

# HB5538



## 104TH GENERAL ASSEMBLY

State of Illinois

2025 and 2026

HB5538

Introduced 2/13/2026, by Rep. Ryan Spain

### SYNOPSIS AS INTRODUCED:

415 ILCS 5/9.15

Amends the Environmental Protection Act. Extends deadlines for reduced or zero carbon dioxide emissions by 10 years for EGUs and large greenhouse gas-emitting units that use gas as a fuel or that use cogeneration technology.

LRB104 16311 BDA 29697 b

A BILL FOR

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by  
5 changing Section 9.15 as follows:

6 (415 ILCS 5/9.15)

7 Sec. 9.15. Greenhouse gases.

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

17 (b) An air pollution operating permit shall not be  
18 required due to emissions of greenhouse gases if the  
19 equipment, site, or source is not subject to regulation, as  
20 defined by Section 39.5 of this Act, for greenhouse gases or is  
21 otherwise not addressed in this Section or by the Board in  
22 regulations for greenhouse gases. These exemptions do not  
23 relieve an owner or operator from the obligation to comply

1 with other applicable rules or regulations.

2 (c) (Blank).

3 (d) (Blank).

4 (e) (Blank).

5 (f) As used in this Section:

6 "Carbon dioxide emission" means the plant annual CO<sub>2</sub> total  
7 output emission as measured by the United States Environmental  
8 Protection Agency in its Emissions & Generation Resource  
9 Integrated Database (eGrid), or its successor.

10 "Carbon dioxide equivalent emissions" or "CO<sub>2</sub>e" means the  
11 sum total of the mass amount of emissions in tons per year,  
12 calculated by multiplying the mass amount of each of the 6  
13 greenhouse gases specified in Section 3.207, in tons per year,  
14 by its associated global warming potential as set forth in 40  
15 CFR 98, subpart A, table A-1 or its successor, and then adding  
16 them all together.

17 "Cogeneration" or "combined heat and power" refers to any  
18 system that, either simultaneously or sequentially, produces  
19 electricity and useful thermal energy from a single fuel  
20 source.

21 "Copol pollutants" refers to the 6 criteria pollutants that  
22 have been identified by the United States Environmental  
23 Protection Agency pursuant to the Clean Air Act.

24 "Electric generating unit" or "EGU" means a fossil  
25 fuel-fired stationary boiler, combustion turbine, or combined  
26 cycle system that serves a generator that has a nameplate

1 capacity greater than 25 MWe and produces electricity for  
2 sale.

3 "Environmental justice community" means the definition of  
4 that term based on existing methodologies and findings, used  
5 and as may be updated by the Illinois Power Agency and its  
6 program administrator in the Illinois Solar for All Program.

7 "Equity investment eligible community" or "eligible  
8 community" means the geographic areas throughout Illinois that  
9 would most benefit from equitable investments by the State  
10 designed to combat discrimination and foster sustainable  
11 economic growth. Specifically, eligible community means the  
12 following areas:

13 (1) areas where residents have been historically  
14 excluded from economic opportunities, including  
15 opportunities in the energy sector, as defined as R3 areas  
16 pursuant to Section 10-40 of the Cannabis Regulation and  
17 Tax Act; and

18 (2) areas where residents have been historically  
19 subject to disproportionate burdens of pollution,  
20 including pollution from the energy sector, as established  
21 by environmental justice communities as defined by the  
22 Illinois Power Agency pursuant to the Illinois Power  
23 Agency Act, excluding any racial or ethnic indicators.

24 "Equity investment eligible person" or "eligible person"  
25 means the persons who would most benefit from equitable  
26 investments by the State designed to combat discrimination and

1 foster sustainable economic growth. Specifically, eligible  
2 person means the following people:

3 (1) persons whose primary residence is in an equity  
4 investment eligible community;

5 (2) persons whose primary residence is in a  
6 municipality, or a county with a population under 100,000,  
7 where the closure of an electric generating unit or mine  
8 has been publicly announced or the electric generating  
9 unit or mine is in the process of closing or closed within  
10 the last 5 years;

11 (3) persons who are graduates of or currently enrolled  
12 in the foster care system; or

13 (4) persons who were formerly incarcerated.

14 "Existing emissions" means:

15 (1) for CO<sub>2</sub>e, the total average tons-per-year of CO<sub>2</sub>e  
16 emitted by the EGU or large GHG-emitting unit either in  
17 the years 2018 through 2020 or, if the unit was not yet in  
18 operation by January 1, 2018, in the first 3 full years of  
19 that unit's operation; and

20 (2) for any copollutant, the total average  
21 tons-per-year of that copollutant emitted by the EGU or  
22 large GHG-emitting unit either in the years 2018 through  
23 2020 or, if the unit was not yet in operation by January 1,  
24 2018, in the first 3 full years of that unit's operation.

25 "Green hydrogen" means a power plant technology in which  
26 an EGU creates electric power exclusively from electrolytic

1 hydrogen, in a manner that produces zero carbon and  
2 copollutant emissions, using hydrogen fuel that is  
3 electrolyzed using a 100% renewable zero carbon emission  
4 energy source.

5 "Large greenhouse gas-emitting unit" or "large  
6 GHG-emitting unit" means a unit that is an electric generating  
7 unit or other fossil fuel-fired unit that itself has a  
8 nameplate capacity or serves a generator that has a nameplate  
9 capacity greater than 25 MWe and that produces electricity,  
10 including, but not limited to, coal-fired, coal-derived,  
11 oil-fired, natural gas-fired, and cogeneration units.

12 "NO<sub>x</sub> emission rate" means the plant annual NO<sub>x</sub> total output  
13 emission rate as measured by the United States Environmental  
14 Protection Agency in its Emissions & Generation Resource  
15 Integrated Database (eGrid), or its successor, in the most  
16 recent year for which data is available.

17 "Public greenhouse gas-emitting units" or "public  
18 GHG-emitting unit" means large greenhouse gas-emitting units,  
19 including EGUs, that are wholly owned, directly or indirectly,  
20 by one or more municipalities, municipal corporations, joint  
21 municipal electric power agencies, electric cooperatives, or  
22 other governmental or nonprofit entities, whether organized  
23 and created under the laws of Illinois or another state.

24 "SO<sub>2</sub> emission rate" means the "plant annual SO<sub>2</sub> total  
25 output emission rate" as measured by the United States  
26 Environmental Protection Agency in its Emissions & Generation

1 Resource Integrated Database (eGrid), or its successor, in the  
2 most recent year for which data is available.

3 (g) All EGUs and large greenhouse gas-emitting units that  
4 use coal or oil as a fuel and are not public GHG-emitting units  
5 shall permanently reduce all CO<sub>2</sub>e and copollutant emissions to  
6 zero no later than January 1, 2030.

7 (h) All EGUs and large greenhouse gas-emitting units that  
8 use coal as a fuel and are public GHG-emitting units shall  
9 permanently reduce CO<sub>2</sub>e emissions to zero no later than  
10 December 31, 2045. Any source or plant with such units must  
11 also reduce their CO<sub>2</sub>e emissions by 45% from existing  
12 emissions by no later than January 1, 2035. If the emissions  
13 reduction requirement is not achieved by December 31, 2035,  
14 the plant shall retire one or more units or otherwise reduce  
15 its CO<sub>2</sub>e emissions by 45% from existing emissions by June 30,  
16 2038.

17 (i) All EGUs and large greenhouse gas-emitting units that  
18 use gas as a fuel and are not public GHG-emitting units shall  
19 permanently reduce all CO<sub>2</sub>e and copollutant emissions to zero,  
20 including through unit retirement or the use of 100% green  
21 hydrogen or other similar technology that is commercially  
22 proven to achieve zero carbon emissions, according to the  
23 following:

24 (1) No later than January 1, 2040 ~~2030~~: all EGUs and  
25 large greenhouse gas-emitting units that have a NO<sub>x</sub>  
26 emissions rate of greater than 0.12 lbs/MWh or a SO<sub>2</sub>

1 emission rate of greater than 0.006 lb/MWh, and are  
2 located in or within 3 miles of an environmental justice  
3 community designated as of January 1, 2021 or an equity  
4 investment eligible community.

5 (2) No later than January 1, 2050 ~~2040~~: all EGUs and  
6 large greenhouse gas-emitting units that have a NO<sub>x</sub>  
7 emission rate of greater than 0.12 lbs/MWh or a SO<sub>2</sub>  
8 emission rate greater than 0.006 lb/MWh, and are not  
9 located in or within 3 miles of an environmental justice  
10 community designated as of January 1, 2021 or an equity  
11 investment eligible community. After January 1, 2045 ~~2035~~,  
12 each such EGU and large greenhouse gas-emitting unit shall  
13 reduce its CO<sub>2</sub>e emissions by at least 50% from its existing  
14 emissions for CO<sub>2</sub>e, and shall be limited in operation to,  
15 on average, 6 hours or less per day, measured over a  
16 calendar year, and shall not run for more than 24  
17 consecutive hours except in emergency conditions, as  
18 designated by a Regional Transmission Organization or  
19 Independent System Operator.

20 (3) No later than January 1, 2045 ~~2035~~: all EGUs and  
21 large greenhouse gas-emitting units that began operation  
22 prior to the effective date of this amendatory Act of the  
23 102nd General Assembly and have a NO<sub>x</sub> emission rate of less  
24 than or equal to 0.12 lb/MWh and a SO<sub>2</sub> emission rate less  
25 than or equal to 0.006 lb/MWh, and are located in or within  
26 3 miles of an environmental justice community designated

1 as of January 1, 2021 or an equity investment eligible  
2 community. Each such EGU and large greenhouse gas-emitting  
3 unit shall reduce its CO<sub>2</sub>e emissions by at least 50% from  
4 its existing emissions for CO<sub>2</sub>e no later than January 1,  
5 2040 ~~2030~~.

6 (4) No later than January 1, 2050 ~~2040~~: All remaining  
7 EGUs and large greenhouse gas-emitting units that have a  
8 heat rate greater than or equal to 7000 BTU/kWh. Each such  
9 EGU and Large greenhouse gas-emitting unit shall reduce  
10 its CO<sub>2</sub>e emissions by at least 50% from its existing  
11 emissions for CO<sub>2</sub>e no later than January 1, 2045 ~~2035~~.

12 (5) No later than January 1, 2055 ~~2045~~: all remaining  
13 EGUs and large greenhouse gas-emitting units.

14 (j) All EGUs and large greenhouse gas-emitting units that  
15 use gas as a fuel and are public GHG-emitting units shall  
16 permanently reduce all CO<sub>2</sub>e and copollutant emissions to zero,  
17 including through unit retirement or the use of 100% green  
18 hydrogen or other similar technology that is commercially  
19 proven to achieve zero carbon emissions by January 1, 2055  
20 ~~2045~~.

21 (k) All EGUs and large greenhouse gas-emitting units that  
22 utilize combined heat and power or cogeneration technology  
23 shall permanently reduce all CO<sub>2</sub>e and copollutant emissions to  
24 zero, including through unit retirement or the use of 100%  
25 green hydrogen or other similar technology that is  
26 commercially proven to achieve zero carbon emissions by

1 January 1, 2055 ~~2045~~.

2 (k-5) No EGU or large greenhouse gas-emitting unit that  
3 uses gas as a fuel and is not a public GHG-emitting unit may  
4 emit, in any 12-month period, CO<sub>2</sub>e or copollutants in excess of  
5 that unit's existing emissions for those pollutants.

6 (1) Notwithstanding subsections (g) through (k-5), large  
7 GHG-emitting units including EGUs may temporarily continue  
8 emitting CO<sub>2</sub>e and copollutants after any applicable deadline  
9 specified in any of subsections (g) through (k-5) if it has  
10 been determined, as described in paragraphs (1) and (2) of  
11 this subsection, that ongoing operation of the EGU is  
12 necessary to maintain power grid supply and reliability or  
13 ongoing operation of large GHG-emitting unit that is not an  
14 EGU is necessary to serve as an emergency backup to  
15 operations. Up to and including the occurrence of an emission  
16 reduction deadline under subsection (i), all EGUs and large  
17 GHG-emitting units must comply with the following terms:

18 (1) if an EGU or large GHG-emitting unit that is a  
19 participant in a regional transmission organization  
20 intends to retire, it must submit documentation to the  
21 appropriate regional transmission organization by the  
22 appropriate deadline that meets all applicable regulatory  
23 requirements necessary to obtain approval to permanently  
24 cease operating the large GHG-emitting unit;

25 (2) if any EGU or large GHG-emitting unit that is a  
26 participant in a regional transmission organization

1 receives notice that the regional transmission  
2 organization has determined that continued operation of  
3 the unit is required, the unit may continue operating  
4 until the issue identified by the regional transmission  
5 organization is resolved. The owner or operator of the  
6 unit must cooperate with the regional transmission  
7 organization in resolving the issue and must reduce its  
8 emissions to zero, consistent with the requirements under  
9 subsection (g), (h), (i), (j), (k), or (k-5), as  
10 applicable, as soon as practicable when the issue  
11 identified by the regional transmission organization is  
12 resolved; and

13 (3) any large GHG-emitting unit that is not a  
14 participant in a regional transmission organization shall  
15 be allowed to continue emitting CO<sub>2</sub>e and copollutants  
16 after the zero-emission date specified in subsection (g),  
17 (h), (i), (j), (k), or (k-5), as applicable, in the  
18 capacity of an emergency backup unit if approved by the  
19 Illinois Commerce Commission.

20 (m) No variance, adjusted standard, or other regulatory  
21 relief otherwise available in this Act may be granted to the  
22 emissions reduction and elimination obligations in this  
23 Section.

24 (n) By June 30 of each year, beginning in 2025, the Agency  
25 shall prepare and publish on its website a report setting  
26 forth the actual greenhouse gas emissions from individual

1 units and the aggregate statewide emissions from all units for  
2 the prior year.

3 (o) Every 5 years beginning in 2025, the Environmental  
4 Protection Agency, Illinois Power Agency, and Illinois  
5 Commerce Commission shall jointly prepare, and release  
6 publicly, a report to the General Assembly that examines the  
7 State's current progress toward its renewable energy resource  
8 development goals, the status of CO<sub>2</sub>e and copollutant  
9 emissions reductions, the current status and progress toward  
10 developing and implementing green hydrogen technologies, the  
11 current and projected status of electric resource adequacy and  
12 reliability throughout the State for the period beginning 5  
13 years ahead, and proposed solutions for any findings. The  
14 Environmental Protection Agency, Illinois Power Agency, and  
15 Illinois Commerce Commission shall consult PJM  
16 Interconnection, LLC and Midcontinent Independent System  
17 Operator, Inc., or their respective successor organizations  
18 regarding forecasted resource adequacy and reliability needs,  
19 anticipated new generation interconnection, new transmission  
20 development or upgrades, and any announced large GHG-emitting  
21 unit closure dates and include this information in the report.  
22 The report shall be released publicly by no later than  
23 December 15 of the year it is prepared. If the Environmental  
24 Protection Agency, Illinois Power Agency, and Illinois  
25 Commerce Commission jointly conclude in the report that the  
26 data from the regional grid operators, the pace of renewable

1 energy development, the pace of development of energy storage  
2 and demand response utilization, transmission capacity, and  
3 the CO<sub>2</sub>e and copollutant emissions reductions required by  
4 subsection (i) or (k-5) reasonably demonstrate that a resource  
5 adequacy shortfall will occur, including whether there will be  
6 sufficient in-state capacity to meet the zonal requirements of  
7 MISO Zone 4 or the PJM ComEd Zone, per the requirements of the  
8 regional transmission organizations, or that the regional  
9 transmission operators determine that a reliability violation  
10 will occur during the time frame the study is evaluating, then  
11 the Illinois Power Agency, in conjunction with the  
12 Environmental Protection Agency shall develop a plan to reduce  
13 or delay CO<sub>2</sub>e and copollutant emissions reductions  
14 requirements only to the extent and for the duration necessary  
15 to meet the resource adequacy and reliability needs of the  
16 State, including allowing any plants whose emission reduction  
17 deadline has been identified in the plan as creating a  
18 reliability concern to continue operating, including operating  
19 with reduced emissions or as emergency backup where  
20 appropriate. The plan shall also consider the use of renewable  
21 energy, energy storage, demand response, transmission  
22 development, or other strategies to resolve the identified  
23 resource adequacy shortfall or reliability violation.

24 (1) In developing the plan, the Environmental  
25 Protection Agency and the Illinois Power Agency shall hold  
26 at least one workshop open to, and accessible at a time and

1 place convenient to, the public and shall consider any  
2 comments made by stakeholders or the public. Upon  
3 development of the plan, copies of the plan shall be  
4 posted and made publicly available on the Environmental  
5 Protection Agency's, the Illinois Power Agency's, and the  
6 Illinois Commerce Commission's websites. All interested  
7 parties shall have 60 days following the date of posting  
8 to provide comment to the Environmental Protection Agency  
9 and the Illinois Power Agency on the plan. All comments  
10 submitted to the Environmental Protection Agency and the  
11 Illinois Power Agency shall be encouraged to be specific,  
12 supported by data or other detailed analyses, and, if  
13 objecting to all or a portion of the plan, accompanied by  
14 specific alternative wording or proposals. All comments  
15 shall be posted on the Environmental Protection Agency's,  
16 the Illinois Power Agency's, and the Illinois Commerce  
17 Commission's websites. Within 30 days following the end of  
18 the 60-day review period, the Environmental Protection  
19 Agency and the Illinois Power Agency shall revise the plan  
20 as necessary based on the comments received and file its  
21 revised plan with the Illinois Commerce Commission for  
22 approval.

23 (2) Within 60 days after the filing of the revised  
24 plan at the Illinois Commerce Commission, any person  
25 objecting to the plan shall file an objection with the  
26 Illinois Commerce Commission. Within 30 days after the

1 expiration of the comment period, the Illinois Commerce  
2 Commission shall determine whether an evidentiary hearing  
3 is necessary. The Illinois Commerce Commission shall also  
4 host 3 public hearings within 90 days after the plan is  
5 filed. Following the evidentiary and public hearings, the  
6 Illinois Commerce Commission shall enter its order  
7 approving or approving with modifications the reliability  
8 mitigation plan within 180 days.

9 (3) The Illinois Commerce Commission shall only  
10 approve the plan if the Illinois Commerce Commission  
11 determines that it will resolve the resource adequacy or  
12 reliability deficiency identified in the reliability  
13 mitigation plan at the least amount of CO<sub>2</sub>e and copollutant  
14 emissions, taking into consideration the emissions impacts  
15 on environmental justice communities, and that it will  
16 ensure adequate, reliable, affordable, efficient, and  
17 environmentally sustainable electric service at the lowest  
18 total cost over time, taking into account the impact of  
19 increases in emissions.

20 (4) If the resource adequacy or reliability deficiency  
21 identified in the reliability mitigation plan is resolved  
22 or reduced, the Environmental Protection Agency and the  
23 Illinois Power Agency may file an amended plan adjusting  
24 the reduction or delay in CO<sub>2</sub>e and copollutant emission  
25 reduction requirements identified in the plan.

26 (Source: P.A. 102-662, eff. 9-15-21; 102-1031, eff. 5-27-22.)