting,
6 utilities and connections, process integration, and
7 process control equipment;

8 (vi) auxiliary buildings, including materials
9 storage, employee facilities, and changes to
10 existing structures; and

11 (vii) ambient air monitoring equipment.

12 (2) Indirect costs include:

13 (i) final engineering design and supervisions
14 and administrative overhead;

15 (ii) construction expense including
16 construction liaison, securing local building
17 permits, insurance, temporary construction
18 facilities, and construction clean-up; and

19 (iii) contractor's fees and overhead.

20 (e) The initial fee for an air pollution construction
21 permit and the initial certification of the estimate of
22 capital cost shall be submitted to the Agency at the time the
23 permit application is submitted, except that the fee if a
24 notice and opportunity for public hearing is required may be
25 submitted at a later date, but no later than 15 days prior to
26 the hearing. Any additional fees due because of an increase
27 in the estimated capital cost shall be submitted with the
28 quarterly certification of the estimated capital cost.

29 (f) The Agency shall deny the issuance of a pending air
30 pollution control construction permit or of the subsequent
31 operating permit if the applicant has not paid the required
32 fees by the date required for issuance of the permit. The
33 denial of a permit for failure to pay an air pollution
34 construction permit fee shall be subject to review by the

1 Board pursuant to the provisions of subsection (a) of Section
2 40 of this Act.

3 (g) Notwithstanding the requirements of subsection (a)
4 Section 39 of this Act, the application for an air pollution
5 construction permit shall not be deemed to be filed with the
6 Agency until the Agency receives the initial air pollution
7 construction permit application fee and certified estimate of
8 capital cost as required by this Section.

9 (h) The Agency may establish procedures for the
10 collection of air pollution construction permit fees.

11 (i) Fees collected pursuant to this Section shall be
12 deposited in the Environmental Protection Permit and
13 Inspection Fund.

14 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)
15 Sec. 39.5. Clean Air Act Permit Program.

16 1. Definitions.

17 For purposes of this Section:

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

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

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

26 (1) Whose air quality may be affected by the source
27 covered by the draft permit and that are contiguous to
28 Illinois; or

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

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

33 "Applicable Clean Air Act requirement" means all of the

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

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

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

25 (ii) Any term or condition as required
26 pursuant to Section 39.5 of any federally
27 enforceable State operating permit issued pursuant
28 to regulations approved or promulgated by USEPA
29 under Title I of the Clean Air Act, including Part C
30 or D of the Clean Air Act.

31 (3) Any standard or other requirement under Section
32 111 of the Clean Air Act, including Section 111(d).

33 (4) Any standard or other requirement under Section
34 112 of the Clean Air Act, including any requirement

1 concerning accident prevention under Section 112(r)(7) of
2 the Clean Air Act.

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

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

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

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

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

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

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

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

29 "Applicable requirement" means all applicable Clean Air
30 Act requirements and any other standard, limitation, or other
31 requirement contained in this Act or regulations promulgated
32 under this Act as applicable to sources of air contaminants
33 (including requirements that have future effective compliance
34 dates).

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

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

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

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

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

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

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

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

27 "Emission unit" means any part or activity of a
28 stationary source that emits or has the potential to emit any
29 air pollutant. This term is not meant to alter or affect the
30 definition of the term "unit" for purposes of Title IV of the
31 Clean Air Act.

32 "Federally enforceable" means enforceable by USEPA.

33 "Final permit action" means the Agency's granting with
34 conditions, refusal to grant, renewal of, or revision of a

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

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

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

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

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

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

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

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

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

29 "Potential to emit" means the maximum capacity of a
30 stationary source to emit any air pollutant under its
31 physical and operational design. Any physical or operational
32 limitation on the capacity of a source to emit an air
33 pollutant, including air pollution control equipment and
34 restrictions on hours of operation or on the type or amount

1 of material combusted, stored, or processed, shall be treated
2 as part of its design if the limitation is enforceable by
3 USEPA. This definition does not alter or affect the use of
4 this term for any other purposes under the Clean Air Act, or
5 the term "capacity factor" as used in Title IV of the Clean
6 Air Act or the regulations promulgated thereunder.

7 "Preconstruction Permit" or "Construction Permit" means a
8 permit which is to be obtained prior to commencing or
9 beginning actual construction or modification of a source or
10 emissions unit.

11 "Proposed CAAPP permit" means the version of a CAAPP
12 permit that the Agency proposes to issue and forwards to
13 USEPA for review in compliance with applicable requirements
14 of the Act and regulations promulgated thereunder.

15 "Regulated air pollutant" means the following:

16 (1) Nitrogen oxides (NOx) or any volatile organic
17 compound.

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

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

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

25 (5) Any pollutant subject to a standard promulgated
26 under Section 112 or other requirements established under
27 Section 112 of the Clean Air Act, including Sections
28 112(g), (j) and (r).

29 (i) Any pollutant subject to requirements
30 under Section 112(j) of the Clean Air Act. Any
31 pollutant listed under Section 112(b) for which the
32 subject source would be major shall be considered to
33 be regulated 18 months after the date on which USEPA
34 was required to promulgate an applicable standard

1 pursuant to Section 112(e) of the Clean Air Act, if
2 USEPA fails to promulgate such standard.

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

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

9 "Responsible official" means one of the following:

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

23 (2) For a partnership or sole proprietorship: a
24 general partner or the proprietor, respectively, or in
25 the case of a partnership in which all of the partners
26 are corporations, a duly authorized representative of the
27 partnership if the representative is responsible for the
28 overall operation of one or more manufacturing,
29 production, or operating facilities applying for or
30 subject to a permit and either (i) the facilities employ
31 more than 250 persons or have gross annual sales or
32 expenditures exceeding \$25 million (in second quarter
33 1980 dollars), or (ii) the delegation of authority to
34 such representative is approved in advance by the Agency.

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

9 (4) For affected sources for acid deposition:

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

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

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

25 "Solid waste incineration unit" means a distinct
26 operating unit of any facility which combusts any solid waste
27 material from commercial or industrial establishments or the
28 general public (including single and multiple residences,
29 hotels, and motels). The term does not include incinerators
30 or other units required to have a permit under Section 3005
31 of the Solid Waste Disposal Act. The term also does not
32 include (A) materials recovery facilities (including primary
33 or secondary smelters) which combust waste for the primary
34 purpose of recovering metals, (B) qualifying small power

1 production facilities, as defined in Section 3(17)(C) of the
2 Federal Power Act (16 U.S.C. 769(17)(C)), or qualifying
3 cogeneration facilities, as defined in Section 3(18)(B) of
4 the Federal Power Act (16 U.S.C. 796(18)(B)), which burn
5 homogeneous waste (such as units which burn tires or used
6 oil, but not including refuse-derived fuel) for the
7 production of electric energy or in the case of qualifying
8 cogeneration facilities which burn homogeneous waste for the
9 production of electric energy and steam or forms of useful
10 energy (such as heat) which are used for industrial,
11 commercial, heating or cooling purposes, or (C) air curtain
12 incinerators provided that such incinerators only burn wood
13 wastes, yard waste and clean lumber and that such air curtain
14 incinerators comply with opacity limitations to be
15 established by the USEPA by rule.

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

1 activities at such group of stationary sources constitute a
2 support facility shall be made on a case by case basis.

3 "Stationary source" means any building, structure,
4 facility, or installation that emits or may emit any
5 regulated air pollutant or any pollutant listed under Section
6 112(b) of the Clean Air Act.

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

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

19 1.1. Exclusion From the CAAPP.

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

33 b. An owner or operator of a source seeking
34 exclusion from the CAAPP pursuant to paragraph (a) of

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

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

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

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

23 2. Applicability.

24 a. Sources subject to this Section shall include:

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

27 ii. Any source subject to a standard or other
28 requirements promulgated under Section 111 (New
29 Source Performance Standards) or Section 112
30 (Hazardous Air Pollutants) of the Clean Air Act,
31 except that a source is not required to obtain a
32 permit solely because it is subject to regulations
33 or requirements under Section 112(r) of the Clean
34 Air Act.

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

3 iv. Any other source subject to this Section
4 under the Clean Air Act or regulations promulgated
5 thereunder, or applicable Board regulations.

6 b. Sources exempted from this Section shall
7 include:

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

16 ii. Nonmajor sources subject to a standard or
17 other requirements subsequently promulgated by USEPA
18 under Section 111 or 112 of the Clean Air Act which
19 are determined by USEPA to be exempt at the time a
20 new standard is promulgated.

21 iii. All sources and source categories that
22 would be required to obtain a permit solely because
23 they are subject to Part 60, Subpart AAA - Standards
24 of Performance for New Residential Wood Heaters (40
25 CFR Part 60).

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

31 v. Any other source categories exempted by
32 USEPA regulations pursuant to Section 502(a) of the
33 Clean Air Act.

34 c. For purposes of this Section the term "major

1 source" means any source that is:

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

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

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

27 ii. A major stationary source of air
28 pollutants, as defined in Section 302 of the Clean
29 Air Act, that directly emits or has the potential to
30 emit, 100 tpy or more of any air pollutant
31 (including any major source of fugitive emissions of
32 any such pollutant, as determined by rule by USEPA).
33 For purposes of this subsection, "fugitive
34 emissions" means those emissions which could not

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

9 A. Coal cleaning plants (with thermal
10 dryers).

11 B. Kraft pulp mills.

12 C. Portland cement plants.

13 D. Primary zinc smelters.

14 E. Iron and steel mills.

15 F. Primary aluminum ore reduction plants.

16 G. Primary copper smelters.

17 H. Municipal incinerators capable of
18 charging more than 250 tons of refuse per day.

19 I. Hydrofluoric, sulfuric, or nitric acid
20 plants.

21 J. Petroleum refineries.

22 K. Lime plants.

23 L. Phosphate rock processing plants.

24 M. Coke oven batteries.

25 N. Sulfur recovery plants.

26 O. Carbon black plants (furnace process).

27 P. Primary lead smelters.

28 Q. Fuel conversion plants.

29 R. Sintering plants.

30 S. Secondary metal production plants.

31 T. Chemical process plants.

32 U. Fossil-fuel boilers (or combination
33 thereof) totaling more than 250 million British
34 thermal units per hour heat input.

1 V. Petroleum storage and transfer units
2 with a total storage capacity exceeding 300,000
3 barrels.

4 W. Taconite ore processing plants.

5 X. Glass fiber processing plants.

6 Y. Charcoal production plants.

7 Z. Fossil fuel-fired steam electric
8 plants of more than 250 million British thermal
9 units per hour heat input.

10 AA. All other stationary source
11 categories regulated by a standard promulgated
12 under Section 111 or 112 of the Clean Air Act,
13 but only with respect to those air pollutants
14 that have been regulated for that category.

15 BB. Any other stationary source category
16 designated by USEPA by rule.

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

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

1 remain subject to the major source criteria of
2 paragraph 2(c)(ii) of this subsection.

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

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

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

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

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

25 b. The Agency shall issue CAAPP permits for fixed
26 terms of 5 years, except CAAPP permits issued for solid
27 waste incineration units combusting municipal waste which
28 shall be issued for fixed terms of 12 years and except
29 CAAPP permits for affected sources for acid deposition
30 which shall be issued for initial terms to expire on
31 December 31, 1999, and for fixed terms of 5 years
32 thereafter.

33 c. The Agency shall have the authority to issue a
34 State operating permit for a source under Section 39(a)

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

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

15 4. Transition.

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

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

1 continue to operate in accordance with the terms and
2 conditions of its applicable State operating permit
3 notwithstanding the expiration of the State operating
4 permit until the source's CAAPP permit has been issued.

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

18 d. The Agency shall act on initial CAAPP
19 applications in accordance with subsection 5(j) of this
20 Section.

21 e. For purposes of this Section, the term "initial
22 CAAPP application" shall mean the first CAAPP application
23 submitted for a source existing as of the effective date
24 of the CAAPP.

25 f. The Agency shall provide owners or operators of
26 CAAPP sources with at least three months advance notice
27 of the date on which their applications are required to
28 be submitted. In determining which sources shall be
29 subject to early submittal, the Agency shall include
30 among its considerations the complexity of the permit
31 application, and the burden that such early submittal
32 will have on the source.

33 g. The CAAPP permit shall upon becoming effective
34 supersede the State operating permit.

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

5 5. Applications and Completeness.

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

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

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

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

29 e. Each submitted CAAPP application shall be
30 certified for truth, accuracy, and completeness by a
31 responsible official in accordance with applicable
32 regulations.

33 f. The Agency shall provide notice to a CAAPP
34 applicant as to whether a submitted CAAPP application is

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

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

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

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

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

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

19 k. The submittal of a complete CAAPP application
20 shall not affect the requirement that any source have a
21 preconstruction permit under Title I of the Clean Air
22 Act.

23 l. Unless a timely and complete renewal application
24 has been submitted consistent with this subsection, a
25 CAAPP source operating upon the expiration of its CAAPP
26 permit shall be deemed to be operating without a CAAPP
27 permit. Such operation is prohibited under this Act.

28 m. Permits being renewed shall be subject to the
29 same procedural requirements, including those for public
30 participation and federal review and objection, that
31 apply to original permit issuance.

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

1 o. The terms and conditions of a CAAPP permit shall
2 remain in effect until the issuance of a CAAPP renewal
3 permit provided a timely and complete CAAPP application
4 has been submitted.

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

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

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

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

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

29 u. An owner or operator of a CAAPP source which
30 seeks exclusion from the CAAPP through the imposition of
31 federally enforceable conditions, pursuant to paragraph
32 3(c) of this Section, must request such exclusion within
33 a CAAPP application submitted consistent with this
34 subsection on or after the date that the CAAPP

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

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

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

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

1 commencing operation in accordance with the change in
2 operation.

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

7 6. Prohibitions.

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

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

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

33 7. Permit Content.

1 a. All CAAPP permits shall contain emission
2 limitations and standards and other enforceable terms and
3 conditions, including but not limited to operational
4 requirements, and schedules for achieving compliance at
5 the earliest reasonable date, which are or will be
6 required to accomplish the purposes and provisions of
7 this Act and to assure compliance with all applicable
8 requirements.

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

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

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

31 i. Incorporate and identify all applicable
32 emissions monitoring and analysis procedures or test
33 methods required under the Clean Air Act,
34 regulations promulgated thereunder, this Act, and

1 applicable Board regulations, including any
2 procedures and methods promulgated by USEPA pursuant
3 to Section 504(b) or Section 114 (a)(3) of the Clean
4 Air Act.

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

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

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

24 i. Records of required monitoring information
25 that include the following:

26 A. The date, place and time of sampling
27 or measurements.

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

29 C. The company or entity that performed
30 the analyses.

31 D. The analytical techniques or methods
32 used.

33 E. The results of such analyses.

34 F. The operating conditions as existing

1 at the time of sampling or measurement.

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

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

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

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

29 g. Each CAAPP permit issued under subsection 10 of
30 this Section shall include a condition prohibiting
31 emissions exceeding any allowances that the source
32 lawfully holds under Title IV of the Clean Air Act or the
33 regulations promulgated thereunder, consistent with
34 subsection 17 of this Section and applicable regulations,

1 if any.

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

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

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

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

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

24 B. The Agency in acting on the CAAPP
25 application or revision determines in writing
26 that other requirements specifically identified
27 are not applicable to the source, and the
28 permit includes that determination or a concise
29 summary thereof.

30 ii. The permit shall identify the requirements
31 for which the source is shielded. The shield shall
32 not extend to applicable requirements which are
33 promulgated after the date of release of the
34 proposed permit unless the permit has been modified

1 to reflect such new requirements.

2 iii. A CAAPP permit which does not expressly
3 indicate the existence of a permit shield shall not
4 provide such a shield.

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

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

10 B. The liability of an owner or operator
11 of a source for any violation of applicable
12 requirements prior to or at the time of permit
13 issuance.

14 C. The applicable requirements of the
15 acid rain program consistent with Section
16 408(a) of the Clean Air Act.

17 D. The ability of USEPA to obtain
18 information from a source pursuant to Section
19 114 (inspections, monitoring, and entry) of the
20 Clean Air Act.

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

28 i. An emergency occurred and the permittee can
29 identify the cause(s) of the emergency.

30 ii. The permitted facility was at the time
31 being properly operated.

32 iii. The permittee submitted notice of the
33 emergency to the Agency within 2 working days of the
34 time when emission limitations were exceeded due to

1 the emergency. This notice must contain a detailed
2 description of the emergency, any steps taken to
3 mitigate emissions, and corrective actions taken.

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

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

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

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

30 i. Terms and conditions for reasonably
31 anticipated operating scenarios identified by the
32 source in its application. The permit terms and
33 conditions for each such operating scenario shall
34 meet all applicable requirements and the

1 requirements of this Section.

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

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

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

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

21 B. Must meet all applicable requirements;

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

26 m. The Agency shall specifically designate as not
27 being federally enforceable under the Clean Air Act any
28 terms and conditions included in the permit that are not
29 specifically required under the Clean Air Act or federal
30 regulations promulgated thereunder. Terms or conditions
31 so designated shall be subject to all applicable state
32 requirements, except the requirements of subsection 7
33 (other than this paragraph, paragraph q of subsection 7,
34 subsections 8 through 11, and subsections 13 through 16

1 of this Section. The Agency shall, however, include such
2 terms and conditions in the CAAPP permit issued to the
3 source.

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

9 o. Each CAAPP permit issued under subsection 10 of
10 this Section shall include provisions stating the
11 following:

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

20 ii. Need to halt or reduce activity not a
21 defense. It shall not be a defense for a permittee
22 in an enforcement action that it would have been
23 necessary to halt or reduce the permitted activity
24 in order to maintain compliance with the conditions
25 of this permit.

26 iii. Permit actions. The permit may be
27 modified, revoked, reopened, and reissued, or
28 terminated for cause in accordance with the
29 applicable subsections of Section 39.5 of this Act.
30 The filing of a request by the permittee for a
31 permit modification, revocation and reissuance, or
32 termination, or of a notification of planned changes
33 or anticipated noncompliance does not stay any
34 permit condition.

1 iv. Property rights. The permit does not
2 convey any property rights of any sort, or any
3 exclusive privilege.

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

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

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

27 p. Each CAAPP permit issued under subsection 10 of
28 this Section shall contain the following elements with
29 respect to compliance:

30 i. Compliance certification, testing,
31 monitoring, reporting, and record keeping
32 requirements sufficient to assure compliance with
33 the terms and conditions of the permit. Any
34 document (including reports) required by a CAAPP

1 permit shall contain a certification by a
2 responsible official that meets the requirements of
3 subsection 5 of this Section and applicable
4 regulations.

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

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

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

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

24 D. Sample or monitor any substances or
25 parameters at any location:

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

30 2. As otherwise authorized by this
31 Act.

32 iii. A schedule of compliance consistent with
33 subsection 5 of this Section and applicable
34 regulations.

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

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

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

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

24 A. The frequency (annually or more
25 frequently as specified in any applicable
26 requirement or by the Agency pursuant to
27 written procedures) of submissions of
28 compliance certifications.

29 B. A means for assessing or monitoring
30 the compliance of the source with its emissions
31 limitations, standards, and work practices.

32 C. A requirement that the compliance
33 certification include the following:

34 1. The identification of each term

1 or condition contained in the permit that
2 is the basis of the certification.

3 2. The compliance status.

4 3. Whether compliance was continuous
5 or intermittent.

6 4. The method(s) used for
7 determining the compliance status of the
8 source, both currently and over the
9 reporting period consistent with
10 subsection 7 of Section 39.5 of the Act.

11 D. A requirement that all compliance
12 certifications be submitted to USEPA as well as
13 to the Agency.

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

17 F. Other provisions as the Agency may
18 require.

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

30 8. Public Notice; Affected State Review.

31 a. The Agency shall provide notice to the public,
32 including an opportunity for public comment and a
33 hearing, on each draft CAAPP permit for issuance, renewal
34 or significant modification, subject to Sections 7(a) and

1 7.1 of this Act.

2 b. The Agency shall prepare a draft CAAPP permit
3 and a statement that sets forth the legal and factual
4 basis for the draft CAAPP permit conditions, including
5 references to the applicable statutory or regulatory
6 provisions. The Agency shall provide this statement to
7 any person who requests it.

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

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

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

1 permit unless required by law. The contents of a CAAPP
2 permit shall not be entitled to protection under Section
3 7(a) or Section 7.1 of this Act.

4 f. 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 9. USEPA Notice and Objection.

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

22 b. The Agency shall not issue the proposed CAAPP
23 permit if USEPA objects in writing within 45 days of
24 receipt of the proposed CAAPP permit and all necessary
25 supporting information.

26 c. If USEPA objects in writing to the issuance of
27 the proposed CAAPP permit within the 45-day period, the
28 Agency shall respond in writing and may revise and
29 resubmit the proposed CAAPP permit in response to the
30 stated objection, to the extent supported by the record,
31 within 90 days after the date of the objection. Prior to
32 submitting a revised permit to USEPA, the Agency shall
33 provide the applicant and any person who participated in
34 the public comment process, pursuant to subsection 8 of

1 this Section, with a 10-day period to comment on any
2 revision which the Agency is proposing to make to the
3 permit in response to USEPA's objection in accordance
4 with Agency procedures.

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

16 e. If USEPA does not object in writing to issuance
17 of a permit under this subsection, any person may
18 petition USEPA within 60 days after expiration of the
19 45-day review period to make such objection.

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

29 g. If the Agency has issued a permit after
30 expiration of the 45-day review period and prior to
31 receipt of a USEPA objection under this subsection in
32 response to a petition submitted pursuant to paragraph e
33 of this subsection, the Agency may, upon receipt of an
34 objection from USEPA, revise and resubmit the permit to

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

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

12 10. Final Agency Action.

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

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

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

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

29 iv. The Agency has received a complete CAAPP
30 application and, if necessary, has requested and
31 received additional information from the applicant
32 consistent with subsection 5 of this Section and
33 applicable regulations.

34 v. The Agency has complied with all applicable

1 provisions regarding public notice and affected
2 State review consistent with subsection 8 of this
3 Section and applicable regulations.

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

11 b. The Agency shall have the authority to deny a
12 CAAPP permit, permit modification, or permit renewal if
13 the applicant has not complied with the requirements of
14 paragraphs (a)(i)-(a)(iv) of this subsection or if USEPA
15 objects to its issuance.

16 c. i. Prior to denial of a CAAPP permit, permit
17 modification, or permit renewal under this Section,
18 the Agency shall notify the applicant of the
19 possible denial and the reasons for the denial.

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

27 iii. Failure by the applicant to adequately
28 respond by the date specified in the notification or
29 by any granted extension date shall be grounds for
30 denial of the permit.

31 For purposes of obtaining judicial review under
32 Sections 40.2 and 41 of this Act, the Agency shall
33 provide to USEPA and each applicant, and, upon
34 request, to affected States, any person who

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

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

10 11. General Permits.

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

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

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

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

27 e. When granting a subsequent request by a
28 qualifying CAAPP source for coverage under the terms of a
29 general permit, the Agency shall not be required to
30 repeat the public notice and comment procedures. The
31 granting of such request shall not be considered a final
32 permit action for purposes of judicial review.

33 f. The Agency may not issue a general permit to
34 cover any discrete emission unit at a CAAPP source if

1 another CAAPP permit covers emission units at the source.

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

6 12. Operational Flexibility.

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

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

30 A. For each such change, the written
31 notification required above shall include a
32 brief description of the change within the
33 source, the date on which the change will
34 occur, any change in emissions, and any permit

1 term or condition that is no longer applicable
2 as a result of the change.

3 B. The permit shield described in
4 paragraph 7(j) of this Section shall not apply
5 to any change made pursuant to this
6 subparagraph.

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

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

30 B. The permit shield described in
31 paragraph 7(j) of this Section shall not apply
32 to any change made pursuant to this
33 subparagraph (a) (ii). Compliance with the
34 permit requirements that the source will meet

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

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

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

27 B. The permit shield described in
28 paragraph 7(j) of this Section shall extend to
29 terms and conditions that allow such increases
30 and decreases in emissions.

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

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

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

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

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

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

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

29 13. Administrative Permit Amendments.

30 a. The Agency shall take final action on a request
31 for an administrative permit amendment within 60 days of
32 receipt of the request. Neither notice nor an
33 opportunity for public and affected State comment shall
34 be required for the Agency to incorporate such revisions,

1 provided it designates the permit revisions as having
2 been made pursuant to this subsection.

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

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

9 i. Corrects typographical errors;

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

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

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

24 v. Incorporates into the CAAPP permit the
25 requirements from preconstruction review permits
26 authorized under a USEPA-approved program, provided
27 the program meets procedural and compliance
28 requirements substantially equivalent to those
29 contained in this Section;

30 vi. (Blank); or

31 vii. Any other type of change which USEPA has
32 determined as part of the approved CAAPP permit
33 program to be similar to those included in this
34 subsection.

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

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

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

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

25 14. Permit Modifications.

26 a. Minor permit modification procedures.

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

30 A. Do not violate any applicable
31 requirement;

32 B. Do not involve significant changes to
33 existing monitoring, reporting, or
34 recordkeeping requirements in the permit;

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

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

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

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

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

22 F. Are not required to be processed as a
23 significant modification.

24 ii. Notwithstanding subparagraphs (a)(i) and
25 (b)(ii) of this subsection, minor permit
26 modification procedures may be used for permit
27 modifications involving the use of economic
28 incentives, marketable permits, emissions trading,
29 and other similar approaches, to the extent that
30 such minor permit modification procedures are
31 explicitly provided for in an applicable
32 implementation plan or in applicable requirements
33 promulgated by USEPA.

34 iii. An applicant requesting the use of minor

1 permit modification procedures shall meet the
2 requirements of subsection 5 of this Section and
3 shall include the following in its application:

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

8 B. The source's suggested draft permit;

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

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

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

25 v. The Agency may not issue a final permit
26 modification until after the 45-day review period
27 for USEPA or until USEPA has notified the Agency
28 that USEPA will not object to the issuance of the
29 permit modification, whichever comes first, although
30 the Agency can approve the permit modification prior
31 to that time. Within 90 days of the Agency's
32 receipt of an application under the minor permit
33 modification procedures or 15 days after the end of
34 USEPA's 45-day review period under subsection 9 of

1 this Section, whichever is later, the Agency shall:

2 A. Issue the permit modification as
3 proposed;

4 B. Deny the permit modification
5 application;

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

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

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

32 vii. The permit shield under subparagraph 7(j)
33 of this Section may not extend to minor permit
34 modifications.

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

17 b. Group Processing of Minor Permit Modifications.

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

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

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

30 B. That collectively are below 10 percent
31 of the emissions allowed by the permit for the
32 emissions unit for which change is requested,
33 20 percent of the applicable definition of
34 major source set forth in subsection 2 of this

1 Section, or 5 tons per year, whichever is
2 least.

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

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

11 B. The source's suggested draft permit.

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

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

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

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

33 iv. On a quarterly basis or within 5 business
34 days of receipt of an application demonstrating that

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

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

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

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

25 c. Significant Permit Modifications.

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

31 ii. Every significant change in existing
32 monitoring permit terms or conditions and every
33 relaxation of reporting or recordkeeping
34 requirements shall be considered significant. A

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

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

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

22 15. Reopenings for Cause by the Agency.

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

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

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

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

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

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

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

32 c. Proceedings regarding a reopened CAAPP permit
33 shall follow the same procedures as apply to initial
34 permit issuance and shall affect only those parts of the

1 permit for which cause to reopen exists.

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

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

12 16. Reopenings for Cause by USEPA.

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

34 b. i. Prior to the Agency's submittal to USEPA

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

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

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

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

32 i. When USEPA reviews the proposed
33 determination to terminate or revoke and reissue and
34 does not object, the Board shall, within 7 days of

1 receipt of USEPA's final approval, enter the interim
2 order as a final order. The final order may be
3 appealed as provided by Title XI of this Act. The
4 Agency shall take final action in accordance with
5 the Board's final order.

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

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

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

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

1 17. Title IV; Acid Rain Provisions.

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

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

1 of the source submitted a timely and complete Phase II
2 permit application and compliance plan to the Agency that
3 meets the requirements of Title IV and V of the Clean Air
4 Act and regulations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

31 m. The designated representative of an affected
32 source for acid deposition shall submit to the Agency the
33 data and information submitted quarterly to USEPA,
34 pursuant to 40 CFR 75.64, concurrently with the

1 submission to USEPA. The submission shall be in the same
2 electronic format as specified by USEPA.

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

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

12 18. Fee Provisions.

13 a. For each 12 month period after the date on which
14 the USEPA approves or conditionally approves the CAAPP,
15 but in no event prior to January 1, 1994, a source
16 subject to this Section or excluded under subsection 1.1
17 or paragraph 3(c) of this Section, shall pay a fee as
18 provided in this part (a) of this subsection 18.
19 However, a source that has been excluded from the
20 provisions of this Section under subsection 1.1 or
21 paragraph 3(c) of this Section because the source emits
22 less than 25 tons per year of any combination of
23 regulated air pollutants shall pay fees in accordance
24 with paragraph (1) of subsection (b) of Section 9.6.

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

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

33 A. The Agency shall assess an annual fee
34 of \$13.50 per ton for the allowable emissions

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

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

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

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

20 b. (Blank).

21 c. There shall be created a CAA Fee Panel of 5
 22 persons. The Panel shall:

23 i. ~~On If--it--deems--necessary--on~~ an annual
 24 basis, render advisory opinions to the Agency and
 25 the General Assembly regarding the appropriate level
 26 of Title V Clean Air Act fees for the next fiscal
 27 year. Such advisory opinions shall be based on an
 28 analysis ~~a-study~~ of the operations of the Agency and
 29 any other entity requesting appropriations from the
 30 CAA Permit Fund, in accordance with the criteria
 31 listed in this subsection. This analysis study
 32 shall recommend changes in the fee structure, if
 33 warranted. ~~The-study-will-be-based-on-the-ability~~
 34 ~~of-the-Agency-or-other-entity-to-effectively-utilize~~

1 the--funds--generated--as--well--as---the---entity's
2 conformance---with--the--objectives--and--measurable
3 benchmarks-identified-by-the-Agency-as-justification
4 for-the-prior-year's-fee. Such advisory opinions
5 shall be submitted to the appropriation committees
6 no later than December April 15th of each year. If
7 the CAA Fee Panel does not issue an advisory opinion
8 for any fiscal year, the advisory opinion shall be
9 deemed to recommend a presumptive fee increase. The
10 current annual fee schedule shall be adjusted by the
11 cumulative rate of increase in the Consumer Price
12 Index since the last adjustment to the annual fee
13 schedule, if any. Notwithstanding the foregoing,
14 the presumptive maximum annual fee increase shall be
15 10% per year for each year of the CAAPP Program.

16 The criteria to be considered by the CAA Fee
17 Panel in its analysis shall include the following:

18 A. Whether the CAAPP fees are sufficient
19 to fund all required CAAPP funded activities,
20 including but not limited to permitting,
21 compliance activities (excluding enforcement),
22 inspection, planning, monitoring, and related
23 administrative overhead and expenses;

24 B. Whether the CAAPP fees are sufficient
25 to support all required CAAPP funded activities
26 under the National Performance Partnership
27 Agreement between the Agency and USEPA; and

28 C. Whether the CAAPP fees are sufficient
29 to support other State and local agencies that
30 perform duties related to the CAAPP and that
31 receive funding from the CAAPP fees.

32 The Agency and any other State or local
33 agencies that receive funding from the CAAPP fees
34 shall provide to the CAA Fee Panel any information

1 necessary to complete the analyses required by this
2 Section.

3 ii. Not be compensated for their services, but
4 shall receive reimbursement for their expenses.

5 iii. Be appointed as follows: 4 members by
6 the Director of the Agency from a list of no more
7 than 8 persons, submitted by representatives of
8 associations who represent facilities subject to the
9 provisions of this subsection and the Director of
10 the Agency or designee.

11 d. There is hereby created in the State Treasury a
12 special fund to be known as the "CAA Permit Fund". All
13 Funds collected by the Agency pursuant to this subsection
14 shall be deposited into the Fund. The General Assembly
15 shall appropriate monies from this Fund to the Agency and
16 to the Board to carry out their obligations under this
17 Section. The General Assembly may also authorize monies
18 to be granted by the Agency from this Fund to other State
19 and local agencies which perform duties related to the
20 CAAPP. Interest generated on the monies deposited in this
21 Fund shall be returned to the Fund. The General Assembly
22 may appropriate up to the sum of \$25,000 to the Agency
23 from the CAA Permit Fund for use by the Panel in carrying
24 out its responsibilities under this subsection.

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

29 f. For purposes of this subsection, the term
30 "regulated air pollutant" shall have the meaning given to
31 it under subsection 1 of this Section but shall exclude
32 the following:

33 i. carbon monoxide;

34 ii. any Class I or II substance which is a

1 regulated air pollutant solely because it is listed
2 pursuant to Section 602 of the Clean Air Act; and

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

9 19. Air Toxics Provisions.

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

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

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

24 c. The Agency shall have the authority to implement
25 and enforce complete or partial emission standards
26 promulgated by USEPA pursuant to Section 112(d), and
27 standards promulgated by USEPA pursuant to Sections
28 112(f), 112(h), 112(m), and 112(n), and may accept
29 delegation of authority from USEPA to implement and
30 enforce Section 112(l) and requirements for the
31 prevention and detection of accidental releases pursuant
32 to Section 112(r) of the Clean Air Act.

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

1 Act.

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

24 "Small Business Assistance Program" is a component
25 of the Program responsible for providing sufficient
26 communications with small businesses through the
27 collection and dissemination of information to small
28 business stationary sources; and

29 "Small Business Stationary Source" means a
30 stationary source that:

31 1. is owned or operated by a person that
32 employs 100 or fewer individuals;

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

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

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

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

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

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

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

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

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

26 g. There is hereby created a State Compliance
27 Advisory Panel (hereinafter in this subsection referred
28 to as "Panel") for determining the overall effectiveness
29 of the Small Business Assistance Program within this
30 State.

31 h. The selection of Panel members shall be by the
32 following method:

33 1. The Governor shall select two members who
34 are not owners or representatives of owners of small

1 business stationary sources to represent the general
2 public;

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

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

11 i. Panel members should serve without compensation
12 but will receive full reimbursement for expenses
13 including travel and per diem as authorized within this
14 State.

15 j. The Panel shall select its own Chair by a
16 majority vote. The Chair may meet and consult with the
17 Ombudsman and the head of the Small Business Assistance
18 Program in planning the activities for the Panel.

19 21. Temporary Sources.

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

25 b. The applicant must demonstrate that the
26 operation is temporary and will involve at least one
27 change of location during the term of the permit.

28 c. Any such permit shall meet all applicable
29 requirements of this Section and applicable regulations,
30 and include conditions assuring compliance with all
31 applicable requirements at all authorized locations and
32 requirements that the owner or operator notify the Agency
33 at least 10 days in advance of each change in location.

1 22. Solid Waste Incineration Units.

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

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

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

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

20 (Source: P.A. 92-24, eff. 7-1-01.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.