



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB2212

Introduced 5/30/2017, by Sen. Daniel Biss

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Environmental Protection Act. Adds provisions concerning public interest enforcement. Provides that in certain circumstances an action may be brought in a circuit court by a person in the public interest to enforce standards or requirements concerning air, water, drinking water, and endangered and threatened species adopted under specified provisions of the Act and the Illinois Endangered Species Protection Act. Provides that the provisions concerning public interest enforcement shall only become operative if specified events occur. Provides that the enforcement provisions of the Environmental Protection Act are severable. Adds provisions concerning protection of the environment, natural resources, and public health. Requires various State agencies to adopt, maintain, and enforce rules concerning air, water, drinking water, and endangered and threatened species that are at least as stringent as various regulatory baselines under federal law, in addition to State law requirements. Provides that every State agency shall undertake all feasible efforts to implement and enforce these provisions. Provides the every State agency that takes steps to enforce the provisions of the amendatory Act shall submit a report to the General Assembly at least once every 6 months describing its compliance with specified provision of the Act. Deletes provisions providing that an air pollution construction or operating permit shall not be required due to emissions of greenhouse gases if certain events occur. Deletes certain language concerning exemptions from provisions concerning the Clean Air Act Permit Program.

LRB100 13043 MJP 27372 b

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

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

7 (415 ILCS 5/9.15)

8 Sec. 9.15. Greenhouse gases.

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

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

22 (c) (Blank). ~~Notwithstanding any provision to the contrary~~  
23 ~~in this Section, an air pollution construction or operating~~

1 ~~permit shall not be required due to emissions of greenhouse~~  
2 ~~gases if any of the following events occur:~~

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

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

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

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

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

21 (e) If an event listed in subsection (c) of this Section  
22 occurs, any owner or operator with a permit that includes terms  
23 or conditions addressing greenhouse gases may elect to submit  
24 an application to the Agency to address a revision or repeal of  
25 such terms or conditions. The Agency shall expeditiously  
26 process such permit application in accordance with applicable

1 laws and regulations.

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

3 (415 ILCS 5/34.1 new)

4 Sec. 34.1. Public Interest Enforcement.

5 (a) In addition to the enforcement provisions under Section  
6 31 of this Act and any cases afforded by other statutes, the  
7 common law, or the Illinois Constitution, an action may be  
8 brought in the circuit court by a person in the public interest  
9 to enforce the standards or requirements adopted under  
10 paragraph (2) of subsection (b) of Section 60 of this Act or to  
11 impose civil penalties for a violation of those standards or  
12 requirements, if both of the following are satisfied:

13 (1) The private action is commenced more than 60 days  
14 from the date that the person gave notice of an alleged  
15 violation that is the subject of the private action to the  
16 Attorney General and the State's Attorney in whose  
17 jurisdiction the violation is alleged to have occurred, and  
18 to the alleged violator.

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

22 A person bringing an action in the public interest under  
23 this subsection and a person filing an action in which a  
24 violation of paragraph (2) of subsection (b) of Section 60 is  
25 alleged shall notify the Attorney General that the action has

1 been filed.

2 (b) Subsection (a) is operative only if either of the  
3 following occurs:

4 (1) The United States Environmental Protection Agency  
5 revises the standards or requirements described in  
6 paragraph (2) of subsection (b) of Section 60 to be less  
7 stringent than the applicable baseline federal law  
8 standards.

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

12 (c) In addition to the enforcement provisions under Section  
13 31 of this Act and any cases afforded by other statutes, the  
14 common law, or the Illinois Constitution, an action may be  
15 brought in the circuit court by a person in the public interest  
16 to enforce the standards or requirements adopted under  
17 paragraph (3) of subsection (b) of Section 61 or to impose  
18 civil penalties for a violation of those standards or  
19 requirements, if the requirements of paragraphs (1) and (2) of  
20 subsection (a) of this Section are met.

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

26 (d) Subsection (c) is operative only if either of the

1 following occurs:

2 (1) The United States Environmental Protection Agency  
3 revised the standards or requirements described in  
4 paragraph (3) of subsection (b) of Section 61 to be less  
5 stringent than the applicable baseline federal law  
6 standards.

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

10 (e) In addition to the enforcement provisions under Section  
11 31 of this Act and any cases afforded by other statutes, the  
12 common law, or the Illinois Constitution, an action may be  
13 brought in the circuit court by a person in the public interest  
14 to enforce the standards or requirements adopted under  
15 paragraph (4) of subsection (b) of Section 61 or to impose  
16 civil penalties for a violation of those standards or  
17 requirements, if the requirements of paragraphs (1) and (2) of  
18 subsection (a) of this Section are met.

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

24 (f) Subsection (e) is operative only if either of the  
25 following occurs:

26 (1) The United States Environmental Protection Agency

1 revised the standards or requirements described in  
2 paragraph (4) of subsection (b) of Section 61 to be less  
3 stringent than the applicable baseline federal law  
4 standards.

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

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

18 A person bringing an action in the public interest under  
19 this subsection and a person filing an action in which a  
20 violation of paragraph (1) of subsection (b) of Section 62 is  
21 alleged shall notify the Attorney General that the action has  
22 been filed.

23 (h) Subsection (g) is operative only if either of the  
24 following occurs:

25 (1) The relevant federal agency revised the standards  
26 or requirements for the protection of species described in

1 paragraph (1) of subsection (b) of Section 62 to be less  
2 protective than the applicable baseline federal law  
3 standards.

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

7 (i) An action or proceeding may be brought under Section  
8 2-619 of the Code of Civil Procedure and Section 2 of Article  
9 XI of the Illinois Constitution, on the grounds that a State or  
10 local agency has violated the requirements of this Section.

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

15 (415 ILCS 5/34.9 new)

16 Sec. 34.9. Severability. The provisions of this Title VIII  
17 are severable. If any provision of this Title or its  
18 application is held invalid, that invalidity shall not affect  
19 other provisions or applications that can be given effect  
20 without the invalid provision or application.

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

22 Sec. 39.5. Clean Air Act Permit Program.

23 1. Definitions. For purposes of this Section:

24 "Administrative permit amendment" means a permit revision



1 subject to subsection 13 of this Section.

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

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

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

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

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

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

25 (1) Any standard or other requirement provided for in  
26 the applicable state implementation plan approved or

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

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

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

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

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

26 (5) Any standard or other requirement of the acid rain

1 program under Title IV of the Clean Air Act or the  
2 regulations promulgated thereunder.

3 (6) Any requirements established pursuant to Section  
4 504(b) or Section 114(a) (3) of the Clean Air Act.

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

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

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

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

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

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

25 "Applicable requirement" means all applicable Clean Air  
26 Act requirements and any other standard, limitation, or other

1 requirement contained in this Act or regulations promulgated  
2 under this Act as applicable to sources of air contaminants  
3 (including requirements that have future effective compliance  
4 dates).

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

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

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

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

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

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

26 "Draft CAAPP permit" means the version of a CAAPP permit

1 for which public notice and an opportunity for public comment  
2 and hearing is offered by the Agency.

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

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

10 "Federally enforceable" means enforceable by USEPA.

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

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

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

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

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

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

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

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

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

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

1 "Preconstruction Permit" or "Construction Permit" means a  
2 permit which is to be obtained prior to commencing or beginning  
3 actual construction or modification of a source or emissions  
4 unit.

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

9 "Regulated air pollutant" means the following:

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

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

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

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

19 (5) Any pollutant subject to a standard promulgated  
20 under Section 112 or other requirements established under  
21 Section 112 of the Clean Air Act, including Sections  
22 112(g), (j) and (r).

23 (i) Any pollutant subject to requirements under  
24 Section 112(j) of the Clean Air Act. Any pollutant  
25 listed under Section 112(b) for which the subject  
26 source would be major shall be considered to be

1 regulated 18 months after the date on which USEPA was  
2 required to promulgate an applicable standard pursuant  
3 to Section 112(e) of the Clean Air Act, if USEPA fails  
4 to promulgate such standard.

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

9 (6) Greenhouse gases.

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

12 "Responsible official" means one of the following:

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

26 (2) For a partnership or sole proprietorship: a general



1 partner or the proprietor, respectively, or in the case of  
2 a partnership in which all of the partners are  
3 corporations, a duly authorized representative of the  
4 partnership 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 (3) For a municipality, State, Federal, or other public  
13 agency: either a principal executive officer or ranking  
14 elected official. For the purposes of this part, a  
15 principal executive officer of a Federal agency includes  
16 the chief executive officer having responsibility for the  
17 overall operations of a principal geographic unit of the  
18 agency (e.g., a Regional Administrator of USEPA).

19 (4) For affected sources for acid deposition:

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

25 (ii) The designated representative may also be the  
26 "responsible official" for any other purposes with

1           respect to air pollution control.

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

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

1 commercial, heating or cooling purposes, or (C) air curtain  
2 incinerators provided that such incinerators only burn wood  
3 wastes, yard waste and clean lumber and that such air curtain  
4 incinerators comply with opacity limitations to be established  
5 by the USEPA by rule.

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

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

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

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

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

22 1.1. Exclusion From the CAAPP.

23 a. An owner or operator of a source which determines  
24 that the source could be excluded from the CAAPP may seek  
25 such exclusion prior to the date that the CAAPP application

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

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

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

1           that source as described in paragraph (c) of subsection 2  
2           of this Section.

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

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

9           2. Applicability.

10          a. Sources subject to this Section shall include:

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

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

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

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

25          b. Sources exempted from this Section shall include:

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

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

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

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

24           v. Any other source categories exempted by USEPA  
25 regulations pursuant to Section 502(a) of the Clean Air  
26 Act.

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

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

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

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

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



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

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

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

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

1 aggregated with emissions from other similar  
2 units, whether or not such units are in a  
3 contiguous area or under common control, to  
4 determine whether such stations are major sources.

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

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

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

23 B. Kraft pulp mills.

24 C. Portland cement plants.

25 D. Primary zinc smelters.

26 E. Iron and steel mills.

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

1 more than 250 million British thermal units per  
2 hour heat input.

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

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

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

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

1           subparagraph (ii) of paragraph (c) of this  
2           subsection.

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

7           C. For carbon monoxide nonattainment areas (1)  
8           that are classified as "serious", and (2) in which  
9           stationary sources contribute significantly to  
10          carbon monoxide levels as determined under rules  
11          issued by USEPA, sources with the potential to emit  
12          50 tons or more per year of carbon monoxide.

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

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

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

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

1 be issued for fixed terms of 12 years and except CAAPP  
2 permits for affected sources for acid deposition which  
3 shall be issued for initial terms to expire on December 31,  
4 1999, and for fixed terms of 5 years thereafter.

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

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

22 4. Transition.

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

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

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

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

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

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

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

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

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

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



1 necessary, to implement this subsection.

2 5. Applications and Completeness.

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

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

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

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

25 e. Each submitted CAAPP application shall be certified

1 for truth, accuracy, and completeness by a responsible  
2 official in accordance with applicable regulations.

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

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

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

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

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

25           Where the Agency does not take final action on the  
26 permit within the required time period, the permit shall

1 not be deemed issued; rather, the failure to act shall be  
2 treated as a final permit action for purposes of judicial  
3 review pursuant to Sections 40.2 and 41 of this Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 x. The owner or operator of a new CAAPP source shall  
26 submit its complete CAAPP application consistent with this

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

10 y. 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 6. Prohibitions.

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

25 b. After the applicable CAAPP permit or renewal

1 application submittal date, as specified in subsection 5 of  
2 this Section, no person shall operate a CAAPP source  
3 without a CAAPP permit unless the complete CAAPP permit or  
4 renewal application for such source has been timely  
5 submitted to the Agency.

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

14 7. Permit Content.

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

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



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

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

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

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

26 ii. Where the applicable requirement does not

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

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

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

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

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

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

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

25           D. The analytical techniques or methods used.

26           E. The results of such analyses.

1                   F. The operating conditions as existing at the  
2                   time of sampling or measurement.

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

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

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

24                  ii. Prompt reporting of deviations from permit  
25                  requirements, including those attributable to upset  
26                  conditions as defined in the permit, the probable cause

1 of such deviations, and any corrective actions or  
2 preventive measures taken.

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

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

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

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

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

1 proposed permit, provided that:

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

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

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

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

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

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

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

1           C. The applicable requirements of the acid  
2           rain program consistent with Section 408(a) of the  
3           Clean Air Act.

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

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

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

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

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

25           iv. During the period of the emergency the  
26           permittee took all reasonable steps to minimize levels

1 of emissions that exceeded the emission limitations,  
2 standards, or requirements in the permit.

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

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

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

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

1 requirements and the requirements of this Section.

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

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

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

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

21 B. Must meet all applicable requirements;

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

26 m. The Agency shall specifically designate as not being



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

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

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

18           i. Duty to comply. The permittee must comply with  
19          all terms and conditions of the CAAPP permit. Any  
20          permit noncompliance constitutes a violation of the  
21          Clean Air Act and the Act, and is grounds for any or  
22          all of the following: enforcement action; permit  
23          termination, revocation and reissuance, or  
24          modification; or denial of a permit renewal  
25          application.

26           ii. Need to halt or reduce activity not a defense.

1 It shall not be a defense for a permittee in an  
2 enforcement action that it would have been necessary to  
3 halt or reduce the permitted activity in order to  
4 maintain compliance with the conditions of this  
5 permit.

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

14 iv. Property rights. The permit does not convey any  
15 property rights of any sort, or any exclusive  
16 privilege.

17 v. Duty to provide information. The permittee  
18 shall furnish to the Agency within a reasonable time  
19 specified by the Agency any information that the Agency  
20 may request in writing to determine whether cause  
21 exists for modifying, revoking and reissuing, or  
22 terminating the permit or to determine compliance with  
23 the permit. Upon request, the permittee shall also  
24 furnish to the Agency copies of records required to be  
25 kept by the permit or, for information claimed to be  
26 confidential, the permittee may furnish such records

1 directly to USEPA along with a claim of  
2 confidentiality.

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

7 vii. Emissions trading. No permit revision shall  
8 be required for increases in emissions allowed under  
9 any approved economic incentives, marketable permits,  
10 emissions trading, and other similar programs or  
11 processes for changes that are provided for in the  
12 permit and that are authorized by the applicable  
13 requirement.

14 p. Each CAAPP permit issued under subsection 10 of this  
15 Section shall contain the following elements with respect  
16 to compliance:

17 i. Compliance certification, testing, monitoring,  
18 reporting, and record keeping requirements sufficient  
19 to assure compliance with the terms and conditions of  
20 the permit. Any document (including reports) required  
21 by a CAAPP permit shall contain a certification by a  
22 responsible official that meets the requirements of  
23 subsection 5 of this Section and applicable  
24 regulations.

25 ii. Inspection and entry requirements that  
26 necessitate that, upon presentation of credentials and

1 other documents as may be required by law and in  
2 accordance with constitutional limitations, the  
3 permittee shall allow the Agency, or an authorized  
4 representative to perform the following:

5 A. Enter upon the permittee's premises where a  
6 CAAPP source is located or emissions-related  
7 activity is conducted, or where records must be  
8 kept under the conditions of the permit.

9 B. Have access to and copy, at reasonable  
10 times, any records that must be kept under the  
11 conditions of the permit.

12 C. Inspect at reasonable times any facilities,  
13 equipment (including monitoring and air pollution  
14 control equipment), practices, or operations  
15 regulated or required under the permit.

16 D. Sample or monitor any substances or  
17 parameters at any location:

18 1. As authorized by the Clean Air Act, at  
19 reasonable times, for the purposes of assuring  
20 compliance with the CAAPP permit or applicable  
21 requirements; or

22 2. As otherwise authorized by this Act.

23 iii. A schedule of compliance consistent with  
24 subsection 5 of this Section and applicable  
25 regulations.

26 iv. Progress reports consistent with an applicable

1 schedule of compliance pursuant to paragraph (d) of  
2 subsection 5 of this Section and applicable  
3 regulations to be submitted semiannually, or more  
4 frequently if the Agency determines that such more  
5 frequent submittals are necessary for compliance with  
6 the Act or regulations promulgated by the Board  
7 thereunder. Such progress reports shall contain the  
8 following:

9 A. Required dates for achieving the  
10 activities, milestones, or compliance required by  
11 the schedule of compliance and dates when such  
12 activities, milestones or compliance were  
13 achieved.

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

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

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

26 B. A means for assessing or monitoring the

1 compliance of the source with its emissions  
2 limitations, standards, and work practices.

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

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

8 2. The compliance status.

9 3. Whether compliance was continuous or  
10 intermittent.

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

15 D. A requirement that all compliance  
16 certifications be submitted to USEPA as well as to  
17 the Agency.

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

21 F. Other provisions as the Agency may require.

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

1 shall include the alternative emission limit in the CAAPP  
2 permit, which shall supersede the emission limit set forth  
3 in the applicable Board regulations, and shall include  
4 conditions that insure that the resulting emission limit is  
5 quantifiable, accountable, enforceable, and based on  
6 replicable procedures.

7 8. Public Notice; Affected State Review.

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

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

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

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

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

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

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

7           9. USEPA Notice and Objection.

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

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

25           c. If USEPA objects in writing to the issuance of the

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

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

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

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

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

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

1           10. Final Agency Action.

2           a. The Agency shall issue a CAAPP permit, permit  
3 modification, or permit renewal if all of the following  
4 conditions are met:

5           i. The applicant has submitted a complete and  
6 certified application for a permit, permit  
7 modification, or permit renewal consistent with  
8 subsections 5 and 14 of this Section, as applicable,  
9 and applicable regulations.

10           ii. The applicant has submitted with its complete  
11 application an approvable compliance plan, including a  
12 schedule for achieving compliance, consistent with  
13 subsection 5 of this Section and applicable  
14 regulations.

15           iii. The applicant has timely paid the fees  
16 required pursuant to subsection 18 of this Section and  
17 applicable regulations.

18           iv. The Agency has received a complete CAAPP  
19 application and, if necessary, has requested and  
20 received additional information from the applicant  
21 consistent with subsection 5 of this Section and  
22 applicable regulations.

23           v. The Agency has complied with all applicable  
24 provisions regarding public notice and affected State  
25 review consistent with subsection 8 of this Section and

1 applicable regulations.

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

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

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

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

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

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

9           d. 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          11. General Permits.

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

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

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

1           d. The Agency shall comply with the public comment and  
2 hearing provisions of this Section as well as the USEPA and  
3 affected State review procedures prior to issuance of a  
4 general permit.

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

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

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

18           12. Operational Flexibility.

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

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

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

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

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

25 ii. An owner or operator of a CAAPP source may  
26 trade increases and decreases in emissions in the CAAPP



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

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

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

1 using the emissions trade shall be determined  
2 according to the requirements of the applicable  
3 implementation plan authorizing the emissions  
4 trade.

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

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

25 B. The permit shield described in paragraph  
26 (j) of subsection 7 of this Section shall extend to

1 terms and conditions that allow such increases and  
2 decreases in emissions.

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

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

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

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

24 (iv) The permittee shall keep a record describing  
25 changes made at the source that result in emissions of  
26 a regulated air pollutant subject to an applicable

1 Clean Air Act requirement, but not otherwise regulated  
2 under the permit, and the emissions resulting from  
3 those changes.

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

8 13. Administrative Permit Amendments.

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

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

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

22 i. Corrects typographical errors;

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

1 source;

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

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

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

17 vi. (Blank); or

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

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

1 for significant permit modifications.

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

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

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

19 14. Permit Modifications.

20 a. Minor permit modification procedures.

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

24 A. Do not violate any applicable requirement;

25 B. Do not involve significant changes to

1 existing monitoring, reporting, or recordkeeping  
2 requirements in the permit;

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

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

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

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

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

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

24 ii. Notwithstanding subparagraph (i) of paragraph  
25 (a) and subparagraph (ii) of paragraph (b) of this  
26 subsection, minor permit modification procedures may

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

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

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

15 B. The source's suggested draft permit;

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

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

25 iv. Within 5 working days after receipt of a  
26 complete permit modification application, the Agency



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

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

17 A. Issue the permit modification as proposed;

18 B. Deny the permit modification application;

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

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

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

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

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

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

11 b. Group Processing of Minor Permit Modifications.

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

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

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

23 B. That collectively are below 10 percent of  
24 the emissions allowed by the permit for the  
25 emissions unit for which change is requested, 20  
26 percent of the applicable definition of major

1 source set forth in subsection 2 of this Section,  
2 or 5 tons per year, whichever is least.

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

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

10 B. The source's suggested draft permit.

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

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

24 E. Certification, consistent with paragraph  
25 (e) of subsection 5 of this Section, that the  
26 source has notified USEPA of the proposed

1           modification. Such notification need only contain  
2           a brief description of the requested modification.

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

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

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

26          vi. The provisions of subparagraph (vi) of

1 paragraph (a) of this subsection shall apply to  
2 modifications for group processing.

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

6 c. Significant Permit Modifications.

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

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

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

1 review by USEPA applicable to initial permit issuance  
2 and permit renewal. The Agency shall take final action  
3 on significant permit modifications within 9 months  
4 after receipt of a complete application.

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

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

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

25 ii. Additional requirements (including excess

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

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

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

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



1           c. Proceedings regarding a reopened CAAPP permit shall  
2 follow the same procedures as apply to initial permit  
3 issuance and shall affect only those parts of the permit  
4 for which cause to reopen exists.

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

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

15           16. Reopenings for Cause by USEPA.

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

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

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

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

1 set forth in Section 33 of this Act. Issuance of an  
2 interim order by the Board under this paragraph,  
3 however, shall not affect the permit status and does  
4 not constitute a final action for purposes of this Act  
5 or the Administrative Review Law.

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

12 c. USEPA shall review the proposed determination to  
13 terminate, modify, or revoke and reissue the permit within  
14 90 days after receipt.

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

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

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

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

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

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

23 17. Title IV; Acid Rain Provisions.

24 a. The Agency shall act on initial CAAPP applications  
25 for affected sources for acid deposition in accordance with

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

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

1 January 1, 2000, in accordance with this Section, except as  
2 modified by Title IV and regulations promulgated  
3 thereunder; provided that the designated representative of  
4 the source submitted a timely and complete Phase II permit  
5 application and compliance plan to the Agency that meets  
6 the requirements of Title IV and V of the Clean Air Act and  
7 regulations.

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

14 d. A designated representative of a new unit, as  
15 defined in Section 402 of the Clean Air Act, shall submit a  
16 timely and complete Phase II acid rain permit application  
17 and compliance plan that meets the requirements of Titles  
18 IV and V of the Clean Air Act and its regulations. The  
19 Agency shall act on the new unit's Phase II acid rain  
20 permit application and compliance plan in accordance with  
21 this Section and Title V of the Clean Air Act and its  
22 regulations, except as modified by Title IV of the Clean  
23 Air Act and its regulations. The Agency shall reopen the  
24 new unit's CAAPP permit for cause to incorporate the  
25 approved Phase II acid rain permit in accordance with this  
26 Section. The Phase II acid rain permit for the new unit

1 shall become effective no later than the date required  
2 under Title IV of the Clean Air Act and its regulations.

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

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

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

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

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

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

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

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



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

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

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

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

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

26          n. The Agency shall act on any petition for exemption

1 of a new unit or retired unit, as those terms are defined  
2 in Section 402 of the Clean Air Act, from the requirements  
3 of the acid rain program in accordance with Title IV of the  
4 Clean Air Act and its regulations.

5 o. 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 18. Fee Provisions.

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

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

25 ii. The fee for a source allowed to emit 100 tons

1 or more per year of any combination of regulated air  
2 pollutants, except greenhouse gases and those  
3 regulated air pollutants excluded in paragraph (f) of  
4 this subsection 18, shall be as follows:

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

1 subsection 18 for a source that has been excluded  
2 under subsection 1.1 of this Section or under  
3 paragraph (c) of subsection 3 of this Section is  
4 \$4,112. The Agency shall provide as part of the  
5 permit application form required under subsection  
6 5 of this Section a separate fee calculation form  
7 which will allow the applicant to identify the  
8 allowable emissions and calculate the fee. In no  
9 event shall the Agency raise the amount of  
10 allowable emissions requested by the applicant  
11 unless such increases are required to demonstrate  
12 compliance with terms of a CAAPP permit.

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

26 B. The applicant or permittee may pay the fee

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

12          b. (Blank).

13          c. (Blank).

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

26          e. The Agency shall have the authority to adopt

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

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

8 i. carbon monoxide;

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

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

18 19. Air Toxics Provisions.

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

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

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

1           pursuant to Section 41 of this Act. Where USEPA promulgates  
2           an applicable emission standard prior to the issuance of  
3           the CAAPP permit, the Agency shall include in the permit  
4           the promulgated standard, provided that the source shall  
5           have the compliance period provided under Section 112(i) of  
6           the Clean Air Act. Where USEPA promulgates an applicable  
7           standard subsequent to the issuance of the CAAPP permit,  
8           the Agency shall revise such permit upon the next renewal  
9           to reflect the promulgated standard, providing a  
10          reasonable time for the applicable source to comply with  
11          the standard, but no longer than 8 years after the date on  
12          which the source is first required to comply with the  
13          emissions limitation established under this subsection.

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

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

25           e. The Agency has the authority to implement Section  
26          112(g) of the Clean Air Act consistent with the Clean Air



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

12 20. Small Business.

13 a. For purposes of this subsection:

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

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

25 "Small Business Stationary Source" means a stationary

1 source that:

2 1. is owned or operated by a person that employs  
3 100 or fewer individuals;

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

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

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

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

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

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

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

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

1 the goals of the Program are being met.

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

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

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

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

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

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

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

25 j. The Panel shall select its own Chair by a majority  
26 vote. The Chair may meet and consult with the Ombudsman and

1 the head of the Small Business Assistance Program in  
2 planning the activities for the Panel.

3 21. Temporary Sources.

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

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

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

18 22. Solid Waste Incineration Units.

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

1           b. During the review in paragraph (a) of this  
 2 subsection, the Agency shall fully review the previously  
 3 submitted CAAPP permit application and corresponding  
 4 reports subsequently submitted to determine whether the  
 5 source is in compliance with all applicable requirements.

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

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

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

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

17           (415 ILCS 5/59 new)

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

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

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

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

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

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

19 (415 ILCS 5/59.1 new)

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

21 (1) Retain protections afforded under the federal laws  
22 specified in paragraph (1) of Section 59 and regulations  
23 implementing those federal laws in existence as of January 1,  
24 2017, regardless of actions taken at the federal level.

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

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

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

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

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

19 (415 ILCS 5/59.2 new)

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

21 "Baseline federal law standards" means the authorizations,  
22 policies, objectives, rules, requirements, and standards  
23 contained in federal laws or federal regulations implementing  
24 the federal laws in existence as of January 1, 2017.

25 "Baseline federal standards for other federal statutes"

1 means the authorizations, policies, objectives, rules,  
2 requirements, and standards contained in other federal  
3 statutes or federal regulations implementing the other federal  
4 statutes in existence as of January 1, 2017.

5 "Federal law" means any of the following:

6 (1) The federal Clean Air Act.

7 (2) The Federal Water Pollution Control Act.

8 (3) The federal Safe Drinking Water Act.

9 (4) The federal Endangered Species Act.

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

14 (415 ILCS 5/59.3 new)

15 Sec. 59.3. Operative provisions.

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

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

22 (c) To the extent required by federal law, a State or local  
23 agency that is delegated the authority to enforce other federal  
24 statutes or that implements the State law that is an analogue  
25 to the other federal statutes shall not amend or revise its



1 rules to be less stringent than the baseline federal standards  
2 for other federal statutes, but may adopt rules for Illinois  
3 that are more stringent than the baseline federal standards for  
4 other federal statutes.

5 (415 ILCS 5/60 new)

6 Sec. 60. Air.

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

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

10 (2) The Pollution Control Board and the Environmental  
11 Protection Agency formulate and adopt the state  
12 implementation plans (SIPs) for Illinois under the federal  
13 Clean Air Act, and issue permits governing the emission of  
14 certain substances, including greenhouse gases, into the  
15 air.

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

18 (1) The Pollution Control Board and the Environmental  
19 Protection Agency shall maintain and enforce all air  
20 quality requirements and standards that are at least as  
21 stringent as required by the baseline federal law  
22 standards, in addition to those required under State law.

23 (2) If the Pollution Control Board and the  
24 Environmental Protection Agency have not established a  
25 standard or requirement for an air pollutant for which a

1 standard or requirement exists in the baseline federal law  
2 standards, then the Pollution Control Board and the  
3 Environmental Protection Agency shall adopt the standard  
4 or requirement to be at least as stringent as the baseline  
5 federal law standards.

6 (3) The Pollution Control Board and the Environmental  
7 Protection Agency shall adopt state implementation plans  
8 for Illinois that meet requirements that are at least as  
9 stringent as those required by the applicable baseline  
10 federal law standards, in addition to those required by  
11 State law.

12 (4) If the federal transportation conformity program  
13 becomes less stringent than the applicable baseline  
14 federal law standards, then the Pollution Control Board and  
15 the Environmental Protection Agency shall adopt and  
16 implement equivalent requirements that are at least as  
17 stringent as those required by the applicable baseline  
18 federal law standards, in addition to those required by  
19 State law.

20 (415 ILCS 5/61 new)

21 Sec. 61. Water.

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

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

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

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

15           (4) The Environmental Protection Agency, the  
16           Department of Public Health, the Department of Natural  
17           Resources, and the Pollution Control Board regulate public  
18           drinking water systems under the federal Safe Drinking  
19           Water Act and the Environmental Protection Act to ensure  
20           the delivery of safe drinking water to Illinoisans.

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

23           (1) The Environmental Protection Agency, the  
24           Department of Public Health, the Department of Natural  
25           Resources, and the Pollution Control Board shall maintain  
26           and enforce all water supply and water quality standards

1 and permitting requirements that are at least as stringent  
2 as required by the applicable baseline federal law  
3 standards, in addition to those required by State law.

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

11 (3) If the Environmental Protection Agency, the  
12 Department of Public Health, the Department of Natural  
13 Resources, and the Pollution Control Board have not  
14 established a water supply or water quality standard or  
15 requirement for which a standard or requirement exists in  
16 the baseline federal law standards, then the Environmental  
17 Protection Agency, the Department of Public Health, the  
18 Department of Natural Resources, and the Pollution Control  
19 Board shall adopt the standard or requirement to be at  
20 least as stringent as the baseline federal law standards.

21 (4) If the Environmental Protection Agency, the  
22 Department of Public Health, the Department of Natural  
23 Resources, and the Pollution Control Board have not  
24 established a drinking water standard or requirement for  
25 which a standard or requirement exists in the baseline  
26 federal law standards, then the Environmental Protection

1       Agency, the Department of Public Health, the Department of  
2       Natural Resources, and the Pollution Control Board shall  
3       adopt the standard or requirement to be at least as  
4       stringent as the baseline federal law standards.

5           (5) Waste discharge requirements and permits that are  
6       issued on and after January 1, 2018, shall be at least as  
7       protective of the environment and comply with all  
8       applicable water quality standards, effluent limitations,  
9       and restrictions as required by the applicable baseline  
10       federal law standards, in addition to those required by  
11       State law.

12           (6) Drinking water supply permits that are issued on  
13       and after January 1, 2018, shall be at least as protective  
14       of public health and comply with all applicable drinking  
15       water standards as required by the applicable baseline  
16       federal law standards, in addition to those required by  
17       State law.

18           (7) A water quality management plan adopted on or after  
19       January 1, 2018, shall be at least as protective of the  
20       environment pursuant to, and in compliance with, all  
21       applicable water quality standards, effluent limitations,  
22       and restrictions as required by the applicable baseline  
23       federal law standards, in addition to those required by  
24       State law.

25           (8) When a waste discharge requirement or water quality  
26       management plan is renewed or amended, any water quality

1 standards, effluent limitations, restrictions, and  
2 conditions shall be at least as protective of the  
3 environment pursuant to, and in compliance with, all  
4 applicable water quality standards, effluent limitations,  
5 and restrictions as required by the applicable baseline  
6 federal law standards, in addition to those required by  
7 State law.

8 (415 ILCS 5/62 new)

9 Sec. 62. Endangered and threatened species.

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

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

13 (2) The Illinois Endangered Species Protection Act  
14 prohibits the taking of any species that the Department of  
15 Natural Resources determines to be endangered or  
16 threatened, unless the Department of Natural Resources  
17 allows for take incidental to otherwise lawful activity  
18 under Section 4 of the Illinois Endangered Species  
19 Protection Act.

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

22 (1) All native species not already listed under the  
23 Illinois Endangered Species Protection Act that are listed  
24 as endangered or threatened under the federal Endangered  
25 Species Act as of January 1, 2017, shall be listed as an

1 endangered or threatened species, as appropriate, under  
2 the Illinois Endangered Species Protection Act. The  
3 Department of Natural Resources may review and modify the  
4 listing of species in accordance with this Section.

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

15 (415 ILCS 5/63 new)

16 Sec. 63. Implementation; reporting. Every State agency  
17 shall undertake all feasible efforts using its authority under  
18 State and federal law to implement and enforce this amendatory  
19 Act of the 100th General Assembly. Every State agency that  
20 takes steps to enforce this amendatory Act of the 100th General  
21 Assembly shall submit a report to the General Assembly at least  
22 once every 6 months describing its compliance with this Title.

23 Section 97. Severability. The provisions of this Act are  
24 severable. If any provision of this Act or its application is

1 held invalid, that invalidity shall not affect other provisions  
2 or applications that can be given effect without the invalid  
3 provision or application.



1 INDEX

2 Statutes amended in order of appearance

3 415 ILCS 5/9.15

4 415 ILCS 5/34.1 new

5 415 ILCS 5/34.9 new

6 415 ILCS 5/39.5 from Ch. 111 1/2, par. 1039.5

7 415 ILCS 5/Tit. XVIII

8 heading new

9 415 ILCS 5/59 new

10 415 ILCS 5/59.1 new

11 415 ILCS 5/59.2 new

12 415 ILCS 5/59.3 new

13 415 ILCS 5/60 new

14 415 ILCS 5/61 new

15 415 ILCS 5/62 new

16 415 ILCS 5/63 new