



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB3640

Introduced 11/7/2018, by Sen. John F. Curran

SYNOPSIS AS INTRODUCED:

415 ILCS 5/9.16 new
415 ILCS 5/39.5

from Ch. 111 1/2, par. 1039.5

Amends the Environmental Protection Act. Provides that ethylene oxide shall only be used to sterilize medical products, and only if the Environmental Protection Agency determines that there is no substitute sterilization technology available for sterilizing a particular medical product. Requires the Agency to prohibit all uses of ethylene oxide by January 1, 2022. Provides that the Agency shall not renew an air pollution operating permit if the Agency finds that the facility is emitting ethylene oxide at a level that violates any federal or State standards pertaining to ethylene oxide. Provides circumstances under which the Agency shall reopen and modify permits issued to facilities emitting ethylene oxide under the Clean Air Act Permit Program. Effective immediately.

LRB100 23982 LNS 43068 b

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by
5 changing Section 39.5 and by adding Section 9.16 as follows:

6 (415 ILCS 5/9.16 new)

7 Sec. 9.16. Emissions standards, regulations, and notice
8 for facilities emitting ethylene oxide.

9 (a) The General Assembly finds that the emission of
10 ethylene oxide constitutes a threat to public health and
11 welfare, depresses property values, and diminishes quality of
12 life. It is the purpose of this Section to restore, maintain,
13 and enhance the purity of the air of this State in order to
14 protect health, welfare, and quality of life and to assure that
15 no air contaminants are discharged into the atmosphere without
16 being given the degree of treatment or control necessary.

17 (b) The Agency shall immediately reevaluate emissions
18 standards and regulations for ethylene oxide and promulgate new
19 emissions standards and regulations in accordance with the most
20 recently issued scientific understanding of ethylene oxide
21 based on reports, findings, and statements on the health
22 impacts of ethylene oxide produced by the USEPA. The Agency
23 shall submit new emissions standards and regulations for

1 ethylene oxide to the Board within 30 days of this amendatory
2 Act of the 100th General Assembly.

3 (1) Except as otherwise provided in this paragraph, the
4 use of ethylene oxide is limited to the sterilization of
5 medical products. If the Agency determines, based on the
6 best scientific evidence, that there is no substitute
7 sterilization technology available for sterilizing a
8 particular medical product, then ethylene oxide may be used
9 for that medical product. Cost shall not be considered in
10 this determination. If the Agency determines there is a
11 substitute sterilization technology for a particular
12 medical product, then the Agency shall prohibit all use of
13 ethylene oxide for that medical product.

14 (A) "Substitute sterilization technology" means a
15 method of sterilization for a particular medical
16 product that does not use ethylene oxide and is capable
17 of sterilizing that medical product.

18 (B) In determining whether a substitute
19 sterilization technology exists, the Agency shall make
20 this determination based upon a review of the products
21 for which CAAPP permit applicants have applied to use
22 ethylene oxide. The Agency may consider factors such as
23 whether a potential substitute sterilization
24 technology adequately eliminates, removes, kills, or
25 deactivates all forms of life and other biological
26 agents from a medical product and whether a potential

1 substitute sterilization technology is able to
2 adequately sterilize a medical product without
3 damaging the product.

4 (C) The Agency may issue regulations, emissions
5 standards, or permit conditions that state which
6 medical products or classes of medical products have
7 substitute sterilization technologies.

8 (D) If the Agency determines a substitute
9 sterilization technology exists for every use of
10 ethylene oxide, the Agency shall prohibit all uses of
11 ethylene oxide.

12 (2) When determining emissions standards and
13 regulations for ethylene oxide, the Agency shall:

14 (A) account for both short-term and long-term
15 exposure to ethylene oxide; and

16 (B) set the emission standards and regulations to
17 maximize the health and safety of both workers who are
18 exposed to ethylene oxide as a result of employment and
19 members of the public exposed as a result of emissions.

20 (3) If a CAAPP permit applicant applies to use ethylene
21 oxide to sterilize a medical product for which no
22 substitute sterilization technology exists, the Agency
23 shall issue a CAAPP permit for emission of ethylene oxide
24 only if:

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

1 greater than 50,000; and

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

5 (4) The Agency shall prohibit all uses of ethylene
6 oxide by January 1, 2022.

7 (c) Beginning 30 days after the effective date of this
8 amendatory Act of the 100th General Assembly, the use of
9 ethylene oxide for purposes other than sterilization of medical
10 products is a violation of this Act. The Agency shall
11 immediately notify all CAAPP permit holders permitted to use
12 ethylene oxide of this deadline. The Agency shall have the
13 authority to adopt rules, in accordance with the Illinois
14 Administrative Procedure Act, as the Agency deems necessary, to
15 implement this subsection.

16 (d) The Agency shall not renew an air pollution operating
17 permit if the Agency finds that the facility is emitting
18 ethylene oxide at a level that violates any federal or State
19 standards pertaining to ethylene oxide.

20 (e) Within 30 days after the approval by the Board of new
21 regulations for ethylene oxide in accordance with paragraph (2)
22 of subsection (b), the Agency shall reopen and modify all CAAPP
23 permits that allow the use of ethylene oxide under paragraph
24 (c-5) of subsection (15) of Section 39.5.

25 Any modifications to permits shall ensure compliance with
26 State and federal standards in order to limit the use of

1 ethylene oxide to the sterilization of medical products or uses
2 authorized under paragraph (1) of subsection (b).

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

4 Sec. 39.5. Clean Air Act Permit Program.

5 1. Definitions. For purposes of this Section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 "Federally enforceable" means enforceable by USEPA.

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

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

1 Section.

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

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

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

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

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

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

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

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

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

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

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

16 "Regulated air pollutant" means the following:

17 (1) Nitrogen oxides (NOx) or any volatile organic
18 compound.

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

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

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

26 (5) Any pollutant subject to a standard promulgated

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

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

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

16 (6) Greenhouse gases.

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

19 "Responsible official" means one of the following:

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

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

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

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

26 (4) For affected sources for acid deposition:

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

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

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

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

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

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

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

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

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

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

26 "USEPA" means the Administrator of the United States

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

3 1.1. Exclusion From the CAAPP.

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

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

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

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

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

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

16 2. Applicability.

17 a. Sources subject to this Section shall include:

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

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

1 112(r) of the Clean Air Act.

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

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

7 b. Sources exempted from this Section shall include:

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

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

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

26 iv. All sources and source categories that would be

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 thermal units per hour heat input.

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

4 W. Taconite ore processing plants.

5 X. Glass fiber processing plants.

6 Y. Charcoal production plants.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 4. Transition.

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

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

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

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

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

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

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

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

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

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

9 5. Applications and Completeness.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 CAAPP application.

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

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

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

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

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

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

21 6. Prohibitions.

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

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

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

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

21 7. Permit Content.

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

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

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

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

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

26 i. Incorporate and identify all applicable

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

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

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

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

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

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

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

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

6 D. The analytical techniques or methods used.

7 E. The results of such analyses.

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

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

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

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

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

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

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

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

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

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

1 operators requesting a permit shield:

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

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

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

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

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

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

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

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

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

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

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

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

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

26 iii. The permittee submitted notice of the

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

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

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

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

1 or regulations.

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

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

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

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

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

26 A. Shall include all terms required under this

1 subsection to determine compliance;

2 B. Must meet all applicable requirements;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 2. As otherwise authorized by this Act.

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

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

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

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

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

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

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

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

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

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

15 2. The compliance status.

16 3. Whether compliance was continuous or
17 intermittent.

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

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

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

1 F. Other provisions as the Agency may require.

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

13 8. Public Notice; Affected State Review.

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

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

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

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

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

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

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

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

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

14 9. USEPA Notice and Objection.

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

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

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

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

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

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

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

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

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

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

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

8 10. Final Agency Action.

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

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

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

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

25 iv. The Agency has received a complete CAAPP

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

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

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

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

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

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

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

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

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

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

20 11. General Permits.

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

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

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

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

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

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

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

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

25 12. Operational Flexibility.

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

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

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

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

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

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

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

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

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

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

26 A. Under this subparagraph (iii) of paragraph

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

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

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

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

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

1 that would apply as a result of the change;

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

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

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

15 13. Administrative Permit Amendments.

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

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

25 c. For purposes of this Section the term

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

4 i. Corrects typographical errors;

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

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

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

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

24 vi. (Blank); or

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

1 to be similar to those included in this subsection.

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

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

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

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

- 1 14. Permit Modifications.
- 2 a. Minor permit modification procedures.
- 3 i. The Agency shall review a permit modification
- 4 using the "minor permit" modification procedures only
- 5 for those permit modifications that:
- 6 A. Do not violate any applicable requirement;
- 7 B. Do not involve significant changes to
- 8 existing monitoring, reporting, or recordkeeping
- 9 requirements in the permit;
- 10 C. Do not require a case-by-case determination
- 11 of an emission limitation or other standard, or a
- 12 source-specific determination of ambient impacts,
- 13 or a visibility or increment analysis;
- 14 D. Do not seek to establish or change a permit
- 15 term or condition for which there is no
- 16 corresponding underlying requirement and which
- 17 avoids an applicable requirement to which the
- 18 source would otherwise be subject. Such terms and
- 19 conditions include:
- 20 1. A federally enforceable emissions cap
- 21 assumed to avoid classification as a
- 22 modification under any provision of Title I of
- 23 the Clean Air Act; and
- 24 2. An alternative emissions limit approved
- 25 pursuant to regulations promulgated under
- 26 Section 112(i)(5) of the Clean Air Act;

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

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

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

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

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

22 B. The source's suggested draft permit;

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

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

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

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

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

24 A. Issue the permit modification as proposed;

25 B. Deny the permit modification application;

26 C. Determine that the requested modification

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

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

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

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

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

18 b. Group Processing of Minor Permit Modifications.

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

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

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

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

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

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

17 B. The source's suggested draft permit.

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

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

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

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

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

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

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

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

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

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

13 c. Significant Permit Modifications.

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

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

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

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

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

16 15. Reopenings for Cause by the Agency.

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

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

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

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

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

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

21 a-5. A CAAPP permit may be reopened and revised under
22 any of the following circumstances, in accordance with
23 procedures adopted by the Agency:

24 i. the Agency or USEPA determines that the actions
25 authorized by the permit create a public health hazard;
26 or

1 ii. new requirements, regulations, or emissions
2 standards relevant to CAAPP permits are issued.

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

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

20 c-5. The revoking or reopening of permits that the
21 Agency has cause to believe are significantly endangering
22 the public health will not be subject to either process in
23 paragraphs (b) or (c). Permits modified under this
24 paragraph shall take effect immediately upon notification
25 of the permit holder and shall not be subject to oversight
26 by the Board prior to taking effect. Within 15 days of the

1 Agency modifying a permit in accordance with this
2 paragraph, the Agency shall submit the permit to the Board
3 for review. The permit shall be effective until the Board
4 votes to approve or reject the modifications.

5 A CAAPP permit may be reopened and revised in
6 accordance with this paragraph under any of the following
7 circumstances, in accordance with procedures adopted by
8 the Agency:

9 i. the Agency finds, based on the best scientific
10 evidence and without consideration of cost, that a
11 permit creates a significant public health hazard; or

12 ii. the permit was issued prior to December 1, 2018
13 and allows for the use of ethylene oxide.

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

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

24 16. Reopenings for Cause by USEPA.

25 a. When USEPA finds that cause exists to terminate,

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

20 b. i. Prior to the Agency's submittal to USEPA of a
21 proposed determination to terminate or revoke and
22 reissue the permit, the Agency shall file a petition
23 before the Board setting forth USEPA's objection, the
24 permit record, the Agency's proposed determination,
25 and the justification for its proposed determination.
26 The Board shall conduct a hearing pursuant to the rules

1 prescribed by Section 32 of this Act, and the burden of
2 proof shall be on the Agency.

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

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

21 c. USEPA shall review the proposed determination to
22 terminate, modify, or revoke and reissue the permit within
23 90 days after receipt.

24 i. When USEPA reviews the proposed determination
25 to terminate or revoke and reissue and does not object,
26 the Board shall, within 7 days after receipt of USEPA's

1 final approval, enter the interim order as a final
2 order. The final order may be appealed as provided by
3 Title XI of this Act. The Agency shall take final
4 action in accordance with the Board's final order.

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

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

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

1 revoke and reissue the permit.

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

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

22 b. A designated representative of an affected source
23 for acid deposition shall submit a timely and complete
24 Phase II acid rain permit application and compliance plan
25 to the Agency, not later than January 1, 1996, that meets

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

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

23 d. A designated representative of a new unit, as
24 defined in Section 402 of the Clean Air Act, shall submit a
25 timely and complete Phase II acid rain permit application
26 and compliance plan that meets the requirements of Titles

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

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

24 f. The designated representative of the affected
25 source for acid deposition shall renew the initial CAAPP
26 permit and Phase II acid rain permit in accordance with

1 this Section and Title V of the Clean Air Act and
2 regulations promulgated thereunder, except as modified by
3 Title IV of the Clean Air Act and regulations promulgated
4 thereunder.

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

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

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

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

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

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

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

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

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

1 subsection, or to violate any other applicable
2 requirements.

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

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

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

18 18. Fee Provisions.

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

1 combination of regulated air pollutants, except greenhouse
2 gases, shall pay fees in accordance with paragraph (1) of
3 subsection (b) of Section 9.6.

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

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

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

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

22 Notwithstanding the above, any applicant may
23 seek a change in its permit which would result in
24 increases in allowable emissions due to an
25 increase in the hours of operation or production
26 rates of an emission unit or units and such a

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

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

21 b. (Blank).

22 c. (Blank).

23 d. There is hereby created in the State Treasury a
24 special fund to be known as the Clean Air Act Permit Fund
25 (formerly known as the CAA Permit Fund). All Funds
26 collected by the Agency pursuant to this subsection shall

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

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

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

17 i. carbon monoxide;

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

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

1 19. Air Toxics Provisions.

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

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

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

23 c. The Agency shall have the authority to implement and
24 enforce complete or partial emission standards promulgated
25 by USEPA pursuant to Section 112(d), and standards
26 promulgated by USEPA pursuant to Sections 112(f), 112(h),

1 112(m), and 112(n), and may accept delegation of authority
2 from USEPA to implement and enforce Section 112(l) and
3 requirements for the prevention and detection of
4 accidental releases pursuant to Section 112(r) of the Clean
5 Air Act.

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

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

21 20. Small Business.

22 a. For purposes of this subsection:

23 "Program" is the Small Business Stationary Source
24 Technical and Environmental Compliance Assistance Program
25 created within this State pursuant to Section 507 of the

1 Clean Air Act and guidance promulgated thereunder, to
2 provide technical assistance and compliance information to
3 small business stationary sources;

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

9 "Small Business Stationary Source" means a stationary
10 source that:

11 1. is owned or operated by a person that employs
12 100 or fewer individuals;

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

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

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

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

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

25 c. The Agency shall have the authority to enter into
26 such contracts and agreements as the Agency deems necessary

1 to carry out the purposes of this subsection.

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

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

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

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

18 h. The selection of Panel members shall be by the
19 following method:

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

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

26 3. The State Legislature shall select four members

1 who are owners or representatives of owners of small
2 business stationary sources. Both the majority and
3 minority leadership in both Houses of the Legislature
4 shall appoint one member of the panel.

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

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

12 21. Temporary Sources.

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

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

21 c. Any such permit shall meet all applicable
22 requirements of this Section and applicable regulations,
23 and include conditions assuring compliance with all
24 applicable requirements at all authorized locations and
25 requirements that the owner or operator notify the Agency

1 at least 10 days in advance of each change in location.

2 22. Solid Waste Incineration Units.

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

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

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

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

21 (Source: P.A. 99-380, eff. 8-17-15; 99-933, eff. 1-27-17;
22 100-103, eff. 8-11-17.)

23 Section 99. Effective date. This Act takes effect upon
24 becoming law.