



Rep. Juliana Stratton

**Filed: 5/30/2017**

10000HB1438ham001

LRB100 03185 MJP 27146 a

1 AMENDMENT TO HOUSE BILL 1438

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1438 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Environmental Protection Act is amended by  
5 changing Sections 9.15 and 39.5 and by adding Sections 34.1 and  
6 34.9 and Title XVIII as follows:

7 (415 ILCS 5/9.15)

8 Sec. 9.15. Greenhouse gases.

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

16 (b) An air pollution operating permit shall not be required

1 due to emissions of greenhouse gases if the equipment, site, or  
2 source is not subject to regulation, as defined by Section 39.5  
3 of this Act, for greenhouse gases. This exemption does not  
4 relieve an owner or operator from the obligation to comply with  
5 other applicable rules or regulations.

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

10 ~~(1) enactment of federal legislation depriving the~~  
11 ~~Administrator of the USEPA of authority to regulate~~  
12 ~~greenhouse gases under the Clean Air Act;~~

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

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

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

24 (d) If any event listed in subsection (c) of this Section  
25 occurs, permits issued after such event shall not impose permit  
26 terms or conditions addressing greenhouse gases during the

1 effectiveness of any event listed in subsection (c).

2 (e) If an event listed in subsection (c) of this Section  
3 occurs, any owner or operator with a permit that includes terms  
4 or conditions addressing greenhouse gases may elect to submit  
5 an application to the Agency to address a revision or repeal of  
6 such terms or conditions. The Agency shall expeditiously  
7 process such permit application in accordance with applicable  
8 laws and regulations.

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

10 (415 ILCS 5/34.1 new)

11 Sec. 34.1. Public Interest Enforcement.

12 (a) In addition to the enforcement provisions under Section  
13 31 of this Act and any cases afforded by other statutes, the  
14 common law, or the Illinois Constitution, an action may be  
15 brought in the circuit court by a person in the public interest  
16 to enforce the standards or requirements adopted under  
17 paragraph (2) of subsection (b) of Section 60 of this Act or to  
18 impose civil penalties for a violation of those standards or  
19 requirements, if both of the following are satisfied:

20 (1) The private action is commenced more than 60 days  
21 from the date that the person gave notice of an alleged  
22 violation that is the subject of the private action to the  
23 Attorney General and the State's Attorney in whose  
24 jurisdiction the violation is alleged to have occurred, and  
25 to the alleged violator.

1           (2) Neither the Attorney General nor State's Attorney  
2           commenced and is diligently prosecuting an action against  
3           the violation.

4           A person bringing an action in the public interest under  
5           this subsection and a person filing an action in which a  
6           violation of paragraph (2) of subsection (b) of Section 60 is  
7           alleged shall notify the Attorney General that the action has  
8           been filed.

9           (b) Subsection (a) is operative only if either of the  
10          following occurs:

11           (1) The United States Environmental Protection Agency  
12           revises the standards or requirements described in  
13           paragraph (2) of subsection (b) of Section 60 to be less  
14           stringent than the applicable baseline federal law  
15           standards.

16           (2) The federal Clean Air Act is amended to repeal or  
17           substantially weaken the citizen suit provision under 42  
18           U.S.C. 7604.

19           (c) In addition to the enforcement provisions under Section  
20           31 of this Act and any cases afforded by other statutes, the  
21           common law, or the Illinois Constitution, an action may be  
22           brought in the circuit court by a person in the public interest  
23           to enforce the standards or requirements adopted under  
24           paragraph (3) of subsection (b) of Section 61 or to impose  
25           civil penalties for a violation of those standards or  
26           requirements, if the requirements of paragraphs (1) and (2) of

1 subsection (a) of this Section are met.

2 A person bringing an action in the public interest under  
3 this subsection and a person filing an action in which a  
4 violation of paragraph (3) of subsection (b) of Section 61 is  
5 alleged shall notify the Attorney General that the action has  
6 been filed.

7 (d) Subsection (c) is operative only if either of the  
8 following occurs:

9 (1) The United States Environmental Protection Agency  
10 revised the standards or requirements described in  
11 paragraph (3) of subsection (b) of Section 61 to be less  
12 stringent than the applicable baseline federal law  
13 standards.

14 (2) The federal Clean Water Act is amended to repeal or  
15 substantially weaken the citizen suit provision under 33  
16 U.S.C. 1365.

17 (e) In addition to the enforcement provisions under Section  
18 31 of this Act and any cases afforded by other statutes, the  
19 common law, or the Illinois Constitution, an action may be  
20 brought in the circuit court by a person in the public interest  
21 to enforce the standards or requirements adopted under  
22 paragraph (4) of subsection (b) of Section 61 or to impose  
23 civil penalties for a violation of those standards or  
24 requirements, if the requirements of paragraphs (1) and (2) of  
25 subsection (a) of this Section are met.

26 A person bringing an action in the public interest under

1 this subsection and a person filing an action in which a  
2 violation of paragraph (4) of subsection (b) of Section 61 is  
3 alleged shall notify the Attorney General that the action has  
4 been filed.

5 (f) Subsection (e) is operative only if either of the  
6 following occurs:

7 (1) The United States Environmental Protection Agency  
8 revised the standards or requirements described in  
9 paragraph (4) of subsection (b) of Section 61 to be less  
10 stringent than the applicable baseline federal law  
11 standards.

12 (2) The federal Safe Drinking Water Act is amended to  
13 repeal or substantially weaken the citizen suit provision  
14 under 42 U.S.C. 300j-8.

15 (g) In addition to the enforcement provisions under the  
16 Illinois Endangered Species Protection Act, and any cases  
17 afforded by other statutes, the common law, or the Illinois  
18 Constitution, an action may be brought in the circuit court by  
19 a person in the public interest to enforce the requirements of  
20 the Illinois Endangered Species Protection Act for a species  
21 listed under paragraph (1) of subsection (b) of Section 62 or  
22 to impose civil penalties for a violation of those  
23 requirements, if the requirements of paragraphs (1) and (2) of  
24 subsection (a) of this Section are met.

25 A person bringing an action in the public interest under  
26 this subsection and a person filing an action in which a

1 violation of paragraph (1) of subsection (b) of Section 62 is  
2 alleged shall notify the Attorney General that the action has  
3 been filed.

4 (h) Subsection (g) is operative only if either of the  
5 following occurs:

6 (1) The relevant federal agency revised the standards  
7 or requirements for the protection of species described in  
8 paragraph (1) of subsection (b) of Section 62 to be less  
9 protective than the applicable baseline federal law  
10 standards.

11 (2) The federal Endangered Species Act is amended to  
12 repeal or substantially weaken the citizen suit provision  
13 under 16 U.S.C. 1540.

14 (i) An action or proceeding may be brought under Section  
15 2-619 of the Code of Civil Procedure and Section 2 of Article  
16 XI of the Illinois Constitution, on the grounds that a State or  
17 local agency has violated the requirements of this Section.

18 (j) The court may award attorney's fees under Section 2-619  
19 of the Code of Civil Procedure, and expert fees and court costs  
20 under Section 1033 of the Code of Civil Procedure, as  
21 appropriate, for an action brought under this Section.

22 (415 ILCS 5/34.9 new)

23 Sec. 34.9. Severability. The provisions of this Title VIII  
24 are severable. If any provision of this Title or its  
25 application is held invalid, that invalidity shall not affect

1 other provisions or applications that can be given effect  
2 without the invalid provision or application.

3 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

4 Sec. 39.5. Clean Air Act Permit Program.

5 1. Definitions. For purposes of this Section:

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

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

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

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

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

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

21 "Applicable Clean Air Act requirement" means all of the  
22 following as they apply to emissions units in a source  
23 (including regulations that have been promulgated or approved  
24 by USEPA pursuant to the Clean Air Act which directly impose  
25 requirements upon a source and other such federal requirements



1 which have been adopted by the Board. These may include  
2 requirements and regulations which have future effective  
3 compliance dates. Requirements and regulations will be exempt  
4 if USEPA determines that such requirements need not be  
5 contained in a Title V permit):

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

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

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

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

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

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

10          (6) Any requirements established pursuant to Section  
11 504(b) or Section 114(a)(3) of the Clean Air Act.

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

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

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

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

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

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

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

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

14          "CAAPP application" means an application for a CAAPP  
15          permit.

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

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

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

24          "Designated representative" has the meaning given to it in  
25          Section 402(26) of the Clean Air Act and the regulations  
26          promulgated thereunder, which state that the term "designated

1 representative" means a responsible person or official  
2 authorized by the owner or operator of a unit to represent the  
3 owner or operator in all matters pertaining to the holding,  
4 transfer, or disposition of allowances allocated to a unit, and  
5 the submission of and compliance with permits, permit  
6 applications, and compliance plans for the unit.

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

10 "Effective date of the CAAPP" means the date that USEPA  
11 approves Illinois' CAAPP.

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

17 "Federally enforceable" means enforceable by USEPA.

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

25 "General permit" means a permit issued to cover numerous  
26 similar sources in accordance with subsection 11 of this

1 Section.

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

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

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

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

14 "Permit revision" means a permit modification or  
15 administrative permit amendment.

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

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

22 "Potential to emit" means the maximum capacity of a  
23 stationary source to emit any air pollutant under its physical  
24 and operational design. Any physical or operational limitation  
25 on the capacity of a source to emit an air pollutant, including  
26 air pollution control equipment and restrictions on hours of

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

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

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

16 "Regulated air pollutant" means the following:

17 (1) Nitrogen oxides (NO<sub>x</sub>) or any volatile organic  
18 compound.

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

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

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

26 (5) Any pollutant subject to a standard promulgated

1 under Section 112 or other requirements established under  
2 Section 112 of the Clean Air Act, including Sections  
3 112(g), (j) and (r).

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

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

16 (6) Greenhouse gases.

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

19 "Responsible official" means one of the following:

20 (1) For a corporation: a president, secretary,  
21 treasurer, or vice-president of the corporation in charge  
22 of a principal business function, or any other person who  
23 performs similar policy or decision-making functions for  
24 the corporation, or a duly authorized representative of  
25 such person if the representative is responsible for the  
26 overall operation of one or more manufacturing,

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

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

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

26 (4) For affected sources for acid deposition:



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

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

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

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

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

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

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

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

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

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

26 "USEPA" means the Administrator of the United States

1 Environmental Protection Agency (USEPA) or a person designated  
2 by the Administrator.

3 1.1. Exclusion From the CAAPP.

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

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

23 c. Upon such request, if the Agency determines that the  
24 owner or operator of a source has met the requirements for  
25 exclusion pursuant to paragraph (a) of this subsection and

1 other applicable requirements for permit issuance under  
2 subsection (a) of Section 39 of this Act, the Agency shall  
3 issue a State operating permit for such source under  
4 subsection (a) of Section 39 of this Act, as amended, and  
5 regulations promulgated thereunder with federally  
6 enforceable conditions limiting the "potential to emit" of  
7 the source to a level below the major source threshold for  
8 that source as described in paragraph (c) of subsection 2  
9 of this Section.

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

14 e. The Agency shall provide such sources with the  
15 necessary permit application forms.

## 16 2. Applicability.

17 a. Sources subject to this Section shall include:

18 i. Any major source as defined in paragraph (c) of  
19 this subsection.

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

1 112(r) of the Clean Air Act.

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

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

7 b. Sources exempted from this Section shall include:

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

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

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

26 iv. All sources and source categories that would be

1 required to obtain a permit solely because they are  
2 subject to Part 61, Subpart M - National Emission  
3 Standard for Hazardous Air Pollutants for Asbestos,  
4 Section 61.145 (40 CFR Part 61).

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

8 vi. (Blank). ~~Major sources of greenhouse gas~~  
9 ~~emissions required to obtain a CAAPP permit under this~~  
10 ~~Section if any of the following occurs:~~

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

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

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

24 ~~If any event listed in this subparagraph (vi)~~  
25 ~~occurs, CAAPP permits issued after such event shall not~~  
26 ~~impose permit terms or conditions addressing~~

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

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

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

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



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

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

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

1           the Clean Air Act, unless the source belongs to one of  
2           the following categories of stationary source:

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

1 thermal units per hour heat input.

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

4 W. Taconite ore processing plants.

5 X. Glass fiber processing plants.

6 Y. Charcoal production plants.

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

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

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

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

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

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

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

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

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

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

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

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

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

25           d. For purposes of this Act, a permit issued by USEPA  
26 under Section 505 of the Clean Air Act, as now and

1 hereafter amended, shall be deemed to be a permit issued by  
2 the Agency pursuant to Section 39.5 of this Act.

3 4. Transition.

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

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

1 permit until the source's CAAPP permit has been issued.

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

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

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

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

1 and the burden that such early submittal will have on the  
2 source.

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

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

9 5. Applications and Completeness.

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

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

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

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



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

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

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

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

25 h. If the owner or operator of a CAAPP source submits a  
26 timely and complete CAAPP application, the source's

1 failure to have a CAAPP permit shall not be a violation of  
2 this Section until the Agency takes final action on the  
3 submitted CAAPP application, provided, however, where the  
4 applicant fails to submit the requested information under  
5 paragraph (g) of this subsection 5 within the time frame  
6 specified by the Agency, this protection shall cease to  
7 apply.

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

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

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

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

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

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

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

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

26 o. The terms and conditions of a CAAPP permit shall

1 remain in effect until the issuance of a CAAPP renewal  
2 permit provided a timely and complete CAAPP application has  
3 been submitted.

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

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

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

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

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

1 CAAPP application.

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

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

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

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

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

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

21 6. Prohibitions.

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

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

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

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

21 7. Permit Content.

22 a. All CAAPP permits shall contain emission  
23 limitations and standards and other enforceable terms and  
24 conditions, including but not limited to operational  
25 requirements, and schedules for achieving compliance at

1 the earliest reasonable date, which are or will be required  
2 to accomplish the purposes and provisions of this Act and  
3 to assure compliance with all applicable requirements.

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

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

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

26 i. Incorporate and identify all applicable



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

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

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

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

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

1           A. The date, place and time of sampling or  
2           measurements.

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

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

6           D. The analytical techniques or methods used.

7           E. The results of such analyses.

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

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

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

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

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

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

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

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

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

26 j. The following shall apply with respect to owners or

1 operators requesting a permit shield:

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

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

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

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

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

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

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

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

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

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

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

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

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

26           iii. The permittee submitted notice of the

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

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

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

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

1 or regulations.

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

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

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

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

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

26 A. Shall include all terms required under this

1 subsection to determine compliance;

2 B. Must meet all applicable requirements;

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

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

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

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

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



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

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

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

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

24 v. Duty to provide information. The permittee  
25 shall furnish to the Agency within a reasonable time  
26 specified by the Agency any information that the Agency

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

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

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

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

24           i. Compliance certification, testing, monitoring,  
25           reporting, and record keeping requirements sufficient  
26           to assure compliance with the terms and conditions of

1 the permit. Any document (including reports) required  
2 by a CAAPP permit shall contain a certification by a  
3 responsible official that meets the requirements of  
4 subsection 5 of this Section and applicable  
5 regulations.

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

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

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

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

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

25 1. As authorized by the Clean Air Act, at  
26 reasonable times, for the purposes of assuring

1 compliance with the CAAPP permit or applicable  
2 requirements; or

3 2. As otherwise authorized by this Act.

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

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

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

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

24 v. Requirements for compliance certification with  
25 terms and conditions contained in the permit,  
26 including emission limitations, standards, or work

1 practices. Permits shall include each of the  
2 following:

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

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

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

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

15 2. The compliance status.

16 3. Whether compliance was continuous or  
17 intermittent.

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

22 D. A requirement that all compliance  
23 certifications be submitted to USEPA as well as to  
24 the Agency.

25 E. Additional requirements as may be specified  
26 pursuant to Sections 114(a)(3) and 504(b) of the

1 Clean Air Act.

2 F. Other provisions as the Agency may require.

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

14 8. Public Notice; Affected State Review.

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

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

26 c. The Agency shall give notice of each draft CAAPP

1 permit to the applicant and to any affected State on or  
2 before the time that the Agency has provided notice to the  
3 public, except as otherwise provided in this Act.

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

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

1 The contents of a CAAPP permit shall not be entitled to  
2 protection under Section 7.1 and subsection (a) of Section  
3 7 of this Act.

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

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

14 9. USEPA Notice and Objection.

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



1 compatible with USEPA's national database management  
2 system.

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

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

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

1 review the proposed CAAPP permit; or (3) process the permit  
2 under subsection 8 of this Section except for minor permit  
3 modifications.

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

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

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

1 permit. In any case, the source will not be in violation of  
2 the requirement to have submitted a timely and complete  
3 application.

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 10. Final Agency Action.

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

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

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

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

25 iv. The Agency has received a complete CAAPP

1 application and, if necessary, has requested and  
2 received additional information from the applicant  
3 consistent with subsection 5 of this Section and  
4 applicable regulations.

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

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

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

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

24 ii. Within such notice, the Agency shall specify an  
25 appropriate date by which the applicant shall  
26 adequately respond to the Agency's notice. Such date

1 shall not exceed 15 days from the date the notification  
2 is received by the applicant. The Agency may grant a  
3 reasonable extension for good cause shown.

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

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

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

20 11. General Permits.

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

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

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

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

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

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

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

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

25 12. Operational Flexibility.

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

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

23           A. For each such change, the written  
24 notification required above shall include a brief  
25 description of the change within the source, the  
26 date on which the change will occur, any change in

1 emissions, and any permit term or condition that is  
2 no longer applicable as a result of the change.

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

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

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



1 source will comply and provide for the emissions  
2 trade.

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

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

26 A. Under this subparagraph (iii) of paragraph

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

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

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

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

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

1           that would apply as a result of the change;

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

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

11          c. 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          13. Administrative Permit Amendments.

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

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

25          c. For purposes of this Section the term

1 "administrative permit amendment" shall be defined as a  
2 permit revision that can accomplish one or more of the  
3 changes described below:

4 i. Corrects typographical errors;

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

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

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

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

24 vi. (Blank); or

25 vii. Any other type of change which USEPA has  
26 determined as part of the approved CAAPP permit program

1 to be similar to those included in this subsection.

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

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

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

22 g. 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 14. Permit Modifications.

2 a. Minor permit modification procedures.

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

6 A. Do not violate any applicable requirement;

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

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

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

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

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

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

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

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

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

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

22           B. The source's suggested draft permit;

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

1 of minor permit modification procedures and a  
2 request that such procedures be used; and

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

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

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

- 24 A. Issue the permit modification as proposed;  
25 B. Deny the permit modification application;  
26 C. Determine that the requested modification



1 does not meet the minor permit modification  
2 criteria and should be reviewed under the  
3 significant modification procedures; or

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

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

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

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

18          b. Group Processing of Minor Permit Modifications.

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

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

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

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

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

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

17                B. The source's suggested draft permit.

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

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

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

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

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

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

24 v. The provisions of subparagraph (v) of paragraph  
25 (a) of this subsection shall apply to modifications  
26 eligible for group processing, except that the Agency

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

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

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

13 c. Significant Permit Modifications.

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

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

1 preclude the permittee from making changes consistent  
2 with this Section that would render existing permit  
3 compliance terms and conditions irrelevant.

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

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

16 15. Reopenings for Cause by the Agency.

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

24 i. Additional requirements under the Clean Air Act  
25 become applicable to a major CAAPP source for which 3

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

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

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

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

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

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

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

12 d. Reopenings under paragraph (a) of this subsection  
13 shall not be initiated before a notice of such intent is  
14 provided to the CAAPP source by the Agency at least 30 days  
15 in advance of the date that the permit is to be reopened,  
16 except that the Agency may provide a shorter time period in  
17 the case of an emergency.

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

22 16. Reopenings for Cause by USEPA.

23 a. When USEPA finds that cause exists to terminate,  
24 modify, or revoke and reissue a CAAPP permit pursuant to  
25 subsection 15 of this Section, and thereafter notifies the



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

18 b. i. Prior to the Agency's submittal to USEPA of a  
19 proposed determination to terminate or revoke and  
20 reissue the permit, the Agency shall file a petition  
21 before the Board setting forth USEPA's objection, the  
22 permit record, the Agency's proposed determination,  
23 and the justification for its proposed determination.  
24 The Board shall conduct a hearing pursuant to the rules  
25 prescribed by Section 32 of this Act, and the burden of  
26 proof shall be on the Agency.

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

13           iii. The Board shall cause a copy of its interim  
14 order to be served upon all parties to the proceeding  
15 as well as upon USEPA. The Agency shall submit the  
16 proposed determination to USEPA in accordance with the  
17 Board's Interim Order within 180 days after receipt of  
18 the notification from USEPA.

19           c. USEPA shall review the proposed determination to  
20 terminate, modify, or revoke and reissue the permit within  
21 90 days after receipt.

22           i. When USEPA reviews the proposed determination  
23 to terminate or revoke and reissue and does not object,  
24 the Board shall, within 7 days after receipt of USEPA's  
25 final approval, enter the interim order as a final  
26 order. The final order may be appealed as provided by

1 Title XI of this Act. The Agency shall take final  
2 action in accordance with the Board's final order.

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

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

21 d. If the Agency fails to submit the proposed  
22 determination pursuant to paragraph a of this subsection or  
23 fails to resolve any USEPA objection pursuant to paragraph  
24 c of this subsection, USEPA will terminate, modify, or  
25 revoke and reissue the permit.

26 e. The Agency shall have the authority to adopt

1 procedural rules, in accordance with the Illinois  
2 Administrative Procedure Act, as the Agency deems  
3 necessary, to implement this subsection.

4 17. Title IV; Acid Rain Provisions.

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

20 b. A designated representative of an affected source  
21 for acid deposition shall submit a timely and complete  
22 Phase II acid rain permit application and compliance plan  
23 to the Agency, not later than January 1, 1996, that meets  
24 the requirements of Titles IV and V of the Clean Air Act  
25 and regulations. The Agency shall act on the Phase II acid

1 rain permit application and compliance plan in accordance  
2 with this Section and Title V of the Clean Air Act and  
3 regulations promulgated thereunder, except as modified by  
4 Title IV of the Clean Air Act and regulations promulgated  
5 thereunder. The Agency shall issue the Phase II acid rain  
6 permit to an affected source for acid deposition no later  
7 than December 31, 1997, which shall become effective on  
8 January 1, 2000, in accordance with this Section, except as  
9 modified by Title IV and regulations promulgated  
10 thereunder; provided that the designated representative of  
11 the source submitted a timely and complete Phase II permit  
12 application and compliance plan to the Agency that meets  
13 the requirements of Title IV and V of the Clean Air Act and  
14 regulations.

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

21 d. A designated representative of a new unit, as  
22 defined in Section 402 of the Clean Air Act, shall submit a  
23 timely and complete Phase II acid rain permit application  
24 and compliance plan that meets the requirements of Titles  
25 IV and V of the Clean Air Act and its regulations. The  
26 Agency shall act on the new unit's Phase II acid rain

1 permit application and compliance plan in accordance with  
2 this Section and Title V of the Clean Air Act and its  
3 regulations, except as modified by Title IV of the Clean  
4 Air Act and its regulations. The Agency shall reopen the  
5 new unit's CAAPP permit for cause to incorporate the  
6 approved Phase II acid rain permit in accordance with this  
7 Section. The Phase II acid rain permit for the new unit  
8 shall become effective no later than the date required  
9 under Title IV of the Clean Air Act and its regulations.

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

22 f. The designated representative of the affected  
23 source for acid deposition shall renew the initial CAAPP  
24 permit and Phase II acid rain permit in accordance with  
25 this Section and Title V of the Clean Air Act and  
26 regulations promulgated thereunder, except as modified by

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

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

17 h. The Agency shall not include or implement any  
18 measure which would interfere with or modify the  
19 requirements of Title IV of the Clean Air Act or  
20 regulations promulgated thereunder.

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

25 i. No permit revision shall be required for  
26 increases in emissions that are authorized by

1 allowances acquired pursuant to the acid rain program,  
2 provided that such increases do not require a permit  
3 revision under any other applicable requirement.

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

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

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

17 k. The USEPA may intervene as a matter of right in any  
18 permit appeal involving a Phase II acid rain permit  
19 provision or denial of a Phase II acid rain permit.

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



1           m. The designated representative of an affected source  
2 for acid deposition shall submit to the Agency the data and  
3 information submitted quarterly to USEPA, pursuant to 40  
4 CFR 75.64, concurrently with the submission to USEPA. The  
5 submission shall be in the same electronic format as  
6 specified by USEPA.

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

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

16           18. Fee Provisions.

17           a. A source subject to this Section or excluded under  
18 subsection 1.1 or paragraph (c) of subsection 3 of this  
19 Section, shall pay a fee as provided in this paragraph (a)  
20 of subsection 18. However, a source that has been excluded  
21 from the provisions of this Section under subsection 1.1 or  
22 under paragraph (c) of subsection 3 of this Section because  
23 the source emits less than 25 tons per year of any  
24 combination of regulated air pollutants, except greenhouse  
25 gases, shall pay fees in accordance with paragraph (1) of

1 subsection (b) of Section 9.6.

2 i. The fee for a source allowed to emit less than  
3 100 tons per year of any combination of regulated air  
4 pollutants, except greenhouse gases, shall be \$1,800  
5 per year, and that fee shall increase, beginning  
6 January 1, 2012, to \$2,150 per year.

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

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

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

20 Notwithstanding the above, any applicant may  
21 seek a change in its permit which would result in  
22 increases in allowable emissions due to an  
23 increase in the hours of operation or production  
24 rates of an emission unit or units and such a  
25 change shall be consistent with the construction  
26 permit requirements of the existing State permit

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

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

19 b. (Blank).

20 c. (Blank).

21 d. There is hereby created in the State Treasury a  
22 special fund to be known as the Clean Air Act Permit Fund  
23 (formerly known as the CAA Permit Fund). All Funds  
24 collected by the Agency pursuant to this subsection shall  
25 be deposited into the Fund. The General Assembly shall  
26 appropriate monies from this Fund to the Agency and to the

1 Board to carry out their obligations under this Section.  
2 The General Assembly may also authorize monies to be  
3 granted by the Agency from this Fund to other State and  
4 local agencies which perform duties related to the CAAPP.  
5 Interest generated on the monies deposited in this Fund  
6 shall be returned to the Fund.

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

15 i. carbon monoxide;

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

19 iii. any pollutant that is a regulated air  
20 pollutant solely because it is subject to a standard or  
21 regulation under Section 112(r) of the Clean Air Act  
22 based on the emissions allowed in the permit effective  
23 in that calendar year, at the time the applicable bill  
24 is generated.

25 19. Air Toxics Provisions.

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

1 appropriate emission limitation, pursuant to Section 112  
2 of the Clean Air Act.

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

21 c. The Agency shall have the authority to implement and  
22 enforce complete or partial emission standards promulgated  
23 by USEPA pursuant to Section 112(d), and standards  
24 promulgated by USEPA pursuant to Sections 112(f), 112(h),  
25 112(m), and 112(n), and may accept delegation of authority  
26 from USEPA to implement and enforce Section 112(l) and

1 requirements for the prevention and detection of  
2 accidental releases pursuant to Section 112(r) of the Clean  
3 Air Act.

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

6 e. The Agency has the authority to implement Section  
7 112(g) of the Clean Air Act consistent with the Clean Air  
8 Act and federal regulations promulgated thereunder. If the  
9 Agency refuses to include the emission limitations  
10 proposed in an application submitted by an owner or  
11 operator for a case-by-case maximum achievable control  
12 technology (MACT) determination, the owner or operator may  
13 petition the Board to determine whether the emission  
14 limitation proposed by the owner or operator or an  
15 alternative emission limitation proposed by the Agency  
16 provides for a level of control required by Section 112 of  
17 the Clean Air Act, or to otherwise establish an appropriate  
18 emission limitation under Section 112 of the Clean Air Act.

19 20. Small Business.

20 a. For purposes of this subsection:

21 "Program" is the Small Business Stationary Source  
22 Technical and Environmental Compliance Assistance Program  
23 created within this State pursuant to Section 507 of the  
24 Clean Air Act and guidance promulgated thereunder, to  
25 provide technical assistance and compliance information to



1 small business stationary sources;

2 "Small Business Assistance Program" is a component of  
3 the Program responsible for providing sufficient  
4 communications with small businesses through the  
5 collection and dissemination of information to small  
6 business stationary sources; and

7 "Small Business Stationary Source" means a stationary  
8 source that:

9 1. is owned or operated by a person that employs  
10 100 or fewer individuals;

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

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

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

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

19 b. The Agency shall adopt and submit to USEPA, after  
20 reasonable notice and opportunity for public comment, as a  
21 revision to the Illinois state implementation plan, plans  
22 for establishing the Program.

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

26 d. The Agency may establish such procedures as it may

1       deem necessary for the purposes of implementing and  
2       executing its responsibilities under this subsection.

3       e. There shall be appointed a Small Business Ombudsman  
4       (hereinafter in this subsection referred to as  
5       "Ombudsman") to monitor the Small Business Assistance  
6       Program. The Ombudsman shall be a nonpartisan designated  
7       official, with the ability to independently assess whether  
8       the goals of the Program are being met.

9       f. The State Ombudsman Office shall be located in an  
10      existing Ombudsman office within the State or in any State  
11      Department.

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

16      h. The selection of Panel members shall be by the  
17      following method:

18           1. The Governor shall select two members who are  
19           not owners or representatives of owners of small  
20           business stationary sources to represent the general  
21           public;

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

24           3. The State Legislature shall select four members  
25           who are owners or representatives of owners of small  
26           business stationary sources. Both the majority and

1 minority leadership in both Houses of the Legislature  
2 shall appoint one member of the panel.

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

6 j. The Panel shall select its own Chair by a majority  
7 vote. The Chair may meet and consult with the Ombudsman and  
8 the head of the Small Business Assistance Program in  
9 planning the activities for the Panel.

10 21. Temporary Sources.

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

16 b. The applicant must demonstrate that the operation is  
17 temporary and will involve at least one change of location  
18 during the term of the permit.

19 c. Any such permit shall meet all applicable  
20 requirements of this Section and applicable regulations,  
21 and include conditions assuring compliance with all  
22 applicable requirements at all authorized locations and  
23 requirements that the owner or operator notify the Agency  
24 at least 10 days in advance of each change in location.

1           22. Solid Waste Incineration Units.

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

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

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

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

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

21                   (415 ILCS 5/Tit. XVIII heading new)

22                   TITLE XVIII: PROTECTION OF ENVIRONMENT, NATURAL RESOURCES, AND

23                                   PUBLIC HEALTH

24                   (415 ILCS 5/59 new)

1       Sec. 59. Findings. The General Assembly finds and declares  
2 that:

3       (1) For over 4 decades, Illinois and its residents have  
4 relied on federal laws, including the federal Clean Air Act,  
5 the Federal Water Pollution Control Act (Clean Water Act), the  
6 federal Safe Drinking Water Act, and the federal Endangered  
7 Species Act, along with their implementing regulations and  
8 remedies, to protect our State's public health, environment,  
9 and natural resources.

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

14       (3) Beginning in 2017, a new presidential administration  
15 and a United States Congress are controlled by one party that  
16 has signaled a series of direct challenges to these federal  
17 laws and the protections they provide, as well as to the  
18 underlying science that makes these protections necessary, and  
19 to the rights of the states to protect their own environment,  
20 natural resources, and public health as they see fit.

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

1 (415 ILCS 5/59.1 new)

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

3 (1) Retain protections afforded under the federal laws  
4 specified in paragraph (1) of Section 59 and regulations  
5 implementing those federal laws in existence as of January 1,  
6 2017, regardless of actions taken at the federal level.

7 (2) Protect public health and welfare from any actual or  
8 potential adverse effect that reasonably may be anticipated to  
9 occur from pollution, including the effects of climate change.

10 (3) Preserve, protect, and enhance the environment and  
11 natural resources in Illinois, including, but not limited to,  
12 the State's national parks, national wilderness areas,  
13 national monuments, national waterways, including Lake  
14 Michigan and the Mississippi River, and other areas with  
15 special national or regional natural, recreational, scenic, or  
16 historic value.

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

20 (5) Ensure that any decision made by a public agency that  
21 may adversely impact public health, the environment, or natural  
22 resources is made only after careful evaluation of all the  
23 consequences of that decision and after adequate procedural  
24 opportunities for informed public participation in the  
25 decision-making process.

1 (415 ILCS 5/59.2 new)

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

3 "Baseline federal law standards" means the authorizations,  
4 policies, objectives, rules, requirements, and standards  
5 contained in federal laws or federal regulations implementing  
6 the federal laws in existence as of January 1, 2017.

7 "Baseline federal standards for other federal statutes"  
8 means the authorizations, policies, objectives, rules,  
9 requirements, and standards contained in other federal  
10 statutes or federal regulations implementing the other federal  
11 statutes in existence as of January 1, 2017.

12 "Federal law" means any of the following:

13 (1) The federal Clean Air Act.

14 (2) The Federal Water Pollution Control Act.

15 (3) The federal Safe Drinking Water Act.

16 (4) The federal Endangered Species Act.

17 "Other federal statutes" means any other federal statute  
18 not specified in paragraphs (1) through (4) of the definition  
19 of "federal law" relating to environmental protection, natural  
20 resources, or public health.

21 (415 ILCS 5/59.3 new)

22 Sec. 59.3. Operative provisions.

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

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

4       (c) To the extent required by federal law, a State or local  
5 agency that is delegated the authority to enforce other federal  
6 statutes or that implements the State law that is an analogue  
7 to the other federal statutes shall not amend or revise its  
8 rules to be less stringent than the baseline federal standards  
9 for other federal statutes, but may adopt rules for Illinois  
10 that are more stringent than the baseline federal standards for  
11 other federal statutes.

12       (415 ILCS 5/60 new)

13       Sec. 60. Air.

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

15           (1) Title II of the Environmental Protection Act is the  
16 State analogue to the federal Clean Air Act.

17           (2) The Pollution Control Board and the Environmental  
18 Protection Agency formulate and adopt the state  
19 implementation plans (SIPs) for Illinois under the federal  
20 Clean Air Act, and issue permits governing the emission of  
21 certain substances, including greenhouse gases, into the  
22 air.

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

25           (1) The Pollution Control Board and the Environmental



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

5       (2) If the Pollution Control Board and the  
6       Environmental Protection Agency have not established a  
7       standard or requirement for an air pollutant for which a  
8       standard or requirement exists in the baseline federal law  
9       standards, then the Pollution Control Board and the  
10      Environmental Protection Agency shall adopt the standard  
11      or requirement to be at least as stringent as the baseline  
12      federal law standards.

13      (3) The Pollution Control Board and the Environmental  
14      Protection Agency shall adopt state implementation plans  
15      for Illinois that meet requirements that are at least as  
16      stringent as those required by the applicable baseline  
17      federal law standards, in addition to those required by  
18      State law.

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

1 (415 ILCS 5/61 new)

2 Sec. 61. Water.

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

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

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

10 (3) The Environmental Protection Agency, the  
11 Department of Public Health, the Department of Natural  
12 Resources, and the Pollution Control Board administer  
13 water rights and implement the federal Clean Water Act and  
14 the Environmental Protection Act to preserve, protect,  
15 enhance, and restore water quality by setting statewide  
16 policy, formulating and adopting water quality control  
17 plans, setting standards, issuing permits and waste  
18 discharge requirements, determining compliance with those  
19 permits and waste discharge requirements, and taking  
20 appropriate enforcement actions.

21 (4) The Environmental Protection Agency, the  
22 Department of Public Health, the Department of Natural  
23 Resources, and the Pollution Control Board regulate public  
24 drinking water systems under the federal Safe Drinking  
25 Water Act and the Environmental Protection Act to ensure

1 the delivery of safe drinking water to Illinoisans.

2 (b) Except as otherwise authorized by State law, the  
3 following apply:

4 (1) The Environmental Protection Agency, the  
5 Department of Public Health, the Department of Natural  
6 Resources, and the Pollution Control Board shall maintain  
7 and enforce all water supply and water quality standards  
8 and permitting requirements that are at least as stringent  
9 as required by the applicable baseline federal law  
10 standards, in addition to those required by State law.

11 (2) The Environmental Protection Agency, the  
12 Department of Public Health, the Department of Natural  
13 Resources, and the Pollution Control Board shall maintain  
14 and enforce all drinking water standards that are at least  
15 as stringent as required by the applicable baseline federal  
16 law standards, in addition to those required by State law,  
17 including the level of lead in drinking water.

18 (3) If the Environmental Protection Agency, the  
19 Department of Public Health, the Department of Natural  
20 Resources, and the Pollution Control Board have not  
21 established a water supply or water quality standard or  
22 requirement for which a standard or requirement exists in  
23 the baseline federal law standards, then the Environmental  
24 Protection Agency, the Department of Public Health, the  
25 Department of Natural Resources, and the Pollution Control  
26 Board shall adopt the standard or requirement to be at

1 least as stringent as the baseline federal law standards.

2 (4) If the Environmental Protection Agency, the  
3 Department of Public Health, the Department of Natural  
4 Resources, and the Pollution Control Board have not  
5 established a drinking water standard or requirement for  
6 which a standard or requirement exists in the baseline  
7 federal law standards, then the Environmental Protection  
8 Agency, the Department of Public Health, the Department of  
9 Natural Resources, and the Pollution Control Board shall  
10 adopt the standard or requirement to be at least as  
11 stringent as the baseline federal law standards.

12 (5) Waste discharge requirements and permits that are  
13 issued on and after January 1, 2018, shall be at least as  
14 protective of the environment and comply with all  
15 applicable water quality standards, effluent limitations,  
16 and restrictions as required by the applicable baseline  
17 federal law standards, in addition to those required by  
18 State law.

19 (6) Drinking water supply permits that are issued on  
20 and after January 1, 2018, shall be at least as protective  
21 of public health and comply with all applicable drinking  
22 water standards as required by the applicable baseline  
23 federal law standards, in addition to those required by  
24 State law.

25 (7) A water quality management plan adopted on or after  
26 January 1, 2018, shall be at least as protective of the

1 environment pursuant to, and in compliance with, all  
2 applicable water quality standards, effluent limitations,  
3 and restrictions as required by the applicable baseline  
4 federal law standards, in addition to those required by  
5 State law.

6 (8) When a waste discharge requirement or water quality  
7 management plan is renewed or amended, any water quality  
8 standards, effluent limitations, restrictions, and  
9 conditions shall be at least as protective of the  
10 environment pursuant to, and in compliance with, all  
11 applicable water quality standards, effluent limitations,  
12 and restrictions as required by the applicable baseline  
13 federal law standards, in addition to those required by  
14 State law.

15 (415 ILCS 5/62 new)

16 Sec. 62. Endangered and threatened species.

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

18 (1) The Illinois Endangered Species Protection Act is  
19 the State analogue to the federal Endangered Species Act.

20 (2) The Illinois Endangered Species Protection Act  
21 prohibits the taking of any species that the Department of  
22 Natural Resources determines to be endangered or  
23 threatened, unless the Department of Natural Resources  
24 allows for take incidental to otherwise lawful activity  
25 under Section 4 of the Illinois Endangered Species

1       Protection Act.

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

4           (1) All native species not already listed under the  
5 Illinois Endangered Species Protection Act that are listed  
6 as endangered or threatened under the federal Endangered  
7 Species Act as of January 1, 2017, shall be listed as an  
8 endangered or threatened species, as appropriate, under  
9 the Illinois Endangered Species Protection Act. The  
10 Department of Natural Resources may review and modify the  
11 listing of species in accordance with this Section.

12           (2) Any new or revised consistency determination or  
13 incidental take permit issued to a permittee on or after  
14 January 1, 2018, shall only authorize incidental take if it  
15 requires conditions at least as stringent as required by  
16 the relevant baseline federal law standards, including,  
17 but not limited to, any federal incidental take statement,  
18 incidental take permit, or biological opinion in effect and  
19 applicable to a permittee or project as of January 1, 2017.  
20 This subsection does not modify the requirements of Section  
21 5.5 of the Illinois Endangered Species Protection Act.

22       (415 ILCS 5/63 new)

23       Sec. 63. Implementation; reporting. Every State agency  
24 shall undertake all feasible efforts using its authority under  
25 State and federal law to implement and enforce this amendatory

1 Act of the 100th General Assembly. Every State agency that  
2 takes steps to enforce this amendatory Act of the 100th General  
3 Assembly shall submit a report to the General Assembly at least  
4 once every 6 months describing its compliance with this Title.

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