



Rep. Juliana Stratton

Filed: 6/7/2017

10000HB1438ham002

LRB100 03185 MJP 27485 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. Short title. This Act may be cited as the
5 Illinois Workers' Rights and Worker Safety Act.

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

7 "Federal law" means the federal Fair Labor Standards Act of
8 1938, the federal Occupational Safety and Health Act of 1970,
9 the Federal Mine Safety and Health Act of 1977, and other
10 federal statutes relating to worker rights and protections and
11 regulations, policies, guidance, standards, requirements, and
12 specifications established under those federal statutes.

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

15 Section 15. Operative provisions. Except as authorized by

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

6 Except as otherwise provided in State law, a State agency
7 may establish workers' rights and worker safety standards for
8 Illinois that are more stringent than those provided in federal
9 law in existence as of January 1, 2017.

10 Section 20. Reporting. Each State agency shall undertake
11 all feasible efforts using the State agency's authority under
12 State and federal law to implement and enforce this Act. Each
13 State agency that takes steps to enforce this Act shall submit
14 a report to the General Assembly at least once every 6 months
15 describing the State agency's compliance with this Act.

16 Section 25. The Environmental Protection Act is amended by
17 changing Sections 9.15 and 39.5 and by adding Sections 34.1 and
18 34.9 and Title XVIII as follows:

19 (415 ILCS 5/9.15)

20 Sec. 9.15. Greenhouse gases.

21 (a) An air pollution construction permit shall not be
22 required due to emissions of greenhouse gases if the equipment,
23 site, or source is not subject to regulation, as defined by 40

1 CFR 52.21, as now or hereafter amended, for greenhouse gases.
2 This exemption does not relieve an owner or operator from the
3 obligation to comply with other applicable rules or
4 regulations.

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

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

15 ~~(1) enactment of federal legislation depriving the~~
16 ~~Administrator of the USEPA of authority to regulate~~
17 ~~greenhouse gases under the Clean Air Act;~~

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

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

26 ~~This subsection (c) does not relieve an owner or operator~~

1 ~~from the obligation to comply with applicable rules or~~
2 ~~regulations other than those relating to greenhouse gases.~~

3 (d) If any event listed in subsection (c) of this Section
4 occurs, permits issued after such event shall not impose permit
5 terms or conditions addressing greenhouse gases during the
6 effectiveness of any event listed in subsection (c).

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

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

15 (415 ILCS 5/34.1 new)

16 Sec. 34.1. Public Interest Enforcement.

17 (a) 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 (2) of subsection (b) of Section 60 of this Act or to
23 impose civil penalties for a violation of those standards or
24 requirements, if both of the following are satisfied:

25 (1) The private action is commenced more than 60 days

1 from the date that the person gave notice of an alleged
2 violation that is the subject of the private action to the
3 Attorney General and the State's Attorney in whose
4 jurisdiction the violation is alleged to have occurred, and
5 to the alleged violator.

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

9 A person bringing an action in the public interest under
10 this subsection and a person filing an action in which a
11 violation of paragraph (2) of subsection (b) of Section 60 is
12 alleged shall notify the Attorney General that the action has
13 been filed.

14 (b) Subsection (a) is operative only if either of the
15 following occurs:

16 (1) The United States Environmental Protection Agency
17 revises the standards or requirements described in
18 paragraph (2) of subsection (b) of Section 60 to be less
19 stringent than the applicable baseline federal law
20 standards.

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

24 (c) In addition to the enforcement provisions under Section
25 31 of this Act and any cases afforded by other statutes, the
26 common law, or the Illinois Constitution, an action may be

1 brought in the circuit court by a person in the public interest
2 to enforce the standards or requirements adopted under
3 paragraph (3) of subsection (b) of Section 61 or to impose
4 civil penalties for a violation of those standards or
5 requirements, if the requirements of paragraphs (1) and (2) of
6 subsection (a) of this Section are met.

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

12 (d) Subsection (c) is operative only if either of the
13 following occurs:

14 (1) The United States Environmental Protection Agency
15 revised the standards or requirements described in
16 paragraph (3) of subsection (b) of Section 61 to be less
17 stringent than the applicable baseline federal law
18 standards.

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

22 (e) In addition to the enforcement provisions under Section
23 31 of this Act and any cases afforded by other statutes, the
24 common law, or the Illinois Constitution, an action may be
25 brought in the circuit court by a person in the public interest
26 to enforce the standards or requirements adopted under

1 paragraph (4) of subsection (b) of Section 61 or to impose
2 civil penalties for a violation of those standards or
3 requirements, if the requirements of paragraphs (1) and (2) of
4 subsection (a) of this Section are met.

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

10 (f) Subsection (e) is operative only if either of the
11 following occurs:

12 (1) The United States Environmental Protection Agency
13 revised the standards or requirements described in
14 paragraph (4) of subsection (b) of Section 61 to be less
15 stringent than the applicable baseline federal law
16 standards.

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

20 (g) In addition to the enforcement provisions under the
21 Illinois Endangered Species Protection Act, and any cases
22 afforded by other statutes, the common law, or the Illinois
23 Constitution, an action may be brought in the circuit court by
24 a person in the public interest to enforce the requirements of
25 the Illinois Endangered Species Protection Act for a species
26 listed under paragraph (1) of subsection (b) of Section 62 or

1 to impose civil penalties for a violation of those
2 requirements, if the requirements of paragraphs (1) and (2) of
3 subsection (a) of this Section are met.

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 (1) of subsection (b) of Section 62 is
7 alleged shall notify the Attorney General that the action has
8 been filed.

9 (h) Subsection (g) is operative only if either of the
10 following occurs:

11 (1) The relevant federal agency revised the standards
12 or requirements for the protection of species described in
13 paragraph (1) of subsection (b) of Section 62 to be less
14 protective than the applicable baseline federal law
15 standards.

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

19 (i) An action or proceeding may be brought under Section
20 2-619 of the Code of Civil Procedure and Section 2 of Article
21 XI of the Illinois Constitution, on the grounds that a State or
22 local agency has violated the requirements of this Section.

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

1 (415 ILCS 5/34.9 new)

2 Sec. 34.9. Severability. The provisions of this Title VIII
3 are severable. If any provision of this Title or its
4 application is held invalid, that invalidity shall not affect
5 other provisions or applications that can be given effect
6 without the invalid provision or application.

7 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

8 Sec. 39.5. Clean Air Act Permit Program.

9 1. Definitions. For purposes of this Section:

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

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

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

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

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

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

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

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

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

26 (ii) Any term or condition as required pursuant to

1 Section 39.5 of any federally enforceable State
2 operating permit issued pursuant to regulations
3 approved or promulgated by USEPA under Title I of the
4 Clean Air Act, including Part C or D of the Clean Air
5 Act.

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

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

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

15 (6) Any requirements established pursuant to Section
16 504(b) or Section 114(a)(3) of the Clean Air Act.

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

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

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

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

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

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

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

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

19 "CAAPP application" means an application for a CAAPP
20 permit.

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

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

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

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

12 "Draft CAAPP permit" means the version of a CAAPP permit
13 for which public notice and an opportunity for public comment
14 and hearing is offered by the Agency.

15 "Effective date of the CAAPP" means the date that USEPA
16 approves Illinois' CAAPP.

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

22 "Federally enforceable" means enforceable by USEPA.

23 "Final permit action" means the Agency's granting with
24 conditions, refusal to grant, renewal of, or revision of a
25 CAAPP permit, the Agency's determination of incompleteness of a
26 submitted CAAPP application, or the Agency's failure to act on

1 an application for a permit, permit renewal, or permit revision
2 within the time specified in subsection 13, subsection 14, or
3 paragraph (j) of subsection 5 of this Section.

4 "General permit" means a permit issued to cover numerous
5 similar sources in accordance with subsection 11 of this
6 Section.

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

10 "Maximum achievable control technology" or "MACT" means
11 the maximum degree of reductions in emissions deemed achievable
12 under Section 112 of the Clean Air Act.

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

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

19 "Permit revision" means a permit modification or
20 administrative permit amendment.

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

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

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

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

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

21 "Regulated air pollutant" means the following:

22 (1) Nitrogen oxides (NO_x) or any volatile organic
23 compound.

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

26 (3) Any pollutant that is subject to any standard

1 promulgated under Section 111 of the Clean Air Act.

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

5 (5) Any pollutant subject to a standard promulgated
6 under Section 112 or other requirements established under
7 Section 112 of the Clean Air Act, including Sections
8 112(g), (j) and (r).

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

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

21 (6) Greenhouse gases.

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

24 "Responsible official" means one of the following:

25 (1) For a corporation: a president, secretary,
26 treasurer, or vice-president of the corporation in charge

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

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

24 (3) For a municipality, State, Federal, or other public
25 agency: either a principal executive officer or ranking
26 elected official. For the purposes of this part, a

1 principal executive officer of a Federal agency includes
2 the chief executive officer having responsibility for the
3 overall operations of a principal geographic unit of the
4 agency (e.g., a Regional Administrator of USEPA).

5 (4) For affected sources for acid deposition:

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

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

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

20 "Solid waste incineration unit" means a distinct operating
21 unit of any facility which combusts any solid waste material
22 from commercial or industrial establishments or the general
23 public (including single and multiple residences, hotels, and
24 motels). The term does not include incinerators or other units
25 required to have a permit under Section 3005 of the Solid Waste
26 Disposal Act. The term also does not include (A) materials

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

18 "Source" means any stationary source (or any group of
19 stationary sources) that is located on one or more contiguous
20 or adjacent properties that are under common control of the
21 same person (or persons under common control) and that belongs
22 to a single major industrial grouping. For the purposes of
23 defining "source," a stationary source or group of stationary
24 sources shall be considered part of a single major industrial
25 grouping if all of the pollutant emitting activities at such
26 source or group of sources located on contiguous or adjacent

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

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

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

22 "Support facility" means any stationary source (or group of
23 stationary sources) that conveys, stores, or otherwise assists
24 to a significant extent in the production of a principal
25 product at another stationary source (or group of stationary
26 sources). A support facility shall be considered to be part of

1 the same source as the stationary source (or group of
2 stationary sources) that it supports regardless of the 2-digit
3 Standard Industrial Classification code for the support
4 facility.

5 "USEPA" means the Administrator of the United States
6 Environmental Protection Agency (USEPA) or a person designated
7 by the Administrator.

8 1.1. Exclusion From the CAAPP.

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

22 b. An owner or operator of a source seeking exclusion
23 from the CAAPP pursuant to paragraph (a) of this subsection
24 must submit a permit application consistent with the
25 existing State permit program which specifically requests

1 such exclusion through the imposition of such federally
2 enforceable conditions.

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

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

19 e. The Agency shall provide such sources with the
20 necessary permit application forms.

21 2. Applicability.

22 a. Sources subject to this Section shall include:

23 i. Any major source as defined in paragraph (c) of
24 this subsection.

25 ii. Any source subject to a standard or other

1 requirements promulgated under Section 111 (New Source
2 Performance Standards) or Section 112 (Hazardous Air
3 Pollutants) of the Clean Air Act, except that a source
4 is not required to obtain a permit solely because it is
5 subject to regulations or requirements under Section
6 112(r) of the Clean Air Act.

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

9 iv. Any other source subject to this Section under
10 the Clean Air Act or regulations promulgated
11 thereunder, or applicable Board regulations.

12 b. Sources exempted from this Section shall include:

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

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

26 iii. All sources and source categories that would

1 be required to obtain a permit solely because they are
2 subject to Part 60, Subpart AAA - Standards of
3 Performance for New Residential Wood Heaters (40 CFR
4 Part 60).

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

10 v. Any other source categories exempted by USEPA
11 regulations pursuant to Section 502(a) of the Clean Air
12 Act.

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

16 ~~(A) enactment of federal legislation depriving~~
17 ~~the Administrator of the USEPA of authority to~~
18 ~~regulate greenhouse gases under the Clean Air Act;~~

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

24 ~~(C) action by the President of the United~~
25 ~~States or the President's authorized agent,~~
26 ~~including the Administrator of the USEPA, to~~

1 ~~repeal or withdraw the Greenhouse Gas Tailoring~~
2 ~~Rule (75 Fed. Reg. 31514, June 3, 2010).~~

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

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

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

25 A. For pollutants other than radionuclides,
26 any stationary source or group of stationary

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

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

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

1 through a stack, chimney, vent, or other
2 functionally-equivalent opening. The fugitive
3 emissions of a stationary source shall not be
4 considered in determining whether it is a major
5 stationary source for the purposes of Section 302(j) of
6 the Clean Air Act, unless the source belongs to one of
7 the following categories of stationary source:

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

1 R. Sintering plants.

2 S. Secondary metal production plants.

3 T. Chemical process plants.

4 U. Fossil-fuel boilers (or combination
5 thereof) totaling more than 250 million British
6 thermal units per hour heat input.

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

9 W. Taconite ore processing plants.

10 X. Glass fiber processing plants.

11 Y. Charcoal production plants.

12 Z. Fossil fuel-fired steam electric plants of
13 more than 250 million British thermal units per
14 hour heat input.

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

19 BB. Any other stationary source category
20 designated by USEPA by rule.

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

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

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

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

19 C. For carbon monoxide nonattainment areas (1)
20 that are classified as "serious", and (2) in which
21 stationary sources contribute significantly to
22 carbon monoxide levels as determined under rules
23 issued by USEPA, sources with the potential to emit
24 50 tons or more per year of carbon monoxide.

25 D. For particulate matter (PM-10)
26 nonattainment areas classified as "serious",

1 sources with the potential to emit 70 tons or more
2 per year of PM-10.

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

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

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

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

1 notice requirements of this Section applicable to CAAPP
2 permits shall also apply to the initial issuance of permits
3 under this paragraph.

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

8 4. Transition.

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

1 to the CAAPP application submitted for such source.

2 b. An owner or operator of a CAAPP source shall
3 continue to operate in accordance with the terms and
4 conditions of its applicable State operating permit
5 notwithstanding the expiration of the State operating
6 permit until the source's CAAPP permit has been issued.

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

19 d. The Agency shall act on initial CAAPP applications
20 in accordance with paragraph (j) of subsection 5 of this
21 Section.

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

26 f. The Agency shall provide owners or operators of

1 CAAPP sources with at least 3 months advance notice of the
2 date on which their applications are required to be
3 submitted. In determining which sources shall be subject to
4 early submittal, the Agency shall include among its
5 considerations the complexity of the permit application,
6 and the burden that such early submittal will have on the
7 source.

8 g. The CAAPP permit shall upon becoming effective
9 supersede the State operating permit.

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

14 5. Applications and Completeness.

15 a. An owner or operator of a CAAPP source shall submit
16 its complete CAAPP application consistent with the Act and
17 applicable regulations.

18 b. An owner or operator of a CAAPP source shall submit
19 a single complete CAAPP application covering all emission
20 units at that source.

21 c. To be deemed complete, a CAAPP application must
22 provide all information, as requested in Agency
23 application forms, sufficient to evaluate the subject
24 source and its application and to determine all applicable
25 requirements, pursuant to the Clean Air Act, and

1 regulations thereunder, this Act and regulations
2 thereunder. Such Agency application forms shall be
3 finalized and made available prior to the date on which any
4 CAAPP application is required.

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

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

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

25 g. If after the determination of completeness the
26 Agency finds that additional information is necessary to

1 evaluate or take final action on the CAAPP application, the
2 Agency may request in writing such information from the
3 source with a reasonable deadline for response.

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

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

24 j. The Agency shall issue or deny the CAAPP permit
25 within 18 months after the date of receipt of the complete
26 CAAPP application, with the following exceptions: (i)

1 permits for affected sources for acid deposition shall be
2 issued or denied within 6 months after receipt of a
3 complete application in accordance with subsection 17 of
4 this Section; (ii) the Agency shall act on initial CAAPP
5 applications within 24 months after the date of receipt of
6 the complete CAAPP application; (iii) the Agency shall act
7 on complete applications containing early reduction
8 demonstrations under Section 112(i)(5) of the Clean Air Act
9 within 9 months of receipt of the complete CAAPP
10 application.

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

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

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

24 m. Permits being renewed shall be subject to the same
25 procedural requirements, including those for public
26 participation and federal review and objection, that apply

1 to original permit issuance.

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

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

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

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

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

24 s. An owner or operator of a CAAPP source may include
25 within its CAAPP application a request for permission to
26 operate during a startup, malfunction, or breakdown

1 consistent with applicable Board regulations.

2 t. An owner or operator of a CAAPP source, in order to
3 utilize the operational flexibility provided under
4 paragraph (1) of subsection 7 of this Section, must request
5 such use and provide the necessary information within its
6 CAAPP application.

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

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

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

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

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

22 y. 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 6. Prohibitions.

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

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

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

1 7. Permit Content.

2 a. All CAAPP permits shall contain emission
3 limitations and standards and other enforceable terms and
4 conditions, including but not limited to operational
5 requirements, and schedules for achieving compliance at
6 the earliest reasonable date, which are or will be required
7 to accomplish the purposes and provisions of this Act and
8 to assure compliance with all applicable requirements.

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

24 c. The Agency shall assure, within such conditions, the
25 use of terms, test methods, units, averaging periods, and
26 other statistical conventions consistent with the

1 applicable emission limitations, standards, and other
2 requirements contained in the permit.

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

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

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

23 iii. As necessary, specify requirements concerning
24 the use, maintenance, and when appropriate,
25 installation of monitoring equipment or methods.

26 e. To meet the requirements of this subsection with

1 respect to record keeping, the permit shall incorporate and
2 identify all applicable recordkeeping requirements and
3 require, where applicable, the following:

4 i. Records of required monitoring information that
5 include the following:

6 A. The date, place and time of sampling or
7 measurements.

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

9 C. The company or entity that performed the
10 analyses.

11 D. The analytical techniques or methods used.

12 E. The results of such analyses.

13 F. The operating conditions as existing at the
14 time of sampling or measurement.

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

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

1 i. Submittal of reports of any required monitoring
2 every 6 months. More frequent submittals may be
3 requested by the Agency if such submittals are
4 necessary to assure compliance with this Act or
5 regulations promulgated by the Board thereunder. All
6 instances of deviations from permit requirements must
7 be clearly identified in such reports. All required
8 reports must be certified by a responsible official
9 consistent with subsection 5 of this Section.

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

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

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

1 i. Each CAAPP permit issued under subsection 10 of this
2 Section shall include a severability clause to ensure the
3 continued validity of the various permit requirements in
4 the event of a challenge to any portions of the permit.

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

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

14 A. The applicable requirement is specifically
15 identified within the permit; or

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

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

1 iii. A CAAPP permit which does not expressly
2 indicate the existence of a permit shield shall not
3 provide such a shield.

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

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

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

13 C. The applicable requirements of the acid
14 rain program consistent with Section 408(a) of the
15 Clean Air Act.

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

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

1 i. An emergency occurred and the permittee can
2 identify the cause(s) of the emergency.

3 ii. The permitted facility was at the time being
4 properly operated.

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

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

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

26 In any enforcement proceeding, the permittee seeking

1 to establish the occurrence of an emergency has the burden
2 of proof. This provision is in addition to any emergency or
3 upset provision contained in any applicable requirement.
4 This provision does not relieve a permittee of any
5 reporting obligations under existing federal or state laws
6 or regulations.

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

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

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

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

23 ii. Where requested by an applicant, all terms and
24 conditions allowing for trading of emissions increases
25 and decreases between different emission units at the
26 CAAPP source, to the extent that the applicable

1 requirements provide for trading of such emissions
2 increases and decreases without a case-by-case
3 approval of each emissions trade. Such terms and
4 conditions:

5 A. Shall include all terms required under this
6 subsection to determine compliance;

7 B. Must meet all applicable requirements;

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

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

23 n. Each CAAPP permit issued under subsection 10 of this
24 Section shall specify and reference the origin of and
25 authority for each term or condition, and identify any
26 difference in form as compared to the applicable

1 requirement upon which the term or condition is based.

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

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

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

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

26 iv. Property rights. The permit does not convey any

1 property rights of any sort, or any exclusive
2 privilege.

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

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

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

26 p. Each CAAPP permit issued under subsection 10 of this

1 Section shall contain the following elements with respect
2 to compliance:

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

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

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

21 B. Have access to and copy, at reasonable
22 times, any records that must be kept under the
23 conditions of the permit.

24 C. Inspect at reasonable times any facilities,
25 equipment (including monitoring and air pollution
26 control equipment), practices, or operations

1 regulated or required under the permit.

2 D. Sample or monitor any substances or
3 parameters at any location:

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

8 2. As otherwise authorized by this Act.

9 iii. A schedule of compliance consistent with
10 subsection 5 of this Section and applicable
11 regulations.

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

21 A. Required dates for achieving the
22 activities, milestones, or compliance required by
23 the schedule of compliance and dates when such
24 activities, milestones or compliance were
25 achieved.

26 B. An explanation of why any dates in the

1 schedule of compliance were not or will not be met,
2 and any preventive or corrective measures adopted.

3 v. Requirements for compliance certification with
4 terms and conditions contained in the permit,
5 including emission limitations, standards, or work
6 practices. Permits shall include each of the
7 following:

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

12 B. A means for assessing or monitoring the
13 compliance of the source with its emissions
14 limitations, standards, and work practices.

15 C. A requirement that the compliance
16 certification include the following:

17 1. The identification of each term or
18 condition contained in the permit that is the
19 basis of the certification.

20 2. The compliance status.

21 3. Whether compliance was continuous or
22 intermittent.

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

1 D. A requirement that all compliance
2 certifications be submitted to USEPA as well as to
3 the Agency.

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

7 F. Other provisions as the Agency may require.

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

19 8. Public Notice; Affected State Review.

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

25 b. The Agency shall prepare a draft CAAPP permit and a
26 statement that sets forth the legal and factual basis for

1 the draft CAAPP permit conditions, including references to
2 the applicable statutory or regulatory provisions. The
3 Agency shall provide this statement to any person who
4 requests it.

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

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

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

1 subsection (a) of Section 7 of this Act, the owner or
2 operator shall submit such information separately. The
3 requirements of Section 7.1 and subsection (a) of Section 7
4 of this Act shall apply to such information, which shall
5 not be included in a CAAPP permit unless required by law.
6 The contents of a CAAPP permit shall not be entitled to
7 protection under Section 7.1 and subsection (a) of Section
8 7 of this Act.

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

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

19 9. USEPA Notice and Objection.

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

1 proposed CAAPP permit, a written statement of this decision
2 and its reasons for not accepting the recommendations,
3 except as otherwise provided in this Act or by agreement
4 with USEPA. To the extent practicable, the preceding
5 information shall be provided in computer readable format
6 compatible with USEPA's national database management
7 system.

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

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

24 d. Any USEPA objection under this subsection,
25 according to the Clean Air Act, will include a statement of
26 reasons for the objection and a description of the terms

1 and conditions that must be in the permit, in order to
2 adequately respond to the objections. Grounds for a USEPA
3 objection include the failure of the Agency to: (1) submit
4 the items and notices required under this subsection; (2)
5 submit any other information necessary to adequately
6 review the proposed CAAPP permit; or (3) process the permit
7 under subsection 8 of this Section except for minor permit
8 modifications.

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

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

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

1 and resubmit the permit to USEPA pursuant to this
2 subsection after providing a 10-day comment period in
3 accordance with paragraph c of this subsection. If the
4 Agency fails to submit a revised permit in response to the
5 objection, USEPA shall modify, terminate or revoke the
6 permit. In any case, the source will not be in violation of
7 the requirement to have submitted a timely and complete
8 application.

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

13 10. Final Agency Action.

14 a. The Agency shall issue a CAAPP permit, permit
15 modification, or permit renewal if all of the following
16 conditions are met:

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

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

1 regulations.

2 iii. The applicant has timely paid the fees
3 required pursuant to subsection 18 of this Section and
4 applicable regulations.

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

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

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

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

25 c. i. Prior to denial of a CAAPP permit, permit
26 modification, or permit renewal under this Section,

1 the Agency shall notify the applicant of the possible
2 denial and the reasons for the denial.

3 ii. Within such notice, the Agency shall specify an
4 appropriate date by which the applicant shall
5 adequately respond to the Agency's notice. Such date
6 shall not exceed 15 days from the date the notification
7 is received by the applicant. The Agency may grant a
8 reasonable extension for good cause shown.

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

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

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

25 11. General Permits.

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

5 b. The Agency shall identify, in any general permit,
6 criteria by which sources may qualify for the general
7 permit.

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

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

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

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

26 g. 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 12. Operational Flexibility.

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

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

1 emissions or in terms of total emissions).

2 A. For each such change, the written
3 notification required above shall include a brief
4 description of the change within the source, the
5 date on which the change will occur, any change in
6 emissions, and any permit term or condition that is
7 no longer applicable as a result of the change.

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

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

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

1 using the emissions trading provisions of the
2 applicable implementation plan, and the pollutants
3 emitted subject to the emissions trade. The notice
4 shall also refer to the provisions in the
5 applicable implementation plan with which the
6 source will comply and provide for the emissions
7 trade.

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

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

1 application proposed replicable procedures and permit
2 terms that ensure the emissions trades are
3 quantifiable and enforceable. The permit shall also
4 require compliance with all applicable requirements.

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

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

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

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

25 (ii) Sources must provide contemporaneous written
26 notice to the Agency and USEPA of each such change,

1 except for changes that qualify as insignificant under
2 provisions adopted by the Agency or the Board. Such
3 written notice shall describe each such change,
4 including the date, any change in emissions,
5 pollutants emitted, and any applicable requirement
6 that would apply as a result of the change;

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

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

16 c. 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 13. Administrative Permit Amendments.

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

1 designates the permit revisions as having been made
2 pursuant to this subsection.

3 b. The Agency shall submit a copy of the revised permit
4 to USEPA.

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

9 i. Corrects typographical errors;

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

14 iii. Requires more frequent monitoring or
15 reporting by the permittee;

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

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

1 requirements substantially equivalent to those
2 contained in this Section;

3 vi. (Blank); or

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

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

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

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

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

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

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

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

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

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

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

1 B. The source's suggested draft permit;

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

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

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

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

1 review period under subsection 9 of this Section,
2 whichever is later, the Agency shall:

3 A. Issue the permit modification as proposed;

4 B. Deny the permit modification application;

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

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

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

1 conditions which it seeks to modify may be enforced
2 against it.

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

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

23 b. Group Processing of Minor Permit Modifications.

24 i. Where requested by an applicant within its
25 application, the Agency shall process groups of a
26 source's applications for certain modifications

1 eligible for minor permit modification processing in
2 accordance with the provisions of this paragraph (b).

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

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

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

15 iii. An applicant requesting the use of group
16 processing procedures shall meet the requirements of
17 subsection 5 of this Section and shall include the
18 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, that the proposed modification meets
26 the criteria for use of group processing

1 procedures and a request that such procedures be
2 used.

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

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

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

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

1 send any notice required under paragraph (d) of
2 subsection 8 of this Section to USEPA.

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

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

15 vii. The provisions of paragraph (j) of subsection
16 7 of this Section shall not apply to modifications
17 eligible for group processing.

18 c. Significant Permit Modifications.

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

24 ii. Every significant change in existing
25 monitoring permit terms or conditions and every
26 relaxation of reporting or recordkeeping requirements

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

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

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

22 a. Each issued CAAPP permit shall include provisions
23 specifying the conditions under which the permit will be
24 reopened prior to the expiration of the permit. Such
25 revisions shall be made as expeditiously as practicable. A

1 CAAPP permit shall be reopened and revised under any of the
2 following circumstances, in accordance with procedures
3 adopted by the Agency:

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

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

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

23 iv. The Agency or USEPA determines that the permit
24 must be revised or revoked to assure compliance with
25 the applicable requirements.

26 b. In the event that the Agency determines that there

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

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

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

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

1 16. Reopenings for Cause by USEPA.

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

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

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

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

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

24 c. USEPA shall review the proposed determination to
25 terminate, modify, or revoke and reissue the permit within
26 90 days after receipt.

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

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

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

26 d. If the Agency fails to submit the proposed

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

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

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

25 b. A designated representative of an affected source

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

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

26 d. A designated representative of a new unit, as

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

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

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

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

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

26 i. Nothing in this Section shall be construed as

1 affecting allowances or USEPA's decision regarding an
2 excess emissions offset plan, as set forth in Title IV of
3 the Clean Air Act or regulations promulgated thereunder.

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

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

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

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

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

25 l. It is unlawful for any owner or operator to violate
26 any terms or conditions of a Phase II acid rain permit

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

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

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

17 o. 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 18. Fee Provisions.

22 a. A source subject to this Section or excluded under
23 subsection 1.1 or paragraph (c) of subsection 3 of this
24 Section, shall pay a fee as provided in this paragraph (a)
25 of subsection 18. However, a source that has been excluded

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

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

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

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

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

25 Notwithstanding the above, any applicant may
26 seek a change in its permit which would result in

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

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

24 b. (Blank).

25 c. (Blank).

26 d. There is hereby created in the State Treasury a

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

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

20 i. carbon monoxide;

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

24 iii. any pollutant that is a regulated air
25 pollutant solely because it is subject to a standard or
26 regulation under Section 112(r) of the Clean Air Act

1 based on the emissions allowed in the permit effective
2 in that calendar year, at the time the applicable bill
3 is generated.

4 19. Air Toxics Provisions.

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

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

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

26 c. The Agency shall have the authority to implement and

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

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

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

24 20. Small Business.

25 a. For purposes of this subsection:

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

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

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

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

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

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

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

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

24 b. The Agency shall adopt and submit to USEPA, after
25 reasonable notice and opportunity for public comment, as a
26 revision to the Illinois state implementation plan, plans

1 for establishing the Program.

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

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

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

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

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

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

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

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

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

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

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

15 21. Temporary Sources.

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

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

24 c. Any such permit shall meet all applicable
25 requirements of this Section and applicable regulations,

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

5 22. Solid Waste Incineration Units.

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

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

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

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

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

1 (415 ILCS 5/Tit. XVIII heading new)

2 TITLE XVIII: PROTECTION OF ENVIRONMENT, NATURAL RESOURCES, AND
3 PUBLIC HEALTH

4 (415 ILCS 5/59 new)

5 Sec. 59. Findings. The General Assembly finds and declares
6 that:

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

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

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

25 (4) It is therefore necessary for the Illinois General

1 Assembly to enact legislation that will ensure continued
2 protections for the environment, natural resources, and public
3 health in the State even if the federal laws specified in
4 subsection (a) are undermined, amended, or repealed.

5 (415 ILCS 5/59.1 new)

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

7 (1) Retain protections afforded under the federal laws
8 specified in paragraph (1) of Section 59 and regulations
9 implementing those federal laws in existence as of January 1,
10 2017, regardless of actions taken at the federal level.

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

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

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

24 (5) Ensure that any decision made by a public agency that
25 may adversely impact public health, the environment, or natural

1 resources is made only after careful evaluation of all the
2 consequences of that decision and after adequate procedural
3 opportunities for informed public participation in the
4 decision-making process.

5 (415 ILCS 5/59.2 new)

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

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

11 "Baseline federal standards for other federal statutes"
12 means the authorizations, policies, objectives, rules,
13 requirements, and standards contained in other federal
14 statutes or federal regulations implementing the other federal
15 statutes in existence as of January 1, 2017.

16 "Federal law" means any of the following:

17 (1) The federal Clean Air Act.

18 (2) The Federal Water Pollution Control Act.

19 (3) The federal Safe Drinking Water Act.

20 (4) The federal Endangered Species Act.

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

1 (415 ILCS 5/59.3 new)

2 Sec. 59.3. Operative provisions.

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

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

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

17 (415 ILCS 5/60 new)

18 Sec. 60. Air.

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

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

22 (2) The Pollution Control Board and the Environmental
23 Protection Agency formulate and adopt the state
24 implementation plans (SIPs) for Illinois under the federal
25 Clean Air Act, and issue permits governing the emission of

1 certain substances, including greenhouse gases, into the
2 air.

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

5 (1) The Pollution Control Board and the Environmental
6 Protection Agency shall maintain and enforce all air
7 quality requirements and standards that are at least as
8 stringent as required by the baseline federal law
9 standards, in addition to those required under State law.

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

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

24 (4) If the federal transportation conformity program
25 becomes less stringent than the applicable baseline
26 federal law standards, then the Pollution Control Board and

1 the Environmental Protection Agency shall adopt and
2 implement equivalent requirements that are at least as
3 stringent as those required by the applicable baseline
4 federal law standards, in addition to those required by
5 State law.

6 (415 ILCS 5/61 new)

7 Sec. 61. Water.

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

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

12 (2) Title IV and Title IV-A of the Environmental
13 Protection Act are the State analog to the federal Safe
14 Drinking Water Act.

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

1 (4) The Environmental Protection Agency, the
2 Department of Public Health, the Department of Natural
3 Resources, and the Pollution Control Board regulate public
4 drinking water systems under the federal Safe Drinking
5 Water Act and the Environmental Protection Act to ensure
6 the delivery of safe drinking water to Illinoisans.

7 (b) Except as otherwise authorized by State law, the
8 following apply:

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

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

23 (3) If the Environmental Protection Agency, the
24 Department of Public Health, the Department of Natural
25 Resources, and the Pollution Control Board have not
26 established a water supply or water quality standard or

1 requirement for which a standard or requirement exists in
2 the baseline federal law standards, then the Environmental
3 Protection Agency, the Department of Public Health, the
4 Department of Natural Resources, and the Pollution Control
5 Board shall adopt the standard or requirement to be at
6 least as stringent as the baseline federal law standards.

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

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

24 (6) Drinking water supply permits that are issued on
25 and after January 1, 2018, shall be at least as protective
26 of public health and comply with all applicable drinking

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

4 (7) A water quality management plan adopted on or after
5 January 1, 2018, shall be at least as protective of the
6 environment pursuant to, and in compliance with, all
7 applicable water quality standards, effluent limitations,
8 and restrictions as required by the applicable baseline
9 federal law standards, in addition to those required by
10 State law.

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

20 (415 ILCS 5/62 new)

21 Sec. 62. Endangered and threatened species.

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

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

25 (2) The Illinois Endangered Species Protection Act

1 prohibits the taking of any species that the Department of
2 Natural Resources determines to be endangered or
3 threatened, unless the Department of Natural Resources
4 allows for take incidental to otherwise lawful activity
5 under Section 4 of the Illinois Endangered Species
6 Protection Act.

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

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

17 (2) Any new or revised consistency determination or
18 incidental take permit issued to a permittee on or after
19 January 1, 2018, shall only authorize incidental take if it
20 requires conditions at least as stringent as required by
21 the relevant baseline federal law standards, including,
22 but not limited to, any federal incidental take statement,
23 incidental take permit, or biological opinion in effect and
24 applicable to a permittee or project as of January 1, 2017.
25 This subsection does not modify the requirements of Section
26 5.5 of the Illinois Endangered Species Protection Act.

1 (415 ILCS 5/63 new)

2 Sec. 63. Implementation; reporting. Every State agency
3 shall undertake all feasible efforts using its authority under
4 State and federal law to implement and enforce this amendatory
5 Act of the 100th General Assembly. Every State agency that
6 takes steps to enforce this amendatory Act of the 100th General
7 Assembly shall submit a report to the General Assembly at least
8 once every 6 months describing its compliance with this Title.

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