

**TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER II: ENVIRONMENTAL PROTECTION  
AGENCY**

**PART 270  
CLEAN AIR ACT PERMIT PROGRAM PROCEDURES**

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**AUTHORITY:** Implementing and authorized by Section 39.5 of the Environmental Protection Act (See P.A. 87-1213, effective September 26, 1992, and P.A. 88-464, effective August 20, 1993) [415 ILCS 5/39.5].

**SOURCE:** Adopted at 18 Ill. Reg. 9425, effective June 14, 1994; emergency amendment at 19 Ill. Reg. 7976, effective June 7, 1995, for a maximum of 150 days; emergency expired November 6, 1995; amended at 43 Ill. Reg. 9963, effective August 27, 2019.

**NOTE:** Capitalization denotes statutory language.

### **SUBPART A: GENERAL PROVISIONS**

<b>Section 270.101</b>	<b>Purpose</b>
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This Part provides procedural rules to implement Section 39.5 of the Environmental Protection Act (See P.A. 87-1213, effective September 26, 1992, and P.A. 88-464, effective August 20, 1993) [415 ILCS 5/39.5] ("Act"), the permit program established for this State pursuant to Title V of the Clean Air Act as amended (42 U.S.C. '7401 et seq.).

**Section 270.102 Definitions**

Except as otherwise defined in this Part, definitions of terms used in this Part shall be those used in Section 39.5 of the Act and 35 Ill. Adm. Code 211.

**Section 270.103 Existing CAAPP Source**

"Existing CAAPP source" means a CAAPP source that commenced operation prior to the effective date of the CAAPP.

**Section 270.104 Initial CAAPP Application**

"Initial CAAPP application" means the first CAAPP application submitted for an existing CAAPP source.

**Section 270.105 New CAAPP Source**

"New CAAPP source" means a CAAPP source that is not an existing CAAPP source.

**Section 270.106 Standard Industrial Classification (SIC) Code**

"Standard Industrial Classification (SIC) Code" means the 2-, 3-, or 4- digit code for a source based on the primary activity conducted at the source, as determined from the Standard Industrial Classification Manual (1987), Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, incorporated by reference in Section 270.108 of this Part.

**Section 270.107 Applicability**

This Part applies to the owner or operator of any source required to have an operating permit pursuant to Section 39.5 of the Act.

**Section 270.108 Incorporation by Reference**

Standard Industrial Classification Manual, Superintendent of Documents, Washington, D.C. 20402, 1987, is incorporated by reference. This incorporation does not include any later amendments or editions.

**SUBPART B: TRANSITION**

**Section 270.201      Schedule for Submission of Initial CAAPP Applications for Existing CAAPP Sources**

An owner or operator of an existing CAAPP source shall submit to the Agency a complete initial CAAPP application for the source no later than the applicable date specified below:

- a) An owner or operator of a CAAPP source with the following SIC codes shall submit its initial complete CAAPP application no later than 3 months after the effective date of the CAAPP: 70, 80, 82, 92, and 97 (institutions); 44, 50, and 51 (material handling); 10, 12, and 14 (mining); and 2951 (asphalt plants);
- b) An owner or operator of a CAAPP source with the following SIC codes shall submit its initial complete CAAPP application no later than 6 months after the effective date of the CAAPP: 26 (paper and allied products); 27 (printing and publishing); 46, 494, and 495 (pipelines and utilities other than natural gas pipelines); 491 and 493 (electric utilities); and 32 (mineral products);
- c) An owner or operator of a CAAPP source not included in (a) or (b) above or (d) below shall submit its initial complete CAAPP application no later than 9 months after the effective date of the CAAPP; and
- d) An owner or operator of a CAAPP source with the following SIC codes shall submit its initial complete CAAPP application no later than 12 months after the effective date of the CAAPP: 20 (agricultural products); 28 (chemicals); 29 (petroleum refining not including 2951); 33 (iron and steel products); and 37 (transportation equipment).

**Section 270.202      Transition from the State Operating Permit Program**

- a) AN OWNER OR OPERATOR OF A CAAPP SOURCE SHALL NOT BE REQUIRED TO RENEW AN EXISTING STATE OPERATING PERMIT FOR ANY EMISSION UNIT AT SUCH CAAPP SOURCE ONCE A CAAPP APPLICATION TIMELY SUBMITTED PRIOR TO THE EXPIRATION OF THE STATE OPERATING PERMIT HAS BEEN DEEMED COMPLETE. FOR PURPOSES OTHER THAN PERMIT RENEWAL, THE OBLIGATION UPON THE OWNER OR OPERATOR OF A CAAPP SOURCE TO OBTAIN A STATE OPERATING PERMIT IS NOT REMOVED UPON SUBMITTAL OF A COMPLETE CAAPP APPLICATION. AN OWNER OR OPERATOR OF A CAAPP SOURCE SEEKING TO MAKE A MODIFICATION TO A SOURCE PRIOR TO THE ISSUANCE OF ITS CAAPP PERMIT SHALL BE REQUIRED TO OBTAIN A CONSTRUCTION AND/OR OPERATING PERMIT AS REQUIRED FOR SUCH MODIFICATION IN ACCORDANCE WITH THE STATE PERMIT PROGRAM UNDER SECTION 39(a) OF THE ACT, AS AMENDED, AND REGULATIONS PROMULGATED THEREUNDER. THE APPLICATION FOR SUCH CONSTRUCTION AND/OR OPERATING PERMIT SHALL BE CONSIDERED AN AMENDMENT TO THE CAAPP APPLICATION SUBMITTED FOR SUCH SOURCE. (See Section 39.5(4)(a) of the Act)

- b) AN OWNER OR OPERATOR OF A CAAPP SOURCE SHALL CONTINUE TO OPERATE IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF ITS APPLICABLE STATE OPERATING PERMIT NOTWITHSTANDING THE EXPIRATION OF THE STATE OPERATING PERMIT UNTIL THE SOURCE'S CAAPP PERMIT HAS BEEN ISSUED. (See Section 39.5(4)(b) of the Act)
- c) THE CAAPP PERMIT SHALL, UPON BECOMING EFFECTIVE, SUPERSEDE THE STATE OPERATING PERMIT. (See Section 39.5(4)(g) of the Act)

### **SUBPART C: CAAPP APPLICATIONS**

#### **Section 270.301      Application Submittal**

- a) In order for a submittal to be deemed timely, an owner or operator of an existing CAAPP source shall submit to the Agency a complete initial CAAPP application in accordance with the schedule set forth in Section 270.201 of this Part. An owner or operator of an existing CAAPP source may voluntarily submit its initial CAAPP application prior to the date required in this Part, provided that the CAAPP submittal to the Agency is subsequent to the date the Agency submits the CAAPP to USEPA for approval.
- b) THE OWNER OR OPERATOR OF A NEW CAAPP SOURCE SHALL SUBMIT ITS COMPLETE CAAPP APPLICATION CONSISTENT WITH Section 39.5(5) of the Act.
- c) An owner or operator of a new CAAPP source must comply with all applicable construction permit requirements.
- d) In order for a submittal to be deemed timely, an owner or operator of a CAAPP source shall submit to the Agency a complete CAAPP application for the renewal of a CAAPP permit not later than 9 months before the date of permit expiration of the existing CAAPP permit.

#### **Section 270.302      Application Submittal for Modifications of CAAPP Permits**

- a) A complete application for a significant modification of a CAAPP permit shall be submitted to the Agency not later than 9 months prior to the date of implementation of the proposed change. The proposed change may be implemented as soon as the Agency has taken final action to approve the change.
- b) A complete application for a permit modification under Section 112(g) of the Clean Air Act shall be submitted to the Agency not later than 12 months after implementation of the proposed change. However, if the proposed change is a significant modification, subsection (a) above shall apply.

- c) A complete application for a minor permit modification of a CAAPP permit using the minor permit modification or group processing procedure shall be submitted to the Agency prior to the date of implementation of the proposed change consistent with Section 39.5(14) of the Act.
- d) A written request for an administrative permit amendment of a CAAPP permit shall be submitted to the Agency prior to the date of implementation of the proposed change.
- e) A construction permit may be incorporated into a CAAPP permit through the administrative permit amendment procedures, pursuant to Section 39.5(13)(c)(v) of the Act, if procedural and compliance requirements substantially equivalent to those for the issuance of CAAPP permits were met in the issuance of the construction permit; otherwise, the construction permit must be incorporated into the CAAPP permit through the significant modification procedures.

**Section 270.303 Agency Determination of Completeness**

- a) In order for an initial or renewal CAAPP application or an application for a significant modification to be deemed complete by the Agency, the application shall provide all of the information required in Subparts C and D of the Part applicable to the source for which the application is being submitted.
- b) THE AGENCY SHALL PROVIDE NOTICE TO A CAAPP APPLICANT AS TO WHETHER A SUBMITTED CAAPP APPLICATION IS COMPLETE. UNLESS THE AGENCY NOTIFIES THE APPLICANT OF INCOMPLETENESS WITHIN 60 DAYS OF RECEIPT OF THE CAAPP APPLICATION, THE APPLICATION SHALL BE DEEMED COMPLETE. (See Section 39.5(5)(f) of the Act)
- c) Where an applicant is proposing in its CAAPP application that an activity at the source be treated as an insignificant activity, the Agency will make its completeness determination in accordance with subsection (a) above. If the Agency requests any additional information regarding the proposed insignificant activity, such information shall be provided in accordance with Section 270.305 of this Part.

**Section 270.304 Effect of a Timely and Complete Application Submittal**

- a) An owner or operator of a CAAPP source shall not be in violation of the requirement to have a CAAPP permit under Section 39.5 of the Act if such owner or operator has submitted a timely and complete CAAPP application, until the Agency takes final action on the CAAPP application except as provided in subsection (b) below.
- b) If the owner or operator of a CAAPP source fails to submit additional information requested by the Agency by the reasonable deadline specified pursuant to Section

270.305 of this Part, the owner or operator shall lose the protection provided in subsection(a) above.

**Section 270.305      Subsequent Agency Request for Information**

- a) THE AGENCY MAY REQUEST ADDITIONAL INFORMATION AS NEEDED TO MAKE a COMPLETENESS DETERMINATION. THE AGENCY MAY TO THE EXTENT PRACTICABLE PROVIDE THE APPLICANT WITH A REASONABLE OPPORTUNITY TO CORRECT DEFICIENCIES PRIOR TO A FINAL DETERMINATION OF COMPLETENESS. (See Section 39.5(5)(f) of the Act)
- b) If, while processing an application that has been determined or deemed to be complete, the Agency determines that additional information is necessary to evaluate or take final action on that application, it may request such information in writing and set a reasonable deadline for response.

**Section 270.306      Submittal of New or Revised Information**

ANY APPLICANT WHO FAILS TO SUBMIT ANY RELEVANT FACTS NECESSARY TO EVALUATE THE SUBJECT SOURCE AND ITS CAAPP APPLICATION OR WHO HAS SUBMITTED INCORRECT INFORMATION IN A CAAPP APPLICATION SHALL, UPON BECOMING AWARE OF SUCH FAILURE OR INCORRECT SUBMITTAL, SUBMIT SUPPLEMENTARY FACTS OR CORRECT INFORMATION TO THE AGENCY. IN ADDITION, AN APPLICANT SHALL PROVIDE TO THE AGENCY ADDITIONAL INFORMATION AS NECESSARY TO ADDRESS ANY REQUIREMENTS WHICH BECOME APPLICABLE TO THE SOURCE SUBSEQUENT TO THE DATE THE APPLICANT SUBMITTED ITS COMPLETE CAAPP APPLICATION BUT PRIOR TO RELEASE OF THE DRAFT CAAPP PERMIT. (See Section 39.5(5)(i) of the Act)

**Section 270.307      Agency Action on CAAPP Applications**

- a) In accordance with Section 39.5(10) of the Act, THE AGENCY SHALL ISSUE OR DENY THE CAAPP PERMIT WITHIN 18 MONTHS AFTER THE DATE OF RECEIPT OF THE COMPLETE CAAPP APPLICATION, WITH THE FOLLOWING EXCEPTIONS,
  - 1) PERMITS FOR AFFECTED SOURCES FOR ACID DEPOSITION SHALL BE ISSUED OR DENIED WITHIN 6 MONTHS AFTER RECEIPT OF A COMPLETE APPLICATION IN ACCORDANCE WITH Section 39.5(17) of the Act;
  - 2) THE AGENCY SHALL ACT ON INITIAL CAAPP APPLICATIONS WITHIN 24 MONTHS AFTER THE DATE OF RECEIPT OF THE

COMPLETE CAAPP APPLICATION; and

- 3) THE AGENCY SHALL ACT ON COMPLETE APPLICATIONS CONTAINING EARLY REDUCTION DEMONSTRATIONS UNDER SECTION 112(i)(5) OF THE CLEAN AIR ACT WITHIN 9 MONTHS OF RECEIPT OF THE COMPLETE CAAPP APPLICATION. (See Section 39.5(5)(j) of the Act)
- b) WHERE THE AGENCY DOES NOT TAKE FINAL ACTION ON THE PERMIT WITHIN THE REQUIRED TIME PERIOD, THE PERMIT SHALL NOT BE DEEMED ISSUED; RATHER, THE FAILURE TO ACT SHALL BE TREATED AS A FINAL PERMIT ACTION FOR PURPOSES OF JUDICIAL REVIEW PURSUANT TO SECTIONS 40.2 AND 41 OF THE ACT. (See Section 39.5(5)(j) of the Act)

**Section 270.308      Requests for Exclusion from the CAAPP Due to Permanent Physical Constraints**

The owner or operator of a CAAPP source that has been issued a CAAPP permit and that has reduced its potential to emit to a level below the major source threshold for each air pollutant emitted at the source, as defined in Section 39.5(2) of the Act, may seek exclusion from the CAAPP. The owner or operator of the source must request this exclusion from the Agency and demonstrate that the source's potential to emit has been reduced to a level below the major source threshold for each air pollutant emitted due to permanent physical constraints.

**SUBPART D: CONTENTS OF CAAPP APPLICATIONS**

**Section 270.401      General Application Information**

- a) An owner or operator of a CAAPP source shall submit to the Agency four copies of a single complete CAAPP application covering all emission units and air pollution control equipment at the source.
- b) A CAAPP application shall contain a table of contents and a list of items and activities for which a permit is being sought.
- c) In accordance with Section 39.5(5)(c) of the Act, a CAAPP application shall contain all information sufficient to evaluate the subject source and its application, to determine all applicable requirements, including establishing the basis for fees, and to evaluate compliance of the subject source with these applicable requirements.
- d) Information, as specified in Section 270.402 (excluding Section 207.402(a)) through Section 270.405 of this Part, including data and calculations for emissions of hazardous air pollutants listed in Section 112(b) of the Clean Air Act, is not required to be submitted for insignificant activities or emission levels at the source, as defined

by applicable Board regulations, provided a list of such activities or emission levels is submitted in the application identifying the particular definition under which each listed activity or emission level qualifies as significant and accompanied by a certification that all listed activities and emission levels qualify as insignificant, unless additional information is requested by the Agency.

- e) A CAAPP application in which the owner or operator of a CAAPP source is seeking an alternative emission limit to that contained in the applicable Board regulations shall include a showing that the applicable Board regulation and State Implementation Plan adopted by USEPA allow for such an alternative emission limit to be set by the Agency in a permit and shall demonstrate that the proposed limit is equivalent to the applicable Board regulation.
- f) A CAAPP application shall contain a certification by a responsible official that, based on information and belief formed by the responsible official after reasonable inquiry, the statements and information in the application are true, accurate, and complete. This certification shall be dated and signed by the responsible official.
- g) AN OWNER OR OPERATOR OF A CAAPP SOURCE WHICH SEEKS EXCLUSION FROM THE CAAPP THROUGH THE IMPOSITION OF FEDERALLY ENFORCEABLE CONDITIONS, limiting the potential to emit of the source to a level below the major source threshold as described in Section 39.5(2)(c) of the Act, MUST REQUEST SUCH EXCLUSION WITHIN A CAAPP APPLICATION SUBMITTED CONSISTENT WITH THIS Part ON OR AFTER THE DATE THAT THE CAAPP APPLICATION FOR THE SOURCE IS DUE. PRIOR TO SUCH DATE, but in no case later than nine months after the effective date of the CAAPP, SUCH OWNER OR OPERATOR MAY REQUEST THE IMPOSITION OF FEDERALLY ENFORCEABLE CONDITIONS PURSUANT TO Section 39.5(1.1)(b) of the Act. (See Section 39.5(5)(u) of the Act)
- h) Notwithstanding other provisions of this Subpart, once the Agency has issued a general permit for a source category, the Agency may waive the requirement for submittal of particular information in subsequent applications for coverage under such general permit, provided that such applications meet all requirements of Title V of the Clean Air Act and include all information necessary to determine qualification for and to assure compliance with the general permit.

(Note: To determine whether data and calculations for emissions of hazardous air pollutants listed in Section 112(b) of the Clean Air Act must be included in the CAAPP application, see 35 Ill. Adm. Code 201 Subpart F.)

#### **Section 270.402      General Source Information**

Consistent with Section 270.401(d) of this Part a CAAPP application shall contain the following:

- a) Source identifying information including company name and address (or plant name and address if different from company name), owner's name and agent, operator's name (if different from owner), and telephone number and names of plant site manager/contact;
- b) A process flow diagram that shows all emission units and air pollution control equipment, and the relationship and connections between these items at the source. If this information cannot be provided on a single diagram, process flow diagrams for groups of related emission units or individual departments at the source and a source overview diagram showing the relationship and connections between the different groups or departments at the source may be provided;
- c) Identification and description of the source's processes and products by Standard Industrial Classification Code including any associated with each reasonably anticipated operating scenario for which a permit is being sought, which may be described in terms of ranges of operating parameters;
- d) A plot plan/map of the location of the source which shows the location of buildings, stacks and vents. The plot/plan map must also depict the area surrounding the source including structures such as residences, hospitals, schools, nursing homes, commercial establishments, and manufacturing sites within one-quarter mile of the source;
- e) Upon request by the Agency, a source layout drawing showing the basic geometric shape of each building or structure at the source which contains an emission unit that is itself major and indicating each stack and vent;
- f) Limitations on source operations affecting emissions or any work practice standards, where applicable, if different than those provided for individual emission units pursuant to Section 270.403(1) of this Part;
- g) Identification and description of each reasonably anticipated operating scenario of processes at the source and the emission rates associated with each such operating scenario;
- h) A summary of all hazardous air pollutants listed in Section 112(b) of the Clean Air Act emitted at the source that includes a list of such pollutants emitted and the maximum and typical emission rates in tons-per-year and in such other terms as are necessary to establish the applicability of requirements consistent with the applicable standard reference test methods;
- i) An early reduction demonstration for hazardous air pollutants if the owner or operator of the source is applying for an extension pursuant to Section 112(i)(5) of the Clean Air Act;

- j) The name and address of the party to be billed and the name and telephone number of an individual capable of answering questions concerning billing; and
- k) Calculations used to determine all the emission rates as required above if different than those provided for individual emission units pursuant to Section 270.403(g) of this Part.

**Section 270.403 Information for Individual Emission Units**

A CAAPP application shall contain the following for each emission unit, for each mode of operation for which a permit is being sought:

- a) Identification and description of the emission unit and the mode of operation for which a permit is being sought;
- b) Citation and description of all applicable requirements, including requirements that will become effective during the term of a permit if such requirement has been promulgated at the time of permit application;
- c) Description of the applicable test method relied upon for determining compliance with each applicable requirement;
- d) Identification and description of compliance monitoring devices or activities, including recordkeeping and reporting activities to the extent that they are air emissions related;
- e) The maximum emission rates for each regulated air pollutant and air pollutant for which the source is major in tons-per-year, pounds-per-hour (unless emissions are not normally calculated in pounds-per-hour) and in such other terms that are necessary to establish the applicability of requirements and compliance with the applicable limitations and standards, and consistent with the applicable standard reference test methods. Estimates of typical emissions shall be included if different than the above maximum emission rates in the same terms as the maximum emission rates;
- f) Allowable emissions in tons-per-year and in such other terms as necessary to allow the determination of fees and to establish any associated permit limits;
- g) Calculations on which the emission rates required by subsections (e) and (f) above are based;
- h) To the extent they are related to air emissions, fuels and raw materials used, maximum and typical fuel use, raw material use rates, production rates and operating schedules, characteristics of fuels or raw materials and material balance information and the calculations on which this information is based;

- i) To the extent that they are related to the determination of air emissions or compliance with applicable requirements, identification and description of air pollution control equipment and control methods and information describing their effectiveness, including operating parameters or pollutant reduction efficiencies during maximum and typical operation of associated emission units, and the calculations on which the information is based;
- j) Identification and description of pollutant exhaust points, including information required by applicable rules to demonstrate compliance;
- k) Identification of any proposed exemptions from otherwise applicable requirements, including any explanation and justification of the applicability of such exemptions, with supporting calculations;
- l) Limitations on unit operations affecting emissions or any work practice standards, where applicable; and
- m) Other information that is specifically required by any applicable requirement.

#### **Section 270.404 Compliance Plan/Schedule of Compliance**

A CAAPP application shall contain a compliance plan/schedule of compliance for all emission units at the source, regardless of the compliance status of each emission unit, that contains the following:

- a) A description of the compliance status of all emission units at the source with respect to all applicable requirements as follows:
  - 1) For applicable requirements with which the source is in compliance at the time of application submittal, a statement that the source will continue to comply with such requirements during the permit term;
  - 2) For applicable requirements that will become effective during the permit term, a statement that the source will achieve compliance with such requirements on a timely basis and will continue to comply with such requirements during the permit term;
  - 3) For applicable requirements with which the source is not in compliance at the time of application submittal but will be in compliance prior to permit issuance, a statement that the source will achieve compliance prior to permit issuance and will continue to comply with such requirements during the permit term; and
  - 4) For applicable requirements with which the source is not in compliance at the

time of application submittal and will not be in compliance at the time of permit issuance, a narrative description of how the source will achieve compliance with such requirements;

- b) A compliance plan/schedule of compliance addendum for emission units described in subsection (a)(4) above that includes a schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance with any such applicable requirements for which the source will be in noncompliance at the time of application submittal. This compliance plan/schedule of compliance addendum shall resemble and be at least as stringent as that contained in any judicial consent decree or administrative order to which the source is subject;
- c) A schedule for submission of certified progress reports no less frequently than every 6 months for sources required to have a compliance plan/schedule of compliance to remedy a violation; and
- d) For an effected source of acid rain deposition, the compliance plan/schedule of compliance content requirements specified in this Section shall apply to and be included in the compliance plan/schedule of compliance of such source's Phase II acid rain permit, for an affected source for acid deposition, except as specifically superseded by regulations promulgated under Title IV of the Clean Air Act with regard to schedule and method(s) the source will use to achieve compliance with the acid rain emissions limitations.

#### **Section 270.405 Compliance Certification**

A CAAPP application shall contain a compliance certification that contains the following:

- a) A certification of compliance with all applicable requirements except those identified, signed by a responsible official consistent with Section 270.401(e) of this Part;
- b) A statement of methods used for determining compliance, including a description of monitoring, record keeping, and reporting requirements and test methods;
- c) A proposed schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually, or more frequently if specified by the underlying applicable requirement or by the Agency; and
- d) A statement indicating the source's compliance status with all applicable enhanced monitoring and compliance certification requirements of the Clean Air Act.

#### **Section 270.406 Operational Flexibility**

If the owner or operator of a CAAPP source desires a CAAPP permit which contains terms and conditions allowing for the trading of emissions increases and decreases at the CAAPP

source solely for the purpose of complying with a federally-enforceable emissions cap that is established in the permit independent of otherwise applicable requirements, then the application must contain such a request and include proposed replicable procedure and permit terms (including reporting and record keeping procedures) that can be placed in the permit to ensure that any proposed emissions trades are quantifiable and enforceable.

#### **Section 270.407      Startup**

A request to exceed the standards or limitations of Subchapter c of Chapter I of the Board's Air Pollution regulations (35 Ill. Adm. Code 212 et seq.) during startup of an emission unit, if desired, must be contained in the CAAPP application and shall include at a minimum a description of the startup procedure, the duration and frequency of such startups, the types and quantities of emissions during startup and the applicant's efforts to minimize any such startup emissions, duration of individual startups and frequency of startups, and all calculations used to determine the above information. In no event shall permission be given to operate during startup where such startup would result in an exceedance of the ambient air quality standard. The Agency may grant permission to operate during startup in accordance with 35 Ill. Adm. Code 201.262.

#### **Section 270.408      Malfunction or Breakdown**

A request to continue to operate an emission unit in excess of the standards or limitations of Subchapter c of Chapter I of the Board's Air Pollution regulations (35 Ill. Adm. Code 212 et seq.) during a malfunction or breakdown of the emission unit or related air pollution control equipment, if desired, must be contained in the CAAPP application and shall include, at a minimum, a detailed explanation of why such continued operation will be necessary; the nature of any anticipated malfunction or breakdown; emission points and quantities of emissions which will occur during such continued operation; the anticipated length of time during which such operation will continue; all measures, such as use of off-shift labor or equipment, which will be taken to minimize the quantity of air contaminant emissions and length of time during which such operation will continue; and the calculations used to determine the above information. The Agency may grant permission to operate during a malfunction or breakdown in accordance with 35 Ill. Adm. Code 201.262.

#### **Section 270.409      Confidential Information**

If the applicant determines that certain submitted information in the CAAPP application be held confidential, the applicant shall mark and claim such information according to the Act and applicable regulations.

#### **Section 270.410      Permit Shield**

THE OWNER OR OPERATOR OF A CAAPP SOURCE SEEKING A PERMIT SHIELD in its CAAPP permit PURSUANT TO SECTION 39.5(7)(j) of the Act SHALL REQUEST SUCH PERMIT SHIELD IN THE CAAPP APPLICATION REGARDING THAT SOURCE.

See Section 39.5(5)(p) of the Act

**Section 270.411 Accidental Releases**

The owner or operator of a CAAPP source shall certify in its CAAPP application, if applicable, that it has registered its risk management plan pursuant to Section 112(r) of the Clean Air Act or that it intends to comply with such requirement in accordance with its compliance plan/schedule of compliance.

**Section 270.412 MACT Determination**

The CAAPP application must contain a proposed determination of maximum achievable control technology (MACT) for hazardous air pollutants (HAPs) in accordance with Section 112 of the Clean Air Act, if applicable.

**Section 270.413 Acid Rain**

- a) A DESIGNATED REPRESENTATIVE OF AN AFFECTED SOURCE FOR ACID DEPOSITION SHALL SUBMIT A TIMELY AND COMPLETE PHASE II ACID RAIN PERMIT APPLICATION AND COMPLIANCE PLAN TO THE AGENCY, NOT LATER THAN JANUARY 1, 1996, THAT MEETS THE REQUIREMENTS OF TITLES IV AND V OF THE CLEAN AIR ACT AND REGULATIONS, in accordance with Section 39.5(17) of the Act. (See Section 39.5(17)(b) of the Act)
- b) A DESIGNATED REPRESENTATIVE OF AN AFFECTED SOURCE FOR ACID DEPOSITION SHALL SUBMIT A TIMELY AND COMPLETE TITLE IV NO<sub>x</sub> PERMIT APPLICATION TO THE AGENCY, NOT LATER THAN JANUARY 1, 1998, THAT MEETS THE REQUIREMENTS OF TITLES IV AND V OF THE CLEAN AIR ACT AND ITS REGULATIONS, in accordance with Section 39.5(17) of the Act. (See Section 39.5(17)(e) of the Act)

**SUBPART E: REOPENINGS**

**Section 270.501 Applicability**

The provisions of this Subpart shall apply only if:

- a) The Agency determines that cause exists to reopen and revise a CAAPP permit, pursuant to Section 39.5(15)(a) of the Act; or
- b) USEPA determines that cause exists to reopen and modify a CAAPP permit, pursuant to Section 39.5(16) of the Act.

**Section 270.502 Purpose**

This Subpart specifies the procedures for the reopening and revision of a CAAPP permit initiated by the Agency or USEPA pursuant to Section 270.501 of this Part. These procedures shall affect only those parts of a CAAPP permit for which cause to reopen exists.

### **Section 270.503      Reopenings Initiated by the Agency**

- a) The Agency shall reopen and revise a CAAPP permit for any of the following reasons:
  - 1) ADDITIONAL REQUIREMENTS UNDER THE CLEAN AIR ACT BECOME APPLICABLE TO A MAJOR CAAPP SOURCE FOR WHICH THREE OR MORE YEARS REMAIN ON THE ORIGINAL TERM OF THE PERMIT. SUCH A REOPENING SHALL BE COMPLETED NOT LATER THAN 18 MONTHS AFTER THE PROMULGATION OF THE APPLICABLE REQUIREMENT. NO SUCH REVISION IS REQUIRED IF THE EFFECTIVE DATE OF THE REQUIREMENT IS LATER THAN THE DATE ON WHICH THE PERMIT IS DUE TO EXPIRE (See Section 39.5(16)(a)(i) of the Act)
  - 2) ADDITIONAL REQUIREMENTS (INCLUDING EXCESS EMISSIONS REQUIREMENTS) BECOME APPLICABLE TO AN AFFECTED SOURCE FOR ACID DEPOSITION UNDER THE ACID RAIN PROGRAM. EXCESS EMISSIONS OFFSET PLANS SHALL BE DEEMED TO BE INCORPORATED INTO THE PERMIT UPON APPROVAL BY USEPA (See Section 39.5(16)(a)(ii) of the Act);
  - 3) THE AGENCY OR USEPA DETERMINES THAT THE PERMIT CONTAINS A MATERIAL MISTAKE OR THAT INACCURATE STATEMENTS WERE MADE IN ESTABLISHING THE EMISSIONS STANDARDS, LIMITATIONS, OR OTHER TERMS OR CONDITIONS OF THE PERMIT (See Section 39.5(16)(a)(iii) of the Act); OR
  - 4) THE AGENCY OR USEPA DETERMINES THAT THE PERMIT MUST BE REVISED OR REVOKED TO ASSURE COMPLIANCE WITH THE APPLICABLE REQUIREMENTS (See Section 39.5(16)(a)(iv) of the Act).
- b) Notice to reopen
  - 1) The Agency shall provide written notice to the owner or operator of the CAAPP source of its intent to reopen a CAAPP permit at least 30 days prior to the date the permit is to be reopened, except that the Agency may provide a shorter time period in the case of an emergency.
  - 2) The notice shall include the grounds for the reopening and revision, including the terms and conditions that the Agency proposes to change, delete or add to

the permit, and the information relied upon to make such determination. If the Agency deems it necessary, the notice shall include a request for the CAAPP source to update and resubmit those parts of the CAAPP permit application subject to the reopening within a reasonable time frame.

c) Response

- 1) The CAAPP source may submit to the Agency a written response to the notice to reopen and revise the CAAPP permit within 30 days after receipt of the Agency's notice.
- 2) The response shall include the following, as applicable:
  - A) Details as to immediate plans for compliance with applicable requirements, including a proposed compliance plan and schedule of compliance;
  - B) Any explanation of the source's current failure to comply with applicable requirements;
  - C) An explanation for and correction of any inaccurate statements made in the CAAPP application that were used to establish the emission standards, limitations, or other terms or conditions in the CAAPP permit; and
  - D) An assessment of the Agency's proposed correction of any material mistake found in the CAAPP permit.
- 3) If requested in the notice, the owner or operator of the CAAPP source shall submit to the Agency, within a reasonable time frame specified in the notice, a revised CAAPP application.

d) Draft permit or statement

- 1) Within 90 days after receipt of the source's response or revised CAAPP application, whichever is later, the Agency shall prepare a draft CAAPP permit and statement of basis in compliance with the requirements of Section 39.5(8) of the Act and 35 Ill. Adm. Code 252 or a statement that the CAAPP permit does not need to be reopened and revised.
- 2) The Agency shall include in the draft CAAPP permit such conditions as the Agency determines are necessary to assure compliance with all applicable requirements and correct any material mistakes or inaccurate statements described in the notice.

- 3) The Agency may, to the extent practicable, provide the owner or operator of the CAAPP source with a reasonable opportunity to review and comment on the draft CAAPP permit prior to public notice.
- 4) The Agency shall give notice of the draft CAAPP permit to the public, the owner or operator of the CAAPP source and affected states in accordance with the requirements of Section 39.5(8) of the Act and 35 Ill. Adm. Code 252.
- e) The requirements of Section 39.5(9) of the Act and 35 Ill. Adm. Code 252 regarding USEPA notice and objection shall apply to this Subpart.
- f) The Agency shall reissue the CAAPP only if all the requirements of Section 39.5(10) of the Act have been met.

**Section 270.504 Reopenings Initiated by USEPA**

- a) If USEPA notifies the Agency and permittee that cause exists to modify a CAAPP permit, the Agency shall send to USEPA and the permittee a proposed determination of modification, with supporting information explaining the grounds for the proposed determination. THE PROPOSED DETERMINATION SHALL BE IN ACCORDANCE WITH THE RECORD, THE CLEAN AIR ACT, REGULATIONS PROMULGATED THEREUNDER, the ACT, AND REGULATIONS PROMULGATED THEREUNDER. SUCH PROPOSED DETERMINATION SHALL NOT AFFECT THE PERMIT OR CONSTITUTE A FINAL PERMIT ACTION FOR PURPOSES OF the ACT OR THE ADMINISTRATIVE REVIEW LAW [625 ILCS 32]. (See Section 39.5(16)(a) of the Act)
- b) The proposed determination and supporting information shall be sent to USEPA and the permittee within 90 days after receipt of USEPA's notification or 180 days if USEPA has extended the period for response.
- c) If USEPA objects to the proposed determination within 90 days after receipt, the Agency shall, within 90 days after receipt of such objection, resolve the objection and modify the CAAPP permit in accordance with USEPA's objection, based upon the record, the Clean Air Act, regulations promulgated thereunder, the Act, and regulations promulgated thereunder.
- d) If USEPA does not object to the proposed determination within 90 days after receipt, the Agency shall, within seven days after receipt of USEPA's final approval or within seven days after expiration of the 90-day period, whichever is earlier, take final action in accordance with the Agency's proposed determination.

**SUBPART F: FEES**

**Section 270.601 Purpose**

These rules specify the procedures for the determination and collection of fees required by Section 39.5(18) of the Act.

### **Section 270.602      Definitions**

The following terms are defined for purposes of this Subpart.

"Active substitution unit" means an affected unit for acid deposition that is designated as a Phase I unit in an approved substitution plan pursuant to Section 404(c) of the Clean Air Act, excluding: a unit under Section 410 of the Clean Air Act; a unit designated as a Phase I unit in a reduced utilization plan, pursuant to Section 408(c)(1) of the Clean Air Act; and a unit in a substitution plan that has been conditionally approved or terminated.

"Regulated air pollutant" has the meaning given to it under Section 39.5(1) of the Act but shall exclude:

- 1) Carbon monoxide;
- 2) Any Class I or Class II substance which is regulated solely because it is listed pursuant to Section 602 of the Clean Air Act;
- 3) Any pollutant that is a regulated air pollutant solely because it is subject to a standard or regulation under Section 112(r) of the Clean Air Act based on the emissions allowed in the permit effective in that calendar year, at the time the bill is generated; and
- 4) During the years 1995 through 1999 inclusive, any emissions from affected sources for acid deposition pursuant to Section 408(c)(4) of the Clean Air Act, but not excluding emissions from any unit that is not either an active substitution unit or an affected unit for acid deposition at the affected source.

### **Section 270.603      Amount of Fee**

- a) For each 12-month period beginning after the date on which USEPA approves or conditionally approves the CAAPP, but in no event prior to January 1, 1994, an owner or operator of a source subject to the CAAPP or excluded pursuant to Section 39.5(1.1) or 39.5(3)(c) of the Act shall pay a fee in accordance with the following:
  - 1) The fee for a source allowed to emit less than 100 tons per year of any combination of regulated air pollutants shall be the dollar amount set forth within Section 39.5(18) of the Act; and
  - 2) The fee for a source allowed to emit 100 tons or more per year of any

combination of regulated air pollutants shall be the dollar per ton amount set forth within Section 39.5(18) of the Act for each ton of allowable emissions of regulated air pollutants at that source.

- b) The amount of the fee shall be based on the allowable emissions information submitted by the applicant in the fee calculation portion of its CAAPP application, not including emissions of insignificant levels or from insignificant activities, pursuant to 35 Ill. Adm. Code 201.
- c) No owner or operator of a source shall be required to pay an annual fee in excess of the maximum fee specified in Section 39.5(18) of the Act.
- d) Following the first year of the CAAPP, a fee in excess of \$5,000 may be paid annually or semiannually.
- e) In the event that an owner or operator of a source has paid a fee pursuant to Section 9.6 of the Act during the 12-month period that includes the date on which the source's initial complete CAAPP application was received by the Agency, the portion of the fee for the months remaining in the 12-month period subsequent to the date the initial complete CAAPP application was received shall be credited to the owner or operator of the source.
- f) No owner or operator of a source shall be required to pay more than a single dollar-per-ton fee during any billing period for any ton of pollutant emitted (i.e., lead is a particulate (PM-10) and a separate criteria pollutant but will only be subject to a single dollar-per-ton fee).

(Source: Amended at 43 Ill. Reg. 9963, effective August 27, 2019)

#### **Section 270.604      Billing Procedures**

- a) The amount of the fee and the due date of payment shall be included on a billing statement sent to the source.
- b) The initial billing statement under this Subpart shall be sent after the source's initial CAAPP application has been received by the Agency.
- c) The date of subsequent billing statements under this Subpart shall be based upon the date on which the source's initial complete CAAPP application was received by the Agency.
- d) The due date of payment shall be forty-five (45) days after the billing date indicated on each billing statement or five (5) days after the date the CAAPP application has been deemed or determined to be complete by the Agency, whichever is later.

**Section 270.605      Payment Procedures**

- a) Fee payment shall be made through the Illinois E-Pay System or by check or money order payable to either the "Treasurer, State of Illinois" or the "Illinois Environmental Protection Agency". The check or money order shall be accompanied by the billing statement that will include the source name and identification number assigned by the Bureau of Air.
- b) If paying by check or money order, payment shall be mailed to:

Illinois Environmental Protection Agency  
Fiscal Services Section  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276
- c) Payment shall not include any fees, penalties or other monies due to the Agency for any purposes other than payment of the fee required under this Subpart.
- d) Fees shall be paid no later than 45 days after the billing date indicated on the billing statement.
- e) An owner or operator of a source shall remain liable for payment of the fee specified in the billing statement for the source unless a written request for withdrawal of the permit for the source is submitted in writing to the Agency prior to the payment due date indicated on the billing statement.

(Source: Amended at 43 Ill. Reg. 9963, effective August 27, 2019)

**Section 270.606      Refund and Underpayment of Fees**

- a) A fee remitted to the Agency under this Subpart shall not be refunded in whole or part unless the amount paid is in excess of the amount billed or the amount billed is determined to be incorrect.
- b) An owner or operator of a source entitled to a refund under subsection (a) above must request such refund in writing; otherwise, the amount that was overpaid incorrectly shall be credited against future fees for which the source will be billed under this Subpart.
- c) If the owner or operator of a source submits to the Agency an amount less than the amount due pursuant to Section 39.5(18) of the Act and this Subpart due to an error in the source's calculation of allowable emissions or an error in the Agency's calculation of fees, the owner or operator shall submit the difference between the amount paid

and the amount due in accordance with subsections (1) or (2) below.

- 1) If a source discovers that its calculation of allowable emissions was incorrect, it shall promptly submit to the Agency the correct information and the amount of underpayment.
- 2) If the Agency discovers that it has incorrectly billed the source, the Agency shall promptly notify the owner or operator of the CAAPP source. The Agency must notify the owner or operator of the incorrect billing during the term of the permit. The owner or operator of the CAAPP source shall submit the amount of underpayment within 45 days after receipt of the notice.

**Section 270.607      Requests for Reconsideration of Fee Amount**

- a) Requests for reconsideration of the fee amount indicated on a source's billing statement shall be submitted in writing no later than 30 days after issuance of the billing statement.
- b) Requests for reconsideration shall include all pertinent facts and arguments in support thereof. Such requests shall be addressed to:

Illinois Environmental Protection Agency  
Bureau of Air, Program and Budget Officer  
P.O. Box 19276  
Springfield, Illinois 62794-9276

- c) The submittal of a written request for reconsideration of the billed fee amount shall automatically stay the due date of payment to a date thirty (30) days subsequent to final Agency action on the request for reconsideration.

**Section 270.608      Agency Response to Requests for Reconsideration**

The Agency shall respond in writing to requests for reconsideration of the billed fee amount within 30 days after receipt of the request. Such written response shall constitute final Agency action on the request for reconsideration.

**Section 270.609      Appeal of Agency Response**

Final Agency action on a request for reconsideration may be appealed by the owner or operator of a source pursuant to applicable Board regulations.

