HB2791

LRB102 13995 CPF 19347 b

102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2791

Introduced 2/19/2021, by Rep. Ann M. Williams

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.

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A BILL FOR

AN ACT concerning safety.

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 Sections 28.5 and 56.2 as follows:

(415 ILCS 5/28.5)

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

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

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

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

Board must adopt rules under fast-track rulemaking requirements.

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

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

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

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

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

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

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

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

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

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

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

avoid duplication and extraneous material.

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

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

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

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

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

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

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

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

(a) of Section 27 of this Act.

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

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

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

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

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

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

within 5 days after adoption of the order.

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

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

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

Sec. 56.2. Regulations.

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

(1) eliminates the infectious potential of the waste;

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

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

(4) provides for quality assurance programs;

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

(6) provides for assurances that clearly demonstrate

that potentially infectious medical waste has been properly treated; and

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

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

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

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

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

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

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

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

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