



Sen. John F. Curran

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1 AMENDMENT TO SENATE BILL 1853

2 AMENDMENT NO. _____. Amend Senate Bill 1853 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by
5 changing Section 39.5 and by adding Section 9.16 as follows:

6 (415 ILCS 5/9.16 new)

7 Sec. 9.16. Legislative findings; ethylene oxide emission
8 standards; restrictions; notice for facilities.

9 (a) The General Assembly finds that the emission of
10 ethylene oxide constitutes a threat to public health and
11 welfare, depresses property values, and diminishes quality of
12 life. It is the purpose of this Section to restore, maintain,
13 and enhance the purity of the air of this State in order to
14 protect health, welfare, and quality of life and to ensure that
15 no air contaminants are discharged into the atmosphere without
16 being given the necessary degree of treatment and control. The

1 General Assembly also finds that the protection of public
2 health requires that proper sterilization of medical
3 technology is allowed in Illinois, and it is the policy of the
4 State to properly address these responsibilities.

5 (b) The Agency shall immediately reevaluate emissions
6 standards and regulations for ethylene oxide and adopt new
7 emissions standards and related regulations in accordance with
8 the modern understanding of the properties of ethylene oxide.
9 The Agency shall submit new regulations and emissions standards
10 for ethylene oxide to the Board within 60 days of the effective
11 date of this amendatory Act of the 101st General Assembly. The
12 Agency shall immediately adopt new emission standards and
13 regulations that shall achieve, at minimum, the following:

14 (1) Limit the use of ethylene oxide resulting in
15 emissions high enough to require permitting under the Clean
16 Air Act Permit Program established under Section 39.5 to
17 the sterilization of medical technology or other medically
18 necessary purposes. The use of ethylene oxide that requires
19 permitting under the Clean Air Act Permit Program for any
20 non-medical purpose shall not be allowed.

21 (2) Account for both short-term and long-term exposure
22 to ethylene oxide.

23 (3) Maximize the health and safety of (i) workers who
24 are exposed to ethylene oxide as a result of employment and
25 (ii) members of the public exposed as a result of
26 emissions.

1 (4) Protect the public health against both known and
2 suspected health risks. If the Agency determines the risk
3 associated with different exposure levels is uncertain,
4 the emissions standards and regulations shall be designed
5 to protect the public health against potential risks.

6 (5) Regulate and account for the emissions of ethylene
7 oxide from all sources due to the actions of a permit
8 holder, including, but not limited to, ventilation,
9 unintentional emissions from facilities, and off-gassing
10 of sterilized products.

11 (6) Set an annual limitation on the total pounds of
12 ethylene oxide emitted by a facility.

13 (c) Any medical use of ethylene oxide that can be replaced
14 by a substitute sterilization technology that does not use
15 ethylene oxide shall be prohibited on or after January 1, 2022.
16 If the Agency determines, based on the best scientific evidence
17 and federal regulatory guidance, that there is no substitute
18 sterilization technology available for sterilizing a
19 particular medical product, then ethylene oxide may be used for
20 that medical product. Cost shall not be considered in this
21 determination. If the Agency determines there is a substitute
22 sterilization technology for a particular medical product,
23 then the Agency shall prohibit all use of ethylene oxide for
24 that medical product.

25 (1) A determination of whether a substitute
26 sterilization technology exists shall be based upon a

1 review of the products for which CAAPP permit applicants
2 have applied to use ethylene oxide. The Agency may consider
3 factors such as whether a potential substitute
4 sterilization technology adequately sterilizes a medical
5 product, whether that technology is able to do so without
6 damaging the product, and whether federal law and
7 regulations allow for a particular medical product to be
8 sterilized without ethylene oxide.

9 (2) The Agency may issue regulations, emissions
10 standards, or permit conditions that state which medical
11 products or classes of medical products have substitute
12 sterilization technologies.

13 (3) If the Agency determines a substitute
14 sterilization technology exists for every use of ethylene
15 oxide, the Agency shall prohibit all uses of ethylene
16 oxide.

17 (4) For purposes of this subsection, "substitute
18 sterilization technology" means a method of sterilization
19 for a particular medical product that does not use ethylene
20 oxide and is capable of sterilizing that medical product.

21 (d) The use of ethylene oxide for purposes other than
22 sterilization of medical technology is impermissible and
23 constitutes a violation of this Act if emitted at least 30 days
24 following the effective date of this amendatory Act of the
25 101st General Assembly. The Agency shall immediately notify all
26 Clean Air Act Permit Program permit holders permitted to use

1 ethylene oxide of this deadline.

2 (e) No Clean Air Act Permit Program permit shall be renewed
3 if the Agency finds that the facility is emitting ethylene
4 oxide at a level that violates any federal or State standards
5 pertaining to ethylene oxide.

6 (f) Notwithstanding any other provision of this Section,
7 the use of ethylene oxide that does not result in emissions
8 high enough to require permitting under the Clean Air Act
9 Permit Program it is not prohibited by this Section. Ethylene
10 oxide may be used for purposes other than sterilization if it
11 does not cause emissions of ethylene oxide to be released at
12 levels that require a permit. The Agency may issue regulations
13 regarding the use of ethylene oxide that does not cause
14 emissions.

15 (g) Within 30 days of the approval by the Board of new
16 regulations for ethylene oxide in accordance with subsection
17 (b), the Agency shall reopen and modify all CAAPP permits which
18 allow the use of ethylene oxide under paragraphs (a) and (f) of
19 subsection 15 of Section 39.5 of this Act.

20 (h) Notwithstanding any other provision of this Act, a
21 hospital licensed under the Hospital Licensing Act or operated
22 under the University of Illinois Hospital Act shall be allowed
23 at least 12 months and a maximum of 36 months from the
24 effective date of this amendatory Act of the 101st General
25 Assembly to discontinue any use of ethylene oxide for the
26 sterilization of medical products.

1 (i) Within one year of the effective date of this
2 amendatory Act of the 101st General Assembly, the Agency shall
3 revoke the CAAPP permit of any facility emitting ethylene oxide
4 within one mile of a school, child care center, or residence.

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

6 Sec. 39.5. Clean Air Act Permit Program.

7 1. Definitions. For purposes of this Section:

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

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

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

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

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

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

23 "Applicable Clean Air Act requirement" means all of the
24 following as they apply to emissions units in a source
25 (including regulations that have been promulgated or approved

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

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

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

23 (ii) Any term or condition as required pursuant to
24 Section 39.5 of any federally enforceable State
25 operating permit issued pursuant to regulations
26 approved or promulgated by USEPA under Title I of the

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

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

5 (4) Any standard or other requirement under Section 112
6 of the Clean Air Act, including any requirement concerning
7 accident prevention under Section 112(r)(7) of the Clean
8 Air Act.

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

12 (6) Any requirements established pursuant to Section
13 504(b) or Section 114(a)(3) of the Clean Air Act.

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

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

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

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

24 (11) Any standard or other requirement of the
25 regulations promulgated to protect stratospheric ozone
26 under Title VI of the Clean Air Act, unless USEPA has

1 determined that such requirements need not be contained in
2 a Title V permit.

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

8 "Applicable requirement" means all applicable Clean Air
9 Act requirements and any other standard, limitation, or other
10 requirement contained in this Act or regulations promulgated
11 under this Act as applicable to sources of air contaminants
12 (including requirements that have future effective compliance
13 dates).

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

16 "CAAPP application" means an application for a CAAPP
17 permit.

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

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

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

26 "Designated representative" has the meaning given to it in

1 Section 402(26) of the Clean Air Act and the regulations
2 promulgated thereunder, which state that the term "designated
3 representative" means a responsible person or official
4 authorized by the owner or operator of a unit to represent the
5 owner or operator in all matters pertaining to the holding,
6 transfer, or disposition of allowances allocated to a unit, and
7 the submission of and compliance with permits, permit
8 applications, and compliance plans for the unit.

9 "Draft CAAPP permit" means the version of a CAAPP permit
10 for which public notice and an opportunity for public comment
11 and hearing is offered by the Agency.

12 "Effective date of the CAAPP" means the date that USEPA
13 approves Illinois' CAAPP.

14 "Emission unit" means any part or activity of a stationary
15 source that emits or has the potential to emit any air
16 pollutant. This term is not meant to alter or affect the
17 definition of the term "unit" for purposes of Title IV of the
18 Clean Air Act.

19 "Federally enforceable" means enforceable by USEPA.

20 "Final permit action" means the Agency's granting with
21 conditions, refusal to grant, renewal of, or revision of a
22 CAAPP permit, the Agency's determination of incompleteness of a
23 submitted CAAPP application, or the Agency's failure to act on
24 an application for a permit, permit renewal, or permit revision
25 within the time specified in subsection 13, subsection 14, or
26 paragraph (j) of subsection 5 of this Section.

1 "General permit" means a permit issued to cover numerous
2 similar sources in accordance with subsection 11 of this
3 Section.

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

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

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

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

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

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

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

24 "Potential to emit" means the maximum capacity of a
25 stationary source to emit any air pollutant under its physical
26 and operational design. Any physical or operational limitation

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

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

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

18 "Regulated air pollutant" means the following:

19 (1) Nitrogen oxides (NOx) or any volatile organic
20 compound.

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

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

25 (4) Any Class I or II substance subject to a standard
26 promulgated under or established by Title VI of the Clean

1 Air Act.

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

6 (i) Any pollutant subject to requirements under
7 Section 112(j) of the Clean Air Act. Any pollutant
8 listed under Section 112(b) for which the subject
9 source would be major shall be considered to be
10 regulated 18 months after the date on which USEPA was
11 required to promulgate an applicable standard pursuant
12 to Section 112(e) of the Clean Air Act, if USEPA fails
13 to promulgate such standard.

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

18 (6) Greenhouse gases.

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

21 "Responsible official" means one of the following:

22 (1) For a corporation: a president, secretary,
23 treasurer, or vice-president of the corporation in charge
24 of a principal business function, or any other person who
25 performs similar policy or decision-making functions for
26 the corporation, or a duly authorized representative of

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

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

21 (3) For a municipality, State, Federal, or other public
22 agency: either a principal executive officer or ranking
23 elected official. For the purposes of this part, a
24 principal executive officer of a Federal agency includes
25 the chief executive officer having responsibility for the
26 overall operations of a principal geographic unit of the

1 agency (e.g., a Regional Administrator of USEPA).

2 (4) For affected sources for acid deposition:

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

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

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

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

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

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

1 pollutant emitting activities at a stationary source (or group
2 of stationary sources) located on contiguous or adjacent
3 properties and under common control constitute a support
4 facility. The determination as to whether any group of
5 stationary sources is located on contiguous or adjacent
6 properties, and/or is under common control, and/or whether the
7 pollutant emitting activities at such group of stationary
8 sources constitute a support facility shall be made on a case
9 by case basis.

10 "Stationary source" means any building, structure,
11 facility, or installation that emits or may emit any regulated
12 air pollutant or any pollutant listed under Section 112(b) of
13 the Clean Air Act, except those emissions resulting directly
14 from an internal combustion engine for transportation purposes
15 or from a nonroad engine or nonroad vehicle as defined in
16 Section 216 of the Clean Air Act.

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

19 "Support facility" means any stationary source (or group of
20 stationary sources) that conveys, stores, or otherwise assists
21 to a significant extent in the production of a principal
22 product at another stationary source (or group of stationary
23 sources). A support facility shall be considered to be part of
24 the same source as the stationary source (or group of
25 stationary sources) that it supports regardless of the 2-digit
26 Standard Industrial Classification code for the support

1 facility.

2 "USEPA" means the Administrator of the United States
3 Environmental Protection Agency (USEPA) or a person designated
4 by the Administrator.

5 1.1. Exclusion From the CAAPP.

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

19 b. An owner or operator of a source seeking exclusion
20 from the CAAPP pursuant to paragraph (a) of this subsection
21 must submit a permit application consistent with the
22 existing State permit program which specifically requests
23 such exclusion through the imposition of such federally
24 enforceable conditions.

25 c. Upon such request, if the Agency determines that the

1 owner or operator of a source has met the requirements for
2 exclusion pursuant to paragraph (a) of this subsection and
3 other applicable requirements for permit issuance under
4 subsection (a) of Section 39 of this Act, the Agency shall
5 issue a State operating permit for such source under
6 subsection (a) of Section 39 of this Act, as amended, and
7 regulations promulgated thereunder with 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.

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

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

18 2. Applicability.

19 a. Sources subject to this Section shall include:

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

22 ii. Any source subject to a standard or other
23 requirements promulgated under Section 111 (New Source
24 Performance Standards) or Section 112 (Hazardous Air
25 Pollutants) of the Clean Air Act, except that a source

1 is not required to obtain a permit solely because it is
2 subject to regulations or requirements under Section
3 112(r) of the Clean Air Act.

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

6 iv. Any other source subject to this Section under
7 the Clean Air Act or regulations promulgated
8 thereunder, or applicable Board regulations.

9 b. Sources exempted from this Section shall include:

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

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

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

1 Part 60).

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

7 v. Any other source categories exempted by USEPA
8 regulations pursuant to Section 502(a) of the Clean Air
9 Act.

10 vi. Major sources of greenhouse gas emissions
11 required to obtain a CAAPP permit under this Section if
12 any of the following occurs:

13 (A) enactment of federal legislation depriving
14 the Administrator of the USEPA of authority to
15 regulate greenhouse gases under the Clean Air Act;

16 (B) the issuance of any opinion, ruling,
17 judgment, order, or decree by a federal court
18 depriving the Administrator of the USEPA of
19 authority to regulate greenhouse gases under the
20 Clean Air Act; or

21 (C) action by the President of the United
22 States or the President's authorized agent,
23 including the Administrator of the USEPA, to
24 repeal or withdraw the Greenhouse Gas Tailoring
25 Rule (75 Fed. Reg. 31514, June 3, 2010).

26 If any event listed in this subparagraph (vi)

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

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

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

22 A. For pollutants other than radionuclides,
23 any stationary source or group of stationary
24 sources located within a contiguous area and under
25 common control that emits or has the potential to
26 emit, in the aggregate, 10 tons per year (tpy) or

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

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

16 ii. A major stationary source of air pollutants, as
17 defined in Section 302 of the Clean Air Act, that
18 directly emits or has the potential to emit, 100 tpy or
19 more of any air pollutant subject to regulation
20 (including any major source of fugitive emissions of
21 any such pollutant, as determined by rule by USEPA).
22 For purposes of this subsection, "fugitive emissions"
23 means those emissions which could not reasonably pass
24 through a stack, chimney, vent, or other
25 functionally-equivalent opening. The fugitive
26 emissions of a stationary source shall not be

1 considered in determining whether it is a major
2 stationary source for the purposes of Section 302(j) of
3 the Clean Air Act, unless the source belongs to one of
4 the following categories of stationary source:

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

6 B. Kraft pulp mills.

7 C. Portland cement plants.

8 D. Primary zinc smelters.

9 E. Iron and steel mills.

10 F. Primary aluminum ore reduction plants.

11 G. Primary copper smelters.

12 H. Municipal incinerators capable of charging
13 more than 250 tons of refuse per day.

14 I. Hydrofluoric, sulfuric, or nitric acid
15 plants.

16 J. Petroleum refineries.

17 K. Lime plants.

18 L. Phosphate rock processing plants.

19 M. Coke oven batteries.

20 N. Sulfur recovery plants.

21 O. Carbon black plants (furnace process).

22 P. Primary lead smelters.

23 Q. Fuel conversion plants.

24 R. Sintering plants.

25 S. Secondary metal production plants.

26 T. Chemical process plants.

1 U. Fossil-fuel boilers (or combination
2 thereof) totaling more than 250 million British
3 thermal units per hour heat input.

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

6 W. Taconite ore processing plants.

7 X. Glass fiber processing plants.

8 Y. Charcoal production plants.

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

12 AA. All other stationary source categories,
13 which as of August 7, 1980 are being regulated by a
14 standard promulgated under Section 111 or 112 of
15 the Clean Air Act.

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

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

20 A. For ozone nonattainment areas, sources with
21 the potential to emit 100 tons or more per year of
22 volatile organic compounds or oxides of nitrogen
23 in areas classified as "marginal" or "moderate",
24 50 tons or more per year in areas classified as
25 "serious", 25 tons or more per year in areas
26 classified as "severe", and 10 tons or more per

1 year in areas classified as "extreme"; except that
2 the references in this clause to 100, 50, 25, and
3 10 tons per year of nitrogen oxides shall not apply
4 with respect to any source for which USEPA has made
5 a finding, under Section 182(f)(1) or (2) of the
6 Clean Air Act, that requirements otherwise
7 applicable to such source under Section 182(f) of
8 the Clean Air Act do not apply. Such sources shall
9 remain subject to the major source criteria of
10 subparagraph (ii) of paragraph (c) of this
11 subsection.

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

16 C. For carbon monoxide nonattainment areas (1)
17 that are classified as "serious", and (2) in which
18 stationary sources contribute significantly to
19 carbon monoxide levels as determined under rules
20 issued by USEPA, sources with the potential to emit
21 50 tons or more per year of carbon monoxide.

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

1 3. Agency Authority To Issue CAAPP Permits and Federally
2 Enforceable State Operating Permits.

3 a. The Agency shall issue CAAPP permits under this
4 Section consistent with the Clean Air Act and regulations
5 promulgated thereunder and this Act and regulations
6 promulgated thereunder.

7 b. The Agency shall issue CAAPP permits for fixed terms
8 of 5 years, except CAAPP permits issued for solid waste
9 incineration units combusting municipal waste which shall
10 be issued for fixed terms of 12 years and except CAAPP
11 permits for affected sources for acid deposition which
12 shall be issued for initial terms to expire on December 31,
13 1999, and for fixed terms of 5 years thereafter.

14 c. The Agency shall have the authority to issue a State
15 operating permit for a source under subsection (a) of
16 Section 39 of this Act, as amended, and regulations
17 promulgated thereunder, which includes federally
18 enforceable conditions limiting the "potential to emit" of
19 the source to a level below the major source threshold for
20 that source as described in paragraph (c) of subsection 2
21 of this Section, thereby excluding the source from the
22 CAAPP, when requested by the applicant pursuant to
23 paragraph (u) of subsection 5 of this Section. The public
24 notice requirements of this Section applicable to CAAPP
25 permits shall also apply to the initial issuance of permits
26 under this paragraph.

1 d. For purposes of this Act, a permit issued by USEPA
2 under Section 505 of the Clean Air Act, as now and
3 hereafter amended, shall be deemed to be a permit issued by
4 the Agency pursuant to Section 39.5 of this Act.

5 4. Transition.

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

24 b. An owner or operator of a CAAPP source shall
25 continue to operate in accordance with the terms and

1 conditions of its applicable State operating permit
2 notwithstanding the expiration of the State operating
3 permit until the source's CAAPP permit has been issued.

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

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

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

23 f. The Agency shall provide owners or operators of
24 CAAPP sources with at least 3 months advance notice of the
25 date on which their applications are required to be
26 submitted. In determining which sources shall be subject to

1 early submittal, the Agency shall include among its
2 considerations the complexity of the permit application,
3 and the burden that such early submittal will have on the
4 source.

5 g. The CAAPP permit shall upon becoming effective
6 supersede the State operating permit.

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

11 5. Applications and Completeness.

12 a. An owner or operator of a CAAPP source shall submit
13 its complete CAAPP application consistent with the Act and
14 applicable regulations.

15 b. An owner or operator of a CAAPP source shall submit
16 a single complete CAAPP application covering all emission
17 units at that source.

18 c. To be deemed complete, a CAAPP application must
19 provide all information, as requested in Agency
20 application forms, sufficient to evaluate the subject
21 source and its application and to determine all applicable
22 requirements, pursuant to the Clean Air Act, and
23 regulations thereunder, this Act and regulations
24 thereunder. Such Agency application forms shall be
25 finalized and made available prior to the date on which any

1 CAAPP application is required.

2 d. An owner or operator of a CAAPP source shall submit,
3 as part of its complete CAAPP application, a compliance
4 plan, including a schedule of compliance, describing how
5 each emission unit will comply with all applicable
6 requirements. Any such schedule of compliance shall be
7 supplemental to, and shall not sanction noncompliance
8 with, the applicable requirements on which it is based.

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

12 f. The Agency shall provide notice to a CAAPP applicant
13 as to whether a submitted CAAPP application is complete.
14 Unless the Agency notifies the applicant of
15 incompleteness, within 60 days after receipt of the CAAPP
16 application, the application shall be deemed complete. The
17 Agency may request additional information as needed to make
18 the completeness determination. The Agency may to the
19 extent practicable provide the applicant with a reasonable
20 opportunity to correct deficiencies prior to a final
21 determination of completeness.

22 g. If after the determination of completeness the
23 Agency finds that additional information is necessary to
24 evaluate or take final action on the CAAPP application, the
25 Agency may request in writing such information from the
26 source with a reasonable deadline for response.

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

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

21 j. The Agency shall issue or deny the CAAPP permit
22 within 18 months after the date of receipt of the complete
23 CAAPP application, with the following exceptions: (i)
24 permits for affected sources for acid deposition shall be
25 issued or denied within 6 months after receipt of a
26 complete application in accordance with subsection 17 of

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

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

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

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

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

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

1 date of permit expiration.

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

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

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

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

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

25 t. An owner or operator of a CAAPP source, in order to
26 utilize the operational flexibility provided under

1 paragraph (l) of subsection 7 of this Section, must request
2 such use and provide the necessary information within its
3 CAAPP application.

4 u. An owner or operator of a CAAPP source which seeks
5 exclusion from the CAAPP through the imposition of
6 federally enforceable conditions, pursuant to paragraph
7 (c) of subsection 3 of this Section, must request such
8 exclusion within a CAAPP application submitted consistent
9 with this subsection on or after the date that the CAAPP
10 application for the source is due. Prior to such date, but
11 in no case later than 9 months after the effective date of
12 the CAAPP, such owner or operator may request the
13 imposition of federally enforceable conditions pursuant to
14 paragraph (b) of subsection 1.1 of this Section.

15 v. CAAPP applications shall contain accurate
16 information on allowable emissions to implement the fee
17 provisions of subsection 18 of this Section.

18 w. An owner or operator of a CAAPP source shall submit
19 within its CAAPP application emissions information
20 regarding all regulated air pollutants emitted at that
21 source consistent with applicable Agency procedures.
22 Emissions information regarding insignificant activities
23 or emission levels, as determined by the Agency pursuant to
24 Board regulations, may be submitted as a list within the
25 CAAPP application. The Agency shall propose regulations to
26 the Board defining insignificant activities or emission

1 levels, consistent with federal regulations, if any, no
2 later than 18 months after the effective date of this
3 amendatory Act of 1992, consistent with Section 112(n)(1)
4 of the Clean Air Act. The Board shall adopt final
5 regulations defining insignificant activities or emission
6 levels no later than 9 months after the date of the
7 Agency's proposal.

8 x. The owner or operator of a new CAAPP source shall
9 submit its complete CAAPP application consistent with this
10 subsection within 12 months after commencing operation of
11 such source. The owner or operator of an existing source
12 that has been excluded from the provisions of this Section
13 under subsection 1.1 or paragraph (c) of subsection 3 of
14 this Section and that becomes subject to the CAAPP solely
15 due to a change in operation at the source shall submit its
16 complete CAAPP application consistent with this subsection
17 at least 180 days before commencing operation in accordance
18 with the change in operation.

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

23 6. Prohibitions.

24 a. It shall be unlawful for any person to violate any
25 terms or conditions of a permit issued under this Section,

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

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

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

23 7. Permit Content.

24 a. All CAAPP permits shall contain emission
25 limitations and standards and other enforceable terms and

1 conditions, including but not limited to operational
2 requirements, and schedules for achieving compliance at
3 the earliest reasonable date, which are or will be required
4 to accomplish the purposes and provisions of this Act and
5 to assure compliance with all applicable requirements.

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

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

26 d. To meet the requirements of this subsection with

1 respect to monitoring, the permit shall:

2 i. Incorporate and identify all applicable
3 emissions monitoring and analysis procedures or test
4 methods required under the Clean Air Act, regulations
5 promulgated thereunder, this Act, and applicable Board
6 regulations, including any procedures and methods
7 promulgated by USEPA pursuant to Section 504(b) or
8 Section 114 (a) (3) of the Clean Air Act.

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

20 iii. As necessary, specify requirements concerning
21 the use, maintenance, and when appropriate,
22 installation of monitoring equipment or methods.

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

1 i. Records of required monitoring information that
2 include the following:

3 A. The date, place and time of sampling or
4 measurements.

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

6 C. The company or entity that performed the
7 analyses.

8 D. The analytical techniques or methods used.

9 E. The results of such analyses.

10 F. The operating conditions as existing at the
11 time of sampling or measurement.

12 ii. Retention of records of all monitoring data and
13 support information for a period of at least 5 years
14 from the date of the monitoring sample, measurement,
15 report, or application. Support information includes
16 all calibration and maintenance records, original
17 strip-chart recordings for continuous monitoring
18 instrumentation, and copies of all reports required by
19 the permit.

20 f. To meet the requirements of this subsection with
21 respect to reporting, the permit shall incorporate and
22 identify all applicable reporting requirements and require
23 the following:

24 i. Submittal of reports of any required monitoring
25 every 6 months. More frequent submittals may be
26 requested by the Agency if such submittals are

1 necessary to assure compliance with this Act or
2 regulations promulgated by the Board thereunder. All
3 instances of deviations from permit requirements must
4 be clearly identified in such reports. All required
5 reports must be certified by a responsible official
6 consistent with subsection 5 of this Section.

7 ii. Prompt reporting of deviations from permit
8 requirements, including those attributable to upset
9 conditions as defined in the permit, the probable cause
10 of such deviations, and any corrective actions or
11 preventive measures taken.

12 g. Each CAAPP permit issued under subsection 10 of this
13 Section shall include a condition prohibiting emissions
14 exceeding any allowances that the source lawfully holds
15 under Title IV of the Clean Air Act or the regulations
16 promulgated thereunder, consistent with subsection 17 of
17 this Section and applicable regulations, if any.

18 h. All CAAPP permits shall state that, where another
19 applicable requirement of the Clean Air Act is more
20 stringent than any applicable requirement of regulations
21 promulgated under Title IV of the Clean Air Act, both
22 provisions shall be incorporated into the permit and shall
23 be State and federally enforceable.

24 i. Each CAAPP permit issued under subsection 10 of this
25 Section shall include a severability clause to ensure the
26 continued validity of the various permit requirements in

1 the event of a challenge to any portions of the permit.

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

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

11 A. The applicable requirement is specifically
12 identified within the permit; or

13 B. The Agency in acting on the CAAPP
14 application or revision determines in writing that
15 other requirements specifically identified are not
16 applicable to the source, and the permit includes
17 that determination or a concise summary thereof.

18 ii. The permit shall identify the requirements for
19 which the source is shielded. The shield shall not
20 extend to applicable requirements which are
21 promulgated after the date of release of the proposed
22 permit unless the permit has been modified to reflect
23 such new requirements.

24 iii. A CAAPP permit which does not expressly
25 indicate the existence of a permit shield shall not
26 provide such a shield.

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

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

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

10 C. The applicable requirements of the acid
11 rain program consistent with Section 408(a) of the
12 Clean Air Act.

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

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

24 i. An emergency occurred and the permittee can
25 identify the cause(s) of the emergency.

26 ii. The permitted facility was at the time being

1 properly operated.

2 iii. The permittee submitted notice of the
3 emergency to the Agency within 2 working days after the
4 time when emission limitations were exceeded due to the
5 emergency. This notice must contain a detailed
6 description of the emergency, any steps taken to
7 mitigate emissions, and corrective actions taken.

8 iv. During the period of the emergency the
9 permittee took all reasonable steps to minimize levels
10 of emissions that exceeded the emission limitations,
11 standards, or requirements in the permit.

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

23 In any enforcement proceeding, the permittee seeking
24 to establish the occurrence of an emergency has the burden
25 of proof. This provision is in addition to any emergency or
26 upset provision contained in any applicable requirement.

1 This provision does not relieve a permittee of any
2 reporting obligations under existing federal or state laws
3 or regulations.

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

6 i. Terms and conditions for reasonably anticipated
7 operating scenarios identified by the source in its
8 application. The permit terms and conditions for each
9 such operating scenario shall meet all applicable
10 requirements and the requirements of this Section.

11 A. Under this subparagraph, the source must
12 record in a log at the permitted facility a record
13 of the scenario under which it is operating
14 contemporaneously with making a change from one
15 operating scenario to another.

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

20 ii. Where requested by an applicant, all terms and
21 conditions allowing for trading of emissions increases
22 and decreases between different emission units at the
23 CAAPP source, to the extent that the applicable
24 requirements provide for trading of such emissions
25 increases and decreases without a case-by-case
26 approval of each emissions trade. Such terms and

1 conditions:

2 A. Shall include all terms required under this
3 subsection to determine compliance;

4 B. Must meet all applicable requirements;

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

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

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

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

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

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

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

23 iv. Property rights. The permit does not convey any
24 property rights of any sort, or any exclusive
25 privilege.

26 v. Duty to provide information. The permittee

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

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

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

23 p. Each CAAPP permit issued under subsection 10 of this
24 Section shall contain the following elements with respect
25 to compliance:

26 i. Compliance certification, testing, monitoring,

1 reporting, and record keeping requirements sufficient
2 to assure compliance with the terms and conditions of
3 the permit. Any document (including reports) required
4 by a CAAPP permit shall contain a certification by a
5 responsible official that meets the requirements of
6 subsection 5 of this Section and applicable
7 regulations.

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

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

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

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

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

1 1. As authorized by the Clean Air Act, at
2 reasonable times, for the purposes of assuring
3 compliance with the CAAPP permit or applicable
4 requirements; or

5 2. As otherwise authorized by this Act.

6 iii. A schedule of compliance consistent with
7 subsection 5 of this Section and applicable
8 regulations.

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

18 A. Required dates for achieving the
19 activities, milestones, or compliance required by
20 the schedule of compliance and dates when such
21 activities, milestones or compliance were
22 achieved.

23 B. An explanation of why any dates in the
24 schedule of compliance were not or will not be met,
25 and any preventive or corrective measures adopted.

26 v. Requirements for compliance certification with

1 terms and conditions contained in the permit,
2 including emission limitations, standards, or work
3 practices. Permits shall include each of the
4 following:

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

9 B. A means for assessing or monitoring the
10 compliance of the source with its emissions
11 limitations, standards, and work practices.

12 C. A requirement that the compliance
13 certification include the following:

14 1. The identification of each term or
15 condition contained in the permit that is the
16 basis of the certification.

17 2. The compliance status.

18 3. Whether compliance was continuous or
19 intermittent.

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

24 D. A requirement that all compliance
25 certifications be submitted to the Agency.

26 E. Additional requirements as may be specified

1 pursuant to Sections 114(a)(3) and 504(b) of the
2 Clean Air Act.

3 F. Other provisions as the Agency may require.

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

15 8. Public Notice; Affected State Review.

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

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

1 requests it.

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

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

18 e. The Agency shall make available to the public any
19 CAAPP permit application, compliance plan (including the
20 schedule of compliance), CAAPP permit, and emissions or
21 compliance monitoring report. If an owner or operator of a
22 CAAPP source is required to submit information entitled to
23 protection from disclosure under Section 7.1 and
24 subsection (a) of Section 7 of this Act, the owner or
25 operator shall submit such information separately. The
26 requirements of Section 7.1 and subsection (a) of Section 7

1 of this Act shall apply to such information, which shall
2 not be included in a CAAPP permit unless required by law.
3 The contents of a CAAPP permit shall not be entitled to
4 protection under Section 7.1 and subsection (a) of Section
5 7 of this Act.

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

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

16 9. USEPA Notice and Objection.

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

1 with USEPA. To the extent practicable, the preceding
2 information shall be provided in computer readable format
3 compatible with USEPA's national database management
4 system.

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

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

21 d. Any USEPA objection under this subsection,
22 according to the Clean Air Act, will include a statement of
23 reasons for the objection and a description of the terms
24 and conditions that must be in the permit, in order to
25 adequately respond to the objections. Grounds for a USEPA
26 objection include the failure of the Agency to: (1) submit

1 the items and notices required under this subsection; (2)
2 submit any other information necessary to adequately
3 review the proposed CAAPP permit; or (3) process the permit
4 under subsection 8 of this Section except for minor permit
5 modifications.

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

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

19 g. If the Agency has issued a permit after expiration
20 of the 45-day review period and prior to receipt of a USEPA
21 objection under this subsection in response to a petition
22 submitted pursuant to paragraph e of this subsection, the
23 Agency may, upon receipt of an objection from USEPA, revise
24 and resubmit the permit to USEPA pursuant to this
25 subsection after providing a 10-day comment period in
26 accordance with paragraph c of this subsection. If the

1 Agency fails to submit a revised permit in response to the
2 objection, USEPA shall modify, terminate or revoke the
3 permit. In any case, the source will not be in violation of
4 the requirement to have submitted a timely and complete
5 application.

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

10 10. Final Agency Action.

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

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

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

24 iii. The applicant has timely paid the fees
25 required pursuant to subsection 18 of this Section and

1 applicable regulations.

2 iv. The Agency has received a complete CAAPP
3 application and, if necessary, has requested and
4 received additional information from the applicant
5 consistent with subsection 5 of this Section and
6 applicable regulations.

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

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

17 b. The Agency shall have the authority to deny a CAAPP
18 permit, permit modification, or permit renewal if the
19 applicant has not complied with the requirements of
20 subparagraphs (i) through (iv) of paragraph (a) of this
21 subsection or if USEPA objects to its issuance.

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

26 ii. Within such notice, the Agency shall specify an

1 appropriate date by which the applicant shall
2 adequately respond to the Agency's notice. Such date
3 shall not exceed 15 days from the date the notification
4 is received by the applicant. The Agency may grant a
5 reasonable extension for good cause shown.

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

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

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

22 11. General Permits.

23 a. The Agency may issue a general permit covering
24 numerous similar sources, except for affected sources for
25 acid deposition unless otherwise provided in regulations

1 promulgated under Title IV of the Clean Air Act.

2 b. The Agency shall identify, in any general permit,
3 criteria by which sources may qualify for the general
4 permit.

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

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

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

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

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

1 12. Operational Flexibility.

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

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

24 A. For each such change, the written
25 notification required above shall include a brief

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

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

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

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

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

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

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

1 require compliance with all applicable requirements.

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

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

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

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

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

1 including the date, any change in emissions,
2 pollutants emitted, and any applicable requirement
3 that would apply as a result of the change;

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

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

13 c. 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 13. Administrative Permit Amendments.

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

25 b. The Agency shall submit a copy of the revised permit

1 to USEPA.

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

6 i. Corrects typographical errors;

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

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

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

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

26 vi. (Blank); or

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

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

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

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

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

1 necessary, to implement this subsection.

2 14. Permit Modifications.

3 a. Minor permit modification procedures.

4 i. The Agency shall review a permit modification
5 using the "minor permit" modification procedures only
6 for those permit modifications that:

7 A. Do not violate any applicable requirement;

8 B. Do not involve significant changes to
9 existing monitoring, reporting, or recordkeeping
10 requirements in the permit;

11 C. Do not require a case-by-case determination
12 of an emission limitation or other standard, or a
13 source-specific determination of ambient impacts,
14 or a visibility or increment analysis;

15 D. Do not seek to establish or change a permit
16 term or condition for which there is no
17 corresponding underlying requirement and which
18 avoids an applicable requirement to which the
19 source would otherwise be subject. Such terms and
20 conditions include:

21 1. A federally enforceable emissions cap
22 assumed to avoid classification as a
23 modification under any provision of Title I of
24 the Clean Air Act; and

25 2. An alternative emissions limit approved

1 pursuant to regulations promulgated under
2 Section 112(i)(5) of the Clean Air Act;

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

5 F. Are not required to be processed as a
6 significant modification.

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

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

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

24 B. The source's suggested draft permit;

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

1 this Section and applicable regulations, that the
2 proposed modification meets the criteria for use
3 of minor permit modification procedures and a
4 request that such procedures be used; and

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

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

15 v. The Agency may not issue a final permit
16 modification until after the 45-day review period for
17 USEPA or until USEPA has notified the Agency that USEPA
18 will not object to the issuance of the permit
19 modification, whichever comes first, although the
20 Agency can approve the permit modification prior to
21 that time. Within 90 days after the Agency's receipt of
22 an application under the minor permit modification
23 procedures or 15 days after the end of USEPA's 45-day
24 review period under subsection 9 of this Section,
25 whichever is later, the Agency shall:

26 A. Issue the permit modification as proposed;

1 B. Deny the permit modification application;

2 C. Determine that the requested modification
3 does not meet the minor permit modification
4 criteria and should be reviewed under the
5 significant modification procedures; or

6 D. Revise the draft permit modification and
7 transmit to USEPA the new proposed permit
8 modification as required by subsection 9 of this
9 Section.

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

26 vii. The permit shield under paragraph (j) of

1 subsection 7 of this Section may not extend to minor
2 permit modifications.

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

20 b. Group Processing of Minor Permit Modifications.

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

26 ii. Permit modifications may be processed in

1 applications awaiting group processing, and a
2 determination of whether the requested
3 modification, aggregated with these other
4 applications, equals or exceeds the threshold set
5 under item (B) of subparagraph (ii) of paragraph
6 (b) of this subsection.

7 E. Certification, consistent with paragraph
8 (e) of subsection 5 of this Section, that the
9 source has notified USEPA of the proposed
10 modification. Such notification need only contain
11 a brief description of the requested modification.

12 F. Completed forms for the Agency to use to
13 notify USEPA and affected states as required under
14 subsections 8 and 9 of this Section.

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

26 v. The provisions of subparagraph (v) of paragraph

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

9 vi. The provisions of subparagraph (vi) of
10 paragraph (a) of this subsection shall apply to
11 modifications for group processing.

12 vii. The provisions of paragraph (j) of subsection
13 7 of this Section shall not apply to modifications
14 eligible for group processing.

15 c. Significant Permit Modifications.

16 i. Significant modification procedures shall be
17 used for applications requesting significant permit
18 modifications and for those applications that do not
19 qualify as either minor permit modifications or as
20 administrative permit amendments.

21 ii. Every significant change in existing
22 monitoring permit terms or conditions and every
23 relaxation of reporting or recordkeeping requirements
24 shall be considered significant. A modification shall
25 also be considered significant if in the judgment of
26 the Agency action on an application for modification

1 would require decisions to be made on technically
2 complex issues. Nothing herein shall be construed to
3 preclude the permittee from making changes consistent
4 with this Section that would render existing permit
5 compliance terms and conditions irrelevant.

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

14 d. 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 15. Reopenings for Cause by the Agency.

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

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

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

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

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

23 a-5. A CAAPP permit may be reopened and revised under
24 any of the following circumstances, in accordance with
25 procedures adopted by the Agency:

26 i. if the Agency or USEPA determines that the

1 actions authorized by the permit create a public health
2 hazard; or

3 ii. if new requirements, regulations, or emissions
4 standards relevant to the CAAPP permits are issued by a
5 State or federal agency.

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

20 c. Proceedings regarding a reopened CAAPP permit shall
21 follow the same procedures as apply to initial permit
22 issuance and shall affect only those parts of the permit
23 for which cause to reopen exists.

24 d. Reopenings under paragraph (a) of this subsection
25 shall not be initiated before a notice of such intent is
26 provided to the CAAPP source by the Agency at least 30 days

1 in advance of the date that the permit is to be reopened,
2 except that the Agency may provide a shorter time period in
3 the case of an emergency.

4 e. 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 f. The revoking or reopening of permits which the
9 Agency has cause to believe are significantly endangering
10 public health are not subject to the process described in
11 paragraphs (b) or (c). Instead, within 15 days of the
12 Agency revising a permit in accordance with paragraph (a)
13 the Agency shall submit the permit to the Board for review.
14 The permit shall be effective until the Board votes to
15 approve or reject the revisions. Permits revised under
16 paragraph (a) shall take effect immediately upon
17 notification to the permit-holder and shall not be subject
18 to oversight by the Board prior to taking effect. A CAAPP
19 permit may be reopened and revised in accordance with this
20 paragraph (f) under any of the following circumstances, in
21 accordance with procedures adopted by the Agency:

22 i. If the Agency finds, based on the best
23 scientific evidence and without consideration of cost,
24 that a permit creates a significant public health
25 hazard.

26 ii. If the permit was issued prior to February 1,

1 2019 and allows for the use of ethylene oxide.

2 16. Reopenings for Cause by USEPA.

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

23 b. i. Prior to the Agency's submittal to USEPA of a
24 proposed determination to terminate or revoke and
25 reissue the permit, the Agency shall file a petition

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

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

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

25 c. USEPA shall review the proposed determination to
26 terminate, modify, or revoke and reissue the permit within

1 90 days after receipt.

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

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

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

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

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

10 17. Title IV; Acid Rain Provisions.

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

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

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

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

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

1 Phase II acid rain permit.

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

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

23 h. The Agency shall not include or implement any
24 measure which would interfere with or modify the
25 requirements of Title IV of the Clean Air Act or
26 regulations promulgated thereunder.

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

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

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

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

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

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

26 l. It is unlawful for any owner or operator to violate

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

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

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

18 o. 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 18. Fee Provisions.

23 a. A source subject to this Section or excluded under
24 subsection 1.1 or paragraph (c) of subsection 3 of this
25 Section, shall pay a fee as provided in this paragraph (a)

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

8 i. The fee for a source allowed to emit less than
9 100 tons per year of any combination of regulated air
10 pollutants, except greenhouse gases, shall be \$1,800
11 per year, and that fee shall increase, beginning
12 January 1, 2012, to \$2,150 per year.

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

18 A. The Agency shall assess a fee of \$18 per
19 ton, per year for the allowable emissions of
20 regulated air pollutants subject to this
21 subparagraph (ii) of paragraph (a) of subsection
22 18, and that fee shall increase, beginning January
23 1, 2012, to \$21.50 per ton, per year. These fees
24 shall be used by the Agency and the Board to fund
25 the activities required by Title V of the Clean Air
26 Act including such activities as may be carried out

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

26 Notwithstanding the above, any applicant may

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

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

25 b. (Blank).

26 c. (Blank).

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

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

21 i. carbon monoxide;

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

25 iii. any pollutant that is a regulated air
26 pollutant solely because it is subject to a standard or

1 regulation under Section 112(r) of the Clean Air Act
2 based on the emissions allowed in the permit effective
3 in that calendar year, at the time the applicable bill
4 is generated.

5 19. Air Toxics Provisions.

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

1 the emission standard had been promulgated by USEPA in a
2 timely manner. The Board shall determine whether the
3 emission limitation proposed by the owner or operator or an
4 alternative emission limitation proposed by the Agency
5 provides for the level of control required under Section
6 112 of the Clean Air Act, or shall otherwise establish an
7 appropriate emission limitation, pursuant to Section 112
8 of the Clean Air Act.

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

1 c. The Agency shall have the authority to implement and
2 enforce complete or partial emission standards promulgated
3 by USEPA pursuant to Section 112(d), and standards
4 promulgated by USEPA pursuant to Sections 112(f), 112(h),
5 112(m), and 112(n), and may accept delegation of authority
6 from USEPA to implement and enforce Section 112(l) and
7 requirements for the prevention and detection of
8 accidental releases pursuant to Section 112(r) of the Clean
9 Air Act.

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

12 e. The Agency has the authority to implement Section
13 112(g) of the Clean Air Act consistent with the Clean Air
14 Act and federal regulations promulgated thereunder. If the
15 Agency refuses to include the emission limitations
16 proposed in an application submitted by an owner or
17 operator for a case-by-case maximum achievable control
18 technology (MACT) determination, the owner or operator may
19 petition the Board to determine whether the emission
20 limitation proposed by the owner or operator or an
21 alternative emission limitation proposed by the Agency
22 provides for a level of control required by Section 112 of
23 the Clean Air Act, or to otherwise establish an appropriate
24 emission limitation under Section 112 of the Clean Air Act.

25 20. Small Business.

1 a. For purposes of this subsection:

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

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

13 "Small Business Stationary Source" means a stationary
14 source that:

15 1. is owned or operated by a person that employs
16 100 or fewer individuals;

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

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

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

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

25 b. The Agency shall adopt and submit to USEPA, after
26 reasonable notice and opportunity for public comment, as a

1 revision to the Illinois state implementation plan, plans
2 for establishing the Program.

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

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

9 e. There shall be appointed a Small Business Ombudsman
10 (hereinafter in this subsection referred to as
11 "Ombudsman") to monitor the Small Business Assistance
12 Program. The Ombudsman shall be a nonpartisan designated
13 official, with the ability to independently assess whether
14 the goals of the Program are being met.

15 f. The State Ombudsman Office shall be located in an
16 existing Ombudsman office within the State or in any State
17 Department.

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

22 h. The selection of Panel members shall be by the
23 following method:

- 24 1. The Governor shall select two members who are
25 not owners or representatives of owners of small
26 business stationary sources to represent the general

1 public;

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

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

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

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

16 21. Temporary Sources.

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

22 b. The applicant must demonstrate that the operation is
23 temporary and will involve at least one change of location
24 during the term of the permit.

25 c. Any such permit shall meet all applicable

1 requirements of this Section and applicable regulations,
2 and include conditions assuring compliance with all
3 applicable requirements at all authorized locations and
4 requirements that the owner or operator notify the Agency
5 at least 10 days in advance of each change in location.

6 22. Solid Waste Incineration Units.

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

13 b. During the review in paragraph (a) of this
14 subsection, the Agency shall fully review the previously
15 submitted CAAPP permit application and corresponding
16 reports subsequently submitted to determine whether the
17 source is in compliance with all applicable requirements.

18 c. If the Agency determines that the source is not in
19 compliance with all applicable requirements it shall
20 revise the CAAPP permit as appropriate.

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

25 (Source: P.A. 99-380, eff. 8-17-15; 99-933, eff. 1-27-17;

1 100-103, eff. 8-11-17.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.".