



OFFICE OF THE SECRETARY OF STATE

JESSE WHITE • Secretary of State

January 21, 2020

POLLUTION CONTROL BOARD
DON BROWN
100 W RANDOLPH ST
STE 11-500
CHICAGO, IL 60601

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CLERKS OFFICE
JAN 24 2020
STATE OF ILLINOIS
Pollution Control Board

Dear DON BROWN

Your rules Listed below met our codification standards and have been published in Volume 44, Issue 4 of the Illinois Register, dated 1/24/2020.

PROPOSED RULES

General Provisions
35 Ill. Adm. Code 1420 1768
Point of Contact: Nancy Hoepfner

If you have any questions, you may contact the Administrative Code Division at (217) 782 - 7017.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: General Provisions
- 2) Code Citation: 35 Ill. Adm. Code 1420
- 3) Section Number: 1420.102 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 56.2(e) and 27 of the Illinois Environmental Protection Act [415 ILCS 5/27 and 56.2(e)].
- 5) A Complete Description of the Subjects and Issues Involved: The following briefly describes the subjects and issues involved in the docket R20-17 rulemaking which proposes to amend Section 1420.102. A comprehensive description is contained in the Board's opinion and order of December 19, 2019, which is available from the address below.

The Board reserved this docket to amend Section 1420.102 to correspond with a Section 56.2(e) mandate that the Board adopt rules that are "identical in substance" to the list of "etiologic agents identified as Class 4 agents" in the "Classification of Etiologic Agents on the Basis of Hazard, 1974."

The National Institute of Health (NIH) recently updated that 1974 document by adding four Class 4 etiologic agents. Accordingly, under Section 56.2(e), the Board proposes adding those four agents to the viral agent list within the "Class 4 etiologic agent" definition at 35 Ill. Adm. Code 1420.102: Guanarito virus; Sabia; Ebola Virus; and Equine Morbillivirus.

Section 56.2(e) of the Environmental Protection Act [415 ILCS 5/56.2(e)] provides that Section 5 of the Administrative Procedure Act [5 ILCS 100/5] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None cited by IEPA
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No

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- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least forty-five (45) days after the date of publication in the Illinois Register. Public comments must be filed with the Clerk of the Board. Public comments should reference Docket R20-17 and be addressed to:
- Clerk's Office
Illinois Pollution Control Board
JRTC
100 W. Randolph St., Suite 11-500
Chicago, IL 60601
- Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.
- Interested persons may request copies of the Board's opinion and order in R20-17 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of Professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: The Board expects that this rulemaking will not have an adverse impact on small business.
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2019

The full text of the Proposed Amendment begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE M: BIOLOGICAL MATERIALS
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER b: POTENTIALLY INFECTIOUS MEDICAL WASTES

PART 1420
GENERAL PROVISIONS

Section

1420.101	Scope and Applicability
1420.102	Definitions
1420.103	Incorporations by Reference
1420.104	Prohibitions
1420.105	Permit and Manifest Requirements and Exceptions
1420.106	Penalty Factor
1420.107	Cleaning and Disinfection
1420.120	Severability

AUTHORITY: Implementing Section 56.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/56.2 and 5/27].

SOURCE: Adopted in R91-19, at 16 Ill. Reg. 2594, effective February 3, 1992; amended in R91-20, at 17 Ill. Reg. 9947, effective June 21, 1993; amended at 43 Ill. Reg. 10044, effective August 30, 2019; amended in R20-17 at 44 Ill. Reg. _____, effective ____.

Section 1420.102 Definitions

All definitions in this Section have the following meanings throughout this Subtitle, unless specifically stated otherwise. Words and terms not defined have the meanings stated in the Act.

"6-log reduction" means a 6-decade reduction or a one millionth (0.000001) survival probability in a microbial population.

"Act" means the Environmental Protection Act [415 ILCS 5].

"Agency" means the Illinois Environmental Protection Agency.

"ATCC" means American Type Culture Collection.

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"Board" means the Pollution Control Board.

"CFU" means colony forming unit.

"Chemical treatment" means using disinfectants or chemicals as the primary means to eliminate the infectious potential of PIMW. Examples include treatment with ethylene oxide, chlorine, and ozone.

"Class 4 etiologic agent" means a pathogenic agent that is extremely hazardous to laboratory personnel or that may cause serious epidemic disease. Class 4 etiologic agent includes the following viral agents:

Alastrim, Smallpox, Monkey pox, and Whitepox (when used for transmission or animal inoculation experiments);

Hemorrhagic fever agents (including Crimean hemorrhagic fever (Congo), Junin, and Machupo viruses, and others not yet defined);

Herpes virus simiae (Monkey B virus);

Lassa virus;

Marburg virus;

Tick-borne encephalitis virus complex (including Absettarov, Hanzalova, HYPR, Kumlinge, Russian spring-summer encephalitis, Kyasanur forest disease, Omsk hemorrhagic fever, and Central European encephalitis viruses);

Venezuelan equine encephalitis virus (epidemic strains, when used for transmission or animal inoculation experiments); and

Yellow fever virus (wild, when used for transmission or animal inoculation experiments);

Guanarito virus;

Sabia

Ebola virus; and

Equine Morbillivirus.

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BOARD NOTE: The definition of Class 4 agent is adopted under Section 56.2(e) of the Act to A Class 4 Agent helps define an "isolation waste" for the purposes of Section 3.360(a)(6) of the Act and this Subtitle. This listing is derived from the CDC document, "Classification of Human Etiologic Agents on the Basis of Hazard, 1974" and is supplemented from the CDC/NIH document "Biosafety in Microbiological and Biomedical Laboratories-", December 2009, and "NIH Guidelines for Research Involving Recombinant or Synthetic Nucleic Acid Molecules (NIH Guidelines)," April 2019.

"Container" means a receptacle that does not contain PIMW.

"Detergent" means a cleansing substance that contains surface-active agents for rapid wetting, penetration, and emulsification of fats and oils, plus a sequestering agent.

"Detergent-sanitizer cleaner" means an agent that is both a detergent and sanitizer registered by the United States Environmental Protection Agency (USEPA), as identified on its label.

"Discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of waste into or on any land or water. This does not include the normal loading and unloading of PIMW from a vehicle.

"Enclosed compartment" means a compartment that protects from the elements, prevents spillage and prevents containers from falling off the vehicle. The enclosed compartment cannot be used to meet the packaging requirements of 35 Ill. Adm. Code 1421.Subpart C.

"Equivalent log kill" means the logarithm of the indicator microorganisms that must be killed and correlates to a 6-log reduction of viable test microorganisms.

"Highly communicable disease" means a disease identified as a Class 4 etiologic agent under this Section.

"Indicator microorganisms" means those microorganisms listed in 35 Ill. Adm. Code 1422.Appendix A, Table B, as classified by ATCC.

"International biohazard symbol" means the symbol that is shown in 35 Ill. Adm. Code 1421.Illustration A.

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"Irradiation treatment" means using ionizing radiation as the primary means to eliminate the infectious potential of PIMW. Examples include treatment with gamma (cobalt 60) and electron beam.

"Log" means logarithm to the base 10.

"Log kill" means the difference between the logarithms of viable test microorganisms or indicator microorganisms before and after treatment.

"Oversized PIMW" means a single waste item that is too large to be placed into a 33 gallon bag or container.

"Package" means a receptacle that contains PIMW.

"Person" is any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity, or their representative, agent, or assigns. (Section 3.315 of the Act)

"PFU" means plaque forming unit.

"Potentially infectious medical waste" or "PIMW" means the following types of waste generated in connection with the diagnosis, treatment (i.e., provision of medical services), or immunization of human beings or animals; research pertaining to the provision of medical services; or the production or testing of biologicals:

Cultures and stocks. This waste shall include but not be limited to cultures and stocks of agents infectious to humans, and associated biologicals; cultures from medical or pathological laboratories; cultures and stocks of infectious agents from research and industrial laboratories; wastes from the production of biologicals; discarded live or attenuated vaccines; or culture dishes and devices used to transfer, inoculate, or mix cultures.

Human pathological wastes. This waste shall include tissue, organs, and body parts (except teeth and the contiguous structures of bone and gum); body fluids that are removed during surgery, autopsy, or other medical procedures; or specimens of body fluids and their containers.

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Human blood and blood products. This waste shall include discarded human blood, blood components (e.g., serum and plasma), or saturated material containing free flowing blood or blood components.

Used sharps. This waste shall include but not be limited to discarded sharps used in animal or human patient care, medical research, or clinical or pharmaceutical laboratories; hypodermic, intravenous, or other medical needles; hypodermic or intravenous syringes; Pasteur pipettes; scalpel blades; or blood vials. This waste shall also include but not be limited to other types of broken or unbroken glass (including slides and cover slips) in contact with infectious agents.

Animal waste. Animal waste means discarded materials, including carcasses, body parts, body fluids, blood, or bedding originating from animals inoculated during research, production of biologicals, or pharmaceutical testing with agents infectious to humans.

Isolation waste. This waste shall include discarded materials contaminated with blood, excretions, exudates, and secretions from humans that are isolated to protect others from highly communicable diseases, as defined in this Section.

Unused sharps. This waste shall include but not be limited to the following unused, discarded sharps: hypodermic, intravenous, or other needles; hypodermic or intravenous syringes; or scalpel blades.

Potentially infectious medical waste does not include:

Waste generated as general household waste;

Waste (except for sharps) for which the infectious potential has been eliminated by treatment; or

Sharps that meet both of the following conditions:

The infectious potential has been eliminated from the sharps by treatment; and

The sharps are rendered unrecognizable by treatment.

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Sharps that are managed in accordance with the following requirements:

The infectious potential is eliminated from the sharps by treatment at a facility that is permitted by the Agency for the treatment of PIMW;

The sharps are certified by the treatment facility as non-special waste in accordance with Section 22.48 of the Act;

The sharps are packaged at the treatment facility the same as required under Board rules for PIMW;

The sharps are transported under the custody of the treatment facility to a landfill permitted by the Agency under Section 21 of the Act to accept municipal waste for disposal; and

The management of sharps is authorized in, and conducted in accordance with, a permit issued by the Agency to the treatment facility. (Section 3.360 of the Act)

"Putrescence" means the partial decomposition of organic matter by microorganisms that causes malodors, gases, or other offensive conditions, or that can provide food for vectors.

"Registered professional engineer" means a person registered under the Illinois Professional Engineering Practice Act [225 ILCS 325].

"Reusable container" means a receptacle that complies with 35 Ill. Adm. Code 1421.121(a) and (b); is made and repaired with materials that are corrosion resistant and non-absorbent; and designed and constructed to easily permit cleaning and disinfection in compliance with Section 1420.107.

"Sanitizer" means an antimicrobial agent that is intended for application to inanimate objects or surfaces for reducing the microbial count to safe levels and that is registered by USEPA, as identified on its label.

"Sharps" mean unused sharps and used sharps as stated in the definition of PIMW with or without residual fluids.

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"Significant mechanical change" means the substitution or addition of mechanical parts that result in different operating conditions. A significant mechanical change does not mean the replacement of a part that meets the same specifications as the original.

"Single-use container" means a container intended by the manufacturer for one use only (e.g., biohazard bags).

"Site" means any location, place, tract of land, and facilities, including but not limited to buildings, and improvements used for purposes subject to regulation or control by the Act or regulations thereunder. (Section 3.460 of the Act) For this Subtitle, every educational institution's campus is a single site.

"Storage" means the containment of waste, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal. (Section 3.480 of the Act)

"Storage site" means a site at which waste is stored. "Storage site" includes transfer stations. (Section 3.485 of the Act)

"Test microorganisms" means those microorganisms listed in 35 Ill. Adm. Code 1422.Appendix A, Table A, as classified by ATCC.

"Thermal treatment" means using elevated temperatures as the primary means to eliminate the infectious potential of PIMW. Examples of thermal treatment are incineration, steam sterilization, microwaving, radiowaving, infrared heating, pyrolysis, plasma systems, and laser treatments.

"Transfer station" means a site or facility that accepts waste for temporary storage or consolidation and further transfer to a waste disposal, treatment or storage facility. "Transfer station" includes a site where waste is transferred from:

a rail carrier to a motor vehicle or water carrier;

a water carrier to a rail carrier or motor vehicle;

a motor vehicle to a rail carrier, water carrier or motor vehicle;

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a rail carrier to a rail carrier, if the waste is removed from a rail car; or a water carrier to a water carrier, if the waste is removed from a vessel.
(Section 3.500 of the Act)

"Treatment" means any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize it or render it nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous.
(Section 3.505 of the Act)

"Unrecognizable" means relating to a sharp that has undergone physical alteration (e.g., melting, charring, corroding, or grinding) so that the sharp may no longer be used for its intended purpose.

"Vector" means any living agent, other than human, capable of transmitting, directly or indirectly, an infectious disease.

"Vehicle" means any device used to transport special waste in bulk or in packages, tanks or other containers.

(Source: Amended at 44 Ill. Reg. _____, effective _____)