

ILLINOIS POLLUTION CONTROL BOARD
May 10, 2018

IN THE MATTER OF)
)
AMENDMENTS TO 35 ILL. ADM. CODE) R18-29
SUBTITLE M: BIOLOGICAL MATERIALS) (Rulemaking – Biological Materials)

Proposed Rule. Proposal for Public Comment.

ORDER OF THE BOARD (by C.K. Zalewski):

The Board opened this docket under Part 102 of its procedural rules (35 Ill. Adm. Code 102, Subpart B) and Sections 27 and 28 of the Illinois Environmental Protection Act (Act) (415 ILCS 5/27, 28 (2016)) to amend the Board’s potentially infectious medical waste (PIMW) rules (35 Ill. Adm. Code: Subtitle M). Today, the Board proposes amendments for public comment. In this order, the Board provides background on this rulemaking’s objectives, discusses proposed amendments, requests comment on five specific questions, and concludes with information on how the rulemaking will proceed.

BACKGROUND

This proposal is part of the Board’s comprehensive review of its rules that began in the summer of 2016. Recognizing that some of its rules were no longer current due to changing technology and the passage of time, the Board began reviewing its rules, to streamline, update, and overhaul them. Governor Rauner’s Executive Order 2016-13 provided additional impetus to the Board’s initiative. The Board’s PIMW rules has not been amended since their adoption in 1993 (Potentially Infectious Medical Waste: Treatment, Storage, and Transfer Facilities and Transportation, Packaging, and Labeling: 35 Ill. Adm. Code 1420, 1421, & 1422, R91-20 (Jun. 17, 1993)), despite the enabling statute (Title XV, 415 ILCS 5/56 – 56.7 (2016)) having been substantively amended three times during the ensuing 25 years (P.A. 92-574, Sec. 5 (eff. June 26, 2002); P.A. 94-641, Sec. 10 (eff. Aug. 22, 2005); and P.A. 99-82, Sec. 5 (eff. July 20, 2015)).

PROPOSED AMENDMENTS

The PIMW rules are in Parts 1420, 1421, and 1422, within Subtitle M of the Illinois Administrative Code’s Title 35. These provisions address definitions; prohibitions; permitting; and minimum standards for treatment, packaging, storage, transportation, and disposal.

The Board’s proposed amendments remove legalese and redundant and superfluous language, as well as reorganize some provisions for clarity. The amendments also make additions consistent with amendments to the Act, and change citations and statutory language to comply with the style requirements of the Illinois Administrative Code.

The Board also proposes making four deletions. In Section 1420.102, the Board proposes removing the last sentence in the definition of “reusable container” because it provides no additional clarity. In addition, the Board proposes repealing Section 1421.101 (Compliance Date) and Section 1422.101 (Compliance Date) because they are no longer relevant. And the Board deletes subsection (c) of Section 1422.123—subsection (c) exempts from subsection (b)’s Initial Efficacy Test requirements those treatment units operating before the PIMW rules took effect 25 years ago.

PUBLIC COMMENT ON SPECIFIC QUESTIONS

To aid the Board in this rulemaking, the Board requests public comments on three rule sections in Part 1420. First, regarding Section 1420.102’s definition of “Class 4 etiological agent”, the Board seeks comment on:

1. *Is the list of viral agents complete and consistent with current Center for Disease Control and National Institute of Health listings?*
2. *Do the sources relied on in the Board’s Note need to be updated or supplemented?*

Second, Section 1420.103 incorporates two publications into the PIMW rules. The Board asks for comment on:

3. *Does the list of publications need to be updated by adding a publication, removing a publication, or replacing a listed publication with a more current version?*

Third, Section 56.1 of the Act (415 ILCS 5/56.1 (2016)) was amended to add subsections (k) and (l), which prohibit disposing household sharps with residential recycling. To reflect these prohibitions, the Board proposes adding subsections (k) and (l) to Section 1420.104. The Board requests comment on:

4. *Are “household sharps”—as the term is utilized in Sections 56.1(k) and (l)—“general household waste” and not subject to either 35 Ill. Adm. Code 1422.126 or any other PIMW rules?*
5. *If “household sharps” are not general household waste, are additional amendments to any of the PIMW rules necessary?*

CONCLUSION

The Board adopts these proposed amendments to the PIMW rules for public comment, without submitting them to the *Illinois Register* for first-notice publication. The proposed amendments appear in the addendum to this order. The Board invites public comments on all

aspects of the proposal, including the five questions above. The Board intends to hold two hearings on the proposal, by videoconference in Chicago and Springfield. *See* 35 Ill. Adm. Code 101.600(b), 102.114. Interested persons are encouraged to contact the hearing officer (Martin.E.Klein@Illinois.Gov) to be added to this docket's notice list.

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on May 10, 2018, by a vote of 5-0.

A handwritten signature in black ink that reads "Don A. Brown". The signature is written in a cursive, flowing style.

Don A. Brown, Clerk
Illinois Pollution Control Board