

HB5323



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5323

Introduced 2/9/2024, by Rep. Marcus C. Evans, Jr.

SYNOPSIS AS INTRODUCED:

415 ILCS 5/9.15

Amends the Environmental Protection Act. Provides, in a provision concerning the regulation of greenhouse gases, that a specific greenhouse gas emission limit does not apply to black start facilities. Defines "black start facility".

LRB103 38672 BDA 68809 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 "Black start facility" means a generating unit that has a
7 high operating factor or equipment enabling it to start
8 without an outside electrical supply and that a transmission
9 provider concurs has the demonstrated ability to automatically
10 remain operating, at reduced levels, when disconnected from
11 the electric grid. Black start facilities are essential to a
12 system restoration plan, as defined by the North American
13 Electric Reliability Corporation (NERC) and the Federal Energy
14 Regulatory Commission (FERC), which is a plan that is
15 developed to establish the protocols that will be implemented
16 to coordinate system restoration activities following a major
17 system disturbance. Under such a plan, there is an orderly
18 sequence of steps and communications with impacted
19 transmission operators, Commonwealth Edison (ComEd), balancing
20 authorities, and neighboring reliability coordinators, PJM and
21 MISO, to facilitate the restoration of the electric grid.
22 Black start is essential because it is the process of
23 restoring power to an electric grid in the event of a natural
24 disaster, cyberattack, or a direct physical grid attack that
25 prompts the system to black out partially or fully. Black
26 start capability is required to re-energize the system and

1 prevent a prolonged outage that could result in economic harm,
2 or worse, loss of human life. Further, in the ComEd zone, black
3 start facilities are used to provide safe shutdown power to
4 nuclear facilities.

5 "Carbon dioxide emission" means the plant annual CO₂ total
6 output emission as measured by the United States Environmental
7 Protection Agency in its Emissions & Generation Resource
8 Integrated Database (eGrid), or its successor.

9 "Carbon dioxide equivalent emissions" or "CO₂e" means the
10 sum total of the mass amount of emissions in tons per year,
11 calculated by multiplying the mass amount of each of the 6
12 greenhouse gases specified in Section 3.207, in tons per year,
13 by its associated global warming potential as set forth in 40
14 CFR 98, subpart A, table A-1 or its successor, and then adding
15 them all together.

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

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

23 "Electric generating unit" or "EGU" means a fossil
24 fuel-fired stationary boiler, combustion turbine, or combined
25 cycle system that serves a generator that has a nameplate
26 capacity greater than 25 MWe and produces electricity for

1 sale.

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

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

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

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

23 "Equity investment eligible person" or "eligible person"
24 means the persons who would most benefit from equitable
25 investments by the State designed to combat discrimination and
26 foster sustainable economic growth. Specifically, eligible

1 person means the following people:

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

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

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

12 (4) persons who were formerly incarcerated.

13 "Existing emissions" means:

14 (1) for CO₂e, the total average tons-per-year of CO₂e
15 emitted by the EGU or large GHG-emitting unit either in
16 the years 2018 through 2020 or, if the unit was not yet in
17 operation by January 1, 2018, in the first 3 full years of
18 that unit's operation; and

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

24 "Green hydrogen" means a power plant technology in which
25 an EGU creates electric power exclusively from electrolytic
26 hydrogen, in a manner that produces zero carbon and

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

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

11 "NO_x emission rate" means the plant annual NO_x total output
12 emission rate as measured by the United States Environmental
13 Protection Agency in its Emissions & Generation Resource
14 Integrated Database (eGrid), or its successor, in the most
15 recent year for which data is available.

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

23 "SO₂ emission rate" means the "plant annual SO₂ total
24 output emission rate" as measured by the United States
25 Environmental Protection Agency in its Emissions & Generation
26 Resource Integrated Database (eGrid), or its successor, in the

1 most recent year for which data is available.

2 (g) All EGUs and large greenhouse gas-emitting units that
3 use coal or oil as a fuel and are not public GHG-emitting units
4 shall permanently reduce all CO₂e and copollutant emissions to
5 zero no later than January 1, 2030.

6 (h) All EGUs and large greenhouse gas-emitting units that
7 use coal as a fuel and are public GHG-emitting units shall
8 permanently reduce CO₂e emissions to zero no later than
9 December 31, 2045. Any source or plant with such units must
10 also reduce their CO₂e emissions by 45% from existing
11 emissions by no later than January 1, 2035. If the emissions
12 reduction requirement is not achieved by December 31, 2035,
13 the plant shall retire one or more units or otherwise reduce
14 its CO₂e emissions by 45% from existing emissions by June 30,
15 2038.

16 (i) All EGUs and large greenhouse gas-emitting units that
17 use gas as a fuel and are not public GHG-emitting units shall
18 permanently reduce all CO₂e and copollutant emissions to zero,
19 including through unit retirement or the use of 100% green
20 hydrogen or other similar technology that is commercially
21 proven to achieve zero carbon emissions, according to the
22 following:

23 (1) No later than January 1, 2030: all EGUs and large
24 greenhouse gas-emitting units that have a NO_x emissions
25 rate of greater than 0.12 lbs/MWh or a SO₂ emission rate of
26 greater than 0.006 lb/MWh, and are located in or within 3

1 miles of an environmental justice community designated as
2 of January 1, 2021 or an equity investment eligible
3 community.

4 (2) No later than January 1, 2040: all EGUs and large
5 greenhouse gas-emitting units that have a NO_x emission
6 rate of greater than 0.12 lbs/MWh or a SO₂ emission rate
7 greater than 0.006 lb/MWh, and are not located in or
8 within 3 miles of an environmental justice community
9 designated as of January 1, 2021 or an equity investment
10 eligible community. After January 1, 2035, each such EGU
11 and large greenhouse gas-emitting unit shall reduce its
12 CO₂e emissions by at least 50% from its existing emissions
13 for CO₂e, and shall be limited in operation to, on average,
14 6 hours or less per day, measured over a calendar year, and
15 shall not run for more than 24 consecutive hours except in
16 emergency conditions, as designated by a Regional
17 Transmission Organization or Independent System Operator.

18 (3) No later than January 1, 2035: all EGUs and large
19 greenhouse gas-emitting units that began operation prior
20 to the effective date of this amendatory Act of the 102nd
21 General Assembly and have a NO_x emission rate of less than
22 or equal to 0.12 lb/MWh and a SO₂ emission rate less than
23 or equal to 0.006 lb/MWh, and are located in or within 3
24 miles of an environmental justice community designated as
25 of January 1, 2021 or an equity investment eligible
26 community. Each such EGU and large greenhouse gas-emitting

1 unit shall reduce its CO₂e emissions by at least 50% from
2 its existing emissions for CO₂e no later than January 1,
3 2030.

4 (4) No later than January 1, 2040: All remaining EGUs
5 and large greenhouse gas-emitting units that have a heat
6 rate greater than or equal to 7000 BTU/kWh. Each such EGU
7 and Large greenhouse gas-emitting unit shall reduce its
8 CO₂e emissions by at least 50% from its existing emissions
9 for CO₂e no later than January 1, 2035.

10 (5) No later than January 1, 2045: all remaining EGUs
11 and large greenhouse gas-emitting units.

12 (j) All EGUs and large greenhouse gas-emitting units that
13 use gas as a fuel and are public GHG-emitting units shall
14 permanently reduce all CO₂e and copollutant emissions to zero,
15 including through unit retirement or the use of 100% green
16 hydrogen or other similar technology that is commercially
17 proven to achieve zero carbon emissions by January 1, 2045.

18 (k) All EGUs and large greenhouse gas-emitting units that
19 utilize combined heat and power or cogeneration technology
20 shall permanently reduce all CO₂e and copollutant emissions to
21 zero, including through unit retirement or the use of 100%
22 green hydrogen or other similar technology that is
23 commercially proven to achieve zero carbon emissions by
24 January 1, 2045.

25 (k-5) No EGU or large greenhouse gas-emitting unit that
26 uses gas as a fuel and is not a public GHG-emitting unit may

1 emit, in any 12-month period, CO₂e or copollutants in excess of
2 that unit's existing emissions for those pollutants. This
3 subsection (k-5) does not apply to an EGU or large greenhouse
4 gas-emitting unit that is a black start facility. Any gas
5 turbine located at a black start facility shall not exceed
6 more than 3,200 hours of operation a year.

7 (1) Notwithstanding subsections (g) through (k-5), large
8 GHG-emitting units including EGUs may temporarily continue
9 emitting CO₂e and copollutants after any applicable deadline
10 specified in any of subsections (g) through (k-5) if it has
11 been determined, as described in paragraphs (1) and (2) of
12 this subsection, that ongoing operation of the EGU is
13 necessary to maintain power grid supply and reliability or
14 ongoing operation of large GHG-emitting unit that is not an
15 EGU is necessary to serve as an emergency backup to
16 operations. Up to and including the occurrence of an emission
17 reduction deadline under subsection (i), all EGUs and large
18 GHG-emitting units must comply with the following terms:

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

26 (2) if any EGU or large GHG-emitting unit that is a

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

14 (3) any large GHG-emitting unit that is not a
15 participant in a regional transmission organization shall
16 be allowed to continue emitting CO₂e and copollutants
17 after the zero-emission date specified in subsection (g),
18 (h), (i), (j), (k), or (k-5), as applicable, in the
19 capacity of an emergency backup unit if approved by the
20 Illinois Commerce Commission.

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

25 (n) By June 30 of each year, beginning in 2025, the Agency
26 shall prepare and publish on its website a report setting

1 forth the actual greenhouse gas emissions from individual
2 units and the aggregate statewide emissions from all units for
3 the prior year.

4 (o) Every 5 years beginning in 2025, the Environmental
5 Protection Agency, Illinois Power Agency, and Illinois
6 Commerce Commission shall jointly prepare, and release
7 publicly, a report to the General Assembly that examines the
8 State's current progress toward its renewable energy resource
9 development goals, the status of CO₂e and copollutant
10 emissions reductions, the current status and progress toward
11 developing and implementing green hydrogen technologies, the
12 current and projected status of electric resource adequacy and
13 reliability throughout the State for the period beginning 5
14 years ahead, and proposed solutions for any findings. The
15 Environmental Protection Agency, Illinois Power Agency, and
16 Illinois Commerce Commission shall consult PJM
17 Interconnection, LLC and Midcontinent Independent System
18 Operator, Inc., or their respective successor organizations
19 regarding forecasted resource adequacy and reliability needs,
20 anticipated new generation interconnection, new transmission
21 development or upgrades, and any announced large GHG-emitting
22 unit closure dates and include this information in the report.
23 The report shall be released publicly by no later than
24 December 15 of the year it is prepared. If the Environmental
25 Protection Agency, Illinois Power Agency, and Illinois
26 Commerce Commission jointly conclude in the report that the

1 data from the regional grid operators, the pace of renewable
2 energy development, the pace of development of energy storage
3 and demand response utilization, transmission capacity, and
4 the CO₂e and copollutant emissions reductions required by
5 subsection (i) or (k-5) reasonably demonstrate that a resource
6 adequacy shortfall will occur, including whether there will be
7 sufficient in-state capacity to meet the zonal requirements of
8 MISO Zone 4 or the PJM ComEd Zone, per the requirements of the
9 regional transmission organizations, or that the regional
10 transmission operators determine that a reliability violation
11 will occur during the time frame the study is evaluating, then
12 the Illinois Power Agency, in conjunction with the
13 Environmental Protection Agency shall develop a plan to reduce
14 or delay CO₂e and copollutant emissions reductions
15 requirements only to the extent and for the duration necessary
16 to meet the resource adequacy and reliability needs of the
17 State, including allowing any plants whose emission reduction
18 deadline has been identified in the plan as creating a
19 reliability concern to continue operating, including operating
20 with reduced emissions or as emergency backup where
21 appropriate. The plan shall also consider the use of renewable
22 energy, energy storage, demand response, transmission
23 development, or other strategies to resolve the identified
24 resource adequacy shortfall or reliability violation.

25 (1) In developing the plan, the Environmental
26 Protection Agency and the Illinois Power Agency shall hold

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

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

1 Illinois Commerce Commission. Within 30 days after the
2 expiration of the comment period, the Illinois Commerce
3 Commission shall determine whether an evidentiary hearing
4 is necessary. The Illinois Commerce Commission shall also
5 host 3 public hearings within 90 days after the plan is
6 filed. Following the evidentiary and public hearings, the
7 Illinois Commerce Commission shall enter its order
8 approving or approving with modifications the reliability
9 mitigation plan within 180 days.

10 (3) The Illinois Commerce Commission shall only
11 approve the plan if the Illinois Commerce Commission
12 determines that it will resolve the resource adequacy or
13 reliability deficiency identified in the reliability
14 mitigation plan at the least amount of CO₂e and copollutant
15 emissions, taking into consideration the emissions impacts
16 on environmental justice communities, and that it will
17 ensure adequate, reliable, affordable, efficient, and
18 environmentally sustainable electric service at the lowest
19 total cost over time, taking into account the impact of
20 increases in emissions.

21 (4) If the resource adequacy or reliability deficiency
22 identified in the reliability mitigation plan is resolved
23 or reduced, the Environmental Protection Agency and the
24 Illinois Power Agency may file an amended plan adjusting
25 the reduction or delay in CO₂e and copollutant emission
26 reduction requirements identified in the plan.

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