

SB0695



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0695

Introduced 2/25/2021, by Sen. Melinda Bush

SYNOPSIS AS INTRODUCED:

415 ILCS 5/28.5
415 ILCS 5/56.2

from Ch. 111 1/2, par. 1056.2

Amends the Environmental Protection Act. Removes language providing that a Section regarding Clean Air Act rules only applies through December 31, 2021. Allows any person, including the Agency, to propose rules to amend the listing of etiologic agents identified as Class 4 agents and to consult specified classifications published by various entities. Removes provisions requiring the Pollution Control Board to adopt rules identical to a specified publication and replaces them with a requirement for the Board to take action on a proposal to amend the listing of Class 4 agents not later than 6 months after receiving it. Effective immediately.

LRB102 13997 CPF 19349 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 28.5 and 56.2 as follows:

6 (415 ILCS 5/28.5)

7 Sec. 28.5. Clean Air Act rules; fast-track.

8 (a) This Section ~~applies through December 31, 2021 and~~
9 applies solely to the adoption of rules proposed by the Agency
10 and required to be adopted by the State under the Clean Air Act
11 as amended by the Clean Air Act Amendments of 1990 (CAAA).

12 (b) For purposes of this Section, a "fast-track"
13 rulemaking proceeding is a proceeding to promulgate a rule
14 that the CAAA requires to be adopted. For the purposes of this
15 Section, "requires to be adopted" refers only to those
16 regulations or parts of regulations for which the United
17 States Environmental Protection Agency is empowered to impose
18 sanctions against the State for failure to adopt such rules.
19 All fast-track rules must be adopted under procedures set
20 forth in this Section, unless another provision of this Act
21 specifies the method for adopting a specific rule.

22 (c) When the CAAA requires rules other than identical in
23 substance rules to be adopted, upon request by the Agency, the

1 Board must adopt rules under fast-track rulemaking
2 requirements.

3 (d) The Agency must submit its fast-track rulemaking
4 proposal in the following form:

5 (1) The Agency must file the rule in a form that meets
6 the requirements of the Illinois Administrative Procedure
7 Act and regulations promulgated thereunder.

8 (2) The cover sheet of the proposal shall prominently
9 state that the rule is being proposed under this Section.

10 (3) The proposal shall clearly identify the provisions
11 and portions of the federal statute, regulations,
12 guidance, policy statement, or other documents upon which
13 the rule is based.

14 (4) The supporting documentation for the rule shall
15 summarize the basis of the rule.

16 (5) The Agency must describe in general the
17 alternative selected and the basis for the alternative.

18 (6) The Agency must file a summary of economic and
19 technical data upon which it relied in drafting the rule.

20 (7) The Agency must provide a list of any documents
21 upon which it directly relied in drafting the rule or upon
22 which it intends to rely at the hearings and must provide
23 such documents to the Board. Additionally, the Agency must
24 make such documents available at an appropriate location
25 for inspection and copying at the expense of the
26 interested party.

1 (8) The Agency must include in its submission a
2 description of the geographical area to which the rule is
3 intended to apply, a description of the process or
4 processes affected, an identification by classes of the
5 entities expected to be affected, and a list of sources
6 expected to be affected by the rule to the extent known to
7 the Agency.

8 (e) Within 14 days of receipt of the proposal, the Board
9 must file the rule for first notice under the Illinois
10 Administrative Procedure Act and must schedule all required
11 hearings on the proposal and cause public notice to be given in
12 accordance with the Illinois Administrative Procedure Act and
13 the CAAA.

14 (f) The Board must set 3 hearings on the proposal, each of
15 which shall be scheduled to continue from day to day,
16 excluding weekends and State and federal holidays, until
17 completed. The Board must require the written submission of
18 all testimony at least 10 days before a hearing, with
19 simultaneous service to all participants of record in the
20 proceeding as of 15 days prior to hearing, unless a waiver is
21 granted by the Board for good cause. In order to further
22 expedite the hearings, presubmitted testimony shall be
23 accepted into the record without the reading of the testimony
24 at hearing, provided that the witness swears to the testimony
25 and is available for questioning, and the Board must make
26 every effort to conduct the proceedings expeditiously and

1 avoid duplication and extraneous material.

2 (1) The first hearing shall be held within 55 days of
3 receipt of the rule and shall be confined to testimony by
4 and questions of the Agency's witnesses concerning the
5 scope, applicability, and basis of the rule. Within 7 days
6 after the first hearing, any person may request that the
7 second hearing be held.

8 (A) If, after the first hearing, the Agency and
9 affected entities are in agreement on the rule, the
10 United States Environmental Protection Agency has not
11 informed the Board of any unresolved objection to the
12 rule, and no other interested party contests the rule
13 or asks for the opportunity to present additional
14 evidence, the Board may cancel the additional
15 hearings. When the Board adopts the final order under
16 these circumstances, it shall be based on the Agency's
17 proposal as agreed to by the parties.

18 (B) If, after the first hearing, the Agency and
19 affected entities are in agreement upon a portion of
20 the rule, the United States Environmental Protection
21 Agency has not informed the Board of any unresolved
22 objections to that agreed portion of the rule, and no
23 other interested party contests that agreed portion of
24 the rule or asks for the opportunity to present
25 additional evidence, the Board must proceed to the
26 second hearing, as provided in paragraph (2) of

1 subsection (g) of this Section, but the hearing shall
2 be limited in scope to the unresolved portion of the
3 proposal. When the Board adopts the final order under
4 these circumstances, it shall be based on such portion
5 of the Agency's proposal as agreed to by the parties.

6 (2) The second hearing shall be scheduled to commence
7 within 30 days of the first day of the first hearing and
8 shall be devoted to presentation of testimony, documents,
9 and comments by affected entities and all other interested
10 parties.

11 (3) The third hearing shall be scheduled to commence
12 within 14 days after the first day of the second hearing
13 and shall be devoted solely to any Agency response to the
14 material submitted at the second hearing and to any
15 response by other parties. The third hearing shall be
16 cancelled if the Agency indicates to the Board that it
17 does not intend to introduce any additional material.

18 (g) In any fast-track rulemaking proceeding, the Board
19 must accept evidence and comments on the economic impact of
20 any provision of the rule and must consider the economic
21 impact of the rule based on the record. The Board may order an
22 economic impact study in a manner that will not prevent
23 adoption of the rule within the time required by subsection
24 (n) of this Section.

25 (h) In all fast-track rulemakings under this Section, the
26 Board must take into account factors set forth in subsection

1 (a) of Section 27 of this Act.

2 (i) The Board must adopt rules in the fast-track
3 rulemaking docket under the requirements of this Section that
4 the CAAA requires to be adopted, and may consider a
5 non-required rule in a second docket that shall proceed under
6 Title VII of this Act.

7 (j) The Board is directed to take whatever measures are
8 available to it to complete fast-track rulemaking as
9 expeditiously as possible consistent with the need for careful
10 consideration. These measures shall include, but not be
11 limited to, having hearings transcribed on an expedited basis.

12 (k) Following the hearings, the Board must close the
13 record 14 days after the availability of the transcript.

14 (l) The Board must not revise or otherwise change an
15 Agency fast-track rulemaking proposal without agreement of the
16 Agency until after the end of the hearing and comment period.
17 Any revisions to an Agency proposal shall be based on the
18 record of the proceeding.

19 (m) All rules adopted by the Board under this Section
20 shall be based solely on the record before it.

21 (n) The Board must complete a fast-track rulemaking by
22 adopting a second notice order no later than 130 days after
23 receipt of the proposal if no third hearing is held and no
24 later than 150 days if the third hearing is held. If the order
25 includes a rule, the Illinois Board must file the rule for
26 second notice under the Illinois Administrative Procedure Act

1 within 5 days after adoption of the order.

2 (o) Upon receipt of a statement of no objection to the rule
3 from the Joint Committee on Administrative Rules, the Board
4 must adopt the final order and submit the rule to the Secretary
5 of State for publication and certification within 21 days.

6 (Source: P.A. 101-645, eff. 6-26-20.)

7 (415 ILCS 5/56.2) (from Ch. 111 1/2, par. 1056.2)

8 Sec. 56.2. Regulations.

9 (a) No later than July 1, 1993, the Board shall adopt
10 regulations in accordance with Title VII of this Act
11 prescribing design and operating standards and criteria for
12 all potentially infectious medical waste treatment, storage,
13 and transfer facilities. At a minimum, these regulations shall
14 require treatment of potentially infectious medical waste at a
15 facility that:

16 (1) eliminates the infectious potential of the waste;

17 (2) prevents compaction and rupture of containers
18 during handling operations;

19 (3) disposes of treatment residuals in accordance with
20 this Act and regulations adopted thereunder;

21 (4) provides for quality assurance programs;

22 (5) provides for periodic testing using biological
23 testing, where appropriate, that demonstrate proper
24 treatment of the waste;

25 (6) provides for assurances that clearly demonstrate

1 that potentially infectious medical waste has been
2 properly treated; and

3 (7) is in compliance with all Federal and State laws
4 and regulations pertaining to environmental protection.

5 (b) After the effective date of the Board regulations
6 adopted under subsection (a), each applicant for a potentially
7 infectious medical waste treatment permit shall prove that the
8 facility will not cause a violation of the Act or of
9 regulations adopted thereunder.

10 (c) No later than July 1, 1993, the Board shall adopt
11 regulations in accordance with Title VII of this Act
12 prescribing standards and criteria for transporting,
13 packaging, segregating, labeling, and marking potentially
14 infectious medical waste.

15 (d) In accord with Title VII of this Act, no later than
16 January 1, 1992, the Board shall repeal Subpart I of 35 Ill.
17 Adm. Code 809.

18 (e) No later than January 1, 1992, the Board shall adopt
19 rules that are identical in substance to the list of etiologic
20 agents identified as Class 4 agents as set forth in
21 "Classification of Etiological Agents on the Basis of Hazard,
22 1974", published by the Centers for Disease Control. On and
23 after the effective date of this amendatory act of the 102nd
24 General Assembly, any person, including the Agency, may
25 propose rules under Section 28 to amend ~~If the Centers for~~
26 ~~Disease Control amends~~ the listing of etiologic agents

1 identified as Class 4 agents. When proposing rules, the
2 proponent may consult classifications published by the U.S.
3 Department of Health and Human Services, "Guidelines for
4 Research Involving Recombinant DNA Molecules" published by the
5 National Institutes for Health, or "Biosafety in
6 Microbiological and Biomedical Laboratories" published by the
7 Centers for Disease Control and Prevention. The ~~as set forth~~
8 ~~in "Classification of Etiological Agents on the Basis of~~
9 ~~Hazard, 1974", the Board shall take action on a proposal to~~
10 ~~amend the listing of Class 4 agents not later than 6 months~~
11 ~~after receiving it adopt rules that are identical in substance~~
12 ~~to the amended list within 180 days after the Centers for~~
13 ~~Disease Control's amendment. The provisions and requirements~~
14 ~~of Title VII of this Act shall not apply to rules adopted under~~
15 ~~this subsection (c). Section 5 of the Illinois Administrative~~
16 ~~Procedure Act relating to the procedures for rulemaking shall~~
17 ~~not apply to rules adopted under this subsection (c).~~

18 (f) In accord with Title VII of this Act, the Board may
19 adopt regulations to promote the purposes of this Title. The
20 regulations prescribed in subsection (a), (c), and (e) shall
21 not limit the generality of this authority.

22 (Source: P.A. 92-574, eff. 6-26-02.)

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