



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2721

Introduced 1/20/2006, by Sen. James F. Clayborne, Jr.

SYNOPSIS AS INTRODUCED:

415 ILCS 5/9.10

415 ILCS 5/10

from Ch. 111 1/2, par. 1010

Amends the Environmental Protection Act. In a Section regarding the control and reduction of emissions from fossil fuel-fired electric generating plants, provides that the Section is not intended to limit or restrict the authority of the Illinois Environmental Protection Agency to propose, or the Illinois Pollution Control Board to adopt, any regulations applicable or that may become applicable to these facilities that are required by federal law or that are otherwise part of the State's plan to attain the national ambient air quality standard for fine particles of 2.5 microns or less (now, just the applicable regulations required by federal law). Deletes a provision requiring the Board to adopt certain sulfur dioxide regulations and emission standards for existing fuel combustion stationary emission sources. Effective immediately.

LRB094 15258 RSP 50447 b

1 AN ACT concerning safety.

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

4 Section 5. The Environmental Protection Act is amended by
5 changing Sections 9.10 and 10 as follows:

6 (415 ILCS 5/9.10)

7 Sec. 9.10. Fossil fuel-fired electric generating plants.

8 (a) The General Assembly finds and declares that:

9 (1) fossil fuel-fired electric generating plants are a
10 significant source of air emissions in this State and have
11 become the subject of a number of important new studies of
12 their effects on the public health;

13 (2) existing state and federal policies, that allow
14 older plants that meet federal standards to operate without
15 meeting the more stringent requirements applicable to new
16 plants, are being questioned on the basis of their
17 environmental impacts and the economic distortions such
18 policies cause in a deregulated energy market;

19 (3) fossil fuel-fired electric generating plants are,
20 or may be, affected by a number of regulatory programs,
21 some of which are under review or development on the state
22 and national levels, and to a certain extent the
23 international level, including the federal acid rain
24 program, tropospheric ozone, mercury and other hazardous
25 pollutant control requirements, regional haze, and global
26 warming;

27 (4) scientific uncertainty regarding the formation of
28 certain components of regional haze and the air quality
29 modeling that predict impacts of control measures requires
30 careful consideration of the timing of the control of some
31 of the pollutants from these facilities, particularly
32 sulfur dioxides and nitrogen oxides that each interact with

1 ammonia and other substances in the atmosphere;

2 (5) the development of energy policies to promote a
3 safe, sufficient, reliable, and affordable energy supply
4 on the state and national levels is being affected by the
5 on-going deregulation of the power generation industry and
6 the evolving energy markets;

7 (6) the Governor's formation of an Energy Cabinet and
8 the development of a State energy policy calls for actions
9 by the Agency and the Board that are in harmony with the
10 energy needs and policy of the State, while protecting the
11 public health and the environment;

12 (7) Illinois coal is an abundant resource and an
13 important component of Illinois' economy whose use should
14 be encouraged to the greatest extent possible consistent
15 with protecting the public health and the environment;

16 (8) renewable forms of energy should be promoted as an
17 important element of the energy and environmental policies
18 of the State and that it is a goal of the State that at
19 least 5% of the State's energy production and use be
20 derived from renewable forms of energy by 2010 and at least
21 15% from renewable forms of energy by 2020;

22 (9) efforts on the state and federal levels are
23 underway to consider the multiple environmental
24 regulations affecting electric generating plants in order
25 to improve the ability of government and the affected
26 industry to engage in effective planning through the use of
27 multi-pollutant strategies; and

28 (10) these issues, taken together, call for a
29 comprehensive review of the impact of these facilities on
30 the public health, considering also the energy supply,
31 reliability, and costs, the role of renewable forms of
32 energy, and the developments in federal law and regulations
33 that may affect any state actions, prior to making final
34 decisions in Illinois.

35 (b) Taking into account the findings and declarations of
36 the General Assembly contained in subsection (a) of this

1 Section, the Agency shall, before September 30, 2004, but not
2 before September 30, 2003, issue to the House and Senate
3 Committees on Environment and Energy findings that address the
4 potential need for the control or reduction of emissions from
5 fossil fuel-fired electric generating plants, including the
6 following provisions:

7 (1) reduction of nitrogen oxide emissions, as
8 appropriate, with consideration of maximum annual
9 emissions rate limits or establishment of an emissions
10 trading program and with consideration of the developments
11 in federal law and regulations that may affect any State
12 action, prior to making final decisions in Illinois;

13 (2) reduction of sulfur dioxide emissions, as
14 appropriate, with consideration of maximum annual
15 emissions rate limits or establishment of an emissions
16 trading program and with consideration of the developments
17 in federal law and regulations that may affect any State
18 action, prior to making final decisions in Illinois;

19 (3) incentives to promote renewable sources of energy
20 consistent with item (8) of subsection (a) of this Section;

21 (4) reduction of mercury as appropriate, consideration
22 of the availability of control technology, industry
23 practice requirements, or incentive programs, or some
24 combination of these approaches that are sufficient to
25 prevent unacceptable local impacts from individual
26 facilities and with consideration of the developments in
27 federal law and regulations that may affect any state
28 action, prior to making final decisions in Illinois; and

29 (5) establishment of a banking system, consistent with
30 the United States Department of Energy's voluntary
31 reporting system, for certifying credits for voluntary
32 offsets of emissions of greenhouse gases, as identified by
33 the United States Environmental Protection Agency, or
34 other voluntary reductions of greenhouse gases. Such
35 reduction efforts may include, but are not limited to,
36 carbon sequestration, technology-based control measures,

1 energy efficiency measures, and the use of renewable energy
2 sources.

3 The Agency shall consider the impact on the public health,
4 considering also energy supply, reliability and costs, the role
5 of renewable forms of energy, and developments in federal law
6 and regulations that may affect any state actions, prior to
7 making final decisions in Illinois.

8 (c) Nothing in this Section is intended to or should be
9 interpreted in a manner to limit or restrict the authority of
10 the Illinois Environmental Protection Agency to propose, or the
11 Illinois Pollution Control Board to adopt, any regulations
12 applicable or that may become applicable to the facilities
13 covered by this Section that are required by federal law or
14 that are otherwise part of the State's plan to attain the
15 national ambient air quality standard for fine particles of 2.5
16 microns or less.

17 (d) The Agency may file proposed rules with the Board to
18 effectuate its findings provided to the Senate Committee on
19 Environment and Energy and the House Committee on Environment
20 and Energy in accordance with subsection (b) of this Section.
21 Any such proposal shall not be submitted sooner than 90 days
22 after the issuance of the findings provided for in subsection
23 (b) of this Section. The Board shall take action on any such
24 proposal within one year of the Agency's filing of the proposed
25 rules.

26 (e) This Section shall apply only to those electrical
27 generating units that are subject to the provisions of Subpart
28 W of Part 217 of Title 35 of the Illinois Administrative Code,
29 as promulgated by the Illinois Pollution Control Board on
30 December 21, 2000.

31 (Source: P.A. 92-12, eff. 7-1-01; 92-279, eff. 8-7-01.)

32 (415 ILCS 5/10) (from Ch. 111 1/2, par. 1010)
33 Sec. 10. Regulations.

34 (A) The Board, pursuant to procedures prescribed in Title
35 VII of this Act, may adopt regulations to promote the purposes

1 of this Title. Without limiting the generality of this
2 authority, such regulations may among other things prescribe:

3 (a) Ambient air quality standards specifying the
4 maximum permissible short-term and long-term
5 concentrations of various contaminants in the atmosphere;

6 (b) Emission standards specifying the maximum amounts
7 or concentrations of various contaminants that may be
8 discharged into the atmosphere;

9 (c) Standards for the issuance of permits for
10 construction, installation, or operation of any equipment,
11 facility, vehicle, vessel, or aircraft capable of causing
12 or contributing to air pollution or designed to prevent air
13 pollution;

14 (d) Standards and conditions regarding the sale,
15 offer, or use of any fuel, vehicle, or other article
16 determined by the Board to constitute an air-pollution
17 hazard;

18 (e) Alert and abatement standards relative to
19 air-pollution episodes or emergencies constituting an
20 acute danger to health or to the environment;

21 (f) Requirements and procedures for the inspection of
22 any equipment, facility, vehicle, vessel, or aircraft that
23 may cause or contribute to air pollution;

24 (g) Requirements and standards for equipment and
25 procedures for monitoring contaminant discharges at their
26 sources, the collection of samples and the collection,
27 reporting and retention of data resulting from such
28 monitoring.

29 (B) (Blank). ~~The Board shall adopt sulfur dioxide~~
30 ~~regulations and emission standards for existing fuel~~
31 ~~combustion stationary emission sources located in all areas of~~
32 ~~the State of Illinois, except the Chicago, St. Louis (Illinois)~~
33 ~~and Peoria major metropolitan areas, in accordance with the~~
34 ~~following requirements:~~

35 ~~(1) Such regulations shall not be more restrictive than~~
36 ~~necessary to attain and maintain the "Primary National~~

1 ~~Ambient Air Quality Standards for Sulfur Dioxide" and~~
2 ~~within a reasonable time attain and maintain the "Secondary~~
3 ~~National Ambient Air Quality Standards for Sulfur~~
4 ~~Dioxide."~~

5 ~~(2) Such regulations shall be based upon ambient air~~
6 ~~quality monitoring data insofar as possible, consistent~~
7 ~~with regulations of the United States Environmental~~
8 ~~Protection Agency. To the extent that air quality modeling~~
9 ~~techniques are used for setting standards, such techniques~~
10 ~~shall be fully described and documented in the record of~~
11 ~~the Board's rulemaking proceeding.~~

12 ~~(3) Such regulations shall provide a mechanism for the~~
13 ~~establishment of emission standards applicable to a~~
14 ~~specific site as an alternative to a more restrictive~~
15 ~~general emission standard. The Board shall delegate~~
16 ~~authority to the Agency to determine such specific site~~
17 ~~emission standards, pursuant to regulations adopted by the~~
18 ~~Board.~~

19 ~~(4) Such regulations and standards shall allow all~~
20 ~~available alternative air quality control methods~~
21 ~~consistent with federal law and regulations.~~

22 (C) The Board may not adopt any regulation banning the
23 burning of landscape waste throughout the State generally. The
24 Board may, by regulation, restrict or prohibit the burning of
25 landscape waste within any geographical area of the State if it
26 determines based on medical and biological evidence generally
27 accepted by the scientific community that such burning will
28 produce in the atmosphere of that geographical area
29 contaminants in sufficient quantities and of such
30 characteristics and duration as to be injurious to humans,
31 plant, or animal life, or health.

32 (D) The Board shall adopt regulations requiring the owner
33 or operator of a gasoline dispensing system that dispenses more
34 than 10,000 gallons of gasoline per month to install and
35 operate a system for the recovery of gasoline vapor emissions
36 arising from the fueling of motor vehicles that meets the

1 requirements of Section 182 of the federal Clean Air Act (42
2 USC 7511a). These regulations shall apply only in areas of the
3 State that are classified as moderate, serious, severe or
4 extreme nonattainment areas for ozone pursuant to Section 181
5 of the federal Clean Air Act (42 USC 7511), but shall not apply
6 in such areas classified as moderate nonattainment areas for
7 ozone if the Administrator of the U.S. Environmental Protection
8 Agency promulgates standards for vehicle-based (onboard)
9 systems for the control of vehicle refueling emissions pursuant
10 to Section 202(a)(6) of the federal Clean Air Act (42 USC
11 7521(a)(6)) by November 15, 1992.

12 (E) The Board shall not adopt or enforce any regulation
13 requiring the use of a tarpaulin or other covering on a truck,
14 trailer, or other vehicle that is stricter than the
15 requirements of Section 15-109.1 of the Illinois Vehicle Code.
16 To the extent that it is in conflict with this subsection, the
17 Board's rule codified as 35 Ill. Admin. Code, Section 212.315
18 is hereby superseded.

19 (F) Any person who prior to June 8, 1988, has filed a
20 timely Notice of Intent to Petition for an Adjusted RACT
21 Emissions Limitation and who subsequently timely files a
22 completed petition for an adjusted RACT emissions limitation
23 pursuant to 35 Ill. Adm. Code, Part 215, Subpart I, shall be
24 subject to the procedures contained in Subpart I but shall be
25 excluded by operation of law from 35 Ill. Adm. Code, Part 215,
26 Subparts PP, QQ and RR, including the applicable definitions in
27 35 Ill. Adm. Code, Part 211. Such persons shall instead be
28 subject to a separate regulation which the Board is hereby
29 authorized to adopt pursuant to the adjusted RACT emissions
30 limitation procedure in 35 Ill. Adm. Code, Part 215, Subpart I.
31 In its final action on the petition, the Board shall create a
32 separate rule which establishes Reasonably Available Control
33 Technology (RACT) for such person. The purpose of this
34 procedure is to create separate and independent regulations for
35 purposes of SIP submittal, review, and approval by USEPA.

36 (G) Subpart FF of Subtitle B, Title 35 Ill. Adm. Code,

1 Sections 218.720 through 218.730 and Sections 219.720 through
2 219.730, are hereby repealed by operation of law and are
3 rendered null and void and of no force and effect.

4 (Source: P.A. 88-381; 89-79, eff. 6-30-95.)

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.