



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2213

Introduced 6/15/2017, by Sen. Daniel Biss

SYNOPSIS AS INTRODUCED:

See Index

Creates the Illinois Workers' Rights and Worker Safety Act. Provides that except as authorized by State law enacted after January 1, 2017, a State agency may not amend or revise its rules relating to protection of workers' rights or worker safety in a manner less stringent than specified federal laws. Provides that a State agency may establish workers' rights and worker safety standards that are more stringent than those provided in federal law in existence as of January 1, 2017. Amends the Environmental Protection Act. Provides that in certain circumstances an action may be brought in a circuit court by a person in the public interest to enforce standards or requirements concerning air, water, drinking water, and endangered and threatened species adopted under specified provisions of the Act and the Illinois Endangered Species Protection Act. Provides that the provisions concerning public interest enforcement shall only become operative if specified events occur. Provides that the enforcement provisions of the Act are severable. Adds provisions concerning protection of the environment, natural resources, and public health. Requires various State agencies to adopt, maintain, and enforce rules concerning air, water, drinking water, and endangered and threatened species that are at least as stringent as various regulatory baselines under federal law, in addition to State law requirements. Provides that every State agency shall undertake all feasible efforts to implement and enforce these provisions. Contains reporting requirements. Deletes provisions providing that an air pollution construction or operating permit shall not be required due to emissions of greenhouse gases if certain events occur. Deletes certain language concerning exemptions from provisions concerning the Clean Air Act Permit Program.

LRB100 13060 MJP 27439 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. Short title. This Act may be cited as the
5 Illinois Workers' Rights and Worker Safety Act.

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

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

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

15 Section 15. Operative provisions. Except as authorized by
16 State law enacted after January 1, 2017, a State agency may not
17 amend or revise the State agency's rules in a manner that is
18 less stringent in its protection of workers' rights or worker
19 safety than standards established under federal law in
20 existence as of January 1, 2017.

21 Except as otherwise provided in State law, a State agency
22 may establish workers' rights and worker safety standards for

1 Illinois that are more stringent than those provided in federal
2 law in existence as of January 1, 2017.

3 Section 20. Reporting. Each State agency shall undertake
4 all feasible efforts using the State agency's authority under
5 State and federal law to implement and enforce this Act. Each
6 State agency that takes steps to enforce this Act shall submit
7 a report to the General Assembly at least once every 6 months
8 describing the State agency's compliance with this Act.

9 Section 25. The Environmental Protection Act is amended by
10 changing Sections 9.15 and 39.5 and by adding Sections 34.1 and
11 34.9 and Title XVIII as follows:

12 (415 ILCS 5/9.15)

13 Sec. 9.15. Greenhouse gases.

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

21 (b) An air pollution operating permit shall not be required
22 due to emissions of greenhouse gases if the equipment, site, or
23 source is not subject to regulation, as defined by Section 39.5

1 of this Act, for greenhouse gases. This exemption does not
2 relieve an owner or operator from the obligation to comply with
3 other applicable rules or regulations.

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

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

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

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

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

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

26 (e) (Blank). ~~If an event listed in subsection (c) of this~~

1 ~~Section occurs, any owner or operator with a permit that~~
2 ~~includes terms or conditions addressing greenhouse gases may~~
3 ~~elect to submit an application to the Agency to address a~~
4 ~~revision or repeal of such terms or conditions. The Agency~~
5 ~~shall expeditiously process such permit application in~~
6 ~~accordance with applicable laws and regulations.~~

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

8 (415 ILCS 5/34.1 new)

9 Sec. 34.1. Public Interest Enforcement.

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

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

25 (2) Neither the Attorney General nor State's Attorney

1 commenced and is diligently prosecuting an action against
2 the violation.

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

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

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

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

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

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

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

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

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

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

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

1 violation of paragraph (4) of subsection (b) of Section 61 is
2 alleged shall notify the Attorney General that the action has
3 been filed.

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

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

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

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

24 A person bringing an action in the public interest under
25 this subsection and a person filing an action in which a
26 violation of paragraph (1) of subsection (b) of Section 62 is

1 alleged shall notify the Attorney General that the action has
2 been filed.

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

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

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

13 (i) An action or proceeding may be brought on the grounds
14 that a State or local agency has violated the requirements of
15 this Section.

16 (j) The court may award attorney's fees and expert fees and
17 court costs, as appropriate, for an action brought under this
18 Section.

19 (415 ILCS 5/34.9 new)

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

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

2 Sec. 39.5. Clean Air Act Permit Program.

3 1. Definitions. For purposes of this Section:

4 "Administrative permit amendment" means a permit revision
5 subject to subsection 13 of this Section.

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

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

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

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

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

19 "Applicable Clean Air Act requirement" means all of the
20 following as they apply to emissions units in a source
21 (including regulations that have been promulgated or approved
22 by USEPA pursuant to the Clean Air Act which directly impose
23 requirements upon a source and other such federal requirements
24 which have been adopted by the Board. These may include
25 requirements and regulations which have future effective
26 compliance dates. Requirements and regulations will be exempt

1 if USEPA determines that such requirements need not be
2 contained in a Title V permit):

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

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

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

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

26 (4) Any standard or other requirement under Section 112

1 of the Clean Air Act, including any requirement concerning
2 accident prevention under Section 112(r)(7) of the Clean
3 Air Act.

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

7 (6) Any requirements established pursuant to Section
8 504(b) or Section 114(a)(3) of the Clean Air Act.

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

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

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

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

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

24 (12) Any national ambient air quality standard or
25 increment or visibility requirement under Part C of Title I
26 of the Clean Air Act, but only as it would apply to

1 temporary sources permitted pursuant to Section 504(e) of
2 the Clean Air Act.

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

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

11 "CAAPP application" means an application for a CAAPP
12 permit.

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

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

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

21 "Designated representative" has the meaning given to it in
22 Section 402(26) of the Clean Air Act and the regulations
23 promulgated thereunder, which state that the term "designated
24 representative" means a responsible person or official
25 authorized by the owner or operator of a unit to represent the
26 owner or operator in all matters pertaining to the holding,

1 transfer, or disposition of allowances allocated to a unit, and
2 the submission of and compliance with permits, permit
3 applications, and compliance plans for the unit.

4 "Draft CAAPP permit" means the version of a CAAPP permit
5 for which public notice and an opportunity for public comment
6 and hearing is offered by the Agency.

7 "Effective date of the CAAPP" means the date that USEPA
8 approves Illinois' CAAPP.

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

14 "Federally enforceable" means enforceable by USEPA.

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

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

25 "Major source" means a source for which emissions of one or
26 more air pollutants meet the criteria for major status pursuant

1 to paragraph (c) of subsection 2 of this Section.

2 "Maximum achievable control technology" or "MACT" means
3 the maximum degree of reductions in emissions deemed achievable
4 under Section 112 of the Clean Air Act.

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

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

11 "Permit revision" means a permit modification or
12 administrative permit amendment.

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

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

19 "Potential to emit" means the maximum capacity of a
20 stationary source to emit any air pollutant under its physical
21 and operational design. Any physical or operational limitation
22 on the capacity of a source to emit an air pollutant, including
23 air pollution control equipment and restrictions on hours of
24 operation or on the type or amount of material combusted,
25 stored, or processed, shall be treated as part of its design if
26 the limitation is enforceable by USEPA. This definition does

1 not alter or affect the use of this term for any other purposes
2 under the Clean Air Act, or the term "capacity factor" as used
3 in Title IV of the Clean Air Act or the regulations promulgated
4 thereunder.

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

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

13 "Regulated air pollutant" means the following:

14 (1) Nitrogen oxides (NOx) or any volatile organic
15 compound.

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

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

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

23 (5) Any pollutant subject to a standard promulgated
24 under Section 112 or other requirements established under
25 Section 112 of the Clean Air Act, including Sections
26 112(g), (j) and (r).

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

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

13 (6) Greenhouse gases.

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

16 "Responsible official" means one of the following:

17 (1) For a corporation: a president, secretary,
18 treasurer, or vice-president of the corporation in charge
19 of a principal business function, or any other person who
20 performs similar policy or decision-making functions for
21 the corporation, or a duly authorized representative of
22 such person if the representative is responsible for the
23 overall operation of one or more manufacturing,
24 production, or operating facilities applying for or
25 subject to a permit and either (i) the facilities employ
26 more than 250 persons or have gross annual sales or

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

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

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

23 (4) For affected sources for acid deposition:

24 (i) The designated representative shall be the
25 "responsible official" in so far as actions,
26 standards, requirements, or prohibitions under Title

1 IV of the Clean Air Act or the regulations promulgated
2 thereunder are concerned.

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

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

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

1 for the production of electric energy or in the case of
2 qualifying cogeneration facilities which burn homogeneous
3 waste for the production of electric energy and steam or forms
4 of useful energy (such as heat) which are used for industrial,
5 commercial, heating or cooling purposes, or (C) air curtain
6 incinerators provided that such incinerators only burn wood
7 wastes, yard waste and clean lumber and that such air curtain
8 incinerators comply with opacity limitations to be established
9 by the USEPA by rule.

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

1 properties, and/or is under common control, and/or whether the
2 pollutant emitting activities at such group of stationary
3 sources constitute a support facility shall be made on a case
4 by case basis.

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

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

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

23 "USEPA" means the Administrator of the United States
24 Environmental Protection Agency (USEPA) or a person designated
25 by the Administrator.

1 1.1. Exclusion From the CAAPP.

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

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

21 c. Upon such request, if the Agency determines that the
22 owner or operator of a source has met the requirements for
23 exclusion pursuant to paragraph (a) of this subsection and
24 other applicable requirements for permit issuance under
25 subsection (a) of Section 39 of this Act, the Agency shall
26 issue a State operating permit for such source under

1 subsection (a) of Section 39 of this Act, as amended, and
2 regulations promulgated thereunder with federally
3 enforceable conditions limiting the "potential to emit" of
4 the source to a level below the major source threshold for
5 that source as described in paragraph (c) of subsection 2
6 of this Section.

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

11 e. The Agency shall provide such sources with the
12 necessary permit application forms.

13 2. Applicability.

14 a. Sources subject to this Section shall include:

15 i. Any major source as defined in paragraph (c) of
16 this subsection.

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

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

1 iv. Any other source subject to this Section under
2 the Clean Air Act or regulations promulgated
3 thereunder, or applicable Board regulations.

4 b. Sources exempted from this Section shall include:

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

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

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

23 iv. All sources and source categories that would be
24 required to obtain a permit solely because they are
25 subject to Part 61, Subpart M - National Emission
26 Standard for Hazardous Air Pollutants for Asbestos,

1 Section 61.145 (40 CFR Part 61).

2 v. Any other source categories exempted by USEPA
3 regulations pursuant to Section 502(a) of the Clean Air
4 Act.

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

8 ~~(A) enactment of federal legislation depriving~~
9 ~~the Administrator of the USEPA of authority to~~
10 ~~regulate greenhouse gases under the Clean Air Act;~~

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

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

21 ~~If any event listed in this subparagraph (vi)~~
22 ~~occurs, CAAPP permits issued after such event shall not~~
23 ~~impose permit terms or conditions addressing~~
24 ~~greenhouse gases during the effectiveness of any event~~
25 ~~listed in subparagraph (vi). If any event listed in~~
26 ~~this subparagraph (vi) occurs, any owner or operator~~

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

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

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

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

1 the preceding sentence, emissions from any oil or
2 gas exploration or production well (with its
3 associated equipment) and emissions from any
4 pipeline compressor or pump station shall not be
5 aggregated with emissions from other similar
6 units, whether or not such units are in a
7 contiguous area or under common control, to
8 determine whether such stations are major sources.

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

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

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

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

1 W. Taconite ore processing plants.

2 X. Glass fiber processing plants.

3 Y. Charcoal production plants.

4 Z. Fossil fuel-fired steam electric plants of
5 more than 250 million British thermal units per
6 hour heat input.

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

11 BB. Any other stationary source category
12 designated by USEPA by rule.

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

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

1 Clean Air Act, that requirements otherwise
2 applicable to such source under Section 182(f) of
3 the Clean Air Act do not apply. Such sources shall
4 remain subject to the major source criteria of
5 subparagraph (ii) of paragraph (c) of this
6 subsection.

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

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

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

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

23 a. The Agency shall issue CAAPP permits under this
24 Section consistent with the Clean Air Act and regulations
25 promulgated thereunder and this Act and regulations

1 promulgated thereunder.

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

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

22 d. For purposes of this Act, a permit issued by USEPA
23 under Section 505 of the Clean Air Act, as now and
24 hereafter amended, shall be deemed to be a permit issued by
25 the Agency pursuant to Section 39.5 of this Act.

1 4. Transition.

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

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

25 c. An owner or operator of a CAAPP source shall submit
26 its initial CAAPP application to the Agency no later than

1 12 months after the effective date of the CAAPP. The Agency
2 may request submittal of initial CAAPP applications during
3 this 12-month period according to a schedule set forth
4 within Agency procedures, however, in no event shall the
5 Agency require such submittal earlier than 3 months after
6 such effective date of the CAAPP. An owner or operator may
7 voluntarily submit its initial CAAPP application prior to
8 the date required within this paragraph or applicable
9 procedures, if any, subsequent to the date the Agency
10 submits the CAAPP to USEPA for approval.

11 d. The Agency shall act on initial CAAPP applications
12 in accordance with paragraph (j) of subsection 5 of this
13 Section.

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

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

26 g. The CAAPP permit shall upon becoming effective

1 supersede the State operating permit.

2 h. 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 5. Applications and Completeness.

7 a. An owner or operator of a CAAPP source shall submit
8 its complete CAAPP application consistent with the Act and
9 applicable regulations.

10 b. An owner or operator of a CAAPP source shall submit
11 a single complete CAAPP application covering all emission
12 units at that source.

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

22 d. An owner or operator of a CAAPP source shall submit,
23 as part of its complete CAAPP application, a compliance
24 plan, including a schedule of compliance, describing how
25 each emission unit will comply with all applicable

1 requirements. Any such schedule of compliance shall be
2 supplemental to, and shall not sanction noncompliance
3 with, the applicable requirements on which it is based.

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

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

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

22 h. If the owner or operator of a CAAPP source submits a
23 timely and complete CAAPP application, the source's
24 failure to have a CAAPP permit shall not be a violation of
25 this Section until the Agency takes final action on the
26 submitted CAAPP application, provided, however, where the

1 applicant fails to submit the requested information under
2 paragraph (g) of this subsection 5 within the time frame
3 specified by the Agency, this protection shall cease to
4 apply.

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

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

1 within 9 months of receipt of the complete CAAPP
2 application.

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

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

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

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

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

23 o. The terms and conditions of a CAAPP permit shall
24 remain in effect until the issuance of a CAAPP renewal
25 permit provided a timely and complete CAAPP application has
26 been submitted.

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

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

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

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

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

25 u. An owner or operator of a CAAPP source which seeks
26 exclusion from the CAAPP through the imposition of

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

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

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

1 levels no later than 9 months after the date of the
2 Agency's proposal.

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

14 y. 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 6. Prohibitions.

19 a. It shall be unlawful for any person to violate any
20 terms or conditions of a permit issued under this Section,
21 to operate any CAAPP source except in compliance with a
22 permit issued by the Agency under this Section or to
23 violate any other applicable requirements. All terms and
24 conditions of a permit issued under this Section are
25 enforceable by USEPA and citizens under the Clean Air Act,

1 except those, if any, that are specifically designated as
2 not being federally enforceable in the permit pursuant to
3 paragraph (m) of subsection 7 of this Section.

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

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

18 7. Permit Content.

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

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

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

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

23 i. Incorporate and identify all applicable
24 emissions monitoring and analysis procedures or test
25 methods required under the Clean Air Act, regulations
26 promulgated thereunder, this Act, and applicable Board

1 regulations, including any procedures and methods
2 promulgated by USEPA pursuant to Section 504(b) or
3 Section 114 (a) (3) of the Clean Air Act.

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

15 iii. As necessary, specify requirements concerning
16 the use, maintenance, and when appropriate,
17 installation of monitoring equipment or methods.

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

22 i. Records of required monitoring information that
23 include the following:

24 A. The date, place and time of sampling or
25 measurements.

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

1 C. The company or entity that performed the
2 analyses.

3 D. The analytical techniques or methods used.

4 E. The results of such analyses.

5 F. The operating conditions as existing at the
6 time of sampling or measurement.

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

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

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

1 consistent with subsection 5 of this Section.

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

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

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

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

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

25 i. The Agency shall include in a CAAPP permit, when
26 requested by an applicant pursuant to paragraph (p) of

1 subsection 5 of this Section, a provision stating that
2 compliance with the conditions of the permit shall be
3 deemed compliance with applicable requirements which
4 are applicable as of the date of release of the
5 proposed permit, provided that:

6 A. The applicable requirement is specifically
7 identified within the permit; or

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

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

19 iii. A CAAPP permit which does not expressly
20 indicate the existence of a permit shield shall not
21 provide such a shield.

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

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

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

5 C. The applicable requirements of the acid
6 rain program consistent with Section 408(a) of the
7 Clean Air Act.

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

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

19 i. An emergency occurred and the permittee can
20 identify the cause(s) of the emergency.

21 ii. The permitted facility was at the time being
22 properly operated.

23 iii. The permittee submitted notice of the
24 emergency to the Agency within 2 working days after the
25 time when emission limitations were exceeded due to the
26 emergency. This notice must contain a detailed

1 description of the emergency, any steps taken to
2 mitigate emissions, and corrective actions taken.

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

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

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

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

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

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

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

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

23 A. Shall include all terms required under this
24 subsection to determine compliance;

25 B. Must meet all applicable requirements;

26 C. Shall extend the permit shield described in

1 paragraph (j) of subsection 7 of this Section to
2 all terms and conditions that allow such increases
3 and decreases in emissions.

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

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

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

22 i. Duty to comply. The permittee must comply with
23 all terms and conditions of the CAAPP permit. Any
24 permit noncompliance constitutes a violation of the
25 Clean Air Act and the Act, and is grounds for any or
26 all of the following: enforcement action; permit

1 termination, revocation and reissuance, or
2 modification; or denial of a permit renewal
3 application.

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

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

18 iv. Property rights. The permit does not convey any
19 property rights of any sort, or any exclusive
20 privilege.

21 v. Duty to provide information. The permittee
22 shall furnish to the Agency within a reasonable time
23 specified by the Agency any information that the Agency
24 may request in writing to determine whether cause
25 exists for modifying, revoking and reissuing, or
26 terminating the permit or to determine compliance with

1 the permit. Upon request, the permittee shall also
2 furnish to the Agency copies of records required to be
3 kept by the permit or, for information claimed to be
4 confidential, the permittee may furnish such records
5 directly to USEPA along with a claim of
6 confidentiality.

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

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

18 p. Each CAAPP permit issued under subsection 10 of this
19 Section shall contain the following elements with respect
20 to compliance:

21 i. Compliance certification, testing, monitoring,
22 reporting, and record keeping requirements sufficient
23 to assure compliance with the terms and conditions of
24 the permit. Any document (including reports) required
25 by a CAAPP permit shall contain a certification by a
26 responsible official that meets the requirements of

1 subsection 5 of this Section and applicable
2 regulations.

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

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

13 B. Have access to and copy, at reasonable
14 times, any records that must be kept under the
15 conditions of the permit.

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

20 D. Sample or monitor any substances or
21 parameters at any location:

22 1. As authorized by the Clean Air Act, at
23 reasonable times, for the purposes of assuring
24 compliance with the CAAPP permit or applicable
25 requirements; or

26 2. As otherwise authorized by this Act.

1 iii. A schedule of compliance consistent with
2 subsection 5 of this Section and applicable
3 regulations.

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

13 A. Required dates for achieving the
14 activities, milestones, or compliance required by
15 the schedule of compliance and dates when such
16 activities, milestones or compliance were
17 achieved.

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

21 v. Requirements for compliance certification with
22 terms and conditions contained in the permit,
23 including emission limitations, standards, or work
24 practices. Permits shall include each of the
25 following:

26 A. The frequency (annually or more frequently

1 as specified in any applicable requirement or by
2 the Agency pursuant to written procedures) of
3 submissions of compliance certifications.

4 B. A means for assessing or monitoring the
5 compliance of the source with its emissions
6 limitations, standards, and work practices.

7 C. A requirement that the compliance
8 certification include the following:

9 1. The identification of each term or
10 condition contained in the permit that is the
11 basis of the certification.

12 2. The compliance status.

13 3. Whether compliance was continuous or
14 intermittent.

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

19 D. A requirement that all compliance
20 certifications be submitted to USEPA as well as to
21 the Agency.

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

25 F. Other provisions as the Agency may require.

26 q. If the owner or operator of CAAPP source can

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

11 8. Public Notice; Affected State Review.

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

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

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

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

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

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

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

11 9. USEPA Notice and Objection.

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

25 b. The Agency shall not issue the proposed CAAPP permit

1 if USEPA objects in writing within 45 days after receipt of
2 the proposed CAAPP permit and all necessary supporting
3 information.

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

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

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

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

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

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

5 10. Final Agency Action.

6 a. The Agency shall issue a CAAPP permit, permit
7 modification, or permit renewal if all of the following
8 conditions are met:

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

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

19 iii. The applicant has timely paid the fees
20 required pursuant to subsection 18 of this Section and
21 applicable regulations.

22 iv. The Agency has received a complete CAAPP
23 application and, if necessary, has requested and
24 received additional information from the applicant
25 consistent with subsection 5 of this Section and

1 applicable regulations.

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

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

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

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

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

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

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

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

17 11. General Permits.

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

22 b. The Agency shall identify, in any general permit,
23 criteria by which sources may qualify for the general
24 permit.

25 c. CAAPP sources that would qualify for a general

1 permit must apply for coverage under the terms of the
2 general permit or must apply for a CAAPP permit consistent
3 with subsection 5 of this Section and applicable
4 regulations.

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

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

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

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

22 12. Operational Flexibility.

23 a. An owner or operator of a CAAPP source may make
24 changes at the CAAPP source without requiring a prior
25 permit revision, consistent with subparagraphs (i) through

1 (iii) of paragraph (a) of this subsection, so long as the
2 changes are not modifications under any provision of Title
3 I of the Clean Air Act and they do not exceed the emissions
4 allowable under the permit (whether expressed therein as a
5 rate of emissions or in terms of total emissions), provided
6 that the owner or operator of the CAAPP source provides
7 USEPA and the Agency with written notification as required
8 below in advance of the proposed changes, which shall be a
9 minimum of 7 days, unless otherwise provided by the Agency
10 in applicable regulations regarding emergencies. The owner
11 or operator of a CAAPP source and the Agency shall each
12 attach such notice to their copy of the relevant permit.

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

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

26 B. The permit shield described in paragraph

1 (j) of subsection 7 of this Section shall not apply
2 to any change made pursuant to this subparagraph.

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

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

26 B. The permit shield described in paragraph

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

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

23 A. Under this subparagraph (iii) of paragraph
24 (a), the written notification required above shall
25 state when the change will occur and shall describe
26 the changes in emissions that will result and how

1 these increases and decreases in emissions will
2 comply with the terms and conditions of the permit.

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

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

14 (i) Each such change shall meet all applicable
15 requirements and shall not violate any existing permit
16 term or condition;

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

25 (iii) The change shall not qualify for the shield
26 described in paragraph (j) of subsection 7 of this

1 Section; and

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

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

12 13. Administrative Permit Amendments.

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

20 b. The Agency shall submit a copy of the revised permit
21 to USEPA.

22 c. For purposes of this Section the term
23 "administrative permit amendment" shall be defined as a
24 permit revision that can accomplish one or more of the
25 changes described below:

- 1 i. Corrects typographical errors;
- 2 ii. Identifies a change in the name, address, or
3 phone number of any person identified in the permit, or
4 provides a similar minor administrative change at the
5 source;
- 6 iii. Requires more frequent monitoring or
7 reporting by the permittee;
- 8 iv. Allows for a change in ownership or operational
9 control of a source where the Agency determines that no
10 other change in the permit is necessary, provided that
11 a written agreement containing a specific date for
12 transfer of permit responsibility, coverage, and
13 liability between the current and new permittees has
14 been submitted to the Agency;
- 15 v. Incorporates into the CAAPP permit the
16 requirements from preconstruction review permits
17 authorized under a USEPA-approved program, provided
18 the program meets procedural and compliance
19 requirements substantially equivalent to those
20 contained in this Section;
- 21 vi. (Blank); or
- 22 vii. Any other type of change which USEPA has
23 determined as part of the approved CAAPP permit program
24 to be similar to those included in this subsection.
- 25 d. The Agency shall, upon taking final action granting
26 a request for an administrative permit amendment, allow

1 coverage by the permit shield in paragraph (j) of
2 subsection 7 of this Section for administrative permit
3 amendments made pursuant to subparagraph (v) of paragraph
4 (c) of this subsection which meet the relevant requirements
5 for significant permit modifications.

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

16 f. The CAAPP source may implement the changes addressed
17 in the request for an administrative permit amendment
18 immediately upon submittal of the request.

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

23 14. Permit Modifications.

24 a. Minor permit modification procedures.

25 i. The Agency shall review a permit modification

1 using the "minor permit" modification procedures only
2 for those permit modifications that:

3 A. Do not violate any applicable requirement;

4 B. Do not involve significant changes to
5 existing monitoring, reporting, or recordkeeping
6 requirements in the permit;

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

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

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

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

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

26 F. Are not required to be processed as a

1 significant modification.

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

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

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

19 B. The source's suggested draft permit;

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

26 D. Completed forms for the Agency to use to

1 notify USEPA and affected States as required under
2 subsections 8 and 9 of this Section.

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

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

- 21 A. Issue the permit modification as proposed;
22 B. Deny the permit modification application;
23 C. Determine that the requested modification
24 does not meet the minor permit modification
25 criteria and should be reviewed under the
26 significant modification procedures; or

1 D. Revise the draft permit modification and
2 transmit to USEPA the new proposed permit
3 modification as required by subsection 9 of this
4 Section.

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

21 vii. The permit shield under paragraph (j) of
22 subsection 7 of this Section may not extend to minor
23 permit modifications.

24 viii. If a construction permit is required,
25 pursuant to subsection (a) of Section 39 of this Act
26 and regulations thereunder, for a change for which the

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

15 b. Group Processing of Minor Permit Modifications.

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

21 ii. Permit modifications may be processed in
22 accordance with the procedures for group processing,
23 for those modifications:

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

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

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

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

14 B. The source's suggested draft permit.

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

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

1 (b) of this subsection.

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

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

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

21 v. The provisions of subparagraph (v) of paragraph
22 (a) of this subsection shall apply to modifications
23 eligible for group processing, except that the Agency
24 shall take one of the actions specified in items (A)
25 through (D) of subparagraph (v) of paragraph (a) of
26 this subsection within 180 days after receipt of the

1 application or 15 days after the end of USEPA's 45-day
2 review period under subsection 9 of this Section,
3 whichever is later.

4 vi. The provisions of subparagraph (vi) of
5 paragraph (a) of this subsection shall apply to
6 modifications for group processing.

7 vii. The provisions of paragraph (j) of subsection
8 7 of this Section shall not apply to modifications
9 eligible for group processing.

10 c. Significant Permit Modifications.

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

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

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

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

13 15. Reopenings for Cause by the Agency.

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

21 i. Additional requirements under the Clean Air Act
22 become applicable to a major CAAPP source for which 3
23 or more years remain on the original term of the
24 permit. Such a reopening shall be completed not later
25 than 18 months after the promulgation of the applicable

1 requirement. No such revision is required if the
2 effective date of the requirement is later than the
3 date on which the permit is due to expire.

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

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

15 iv. The Agency or USEPA determines that the permit
16 must be revised or revoked to assure compliance with
17 the applicable requirements.

18 b. In the event that the Agency determines that there
19 are grounds for revoking a CAAPP permit, for cause,
20 consistent with paragraph a of this subsection, it shall
21 file a petition before the Board setting forth the basis
22 for such revocation. In any such proceeding, the Agency
23 shall have the burden of establishing that the permit
24 should be revoked under the standards set forth in this Act
25 and the Clean Air Act. Any such proceeding shall be
26 conducted pursuant to the Board's procedures for

1 adjudicatory hearings and the Board shall render its
2 decision within 120 days of the filing of the petition. The
3 Agency shall take final action to revoke and reissue a
4 CAAPP permit consistent with the Board's order.

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

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

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

19 16. Reopenings for Cause by USEPA.

20 a. When USEPA finds that cause exists to terminate,
21 modify, or revoke and reissue a CAAPP permit pursuant to
22 subsection 15 of this Section, and thereafter notifies the
23 Agency and the permittee of such finding in writing, the
24 Agency shall forward to USEPA and the permittee a proposed
25 determination of termination, modification, or revocation

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

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

24 ii. After due consideration of the written and oral
25 statements, the testimony and arguments that shall be
26 submitted at hearing, the Board shall issue and enter

1 an interim order for the proposed determination, which
2 shall set forth all changes, if any, required in the
3 Agency's proposed determination. The interim order
4 shall comply with the requirements for final orders as
5 set forth in Section 33 of this Act. Issuance of an
6 interim order by the Board under this paragraph,
7 however, shall not affect the permit status and does
8 not constitute a final action for purposes of this Act
9 or the Administrative Review Law.

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

16 c. USEPA shall review the proposed determination to
17 terminate, modify, or revoke and reissue the permit within
18 90 days after receipt.

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

26 ii. When USEPA reviews such proposed determination

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

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

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

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

1 17. Title IV; Acid Rain Provisions.

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

17 b. A designated representative of an affected source
18 for acid deposition shall submit a timely and complete
19 Phase II acid rain permit application and compliance plan
20 to the Agency, not later than January 1, 1996, that meets
21 the requirements of Titles IV and V of the Clean Air Act
22 and regulations. The Agency shall act on the Phase II acid
23 rain permit application and compliance plan in accordance
24 with this Section and Title V of the Clean Air Act and
25 regulations promulgated thereunder, except as modified by

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

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

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

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

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

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

26 g. In the case of an affected source for acid

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

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

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

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

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

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

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

14 k. The USEPA may intervene as a matter of right in any
15 permit appeal involving a Phase II acid rain permit
16 provision or denial of a Phase II acid rain permit.

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

24 m. The designated representative of an affected source
25 for acid deposition shall submit to the Agency the data and
26 information submitted quarterly to USEPA, pursuant to 40

1 CFR 75.64, concurrently with the submission to USEPA. The
2 submission shall be in the same electronic format as
3 specified by USEPA.

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

9 o. 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 18. Fee Provisions.

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

24 i. The fee for a source allowed to emit less than
25 100 tons per year of any combination of regulated air

1 pollutants, except greenhouse gases, shall be \$1,800
2 per year, and that fee shall increase, beginning
3 January 1, 2012, to \$2,150 per year.

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

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

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

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

1 Agency shall expeditiously grant such construction
2 permit and shall, if necessary, modify the CAAPP
3 permit based on the same application.

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

16 b. (Blank).

17 c. (Blank).

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

1 local agencies which perform duties related to the CAAPP.
2 Interest generated on the monies deposited in this Fund
3 shall be returned to the Fund.

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

12 i. carbon monoxide;

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

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

22 19. Air Toxics Provisions.

23 a. In the event that the USEPA fails to promulgate in a
24 timely manner a standard pursuant to Section 112(d) of the
25 Clean Air Act, the Agency shall have the authority to issue

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

26 b. Any Board proceeding brought under paragraph (a) or

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

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

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

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

16 20. Small Business.

17 a. For purposes of this subsection:

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

24 "Small Business Assistance Program" is a component of
25 the Program responsible for providing sufficient

1 communications with small businesses through the
2 collection and dissemination of information to small
3 business stationary sources; and

4 "Small Business Stationary Source" means a stationary
5 source that:

6 1. is owned or operated by a person that employs
7 100 or fewer individuals;

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

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

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

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

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

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

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

26 e. There shall be appointed a Small Business Ombudsman

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

6 f. The State Ombudsman Office shall be located in an
7 existing Ombudsman office within the State or in any State
8 Department.

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

13 h. The selection of Panel members shall be by the
14 following method:

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

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

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

26 i. Panel members should serve without compensation but

1 will receive full reimbursement for expenses including
2 travel and per diem as authorized within this State.

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

7 21. Temporary Sources.

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

13 b. The applicant must demonstrate that the operation is
14 temporary and will involve at least one change of location
15 during the term of the permit.

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

22 22. Solid Waste Incineration Units.

23 a. A CAAPP permit for a solid waste incineration unit
24 combusting municipal waste subject to standards

1 promulgated under Section 129(e) of the Clean Air Act shall
2 be issued for a period of 12 years and shall be reviewed
3 every 5 years, unless the Agency requires more frequent
4 review through Agency procedures.

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

10 c. If the Agency determines that the source is not in
11 compliance with all applicable requirements it shall
12 revise the CAAPP permit as appropriate.

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

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

18 (415 ILCS 5/Tit. XVIII heading new)

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

20 PUBLIC HEALTH

21 (415 ILCS 5/59 new)

22 Sec. 59. Findings. The General Assembly finds and declares
23 that:

24 (1) For over 4 decades, Illinois and its residents have

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

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

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

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

23 (415 ILCS 5/59.1 new)

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

25 (1) Retain protections afforded under the federal laws

1 specified in paragraph (1) of Section 59 and regulations
2 implementing those federal laws in existence as of January 1,
3 2017, regardless of actions taken at the federal level.

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

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

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

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

23 (415 ILCS 5/59.2 new)

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

25 "Baseline federal law standards" means the authorizations,

1 policies, objectives, rules, requirements, and standards
2 contained in federal laws or federal regulations implementing
3 the federal laws in existence as of January 1, 2017.

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

9 "Federal law" means any of the following:

10 (1) The federal Clean Air Act.

11 (2) The Federal Water Pollution Control Act.

12 (3) The federal Safe Drinking Water Act.

13 (4) The federal Endangered Species Act.

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

18 (415 ILCS 5/59.3 new)

19 Sec. 59.3. Operative provisions.

20 (a) A State or local agency shall not amend or revise its
21 rules and regulations to be less stringent than the baseline
22 federal law standards.

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

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

9 (415 ILCS 5/60 new)

10 Sec. 60. Air.

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

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

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

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

22 (1) The Pollution Control Board and the Environmental
23 Protection Agency shall maintain and enforce all air
24 quality requirements and standards that are at least as
25 stringent as required by the baseline federal law

1 standards, in addition to those required under State law.

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

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

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

24 (415 ILCS 5/61 new)

25 Sec. 61. Water.

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

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

5 (2) Title IV and Title IV-A of the Environmental
6 Protection Act are the State analog to the federal Safe
7 Drinking Water Act.

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

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

25 (b) Except as otherwise authorized by State law, the
26 following apply:

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

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

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

25 (4) If the Environmental Protection Agency, the
26 Department of Public Health, the Department of Natural

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

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

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

22 (7) A water quality management plan adopted on or after
23 January 1, 2018, shall be at least as protective of the
24 environment pursuant to, and in compliance with, all
25 applicable water quality standards, effluent limitations,
26 and restrictions as required by the applicable baseline

1 federal law standards, in addition to those required by
2 State law.

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

12 (415 ILCS 5/62 new)

13 Sec. 62. Endangered and threatened species.

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

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

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

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

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

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

19 (415 ILCS 5/63 new)

20 Sec. 63. Implementation; reporting. Every State agency
21 shall undertake all feasible efforts using its authority under
22 State and federal law to implement and enforce this amendatory
23 Act of the 100th General Assembly. Every State agency that
24 takes steps to enforce this amendatory Act of the 100th General
25 Assembly shall submit a report to the General Assembly at least

1 once every 6 months describing its compliance with this Title.

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

1 INDEX

2 Statutes amended in order of appearance

3 New Act

4 415 ILCS 5/9.15

5 415 ILCS 5/34.1 new

6 415 ILCS 5/34.9 new

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

8 415 ILCS 5/Tit. XVIII

9 heading new

10 415 ILCS 5/59 new

11 415 ILCS 5/59.1 new

12 415 ILCS 5/59.2 new

13 415 ILCS 5/59.3 new

14 415 ILCS 5/60 new

15 415 ILCS 5/61 new

16 415 ILCS 5/62 new

17 415 ILCS 5/63 new