

SB3672



97TH GENERAL ASSEMBLY

State of Illinois

2011 and 2012

SB3672

Introduced 2/10/2012, by Sen. Sue Rezin

SYNOPSIS AS INTRODUCED:

415 ILCS 5/7.2
415 ILCS 5/10

from Ch. 111 1/2, par. 1007.2
from Ch. 111 1/2, par. 1010

Amends the Environmental Protection Act. Limits the authority of the Illinois Pollution Control Board to prescribe ambient air quality standards for criteria air pollutants, such as Nitrogen Dioxide, if those standards are more exacting than the National Ambient Air Quality Standards set by the Administrator of the United States Environmental Protection Agency. Effective immediately.

LRB097 17982 JDS 63205 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 Sections 7.2 and 10 as follows:

6 (415 ILCS 5/7.2) (from Ch. 111 1/2, par. 1007.2)

7 Sec. 7.2. (a) In the context of a mandate that the Board
8 adopt regulations to secure federal authorization for a
9 program, regulations that are "identical in substance" means
10 State regulations which require the same actions with respect
11 to protection of the environment, by the same group of affected
12 persons, as would federal regulations if USEPA administered the
13 subject program in Illinois. After consideration of comments
14 from the USEPA, the Agency, the Attorney General and the
15 public, the Board shall adopt the verbatim text of such USEPA
16 regulations as are necessary and appropriate for authorization
17 of the program. In adopting "identical in substance"
18 regulations, the only changes that may be made by the Board to
19 the federal regulations are those changes that are necessary
20 for compliance with the Illinois Administrative Code, and
21 technical changes that in no way change the scope or meaning of
22 any portion of the regulations, except as follows:

23 (1) The Board shall not adopt the equivalent of USEPA

1 rules that are not applicable to persons or facilities in
2 Illinois, that govern the program authorization process,
3 that are appropriate only in USEPA-administered programs,
4 or that govern actions to be taken by USEPA, other federal
5 agencies or other states.

6 (2) The Board shall not adopt rules prescribing things
7 which are outside the Board's normal functions, such as
8 rules specifying staffing or funding requirements for
9 programs.

10 (3) If a USEPA rule prescribes the contents of a State
11 regulation without setting forth the regulation itself,
12 which would be an integral part of any regulation required
13 to be adopted as an "identical in substance" regulation as
14 defined in this Section, the Board shall adopt a regulation
15 as prescribed, to the extent possible consistent with other
16 relevant USEPA regulations and existing State law. The
17 Board may not use this subsection to adopt any regulation
18 which is a required rule as that term is defined by Section
19 28.2 of this Act. To the extent practicable, the Board in
20 its proposed and adopted opinion shall include its
21 rationale for adopting such regulation.

22 (4) Pursuant to subsection (a) of Section 5-75 of the
23 Illinois Administrative Procedure Act, the Board may
24 incorporate USEPA rules by reference where it is possible
25 to do so without causing confusion to the affected public.

26 (5) If USEPA intends to retain decision-making

1 authority for a portion of the program, the Board
2 regulation shall so specify. In addition, the Board
3 regulation shall specify whether a decision is to be made
4 by the Board, the Agency or some other State agency, based
5 upon the general division of functions within this Act and
6 other Illinois statutes.

7 (6) Wherever appropriate, the Board regulations shall
8 reflect any consistent, more stringent regulations adopted
9 pursuant to the rulemaking requirements of Title VII of
10 this Act and Section 5-35 of the Illinois Administrative
11 Procedure Act.

12 (7) The Board may correct apparent typographical and
13 grammatical errors in USEPA rules.

14 (b) In adopting regulations that are "identical in
15 substance" with specified federal regulations under subsection
16 (c) of Section 13, Section 13.3, Section 17.5, subsection (a)
17 or (d) of Section 22.4, subsection (a) of Section 22.7, or
18 subsection (a) of Section 22.40, subsection (H) of Section 10
19 or specified federal determinations under subsection (e) of
20 Section 9.1, the Board shall complete its rulemaking
21 proceedings within one year after the adoption of the
22 corresponding federal rule. If the Board consolidates multiple
23 federal rulemakings into a single Board rulemaking, the
24 one-year period shall be calculated from the adoption date of
25 the federal rule first adopted among those consolidated. After
26 adopting an "identical in substance" rule, if the Board

1 determines that an amendment is needed to that rule, the Board
2 shall initiate a rulemaking proceeding to propose such
3 amendment. The amendment shall be adopted within one year of
4 the initiation of the Board's determination.

5 Additionally, if the Board, after adopting an "identical in
6 substance" rule, determines that a technical correction to that
7 rule is needed, the Board may initiate an application for
8 certification of correction under Section 5-85 of the Illinois
9 Administrative Procedure Act.

10 The one-year period may be extended by the Board for an
11 additional period of time if necessary to complete the
12 rulemaking proceeding. In order to extend the one-year period,
13 the Board must make a finding, based upon the record in the
14 rulemaking proceeding, that the one-year period is
15 insufficient for completion of the rulemaking, and such finding
16 shall specifically state the reasons for the extension. Except
17 as otherwise provided above, the Board must make the finding
18 that an extension of time is necessary prior to the expiration
19 of the initial one-year period, and must also publish a notice
20 of extension in the Illinois Register as expeditiously as
21 practicable following its decision, stating the specific
22 reasons for the Board's decision to extend. The notice of
23 extension need not appear in the Illinois Register prior to the
24 expiration of the initial one year period and shall specify a
25 date certain by which the Board anticipates completion of the
26 rulemaking, except that if a date certain cannot be specified

1 because of a need to delay adoption pending occurrence of an
2 event beyond the Board's control, the notice shall specify the
3 event, explain its circumstances, and contain an estimate of
4 the amount of time needed to complete the rulemaking after the
5 occurrence of the specified event.

6 (Source: P.A. 87-830; 88-45; 88-496.)

7 (415 ILCS 5/10) (from Ch. 111 1/2, par. 1010)

8 Sec. 10. Regulations.

9 (A) The Board, pursuant to procedures prescribed in Title
10 VII of this Act, may adopt regulations to promote the purposes
11 of this Title. Without limiting the generality of this
12 authority, such regulations may among other things prescribe:

13 (a) (Blank); ~~Ambient air quality standards specifying~~
14 ~~the maximum permissible short term and long term~~
15 ~~concentrations of various contaminants in the atmosphere;~~

16 (b) Emission standards specifying the maximum amounts
17 or concentrations of various contaminants that may be
18 discharged into the atmosphere;

19 (c) Standards for the issuance of permits for
20 construction, installation, or operation of any equipment,
21 facility, vehicle, vessel, or aircraft capable of causing
22 or contributing to air pollution or designed to prevent air
23 pollution;

24 (d) Standards and conditions regarding the sale,
25 offer, or use of any fuel, vehicle, or other article

1 determined by the Board to constitute an air-pollution
2 hazard;

3 (e) Alert and abatement standards relative to
4 air-pollution episodes or emergencies constituting an
5 acute danger to health or to the environment;

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

9 (g) Requirements and standards for equipment and
10 procedures for monitoring contaminant discharges at their
11 sources, the collection of samples and the collection,
12 reporting and retention of data resulting from such
13 monitoring.

14 (B) The Board may adopt regulations and emission standards
15 that are applicable or that may become applicable to stationary
16 emission sources located in all areas of the State in
17 accordance with any of the following:

18 (1) that are required by federal law;

19 (2) that are otherwise part of the State's attainment
20 plan and are necessary to attain the national ambient air
21 quality standards; or

22 (3) that are necessary to comply with the requirements
23 of the federal Clean Air Act.

24 (C) The Board may not adopt any regulation banning the
25 burning of landscape waste throughout the State generally. The
26 Board may, by regulation, restrict or prohibit the burning of

1 landscape waste within any geographical area of the State if it
2 determines based on medical and biological evidence generally
3 accepted by the scientific community that such burning will
4 produce in the atmosphere of that geographical area
5 contaminants in sufficient quantities and of such
6 characteristics and duration as to be injurious to humans,
7 plant, or animal life, or health.

8 (D) The Board shall adopt regulations requiring the owner
9 or operator of a gasoline dispensing system that dispenses more
10 than 10,000 gallons of gasoline per month to install and
11 operate a system for the recovery of gasoline vapor emissions
12 arising from the fueling of motor vehicles that meets the
13 requirements of Section 182 of the federal Clean Air Act (42
14 USC 7511a). These regulations shall apply only in areas of the
15 State that are classified as moderate, serious, severe or
16 extreme nonattainment areas for ozone pursuant to Section 181
17 of the federal Clean Air Act (42 USC 7511), but shall not apply
18 in such areas classified as moderate nonattainment areas for
19 ozone if the Administrator of the U.S. Environmental Protection
20 Agency promulgates standards for vehicle-based (onboard)
21 systems for the control of vehicle refueling emissions pursuant
22 to Section 202(a)(6) of the federal Clean Air Act (42 USC
23 7521(a)(6)) by November 15, 1992.

24 (E) The Board shall not adopt or enforce any regulation
25 requiring the use of a tarpaulin or other covering on a truck,
26 trailer, or other vehicle that is stricter than the

1 requirements of Section 15-109.1 of the Illinois Vehicle Code.
2 To the extent that it is in conflict with this subsection, the
3 Board's rule codified as 35 Ill. Admin. Code, Section 212.315
4 is hereby superseded.

5 (F) Any person who prior to June 8, 1988, has filed a
6 timely Notice of Intent to Petition for an Adjusted RACT
7 Emissions Limitation and who subsequently timely files a
8 completed petition for an adjusted RACT emissions limitation
9 pursuant to 35 Ill. Adm. Code, Part 215, Subpart I, shall be
10 subject to the procedures contained in Subpart I but shall be
11 excluded by operation of law from 35 Ill. Adm. Code, Part 215,
12 Subparts PP, QQ and RR, including the applicable definitions in
13 35 Ill. Adm. Code, Part 211. Such persons shall instead be
14 subject to a separate regulation which the Board is hereby
15 authorized to adopt pursuant to the adjusted RACT emissions
16 limitation procedure in 35 Ill. Adm. Code, Part 215, Subpart I.
17 In its final action on the petition, the Board shall create a
18 separate rule which establishes Reasonably Available Control
19 Technology (RACT) for such person. The purpose of this
20 procedure is to create separate and independent regulations for
21 purposes of SIP submittal, review, and approval by USEPA.

22 (G) Subpart FF of Subtitle B, Title 35 Ill. Adm. Code,
23 Sections 218.720 through 218.730 and Sections 219.720 through
24 219.730, are hereby repealed by operation of law and are
25 rendered null and void and of no force and effect.

26 (H) The Board shall adopt ambient air quality standards

1 specifying the maximum permissible short-term and long-term
2 concentrations of various contaminants in the atmosphere;
3 those standards shall be identical in substance to the national
4 ambient air quality standards promulgated by the Administrator
5 of the United States Environmental Protection Agency in
6 accordance with Section 109 of the Clean Air Act.

7 (Source: P.A. 95-460, eff. 8-27-07.)

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