

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by
5 changing Sections 9.12, 39, 39.2, 39.5, and 40 and by adding
6 Sections 3.187, 3.281, 22.62, 34.5, 39.15, and 40.4 as
7 follows:

8 (415 ILCS 5/3.187 new)

9 Sec. 3.187. Environmental justice community.

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

14 (415 ILCS 5/3.281 new)

15 Sec. 3.281. Linguistic isolation. "Linguistic isolation"
16 means a household in which all members age 14 years and older
17 speak a non-English language and speak English less than very
18 well, according to the United States Census Bureau's latest
19 one-year or 5-year American Community Survey. A community
20 surrounding a facility is in linguistic isolation if 20% of
21 the households in the community's surrounding one-mile radius
22 meet the United States Census Bureau's definition for

1 linguistic isolation.

2 (415 ILCS 5/9.12)

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

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

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

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

22 (A) If the construction permit application relates
23 to one or more new emission units or to a combination
24 of new and modified emission units, a fee of \$4,000 for
25 the first new emission unit and a fee of \$1,000 for

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

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

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

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

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

25 (C) If the construction permit application
26 involves an emissions netting exercise or reliance on

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

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

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

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

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

17 (H) (Blank).

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

26 (J) (Blank).

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

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

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

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

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

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

25 (C) For a construction permit application
26 involving no more than 2 modified emission units, a

1 fee of \$500.

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

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

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

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

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

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

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

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

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

7 (4) (Blank).

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

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

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

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

25 (g) Notwithstanding the requirements of subsection (a) of
26 Section 39 of this Act, the application for an air pollution

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

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

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

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

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

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

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

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

18 (k) If an air pollution construction permittee makes a fee
19 payment under this Section from an account with insufficient
20 funds to cover the amount of the fee payment, the Agency shall
21 notify the permittee of the failure to pay the fee. If the
22 permittee fails to pay the fee within 60 days after such
23 notification, the Agency may, by written notice, immediately
24 revoke the air pollution construction permit. Failure of the
25 Agency to notify the permittee of the permittee's failure to
26 make payment does not excuse or alter the duty of the permittee

1 to comply with the provisions of this Section.

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

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

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

8 (415 ILCS 5/22.62 new)

9 Sec. 22.62. Environmental justice community designation.

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

13 (415 ILCS 5/34.5 new)

14 Sec. 34.5. Environmentally beneficial project bank.

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

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

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

9 (415 ILCS 5/39) (from Ch. 111 1/2, par. 1039)

10 Sec. 39. Issuance of permits; procedures.

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

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

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

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

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

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

24 If there is no final action by the Agency within 90 days
25 after the filing of the application for permit, the applicant
26 may deem the permit issued; except that this time period shall

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

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

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

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

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

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

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

26 The Agency may issue general NPDES permits for discharges

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

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

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

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

24 (c) Except for those facilities owned or operated by
25 sanitary districts organized under the Metropolitan Water
26 Reclamation District Act, no permit for the development or

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

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

1 of the subsequent owner or operator's prior experience in
2 waste management operations in the manner conducted under
3 subsection (i) of Section 39 of this Act.

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

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

1 unless the applicant has submitted proof to the Agency that
2 the location of the facility has been approved by the
3 appropriate county board or municipal governing body pursuant
4 to Section 39.2 of this Act.

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

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

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

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

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

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

25 (3) the operator can demonstrate that the county board
26 of the county, if the municipal waste transfer station is

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

5 (4) the site has local zoning approval.

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

1 emissions or the total annual emissions of any air pollutant.

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

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

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

25 The Agency shall adopt filing requirements and procedures
26 which are necessary and appropriate for the issuance of RCRA

1 permits, and which are consistent with the Act or regulations
2 adopted by the Board, and with the Resource Conservation and
3 Recovery Act of 1976 (P.L. 94-580), as amended, and
4 regulations pursuant thereto.

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

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

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

1 as a condition for the issuance of a UIC permit.

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

7 The applicant shall make available to the public for
8 inspection⁷ all documents submitted by the applicant to the
9 Agency in furtherance of an application, with the exception of
10 trade secrets, at the office of the county board or governing
11 body of the municipality. Such documents may be copied upon
12 payment of the actual cost of reproduction during regular
13 business hours of the local office. The Agency shall issue a
14 written statement concurrent with its grant or denial of the
15 permit explaining the basis for its decision.

16 (f) In making any determination pursuant to Section 9.1 of
17 this Act:

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

26 (2) The Agency shall adopt requirements as necessary

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

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

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

20 (g) The Agency shall include as conditions upon all
21 permits issued for hazardous waste disposal sites such
22 restrictions upon the future use of such sites as are
23 reasonably necessary to protect public health and the
24 environment, including permanent prohibition of the use of
25 such sites for purposes which may create an unreasonable risk
26 of injury to human health or to the environment. After

1 administrative and judicial challenges to such restrictions
2 have been exhausted, the Agency shall file such restrictions
3 of record in the Office of the Recorder of the county in which
4 the hazardous waste disposal site is located.

5 (h) A hazardous waste stream may not be deposited in a
6 permitted hazardous waste site unless specific authorization
7 is obtained from the Agency by the generator and disposal site
8 owner and operator for the deposit of that specific hazardous
9 waste stream. The Agency may grant specific authorization for
10 disposal of hazardous waste streams only after the generator
11 has reasonably demonstrated that, considering technological
12 feasibility and economic reasonableness, the hazardous waste
13 cannot be reasonably recycled for reuse, nor incinerated or
14 chemically, physically, or biologically treated so as to
15 neutralize the hazardous waste and render it nonhazardous. In
16 granting authorization under this Section, the Agency may
17 impose such conditions as may be necessary to accomplish the
18 purposes of the Act and are consistent with this Act and
19 regulations promulgated by the Board hereunder. If the Agency
20 refuses to grant authorization under this Section, the
21 applicant may appeal as if the Agency refused to grant a
22 permit, pursuant to the provisions of subsection (a) of
23 Section 40 of this Act. For purposes of this subsection (h),
24 the term "generator" has the meaning given in Section 3.205 of
25 this Act, unless: (1) the hazardous waste is treated,
26 incinerated, or partially recycled for reuse prior to

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

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

22 (1) repeated violations of federal, State, or local
23 laws, regulations, standards, or ordinances in the
24 operation of waste management facilities or sites, clean
25 construction or demolition debris fill operation
26 facilities or sites, or tire storage sites; or

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

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

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

1 activities at the site may have caused or allowed
2 contamination at the site, unless such contamination is
3 authorized under any permit issued by the Agency.

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

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

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

26 (m) The Agency may issue permits to persons owning or

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

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

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

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

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

23 If no final action is taken by the Agency within 90 days
24 after the filing of the application for permit, the applicant
25 may deem the permit issued. Any applicant for a permit may
26 waive the 90-day limitation by filing a written statement with

1 the Agency.

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

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

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

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

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

25 (5) the operation of the facility will include
26 appropriate dust and odor control measures, limitations on

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

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

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

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

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

23 (o) (Blank).→

24 (p) (1) Any person submitting an application for a permit
25 for a new MSWLF unit or for a lateral expansion under
26 subsection (t) of Section 21 of this Act for an existing MSWLF

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

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

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

24 (3) Each applicant for a permit described in part (1) of
25 this subsection shall file a copy of the permit application
26 with the county board or governing body of the municipality in

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

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

20 (1) Checklists and guidance relating to the completion
21 of permit applications, developed pursuant to subsection
22 (s) of this Section, which may include, but are not
23 limited to, existing instructions for completing the
24 applications and examples of complete applications. As the
25 Agency develops new checklists and develops guidance, it
26 shall supplement the web portal with those materials.

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

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

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

25 (B) for those applications where the Agency has
26 not taken action in accordance with the timeframes set

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

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

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

25 (t) Except as otherwise prohibited by federal law or
26 regulation, any person submitting an application for a permit

1 may include with the application suggested permit language for
2 Agency consideration. The Agency is not obligated to use the
3 suggested language or any portion thereof in its permitting
4 decision. If requested by the permit applicant, the Agency
5 shall meet with the applicant to discuss the suggested
6 language.

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

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

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

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

26 (y) The Agency may issue permits exclusively under this

1 subsection to persons owning or operating a CCR surface
2 impoundment subject to Section 22.59.

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

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

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

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

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

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

20 (i) an NPDES permit in accordance with subsection
21 (b) of this Section;

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

24 (iii) a lifetime State operating permit or a
25 federally enforceable State operating permit, in
26 accordance with subsection (a) of this Section; or

1 (iv) a CAAPP permit, in accordance with Section
2 39.5 of this Act.

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

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

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

25 The Agency shall issue a written statement concurrent with
26 its grant or denial of the permit explaining the basis for its

1 decision.

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

17 Prior to submitting the permit application to the Agency
18 and subsequent to obtaining local siting approval under
19 Section 39.2, the applicant is required to conduct a public
20 meeting within the environmental justice community where the
21 proposed source is to be located and to collect public
22 comments. Notice of the public meeting must be provided 30
23 days in advance and according to the following:

24 (1) The notice shall be:

25 (A) provided to local elected officials in the
26 area where the proposed source is to be located,

1 including the mayor or village president, municipal
2 clerk, county board chairman, county clerk, and
3 State's Attorney;

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

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

12 (D) published in a newspaper of general
13 circulation; and

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

17 (2) The notice of the public meeting shall include the
18 following:

19 (A) The name and address of the applicant and the
20 proposed source.

21 (B) The activity or activities at the proposed
22 source to be permitted.

23 (C) The anticipated potential to emit and
24 allowable emissions for regulated pollutants of the
25 proposed source.

26 (D) The date, time, and location of the public

1 meeting.

2 (E) The deadline for submission of written
3 comments.

4 (F) The mailing address or email address where
5 written comments can be submitted.

6 (G) The website where the summary of the
7 environmental justice assessment required under
8 subsection (aa) can be accessed.

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

14 The applicant shall present a summary of the environmental
15 justice assessment required under subsection (aa) at the
16 public meeting.

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

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

1 requirements of this subsection (aa).

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

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

8 (bb) The permit application under subsection (z) shall
9 include an environmental justice assessment. The environmental
10 justice assessment shall consist of the following:

11 (1) Air dispersion modeling examining the air
12 quality-related impacts from the proposed project in
13 combination with existing mobile and stationary air
14 emitting sources.

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

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

26 (2) A modeling protocol submitted to the Agency for

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

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

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

24 (B) An assessment of the health-based indicators
25 for inhalation exposure, including, but not limited
26 to, impacts to the respiratory, hematological,

1 neurological, cardiovascular, renal, and hepatic
2 systems and cancer rates.

3 The environmental justice assessment must be completed by
4 an independent third party.

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

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

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

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

- 1 (2) conviction:
- 2 (A) in this or another state of any crime that is a
- 3 felony under the laws of this State;
- 4 (B) of a felony in a federal court; or
- 5 (C) in this or another state or federal court of
- 6 any of the following crimes:
- 7 (i) forgery;
- 8 (ii) official misconduct;
- 9 (iii) bribery;
- 10 (iv) perjury; or
- 11 (v) knowingly submitting false information
- 12 under any environmental law, rule, regulation, or
- 13 permit term or condition; or
- 14 (3) proof of gross carelessness or incompetence in the
- 15 ownership or operation of a source of air pollution.

16 (Source: P.A. 101-171, eff. 7-30-19; 102-216, eff. 1-1-22;

17 102-558, eff. 8-20-21; revised 12-1-21.)

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

19 Sec. 39.2. Local siting review.

20 (a) The county board of the county or the governing body of

21 the municipality, as determined by paragraph (c) of Section 39

22 of this Act, shall, subject to review, approve or disapprove

23 the request for local siting approval for the following: (i)

24 each pollution control facility; (ii) an air pollution source

25 that, upon issuance of the requested construction permit, will

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

11 (i) the pollution control facility is necessary to
12 accommodate the waste needs of the area it is intended to
13 serve;

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

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

22 (iv) (A) for a pollution control facility other than a
23 sanitary landfill or waste disposal site, the pollution
24 control facility is located outside the boundary of the
25 100-year ~~100-year~~ flood plain or the site is
26 flood-proofed; (B) for a pollution control facility that

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

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

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

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

18 (viii) if the pollution control facility is to be
19 located in a county where the county board has adopted a
20 solid waste management plan consistent with the planning
21 requirements of the Local Solid Waste Disposal Act or the
22 Solid Waste Planning and Recycling Act, the pollution
23 control facility is consistent with that plan; for
24 purposes of this criterion (viii), the "solid waste
25 management plan" means the plan that is in effect as of the
26 date the application for siting approval is filed; and

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

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

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

16 (b) No later than 14 days before the date on which the
17 county board or governing body of the municipality receives a
18 request for site approval, the applicant shall cause written
19 notice of such request to be served either in person or by
20 registered mail, return receipt requested, on the owners of
21 all property within the subject area not solely owned by the
22 applicant, and on the owners of all property within 250 feet in
23 each direction of the lot line of the subject property, said
24 owners being such persons or entities which appear from the
25 authentic tax records of the county ~~County~~ in which such
26 pollution control facility or air pollution source is to be

1 located; provided, that the number of all feet occupied by all
2 public roads, streets, alleys, and other public ways shall be
3 excluded in computing the 250 feet requirement; provided
4 further, that in no event shall this requirement exceed 400
5 feet, including public streets, alleys, and other public ways.

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

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

19 (c) An applicant shall file a copy of its request with the
20 county board of the county or the governing body of the
21 municipality in which the proposed site is located. The
22 request shall include (i) the substance of the applicant's
23 proposal and (ii) all documents, if any, submitted as of that
24 date to the Agency pertaining to the proposed pollution
25 control facility or air pollution source, except trade secrets
26 as determined under Section 7.1 of this Act. All such

1 documents or other materials on file with the county board or
2 governing body of the municipality shall be made available for
3 public inspection at the office of the county board or the
4 governing body of the municipality and may be copied upon
5 payment of the actual cost of reproduction.

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

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

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

16 (e) Decisions of the county board or governing body of the
17 municipality are to be in writing, confirming a public hearing
18 was held with testimony from at least one witness presented by
19 the applicant, specifying the reasons for the decision, such
20 reasons to be in conformance with subsection (a) of this
21 Section. In granting approval for a site the county board or
22 governing body of the municipality may impose such conditions
23 as may be reasonable and necessary to accomplish the purposes
24 of this Section and as are not inconsistent with regulations
25 promulgated by the Board. Such decision shall be available for
26 public inspection at the office of the county board or

1 governing body of the municipality and may be copied upon
2 payment of the actual cost of reproduction. If there is no
3 final action by the county board or governing body of the
4 municipality within 180 days after the date on which it
5 received the request for site approval, the applicant may deem
6 the request approved.

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

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

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

19 (f) A local siting approval granted under this Section
20 shall expire at the end of 2 calendar years from the date upon
21 which it was granted, unless the local siting approval granted
22 under this Section is for a sanitary landfill operation, in
23 which case the approval shall expire at the end of 3 calendar
24 years from the date upon which it was granted, and unless
25 within that period the applicant has made application to the
26 Agency for a permit to develop the site. In the event that the

1 local siting decision has been appealed, such expiration
2 period shall be deemed to begin on the date upon which the
3 appeal process is concluded.

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

8 If a first development permit for a municipal waste
9 incineration facility expires under subsection (k) of Section
10 39 after September 30, 1989 due to circumstances beyond the
11 control of the applicant, any associated local siting approval
12 granted for the facility under this Section may be used to
13 fulfill the local siting approval requirement upon application
14 for a second development permit for the same site, provided
15 that the proposal in the new application is materially the
16 same, with respect to the criteria in subsection (a) of this
17 Section, as the proposal that received the original siting
18 approval, and application for the second development permit is
19 made before January 1, 1990.

20 (g) The siting approval procedures, criteria and appeal
21 procedures provided for in this Act for new pollution control
22 facilities shall be the exclusive siting procedures and rules
23 and appeal procedures for facilities subject to such
24 procedures. Local zoning or other local land use requirements
25 shall not be applicable to such siting decisions.

26 (h) Nothing in this Section shall apply to any existing or

1 new pollution control facility located within the corporate
2 limits of a municipality with a population of over 1,000,000.

3 (i) (Blank.)

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

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

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

23 (l) The governing Authority as determined by subsection
24 (c) of Section 39 of this Act may request the Department of
25 Transportation to perform traffic impact studies of proposed
26 or potential locations for required pollution control

1 facilities.

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

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

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

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

26 (p) The siting approval procedures, criteria, and appeal

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

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

10 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

11 Sec. 39.5. Clean Air Act Permit Program.

12 1. Definitions. For purposes of this Section:

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

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

18 "Affected States" for purposes of formal distribution of a
19 draft CAAPP permit to other States for comments prior to
20 issuance, means all States:

21 (1) Whose air quality may be affected by the source
22 covered by the draft permit and that are contiguous to
23 Illinois; or

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

25 "Affected unit for acid deposition" shall have the meaning

1 given to the term "affected unit" in the regulations
2 promulgated under Title IV of the Clean Air Act.

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

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

24 (2)(i) Any term or condition of any preconstruction
25 permits issued pursuant to regulations approved or
26 promulgated by USEPA under Title I of the Clean Air

1 Act, including Part C or D of the Clean Air Act.

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

8 (3) Any standard or other requirement under Section
9 111 of the Clean Air Act, including Section 111(d).

10 (4) Any standard or other requirement under Section
11 112 of the Clean Air Act, including any requirement
12 concerning accident prevention under Section 112(r)(7) of
13 the Clean Air Act.

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

17 (6) Any requirements established pursuant to Section
18 504(b) or Section 114(a)(3) of the Clean Air Act.

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

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

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

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

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

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

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

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

22 "CAAPP application" means an application for a CAAPP
23 permit.

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

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

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

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

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

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

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

25 "Federally enforceable" means enforceable by USEPA.

26 "Final permit action" means the Agency's granting with

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

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

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

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

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

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

23 "Permit revision" means a permit modification or
24 administrative permit amendment.

25 "Phase II" means the period of the national acid rain
26 program, established under Title IV of the Clean Air Act,

1 beginning January 1, 2000, and continuing thereafter.

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

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

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

21 "Proposed CAAPP permit" means the version of a CAAPP
22 permit that the Agency proposes to issue and forwards to USEPA
23 for review in compliance with applicable requirements of the
24 Act and regulations promulgated thereunder.

25 "Regulated air pollutant" means the following:

26 (1) Nitrogen oxides (NOx) or any volatile organic

1 compound.

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

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

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

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

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

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

25 (6) Greenhouse gases.

26 "Renewal" means the process by which a permit is reissued

1 at the end of its term.

2 "Responsible official" means one of the following:

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

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

1 representative is approved in advance by the Agency.

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

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

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

24 "Solid waste incineration unit" means a distinct operating
25 unit of any facility which combusts any solid waste material
26 from commercial or industrial establishments or the general

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

22 "Source" means any stationary source (or any group of
23 stationary sources) that is located on one or more contiguous
24 or adjacent properties that are under common control of the
25 same person (or persons under common control) and that belongs
26 to a single major industrial grouping. For the purposes of

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

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

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

26 "Support facility" means any stationary source (or group

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

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

12 1.1. Exclusion From the CAAPP.

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

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

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

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

23 e. The Agency shall provide such sources with the
24 necessary permit application forms.

25 2. Applicability.

- 1 a. Sources subject to this Section shall include:
- 2 i. Any major source as defined in paragraph (c) of
- 3 this subsection.
- 4 ii. Any source subject to a standard or other
- 5 requirements promulgated under Section 111 (New Source
- 6 Performance Standards) or Section 112 (Hazardous Air
- 7 Pollutants) of the Clean Air Act, except that a source
- 8 is not required to obtain a permit solely because it is
- 9 subject to regulations or requirements under Section
- 10 112(r) of the Clean Air Act.
- 11 iii. Any affected source for acid deposition, as
- 12 defined in subsection 1 of this Section.
- 13 iv. Any other source subject to this Section under
- 14 the Clean Air Act or regulations promulgated
- 15 thereunder, or applicable Board regulations.
- 16 b. Sources exempted from this Section shall include:
- 17 i. All sources listed in paragraph (a) of this
- 18 subsection that are not major sources, affected
- 19 sources for acid deposition or solid waste
- 20 incineration units required to obtain a permit
- 21 pursuant to Section 129(e) of the Clean Air Act, until
- 22 the source is required to obtain a CAAPP permit
- 23 pursuant to the Clean Air Act or regulations
- 24 promulgated thereunder.
- 25 ii. Nonmajor sources subject to a standard or
- 26 other requirements subsequently promulgated by USEPA

1 under Section 111 or 112 of the Clean Air Act that are
2 determined by USEPA to be exempt at the time a new
3 standard is promulgated.

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

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

14 v. Any other source categories exempted by USEPA
15 regulations pursuant to Section 502(a) of the Clean
16 Air Act.

17 vi. Major sources of greenhouse gas emissions
18 required to obtain a CAAPP permit under this Section
19 if any of the following occurs:

20 (A) enactment of federal legislation depriving
21 the Administrator of the USEPA of authority to
22 regulate greenhouse gases under the Clean Air Act;

23 (B) the issuance of any opinion, ruling,
24 judgment, order, or decree by a federal court
25 depriving the Administrator of the USEPA of
26 authority to regulate greenhouse gases under the

1 Clean Air Act; or

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

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

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

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

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

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

23 ii. A major stationary source of air pollutants,
24 as defined in Section 302 of the Clean Air Act, that
25 directly emits or has the potential to emit, 100 tpy or
26 more of any air pollutant subject to regulation

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

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

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

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

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

23 C. For carbon monoxide nonattainment areas (1)
24 that are classified as "serious", and (2) in which
25 stationary sources contribute significantly to
26 carbon monoxide levels as determined under rules

1 issued by USEPA, sources with the potential to
2 emit 50 tons or more per year of carbon monoxide.

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

7 3. Agency Authority To Issue CAAPP Permits and Federally
8 Enforceable State Operating Permits.

9 a. The Agency shall issue CAAPP permits under this
10 Section consistent with the Clean Air Act and regulations
11 promulgated thereunder and this Act and regulations
12 promulgated thereunder.

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

21 c. The Agency shall have the authority to issue a
22 State operating permit for a source under subsection (a)
23 of Section 39 of this Act, as amended, and regulations
24 promulgated thereunder, which includes federally
25 enforceable conditions limiting the "potential to emit" of

1 the source to a level below the major source threshold for
2 that source as described in paragraph (c) of subsection 2
3 of this Section, thereby excluding the source from the
4 CAAPP, when requested by the applicant pursuant to
5 paragraph (u) of subsection 5 of this Section. The public
6 notice requirements of this Section applicable to CAAPP
7 permits shall also apply to the initial issuance of
8 permits under this paragraph.

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

13 4. Transition.

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

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

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

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

26 d. The Agency shall act on initial CAAPP applications

1 in accordance with paragraph (j) of subsection 5 of this
2 Section.

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

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

15 g. The CAAPP permit shall upon becoming effective
16 supersede the State operating permit.

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

21 5. Applications and Completeness.

22 a. An owner or operator of a CAAPP source shall submit
23 its complete CAAPP application consistent with the Act and
24 applicable regulations.

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

1 a single complete CAAPP application covering all emission
2 units at that source.

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

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

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

23 f. The Agency shall provide notice to a CAAPP
24 applicant as to whether a submitted CAAPP application is
25 complete. Unless the Agency notifies the applicant of
26 incompleteness, within 60 days after receipt of the CAAPP

1 application, the application shall be deemed complete. The
2 Agency may request additional information as needed to
3 make the completeness determination. The Agency may to the
4 extent practicable provide the applicant with a reasonable
5 opportunity to correct deficiencies prior to a final
6 determination of completeness.

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

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

21 i. Any applicant who fails to submit any relevant
22 facts necessary to evaluate the subject source and its
23 CAAPP application or who has submitted incorrect
24 information in a CAAPP application shall, upon becoming
25 aware of such failure or incorrect submittal, submit
26 supplementary facts or correct information to the Agency.

1 In addition, an applicant shall provide to the Agency
2 additional information as necessary to address any
3 requirements which become applicable to the source
4 subsequent to the date the applicant submitted its
5 complete CAAPP application but prior to release of the
6 draft CAAPP permit.

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

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

25 k. The submittal of a complete CAAPP application shall
26 not affect the requirement that any source have a

1 preconstruction permit under Title I of the Clean Air Act.

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

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

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

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

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

22 q. The Agency shall make available to the public all
23 documents submitted by the applicant to the Agency,
24 including each CAAPP application, compliance plan
25 (including the schedule of compliance), and emissions or
26 compliance monitoring report, with the exception of

1 information entitled to confidential treatment pursuant to
2 Section 7 of this Act.

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

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

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

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

1 v. CAAPP applications shall contain accurate
2 information on allowable emissions to implement the fee
3 provisions of subsection 18 of this Section.

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

20 x. The owner or operator of a new CAAPP source shall
21 submit its complete CAAPP application consistent with this
22 subsection within 12 months after commencing operation of
23 such source. The owner or operator of an existing source
24 that has been excluded from the provisions of this Section
25 under subsection 1.1 or paragraph (c) of subsection 3 of
26 this Section and that becomes subject to the CAAPP solely

1 due to a change in operation at the source shall submit its
2 complete CAAPP application consistent with this subsection
3 at least 180 days before commencing operation in
4 accordance with the change in operation.

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

9 6. Prohibitions.

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

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

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

9 7. Permit Content.

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

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

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

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

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

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

22 ii. Where the applicable requirement does not
23 require periodic testing or instrumental or
24 noninstrumental monitoring (which may consist of
25 recordkeeping designed to serve as monitoring),
26 require periodic monitoring sufficient to yield

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

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

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

14 i. Records of required monitoring information that
15 include the following:

16 A. The date, place and time of sampling or
17 measurements.

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

19 C. The company or entity that performed the
20 analyses.

21 D. The analytical techniques or methods used.

22 E. The results of such analyses.

23 F. The operating conditions as existing at the
24 time of sampling or measurement.

25 ii. Retention of records of all monitoring data
26 and support information for a period of at least 5

1 years from the date of the monitoring sample,
2 measurement, report, or application. Support
3 information includes all calibration and maintenance
4 records, original strip-chart recordings for
5 continuous monitoring instrumentation, and copies of
6 all reports required by the permit.

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

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

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

25 g. Each CAAPP permit issued under subsection 10 of
26 this Section shall include a condition prohibiting

1 emissions exceeding any allowances that the source
2 lawfully holds under Title IV of the Clean Air Act or the
3 regulations promulgated thereunder, consistent with
4 subsection 17 of this Section and applicable regulations,
5 if any.

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

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

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

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

25 A. The applicable requirement is specifically
26 identified within the permit; or

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

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

12 iii. A CAAPP permit which does not expressly
13 indicate the existence of a permit shield shall not
14 provide such a shield.

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

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

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

24 C. The applicable requirements of the acid
25 rain program consistent with Section 408(a) of the
26 Clean Air Act.

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

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

12 i. An emergency occurred and the permittee can
13 identify the cause(s) of the emergency.

14 ii. The permitted facility was at the time being
15 properly operated.

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

22 iv. During the period of the emergency the
23 permittee took all reasonable steps to minimize levels
24 of emissions that exceeded the emission limitations,
25 standards, or requirements in the permit.

26 For purposes of this subsection, "emergency" means any

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

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

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

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

25 A. Under this subparagraph, the source must
26 record in a log at the permitted facility a record

1 of the scenario under which it is operating
2 contemporaneously with making a change from one
3 operating scenario to another.

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

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

16 A. Shall include all terms required under this
17 subsection to determine compliance;

18 B. Must meet all applicable requirements;

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

23 m. The Agency shall specifically designate as not
24 being federally enforceable under the Clean Air Act any
25 terms and conditions included in the permit that are not
26 specifically required under the Clean Air Act or federal

1 regulations promulgated thereunder. Terms or conditions so
2 designated shall be subject to all applicable State
3 requirements, except the requirements of subsection 7
4 (other than this paragraph, paragraph q of subsection 7,
5 subsections 8 through 11, and subsections 13 through 16 of
6 this Section. The Agency shall, however, include such
7 terms and conditions in the CAAPP permit issued to the
8 source.

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

14 o. Each CAAPP permit issued under subsection 10 of
15 this Section shall include provisions stating the
16 following:

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

25 ii. Need to halt or reduce activity not a defense.
26 It shall not be a defense for a permittee in an

1 enforcement action that it would have been necessary
2 to halt or reduce the permitted activity in order to
3 maintain compliance with the conditions of this
4 permit.

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

13 iv. Property rights. The permit does not convey
14 any property rights of any sort, or any exclusive
15 privilege.

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

1 confidentiality.

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

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

13 p. Each CAAPP permit issued under subsection 10 of
14 this Section shall contain the following elements with
15 respect to compliance:

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

24 ii. Inspection and entry requirements that
25 necessitate that, upon presentation of credentials and
26 other documents as may be required by law and in

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

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

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

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

15 D. Sample or monitor any substances or
16 parameters at any location:

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

21 2. As otherwise authorized by this Act.

22 iii. A schedule of compliance consistent with
23 subsection 5 of this Section and applicable
24 regulations.

25 iv. Progress reports consistent with an applicable
26 schedule of compliance pursuant to paragraph (d) of

1 subsection 5 of this Section and applicable
2 regulations to be submitted semiannually, or more
3 frequently if the Agency determines that such more
4 frequent submittals are necessary for compliance with
5 the Act or regulations promulgated by the Board
6 thereunder. Such progress reports shall contain the
7 following:

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

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

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

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

26 B. A means for assessing or monitoring the

1 compliance of the source with its emissions
2 limitations, standards, and work practices.

3 C. A requirement that the compliance
4 certification include the following:

5 1. The identification of each term or
6 condition contained in the permit that is the
7 basis of the certification.

8 2. The compliance status.

9 3. Whether compliance was continuous or
10 intermittent.

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

15 D. A requirement that all compliance
16 certifications be submitted to the Agency.

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

20 F. Other provisions as the Agency may require.

21 q. If the owner or operator of CAAPP source can
22 demonstrate in its CAAPP application, including an
23 application for a significant modification, that an
24 alternative emission limit would be equivalent to that
25 contained in the applicable Board regulations, the Agency
26 shall include the alternative emission limit in the CAAPP

1 permit, which shall supersede the emission limit set forth
2 in the applicable Board regulations, and shall include
3 conditions that insure that the resulting emission limit
4 is quantifiable, accountable, enforceable, and based on
5 replicable procedures.

6 8. Public Notice; Affected State Review.

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

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

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

22 d. The Agency, as part of its submittal of a proposed
23 permit to USEPA (or as soon as possible after the
24 submittal for minor permit modification procedures allowed
25 under subsection 14 of this Section), shall notify USEPA

1 and any affected State in writing of any refusal of the
2 Agency to accept all of the recommendations for the
3 proposed permit that an affected State submitted during
4 the public or affected State review period. The notice
5 shall include the Agency's reasons for not accepting the
6 recommendations. The Agency is not required to accept
7 recommendations that are not based on applicable
8 requirements or the requirements of this Section.

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

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

1 g. If requested by the permit applicant, the Agency
2 shall provide the permit applicant with a copy of the
3 draft CAAPP permit prior to any public review period. If
4 requested by the permit applicant, the Agency shall
5 provide the permit applicant with a copy of the final
6 CAAPP permit prior to issuance of the CAAPP permit.

7 9. USEPA Notice and Objection.

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

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

25 c. If USEPA objects in writing to the issuance of the

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

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

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

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

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

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

1 10. Final Agency Action.

2 a. The Agency shall issue a CAAPP permit, permit
3 modification, or permit renewal if all of the following
4 conditions are met:

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

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

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

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

23 v. The Agency has complied with all applicable
24 provisions regarding public notice and affected State
25 review consistent with subsection 8 of this Section

1 and applicable regulations.

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

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

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

25 i. repeated violations of federal, State, or local
26 laws, rules, regulations, standards, or ordinances in

1 the ownership or operation of sources of air
2 pollution;

3 ii. conviction:

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

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

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

9 (i) forgery;

10 (ii) official misconduct;

11 (iii) bribery;

12 (iv) perjury; or

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

16 iii. proof of gross carelessness or incompetence
17 in the ownership or operation of a source of air
18 pollution.

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

23 ii. Within such notice, the Agency shall specify
24 an appropriate date by which the applicant shall
25 adequately respond to the Agency's notice. Such date
26 shall not exceed 15 days from the date the

1 notification is received by the applicant. The Agency
2 may grant a reasonable extension for good cause shown.

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

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

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 11. General Permits.

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

25 b. The Agency shall identify, in any general permit,

1 criteria by which sources may qualify for the general
2 permit.

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

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

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

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

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 12. Operational Flexibility.

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

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

24 A. For each such change, the written
25 notification required above shall include a brief
26 description of the change within the source, the

1 date on which the change will occur, any change in
2 emissions, and any permit term or condition that
3 is no longer applicable as a result of the change.

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

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

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

1 shall also refer to the provisions in the
2 applicable implementation plan with which the
3 source will comply and provide for the emissions
4 trade.

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

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

1 require compliance with all applicable requirements.

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

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

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

20 (i) Each such change shall meet all applicable
21 requirements and shall not violate any existing permit
22 term or condition;

23 (ii) Sources must provide contemporaneous written
24 notice to the Agency and USEPA of each such change,
25 except for changes that qualify as insignificant under
26 provisions adopted by the Agency or the Board. Such

1 written notice shall describe each such change,
2 including the date, any change in emissions,
3 pollutants emitted, and any applicable requirement
4 that would apply as a result of the change;

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

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

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

18 13. Administrative Permit Amendments.

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

1 b. The Agency shall submit a copy of the revised
2 permit to USEPA.

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

7 i. Corrects typographical errors;

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

12 iii. Requires more frequent monitoring or
13 reporting by the permittee;

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

22 v. Incorporates into the CAAPP permit the
23 requirements from preconstruction review permits
24 authorized under a USEPA-approved program, provided
25 the program meets procedural and compliance
26 requirements substantially equivalent to those

1 contained in this Section;

2 vi. (Blank); or

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

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

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

24 f. The CAAPP source may implement the changes
25 addressed in the request for an administrative permit
26 amendment immediately upon submittal of the request.

1 modification under any provision of Title I of
2 the Clean Air Act; and

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

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

8 F. Are not required to be processed as a
9 significant modification.

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

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

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

1 B. The source's suggested draft permit;

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

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

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

19 v. The Agency may not issue a final permit
20 modification until after the 45-day review period for
21 USEPA or until USEPA has notified the Agency that
22 USEPA will not object to the issuance of the permit
23 modification, whichever comes first, although the
24 Agency can approve the permit modification prior to
25 that time. Within 90 days after the Agency's receipt
26 of an application under the minor permit modification

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

4 A. Issue the permit modification as proposed;

5 B. Deny the permit modification application;

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

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

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

1 conditions during this time period, the existing
2 permit terms and conditions which it seeks to modify
3 may be enforced against it.

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

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

24 b. Group Processing of Minor Permit Modifications.

25 i. Where requested by an applicant within its
26 application, the Agency shall process groups of a

1 source's applications for certain modifications
2 eligible for minor permit modification processing in
3 accordance with the provisions of this paragraph (b).

4 ii. Permit modifications may be processed in
5 accordance with the procedures for group processing,
6 for those modifications:

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

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

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

21 A. A description of the change, the emissions
22 resulting from the change, and any new applicable
23 requirements that will apply if the change occurs.

24 B. The source's suggested draft permit.

25 C. Certification by a responsible official
26 consistent with paragraph (e) of subsection 5 of

1 this Section, that the proposed modification meets
2 the criteria for use of group processing
3 procedures and a request that such procedures be
4 used.

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

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

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

20 iv. On a quarterly basis or within 5 business days
21 after receipt of an application demonstrating that the
22 aggregate of a source's pending applications equals or
23 exceeds the threshold level set forth within item (B)
24 of subparagraph (ii) of paragraph (b) of this
25 subsection, whichever is earlier, the Agency shall
26 promptly notify USEPA and affected States of the

1 requested permit modifications in accordance with
2 subsections 8 and 9 of this Section. The Agency shall
3 send any notice required under paragraph (d) of
4 subsection 8 of this Section to USEPA.

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

14 vi. The provisions of subparagraph (vi) of
15 paragraph (a) of this subsection shall apply to
16 modifications for group processing.

17 vii. The provisions of paragraph (j) of subsection
18 7 of this Section shall not apply to modifications
19 eligible for group processing.

20 c. Significant Permit Modifications.

21 i. Significant modification procedures shall be
22 used for applications requesting significant permit
23 modifications and for those applications that do not
24 qualify as either minor permit modifications or as
25 administrative permit amendments.

26 ii. Every significant change in existing

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

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

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

23 15. Reopenings for Cause by the Agency.

24 a. Each issued CAAPP permit shall include provisions
25 specifying the conditions under which the permit will be

1 reopened prior to the expiration of the permit. Such
2 revisions shall be made as expeditiously as practicable. A
3 CAAPP permit shall be reopened and revised under any of
4 the following circumstances, in accordance with procedures
5 adopted by the Agency:

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

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

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

25 iv. The Agency or USEPA determines that the permit
26 must be revised or revoked to assure compliance with

1 the applicable requirements.

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

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

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

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

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

3 16. Reopenings for Cause by USEPA.

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

24 b. i. Prior to the Agency's submittal to USEPA of a
25 proposed determination to terminate or revoke and

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

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

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

26 c. USEPA shall review the proposed determination to

1 terminate, modify, or revoke and reissue the permit within
2 90 days after receipt.

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

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

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

1 Air Act, regulations promulgated thereunder, this Act,
2 and regulations promulgated thereunder.

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

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 17. Title IV; Acid Rain Provisions.

13 a. The Agency shall act on initial CAAPP applications
14 for affected sources for acid deposition in accordance
15 with this Section and Title V of the Clean Air Act and
16 regulations promulgated thereunder, except as modified by
17 Title IV of the Clean Air Act and regulations promulgated
18 thereunder. The Agency shall issue initial CAAPP permits
19 to the affected sources for acid deposition which shall
20 become effective no earlier than January 1, 1995, and
21 which shall terminate on December 31, 1999, in accordance
22 with this Section. Subsequent CAAPP permits issued to
23 affected sources for acid deposition shall be issued for a
24 fixed term of 5 years. Title IV of the Clean Air Act and
25 regulations promulgated thereunder, including but not

1 limited to 40 C.F.R. Part 72, as now or hereafter amended,
2 are applicable to and enforceable under this Act.

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

23 c. Each Phase II acid rain permit issued in accordance
24 with this subsection shall have a fixed term of 5 years.
25 Except as provided in paragraph b above, the Agency shall
26 issue or deny a Phase II acid rain permit within 18 months

1 of receiving a complete Phase II permit application and
2 compliance plan.

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

18 e. A designated representative of an affected source
19 for acid deposition shall submit a timely and complete
20 Title IV NOx permit application to the Agency, not later
21 than January 1, 1998, that meets the requirements of
22 Titles IV and V of the Clean Air Act and its regulations.
23 The Agency shall reopen the Phase II acid rain permit for
24 cause and incorporate the approved NOx provisions into the
25 Phase II acid rain permit not later than January 1, 1999,
26 in accordance with this Section, except as modified by

1 Title IV of the Clean Air Act and regulations promulgated
2 thereunder. Such reopening shall not affect the term of
3 the Phase II acid rain permit.

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

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

25 h. The Agency shall not include or implement any
26 measure which would interfere with or modify the

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

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

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

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

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

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

25 k. The USEPA may intervene as a matter of right in any
26 permit appeal involving a Phase II acid rain permit

1 provision or denial of a Phase II acid rain permit.

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

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

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

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

24 18. Fee Provisions.

25 a. A source subject to this Section or excluded under

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

10 i. The fee for a source allowed to emit less than
11 100 tons per year of any combination of regulated air
12 pollutants, except greenhouse gases, shall be \$1,800
13 per year, and that fee shall increase, beginning
14 January 1, 2012, to \$2,150 per year.

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

20 A. The Agency shall assess a fee of \$18 per
21 ton, per year for the allowable emissions of
22 regulated air pollutants subject to this
23 subparagraph (ii) of paragraph (a) of subsection
24 18, and that fee shall increase, beginning January
25 1, 2012, to \$21.50 per ton, per year. These fees
26 shall be used by the Agency and the Board to fund

1 the activities required by Title V of the Clean
2 Air Act including such activities as may be
3 carried out by other State or local agencies
4 pursuant to paragraph (d) of this subsection. The
5 amount of such fee shall be based on the
6 information supplied by the applicant in its
7 complete CAAPP permit application or in the CAAPP
8 permit if the permit has been granted and shall be
9 determined by the amount of emissions that the
10 source is allowed to emit annually, provided
11 however, that the maximum fee for a CAAPP permit
12 under this subparagraph (ii) of paragraph (a) of
13 subsection 18 is \$250,000, and increases,
14 beginning January 1, 2012, to \$294,000. Beginning
15 January 1, 2012, the maximum fee under this
16 subparagraph (ii) of paragraph (a) of subsection
17 18 for a source that has been excluded under
18 subsection 1.1 of this Section or under paragraph
19 (c) of subsection 3 of this Section is \$4,112. The
20 Agency shall provide as part of the permit
21 application form required under subsection 5 of
22 this Section a separate fee calculation form which
23 will allow the applicant to identify the allowable
24 emissions and calculate the fee. In no event shall
25 the Agency raise the amount of allowable emissions
26 requested by the applicant unless such increases

1 are required to demonstrate compliance with terms
2 of a CAAPP permit.

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

17 B. The applicant or permittee may pay the fee
18 annually or semiannually for those fees greater
19 than \$5,000. However, any applicant paying a fee
20 equal to or greater than \$100,000 shall pay the
21 full amount on July 1, for the subsequent fiscal
22 year, or pay 50% of the fee on July 1 and the
23 remaining 50% by the next January 1. The Agency
24 may change any annual billing date upon reasonable
25 notice, but shall prorate the new bill so that the
26 permittee or applicant does not pay more than its

1 required fees for the fee period for which payment
2 is made.

3 b. (Blank).

4 c. (Blank).

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

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

21 f. For purposes of this subsection, the term
22 "regulated air pollutant" shall have the meaning given to
23 it under subsection 1 of this Section but shall exclude
24 the following:

25 i. carbon monoxide;

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

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

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

1 standard, providing a reasonable time for the applicable
2 source to comply with the standard, but no longer than 8
3 years after the date on which the source is first required
4 to comply with the emissions limitation established under
5 this subsection.

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

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

18 e. The Agency has the authority to implement Section
19 112(g) of the Clean Air Act consistent with the Clean Air
20 Act and federal regulations promulgated thereunder. If the
21 Agency refuses to include the emission limitations
22 proposed in an application submitted by an owner or
23 operator for a case-by-case maximum achievable control
24 technology (MACT) determination, the owner or operator may
25 petition the Board to determine whether the emission
26 limitation proposed by the owner or operator or an

1 alternative emission limitation proposed by the Agency
2 provides for a level of control required by Section 112 of
3 the Clean Air Act, or to otherwise establish an
4 appropriate emission limitation under Section 112 of the
5 Clean Air Act.

6 20. Small Business.

7 a. For purposes of this subsection:

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

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

19 "Small Business Stationary Source" means a stationary
20 source that:

21 1. is owned or operated by a person that employs
22 100 or fewer individuals;

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

25 3. is not a major source as that term is defined in

1 subsection 2 of this Section;

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

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

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

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

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

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

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

25 g. There is hereby created a State Compliance Advisory
26 Panel (hereinafter in this subsection referred to as

1 "Panel") for determining the overall effectiveness of the
2 Small Business Assistance Program within this State.

3 h. The selection of Panel members shall be by the
4 following method:

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

9 2. The Director of the Agency shall select one
10 member to represent the Agency; and

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

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

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

23 21. Temporary Sources.

24 a. The Agency may issue a single permit authorizing
25 emissions from similar operations by the same source owner

1 or operator at multiple temporary locations, except for
2 sources which are affected sources for acid deposition
3 under Title IV of the Clean Air Act.

4 b. The applicant must demonstrate that the operation
5 is temporary and will involve at least one change of
6 location during the term of the permit.

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

13 22. Solid Waste Incineration Units.

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

20 b. During the review in paragraph (a) of this
21 subsection, the Agency shall fully review the previously
22 submitted CAAPP permit application and corresponding
23 reports subsequently submitted to determine whether the
24 source is in compliance with all applicable requirements.

25 c. If the Agency determines that the source is not in

1 compliance with all applicable requirements it shall
2 revise the CAAPP permit as appropriate.

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

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

9 (415 ILCS 5/39.15 new)

10 Sec. 39.15. Environmental justice considerations in
11 permitting.

12 (a) The following public participation requirements for
13 permitting transactions in an environmental justice community
14 must be complied with:

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

22 (2) In addition to the public notice requirements
23 referenced in paragraph (1), the Agency shall provide the
24 public with notice of an application for a permit, permit
25 renewal, or permit modification if the facility or

1 proposed facility is located or is to be located in an
2 environmental justice community for the following types of
3 permitting transactions: (i) permits for pollution control
4 facilities subject to local siting review under Section
5 39.2; and (ii) individual minor or major NPDES permits
6 issued under subsection (b) of Section 39. The public
7 notice shall:

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

17 (B) include: (i) the name and address of the
18 permit applicant and the facility or proposed
19 facility; and (ii) the activity or activities at the
20 facility or proposed facility being permitted.

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

23 (1) For a community determined to be in linguistic
24 isolation, the Agency shall provide all public notices
25 required by this Section in a multilingual format
26 appropriate to the needs of the linguistically isolated

1 community.

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

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

13 (415 ILCS 5/40) (from Ch. 111 1/2, par. 1040)

14 Sec. 40. Appeal of permit denial.

15 (a)(1) If the Agency refuses to grant or grants with
16 conditions a permit under Section 39 of this Act, the
17 applicant may, within 35 days after the date on which the
18 Agency served its decision on the applicant, petition for a
19 hearing before the Board to contest the decision of the
20 Agency. However, the 35-day period for petitioning for a
21 hearing may be extended for an additional period of time not to
22 exceed 90 days by written notice provided to the Board from the
23 applicant and the Agency within the initial appeal period. The
24 Board shall give 21 days' notice to any person in the county
25 where is located the facility in issue who has requested

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

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

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

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

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

24 (c) Any party to an Agency proceeding conducted pursuant
25 to Section 39.3 of this Act may petition as of right to the
26 Board for review of the Agency's decision within 35 days from

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

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

25 (e)(1) If the Agency grants or denies a permit under
26 subsection (b) of Section 39 of this Act, a third party, other

1 than the permit applicant or Agency, may petition the Board
2 within 35 days from the date of issuance of the Agency's
3 decision, for a hearing to contest the decision of the Agency.

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

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

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

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

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

23 (g) If the Agency grants or denies a permit under
24 subsection (y) of Section 39, a third party, other than the
25 permit applicant or Agency, may appeal the Agency's decision
26 as provided under federal law for CCR surface impoundment

1 permits.

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

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

18 (415 ILCS 5/40.4 new)

19 Sec. 40.4. Environmental justice grievance.

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

24 (b) An environmental justice grievance must allege
25 discrimination on the basis of an individual's actual or

1 perceived race, color, religion, national origin, citizenship,
2 ancestry, age, sex, marital status, order of protection
3 status, conviction record, arrest record, disability, military
4 status, sexual orientation, gender identity, gender
5 expression, pregnancy, or unfavorable discharge from military
6 service.

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

11 (1) be in writing;

12 (2) describe with specificity the discrimination
13 alleged; and

14 (3) identify the parties impacted by the alleged
15 discrimination.

16 (d) The complaint under subsection (c) must be addressed
17 as follows:

18 Illinois Environmental Protection Agency

19 Environmental Justice Officer

20 1021 North Grand Avenue East

21 P.O. Box 19276

22 Springfield, IL 62794

23 (e) Within 10 days after receiving the complaint filed
24 under subsection (c), the Agency shall provide written notice
25 of receipt and acceptance of the complainant. If the Agency
26 determines that it has jurisdiction to review the complaint,

1 the complaint will be considered meritorious, unless:

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

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

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

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

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