

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

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

7 "Federal law" means the federal Fair Labor Standards Act,
8 the federal Occupational Safety and Health Act, the Federal
9 Coal Mine Health and Safety Act, and federal regulations issued
10 under these federal statutes as these federal statutes existed
11 on January 19, 2017.

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

14 Section 15. Operative provisions. Except as authorized by
15 State law enacted after January 19, 2017, a State agency may
16 not amend or revise the State agency's rules in a manner that
17 is less stringent in its protection of workers' rights or
18 worker safety than standards established under federal law as
19 the federal law existed on January 19, 2017.

20 Except as otherwise provided in State law, a State agency
21 may establish workers' rights and worker safety standards for
22 Illinois that are more stringent than those provided in federal

1 law as the federal law existed on January 19, 2017.

2 Section 20. Implementation; reporting. Each State agency
3 shall undertake all feasible efforts using the State agency's
4 authority under State and federal law to implement and enforce
5 this Act. Each State agency that takes steps to enforce this
6 Act shall submit a report to the General Assembly at least once
7 every year describing the State agency's compliance with this
8 Act. The report to the General Assembly shall be filed with the
9 Clerk of the House of Representatives and the Secretary of the
10 Senate in electronic form only, in the manner that the Clerk
11 and the Secretary shall direct.

12 Section 25. Repeal. This Act is repealed 3 years from the
13 effective date of this Act.

14 Section 30. The Environmental Protection Act is amended by
15 changing Sections 9.15 and 39.5 and by adding Title XVIII as
16 follows:

17 (415 ILCS 5/9.15)

18 Sec. 9.15. Greenhouse gases.

19 (a) An air pollution construction permit shall not be
20 required due to emissions of greenhouse gases if the equipment,
21 site, or source is not subject to regulation, as defined by 40
22 CFR 52.21, as now or hereafter amended, for greenhouse gases.

1 This exemption does not relieve an owner or operator from the
2 obligation to comply with other applicable rules or
3 regulations.

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

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

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

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

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

25 ~~This subsection (c) does not relieve an owner or operator~~
26 ~~from the obligation to comply with applicable rules or~~

1 ~~regulations other than those relating to greenhouse gases.~~

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

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

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

14 (415 ILCS 5/39.5) (from Ch. 111 1/2, par. 1039.5)

15 Sec. 39.5. Clean Air Act Permit Program.

16 1. Definitions. For purposes of this Section:

17 "Administrative permit amendment" means a permit revision
18 subject to subsection 13 of this Section.

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

22 "Affected States" for purposes of formal distribution of a
23 draft CAAPP permit to other States for comments prior to
24 issuance, means all States:

25 (1) Whose air quality may be affected by the source

1 covered by the draft permit and that are contiguous to
2 Illinois; or

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

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

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

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

1 the Clean Air Act.

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

6 (ii) Any term or condition as required pursuant to
7 Section 39.5 of any federally enforceable State
8 operating permit issued pursuant to regulations
9 approved or promulgated by USEPA under Title I of the
10 Clean Air Act, including Part C or D of the Clean Air
11 Act.

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

14 (4) Any standard or other requirement under Section 112
15 of the Clean Air Act, including any requirement concerning
16 accident prevention under Section 112(r)(7) of the Clean
17 Air Act.

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

21 (6) Any requirements established pursuant to Section
22 504(b) or Section 114(a)(3) of the Clean Air Act.

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

25 (8) Any standard or other requirement for consumer and
26 commercial products, under Section 183(e) of the Clean Air

1 Act.

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

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

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

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

17 "Applicable requirement" means all applicable Clean Air
18 Act requirements and any other standard, limitation, or other
19 requirement contained in this Act or regulations promulgated
20 under this Act as applicable to sources of air contaminants
21 (including requirements that have future effective compliance
22 dates).

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

25 "CAAPP application" means an application for a CAAPP
26 permit.

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

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

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

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

18 "Draft CAAPP permit" means the version of a CAAPP permit
19 for which public notice and an opportunity for public comment
20 and hearing is offered by the Agency.

21 "Effective date of the CAAPP" means the date that USEPA
22 approves Illinois' CAAPP.

23 "Emission unit" means any part or activity of a stationary
24 source that emits or has the potential to emit any air
25 pollutant. This term is not meant to alter or affect the
26 definition of the term "unit" for purposes of Title IV of the

1 Clean Air Act.

2 "Federally enforceable" means enforceable by USEPA.

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

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

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

16 "Maximum achievable control technology" or "MACT" means
17 the maximum degree of reductions in emissions deemed achievable
18 under Section 112 of the Clean Air Act.

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

21 "Permit modification" means a revision to a CAAPP permit
22 that cannot be accomplished under the provisions for
23 administrative permit amendments under subsection 13 of this
24 Section.

25 "Permit revision" means a permit modification or
26 administrative permit amendment.

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

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

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

19 "Preconstruction Permit" or "Construction Permit" means a
20 permit which is to be obtained prior to commencing or beginning
21 actual construction or modification of a source or emissions
22 unit.

23 "Proposed CAAPP permit" means the version of a CAAPP permit
24 that the Agency proposes to issue and forwards to USEPA for
25 review in compliance with applicable requirements of the Act
26 and regulations promulgated thereunder.

1 "Regulated air pollutant" means the following:

2 (1) Nitrogen oxides (NOx) or any volatile organic
3 compound.

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

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

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

11 (5) Any pollutant subject to a standard promulgated
12 under Section 112 or other requirements established under
13 Section 112 of the Clean Air Act, including Sections
14 112(g), (j) and (r).

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

23 (ii) Any pollutant for which the requirements of
24 Section 112(g)(2) of the Clean Air Act have been met,
25 but only with respect to the individual source subject
26 to Section 112(g)(2) requirement.

1 (6) Greenhouse gases.

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

4 "Responsible official" means one of the following:

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

18 (2) For a partnership or sole proprietorship: a general
19 partner or the proprietor, respectively, or in the case of
20 a partnership in which all of the partners are
21 corporations, a duly authorized representative of the
22 partnership if the representative is responsible for the
23 overall operation of one or more manufacturing,
24 production, or operating facilities applying for or
25 subject to a permit and either (i) the facilities employ
26 more than 250 persons or have gross annual sales or

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

4 (3) For a municipality, State, Federal, or other public
5 agency: either a principal executive officer or ranking
6 elected official. For the purposes of this part, a
7 principal executive officer of a Federal agency includes
8 the chief executive officer having responsibility for the
9 overall operations of a principal geographic unit of the
10 agency (e.g., a Regional Administrator of USEPA).

11 (4) For affected sources for acid deposition:

12 (i) The designated representative shall be the
13 "responsible official" in so far as actions,
14 standards, requirements, or prohibitions under Title
15 IV of the Clean Air Act or the regulations promulgated
16 thereunder are concerned.

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

20 "Section 502(b)(10) changes" means changes that contravene
21 express permit terms. "Section 502(b)(10) changes" do not
22 include changes that would violate applicable requirements or
23 contravene federally enforceable permit terms or conditions
24 that are monitoring (including test methods), recordkeeping,
25 reporting, or compliance certification requirements.

26 "Solid waste incineration unit" means a distinct operating

1 unit of any facility which combusts any solid waste material
2 from commercial or industrial establishments or the general
3 public (including single and multiple residences, hotels, and
4 motels). The term does not include incinerators or other units
5 required to have a permit under Section 3005 of the Solid Waste
6 Disposal Act. The term also does not include (A) materials
7 recovery facilities (including primary or secondary smelters)
8 which combust waste for the primary purpose of recovering
9 metals, (B) qualifying small power production facilities, as
10 defined in Section 3(17)(C) of the Federal Power Act (16 U.S.C.
11 769(17)(C)), or qualifying cogeneration facilities, as defined
12 in Section 3(18)(B) of the Federal Power Act (16 U.S.C.
13 796(18)(B)), which burn homogeneous waste (such as units which
14 burn tires or used oil, but not including refuse-derived fuel)
15 for the production of electric energy or in the case of
16 qualifying cogeneration facilities which burn homogeneous
17 waste for the production of electric energy and steam or forms
18 of useful energy (such as heat) which are used for industrial,
19 commercial, heating or cooling purposes, or (C) air curtain
20 incinerators provided that such incinerators only burn wood
21 wastes, yard waste and clean lumber and that such air curtain
22 incinerators comply with opacity limitations to be established
23 by the USEPA by rule.

24 "Source" means any stationary source (or any group of
25 stationary sources) that is located on one or more contiguous
26 or adjacent properties that are under common control of the

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

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

26 "Subject to regulation" has the meaning given to it in 40

1 CFR 70.2, as now or hereafter amended.

2 "Support facility" means any stationary source (or group of
3 stationary sources) that conveys, stores, or otherwise assists
4 to a significant extent in the production of a principal
5 product at another stationary source (or group of stationary
6 sources). A support facility shall be considered to be part of
7 the same source as the stationary source (or group of
8 stationary sources) that it supports regardless of the 2-digit
9 Standard Industrial Classification code for the support
10 facility.

11 "USEPA" means the Administrator of the United States
12 Environmental Protection Agency (USEPA) or a person designated
13 by the Administrator.

14 1.1. Exclusion From the CAAPP.

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

1 the CAAPP may be sought under paragraph (c) of subsection 3
2 of this Section.

3 b. An owner or operator of a source seeking exclusion
4 from the CAAPP pursuant to paragraph (a) of this subsection
5 must submit a permit application consistent with the
6 existing State permit program which specifically requests
7 such exclusion through the imposition of such federally
8 enforceable conditions.

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

21 d. The Agency shall provide an owner or operator of a
22 source which may be excluded from the CAAPP pursuant to
23 this subsection with reasonable notice that the owner or
24 operator may seek such exclusion.

25 e. The Agency shall provide such sources with the
26 necessary permit application forms.

1 2. Applicability.

2 a. Sources subject to this Section shall include:

3 i. Any major source as defined in paragraph (c) of
4 this subsection.

5 ii. Any source subject to a standard or other
6 requirements promulgated under Section 111 (New Source
7 Performance Standards) or Section 112 (Hazardous Air
8 Pollutants) of the Clean Air Act, except that a source
9 is not required to obtain a permit solely because it is
10 subject to regulations or requirements under Section
11 112(r) of the Clean Air Act.

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

14 iv. Any other source subject to this Section under
15 the Clean Air Act or regulations promulgated
16 thereunder, or applicable Board regulations.

17 b. Sources exempted from this Section shall include:

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

1 ii. Nonmajor sources subject to a standard or other
2 requirements subsequently promulgated by USEPA under
3 Section 111 or 112 of the Clean Air Act that were ~~are~~
4 determined by USEPA before January 19, 2017 to be
5 exempt at the time a new standard is promulgated.

6 iii. All sources and source categories that would
7 be required to obtain a permit solely because they are
8 subject to Part 60, Subpart AAA - Standards of
9 Performance for New Residential Wood Heaters (40 CFR
10 Part 60).

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

16 v. Any other source categories exempted before
17 January 19, 2017 by USEPA regulations pursuant to
18 Section 502(a) of the Clean Air Act.

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

22 ~~(A) enactment of federal legislation depriving~~
23 ~~the Administrator of the USEPA of authority to~~
24 ~~regulate greenhouse gases under the Clean Air Act;~~

25 ~~(B) the issuance of any opinion, ruling,~~
26 ~~judgment, order, or decree by a federal court~~

1 ~~depriving the Administrator of the USEPA of~~
2 ~~authority to regulate greenhouse gases under the~~
3 ~~Clean Air Act; or~~

4 ~~(C) action by the President of the United~~
5 ~~States or the President's authorized agent,~~
6 ~~including the Administrator of the USEPA, to~~
7 ~~repeal or withdraw the Greenhouse Gas Tailoring~~
8 ~~Rule (75 Fed. Reg. 31514, June 3, 2010).~~

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

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

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

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

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

25 ii. A major stationary source of air pollutants, as
26 defined in Section 302 of the Clean Air Act, that

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

- 14 A. Coal cleaning plants (with thermal dryers).
- 15 B. Kraft pulp mills.
- 16 C. Portland cement plants.
- 17 D. Primary zinc smelters.
- 18 E. Iron and steel mills.
- 19 F. Primary aluminum ore reduction plants.
- 20 G. Primary copper smelters.
- 21 H. Municipal incinerators capable of charging
22 more than 250 tons of refuse per day.
- 23 I. Hydrofluoric, sulfuric, or nitric acid
24 plants.
- 25 J. Petroleum refineries.
- 26 K. Lime plants.

- 1 L. Phosphate rock processing plants.
- 2 M. Coke oven batteries.
- 3 N. Sulfur recovery plants.
- 4 O. Carbon black plants (furnace process).
- 5 P. Primary lead smelters.
- 6 Q. Fuel conversion plants.
- 7 R. Sintering plants.
- 8 S. Secondary metal production plants.
- 9 T. Chemical process plants.
- 10 U. Fossil-fuel boilers (or combination
11 thereof) totaling more than 250 million British
12 thermal units per hour heat input.
- 13 V. Petroleum storage and transfer units with a
14 total storage capacity exceeding 300,000 barrels.
- 15 W. Taconite ore processing plants.
- 16 X. Glass fiber processing plants.
- 17 Y. Charcoal production plants.
- 18 Z. Fossil fuel-fired steam electric plants of
19 more than 250 million British thermal units per
20 hour heat input.
- 21 AA. All other stationary source categories,
22 which as of August 7, 1980 are being regulated by a
23 standard promulgated under Section 111 or 112 of
24 the Clean Air Act.
- 25 BB. Any other stationary source category
26 designated by USEPA by rule.

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

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

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

25 C. For carbon monoxide nonattainment areas (1)
26 that are classified as "serious", and (2) in which

1 stationary sources contribute significantly to
2 carbon monoxide levels as determined under rules
3 issued by USEPA, sources with the potential to emit
4 50 tons or more per year of carbon monoxide.

5 D. For particulate matter (PM-10)
6 nonattainment areas classified as "serious",
7 sources with the potential to emit 70 tons or more
8 per year of PM-10.

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

11 a. The Agency shall issue CAAPP permits under this
12 Section consistent with the Clean Air Act and regulations
13 promulgated thereunder and this Act and regulations
14 promulgated thereunder.

15 b. The Agency shall issue CAAPP permits for fixed terms
16 of 5 years, except CAAPP permits issued for solid waste
17 incineration units combusting municipal waste which shall
18 be issued for fixed terms of 12 years and except CAAPP
19 permits for affected sources for acid deposition which
20 shall be issued for initial terms to expire on December 31,
21 1999, and for fixed terms of 5 years thereafter.

22 c. The Agency shall have the authority to issue a State
23 operating permit for a source under subsection (a) of
24 Section 39 of this Act, as amended, and regulations
25 promulgated thereunder, which includes federally

1 enforceable conditions limiting the "potential to emit" of
2 the source to a level below the major source threshold for
3 that source as described in paragraph (c) of subsection 2
4 of this Section, thereby excluding the source from the
5 CAAPP, when requested by the applicant pursuant to
6 paragraph (u) of subsection 5 of this Section. The public
7 notice requirements of this Section applicable to CAAPP
8 permits shall also apply to the initial issuance of permits
9 under this paragraph.

10 d. For purposes of this Act, a permit issued by USEPA
11 under Section 505 of the Clean Air Act, as now and
12 hereafter amended, shall be deemed to be a permit issued by
13 the Agency pursuant to Section 39.5 of this Act.

14 4. Transition.

15 a. An owner or operator of a CAAPP source shall not be
16 required to renew an existing State operating permit for
17 any emission unit at such CAAPP source once a CAAPP
18 application timely submitted prior to expiration of the
19 State operating permit has been deemed complete. For
20 purposes other than permit renewal, the obligation upon the
21 owner or operator of a CAAPP source to obtain a State
22 operating permit is not removed upon submittal of the
23 complete CAAPP permit application. An owner or operator of
24 a CAAPP source seeking to make a modification to a source
25 prior to the issuance of its CAAPP permit shall be required

1 to obtain a construction permit, operating permit, or both
2 as required for such modification in accordance with the
3 State permit program under subsection (a) of Section 39 of
4 this Act, as amended, and regulations promulgated
5 thereunder. The application for such construction permit,
6 operating permit, or both shall be considered an amendment
7 to the CAAPP application submitted for such source.

8 b. An owner or operator of a CAAPP source shall
9 continue to operate in accordance with the terms and
10 conditions of its applicable State operating permit
11 notwithstanding the expiration of the State operating
12 permit until the source's CAAPP permit has been issued.

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

25 d. The Agency shall act on initial CAAPP applications
26 in accordance with paragraph (j) of subsection 5 of this

1 Section.

2 e. For purposes of this Section, the term "initial
3 CAAPP application" shall mean the first CAAPP application
4 submitted for a source existing as of the effective date of
5 the CAAPP.

6 f. The Agency shall provide owners or operators of
7 CAAPP sources with at least 3 months advance notice of the
8 date on which their applications are required to be
9 submitted. In determining which sources shall be subject to
10 early submittal, the Agency shall include among its
11 considerations the complexity of the permit application,
12 and the burden that such early submittal will have on the
13 source.

14 g. The CAAPP permit shall upon becoming effective
15 supersede the State operating permit.

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

20 5. Applications and Completeness.

21 a. An owner or operator of a CAAPP source shall submit
22 its complete CAAPP application consistent with the Act and
23 applicable regulations.

24 b. An owner or operator of a CAAPP source shall submit
25 a single complete CAAPP application covering all emission

1 units at that source.

2 c. To be deemed complete, a CAAPP application must
3 provide all information, as requested in Agency
4 application forms, sufficient to evaluate the subject
5 source and its application and to determine all applicable
6 requirements, pursuant to the Clean Air Act, and
7 regulations thereunder, this Act and regulations
8 thereunder. Such Agency application forms shall be
9 finalized and made available prior to the date on which any
10 CAAPP application is required.

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

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

21 f. The Agency shall provide notice to a CAAPP applicant
22 as to whether a submitted CAAPP application is complete.
23 Unless the Agency notifies the applicant of
24 incompleteness, within 60 days after receipt of the CAAPP
25 application, the application shall be deemed complete. The
26 Agency may request additional information as needed to make

1 the completeness determination. The Agency may to the
2 extent practicable provide the applicant with a reasonable
3 opportunity to correct deficiencies prior to a final
4 determination of completeness.

5 g. If after the determination of completeness the
6 Agency finds that additional information is necessary to
7 evaluate or take final action on the CAAPP application, the
8 Agency may request in writing such information from the
9 source with a reasonable deadline for response.

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

19 i. Any applicant who fails to submit any relevant facts
20 necessary to evaluate the subject source and its CAAPP
21 application or who has submitted incorrect information in a
22 CAAPP application shall, upon becoming aware of such
23 failure or incorrect submittal, submit supplementary facts
24 or correct information to the Agency. In addition, an
25 applicant shall provide to the Agency additional
26 information as necessary to address any requirements which

1 become applicable to the source subsequent to the date the
2 applicant submitted its complete CAAPP application but
3 prior to release of the draft CAAPP permit.

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

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

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

25 l. Unless a timely and complete renewal application has
26 been submitted consistent with this subsection, a CAAPP

1 source operating upon the expiration of its CAAPP permit
2 shall be deemed to be operating without a CAAPP permit.
3 Such operation is prohibited under this Act.

4 m. Permits being renewed shall be subject to the same
5 procedural requirements, including those for public
6 participation and federal review and objection, that apply
7 to original permit issuance.

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

11 o. The terms and conditions of a CAAPP permit shall
12 remain in effect until the issuance of a CAAPP renewal
13 permit provided a timely and complete CAAPP application has
14 been submitted.

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

19 q. The Agency shall make available to the public all
20 documents submitted by the applicant to the Agency,
21 including each CAAPP application, compliance plan
22 (including the schedule of compliance), and emissions or
23 compliance monitoring report, with the exception of
24 information entitled to confidential treatment pursuant to
25 Section 7 of this Act.

26 r. The Agency shall use the standardized forms required

1 under Title IV of the Clean Air Act and regulations
2 promulgated thereunder for affected sources for acid
3 deposition.

4 s. An owner or operator of a CAAPP source may include
5 within its CAAPP application a request for permission to
6 operate during a startup, malfunction, or breakdown
7 consistent with applicable Board regulations.

8 t. An owner or operator of a CAAPP source, in order to
9 utilize the operational flexibility provided under
10 paragraph (1) of subsection 7 of this Section, must request
11 such use and provide the necessary information within its
12 CAAPP application.

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

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

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

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

1 with the change in operation.

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

6 6. Prohibitions.

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

17 b. After the applicable CAAPP permit or renewal
18 application submittal date, as specified in subsection 5 of
19 this Section, no person shall operate a CAAPP source
20 without a CAAPP permit unless the complete CAAPP permit or
21 renewal application for such source has been timely
22 submitted to the Agency.

23 c. No owner or operator of a CAAPP source shall cause
24 or threaten or allow the continued operation of an emission
25 source during malfunction or breakdown of the emission

1 source or related air pollution control equipment if such
2 operation would cause a violation of the standards or
3 limitations applicable to the source, unless the CAAPP
4 permit granted to the source provides for such operation
5 consistent with this Act and applicable Board regulations.

6 7. Permit Content.

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

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

1 authority to promulgate additional regulations where
2 necessary to accomplish the purposes of the Clean Air Act,
3 this Act, and regulations promulgated thereunder.

4 c. The Agency shall assure, within such conditions, the
5 use of terms, test methods, units, averaging periods, and
6 other statistical conventions consistent with the
7 applicable emission limitations, standards, and other
8 requirements contained in the permit.

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

11 i. Incorporate and identify all applicable
12 emissions monitoring and analysis procedures or test
13 methods required under the Clean Air Act, regulations
14 promulgated thereunder, this Act, and applicable Board
15 regulations, including any procedures and methods
16 promulgated by USEPA pursuant to Section 504(b) or
17 Section 114 (a) (3) of the Clean Air Act.

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

1 recordkeeping requirements are sufficient to meet the
2 requirements of this subparagraph.

3 iii. As necessary, specify requirements concerning
4 the use, maintenance, and when appropriate,
5 installation of monitoring equipment or methods.

6 e. To meet the requirements of this subsection with
7 respect to record keeping, the permit shall incorporate and
8 identify all applicable recordkeeping requirements and
9 require, where applicable, the following:

10 i. Records of required monitoring information that
11 include the following:

12 A. The date, place and time of sampling or
13 measurements.

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

15 C. The company or entity that performed the
16 analyses.

17 D. The analytical techniques or methods used.

18 E. The results of such analyses.

19 F. The operating conditions as existing at the
20 time of sampling or measurement.

21 ii. Retention of records of all monitoring data and
22 support information for a period of at least 5 years
23 from the date of the monitoring sample, measurement,
24 report, or application. Support information includes
25 all calibration and maintenance records, original
26 strip-chart recordings for continuous monitoring

1 instrumentation, and copies of all reports required by
2 the permit.

3 f. To meet the requirements of this subsection with
4 respect to reporting, the permit shall incorporate and
5 identify all applicable reporting requirements and require
6 the following:

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

16 ii. Prompt reporting of deviations from permit
17 requirements, including those attributable to upset
18 conditions as defined in the permit, the probable cause
19 of such deviations, and any corrective actions or
20 preventive measures taken.

21 g. Each CAAPP permit issued under subsection 10 of this
22 Section shall include a condition prohibiting emissions
23 exceeding any allowances that the source lawfully holds
24 under Title IV of the Clean Air Act or the regulations
25 promulgated thereunder, consistent with subsection 17 of
26 this Section and applicable regulations, if any.

1 h. All CAAPP permits shall state that, where another
2 applicable requirement of the Clean Air Act is more
3 stringent than any applicable requirement of regulations
4 promulgated under Title IV of the Clean Air Act, both
5 provisions shall be incorporated into the permit and shall
6 be State and federally enforceable.

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

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

13 i. The Agency shall include in a CAAPP permit, when
14 requested by an applicant pursuant to paragraph (p) of
15 subsection 5 of this Section, a provision stating that
16 compliance with the conditions of the permit shall be
17 deemed compliance with applicable requirements which
18 are applicable as of the date of release of the
19 proposed permit, provided that:

20 A. The applicable requirement is specifically
21 identified within the permit; or

22 B. The Agency in acting on the CAAPP
23 application or revision determines in writing that
24 other requirements specifically identified are not
25 applicable to the source, and the permit includes
26 that determination or a concise summary thereof.

1 ii. The permit shall identify the requirements for
2 which the source is shielded. The shield shall not
3 extend to applicable requirements which are
4 promulgated after the date of release of the proposed
5 permit unless the permit has been modified to reflect
6 such new requirements.

7 iii. A CAAPP permit which does not expressly
8 indicate the existence of a permit shield shall not
9 provide such a shield.

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

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

15 B. The liability of an owner or operator of a
16 source for any violation of applicable
17 requirements prior to or at the time of permit
18 issuance.

19 C. The applicable requirements of the acid
20 rain program consistent with Section 408(a) of the
21 Clean Air Act.

22 D. The ability of USEPA to obtain information
23 from a source pursuant to Section 114
24 (inspections, monitoring, and entry) of the Clean
25 Air Act.

26 k. Each CAAPP permit shall include an emergency

1 provision providing an affirmative defense of emergency to
2 an action brought for noncompliance with technology-based
3 emission limitations under a CAAPP permit if the following
4 conditions are met through properly signed,
5 contemporaneous operating logs, or other relevant
6 evidence:

7 i. An emergency occurred and the permittee can
8 identify the cause(s) of the emergency.

9 ii. The permitted facility was at the time being
10 properly operated.

11 iii. The permittee submitted notice of the
12 emergency to the Agency within 2 working days after the
13 time when emission limitations were exceeded due to the
14 emergency. This notice must contain a detailed
15 description of the emergency, any steps taken to
16 mitigate emissions, and corrective actions taken.

17 iv. During the period of the emergency the
18 permittee took all reasonable steps to minimize levels
19 of emissions that exceeded the emission limitations,
20 standards, or requirements in the permit.

21 For purposes of this subsection, "emergency" means any
22 situation arising from sudden and reasonably unforeseeable
23 events beyond the control of the source, such as an act of
24 God, that requires immediate corrective action to restore
25 normal operation, and that causes the source to exceed a
26 technology-based emission limitation under the permit, due

1 to unavoidable increases in emissions attributable to the
2 emergency. An emergency shall not include noncompliance to
3 the extent caused by improperly designed equipment, lack of
4 preventative maintenance, careless or improper operation,
5 or operation error.

6 In any enforcement proceeding, the permittee seeking
7 to establish the occurrence of an emergency has the burden
8 of proof. This provision is in addition to any emergency or
9 upset provision contained in any applicable requirement.
10 This provision does not relieve a permittee of any
11 reporting obligations under existing federal or state laws
12 or regulations.

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

15 i. Terms and conditions for reasonably anticipated
16 operating scenarios identified by the source in its
17 application. The permit terms and conditions for each
18 such operating scenario shall meet all applicable
19 requirements and the requirements of this Section.

20 A. Under this subparagraph, the source must
21 record in a log at the permitted facility a record
22 of the scenario under which it is operating
23 contemporaneously with making a change from one
24 operating scenario to another.

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

1 all terms and conditions under each such operating
2 scenario.

3 ii. Where requested by an applicant, all terms and
4 conditions allowing for trading of emissions increases
5 and decreases between different emission units at the
6 CAAPP source, to the extent that the applicable
7 requirements provide for trading of such emissions
8 increases and decreases without a case-by-case
9 approval of each emissions trade. Such terms and
10 conditions:

11 A. Shall include all terms required under this
12 subsection to determine compliance;

13 B. Must meet all applicable requirements;

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

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

1 The Agency shall, however, include such terms and
2 conditions in the CAAPP permit issued to the source.

3 n. Each CAAPP permit issued under subsection 10 of this
4 Section shall specify and reference the origin of and
5 authority for each term or condition, and identify any
6 difference in form as compared to the applicable
7 requirement upon which the term or condition is based.

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

10 i. Duty to comply. The permittee must comply with
11 all terms and conditions of the CAAPP permit. Any
12 permit noncompliance constitutes a violation of the
13 Clean Air Act and the Act, and is grounds for any or
14 all of the following: enforcement action; permit
15 termination, revocation and reissuance, or
16 modification; or denial of a permit renewal
17 application.

18 ii. Need to halt or reduce activity not a defense.
19 It shall not be a defense for a permittee in an
20 enforcement action that it would have been necessary to
21 halt or reduce the permitted activity in order to
22 maintain compliance with the conditions of this
23 permit.

24 iii. Permit actions. The permit may be modified,
25 revoked, reopened, and reissued, or terminated for
26 cause in accordance with the applicable subsections of

1 Section 39.5 of this Act. The filing of a request by
2 the permittee for a permit modification, revocation
3 and reissuance, or termination, or of a notification of
4 planned changes or anticipated noncompliance does not
5 stay any permit condition.

6 iv. Property rights. The permit does not convey any
7 property rights of any sort, or any exclusive
8 privilege.

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

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

25 vii. Emissions trading. No permit revision shall
26 be required for increases in emissions allowed under

1 B. Have access to and copy, at reasonable
2 times, any records that must be kept under the
3 conditions of the permit.

4 C. Inspect at reasonable times any facilities,
5 equipment (including monitoring and air pollution
6 control equipment), practices, or operations
7 regulated or required under the permit.

8 D. Sample or monitor any substances or
9 parameters at any location:

10 1. As authorized by the Clean Air Act, at
11 reasonable times, for the purposes of assuring
12 compliance with the CAAPP permit or applicable
13 requirements; or

14 2. As otherwise authorized by this Act.

15 iii. A schedule of compliance consistent with
16 subsection 5 of this Section and applicable
17 regulations.

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

1 A. Required dates for achieving the
2 activities, milestones, or compliance required by
3 the schedule of compliance and dates when such
4 activities, milestones or compliance were
5 achieved.

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

9 v. Requirements for compliance certification with
10 terms and conditions contained in the permit,
11 including emission limitations, standards, or work
12 practices. Permits shall include each of the
13 following:

14 A. The frequency (annually or more frequently
15 as specified in any applicable requirement or by
16 the Agency pursuant to written procedures) of
17 submissions of compliance certifications.

18 B. A means for assessing or monitoring the
19 compliance of the source with its emissions
20 limitations, standards, and work practices.

21 C. A requirement that the compliance
22 certification include the following:

23 1. The identification of each term or
24 condition contained in the permit that is the
25 basis of the certification.

26 2. The compliance status.

1 3. Whether compliance was continuous or
2 intermittent.

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

7 D. A requirement that all compliance
8 certifications be submitted to the Agency.

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

12 F. Other provisions as the Agency may require.

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

24 8. Public Notice; Affected State Review.

25 a. The Agency shall provide notice to the public,

1 including an opportunity for public comment and a hearing,
2 on each draft CAAPP permit for issuance, renewal or
3 significant modification, subject to Section 7.1 and
4 subsection (a) of Section 7 of this Act.

5 b. The Agency shall prepare a draft CAAPP permit and a
6 statement that sets forth the legal and factual basis for
7 the draft CAAPP permit conditions, including references to
8 the applicable statutory or regulatory provisions. The
9 Agency shall provide this statement to any person who
10 requests it.

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

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

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

15 f. 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 g. If requested by the permit applicant, the Agency
20 shall provide the permit applicant with a copy of the draft
21 CAAPP permit prior to any public review period. If
22 requested by the permit applicant, the Agency shall provide
23 the permit applicant with a copy of the final CAAPP permit
24 prior to issuance of the CAAPP permit.

25 9. USEPA Notice and Objection.

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

14 b. The Agency shall not issue the proposed CAAPP permit
15 if USEPA objects in writing within 45 days after receipt of
16 the proposed CAAPP permit and all necessary supporting
17 information.

18 c. If USEPA objects in writing to the issuance of the
19 proposed CAAPP permit within the 45-day period, the Agency
20 shall respond in writing and may revise and resubmit the
21 proposed CAAPP permit in response to the stated objection,
22 to the extent supported by the record, within 90 days after
23 the date of the objection. Prior to submitting a revised
24 permit to USEPA, the Agency shall provide the applicant and
25 any person who participated in the public comment process,
26 pursuant to subsection 8 of this Section, with a 10-day

1 period to comment on any revision which the Agency is
2 proposing to make to the permit in response to USEPA's
3 objection in accordance with Agency procedures.

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

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

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

1 objection.

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

15 h. 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 10. Final Agency Action.

20 a. The Agency shall issue a CAAPP permit, permit
21 modification, or permit renewal if all of the following
22 conditions are met:

23 i. The applicant has submitted a complete and
24 certified application for a permit, permit
25 modification, or permit renewal consistent with

1 subsections 5 and 14 of this Section, as applicable,
2 and applicable regulations.

3 ii. The applicant has submitted with its complete
4 application an approvable compliance plan, including a
5 schedule for achieving compliance, consistent with
6 subsection 5 of this Section and applicable
7 regulations.

8 iii. The applicant has timely paid the fees
9 required pursuant to subsection 18 of this Section and
10 applicable regulations.

11 iv. The Agency has received a complete CAAPP
12 application and, if necessary, has requested and
13 received additional information from the applicant
14 consistent with subsection 5 of this Section and
15 applicable regulations.

16 v. The Agency has complied with all applicable
17 provisions regarding public notice and affected State
18 review consistent with subsection 8 of this Section and
19 applicable regulations.

20 vi. The Agency has provided a copy of each CAAPP
21 application, or summary thereof, pursuant to agreement
22 with USEPA and proposed CAAPP permit required under
23 subsection 9 of this Section to USEPA, and USEPA has
24 not objected to the issuance of the permit in
25 accordance with the Clean Air Act and 40 CFR Part 70.

26 b. The Agency shall have the authority to deny a CAAPP

1 permit, permit modification, or permit renewal if the
2 applicant has not complied with the requirements of
3 subparagraphs (i) through (iv) of paragraph (a) of this
4 subsection or if USEPA objects to its issuance.

5 c. i. Prior to denial of a CAAPP permit, permit
6 modification, or permit renewal under this Section,
7 the Agency shall notify the applicant of the possible
8 denial and the reasons for the denial.

9 ii. Within such notice, the Agency shall specify an
10 appropriate date by which the applicant shall
11 adequately respond to the Agency's notice. Such date
12 shall not exceed 15 days from the date the notification
13 is received by the applicant. The Agency may grant a
14 reasonable extension for good cause shown.

15 iii. Failure by the applicant to adequately
16 respond by the date specified in the notification or by
17 any granted extension date shall be grounds for denial
18 of the permit.

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

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

5 11. General Permits.

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

10 b. The Agency shall identify, in any general permit,
11 criteria by which sources may qualify for the general
12 permit.

13 c. CAAPP sources that would qualify for a general
14 permit must apply for coverage under the terms of the
15 general permit or must apply for a CAAPP permit consistent
16 with subsection 5 of this Section and applicable
17 regulations.

18 d. The Agency shall comply with the public comment and
19 hearing provisions of this Section as well as the USEPA and
20 affected State review procedures prior to issuance of a
21 general permit.

22 e. When granting a subsequent request by a qualifying
23 CAAPP source for coverage under the terms of a general
24 permit, the Agency shall not be required to repeat the
25 public notice and comment procedures. The granting of such

1 request shall not be considered a final permit action for
2 purposes of judicial review.

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

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

10 12. Operational Flexibility.

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

1 i. An owner or operator of a CAAPP source may make
2 Section 502 (b) (10) changes without a permit revision,
3 if the changes are not modifications under any
4 provision of Title I of the Clean Air Act and the
5 changes do not exceed the emissions allowable under the
6 permit (whether expressed therein as a rate of
7 emissions or in terms of total emissions).

8 A. For each such change, the written
9 notification required above shall include a brief
10 description of the change within the source, the
11 date on which the change will occur, any change in
12 emissions, and any permit term or condition that is
13 no longer applicable as a result of the change.

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

17 ii. An owner or operator of a CAAPP source may
18 trade increases and decreases in emissions in the CAAPP
19 source, where the applicable implementation plan
20 provides for such emission trades without requiring a
21 permit revision. This provision is available in those
22 cases where the permit does not already provide for
23 such emissions trading.

24 A. Under this subparagraph (ii) of paragraph
25 (a) of this subsection, the written notification
26 required above shall include such information as

1 may be required by the provision in the applicable
2 implementation plan authorizing the emissions
3 trade, including at a minimum, when the proposed
4 changes will occur, a description of each such
5 change, any change in emissions, the permit
6 requirements with which the source will comply
7 using the emissions trading provisions of the
8 applicable implementation plan, and the pollutants
9 emitted subject to the emissions trade. The notice
10 shall also refer to the provisions in the
11 applicable implementation plan with which the
12 source will comply and provide for the emissions
13 trade.

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

23 iii. If requested within a CAAPP application, the
24 Agency shall issue a CAAPP permit which contains terms
25 and conditions, including all terms required under
26 subsection 7 of this Section to determine compliance,

1 allowing for the trading of emissions increases and
2 decreases at the CAAPP source solely for the purpose of
3 complying with a federally-enforceable emissions cap
4 that is established in the permit independent of
5 otherwise applicable requirements. The owner or
6 operator of a CAAPP source shall include in its CAAPP
7 application proposed replicable procedures and permit
8 terms that ensure the emissions trades are
9 quantifiable and enforceable. The permit shall also
10 require compliance with all applicable requirements.

11 A. Under this subparagraph (iii) of paragraph
12 (a), the written notification required above shall
13 state when the change will occur and shall describe
14 the changes in emissions that will result and how
15 these increases and decreases in emissions will
16 comply with the terms and conditions of the permit.

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

21 b. An owner or operator of a CAAPP source may make
22 changes that are not addressed or prohibited by the permit,
23 other than those which are subject to any requirements
24 under Title IV of the Clean Air Act or are modifications
25 under any provisions of Title I of the Clean Air Act,
26 without a permit revision, in accordance with the following

1 requirements:

2 (i) Each such change shall meet all applicable
3 requirements and shall not violate any existing permit
4 term or condition;

5 (ii) Sources must provide contemporaneous written
6 notice to the Agency and USEPA of each such change,
7 except for changes that qualify as insignificant under
8 provisions adopted by the Agency or the Board. Such
9 written notice shall describe each such change,
10 including the date, any change in emissions,
11 pollutants emitted, and any applicable requirement
12 that would apply as a result of the change;

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

16 (iv) The permittee shall keep a record describing
17 changes made at the source that result in emissions of
18 a regulated air pollutant subject to an applicable
19 Clean Air Act requirement, but not otherwise regulated
20 under the permit, and the emissions resulting from
21 those changes.

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

1 13. Administrative Permit Amendments.

2 a. The Agency shall take final action on a request for
3 an administrative permit amendment within 60 days after
4 receipt of the request. Neither notice nor an opportunity
5 for public and affected State comment shall be required for
6 the Agency to incorporate such revisions, provided it
7 designates the permit revisions as having been made
8 pursuant to this subsection.

9 b. The Agency shall submit a copy of the revised permit
10 to USEPA.

11 c. For purposes of this Section the term
12 "administrative permit amendment" shall be defined as a
13 permit revision that can accomplish one or more of the
14 changes described below:

15 i. Corrects typographical errors;

16 ii. Identifies a change in the name, address, or
17 phone number of any person identified in the permit, or
18 provides a similar minor administrative change at the
19 source;

20 iii. Requires more frequent monitoring or
21 reporting by the permittee;

22 iv. Allows for a change in ownership or operational
23 control of a source where the Agency determines that no
24 other change in the permit is necessary, provided that
25 a written agreement containing a specific date for
26 transfer of permit responsibility, coverage, and

1 liability between the current and new permittees has
2 been submitted to the Agency;

3 v. Incorporates into the CAAPP permit the
4 requirements from preconstruction review permits
5 authorized under a USEPA-approved program, provided
6 the program meets procedural and compliance
7 requirements substantially equivalent to those
8 contained in this Section;

9 vi. (Blank); or

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

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

20 e. Permit revisions and modifications, including
21 administrative amendments and automatic amendments
22 (pursuant to Sections 408(b) and 403(d) of the Clean Air
23 Act or regulations promulgated thereunder), for purposes
24 of the acid rain portion of the permit shall be governed by
25 the regulations promulgated under Title IV of the Clean Air
26 Act. Owners or operators of affected sources for acid

1 deposition shall have the flexibility to amend their
2 compliance plans as provided in the regulations
3 promulgated under Title IV of the Clean Air Act.

4 f. The CAAPP source may implement the changes addressed
5 in the request for an administrative permit amendment
6 immediately upon submittal of the request.

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

11 14. Permit Modifications.

12 a. Minor permit modification procedures.

13 i. The Agency shall review a permit modification
14 using the "minor permit" modification procedures only
15 for those permit modifications that:

16 A. Do not violate any applicable requirement;

17 B. Do not involve significant changes to
18 existing monitoring, reporting, or recordkeeping
19 requirements in the permit;

20 C. Do not require a case-by-case determination
21 of an emission limitation or other standard, or a
22 source-specific determination of ambient impacts,
23 or a visibility or increment analysis;

24 D. Do not seek to establish or change a permit
25 term or condition for which there is no

1 corresponding underlying requirement and which
2 avoids an applicable requirement to which the
3 source would otherwise be subject. Such terms and
4 conditions include:

5 1. A federally enforceable emissions cap
6 assumed to avoid classification as a
7 modification under any provision of Title I of
8 the Clean Air Act; and

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

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

14 F. Are not required to be processed as a
15 significant modification.

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

26 iii. An applicant requesting the use of minor

1 permit modification procedures shall meet the
2 requirements of subsection 5 of this Section and shall
3 include the following in its application:

4 A. A description of the change, the emissions
5 resulting from the change, and any new applicable
6 requirements that will apply if the change occurs;

7 B. The source's suggested draft permit;

8 C. Certification by a responsible official,
9 consistent with paragraph (e) of subsection 5 of
10 this Section and applicable regulations, that the
11 proposed modification meets the criteria for use
12 of minor permit modification procedures and a
13 request that such procedures be used; and

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

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

24 v. The Agency may not issue a final permit
25 modification until after the 45-day review period for
26 USEPA or until USEPA has notified the Agency that USEPA

1 will not object to the issuance of the permit
2 modification, whichever comes first, although the
3 Agency can approve the permit modification prior to
4 that time. Within 90 days after the Agency's receipt of
5 an application under the minor permit modification
6 procedures or 15 days after the end of USEPA's 45-day
7 review period under subsection 9 of this Section,
8 whichever is later, the Agency shall:

9 A. Issue the permit modification as proposed;

10 B. Deny the permit modification application;

11 C. Determine that the requested modification
12 does not meet the minor permit modification
13 criteria and should be reviewed under the
14 significant modification procedures; or

15 D. Revise the draft permit modification and
16 transmit to USEPA the new proposed permit
17 modification as required by subsection 9 of this
18 Section.

19 vi. Any CAAPP source may make the change proposed
20 in its minor permit modification application
21 immediately after it files such application. After the
22 CAAPP source makes the change allowed by the preceding
23 sentence, and until the Agency takes any of the actions
24 specified in items (A) through (C) of subparagraph (v)
25 of paragraph (a) of this subsection, the source must
26 comply with both the applicable requirements governing

1 the change and the proposed permit terms and
2 conditions. During this time period, the source need
3 not comply with the existing permit terms and
4 conditions it seeks to modify. If the source fails to
5 comply with its proposed permit terms and conditions
6 during this time period, the existing permit terms and
7 conditions which it seeks to modify may be enforced
8 against it.

9 vii. The permit shield under paragraph (j) of
10 subsection 7 of this Section may not extend to minor
11 permit modifications.

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

1 requirements and procedures applicable to construction
2 permits.

3 b. Group Processing of Minor Permit Modifications.

4 i. Where requested by an applicant within its
5 application, the Agency shall process groups of a
6 source's applications for certain modifications
7 eligible for minor permit modification processing in
8 accordance with the provisions of this paragraph (b).

9 ii. Permit modifications may be processed in
10 accordance with the procedures for group processing,
11 for those modifications:

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

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

21 iii. An applicant requesting the use of group
22 processing procedures shall meet the requirements of
23 subsection 5 of this Section and shall include the
24 following in its application:

25 A. A description of the change, the emissions
26 resulting from the change, and any new applicable

1 requirements that will apply if the change occurs.

2 B. The source's suggested draft permit.

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

9 D. A list of the source's other pending
10 applications awaiting group processing, and a
11 determination of whether the requested
12 modification, aggregated with these other
13 applications, equals or exceeds the threshold set
14 under item (B) of subparagraph (ii) of paragraph
15 (b) of this subsection.

16 E. Certification, consistent with paragraph
17 (e) of subsection 5 of this Section, that the
18 source has notified USEPA of the proposed
19 modification. Such notification need only contain
20 a brief description of the requested modification.

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

24 iv. On a quarterly basis or within 5 business days
25 after receipt of an application demonstrating that the
26 aggregate of a source's pending applications equals or

1 exceeds the threshold level set forth within item (B)
2 of subparagraph (ii) of paragraph (b) of this
3 subsection, whichever is earlier, the Agency shall
4 promptly notify USEPA and affected States of the
5 requested permit modifications in accordance with
6 subsections 8 and 9 of this Section. The Agency shall
7 send any notice required under paragraph (d) of
8 subsection 8 of this Section to USEPA.

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

18 vi. The provisions of subparagraph (vi) of
19 paragraph (a) of this subsection shall apply to
20 modifications for group processing.

21 vii. The provisions of paragraph (j) of subsection
22 7 of this Section shall not apply to modifications
23 eligible for group processing.

24 c. Significant Permit Modifications.

25 i. Significant modification procedures shall be
26 used for applications requesting significant permit

1 modifications and for those applications that do not
2 qualify as either minor permit modifications or as
3 administrative permit amendments.

4 ii. Every significant change in existing
5 monitoring permit terms or conditions and every
6 relaxation of reporting or recordkeeping requirements
7 shall be considered significant. A modification shall
8 also be considered significant if in the judgment of
9 the Agency action on an application for modification
10 would require decisions to be made on technically
11 complex issues. Nothing herein shall be construed to
12 preclude the permittee from making changes consistent
13 with this Section that would render existing permit
14 compliance terms and conditions irrelevant.

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

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

2 a. Each issued CAAPP permit shall include provisions
3 specifying the conditions under which the permit will be
4 reopened prior to the expiration of the permit. Such
5 revisions shall be made as expeditiously as practicable. A
6 CAAPP permit shall be reopened and revised under any of the
7 following circumstances, in accordance with procedures
8 adopted by the Agency:

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

17 ii. Additional requirements (including excess
18 emissions requirements) become applicable to an
19 affected source for acid deposition under the acid rain
20 program. Excess emissions offset plans shall be deemed
21 to be incorporated into the permit upon approval by
22 USEPA.

23 iii. The Agency or USEPA determines that the permit
24 contains a material mistake or that inaccurate
25 statements were made in establishing the emissions

1 standards, limitations, or other terms or conditions
2 of the permit.

3 iv. The Agency or USEPA determines that the permit
4 must be revised or revoked to assure compliance with
5 the applicable requirements.

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

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

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

1 except that the Agency may provide a shorter time period in
2 the case of an emergency.

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

7 16. Reopenings for Cause by USEPA.

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

1 shall submit the proposed determination within 180 days
2 after receipt of notification from USEPA.

3 b. i. Prior to the Agency's submittal to USEPA of a
4 proposed determination to terminate or revoke and
5 reissue the permit, the Agency shall file a petition
6 before the Board setting forth USEPA's objection, the
7 permit record, the Agency's proposed determination,
8 and the justification for its proposed determination.
9 The Board shall conduct a hearing pursuant to the rules
10 prescribed by Section 32 of this Act, and the burden of
11 proof shall be on the Agency.

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

24 iii. The Board shall cause a copy of its interim
25 order to be served upon all parties to the proceeding
26 as well as upon USEPA. The Agency shall submit the

1 proposed determination to USEPA in accordance with the
2 Board's Interim Order within 180 days after receipt of
3 the notification from USEPA.

4 c. USEPA shall review the proposed determination to
5 terminate, modify, or revoke and reissue the permit within
6 90 days after receipt.

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

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

25 iii. When USEPA reviews such proposed
26 determination to modify and objects, the Agency shall,

1 within 90 days after receipt of the objection, resolve
2 the objection and modify the permit in accordance with
3 USEPA's objection, based upon the record, the Clean Air
4 Act, regulations promulgated thereunder, this Act, and
5 regulations promulgated thereunder.

6 d. If the Agency fails to submit the proposed
7 determination pursuant to paragraph a of this subsection or
8 fails to resolve any USEPA objection pursuant to paragraph
9 c of this subsection, USEPA will terminate, modify, or
10 revoke and reissue the permit.

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 17. Title IV; Acid Rain Provisions.

16 a. The Agency shall act on initial CAAPP applications
17 for affected sources for acid deposition 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. The Agency shall issue initial CAAPP permits to
22 the affected sources for acid deposition which shall become
23 effective no earlier than January 1, 1995, and which shall
24 terminate on December 31, 1999, in accordance with this
25 Section. Subsequent CAAPP permits issued to affected

1 sources for acid deposition shall be issued for a fixed
2 term of 5 years. Title IV of the Clean Air Act and
3 regulations promulgated thereunder, including but not
4 limited to 40 C.F.R. Part 72, as now or hereafter amended,
5 are applicable to and enforceable under this Act.

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

26 c. Each Phase II acid rain permit issued in accordance

1 with this subsection shall have a fixed term of 5 years.
2 Except as provided in paragraph b above, the Agency shall
3 issue or deny a Phase II acid rain permit within 18 months
4 of receiving a complete Phase II permit application and
5 compliance plan.

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

21 e. A designated representative of an affected source
22 for acid deposition shall submit a timely and complete
23 Title IV NOx permit application to the Agency, not later
24 than January 1, 1998, that meets the requirements of Titles
25 IV and V of the Clean Air Act and its regulations. The
26 Agency shall reopen the Phase II acid rain permit for cause

1 and incorporate the approved NOx provisions into the Phase
2 II acid rain permit not later than January 1, 1999, in
3 accordance with this Section, except as modified by Title
4 IV of the Clean Air Act and regulations promulgated
5 thereunder. Such reopening shall not affect the term of the
6 Phase II acid rain permit.

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

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

1 issued or denied by the Agency.

2 h. The Agency shall not include or implement any
3 measure which would interfere with or modify the
4 requirements of Title IV of the Clean Air Act or
5 regulations promulgated thereunder.

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

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

15 ii. No limit shall be placed on the number of
16 allowances held by the source. The source may not,
17 however, use allowances as a defense to noncompliance
18 with any other applicable requirement.

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

22 j. To the extent that the federal regulations
23 promulgated under Title IV, including but not limited to 40
24 C.F.R. Part 72, as now or hereafter amended, are
25 inconsistent with the federal regulations promulgated
26 under Title V, the federal regulations promulgated under

1 Title IV shall take precedence.

2 k. The USEPA may intervene as a matter of right in any
3 permit appeal involving a Phase II acid rain permit
4 provision or denial of a Phase II acid rain permit.

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

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

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

23 o. 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 18. Fee Provisions.

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

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

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

22 A. The Agency shall assess a fee of \$18 per
23 ton, per year for the allowable emissions of
24 regulated air pollutants subject to this
25 subparagraph (ii) of paragraph (a) of subsection

1 18, and that fee shall increase, beginning January
2 1, 2012, to \$21.50 per ton, per year. These fees
3 shall be used by the Agency and the Board to fund
4 the activities required by Title V of the Clean Air
5 Act including such activities as may be carried out
6 by other State or local agencies pursuant to
7 paragraph (d) of this subsection. The amount of
8 such fee shall be based on the information supplied
9 by the applicant in its complete CAAPP permit
10 application or in the CAAPP permit if the permit
11 has been granted and shall be determined by the
12 amount of emissions that the source is allowed to
13 emit annually, provided however, that the maximum
14 fee for a CAAPP permit under this subparagraph (ii)
15 of paragraph (a) of subsection 18 is \$250,000, and
16 increases, beginning January 1, 2012, to \$294,000.
17 Beginning January 1, 2012, the maximum fee under
18 this subparagraph (ii) of paragraph (a) of
19 subsection 18 for a source that has been excluded
20 under subsection 1.1 of this Section or under
21 paragraph (c) of subsection 3 of this Section is
22 \$4,112. The Agency shall provide as part of the
23 permit application form required under subsection
24 5 of this Section a separate fee calculation form
25 which will allow the applicant to identify the
26 allowable emissions and calculate the fee. In no

1 event shall the Agency raise the amount of
2 allowable emissions requested by the applicant
3 unless such increases are required to demonstrate
4 compliance with terms of a CAAPP permit.

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

18 B. The applicant or permittee may pay the fee
19 annually or semiannually for those fees greater
20 than \$5,000. However, any applicant paying a fee
21 equal to or greater than \$100,000 shall pay the
22 full amount on July 1, for the subsequent fiscal
23 year, or pay 50% of the fee on July 1 and the
24 remaining 50% by the next January 1. The Agency may
25 change any annual billing date upon reasonable
26 notice, but shall prorate the new bill so that the

1 permittee or applicant does not pay more than its
2 required fees for the fee period for which payment
3 is made.

4 b. (Blank).

5 c. (Blank).

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

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

22 f. For purposes of this subsection, the term "regulated
23 air pollutant" shall have the meaning given to it under
24 subsection 1 of this Section but shall exclude the
25 following:

26 i. carbon monoxide;

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

4 iii. any pollutant that is a regulated air
5 pollutant solely because it is subject to a standard or
6 regulation under Section 112(r) of the Clean Air Act
7 based on the emissions allowed in the permit effective
8 in that calendar year, at the time the applicable bill
9 is generated.

10 19. Air Toxics Provisions.

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

1 owner or operator in a CAAPP permit, the owner or operator
2 may petition the Board to establish whether the emission
3 limitation proposal submitted by the owner or operator
4 provides for emission limitations which are equivalent to
5 the emission limitations that would apply to the source if
6 the emission standard had been promulgated by USEPA in a
7 timely manner. The Board shall determine whether the
8 emission limitation proposed by the owner or operator or an
9 alternative emission limitation proposed by the Agency
10 provides for the level of control required under Section
11 112 of the Clean Air Act, or shall otherwise establish an
12 appropriate emission limitation, pursuant to Section 112
13 of the Clean Air Act.

14 b. Any Board proceeding brought under paragraph (a) or
15 (e) of this subsection shall be conducted according to the
16 Board's procedures for adjudicatory hearings and the Board
17 shall render its decision within 120 days of the filing of
18 the petition. Any such decision shall be subject to review
19 pursuant to Section 41 of this Act. Where USEPA promulgates
20 an applicable emission standard prior to the issuance of
21 the CAAPP permit, the Agency shall include in the permit
22 the promulgated standard, provided that the source shall
23 have the compliance period provided under Section 112(i) of
24 the Clean Air Act. Where USEPA promulgates an applicable
25 standard subsequent to the issuance of the CAAPP permit,
26 the Agency shall revise such permit upon the next renewal

1 to reflect the promulgated standard, providing a
2 reasonable time for the applicable source to comply with
3 the standard, but no longer than 8 years after the date on
4 which the source is first required to comply with the
5 emissions limitation established under this subsection.

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

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

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

1 provides for a level of control required by Section 112 of
2 the Clean Air Act, or to otherwise establish an appropriate
3 emission limitation under Section 112 of the Clean Air Act.

4 20. Small Business.

5 a. For purposes of this subsection:

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

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

17 "Small Business Stationary Source" means a stationary
18 source that:

19 1. is owned or operated by a person that employs
20 100 or fewer individuals;

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

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

25 4. does not emit 50 tons or more per year of any

1 regulated air pollutant, except greenhouse gases; and
2 5. emits less than 75 tons per year of all
3 regulated pollutants, except greenhouse gases.

4 b. The Agency shall adopt and submit to USEPA, after
5 reasonable notice and opportunity for public comment, as a
6 revision to the Illinois state implementation plan, plans
7 for establishing the Program.

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

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

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

20 f. The State Ombudsman Office shall be located in an
21 existing Ombudsman office within the State or in any State
22 Department.

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

1 h. The selection of Panel members shall be by the
2 following method:

3 1. The Governor shall select two members who are
4 not owners or representatives of owners of small
5 business stationary sources to represent the general
6 public;

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

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

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

17 j. The Panel shall select its own Chair by a majority
18 vote. The Chair may meet and consult with the Ombudsman and
19 the head of the Small Business Assistance Program in
20 planning the activities for the Panel.

21 21. Temporary Sources.

22 a. The Agency may issue a single permit authorizing
23 emissions from similar operations by the same source owner
24 or operator at multiple temporary locations, except for
25 sources which are affected sources for acid deposition

1 under Title IV of the Clean Air Act.

2 b. The applicant must demonstrate that the operation is
3 temporary and will involve at least one change of location
4 during the term of the permit.

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

11 22. Solid Waste Incineration Units.

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

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

23 c. If the Agency determines that the source is not in
24 compliance with all applicable requirements it shall
25 revise the CAAPP permit as appropriate.

1 and a United States Congress are controlled by one party that
2 has signaled a series of direct challenges to these federal
3 laws and the protections they provide, as well as to the
4 underlying science that makes these protections necessary, and
5 to the rights of the states to protect their own environment,
6 natural resources, and public health as they see fit.

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

12 (415 ILCS 5/59.1 new)

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

14 (1) Retain protections afforded under the federal laws
15 specified in Section 59.2 and regulations implementing those
16 federal laws in existence on or before January 19, 2017,
17 regardless of actions taken at the federal level.

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

21 (3) Preserve, protect, and enhance the environment and
22 natural resources in Illinois, including, but not limited to,
23 the State and national parks, national wilderness areas,
24 national monuments, national waterways, including Lake
25 Michigan and the Mississippi River, and other areas with

1 special national or regional natural, recreational, scenic, or
2 historic value.

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

6 (5) Ensure that any decision made by a public agency that
7 may adversely impact public health, the environment, or natural
8 resources is made only after careful evaluation of all the
9 consequences of that decision and after adequate procedural
10 opportunities for informed public participation in the
11 decision-making process.

12 (415 ILCS 5/59.2 new)

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

14 "Baseline federal law standards" means federal laws and
15 federal regulations issued under the federal laws as those
16 federal laws and regulations existed on January 19, 2017.

17 "Federal laws" means any of the following:

18 (1) The federal Clean Air Act.

19 (2) The Federal Water Pollution Control Act.

20 (3) The federal Safe Drinking Water Act.

21 (4) The federal Endangered Species Act.

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

24 (415 ILCS 5/59.3 new)

1 Sec. 59.3. Operative provisions.

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

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

8 (415 ILCS 5/60 new)

9 Sec. 60. Air.

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

11 (1) Title II and Title X of the Environmental
12 Protection Act contain the State analog to the federal
13 Clean Air Act.

14 (2) State agencies formulate and adopt the state
15 implementation plans (SIPs) for Illinois under the federal
16 Clean Air Act, and issue permits governing the emission of
17 certain substances, including greenhouse gases, into the
18 air.

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

21 (1) State agencies shall maintain and enforce all air
22 quality requirements and standards that are at least as
23 stringent as required by the baseline federal law
24 standards, in addition to those required under State law.

25 (2) If State agencies have not established a standard

1 or requirement for an air pollutant for which a standard or
2 requirement exists in the baseline federal law standards
3 and the federal standard or requirement is amended, then
4 the State agencies shall adopt a standard or requirement
5 that is at least as stringent as the baseline federal law
6 standards.

7 (3) State agencies shall adopt state implementation
8 plans for Illinois that meet requirements that are at least
9 as 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 State agencies shall adopt and
15 implement equivalent requirements that are at least as
16 stringent as those required by the applicable baseline
17 federal law standards, in addition to those required by
18 State law.

19 (415 ILCS 5/61 new)

20 Sec. 61. Water.

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

22 (1) Title III and Title X of the Environmental
23 Protection Act are the State analog to the Federal Water
24 Pollution Control Act, otherwise known as the federal Clean
25 Water Act.

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

4 (3) State agencies administer and implement the
5 federal Clean Water Act and the Environmental Protection
6 Act to preserve, protect, enhance, and restore water
7 quality by setting statewide policy, formulating and
8 adopting water quality control plans, setting standards,
9 issuing permits and waste discharge requirements,
10 determining compliance with those permits and waste
11 discharge requirements, and taking appropriate enforcement
12 actions.

13 (4) State agencies regulate public drinking water
14 systems under the federal Safe Drinking Water Act and the
15 Environmental Protection Act to ensure the delivery of safe
16 drinking water to Illinoisans.

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

19 (1) State agencies shall maintain and enforce all water
20 supply and water quality standards and permitting
21 requirements that are at least as stringent as required by
22 the applicable baseline federal law standards, in addition
23 to those required by State law.

24 (2) State agencies shall maintain and enforce all
25 drinking water standards that are at least as stringent as
26 required by the applicable baseline federal law standards,

1 in addition to those required by State law, including the
2 level of lead in drinking water.

3 (3) If State agencies have not established a water
4 supply or water quality standard or requirement for which a
5 standard or requirement exists in the baseline federal law
6 standards and the federal requirement or standard is
7 amended, then State agencies as appropriate shall adopt a
8 standard or requirement that is at least as stringent as
9 the baseline federal law standards.

10 (4) If State agencies have not established a drinking
11 water standard or requirement for which a standard or
12 requirement exists in the baseline federal law standards
13 and the federal standard or requirement is amended, then
14 State agencies, as appropriate, shall adopt a standard or
15 requirement that is at least as stringent as the baseline
16 federal law standards.

17 (5) Waste discharge requirements and permits that are
18 issued on and after January 19, 2017, shall be at least as
19 protective of the environment and comply with all
20 applicable water quality standards, effluent limitations,
21 and restrictions as required by the applicable baseline
22 federal law standards, in addition to those required by
23 State law.

24 (6) Drinking water supply permits that are issued on
25 and after January 19, 2017, shall be at least as protective
26 of public health and comply with all applicable drinking

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

4 (7) A water quality management plan adopted on or after
5 January 19, 2017, shall be at least as protective of the
6 environment pursuant to, and in compliance with, all
7 applicable water quality standards, effluent limitations,
8 and restrictions as required by the applicable baseline
9 federal law standards, in addition to those required by
10 State law.

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

20 (415 ILCS 5/62 new)

21 Sec. 62. Endangered and threatened species.

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

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

25 (2) The Illinois Endangered Species Protection Act

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

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

9 (1) All native species not already listed under the
10 Illinois Endangered Species Protection Act that are listed
11 as endangered or threatened under the federal Endangered
12 Species Act on January 19, 2017, shall be listed as an
13 endangered or threatened species, as appropriate, under
14 the Illinois Endangered Species Protection Act. The
15 Department of Natural Resources may review and modify the
16 listing of species in accordance with this Section.

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

1 of the Illinois Endangered Species Protection Act.

2 (415 ILCS 5/63 new)

3 Sec. 63. Implementation; reporting. Each State agency
4 shall undertake all feasible efforts using the State agency's
5 authority under State and federal law to implement and enforce
6 this Title. Each State agency that takes steps to enforce this
7 Title shall submit a report to the General Assembly at least
8 once every year describing the State agency's compliance with
9 this Title. The report to the General Assembly shall be filed
10 with the Clerk of the House of Representatives and the
11 Secretary of the Senate in electronic form only, in the manner
12 that the Clerk and the Secretary shall direct.

13 (415 ILCS 5/64 new)

14 Sec. 64. Repeal. This Title is repealed 3 years after the
15 effective date of this amendatory Act of the 100th General
16 Assembly.

17 Section 35. Labor; environmental standards; baseline
18 federal law standard. For the purposes of this Act, including
19 the new provisions and amendatory provisions, all requirements
20 that a labor or environmental standard be identical in
21 substance or consistent with a baseline federal law standard
22 shall mean that a standard is identical in substance or
23 consistent with that baseline federal law standard as of

1 January 19, 2017.

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