



Rep. Jim Durkin

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1 AMENDMENT TO HOUSE BILL 1841

2 AMENDMENT NO. _____. Amend House Bill 1841 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. This Act may be referred to as the Matt Haller
5 Act.

6 Section 5. The Illinois Administrative Procedure Act is
7 amended by changing Section 5-45 as follows:

8 (5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

9 Sec. 5-45. Emergency rulemaking.

10 (a) "Emergency" means the existence of any situation that
11 any agency finds reasonably constitutes a threat to the public
12 interest, safety, or welfare.

13 (b) If any agency finds that an emergency exists that
14 requires adoption of a rule upon fewer days than is required by
15 Section 5-40 and states in writing its reasons for that

1 finding, the agency may adopt an emergency rule without prior
2 notice or hearing upon filing a notice of emergency rulemaking
3 with the Secretary of State under Section 5-70. The notice
4 shall include the text of the emergency rule and shall be
5 published in the Illinois Register. Consent orders or other
6 court orders adopting settlements negotiated by an agency may
7 be adopted under this Section. Subject to applicable
8 constitutional or statutory provisions, an emergency rule
9 becomes effective immediately upon filing under Section 5-65 or
10 at a stated date less than 10 days thereafter. The agency's
11 finding and a statement of the specific reasons for the finding
12 shall be filed with the rule. The agency shall take reasonable
13 and appropriate measures to make emergency rules known to the
14 persons who may be affected by them.

15 (c) An emergency rule may be effective for a period of not
16 longer than 150 days, but the agency's authority to adopt an
17 identical rule under Section 5-40 is not precluded. No
18 emergency rule may be adopted more than once in any 24-month
19 period, except that this limitation on the number of emergency
20 rules that may be adopted in a 24-month period does not apply
21 to (i) emergency rules that make additions to and deletions
22 from the Drug Manual under Section 5-5.16 of the Illinois
23 Public Aid Code or the generic drug formulary under Section
24 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii)
25 emergency rules adopted by the Pollution Control Board before
26 July 1, 1997 to implement portions of the Livestock Management

1 Facilities Act, (iii) emergency rules adopted by the Illinois
2 Department of Public Health under subsections (a) through (i)
3 of Section 2 of the Department of Public Health Act when
4 necessary to protect the public's health, (iv) emergency rules
5 adopted pursuant to subsection (n) of this Section, (v)
6 emergency rules adopted pursuant to subsection (o) of this
7 Section, or (vi) emergency rules adopted pursuant to subsection
8 (c-5) of this Section. Two or more emergency rules having
9 substantially the same purpose and effect shall be deemed to be
10 a single rule for purposes of this Section.

11 (c-5) To facilitate the maintenance of the program of group
12 health benefits provided to annuitants, survivors, and retired
13 employees under the State Employees Group Insurance Act of
14 1971, rules to alter the contributions to be paid by the State,
15 annuitants, survivors, retired employees, or any combination
16 of those entities, for that program of group health benefits,
17 shall be adopted as emergency rules. The adoption of those
18 rules shall be considered an emergency and necessary for the
19 public interest, safety, and welfare.

20 (d) In order to provide for the expeditious and timely
21 implementation of the State's fiscal year 1999 budget,
22 emergency rules to implement any provision of Public Act 90-587
23 or 90-588 or any other budget initiative for fiscal year 1999
24 may be adopted in accordance with this Section by the agency
25 charged with administering that provision or initiative,
26 except that the 24-month limitation on the adoption of

1 emergency rules and the provisions of Sections 5-115 and 5-125
2 do not apply to rules adopted under this subsection (d). The
3 adoption of emergency rules authorized by this subsection (d)
4 shall be deemed to be necessary for the public interest,
5 safety, and welfare.

6 (e) In order to provide for the expeditious and timely
7 implementation of the State's fiscal year 2000 budget,
8 emergency rules to implement any provision of Public Act 91-24
9 or any other budget initiative for fiscal year 2000 may be
10 adopted in accordance with this Section by the agency charged
11 with administering that provision or initiative, except that
12 the 24-month limitation on the adoption of emergency rules and
13 the provisions of Sections 5-115 and 5-125 do not apply to
14 rules adopted under this subsection (e). The adoption of
15 emergency rules authorized by this subsection (e) shall be
16 deemed to be necessary for the public interest, safety, and
17 welfare.

18 (f) In order to provide for the expeditious and timely
19 implementation of the State's fiscal year 2001 budget,
20 emergency rules to implement any provision of Public Act 91-712
21 or any other budget initiative for fiscal year 2001 may be
22 adopted in accordance with this Section by the agency charged
23 with administering that provision or initiative, except that
24 the 24-month limitation on the adoption of emergency rules and
25 the provisions of Sections 5-115 and 5-125 do not apply to
26 rules adopted under this subsection (f). The adoption of

1 emergency rules authorized by this subsection (f) shall be
2 deemed to be necessary for the public interest, safety, and
3 welfare.

4 (g) In order to provide for the expeditious and timely
5 implementation of the State's fiscal year 2002 budget,
6 emergency rules to implement any provision of Public Act 92-10
7 or any other budget initiative for fiscal year 2002 may be
8 adopted in accordance with this Section by the agency charged
9 with administering that provision or initiative, except that
10 the 24-month limitation on the adoption of emergency rules and
11 the provisions of Sections 5-115 and 5-125 do not apply to
12 rules adopted under this subsection (g). The adoption of
13 emergency rules authorized by this subsection (g) shall be
14 deemed to be necessary for the public interest, safety, and
15 welfare.

16 (h) In order to provide for the expeditious and timely
17 implementation of the State's fiscal year 2003 budget,
18 emergency rules to implement any provision of Public Act 92-597
19 or any other budget initiative for fiscal year 2003 may be
20 adopted in accordance with this Section by the agency charged
21 with administering that provision or initiative, except that
22 the 24-month limitation on the adoption of emergency rules and
23 the provisions of Sections 5-115 and 5-125 do not apply to
24 rules adopted under this subsection (h). The adoption of
25 emergency rules authorized by this subsection (h) shall be
26 deemed to be necessary for the public interest, safety, and

1 welfare.

2 (i) In order to provide for the expeditious and timely
3 implementation of the State's fiscal year 2004 budget,
4 emergency rules to implement any provision of Public Act 93-20
5 or any other budget initiative for fiscal year 2004 may be
6 adopted in accordance with this Section by the agency charged
7 with administering that provision or initiative, except that
8 the 24-month limitation on the adoption of emergency rules and
9 the provisions of Sections 5-115 and 5-125 do not apply to
10 rules adopted under this subsection (i). The adoption of
11 emergency rules authorized by this subsection (i) shall be
12 deemed to be necessary for the public interest, safety, and
13 welfare.

14 (j) In order to provide for the expeditious and timely
15 implementation of the provisions of the State's fiscal year
16 2005 budget as provided under the Fiscal Year 2005 Budget
17 Implementation (Human Services) Act, emergency rules to
18 implement any provision of the Fiscal Year 2005 Budget
19 Implementation (Human Services) Act may be adopted in
20 accordance with this Section by the agency charged with
21 administering that provision, except that the 24-month
22 limitation on the adoption of emergency rules and the
23 provisions of Sections 5-115 and 5-125 do not apply to rules
24 adopted under this subsection (j). The Department of Public Aid
25 may also adopt rules under this subsection (j) necessary to
26 administer the Illinois Public Aid Code and the Children's

1 Health Insurance Program Act. The adoption of emergency rules
2 authorized by this subsection (j) shall be deemed to be
3 necessary for the public interest, safety, and welfare.

4 (k) In order to provide for the expeditious and timely
5 implementation of the provisions of the State's fiscal year
6 2006 budget, emergency rules to implement any provision of
7 Public Act 94-48 or any other budget initiative for fiscal year
8 2006 may be adopted in accordance with this Section by the
9 agency charged with administering that provision or
10 initiative, except that the 24-month limitation on the adoption
11 of emergency rules and the provisions of Sections 5-115 and
12 5-125 do not apply to rules adopted under this subsection (k).
13 The Department of Healthcare and Family Services may also adopt
14 rules under this subsection (k) necessary to administer the
15 Illinois Public Aid Code, the Senior Citizens and Persons with
16 Disabilities Property Tax Relief Act, the Senior Citizens and
17 Disabled Persons Prescription Drug Discount Program Act (now
18 the Illinois Prescription Drug Discount Program Act), and the
19 Children's Health Insurance Program Act. The adoption of
20 emergency rules authorized by this subsection (k) shall be
21 deemed to be necessary for the public interest, safety, and
22 welfare.

23 (l) In order to provide for the expeditious and timely
24 implementation of the provisions of the State's fiscal year
25 2007 budget, the Department of Healthcare and Family Services
26 may adopt emergency rules during fiscal year 2007, including

1 rules effective July 1, 2007, in accordance with this
2 subsection to the extent necessary to administer the
3 Department's responsibilities with respect to amendments to
4 the State plans and Illinois waivers approved by the federal
5 Centers for Medicare and Medicaid Services necessitated by the
6 requirements of Title XIX and Title XXI of the federal Social
7 Security Act. The adoption of emergency rules authorized by
8 this subsection (l) shall be deemed to be necessary for the
9 public interest, safety, and welfare.

10 (m) In order to provide for the expeditious and timely
11 implementation of the provisions of the State's fiscal year
12 2008 budget, the Department of Healthcare and Family Services
13 may adopt emergency rules during fiscal year 2008, including
14 rules effective July 1, 2008, in accordance with this
15 subsection to the extent necessary to administer the
16 Department's responsibilities with respect to amendments to
17 the State plans and Illinois waivers approved by the federal
18 Centers for Medicare and Medicaid Services necessitated by the
19 requirements of Title XIX and Title XXI of the federal Social
20 Security Act. The adoption of emergency rules authorized by
21 this subsection (m) shall be deemed to be necessary for the
22 public interest, safety, and welfare.

23 (n) In order to provide for the expeditious and timely
24 implementation of the provisions of the State's fiscal year
25 2010 budget, emergency rules to implement any provision of
26 Public Act 96-45 or any other budget initiative authorized by

1 the 96th General Assembly for fiscal year 2010 may be adopted
2 in accordance with this Section by the agency charged with
3 administering that provision or initiative. The adoption of
4 emergency rules authorized by this subsection (n) shall be
5 deemed to be necessary for the public interest, safety, and
6 welfare. The rulemaking authority granted in this subsection
7 (n) shall apply only to rules promulgated during Fiscal Year
8 2010.

9 (o) In order to provide for the expeditious and timely
10 implementation of the provisions of the State's fiscal year
11 2011 budget, emergency rules to implement any provision of
12 Public Act 96-958 or any other budget initiative authorized by
13 the 96th General Assembly for fiscal year 2011 may be adopted
14 in accordance with this Section by the agency charged with
15 administering that provision or initiative. The adoption of
16 emergency rules authorized by this subsection (o) is deemed to
17 be necessary for the public interest, safety, and welfare. The
18 rulemaking authority granted in this subsection (o) applies
19 only to rules promulgated on or after July 1, 2010 (the
20 effective date of Public Act 96-958) through June 30, 2011.

21 (p) In order to provide for the expeditious and timely
22 implementation of the provisions of Public Act 97-689,
23 emergency rules to implement any provision of Public Act 97-689
24 may be adopted in accordance with this subsection (p) by the
25 agency charged with administering that provision or
26 initiative. The 150-day limitation of the effective period of

1 emergency rules does not apply to rules adopted under this
2 subsection (p), and the effective period may continue through
3 June 30, 2013. The 24-month limitation on the adoption of
4 emergency rules does not apply to rules adopted under this
5 subsection (p). The adoption of emergency rules authorized by
6 this subsection (p) is deemed to be necessary for the public
7 interest, safety, and welfare.

8 (q) In order to provide for the expeditious and timely
9 implementation of the provisions of Articles 7, 8, 9, 11, and
10 12 of Public Act 98-104, emergency rules to implement any
11 provision of Articles 7, 8, 9, 11, and 12 of Public Act 98-104
12 may be adopted in accordance with this subsection (q) by the
13 agency charged with administering that provision or
14 initiative. The 24-month limitation on the adoption of
15 emergency rules does not apply to rules adopted under this
16 subsection (q). The adoption of emergency rules authorized by
17 this subsection (q) is deemed to be necessary for the public
18 interest, safety, and welfare.

19 (r) In order to provide for the expeditious and timely
20 implementation of the provisions of Public Act 98-651,
21 emergency rules to implement Public Act 98-651 may be adopted
22 in accordance with this subsection (r) by the Department of
23 Healthcare and Family Services. The 24-month limitation on the
24 adoption of emergency rules does not apply to rules adopted
25 under this subsection (r). The adoption of emergency rules
26 authorized by this subsection (r) is deemed to be necessary for

1 the public interest, safety, and welfare.

2 (s) In order to provide for the expeditious and timely
3 implementation of the provisions of Sections 5-5b.1 and 5A-2 of
4 the Illinois Public Aid Code, emergency rules to implement any
5 provision of Section 5-5b.1 or Section 5A-2 of the Illinois
6 Public Aid Code may be adopted in accordance with this
7 subsection (s) by the Department of Healthcare and Family
8 Services. The rulemaking authority granted in this subsection
9 (s) shall apply only to those rules adopted prior to July 1,
10 2015. Notwithstanding any other provision of this Section, any
11 emergency rule adopted under this subsection (s) shall only
12 apply to payments made for State fiscal year 2015. The adoption
13 of emergency rules authorized by this subsection (s) is deemed
14 to be necessary for the public interest, safety, and welfare.

15 (t) In order to provide for the expeditious and timely
16 implementation of the provisions of Article II of Public Act
17 99-6, emergency rules to implement the changes made by Article
18 II of Public Act 99-6 to the Emergency Telephone System Act may
19 be adopted in accordance with this subsection (t) by the
20 Department of State Police. The rulemaking authority granted in
21 this subsection (t) shall apply only to those rules adopted
22 prior to July 1, 2016. The 24-month limitation on the adoption
23 of emergency rules does not apply to rules adopted under this
24 subsection (t). The adoption of emergency rules authorized by
25 this subsection (t) is deemed to be necessary for the public
26 interest, safety, and welfare.

1 (u) In order to provide for the expeditious and timely
2 implementation of the provisions of the Burn Victims Relief
3 Act, emergency rules to implement any provision of the Act may
4 be adopted in accordance with this subsection (u) by the
5 Department of Insurance. The rulemaking authority granted in
6 this subsection (u) shall apply only to those rules adopted
7 prior to December 31, 2015. The adoption of emergency rules
8 authorized by this subsection (u) is deemed to be necessary for
9 the public interest, safety, and welfare.

10 (v) In order to provide for the expeditious and timely
11 implementation of the provisions of Public Act 99-516,
12 emergency rules to implement Public Act 99-516 may be adopted
13 in accordance with this subsection (v) by the Department of
14 Healthcare and Family Services. The 24-month limitation on the
15 adoption of emergency rules does not apply to rules adopted
16 under this subsection (v). The adoption of emergency rules
17 authorized by this subsection (v) is deemed to be necessary for
18 the public interest, safety, and welfare.

19 (w) In order to provide for the expeditious and timely
20 implementation of the provisions of Public Act 99-796,
21 emergency rules to implement the changes made by Public Act
22 99-796 may be adopted in accordance with this subsection (w) by
23 the Adjutant General. The adoption of emergency rules
24 authorized by this subsection (w) is deemed to be necessary for
25 the public interest, safety, and welfare.

26 (x) In order to provide for the expeditious and timely

1 implementation of the provisions of Public Act 99-906,
2 emergency rules to implement subsection (i) of Section 16-115D,
3 subsection (g) of Section 16-128A, and subsection (a) of
4 Section 16-128B of the Public Utilities Act may be adopted in
5 accordance with this subsection (x) by the Illinois Commerce
6 Commission. The rulemaking authority granted in this
7 subsection (x) shall apply only to those rules adopted within
8 180 days after June 1, 2017 (the effective date of Public Act
9 99-906). The adoption of emergency rules authorized by this
10 subsection (x) is deemed to be necessary for the public
11 interest, safety, and welfare.

12 (y) In order to provide for the expeditious and timely
13 implementation of the provisions of Public Act 100-23,
14 emergency rules to implement the changes made by Public Act
15 100-23 to Section 4.02 of the Illinois Act on the Aging,
16 Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code,
17 Section 55-30 of the Alcoholism and Other Drug Abuse and
18 Dependency Act, and Sections 74 and 75 of the Mental Health and
19 Developmental Disabilities Administrative Act may be adopted
20 in accordance with this subsection (y) by the respective
21 Department. The adoption of emergency rules authorized by this
22 subsection (y) is deemed to be necessary for the public
23 interest, safety, and welfare.

24 (z) In order to provide for the expeditious and timely
25 implementation of the provisions of Public Act 100-554,
26 emergency rules to implement the changes made by Public Act

1 100-554 to Section 4.7 of the Lobbyist Registration Act may be
2 adopted in accordance with this subsection (z) by the Secretary
3 of State. The adoption of emergency rules authorized by this
4 subsection (z) is deemed to be necessary for the public
5 interest, safety, and welfare.

6 (aa) In order to provide for the expeditious and timely
7 initial implementation of the changes made to Articles 5, 5A,
8 12, and 14 of the Illinois Public Aid Code under the provisions
9 of Public Act 100-581, the Department of Healthcare and Family
10 Services may adopt emergency rules in accordance with this
11 subsection (aa). The 24-month limitation on the adoption of
12 emergency rules does not apply to rules to initially implement
13 the changes made to Articles 5, 5A, 12, and 14 of the Illinois
14 Public Aid Code adopted under this subsection (aa). The
15 adoption of emergency rules authorized by this subsection (aa)
16 is deemed to be necessary for the public interest, safety, and
17 welfare.

18 (bb) In order to provide for the expeditious and timely
19 implementation of the provisions of Public Act 100-587,
20 emergency rules to implement the changes made by Public Act
21 100-587 to Section 4.02 of the Illinois Act on the Aging,
22 Sections 5.5.4 and 5-5.4i of the Illinois Public Aid Code,
23 subsection (b) of Section 55-30 of the Alcoholism and Other
24 Drug Abuse and Dependency Act, Section 5-104 of the Specialized
25 Mental Health Rehabilitation Act of 2013, and Section 75 and
26 subsection (b) of Section 74 of the Mental Health and

1 Developmental Disabilities Administrative Act may be adopted
2 in accordance with this subsection (bb) by the respective
3 Department. The adoption of emergency rules authorized by this
4 subsection (bb) is deemed to be necessary for the public
5 interest, safety, and welfare.

6 (cc) In order to provide for the expeditious and timely
7 implementation of the provisions of Public Act 100-587,
8 emergency rules may be adopted in accordance with this
9 subsection (cc) to implement the changes made by Public Act
10 100-587 to: Sections 14-147.5 and 14-147.6 of the Illinois
11 Pension Code by the Board created under Article 14 of the Code;
12 Sections 15-185.5 and 15-185.6 of the Illinois Pension Code by
13 the Board created under Article 15 of the Code; and Sections
14 16-190.5 and 16-190.6 of the Illinois Pension Code by the Board
15 created under Article 16 of the Code. The adoption of emergency
16 rules authorized by this subsection (cc) is deemed to be
17 necessary for the public interest, safety, and welfare.

18 (dd) In order to provide for the expeditious and timely
19 implementation of the provisions of Public Act 100-864,
20 emergency rules to implement the changes made by Public Act
21 100-864 to Section 3.35 of the Newborn Metabolic Screening Act
22 may be adopted in accordance with this subsection (dd) by the
23 Secretary of State. The adoption of emergency rules authorized
24 by this subsection (dd) is deemed to be necessary for the
25 public interest, safety, and welfare.

26 (ee) In order to provide for the expeditious and timely

1 implementation of the provisions of this amendatory Act of the
2 100th General Assembly, emergency rules implementing the
3 Illinois Underground Natural Gas Storage Safety Act may be
4 adopted in accordance with this subsection by the Department of
5 Natural Resources. The adoption of emergency rules authorized
6 by this subsection is deemed to be necessary for the public
7 interest, safety, and welfare.

8 (ff) In order to provide for the expeditious and timely
9 implementation of the provisions of this amendatory Act of the
10 101st General Assembly, emergency rules may be adopted by the
11 Department of Labor in accordance with this subsection (ff) to
12 implement the changes made by this amendatory Act of the 101st
13 General Assembly to the Minimum Wage Law. The adoption of
14 emergency rules authorized by this subsection (ff) is deemed to
15 be necessary for the public interest, safety, and welfare.

16 (gg) In order to provide for the expeditious and timely
17 implementation of the provisions of this amendatory Act of the
18 101st General Assembly, emergency rules may be adopted by the
19 Pollution Control Board in accordance with this subsection (gg)
20 to implement the provisions of this amendatory Act of the 101st
21 General Assembly. The adoption of emergency rules authorized by
22 this subsection is deemed to be necessary for the public
23 interest, safety, and welfare.

24 (Source: P.A. 100-23, eff. 7-6-17; 100-554, eff. 11-16-17;
25 100-581, eff. 3-12-18; 100-587, Article 95, Section 95-5, eff.
26 6-4-18; 100-587, Article 110, Section 110-5, eff. 6-4-18;

1 100-864, eff. 8-14-18; 100-1172, eff. 1-4-19; 101-1, eff.
2 2-19-19.)

3 Section 10. The Environmental Protection Act is amended by
4 changing Section 39.5 and by adding Section 9.16 as follows:

5 (415 ILCS 5/9.16 new)

6 Sec. 9.16. Emissions standards, rules, and notice for
7 facilities emitting ethylene oxide.

8 (a) The General Assembly finds that the emission of
9 ethylene oxide may constitute a threat to public health and
10 welfare, depress property values, and diminish quality of life.
11 The purpose of this Section is to maintain and enhance the
12 quality of the air of this State in order to protect health,
13 welfare, and quality of life and to ensure that no ethylene
14 oxide is discharged into the atmosphere or water without being
15 given the degree of treatment or control necessary.

16 (b) The Agency shall immediately reevaluate rules for
17 ethylene oxide use as a sterilant or fumigant and adopt new
18 rules in accordance with the most recently issued scientific
19 understanding of ethylene oxide based on reports, findings, and
20 statements on the health impacts of ethylene oxide produced by
21 the USEPA, United States Food and Drug Administration, the
22 United States Center for Disease Control, the Agency for Toxic
23 Substances and Disease Registry, the National Institute for
24 Occupational Safety and Health, and any other State or federal

1 agency that publishes materials on ethylene oxide. The Agency
2 shall submit new rules for ethylene oxide use as a sterilant or
3 fumigant to the Board within 90 days after the effective date
4 of this amendatory Act of the 101st General Assembly.

5 (1) When determining rules for ethylene oxide use as a
6 sterilant or fumigant, the Agency shall:

7 (A) measure, or have measured, what the current
8 ambient levels of ethylene oxide are in the air
9 throughout the state, this measurement shall take into
10 account different land uses throughout the State;

11 (B) account for both short-term and long-term
12 exposure to ethylene oxide;

13 (C) set the rules to maximize the health and safety
14 of both workers who are exposed to ethylene oxide as a
15 result of employment and members of the public exposed
16 as a result of ethylene oxide emissions; and

17 (D) consider both the extent to which passive
18 offgassing may occur at a facility permitted to emit
19 ethylene oxide and the environmental controls that are
20 necessary to control passive offgassing.

21 (2) If a CAAPP permit applicant applies to use ethylene
22 oxide as a sterilant or fumigant at a facility not in
23 existence prior to January 1, 2020, the Agency shall issue
24 a CAAPP permit for emission of ethylene oxide only if:

25 (A) the nearest school or park is at least 10 miles
26 from the permit applicant in counties with populations

1 greater than 50,000;

2 (B) the nearest school or park is at least 15 miles
3 from the permit applicant in counties with populations
4 less than or equal to 50,000; and

5 (C) within 7 days after the application for a CAAPP
6 permit, the permit applicant has published its permit
7 request on its website, published notice in a local
8 newspaper of general circulation, and provided notice
9 to:

10 (i) the State Representative for the
11 representative district that the facility is
12 located in;

13 (ii) the State Senator for the legislative
14 district that the facility is located in;

15 (iii) the members of the county board for the
16 county in which the facility is located in; and

17 (iv) the local municipal board members and
18 executives.

19 (3) If any entity or any parent or subsidiary of an
20 entity that owns or operates a facility permitted to emit
21 ethylene oxide acquires by purchase, license, or any other
22 method of acquisition any intellectual property right in a
23 sterilization technology that does not involve the use of
24 ethylene oxide, or by purchase, merger, or any other method
25 of acquisition of any entity that holds an intellectual
26 property right in a sterilization technology that does not

1 involve the use of ethylene oxide, that entity, parent, or
2 subsidiary shall notify the Agency of the acquisition
3 within 30 days of acquiring it. If that entity, parent, or
4 subsidiary has not used the sterilization technology
5 within 3 years of its acquisition, the entity shall notify
6 the Agency within 30 days of the 3-year period elapsing.

7 Any entity or any parent or subsidiary of an entity
8 that owns or operates a facility permitted to emit ethylene
9 oxide that has any property right in any intellectual
10 sterilization technology that does not involve the use of
11 ethylene oxide shall notify the Agency of any offers that
12 it makes to license or otherwise allow the technology to be
13 used by third parties within 30 days of making the offer.

14 Any entity or any parent or subsidiary of an entity
15 that owns or operates a facility permitted to emit ethylene
16 oxide shall provide the Agency with a list of all patents
17 for sterilization technology that the entity, parent, or
18 subsidiary has any property right in. The list shall
19 include the following:

20 (A) The patent number assigned by the United States
21 Patent and Trademark Office for each patent.

22 (B) The date each patent was filed.

23 (C) The names and addresses of all owners or
24 assignees of each patent.

25 (D) The names and addresses of all inventors of
26 each patent.

1 (c) The Agency shall not renew an air pollution operating
2 permit if the Agency finds that the facility is emitting
3 ethylene oxide at a level that violates any federal or State
4 standards pertaining to ethylene oxide, or if the Agency
5 otherwise finds the facility to be operating in violation of
6 this Act. If the nonrenewal of the air pollution operating
7 permit is upheld, any corrections shall be completed within 90
8 days of an entry of a final order. If the Agency determines
9 that nonrenewal of the permit shall be reversed, the Agency
10 shall renew the air pollution operating permit within 90 days.

11 (d) Within 30 days after the approval by the Board of new
12 rules for ethylene oxide use as a sterilant or fumigant in
13 accordance with paragraph (1) of subsection (b), the Agency
14 shall reopen and modify all CAAPP permits that allow the use of
15 ethylene oxide under paragraph c-5 of subsection 15 of Section
16 39.5. If the Agency reopens and modifies a CAAPP permit under
17 this subsection, the facility shall be allowed no more than 6
18 months from the date of the modification to comply with the
19 terms of the modified permit.

20 (e) Upon the Agency's receipt, or the provision to the
21 Agency by the Department of Public Health or the Governor, of
22 information in any form from any State or federal agency
23 related to elevated emissions of ethylene oxide, an update of
24 emissions standards for ethylene oxide, or increased instances
25 of adverse public health effects related to emissions of
26 ethylene oxide that are discovered by a State or federal

1 agency, the Agency shall within 7 days provide written notice
2 of that information, either by mail or electronically, to every
3 hospital, school district, and unit of local government within
4 5 miles of the emitting facility. The Agency and the Department
5 of Public Health shall also post the notice on their respective
6 websites and the Agency shall notify the Attorney General, the
7 State Representative for the representative district that the
8 facility is located in, the State Senator for the legislative
9 district that the facility is located in, all members of the
10 county board for the county in which the facility is located
11 in, and the local municipal board members and executives, of
12 the information.

13 The notice required under this subsection shall
14 substantially comply with the standards set forth in the Crisis
15 and Emergency Risk Communication manual published by the
16 Centers for Disease Control and Prevention.

17 (f) The Agency, or its designee, shall test ambient levels
18 of ethylene oxide within one mile of each facility permitted to
19 emit ethylene oxide under paragraph c-5 of subsection 15 of
20 Section 39.5 at least once per 12-month period. If a facility
21 permitted to emit ethylene oxide is known or anticipated to
22 cease ethylene oxide emissions, the Agency shall measure the
23 ambient ethylene oxide levels within one mile of such a
24 facility.

25 (g) A facility permitted to emit ethylene oxide that has
26 been subject to a seal order under Section 34 is prohibited

1 from using ethylene oxide for sterilization or fumigation
2 purposes, unless the facility can provide a certification by
3 the supplier of a product to be sterilized or fumigated that
4 ethylene oxide sterilization or fumigation is the only
5 available method to completely sterilize or fumigate the
6 product. The certification shall be made by a company
7 representative with knowledge of the sterilization
8 requirements of the product.

9 A facility shall not be subject to the requirements of this
10 subsection if the Agency has certified that the facility's
11 emission control system is using technology that produces the
12 greatest reduction in ethylene oxide emissions currently
13 available, or if the supporting findings of the seal order
14 under Section 34 are found to be without merit by a court of
15 competent jurisdiction.

16 (h) The Pollution Control Board may adopt emergency rules
17 necessary to implement the provisions of this amendatory Act of
18 the 101st General Assembly under subsection (gg) of Section
19 5-45 of the Illinois Administration Procedure Act.

20 (i) Nothing in this Section shall apply to a hospital
21 licensed under the Hospital Licensing Act or operated under the
22 University of Illinois Hospital Act.

23 (j) Nothing in this Section shall be construed to limit the
24 ability of a facility to appeal a decision as provided in this
25 Act.

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

2 Sec. 39.5. Clean Air Act Permit Program.

3 1. Definitions. For purposes of this Section:

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

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

9 "Affected States" for purposes of formal distribution of a
10 draft CAAPP permit to other States for comments prior to
11 issuance, means all States:

12 (1) Whose air quality may be affected by the source
13 covered by the draft permit and that are contiguous to
14 Illinois; or

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

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

19 "Applicable Clean Air Act requirement" means all of the
20 following as they apply to emissions units in a source
21 (including regulations that have been promulgated or approved
22 by USEPA pursuant to the Clean Air Act which directly impose
23 requirements upon a source and other such federal requirements
24 which have been adopted by the Board. These may include
25 requirements and regulations which have future effective
26 compliance dates. Requirements and regulations will be exempt

1 if USEPA determines that such requirements need not be
2 contained in a Title V permit):

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

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

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

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

26 (4) Any standard or other requirement under Section 112

1 of the Clean Air Act, including any requirement concerning
2 accident prevention under Section 112(r)(7) of the Clean
3 Air Act.

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

7 (6) Any requirements established pursuant to Section
8 504(b) or Section 114(a)(3) of the Clean Air Act.

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

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

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

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

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

24 (12) Any national ambient air quality standard or
25 increment or visibility requirement under Part C of Title I
26 of the Clean Air Act, but only as it would apply to

1 temporary sources permitted pursuant to Section 504(e) of
2 the Clean Air Act.

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

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

11 "CAAPP application" means an application for a CAAPP
12 permit.

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

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

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

21 "Designated representative" has the meaning given to it in
22 Section 402(26) of the Clean Air Act and the regulations
23 promulgated thereunder, which state that the term "designated
24 representative" means a responsible person or official
25 authorized by the owner or operator of a unit to represent the
26 owner or operator in all matters pertaining to the holding,

1 transfer, or disposition of allowances allocated to a unit, and
2 the submission of and compliance with permits, permit
3 applications, and compliance plans for the unit.

4 "Draft CAAPP permit" means the version of a CAAPP permit
5 for which public notice and an opportunity for public comment
6 and hearing is offered by the Agency.

7 "Effective date of the CAAPP" means the date that USEPA
8 approves Illinois' CAAPP.

9 "Emission unit" means any part or activity of a stationary
10 source that emits or has the potential to emit any air
11 pollutant. This term is not meant to alter or affect the
12 definition of the term "unit" for purposes of Title IV of the
13 Clean Air Act.

14 "Federally enforceable" means enforceable by USEPA.

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

22 "General permit" means a permit issued to cover numerous
23 similar sources in accordance with subsection 11 of this
24 Section.

25 "Major source" means a source for which emissions of one or
26 more air pollutants meet the criteria for major status pursuant

1 to paragraph (c) of subsection 2 of this Section.

2 "Maximum achievable control technology" or "MACT" means
3 the maximum degree of reductions in emissions deemed achievable
4 under Section 112 of the Clean Air Act.

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

7 "Permit modification" means a revision to a CAAPP permit
8 that cannot be accomplished under the provisions for
9 administrative permit amendments under subsection 13 of this
10 Section.

11 "Permit revision" means a permit modification or
12 administrative permit amendment.

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

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

19 "Potential to emit" means the maximum capacity of a
20 stationary source to emit any air pollutant under its physical
21 and operational design. Any physical or operational limitation
22 on the capacity of a source to emit an air pollutant, including
23 air pollution control equipment and restrictions on hours of
24 operation or on the type or amount of material combusted,
25 stored, or processed, shall be treated as part of its design if
26 the limitation is enforceable by USEPA. This definition does

1 not alter or affect the use of this term for any other purposes
2 under the Clean Air Act, or the term "capacity factor" as used
3 in Title IV of the Clean Air Act or the regulations promulgated
4 thereunder.

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

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

13 "Regulated air pollutant" means the following:

14 (1) Nitrogen oxides (NOx) or any volatile organic
15 compound.

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

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

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

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

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

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

13 (6) Greenhouse gases.

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

16 "Responsible official" means one of the following:

17 (1) For a corporation: a president, secretary,
18 treasurer, or vice-president of the corporation in charge
19 of a principal business function, or any other person who
20 performs similar policy or decision-making functions for
21 the corporation, or a duly authorized representative of
22 such person if the representative is responsible for the
23 overall operation of one or more manufacturing,
24 production, or operating facilities applying for or
25 subject to a permit and either (i) the facilities employ
26 more than 250 persons or have gross annual sales or

1 expenditures exceeding \$25 million (in second quarter 1980
2 dollars), or (ii) the delegation of authority to such
3 representative is approved in advance by the Agency.

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

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

23 (4) For affected sources for acid deposition:

24 (i) The designated representative shall be the
25 "responsible official" in so far as actions,
26 standards, requirements, or prohibitions under Title

1 IV of the Clean Air Act or the regulations promulgated
2 thereunder are concerned.

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

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

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

1 for the production of electric energy or in the case of
2 qualifying cogeneration facilities which burn homogeneous
3 waste for the production of electric energy and steam or forms
4 of useful energy (such as heat) which are used for industrial,
5 commercial, heating or cooling purposes, or (C) air curtain
6 incinerators provided that such incinerators only burn wood
7 wastes, yard waste and clean lumber and that such air curtain
8 incinerators comply with opacity limitations to be established
9 by the USEPA by rule.

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

1 properties, and/or is under common control, and/or whether the
2 pollutant emitting activities at such group of stationary
3 sources constitute a support facility shall be made on a case
4 by case basis.

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

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

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

23 "USEPA" means the Administrator of the United States
24 Environmental Protection Agency (USEPA) or a person designated
25 by the Administrator.

1 1.1. Exclusion From the CAAPP.

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

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

21 c. Upon such request, if the Agency determines that the
22 owner or operator of a source has met the requirements for
23 exclusion pursuant to paragraph (a) of this subsection and
24 other applicable requirements for permit issuance under
25 subsection (a) of Section 39 of this Act, the Agency shall
26 issue a State operating permit for such source under

1 subsection (a) of Section 39 of this Act, as amended, and
2 regulations promulgated thereunder with federally
3 enforceable conditions limiting the "potential to emit" of
4 the source to a level below the major source threshold for
5 that source as described in paragraph (c) of subsection 2
6 of this Section.

7 d. The Agency shall provide an owner or operator of a
8 source which may be excluded from the CAAPP pursuant to
9 this subsection with reasonable notice that the owner or
10 operator may seek such exclusion.

11 e. The Agency shall provide such sources with the
12 necessary permit application forms.

13 2. Applicability.

14 a. Sources subject to this Section shall include:

15 i. Any major source as defined in paragraph (c) of
16 this subsection.

17 ii. Any source subject to a standard or other
18 requirements promulgated under Section 111 (New Source
19 Performance Standards) or Section 112 (Hazardous Air
20 Pollutants) of the Clean Air Act, except that a source
21 is not required to obtain a permit solely because it is
22 subject to regulations or requirements under Section
23 112(r) of the Clean Air Act.

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

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

4 b. Sources exempted from this Section shall include:

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

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

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

23 iv. All sources and source categories that would be
24 required to obtain a permit solely because they are
25 subject to Part 61, Subpart M - National Emission
26 Standard for Hazardous Air Pollutants for Asbestos,

1 Section 61.145 (40 CFR Part 61).

2 v. Any other source categories exempted by USEPA
3 regulations pursuant to Section 502(a) of the Clean Air
4 Act.

5 vi. Major sources of greenhouse gas emissions
6 required to obtain a CAAPP permit under this Section if
7 any of the following occurs:

8 (A) enactment of federal legislation depriving
9 the Administrator of the USEPA of authority to
10 regulate greenhouse gases under the Clean Air Act;

11 (B) the issuance of any opinion, ruling,
12 judgment, order, or decree by a federal court
13 depriving the Administrator of the USEPA of
14 authority to regulate greenhouse gases under the
15 Clean Air Act; or

16 (C) action by the President of the United
17 States or the President's authorized agent,
18 including the Administrator of the USEPA, to
19 repeal or withdraw the Greenhouse Gas Tailoring
20 Rule (75 Fed. Reg. 31514, June 3, 2010).

21 If any event listed in this subparagraph (vi)
22 occurs, CAAPP permits issued after such event shall not
23 impose permit terms or conditions addressing
24 greenhouse gases during the effectiveness of any event
25 listed in subparagraph (vi). If any event listed in
26 this subparagraph (vi) occurs, any owner or operator

1 with a CAAPP permit that includes terms or conditions
2 addressing greenhouse gases may elect to submit an
3 application to the Agency to address a revision or
4 repeal of such terms or conditions. If any owner or
5 operator submits such an application, the Agency shall
6 expeditiously process the permit application in
7 accordance with applicable laws and regulations.
8 Nothing in this subparagraph (vi) shall relieve an
9 owner or operator of a source from the requirement to
10 obtain a CAAPP permit for its emissions of regulated
11 air pollutants other than greenhouse gases, as
12 required by this Section.

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

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

17 A. For pollutants other than radionuclides,
18 any stationary source or group of stationary
19 sources located within a contiguous area and under
20 common control that emits or has the potential to
21 emit, in the aggregate, 10 tons per year (tpy) or
22 more of any hazardous air pollutant which has been
23 listed pursuant to Section 112(b) of the Clean Air
24 Act, 25 tpy or more of any combination of such
25 hazardous air pollutants, or such lesser quantity
26 as USEPA may establish by rule. Notwithstanding

1 the preceding sentence, emissions from any oil or
2 gas exploration or production well (with its
3 associated equipment) and emissions from any
4 pipeline compressor or pump station shall not be
5 aggregated with emissions from other similar
6 units, whether or not such units are in a
7 contiguous area or under common control, to
8 determine whether such stations are major sources.

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

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

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

- 1 B. Kraft pulp mills.
- 2 C. Portland cement plants.
- 3 D. Primary zinc smelters.
- 4 E. Iron and steel mills.
- 5 F. Primary aluminum ore reduction plants.
- 6 G. Primary copper smelters.
- 7 H. Municipal incinerators capable of charging
- 8 more than 250 tons of refuse per day.
- 9 I. Hydrofluoric, sulfuric, or nitric acid
- 10 plants.
- 11 J. Petroleum refineries.
- 12 K. Lime plants.
- 13 L. Phosphate rock processing plants.
- 14 M. Coke oven batteries.
- 15 N. Sulfur recovery plants.
- 16 O. Carbon black plants (furnace process).
- 17 P. Primary lead smelters.
- 18 Q. Fuel conversion plants.
- 19 R. Sintering plants.
- 20 S. Secondary metal production plants.
- 21 T. Chemical process plants.
- 22 U. Fossil-fuel boilers (or combination
- 23 thereof) totaling more than 250 million British
- 24 thermal units per hour heat input.
- 25 V. Petroleum storage and transfer units with a
- 26 total storage capacity exceeding 300,000 barrels.

1 W. Taconite ore processing plants.

2 X. Glass fiber processing plants.

3 Y. Charcoal production plants.

4 Z. Fossil fuel-fired steam electric plants of
5 more than 250 million British thermal units per
6 hour heat input.

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

11 BB. Any other stationary source category
12 designated by USEPA by rule.

13 CC. Sterilization facilities that utilize
14 ethylene oxide.

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

17 A. For ozone nonattainment areas, sources with
18 the potential to emit 100 tons or more per year of
19 volatile organic compounds or oxides of nitrogen
20 in areas classified as "marginal" or "moderate",
21 50 tons or more per year in areas classified as
22 "serious", 25 tons or more per year in areas
23 classified as "severe", and 10 tons or more per
24 year in areas classified as "extreme"; except that
25 the references in this clause to 100, 50, 25, and
26 10 tons per year of nitrogen oxides shall not apply

1 with respect to any source for which USEPA has made
2 a finding, under Section 182(f)(1) or (2) of the
3 Clean Air Act, that requirements otherwise
4 applicable to such source under Section 182(f) of
5 the Clean Air Act do not apply. Such sources shall
6 remain subject to the major source criteria of
7 subparagraph (ii) of paragraph (c) of this
8 subsection.

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

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

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

23 3. Agency Authority To Issue CAAPP Permits and Federally
24 Enforceable State Operating Permits.

25 a. The Agency shall issue CAAPP permits under this

1 Section consistent with the Clean Air Act and regulations
2 promulgated thereunder and this Act and regulations
3 promulgated thereunder.

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

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

24 d. For purposes of this Act, a permit issued by USEPA
25 under Section 505 of the Clean Air Act, as now and
26 hereafter amended, shall be deemed to be a permit issued by

1 the Agency pursuant to Section 39.5 of this Act.

2 4. Transition.

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

21 b. An owner or operator of a CAAPP source shall
22 continue to operate in accordance with the terms and
23 conditions of its applicable State operating permit
24 notwithstanding the expiration of the State operating
25 permit until the source's CAAPP permit has been issued.

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

13 d. The Agency shall act on initial CAAPP applications
14 in accordance with paragraph (j) of subsection 5 of this
15 Section.

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

20 f. The Agency shall provide owners or operators of
21 CAAPP sources with at least 3 months advance notice of the
22 date on which their applications are required to be
23 submitted. In determining which sources shall be subject to
24 early submittal, the Agency shall include among its
25 considerations the complexity of the permit application,
26 and the burden that such early submittal will have on the

1 source.

2 g. The CAAPP permit shall upon becoming effective
3 supersede the State operating permit.

4 h. 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 5. Applications and Completeness.

9 a. An owner or operator of a CAAPP source shall submit
10 its complete CAAPP application consistent with the Act and
11 applicable regulations.

12 b. An owner or operator of a CAAPP source shall submit
13 a single complete CAAPP application covering all emission
14 units at that source.

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

24 d. An owner or operator of a CAAPP source shall submit,
25 as part of its complete CAAPP application, a compliance

1 plan, including a schedule of compliance, describing how
2 each emission unit will comply with all applicable
3 requirements. Any such schedule of compliance shall be
4 supplemental to, and shall not sanction noncompliance
5 with, the applicable requirements on which it is based.

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

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

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

24 h. If the owner or operator of a CAAPP source submits a
25 timely and complete CAAPP application, the source's
26 failure to have a CAAPP permit shall not be a violation of

1 this Section until the Agency takes final action on the
2 submitted CAAPP application, provided, however, where the
3 applicant fails to submit the requested information under
4 paragraph (g) of this subsection 5 within the time frame
5 specified by the Agency, this protection shall cease to
6 apply.

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

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

1 on complete applications containing early reduction
2 demonstrations under Section 112(i)(5) of the Clean Air Act
3 within 9 months of receipt of the complete CAAPP
4 application.

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

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

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

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

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

25 o. The terms and conditions of a CAAPP permit shall
26 remain in effect until the issuance of a CAAPP renewal

1 permit provided a timely and complete CAAPP application has
2 been submitted.

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

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

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

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

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

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

12 v. CAAPP applications shall contain accurate
13 information on allowable emissions to implement the fee
14 provisions of subsection 18 of this Section.

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

1 of the Clean Air Act. The Board shall adopt final
2 regulations defining insignificant activities or emission
3 levels no later than 9 months after the date of the
4 Agency's proposal.

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

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

20 6. Prohibitions.

21 a. It shall be unlawful for any person to violate any
22 terms or conditions of a permit issued under this Section,
23 to operate any CAAPP source except in compliance with a
24 permit issued by the Agency under this Section or to
25 violate any other applicable requirements. All terms and

1 conditions of a permit issued under this Section are
2 enforceable by USEPA and citizens under the Clean Air Act,
3 except those, if any, that are specifically designated as
4 not being federally enforceable in the permit pursuant to
5 paragraph (m) of subsection 7 of this Section.

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

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

20 7. Permit Content.

21 a. All CAAPP permits shall contain emission
22 limitations and standards and other enforceable terms and
23 conditions, including but not limited to operational
24 requirements, and schedules for achieving compliance at
25 the earliest reasonable date, which are or will be required

1 to accomplish the purposes and provisions of this Act and
2 to assure compliance with all applicable requirements.

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

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

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

25 i. Incorporate and identify all applicable
26 emissions monitoring and analysis procedures or test

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

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

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

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

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

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

1 measurements.

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

3 C. The company or entity that performed the
4 analyses.

5 D. The analytical techniques or methods used.

6 E. The results of such analyses.

7 F. The operating conditions as existing at the
8 time of sampling or measurement.

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

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

21 i. Submittal of reports of any required monitoring
22 every 6 months. More frequent submittals may be
23 requested by the Agency if such submittals are
24 necessary to assure compliance with this Act or
25 regulations promulgated by the Board thereunder. All
26 instances of deviations from permit requirements must

1 be clearly identified in such reports. All required
2 reports must be certified by a responsible official
3 consistent with subsection 5 of this Section.

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

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

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

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

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

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

8 A. The applicable requirement is specifically
9 identified within the permit; or

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

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

21 iii. A CAAPP permit which does not expressly
22 indicate the existence of a permit shield shall not
23 provide such a shield.

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

26 A. The provisions of Section 303 (emergency

1 powers) of the Clean Air Act, including USEPA's
2 authority under that section.

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

7 C. The applicable requirements of the acid
8 rain program consistent with Section 408(a) of the
9 Clean Air Act.

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

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

21 i. An emergency occurred and the permittee can
22 identify the cause(s) of the emergency.

23 ii. The permitted facility was at the time being
24 properly operated.

25 iii. The permittee submitted notice of the
26 emergency to the Agency within 2 working days after the

1 time when emission limitations were exceeded due to the
2 emergency. This notice must contain a detailed
3 description of the emergency, any steps taken to
4 mitigate emissions, and corrective actions taken.

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

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

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

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

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

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

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

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

25 A. Shall include all terms required under this
26 subsection to determine compliance;

1 B. Must meet all applicable requirements;

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

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

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

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

24 i. Duty to comply. The permittee must comply with
25 all terms and conditions of the CAAPP permit. Any
26 permit noncompliance constitutes a violation of the

1 Clean Air Act and the Act, and is grounds for any or
2 all of the following: enforcement action; permit
3 termination, revocation and reissuance, or
4 modification; or denial of a permit renewal
5 application.

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

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

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

23 v. Duty to provide information. The permittee
24 shall furnish to the Agency within a reasonable time
25 specified by the Agency any information that the Agency
26 may request in writing to determine whether cause

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

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

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

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

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

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

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

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

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

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

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

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

1 requirements; or

2 2. As otherwise authorized by this Act.

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

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

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

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

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

1 following:

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

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

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

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

14 2. The compliance status.

15 3. Whether compliance was continuous or
16 intermittent.

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

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

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

26 F. Other provisions as the Agency may require.

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

12 8. Public Notice; Affected State Review.

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

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

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

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

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

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

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

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

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

13 9. USEPA Notice and Objection.

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

1 system.

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

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

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

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

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

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

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

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

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

7 10. Final Agency Action.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 11. General Permits.

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

24 b. The Agency shall identify, in any general permit,
25 criteria by which sources may qualify for the general

1 permit.

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

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

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

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

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

24 12. Operational Flexibility.

25 a. An owner or operator of a CAAPP source may make

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

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

22 A. For each such change, the written
23 notification required above shall include a brief
24 description of the change within the source, the
25 date on which the change will occur, any change in
26 emissions, and any permit term or condition that is

1 no longer applicable as a result of the change.

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

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

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

1 trade.

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

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

25 A. Under this subparagraph (iii) of paragraph
26 (a), the written notification required above shall

1 state when the change will occur and shall describe
2 the changes in emissions that will result and how
3 these increases and decreases in emissions will
4 comply with the terms and conditions of the permit.

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

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

16 (i) Each such change shall meet all applicable
17 requirements and shall not violate any existing permit
18 term or condition;

19 (ii) Sources must provide contemporaneous written
20 notice to the Agency and USEPA of each such change,
21 except for changes that qualify as insignificant under
22 provisions adopted by the Agency or the Board. Such
23 written notice shall describe each such change,
24 including the date, any change in emissions,
25 pollutants emitted, and any applicable requirement
26 that would apply as a result of the change;

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

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

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

14 13. Administrative Permit Amendments.

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

22 b. The Agency shall submit a copy of the revised permit
23 to USEPA.

24 c. For purposes of this Section the term
25 "administrative permit amendment" shall be defined as a

1 permit revision that can accomplish one or more of the
2 changes described below:

3 i. Corrects typographical errors;

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

8 iii. Requires more frequent monitoring or
9 reporting by the permittee;

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

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

23 vi. (Blank); or

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

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

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

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

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

25 14. Permit Modifications.

1 a. Minor permit modification procedures.

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

5 A. Do not violate any applicable requirement;

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

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

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

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

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

26 E. Are not modifications under any provision

1 of Title I of the Clean Air Act; and

2 F. Are not required to be processed as a
3 significant modification.

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

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

18 A. A description of the change, the emissions
19 resulting from the change, and any new applicable
20 requirements that will apply if the change occurs;

21 B. The source's suggested draft permit;

22 C. Certification by a responsible official,
23 consistent with paragraph (e) of subsection 5 of
24 this Section and applicable regulations, that the
25 proposed modification meets the criteria for use
26 of minor permit modification procedures and a

1 request that such procedures be used; and

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

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

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

23 A. Issue the permit modification as proposed;

24 B. Deny the permit modification application;

25 C. Determine that the requested modification
26 does not meet the minor permit modification

1 criteria and should be reviewed under the
2 significant modification procedures; or

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

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

23 vii. The permit shield under paragraph (j) of
24 subsection 7 of this Section may not extend to minor
25 permit modifications.

26 viii. If a construction permit is required,

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

17 b. Group Processing of Minor Permit Modifications.

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

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

26 A. Which meet the criteria for minor permit

1 modification procedures under subparagraph (i) of
2 paragraph (a) of subsection 14 of this Section; and

3 B. That collectively are below 10 percent of
4 the emissions allowed by the permit for the
5 emissions unit for which change is requested, 20
6 percent of the applicable definition of major
7 source set forth in subsection 2 of this Section,
8 or 5 tons per year, whichever is least.

9 iii. An applicant requesting the use of group
10 processing procedures shall meet the requirements of
11 subsection 5 of this Section and shall include the
12 following in its application:

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

16 B. The source's suggested draft permit.

17 C. Certification by a responsible official
18 consistent with paragraph (e) of subsection 5 of
19 this Section, that the proposed modification meets
20 the criteria for use of group processing
21 procedures and a request that such procedures be
22 used.

23 D. A list of the source's other pending
24 applications awaiting group processing, and a
25 determination of whether the requested
26 modification, aggregated with these other

1 applications, equals or exceeds the threshold set
2 under item (B) of subparagraph (ii) of paragraph
3 (b) of this subsection.

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

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

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

23 v. The provisions of subparagraph (v) of paragraph
24 (a) of this subsection shall apply to modifications
25 eligible for group processing, except that the Agency
26 shall take one of the actions specified in items (A)

1 through (D) of subparagraph (v) of paragraph (a) of
2 this subsection within 180 days after receipt of the
3 application or 15 days after the end of USEPA's 45-day
4 review period under subsection 9 of this Section,
5 whichever is later.

6 vi. The provisions of subparagraph (vi) of
7 paragraph (a) of this subsection shall apply to
8 modifications for group processing.

9 vii. The provisions of paragraph (j) of subsection
10 7 of this Section shall not apply to modifications
11 eligible for group processing.

12 c. Significant Permit Modifications.

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

18 ii. Every significant change in existing
19 monitoring permit terms or conditions and every
20 relaxation of reporting or recordkeeping requirements
21 shall be considered significant. A modification shall
22 also be considered significant if in the judgment of
23 the Agency action on an application for modification
24 would require decisions to be made on technically
25 complex issues. Nothing herein shall be construed to
26 preclude the permittee from making changes consistent

1 with this Section that would render existing permit
2 compliance terms and conditions irrelevant.

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

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

15 15. Reopenings for Cause by the Agency.

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

23 i. Additional requirements under the Clean Air Act
24 become applicable to a major CAAPP source for which 3
25 or more years remain on the original term of the

1 permit. Such a reopening shall be completed not later
2 than 18 months after the promulgation of the applicable
3 requirement. No such revision is required if the
4 effective date of the requirement is later than the
5 date on which the permit is due to expire.

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

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

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

20 b. In the event that the Agency determines that there
21 are grounds for revoking a CAAPP permit, for cause,
22 consistent with paragraph a of this subsection, it shall
23 file a petition before the Board setting forth the basis
24 for such revocation. In any such proceeding, the Agency
25 shall have the burden of establishing that the permit
26 should be revoked under the standards set forth in this Act

1 and the Clean Air Act. Any such proceeding shall be
2 conducted pursuant to the Board's procedures for
3 adjudicatory hearings and the Board shall render its
4 decision within 120 days of the filing of the petition. The
5 Agency shall take final action to revoke and reissue a
6 CAAPP permit consistent with the Board's order.

7 c. Proceedings regarding a reopened CAAPP permit shall
8 follow the same procedures as apply to initial permit
9 issuance and shall affect only those parts of the permit
10 for which cause to reopen exists.

11 c-5. A CAAPP permit issued prior to December 1, 2018
12 and allowing for the use of ethylene oxide may be reopened
13 and revised, and shall not be subject to either process in
14 paragraphs b or c. Within 15 days of the Agency's
15 modification of a permit under this paragraph, the Agency
16 shall submit the permit to the Board for review. The permit
17 shall be effective until the Board votes to approve or
18 reject the modifications.

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

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

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

3 16. Reopenings for Cause by USEPA.

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

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

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

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

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

26 c. USEPA shall review the proposed determination to

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

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

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

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

1 regulations promulgated thereunder.

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

7 e. 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 17. Title IV; Acid Rain Provisions.

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

1 are applicable to and enforceable under this Act.

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

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

1 compliance plan.

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

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

1 thereunder. Such reopening shall not affect the term of the
2 Phase II acid rain permit.

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

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

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

1 regulations promulgated thereunder.

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

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

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

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

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

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

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

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

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

19 o. 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 18. Fee Provisions.

24 a. A source subject to this Section or excluded under
25 subsection 1.1 or paragraph (c) of subsection 3 of this

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

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

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

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

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

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

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

26 b. (Blank).

1 c. (Blank).

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

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

22 i. carbon monoxide;

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

26 iii. any pollutant that is a regulated air

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

6 19. Air Toxics Provisions.

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

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

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

1 emissions limitation established under this subsection.

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

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

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

1 20. Small Business.

2 a. For purposes of this subsection:

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

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

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

16 1. is owned or operated by a person that employs
17 100 or fewer individuals;

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

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

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

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

26 b. The Agency shall adopt and submit to USEPA, after

1 reasonable notice and opportunity for public comment, as a
2 revision to the Illinois state implementation plan, plans
3 for establishing the Program.

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

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

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

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

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

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

- 25 1. The Governor shall select two members who are
26 not owners or representatives of owners of small

1 business stationary sources to represent the general
2 public;

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

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

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

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

17 21. Temporary Sources.

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

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

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

7 22. Solid Waste Incineration Units.

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

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

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

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

1 (Source: P.A. 99-380, eff. 8-17-15; 99-933, eff. 1-27-17;
2 100-103, eff. 8-11-17.)

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