

SB3788



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3788

Introduced 2/10/2012, by Sen. Chris Lauzen

SYNOPSIS AS INTRODUCED:

415 ILCS 5/9.4

from Ch. 111 1/2, par. 1009.4

415 ILCS 5/22.16b

from Ch. 111 1/2, par. 1022.16b

Amends the Environmental Protection Act. Changes the definition of "municipal waste incineration" to exclude the combustion of certain materials that might otherwise qualify as municipal waste. Makes, as a result, the Act's municipal waste incineration emission standards inapplicable to facilities where those waste-derived materials are combusted. Authorizes the Illinois Pollution Control Board to determine, based solely on certain federal standards, which of these waste-derived materials do not qualify as municipal waste. Authorizes the Board to make its determinations using an adjusted standard procedure (rather than a rulemaking procedure). Effective immediately.

LRB097 19990 JDS 65287 b

FISCAL NOTE ACT
MAY APPLY

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 Sections 9.4 and 22.16b as follows:

6 (415 ILCS 5/9.4) (from Ch. 111 1/2, par. 1009.4)

7 Sec. 9.4. Municipal waste incineration emission standards.

8 (a) The General Assembly finds:

9 (1) That air pollution from municipal waste
10 incineration may constitute a threat to public health,
11 welfare and the environment. The amounts and kinds of
12 pollutants depend on the nature of the waste stream,
13 operating conditions of the incinerator, and the
14 effectiveness of emission controls. Under normal operating
15 conditions, municipal waste incinerators produce
16 pollutants such as organic compounds, metallic compounds
17 and acid gases which may be a threat to public health,
18 welfare and the environment.

19 (2) That a combustion and flue-gas control system,
20 which is properly designed, operated and maintained, can
21 substantially reduce the emissions of organic materials,
22 metallic compounds and acid gases from municipal waste
23 incineration.

1 (b) It is the purpose of this Section to insure that
2 emissions from new municipal waste incineration facilities
3 which burn a total of 25 tons or more of municipal waste per
4 day are adequately controlled.

5 Such facilities shall be subject to emissions limits and
6 operating standards based upon the application of Best
7 Available Control Technology, as determined by the Agency, for
8 emissions of the following categories of pollutants:

- 9 (1) particulate matter, sulfur dioxide and nitrogen
10 oxides;
11 (2) acid gases;
12 (3) heavy metals; and
13 (4) organic materials.

14 (c) The Agency shall issue permits, pursuant to Section 39,
15 to new municipal waste incineration facilities only if the
16 Agency finds that such facilities are designed, constructed and
17 operated so as to comply with the requirements prescribed by
18 this Section.

19 Prior to adoption of Board regulations under subsection (d)
20 of this Section the Agency may issue permits for the
21 construction of new municipal waste incineration facilities.
22 The Agency determination of Best Available Control Technology
23 shall be based upon consideration of the specific pollutants
24 named in subsection (d), and emissions of particulate matter,
25 sulfur dioxide and nitrogen oxides.

26 Nothing in this Section shall limit the applicability of

1 any other Sections of this Act, or of other standards or
2 regulations adopted by the Board, to municipal waste
3 incineration facilities. In issuing such permits, the Agency
4 may prescribe those conditions necessary to assure continuing
5 compliance with the emission limits and operating standards
6 determined pursuant to subsection (b); such conditions may
7 include the monitoring and reporting of emissions.

8 (d) Within one year after July 1, 1986, the Board shall
9 adopt regulations pursuant to Title VII of this Act, which
10 define the terms in items (2), (3) and (4) of subsection (b) of
11 this Section which are to be used by the Agency in making its
12 determination pursuant to this Section. The provisions of
13 Section 27(b) of this Act shall not apply to this rulemaking.

14 Such regulations shall be written so that the categories of
15 pollutants include, but need not be limited to, the following
16 specific pollutants:

17 (1) hydrogen chloride in the definition of acid gases;

18 (2) arsenic, cadmium, mercury, chromium, nickel and
19 lead in the definition of heavy metals; and

20 (3) polychlorinated dibenzo-p-dioxins, polychlorinated
21 dibenzofurans and polynuclear aromatic hydrocarbons in the
22 definition of organic materials.

23 (e) For the purposes of this Section, the term "Best
24 Available Control Technology" means an emission limitation
25 (including a visible emission standard) based on the maximum
26 degree of pollutant reduction which the Agency, on a

1 case-by-case basis, taking into account energy, environmental
2 and economic impacts, determines is achievable through the
3 application of production processes or available methods,
4 systems and techniques, including fuel cleaning or treatment or
5 innovative fuel combustion techniques. If the Agency
6 determines that technological or economic limitations on the
7 application of measurement methodology to a particular class of
8 sources would make the imposition of an emission standard not
9 feasible, it may instead prescribe a design, equipment, work
10 practice or operational standard, or combination thereof, to
11 require the application of best available control technology.
12 Such standard shall, to the degree possible, set forth the
13 emission reduction achievable by implementation of such
14 design, equipment, work practice or operation and shall provide
15 for compliance by means which achieve equivalent results.

16 (f) "Municipal waste incineration" means the burning of
17 municipal waste or fuel derived therefrom in a combustion
18 apparatus designed to burn municipal waste that may produce
19 electricity or steam as a by-product. A "new municipal waste
20 incinerator" is an incinerator initially permitted for
21 development or construction after January 1, 1986. For purposes
22 of this Section, municipal waste and fuel derived from
23 municipal waste do not include non-hazardous secondary
24 material that is excluded from solid waste when used
25 legitimately as a fuel or ingredient in a combustion unit in
26 accordance with the standards and criteria set forth in 40 CFR

1 Part 241, as amended. The determination of whether a material
2 is a solid waste pursuant to the standards and criteria in Part
3 241 shall be obtained from the United States Environmental
4 Protection Agency (USEPA) in accordance with the procedures for
5 USEPA determinations at 40 CFR Part 241 or from the Pollution
6 Control Board. For purposes of this Section, the determinations
7 shall apply only to non-hazardous secondary materials pursuant
8 to Part 241 that are also "municipal waste" pursuant to Section
9 3.290 of the Act. The following shall apply to waste
10 determinations made by the Board under this subsection (f):

11 (1) The Board shall make the waste determinations in
12 accordance with the standards and criteria for discarded
13 non-hazardous secondary materials as provided at 40 CFR
14 Part 241.

15 (2) To make its determinations, the Board shall use the
16 adjusted standard procedures used for hazardous and
17 non-hazardous solid waste determinations but may adopt
18 substantially similar procedures tailored for waste
19 determinations as an alternative to using the adjusted
20 standard procedures.

21 (3) The Board's waste determinations shall apply to a
22 specific fuel or ingredient from a specific processor.
23 Waste determinations may be tailored to the use of the fuel
24 or ingredient at a single unit or facility or may apply to
25 the use of the fuel or ingredient at multiple units or
26 facilities. The waste determinations may be subject to

1 conditions.

2 (g) The provisions of this Section shall not apply to
3 industrial incineration facilities that burn waste generated
4 at the same site.

5 (Source: P.A. 91-357, eff. 7-29-99; 92-574, eff. 6-26-02.)

6 (415 ILCS 5/22.16b) (from Ch. 111 1/2, par. 1022.16b)

7 Sec. 22.16b. (a) Beginning January 1, 1991, the Agency
8 shall assess and collect a fee from the owner or operator of
9 each new municipal waste incinerator. The fee shall be
10 calculated by applying the rates established from time to time
11 for the disposal of solid waste at sanitary landfills under
12 subdivision (b)(1) of Section 22.15 to the total amount of
13 municipal waste accepted for incineration at the new municipal
14 waste incinerator. The exemptions provided by this Act to the
15 fees imposed under subsection (b) of Section 22.15 shall not
16 apply to the fee imposed by this Section.

17 The owner or operator of any new municipal waste
18 incinerator permitted after January 1, 1990, but before July 1,
19 1990 by the Agency for the development or operation of a new
20 municipal waste incinerator shall be exempt from this fee, but
21 shall include the following conditions:

22 (1) The owner or operator shall provide information
23 programs to those communities serviced by the owner or
24 operator concerning recycling and separation of waste not
25 suitable for incineration.

1 (2) The owner or operator shall provide information
2 programs to those communities serviced by the owner or
3 operator concerning the Agency's household hazardous waste
4 collection program and participation in that program.

5 For the purposes of this Section, "new municipal waste
6 incinerator" means a municipal waste incinerator initially
7 permitted for development or construction on or after January
8 1, 1990. A municipal waste incinerator is the same as a
9 municipal waste incineration facility under Section 9.4 of this
10 Act.

11 Amounts collected under this subsection shall be deposited
12 into the Municipal Waste Incinerator Tax Fund, which is hereby
13 established as an interest-bearing special fund in the State
14 Treasury. Monies in the Fund may be used, subject to
15 appropriation:

16 (1) by the Department of Commerce and Economic
17 Opportunity to fund its public information programs on
18 recycling in those communities served by new municipal
19 waste incinerators; and

20 (2) by the Agency to fund its household hazardous waste
21 collection activities in those communities served by new
22 municipal waste incinerators.

23 (b) Any permit issued by the Agency for the development or
24 operation of a new municipal waste incinerator shall include
25 the following conditions:

26 (1) The incinerator must be designed to provide

1 continuous monitoring while in operation, with direct
2 transmission of the resultant data to the Agency, until the
3 Agency determines the best available control technology
4 for monitoring the data. The Agency shall establish the
5 test methods, procedures and averaging periods, as
6 certified by the USEPA for solid waste incinerator units,
7 and the form and frequency of reports containing results of
8 the monitoring. Compliance and enforcement shall be based
9 on such reports. Copies of the results of such monitoring
10 shall be maintained on file at the facility concerned for
11 one year, and copies shall be made available for inspection
12 and copying by interested members of the public during
13 business hours.

14 (2) The facility shall comply with the emission limits
15 adopted by the Agency under subsection (c).

16 (3) The operator of the facility shall take reasonable
17 measures to ensure that waste accepted for incineration
18 complies with all legal requirements for incineration. The
19 incinerator operator shall establish contractual
20 requirements or other notification and inspection
21 procedures sufficient to assure compliance with this
22 subsection (b) (3) which may include, but not be limited to,
23 routine inspections of waste, lists of acceptable and
24 unacceptable waste provided to haulers and notification to
25 the Agency when the facility operator rejects and sends
26 loads away. The notification shall contain at least the

1 name of the hauler and the site from where the load was
2 hauled.

3 (4) The operator may not accept for incineration any
4 waste generated or collected in a municipality that has not
5 implemented a recycling plan or is party to an implemented
6 county plan, consistent with State goals and objectives.
7 Such plans shall include provisions for collecting,
8 recycling or diverting from landfills and municipal
9 incinerators landscape waste, household hazardous waste
10 and batteries. Such provisions may be performed at the site
11 of the new municipal incinerator.

12 The Agency, after careful scrutiny of a permit application
13 for the construction, development or operation of a new
14 municipal waste incinerator, shall deny the permit if (i) the
15 Agency finds in the permit application noncompliance with the
16 laws and rules of the State or (ii) the application indicates
17 that the mandated air emissions standards will not be reached
18 within six months of the proposed municipal waste incinerator
19 beginning operation.

20 (c) The Agency shall adopt specific limitations on the
21 emission of mercury, chromium, cadmium and lead, and good
22 combustion practices, including temperature controls from
23 municipal waste incinerators pursuant to Section 9.4 of the
24 Act.

25 (d) The Agency shall establish household hazardous waste
26 collection centers in appropriate places in this State. The

1 Agency may operate and maintain the centers itself or may
2 contract with other parties for that purpose. The Agency shall
3 ensure that the wastes collected are properly disposed of. The
4 collection centers may charge fees for their services, not to
5 exceed the costs incurred. Such collection centers shall not
6 (i) be regulated as hazardous waste facilities under RCRA nor
7 (ii) be subject to local siting approval under Section 39.2 if
8 the local governing authority agrees to waive local siting
9 approval procedures.

10 (Source: P.A. 94-793, eff. 5-19-06.)

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