

AN ACT concerning energy facilities.

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

Section 5. The Environmental Protection Act is amended by changing Section 3.330 and by adding Section 39.9 as follows:

(415 ILCS 5/3.330) (was 415 ILCS 5/3.32)

Sec. 3.330. Pollution control facility.

(a) "Pollution control facility" is any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act.

The following are not pollution control facilities:

- (1) (blank);
- (2) waste storage sites regulated under 40 CFR, Part 761.42;
- (3) sites or facilities used by any person conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility

owned, controlled or operated by such person, or when such wastes are transported within or between sites or facilities owned, controlled or operated by such person;

(4) sites or facilities at which the State is performing removal or remedial action pursuant to Section 22.2 or 55.3;

(5) abandoned quarries used solely for the disposal of concrete, earth materials, gravel, or aggregate debris resulting from road construction activities conducted by a unit of government or construction activities due to the construction and installation of underground pipes, lines, conduit or wires off of the premises of a public utility company which are conducted by a public utility;

(6) sites or facilities used by any person to specifically conduct a landscape composting operation;

(7) regional facilities as defined in the Central Midwest Interstate Low-Level Radioactive Waste Compact;

(8) the portion of a site or facility where coal combustion wastes are stored or disposed of in accordance with subdivision (r) (2) or (r) (3) of Section 21;

(9) the portion of a site or facility used for the collection, storage or processing of waste tires as defined in Title XIV;

(10) the portion of a site or facility used for treatment of petroleum contaminated materials by application onto or incorporation into the soil surface and

any portion of that site or facility used for storage of petroleum contaminated materials before treatment. Only those categories of petroleum listed in Section 57.9(a)(3) are exempt under this subdivision (10);

(11) the portion of a site or facility where used oil is collected or stored prior to shipment to a recycling or energy recovery facility, provided that the used oil is generated by households or commercial establishments, and the site or facility is a recycling center or a business where oil or gasoline is sold at retail;

(11.5) processing sites or facilities that receive only on-specification used oil, as defined in 35 Ill. Admin. Code 739, originating from used oil collectors for processing that is managed under 35 Ill. Admin. Code 739 to produce products for sale to off-site petroleum facilities, if these processing sites or facilities are:

- (i) located within a home rule unit of local government with a population of at least 30,000 according to the 2000 federal census, that home rule unit of local government has been designated as an Urban Round II Empowerment Zone by the United States Department of Housing and Urban Development, and that home rule unit of local government has enacted an ordinance approving the location of the site or facility and provided funding for the site or facility;
- and (ii) in compliance with all applicable zoning requirements;

(12) the portion of a site or facility utilizing coal combustion waste for stabilization and treatment of only waste generated on that site or facility when used in connection with response actions pursuant to the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980, the federal Resource Conservation and Recovery Act of 1976, or the Illinois Environmental Protection Act or as authorized by the Agency;

(13) the portion of a site or facility accepting exclusively general construction or demolition debris, located in a county with a population over 500,000 as of January 1, 2000, and operated and located in accordance with Section 22.38 of this Act;

(14) the portion of a site or facility, located within a unit of local government that has enacted local zoning requirements, used to accept, separate, and process uncontaminated broken concrete, with or without protruding metal bars, provided that the uncontaminated broken concrete and metal bars are not speculatively accumulated, are at the site or facility no longer than one year after their acceptance, and are returned to the economic mainstream in the form of raw materials or products;

(15) the portion of a site or facility located in a county with a population over 3,000,000 that has obtained local siting approval under Section 39.2 of this Act for a municipal waste incinerator on or before July 1, 2005 and

that is used for a non-hazardous waste transfer station;

(16) a site or facility that temporarily holds in transit for 10 days or less, non-petruscible solid waste in original containers, no larger in capacity than 500 gallons, provided that such waste is further transferred to a recycling, disposal, treatment, or storage facility on a non-contiguous site and provided such site or facility complies with the applicable 10-day transfer requirements of the federal Resource Conservation and Recovery Act of 1976 and United States Department of Transportation hazardous material requirements. For purposes of this Section only, "non-petruscible solid waste" means waste other than municipal garbage that does not rot or become putrid, including, but not limited to, paints, solvent, filters, and absorbents;

(17) the portion of a site or facility located in a county with a population greater than 3,000,000 that has obtained local siting approval, under Section 39.2 of this Act, for a municipal waste incinerator on or before July 1, 2005 and that is used for wood combustion facilities for energy recovery that accept and burn only wood material, as included in a fuel specification approved by the Agency;

(18) a transfer station used exclusively for landscape waste, including a transfer station where landscape waste is ground to reduce its volume, where the landscape waste is held no longer than 24 hours from the time it was

received; ~~and~~

(19) the portion of a site or facility that (i) is used for the composting of food scrap, livestock waste, crop residue, uncontaminated wood waste, or paper waste, including, but not limited to, corrugated paper or cardboard, and (ii) meets all of the following requirements:

(A) There must not be more than a total of 30,000 cubic yards of livestock waste in raw form or in the process of being composted at the site or facility at any one time.

(B) All food scrap, livestock waste, crop residue, uncontaminated wood waste, and paper waste must, by the end of each operating day, be processed and placed into an enclosed vessel in which air flow and temperature are controlled, or all of the following additional requirements must be met:

(i) The portion of the site or facility used for the composting operation must include a setback of at least 200 feet from the nearest potable water supply well.

(ii) The portion of the site or facility used for the composting operation must be located outside the boundary of the 10-year floodplain or floodproofed.

(iii) The portion of the site or facility used

for the composting operation must be located at least one-eighth of a mile from the nearest residence, other than a residence located on the same property as the site or facility.

(iv) The portion of the site or facility used for the composting operation must be located at least one-eighth of a mile from the property line of all of the following areas:

(I) Facilities that primarily serve to house or treat people that are immunocompromised or immunosuppressed, such as cancer or AIDS patients; people with asthma, cystic fibrosis, or bioaerosol allergies; or children under the age of one year.

(II) Primary and secondary schools and adjacent areas that the schools use for recreation.

(III) Any facility for child care licensed under Section 3 of the Child Care Act of 1969; preschools; and adjacent areas that the facilities or preschools use for recreation.

(v) By the end of each operating day, all food scrap, livestock waste, crop residue, uncontaminated wood waste, and paper waste must be (i) processed into windrows or other piles and (ii) covered in a manner that prevents scavenging by

birds and animals and that prevents other nuisances.

(C) Food scrap, livestock waste, crop residue, uncontaminated wood waste, paper waste, and compost must not be placed within 5 feet of the water table.

(D) The site or facility must meet all of the requirements of the Wild and Scenic Rivers Act (16 U.S.C. 1271 et seq.).

(E) The site or facility must not (i) restrict the flow of a 100-year flood, (ii) result in washout of food scrap, livestock waste, crop residue, uncontaminated wood waste, or paper waste from a 100-year flood, or (iii) reduce the temporary water storage capacity of the 100-year floodplain, unless measures are undertaken to provide alternative storage capacity, such as by providing lagoons, holding tanks, or drainage around structures at the facility.

(F) The site or facility must not be located in any area where it may pose a threat of harm or destruction to the features for which:

(i) an irreplaceable historic or archaeological site has been listed under the National Historic Preservation Act (16 U.S.C. 470 et seq.) or the Illinois Historic Preservation Act;

(ii) a natural landmark has been designated by

the National Park Service or the Illinois State Historic Preservation Office; or

(iii) a natural area has been designated as a Dedicated Illinois Nature Preserve under the Illinois Natural Areas Preservation Act.

(G) The site or facility must not be located in an area where it may jeopardize the continued existence of any designated endangered species, result in the destruction or adverse modification of the critical habitat for such species, or cause or contribute to the taking of any endangered or threatened species of plant, fish, or wildlife listed under the Endangered Species Act (16 U.S.C. 1531 et seq.) or the Illinois Endangered Species Protection Act; ~~and~~.

(20) the portion of a site or facility that is located entirely within a home rule unit having a population of no less than 120,000 and no more than 135,000, according to the 2000 federal census, and that meets all of the following requirements:

(i) the portion of the site or facility is used exclusively to perform testing of a thermochemical conversion technology using only woody biomass, collected as landscape waste within the boundaries of the home rule unit, as the hydrocarbon feedstock for the production of synthetic gas in accordance with Section 39.9 of this Act;

(ii) the portion of the site or facility is in compliance with all applicable zoning requirements; and

(iii) a complete application for a demonstration permit at the portion of the site or facility has been submitted to the Agency in accordance with Section 39.9 of this Act within one year after the effective date of this amendatory Act of the 96th General Assembly.

(b) A new pollution control facility is:

(1) a pollution control facility initially permitted for development or construction after July 1, 1981; or

(2) the area of expansion beyond the boundary of a currently permitted pollution control facility; or

(3) a permitted pollution control facility requesting approval to store, dispose of, transfer or incinerate, for the first time, any special or hazardous waste.

(Source: P.A. 95-131, eff. 8-13-07; 95-177, eff. 1-1-08; 95-331, eff. 8-21-07; 95-408, eff. 8-24-07; 95-876, eff. 8-21-08; 96-418, eff. 1-1-10; 96-611, eff. 8-24-09; revised 10-1-09.)

(415 ILCS 5/39.9 new)

Sec. 39.9. Thermochemical conversion technology demonstration permit.

(a) The purpose of this Section is to provide for the

permitting and testing of thermochemical conversion technology ("TCT") on a pilot-scale basis.

(b) For purposes of this Section:

"Thermochemical conversion" means the application of heat to woody biomass, collected as landscape waste within the boundaries of the host unit of local government, in order to convert that material to a synthetic gas ("syngas") that can be processed for use as a fuel for the production of electricity and process heat, for the production of ethanol or hydrogen to be used as transportation fuel, or for both of those purposes. To qualify as thermochemical conversion, the thermochemical conversion technology must not continuously operate at temperatures exceeding an hourly average of 2,000°F, must operate at or near atmospheric pressure with no intentional or forced addition of air or oxygen, must use electricity for the source of heat, and must be designed to produce more energy than it consumes.

"Thermochemical conversion technology demonstration permit" or "TCTDP" means a demonstration permit issued by the Agency's Bureau of Air Permit Section under this Section. The TCT will be considered a process emission unit.

"Thermochemical conversion technology processing facility" means a facility constructed and operated for the purpose of conducting thermochemical conversion under this Section.

"Woody biomass" means the fibrous cellular substance consisting largely of cellulose, hemicellulose, and lignin

from trees and shrubs collected as landscape waste. "Woody biomass" also includes bark and leaves from trees and shrubs, but does not include other wastes or foreign materials.

(c) The Agency may, under the authority of subsection (b) of Section 9 and subsection (a) of Section 39 of the Act, issue a TCTDP to an applicant for field testing of a thermochemical conversion technology processing facility to demonstrate that the thermochemical conversion technology can reliably produce syngas that can be processed for use as a fuel for the production of electricity and process heat, for the production of ethanol or hydrogen to be used as transportation fuel, or for both purposes. The TCTDP shall be subject to the following conditions:

(1) The application for a TCTDP must demonstrate that the thermochemical conversion technology processing facility is not a major source of air pollutants but is eligible for an air permit issued pursuant to 35 Ill. Adm. Code 201.169. The application must demonstrate that the potential to emit carbon monoxide (CO), sulfur dioxide (SO₂), nitrogen oxides (NO_x), and particulate matter (PM, PM₁₀) individually for each pollutant does not exceed 79.9 tons per year; that the potential to emit volatile organic material (VOM) does not exceed 24.9 tons per year; that the potential to emit individual hazardous air pollutants (HAPs) does not exceed 7.9 tons per year; and that the potential to emit combined total HAPs does not exceed 19.9

tons per year.

(2) The applicant for a TCTDP must perform emissions testing during the permit period, as required by the Agency, and submit the results of that testing to the Agency, as specified in the TCTDP, within 60 days after the completion of testing.

(3) During the permit period the applicant for a TCTDP may not convert more than 4 tons per day of woody biomass in the thermochemical conversion technology processing facility.

(4) The applicant for a TCTDP must demonstrate that the proposed project meets the criteria defining thermochemical conversion in subsection (b) of this Section.

(5) The applicant for a TCTDP must submit application fees in accordance with subsection (c) of Section 9.12 of this Act, excluding the fees under subparagraph (B) of paragraph (2) of subsection (c) of that Section.

(6) A complete application for a TCTDP must be filed in accordance with this Section and submitted to the Agency within one year after the effective date of this amendatory Act of the 96th General Assembly.

(7) In addition to the TCTDP, the applicant for a TCTDP must obtain applicable water pollution control permits before constructing or operating the thermochemical conversion technology processing facility and applicable

waste management permits before the facility receives woody biomass collected as landscape waste. In addition to authorizing receipt and treatment by thermochemical conversion of woody biomass, waste management permits may authorize, and establish limits for, storage and pre-processing of woody biomass for the exclusive use of the thermochemical conversion technology processing facility. Woody biomass received at the facility and all mineral ash and other residuals from the thermochemical conversion process must be managed in accordance with applicable provisions of this Act and rules and permit conditions adopted under the authority of this Act. The facility must be closed in accordance with applicable permit conditions.

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