



Sen. Daniel Biss

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1 AMENDMENT TO SENATE BILL 2213

2 AMENDMENT NO. _____. Amend Senate Bill 2213 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. Short title. This Act may be cited as the
5 Illinois Workers' Rights and Worker Safety Act.

6 Section 10. Definitions. As used in this Act:

7 "Federal law" means the federal Fair Labor Standards Act,
8 the federal Occupational Safety and Health Act the Federal Coal
9 Mine Health and Safety Act, and federal regulations issued
10 under these federal statutes as these federal statutes existed
11 on January 19, 2017.

12 "State agency" means a State agency designated by law to
13 implement the federal law or its State analog.

14 Section 15. Operative provisions. Except as authorized by
15 State law enacted after January 19, 2017, a State agency may

1 not amend or revise the State agency's rules in a manner that
2 is less stringent in its protection of workers' rights or
3 worker safety than standards established under federal law as
4 the federal law existed on January 19, 2017.

5 Except as otherwise provided in State law, a State agency
6 may establish workers' rights and worker safety standards for
7 Illinois that are more stringent than those provided in federal
8 law as the federal law existed on January 19, 2017.

9 Section 20. Implementation; reporting. Each State agency
10 shall undertake all feasible efforts using the State agency's
11 authority under State and federal law to implement and enforce
12 this Act. Each State agency that takes steps to enforce this
13 Act shall submit a report to the General Assembly at least once
14 every year describing the State agency's compliance with this
15 Act. The report to the General Assembly shall be filed with the
16 Clerk of the House of Representatives and the Secretary of the
17 Senate in electronic form only, in the manner that the Clerk
18 and the Secretary shall direct.

19 Section 25. Repeal. This Act is repealed 3 years from the
20 effective date of this Act.

21 Section 30. The Environmental Protection Act is amended by
22 changing Sections 9.15 and 39.5 and by adding Title XVIII as
23 follows:

1 (415 ILCS 5/9.15)

2 Sec. 9.15. Greenhouse gases.

3 (a) An air pollution construction permit shall not be
4 required due to emissions of greenhouse gases if the equipment,
5 site, or source is not subject to regulation, as defined by 40
6 CFR 52.21, as now or hereafter amended, for greenhouse gases.
7 This exemption does not relieve an owner or operator from the
8 obligation to comply with other applicable rules or
9 regulations.

10 (b) An air pollution operating permit shall not be required
11 due to emissions of greenhouse gases if the equipment, site, or
12 source is not subject to regulation, as defined by Section 39.5
13 of this Act, for greenhouse gases. This exemption does not
14 relieve an owner or operator from the obligation to comply with
15 other applicable rules or regulations.

16 (c) (Blank). ~~Notwithstanding any provision to the contrary~~
17 ~~in this Section, an air pollution construction or operating~~
18 ~~permit shall not be required due to emissions of greenhouse~~
19 ~~gases if any of the following events occur:~~

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

23 ~~(2) the issuance of any opinion, ruling, judgment,~~
24 ~~order, or decree by a federal court depriving the~~
25 ~~Administrator of the USEPA of authority to regulate~~

1 ~~greenhouse gases under the Clean Air Act; or~~

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

6 ~~This subsection (c) does not relieve an owner or operator~~
7 ~~from the obligation to comply with applicable rules or~~
8 ~~regulations other than those relating to greenhouse gases.~~

9 (d) (Blank). ~~If any event listed in subsection (c) of this~~
10 ~~Section occurs, permits issued after such event shall not~~
11 ~~impose permit terms or conditions addressing greenhouse gases~~
12 ~~during the effectiveness of any event listed in subsection (c).~~

13 (e) (Blank). ~~If an event listed in subsection (c) of this~~
14 ~~Section occurs, any owner or operator with a permit that~~
15 ~~includes terms or conditions addressing greenhouse gases may~~
16 ~~elect to submit an application to the Agency to address a~~
17 ~~revision or repeal of such terms or conditions. The Agency~~
18 ~~shall expeditiously process such permit application in~~
19 ~~accordance with applicable laws and regulations.~~

20 (Source: P.A. 97-95, eff. 7-12-11.)

21 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

22 Sec. 39.5. Clean Air Act Permit Program.

23 1. Definitions. For purposes of this Section:

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

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

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

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

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

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

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

24 (1) Any standard or other requirement provided for in
25 the applicable state implementation plan approved or
26 promulgated by USEPA under Title I of the Clean Air Act

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

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

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

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

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

25 (5) Any standard or other requirement of the acid rain
26 program under Title IV of the Clean Air Act or the

1 regulations promulgated thereunder.

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

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

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

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

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

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

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

24 "Applicable requirement" means all applicable Clean Air
25 Act requirements and any other standard, limitation, or other
26 requirement contained in this Act or regulations promulgated

1 under this Act as applicable to sources of air contaminants
2 (including requirements that have future effective compliance
3 dates).

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

6 "CAAPP application" means an application for a CAAPP
7 permit.

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

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

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

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

25 "Draft CAAPP permit" means the version of a CAAPP permit
26 for which public notice and an opportunity for public comment

1 and hearing is offered by the Agency.

2 "Effective date of the CAAPP" means the date that USEPA
3 approves Illinois' CAAPP.

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

9 "Federally enforceable" means enforceable by USEPA.

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

17 "General permit" means a permit issued to cover numerous
18 similar sources in accordance with subsection 11 of this
19 Section.

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

23 "Maximum achievable control technology" or "MACT" means
24 the maximum degree of reductions in emissions deemed achievable
25 under Section 112 of the Clean Air Act.

26 "Owner or operator" means any person who owns, leases,

1 operates, controls, or supervises a stationary source.

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

6 "Permit revision" means a permit modification or
7 administrative permit amendment.

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

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

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

26 "Preconstruction Permit" or "Construction Permit" means a

1 permit which is to be obtained prior to commencing or beginning
2 actual construction or modification of a source or emissions
3 unit.

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

8 "Regulated air pollutant" means the following:

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

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

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

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

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

22 (i) Any pollutant subject to requirements under
23 Section 112(j) of the Clean Air Act. Any pollutant
24 listed under Section 112(b) for which the subject
25 source would be major shall be considered to be
26 regulated 18 months after the date on which USEPA was

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

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

8 (6) Greenhouse gases.

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

11 "Responsible official" means one of the following:

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

25 (2) For a partnership or sole proprietorship: a general
26 partner or the proprietor, respectively, or in the case of

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

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

18 (4) For affected sources for acid deposition:

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

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

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

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

1 incinerators provided that such incinerators only burn wood
2 wastes, yard waste and clean lumber and that such air curtain
3 incinerators comply with opacity limitations to be established
4 by the USEPA by rule.

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

26 "Stationary source" means any building, structure,

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

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

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

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

21 1.1. Exclusion From the CAAPP.

22 a. An owner or operator of a source which determines
23 that the source could be excluded from the CAAPP may seek
24 such exclusion prior to the date that the CAAPP application
25 for the source is due but in no case later than 9 months

1 after the effective date of the CAAPP through the
2 imposition of federally enforceable conditions limiting
3 the "potential to emit" of the source to a level below the
4 major source threshold for that source as described in
5 paragraph (c) of subsection 2 of this Section, within a
6 State operating permit issued pursuant to subsection (a) of
7 Section 39 of this Act. After such date, an exclusion from
8 the CAAPP may be sought under paragraph (c) of subsection 3
9 of this Section.

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

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

1 of this Section.

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

6 e. The Agency shall provide such sources with the
7 necessary permit application forms.

8 2. Applicability.

9 a. Sources subject to this Section shall include:

10 i. Any major source as defined in paragraph (c) of
11 this subsection.

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

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

21 iv. Any other source subject to this Section under
22 the Clean Air Act or regulations promulgated
23 thereunder, or applicable Board regulations.

24 b. Sources exempted from this Section shall include:

25 i. All sources listed in paragraph (a) of this

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

8 ii. Nonmajor sources subject to a standard or other
9 requirements subsequently promulgated by USEPA under
10 Section 111 or 112 of the Clean Air Act that were ~~are~~
11 determined by USEPA before January 19, 2017 to be
12 exempt at the time a new standard is promulgated.

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

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

23 v. Any other source categories exempted before
24 January 19, 2017 by USEPA regulations pursuant to
25 Section 502(a) of the Clean Air Act.

26 vi. (Blank). ~~Major sources of greenhouse gas~~

1 ~~emissions required to obtain a CAAPP permit under this~~
2 ~~Section if any of the following occurs:~~

3 ~~(A) enactment of federal legislation depriving~~
4 ~~the Administrator of the USEPA of authority to~~
5 ~~regulate greenhouse gases under the Clean Air Act;~~

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

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

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

1 ~~expeditiously process the permit application in~~
2 ~~accordance with applicable laws and regulations.~~
3 ~~Nothing in this subparagraph (vi) shall relieve an~~
4 ~~owner or operator of a source from the requirement to~~
5 ~~obtain a CAAPP permit for its emissions of regulated~~
6 ~~air pollutants other than greenhouse gases, as~~
7 ~~required by this Section.~~

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

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

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

1 units, whether or not such units are in a
2 contiguous area or under common control, to
3 determine whether such stations are major sources.

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

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

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

22 B. Kraft pulp mills.

23 C. Portland cement plants.

24 D. Primary zinc smelters.

25 E. Iron and steel mills.

26 F. Primary aluminum ore reduction plants.

1 G. Primary copper smelters.

2 H. Municipal incinerators capable of charging
3 more than 250 tons of refuse per day.

4 I. Hydrofluoric, sulfuric, or nitric acid
5 plants.

6 J. Petroleum refineries.

7 K. Lime plants.

8 L. Phosphate rock processing plants.

9 M. Coke oven batteries.

10 N. Sulfur recovery plants.

11 O. Carbon black plants (furnace process).

12 P. Primary lead smelters.

13 Q. Fuel conversion plants.

14 R. Sintering plants.

15 S. Secondary metal production plants.

16 T. Chemical process plants.

17 U. Fossil-fuel boilers (or combination
18 thereof) totaling more than 250 million British
19 thermal units per hour heat input.

20 V. Petroleum storage and transfer units with a
21 total storage capacity exceeding 300,000 barrels.

22 W. Taconite ore processing plants.

23 X. Glass fiber processing plants.

24 Y. Charcoal production plants.

25 Z. Fossil fuel-fired steam electric plants of
26 more than 250 million British thermal units per

1 hour heat input.

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

6 BB. Any other stationary source category
7 designated by USEPA by rule.

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

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

1 subsection.

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

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

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

16 3. Agency Authority To Issue CAAPP Permits and Federally
17 Enforceable State Operating Permits.

18 a. The Agency shall issue CAAPP permits under this
19 Section consistent with the Clean Air Act and regulations
20 promulgated thereunder and this Act and regulations
21 promulgated thereunder.

22 b. The Agency shall issue CAAPP permits for fixed terms
23 of 5 years, except CAAPP permits issued for solid waste
24 incineration units combusting municipal waste which shall
25 be issued for fixed terms of 12 years and except CAAPP

1 permits for affected sources for acid deposition which
2 shall be issued for initial terms to expire on December 31,
3 1999, and for fixed terms of 5 years thereafter.

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

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

21 4. Transition.

22 a. An owner or operator of a CAAPP source shall not be
23 required to renew an existing State operating permit for
24 any emission unit at such CAAPP source once a CAAPP
25 application timely submitted prior to expiration of the

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

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

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

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

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

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

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

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

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

1 5. Applications and Completeness.

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

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

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

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

24 e. Each submitted CAAPP application shall be certified
25 for truth, accuracy, and completeness by a responsible

1 official in accordance with applicable regulations.

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

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

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

26 i. Any applicant who fails to submit any relevant facts

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

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

24 Where the Agency does not take final action on the
25 permit within the required time period, the permit shall
26 not be deemed issued; rather, the failure to act shall be

1 treated as a final permit action for purposes of judicial
2 review pursuant to Sections 40.2 and 41 of this Act.

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

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

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

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

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

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

26 q. The Agency shall make available to the public all

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

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

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

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

20 u. An owner or operator of a CAAPP source which seeks
21 exclusion from the CAAPP through the imposition of
22 federally enforceable conditions, pursuant to paragraph
23 (c) of subsection 3 of this Section, must request such
24 exclusion within a CAAPP application submitted consistent
25 with this subsection on or after the date that the CAAPP
26 application for the source is due. Prior to such date, but

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

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

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

24 x. The owner or operator of a new CAAPP source shall
25 submit its complete CAAPP application consistent with this
26 subsection within 12 months after commencing operation of

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

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

13 6. Prohibitions.

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

24 b. After the applicable CAAPP permit or renewal
25 application submittal date, as specified in subsection 5 of

1 this Section, no person shall operate a CAAPP source
2 without a CAAPP permit unless the complete CAAPP permit or
3 renewal application for such source has been timely
4 submitted to the Agency.

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

13 7. Permit Content.

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

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

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

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

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

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

25 ii. Where the applicable requirement does not
26 require periodic testing or instrumental or

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

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

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

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

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

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

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

24 D. The analytical techniques or methods used.

25 E. The results of such analyses.

26 F. The operating conditions as existing at the

1 time of sampling or measurement.

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

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

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

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

1 preventive measures taken.

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

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

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

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

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

1 A. The applicable requirement is specifically
2 identified within the permit; or

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

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

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

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

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

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

26 C. The applicable requirements of the acid

1 rain program consistent with Section 408(a) of the
2 Clean Air Act.

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

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

14 i. An emergency occurred and the permittee can
15 identify the cause(s) of the emergency.

16 ii. The permitted facility was at the time being
17 properly operated.

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

24 iv. During the period of the emergency the
25 permittee took all reasonable steps to minimize levels
26 of emissions that exceeded the emission limitations,

1 standards, or requirements in the permit.

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

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

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

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

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

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

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

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

20 B. Must meet all applicable requirements;

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

25 m. The Agency shall specifically designate as not being
26 federally enforceable under the Clean Air Act any terms and

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

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

15 o. Each CAAPP permit issued under subsection 10 of this
16 Section shall include provisions stating the 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 to
2 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 of
11 planned changes or anticipated noncompliance does not
12 stay any permit condition.

13 iv. Property rights. The permit does not convey any
14 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 Agency
19 may request in writing to determine whether cause
20 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 approved
4 pursuant to subsection 18 of this Section, and submit
5 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 this
14 Section shall contain the following elements with respect
15 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 met,
15 and any preventive or corrective measures adopted.

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

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

25 B. A means for assessing or monitoring the
26 compliance of the source with its emissions

1 limitations, standards, and work practices.

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

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

7 2. The compliance status.

8 3. Whether compliance was continuous or
9 intermittent.

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

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

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

19 F. Other provisions as the Agency may require.

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

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

5 8. Public Notice; Affected State Review.

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

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

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

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

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

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

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

26 g. If requested by the permit applicant, the Agency

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

6 9. USEPA Notice and Objection.

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

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

24 c. If USEPA objects in writing to the issuance of the
25 proposed CAAPP permit within the 45-day period, the Agency

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

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

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

26 f. If the permit has not yet been issued and USEPA

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

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

22 h. The Agency shall have the authority to adopt
23 procedural rules, in accordance with the Illinois
24 Administrative Procedure Act, as the Agency deems
25 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 and
26 applicable regulations.

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

7 b. The Agency shall have the authority to deny a CAAPP
8 permit, permit modification, or permit renewal if the
9 applicant has not complied with the requirements of
10 subparagraphs (i) through (iv) of paragraph (a) of this
11 subsection or if USEPA objects to its issuance.

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

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

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

26 For purposes of obtaining judicial review under

1 Sections 40.2 and 41 of this Act, the Agency shall
2 provide to USEPA and each applicant, and, upon request,
3 to affected States, any person who participated in the
4 public comment process, and any other person who could
5 obtain judicial review under Sections 40.2 and 41 of
6 this Act, a copy of each CAAPP permit or notification
7 of denial pertaining to that party.

8 d. 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 11. General Permits.

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

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

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

25 d. The Agency shall comply with the public comment and

1 hearing provisions of this Section as well as the USEPA and
2 affected State review procedures prior to issuance of a
3 general permit.

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

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

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

17 12. Operational Flexibility.

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

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

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

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

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

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

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

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

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

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

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

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

24 B. The permit shield described in paragraph
25 (j) of subsection 7 of this Section shall extend to
26 terms and conditions that allow such increases and

1 decreases in emissions.

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

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

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

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

23 (iv) The permittee shall keep a record describing
24 changes made at the source that result in emissions of
25 a regulated air pollutant subject to an applicable
26 Clean Air Act requirement, but not otherwise regulated

1 under the permit, and the emissions resulting from
2 those changes.

3 c. 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 13. Administrative Permit Amendments.

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

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

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

21 i. Corrects typographical errors;

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

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

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

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

16 vi. (Blank); or

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

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

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

11 f. The CAAPP source may implement the changes addressed
12 in the request for an administrative permit amendment
13 immediately upon submittal of the request.

14 g. 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 14. Permit Modifications.

19 a. Minor permit modification procedures.

20 i. The Agency shall review a permit modification
21 using the "minor permit" modification procedures only
22 for those permit modifications that:

23 A. Do not violate any applicable requirement;

24 B. Do not involve significant changes to
25 existing monitoring, reporting, or recordkeeping

1 requirements in the permit;

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

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

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

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

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

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

23 ii. Notwithstanding subparagraph (i) of paragraph
24 (a) and subparagraph (ii) of paragraph (b) of this
25 subsection, minor permit modification procedures may
26 be used for permit modifications involving the use of

1 economic incentives, marketable permits, emissions
2 trading, and other similar approaches, to the extent
3 that such minor permit modification procedures are
4 explicitly provided for in an applicable
5 implementation plan or in applicable requirements
6 promulgated by USEPA.

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

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

14 B. The source's suggested draft permit;

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

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

24 iv. Within 5 working days after receipt of a
25 complete permit modification application, the Agency
26 shall notify USEPA and affected States of the requested

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

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

16 A. Issue the permit modification as proposed;

17 B. Deny the permit modification application;

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

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

26 vi. Any CAAPP source may make the change proposed

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

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

19 viii. If a construction permit is required,
20 pursuant to subsection (a) of Section 39 of this Act
21 and regulations thereunder, for a change for which the
22 minor permit modification procedures are applicable,
23 the source may request that the processing of the
24 construction permit application be consolidated with
25 the processing of the application for the minor permit
26 modification. In such cases, the provisions of this

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

10 b. Group Processing of Minor Permit Modifications.

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

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

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

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

1 or 5 tons per year, whichever is least.

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

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

9 B. The source's suggested draft permit.

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

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

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

1 a brief description of the requested modification.

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

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

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

25 vi. The provisions of subparagraph (vi) of
26 paragraph (a) of this subsection shall apply to

1 modifications for group processing.

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

5 c. Significant Permit Modifications.

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

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

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

1 and permit renewal. The Agency shall take final action
2 on significant permit modifications within 9 months
3 after receipt of a complete application.

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

8 15. Reopenings for Cause by the Agency.

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

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

24 ii. Additional requirements (including excess
25 emissions requirements) become applicable to an

1 affected source for acid deposition under the acid rain
2 program. Excess emissions offset plans shall be deemed
3 to be incorporated into the permit upon approval by
4 USEPA.

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

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

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

26 c. Proceedings regarding a reopened CAAPP permit shall

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

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

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

14 16. Reopenings for Cause by USEPA.

15 a. When USEPA finds that cause exists to terminate,
16 modify, or revoke and reissue a CAAPP permit pursuant to
17 subsection 15 of this Section, and thereafter notifies the
18 Agency and the permittee of such finding in writing, the
19 Agency shall forward to USEPA and the permittee a proposed
20 determination of termination, modification, or revocation
21 and reissuance as appropriate, in accordance with
22 paragraph (b) of this subsection. The Agency's proposed
23 determination shall be in accordance with the record, the
24 Clean Air Act, regulations promulgated thereunder, this
25 Act and regulations promulgated thereunder. Such proposed

1 determination shall not affect the permit or constitute a
2 final permit action for purposes of this Act or the
3 Administrative Review Law. The Agency shall forward to
4 USEPA such proposed determination within 90 days after
5 receipt of the notification from USEPA. If additional time
6 is necessary to submit the proposed determination, the
7 Agency shall request a 90-day extension from USEPA and
8 shall submit the proposed determination within 180 days
9 after receipt of notification from USEPA.

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

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

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

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

11 c. USEPA shall review the proposed determination to
12 terminate, modify, or revoke and reissue the permit within
13 90 days after receipt.

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

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

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

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

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

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

22 17. Title IV; Acid Rain Provisions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

26 iii. Any such allowance shall be accounted for

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

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

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

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

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

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

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

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

8 18. Fee Provisions.

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

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

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

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

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

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

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

25 B. The applicant or permittee may pay the fee
26 annually or semiannually for those fees greater

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

11 b. (Blank).

12 c. (Blank).

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

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

7 i. carbon monoxide;

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

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

17 19. Air Toxics Provisions.

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

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

21 b. Any Board proceeding brought under paragraph (a) or
22 (e) of this subsection shall be conducted according to the
23 Board's procedures for adjudicatory hearings and the Board
24 shall render its decision within 120 days of the filing of
25 the petition. Any such decision shall be subject to review
26 pursuant to Section 41 of this Act. Where USEPA promulgates

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

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

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

24 e. The Agency has the authority to implement Section
25 112(g) of the Clean Air Act consistent with the Clean Air
26 Act and federal regulations promulgated thereunder. If the

1 Agency refuses to include the emission limitations
2 proposed in an application submitted by an owner or
3 operator for a case-by-case maximum achievable control
4 technology (MACT) determination, the owner or operator may
5 petition the Board to determine whether the emission
6 limitation proposed by the owner or operator or an
7 alternative emission limitation proposed by the Agency
8 provides for a level of control required by Section 112 of
9 the Clean Air Act, or to otherwise establish an appropriate
10 emission limitation under Section 112 of the Clean Air Act.

11 20. Small Business.

12 a. For purposes of this subsection:

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

19 "Small Business Assistance Program" is a component of
20 the Program responsible for providing sufficient
21 communications with small businesses through the
22 collection and dissemination of information to small
23 business stationary sources; and

24 "Small Business Stationary Source" means a stationary
25 source that:

1 1. is owned or operated by a person that employs
2 100 or fewer individuals;

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

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

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

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

11 b. The Agency shall adopt and submit to USEPA, after
12 reasonable notice and opportunity for public comment, as a
13 revision to the Illinois state implementation plan, plans
14 for establishing the Program.

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

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

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

1 f. The State Ombudsman Office shall be located in an
2 existing Ombudsman office within the State or in any State
3 Department.

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

8 h. The selection of Panel members shall be by the
9 following method:

10 1. The Governor shall select two members who are
11 not owners or representatives of owners of small
12 business stationary sources to represent the general
13 public;

14 2. The Director of the Agency shall select one
15 member to represent the Agency; and

16 3. The State Legislature shall select four members
17 who are owners or representatives of owners of small
18 business stationary sources. Both the majority and
19 minority leadership in both Houses of the Legislature
20 shall appoint one member of the panel.

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

24 j. The Panel shall select its own Chair by a majority
25 vote. The Chair may meet and consult with the Ombudsman and
26 the head of the Small Business Assistance Program in

1 planning the activities for the Panel.

2 21. Temporary Sources.

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

8 b. The applicant must demonstrate that the operation is
9 temporary and will involve at least one change of location
10 during the term of the permit.

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

17 22. Solid Waste Incineration Units.

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

24 b. During the review in paragraph (a) of this

1 subsection, the Agency shall fully review the previously
2 submitted CAAPP permit application and corresponding
3 reports subsequently submitted to determine whether the
4 source is in compliance with all applicable requirements.

5 c. If the Agency determines that the source is not in
6 compliance with all applicable requirements it shall
7 revise the CAAPP permit as appropriate.

8 d. 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 (Source: P.A. 99-380, eff. 8-17-15; 99-933, eff. 1-27-17;
13 100-103, eff. 8-11-17.)

14 (415 ILCS 5/Tit. XVIII heading new)

15 TITLE XVIII: PROTECTION OF ENVIRONMENT, NATURAL RESOURCES, AND
16 PUBLIC HEALTH

17 (415 ILCS 5/59 new)

18 Sec. 59. Findings. The General Assembly finds and declares
19 that:

20 (1) For over 4 decades, Illinois and its residents have
21 relied on federal laws, including the federal Clean Air Act,
22 the Federal Water Pollution Control Act (Clean Water Act), the
23 federal Safe Drinking Water Act, and the federal Endangered
24 Species Act, along with their implementing regulations and

1 remedies, to protect our State's public health, environment,
2 and natural resources.

3 (2) These federal laws establish standards that serve as
4 the baseline level of public health and environmental
5 protection, while expressly authorizing states like Illinois
6 to adopt more protective measures.

7 (3) Beginning in 2017, a new presidential administration
8 and a United States Congress are controlled by one party that
9 has signaled a series of direct challenges to these federal
10 laws and the protections they provide, as well as to the
11 underlying science that makes these protections necessary, and
12 to the rights of the states to protect their own environment,
13 natural resources, and public health as they see fit.

14 (4) It is therefore necessary for the Illinois General
15 Assembly to enact legislation that will ensure continued
16 protections for the environment, natural resources, and public
17 health in the State even if the federal laws specified in
18 subsection (a) are undermined, amended, or repealed.

19 (415 ILCS 5/59.1 new)

20 Sec. 59.1. Intent. It is the intent of this Title to:

21 (1) Retain protections afforded under the federal laws
22 specified in Section 59.2 and regulations implementing those
23 federal laws in existence on or before January 19, 2017,
24 regardless of actions taken at the federal level.

25 (2) Protect public health and welfare from any actual or

1 potential adverse effect that reasonably may be anticipated to
2 occur from pollution, including the effects of climate change.

3 (3) Preserve, protect, and enhance the environment and
4 natural resources in Illinois, including, but not limited to,
5 the State and national parks, national wilderness areas,
6 national monuments, national waterways, including Lake
7 Michigan and the Mississippi River, and other areas with
8 special national or regional natural, recreational, scenic, or
9 historic value.

10 (4) Ensure that economic growth will occur in a manner
11 consistent with the protection of public health and the
12 environment and preservation of existing natural resources.

13 (5) Ensure that any decision made by a public agency that
14 may adversely impact public health, the environment, or natural
15 resources is made only after careful evaluation of all the
16 consequences of that decision and after adequate procedural
17 opportunities for informed public participation in the
18 decision-making process.

19 (415 ILCS 5/59.2 new)

20 Sec. 59.2. Definitions. As used in this Title:

21 "Baseline federal law standards" means federal laws and
22 federal regulations issued under the federal laws as those
23 federal laws and regulations existed on January 19, 2017.

24 "Federal laws" means any of the following:

25 (1) The federal Clean Air Act.

1 (2) The Federal Water Pollution Control Act.

2 (3) The federal Safe Drinking Water Act.

3 (4) The federal Endangered Species Act.

4 "State agency" means a State agency designated by law to
5 implement the federal law or its State analog.

6 (415 ILCS 5/59.3 new)

7 Sec. 59.3. Operative provisions.

8 (a) A State or local agency shall not amend or revise its
9 rules to be less stringent than the baseline federal law
10 standards.

11 (b) A State or local agency may adopt rules for Illinois
12 that are more stringent than the baseline federal law
13 standards.

14 (415 ILCS 5/60 new)

15 Sec. 60. Air.

16 (a) The General Assembly finds all of the following:

17 (1) Title II of the Environmental Protection Act is the
18 State analog to the federal Clean Air Act.

19 (2) State agencies formulate and adopt the state
20 implementation plans (SIPs) for Illinois under the federal
21 Clean Air Act, and issue permits governing the emission of
22 certain substances, including greenhouse gases, into the
23 air.

24 (b) Except as otherwise authorized by State law, all of the

1 following apply:

2 (1) State agencies shall maintain and enforce all air
3 quality requirements and standards that are at least as
4 stringent as required by the baseline federal law
5 standards, in addition to those required under State law.

6 (2) If State agencies have not established a standard
7 or requirement for an air pollutant for which a standard or
8 requirement exists in the baseline federal law standards
9 and the federal standard or requirement is amended, then
10 the State agencies shall adopt a standard or requirement
11 that is at least as stringent as the baseline federal law
12 standards.

13 (3) State agencies shall adopt state implementation
14 plans for Illinois that meet requirements that are at least
15 as stringent as those required by the applicable baseline
16 federal law standards, in addition to those required by
17 State law.

18 (4) If the federal transportation conformity program
19 becomes less stringent than the applicable baseline
20 federal law standards, then State agencies shall adopt and
21 implement equivalent requirements that are at least as
22 stringent as those required by the applicable baseline
23 federal law standards, in addition to those required by
24 State law.

1 Sec. 61. Water.

2 (a) The General Assembly finds all of the following:

3 (1) Title III of the Environmental Protection Act is
4 the State analog to the Federal Water Pollution Control
5 Act, otherwise known as the federal Clean Water Act.

6 (2) Title IV and Title IV-A of the Environmental
7 Protection Act are the State analog to the federal Safe
8 Drinking Water Act.

9 (3) State agencies administer and implement the
10 federal Clean Water Act and the Environmental Protection
11 Act to preserve, protect, enhance, and restore water
12 quality by setting statewide policy, formulating and
13 adopting water quality control plans, setting standards,
14 issuing permits and waste discharge requirements,
15 determining compliance with those permits and waste
16 discharge requirements, and taking appropriate enforcement
17 actions.

18 (4) State agencies regulate public drinking water
19 systems under the federal Safe Drinking Water Act and the
20 Environmental Protection Act to ensure the delivery of safe
21 drinking water to Illinoisans.

22 (b) Except as otherwise authorized by State law, the
23 following apply:

24 (1) State agencies shall maintain and enforce all water
25 supply and water quality standards and permitting
26 requirements that are at least as stringent as required by

1 the applicable baseline federal law standards, in addition
2 to those required by State law.

3 (2) State agencies shall maintain and enforce all
4 drinking water standards that are at least as stringent as
5 required by the applicable baseline federal law standards,
6 in addition to those required by State law, including the
7 level of lead in drinking water.

8 (3) If State agencies have not established a water
9 supply or water quality standard or requirement for which a
10 standard or requirement exists in the baseline federal law
11 standards and the federal requirement or standard is
12 amended, then State agencies as appropriate shall adopt a
13 standard or requirement that is at least as stringent as
14 the baseline federal law standards.

15 (4) If State agencies have not established a drinking
16 water standard or requirement for which a standard or
17 requirement exists in the baseline federal law standards
18 and the federal standard or requirement is amended, then
19 State agencies, as appropriate, shall adopt a standard or
20 requirement that is at least as stringent as the baseline
21 federal law standards.

22 (5) Waste discharge requirements and permits that are
23 issued on and after January 19, 2017, shall be at least as
24 protective of the environment and comply with all
25 applicable water quality standards, effluent limitations,
26 and restrictions as required by the applicable baseline

1 federal law standards, in addition to those required by
2 State law.

3 (6) Drinking water supply permits that are issued on
4 and after January 19, 2017, shall be at least as protective
5 of public health and comply with all applicable drinking
6 water standards as required by the applicable baseline
7 federal law standards, in addition to those required by
8 State law.

9 (7) A water quality management plan adopted on or after
10 January 19, 2017, shall be at least as protective of the
11 environment pursuant to, and in compliance with, all
12 applicable water quality standards, effluent limitations,
13 and restrictions as required by the applicable baseline
14 federal law standards, in addition to those required by
15 State law.

16 (8) When a waste discharge requirement or water quality
17 management plan is renewed or amended, any water quality
18 standards, effluent limitations, restrictions, and
19 conditions shall be at least as protective of the
20 environment pursuant to, and in compliance with, all
21 applicable water quality standards, effluent limitations,
22 and restrictions as required by the applicable baseline
23 federal law standards, in addition to those required by
24 State law.

1 Sec. 62. Endangered and threatened species.

2 (a) The General Assembly finds all of the following:

3 (1) The Illinois Endangered Species Protection Act is
4 the State analog to the federal Endangered Species Act.

5 (2) The Illinois Endangered Species Protection Act
6 prohibits the taking of any species that the Department of
7 Natural Resources determines to be endangered or
8 threatened, unless the Department of Natural Resources
9 allows for take incidental to otherwise lawful activity
10 under Section 4 of the Illinois Endangered Species
11 Protection Act.

12 (b) Except as otherwise authorized by State law, both of
13 the following apply:

14 (1) All native species not already listed under the
15 Illinois Endangered Species Protection Act that are listed
16 as endangered or threatened under the federal Endangered
17 Species Act on January 19, 2017, shall be listed as an
18 endangered or threatened species, as appropriate, under
19 the Illinois Endangered Species Protection Act. The
20 Department of Natural Resources may review and modify the
21 listing of species in accordance with this Section.

22 (2) Any new or revised consistency determination or
23 incidental take permit issued to a permittee on or after
24 January 19, 2017, shall only authorize incidental take if
25 it requires conditions at least as stringent as required by
26 the relevant baseline federal law standards, including,

1 but not limited to, any federal incidental take statement,
2 incidental take permit, or biological opinion in effect and
3 applicable to a permittee or project as the baseline
4 federal law standard existed on January 19, 2017. This
5 subsection does not modify the requirements of Section 5.5
6 of the Illinois Endangered Species Protection Act.

7 (415 ILCS 5/63 new)

8 Sec. 63. Implementation; reporting. Each State agency
9 shall undertake all feasible efforts using the State agency's
10 authority under State and federal law to implement and enforce
11 this Title. Each State agency that takes steps to enforce this
12 Title shall submit a report to the General Assembly at least
13 once every year describing the State agency' compliance with
14 this Title. The report to the General Assembly shall be filed
15 with the Clerk of the House of Representatives and the
16 Secretary of the Senate in electronic form only, in the manner
17 that the Clerk and the Secretary shall direct.

18 (415 ILCS 5/64 new)

19 Sec. 64. Repeal. This Title is repealed 3 years after the
20 effective date of this amendatory Act of the 100th General
21 Assembly.

22 Section 35. Labor; environmental standards; baseline
23 federal law standard. For the purposes of this Act, including

1 the new provisions and amendatory provisions, all requirements
2 that a labor or environmental standard be identical in
3 substance or consistent with a baseline federal law standard
4 shall mean that a standard is identical in substance or
5 consistent with that baseline federal law standard as of
6 January 19, 2017.

7 Section 97. Severability. The provisions of this Act are
8 severable. If any provision of this Act or its application is
9 held invalid, that invalidity shall not affect other provisions
10 or applications that can be given effect without the invalid
11 provision or application."