



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5802

Introduced 11/16/2022, by Rep. Charles Meier

SYNOPSIS AS INTRODUCED:

415 ILCS 5/9.15

Amends the Environmental Protection Act. In provisions concerning the regulation of greenhouse gases, provides that specified provisions shall not apply to or be enforced against an EGU during a calendar year if the EGU operates in either MISO Zone 4 or the PJM ComEd Zone and one of several specified entities indicates or forecasts that during that calendar year a resource adequacy shortfall will occur in that Zone. Effective immediately.

LRB102 28648 CPF 40534 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 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 CO₂ 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 "CO₂e" 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 "Copollutants" 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 CO₂e, the total average tons-per-year of CO₂e
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_x emission rate" means the plant annual NO_x 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 "SO₂ emission rate" means the "plant annual SO₂ 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 CO₂e 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 CO₂e emissions to zero no later than
10 December 31, 2045. Any source or plant with such units must
11 also reduce their CO₂e 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 CO₂e 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 CO₂e 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, 2030: all EGUs and large
25 greenhouse gas-emitting units that have a NO_x emissions
26 rate of greater than 0.12 lbs/MWh or a SO₂ emission rate of

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

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

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

1 community. Each such EGU and large greenhouse gas-emitting
2 unit shall reduce its CO₂e emissions by at least 50% from
3 its existing emissions for CO₂e no later than January 1,
4 2030.

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

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

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

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

26 (k-5) No EGU or large greenhouse gas-emitting unit that

1 uses gas as a fuel and is not a public GHG-emitting unit may
2 emit, in any 12-month period, CO₂e or copollutants in excess of
3 that unit's existing emissions for those pollutants.

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

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

23 (2) if any EGU or large GHG-emitting unit that is a
24 participant in a regional transmission organization
25 receives notice that the regional transmission
26 organization has determined that continued operation of

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

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

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

22 (m-5) Subsections (g) through (m) shall not apply to or be
23 enforced against an EGU during a calendar year if the EGU
24 operates in either MISO Zone 4 or the PJM ComEd Zone and the
25 PJM Interconnection LLC, or the Midcontinent Independent
26 System Operator, Inc., or their respective successor

1 organizations indicate or forecast that during that calendar
2 year a resource adequacy shortfall will occur in that Zone.

3 (n) By June 30 of each year, beginning in 2025, the Agency
4 shall prepare and publish on its website a report setting
5 forth the actual greenhouse gas emissions from individual
6 units and the aggregate statewide emissions from all units for
7 the prior year.

8 (o) Every 5 years beginning in 2025, the Environmental
9 Protection Agency, Illinois Power Agency, and Illinois
10 Commerce Commission shall jointly prepare, and release
11 publicly, a report to the General Assembly that examines the
12 State's current progress toward its renewable energy resource
13 development goals, the status of CO₂e and copollutant
14 emissions reductions, the current status and progress toward
15 developing and implementing green hydrogen technologies, the
16 current and projected status of electric resource adequacy and
17 reliability throughout the State for the period beginning 5
18 years ahead, and proposed solutions for any findings. The
19 Environmental Protection Agency, Illinois Power Agency, and
20 Illinois Commerce Commission shall consult PJM
21 Interconnection, LLC and Midcontinent Independent System
22 Operator, Inc., or their respective successor organizations
23 regarding forecasted resource adequacy and reliability needs,
24 anticipated new generation interconnection, new transmission
25 development or upgrades, and any announced large GHG-emitting
26 unit closure dates and include this information in the report.

1 The report shall be released publicly by no later than
2 December 15 of the year it is prepared. If the Environmental
3 Protection Agency, Illinois Power Agency, and Illinois
4 Commerce Commission jointly conclude in the report that the
5 data from the regional grid operators, the pace of renewable
6 energy development, the pace of development of energy storage
7 and demand response utilization, transmission capacity, and
8 the CO₂e and copollutant emissions reductions required by
9 subsection (i) or (k-5) reasonably demonstrate that a resource
10 adequacy shortfall will occur, including whether there will be
11 sufficient in-state capacity to meet the zonal requirements of
12 MISO Zone 4 or the PJM ComEd Zone, per the requirements of the
13 regional transmission organizations, or that the regional
14 transmission operators determine that a reliability violation
15 will occur during the time frame the study is evaluating, then
16 the Illinois Power Agency, in conjunction with the
17 Environmental Protection Agency shall develop a plan to reduce
18 or delay CO₂e and copollutant emissions reductions
19 requirements only to the extent and for the duration necessary
20 to meet the resource adequacy and reliability needs of the
21 State, including allowing any plants whose emission reduction
22 deadline has been identified in the plan as creating a
23 reliability concern to continue operating, including operating
24 with reduced emissions or as emergency backup where
25 appropriate. The plan shall also consider the use of renewable
26 energy, energy storage, demand response, transmission

1 development, or other strategies to resolve the identified
2 resource adequacy shortfall or reliability violation.

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

1 approval.

2 (2) Within 60 days after the filing of the revised
3 plan at the Illinois Commerce Commission, any person
4 objecting to the plan shall file an objection with the
5 Illinois Commerce Commission. Within 30 days after the
6 expiration of the comment period, the Illinois Commerce
7 Commission shall determine whether an evidentiary hearing
8 is necessary. The Illinois Commerce Commission shall also
9 host 3 public hearings within 90 days after the plan is
10 filed. Following the evidentiary and public hearings, the
11 Illinois Commerce Commission shall enter its order
12 approving or approving with modifications the reliability
13 mitigation plan within 180 days.

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

25 (4) If the resource adequacy or reliability deficiency
26 identified in the reliability mitigation plan is resolved

1 or reduced, the Environmental Protection Agency and the
2 Illinois Power Agency may file an amended plan adjusting
3 the reduction or delay in CO₂e and copollutant emission
4 reduction requirements identified in the plan.

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

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