

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

**NOTICE OF FILING**

TO: See attached Certificate of Service.

PLEASE TAKE NOTICE that I have today electronically filed with the Office of the Clerk of the Illinois Pollution Control Board ILLINOIS EPA'S COMMENTS, a copy of which is herewith served upon you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/ Gabriel H. Neibergall  
Gabriel H. Neibergall  
Assistant Counsel  
Division of Legal Counsel  
[Gabriel.Neibergall@illinois.gov](mailto:Gabriel.Neibergall@illinois.gov)

DATED: September 4, 2018

1021 N. Grand Ave. East  
P.O. Box 19276  
Springfield, IL 62794-9276  
(217) 782-5544

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

**ILLINOIS EPA’S COMMENTS**

NOW COMES the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY (“Illinois EPA” or “Agency”), by and through its counsel, and pursuant to the Illinois Pollution Control Board (“Board”) Proposal for Public Comment (“Proposal”) dated May 10, 2018, submits the following comments in the above captioned rulemaking.

**I. Responses to the Board’s Specific Questions**

Illinois EPA’s responses to the Board’s questions at Proposal page 2 are set forth below.

1. *Is the list of viral agents complete and consistent with current Center for Disease Control and National Institute of Health listings?*

Agency Response: No, the list of Class 4 etiologic agents in Section 1420.102 is not current or complete. This list has been virtually eliminated over the last 25 years. The CDC and NIH are now relying on four “risk groups” in which to classify diseases. Thus, the actual list of agents/diseases should be eliminated; while the definition should remain as follows:

“Class 4 etiologic agent” means a pathogenic agent that is extremely hazardous to laboratory personnel or that may cause serious epidemic disease.

2. *Do the sources relied on in the Board’s Note need to be updated or supplemented?*

Agency Response: The document “Classification of Etiologic Agents on the Basis of Hazard” is now titled “Classification of Human Etiologic Agents on the Basis of Hazard”.

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?*

Agency Response: The proposed amendments correctly update the materials listed in Section 1420.103. See Proposal Addendum at 10.

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?*

Agency Response: Yes, “household sharps” fall under the category of “general household waste,” which is specifically exempted from the definition of PIMW in Section 1420.102. Therefore, household sharps are not subject to any PIMW rules, including Section 1422.126.

5. *If “household sharps” are not general household waste, are additional amendments to any of the PIMW rules necessary?*

Agency Response: Household sharps are general household waste, so additional amendments are unnecessary.

## **II. Additional Comment**

Regarding the disinfection of PIMW, the Board’s Proposal removed the phrase “at a minimum” from three parts of the PIMW regulations. See Proposal Addendum at 3 (definition of “equivalent log kill”), 44 (Section 1422.125(a)(1)), and 45 (Section 1422.125(b)(1)). Illinois EPA recommends keeping the phrase “at a minimum” because it acknowledges that there will be times when the starting value is higher than  $10^6$ . For example, a given PIMW disinfection facility could start with  $1 \times 10^8$  microorganisms; if the end result is  $1 \times 10^2$ , said facility has demonstrated a 6-log reduction that fulfills the requirements of this Subtitle.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/ Gabriel H. Neibergall  
Gabriel H. Neibergall  
Assistant Counsel  
Division of Legal Counsel  
[Gabriel.Neibergall@illinois.gov](mailto:Gabriel.Neibergall@illinois.gov)

DATED: September 4, 2018

Gabriel H. Neibergall, #6323183  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 N. Grand Ave. East  
P.O. Box 19276  
Springfield, IL 62794-9276  
(217) 782-5544  
[Gabriel.Neibergall@illinois.gov](mailto:Gabriel.Neibergall@illinois.gov)

**BEFORE THE ILLINOIS POLLUTION CONTROL BOARD**

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

**CERTIFICATE OF SERVICE**

I, the undersigned, an attorney, affirm that I have served the attached ILLINOIS EPA'S COMMENTS, on behalf of the Illinois EPA, upon the following person(s) by e-mailing it to the e-mail address(es) indicated below or, if no e-mail address is provided, by placing a true copy, in an envelope duly addressed and bearing proper first class postage, in the United States mail at Springfield, Illinois on September 4, 2018:

TO:

Illinois Pollution Control Board  
Don Brown, Clerk  
Martin Klein, Hearing Officer  
State of Illinois Center  
100 West Randolph, Suite 11-500  
Chicago, Illinois 60601  
[don.brown@illinois.gov](mailto:don.brown@illinois.gov)  
[martin.e.klein@illinois.gov](mailto:martin.e.klein@illinois.gov)

Illinois Department of Natural Resources  
Office of General Counsel  
One Natural Resources Way  
Springfield, Illinois 62702  
[eric.lohrenz@illinois.gov](mailto:eric.lohrenz@illinois.gov)

Office of the Attorney General  
Environmental Bureau North  
69 West Washington Street, Suite 1800  
Chicago, Illinois 60602  
[ntikalsky@atg.state.il.us](mailto:ntikalsky@atg.state.il.us)

I affirm that my e-mail address is [gabriel.neibergall@illinois.gov](mailto:gabriel.neibergall@illinois.gov); the number of pages in the e-mail transmission is 6; and the e-mail transmission took place today before 4:30 PM. If you prefer service by mail, please contact me and a copy will be mailed to you.

Respectfully submitted,

ILLINOIS ENVIRONMENTAL  
PROTECTION AGENCY

By: /s/ Gabriel H. Neibergall  
Gabriel H. Neibergall  
Assistant Counsel  
Division of Legal Counsel  
[Gabriel.Neibergall@illinois.gov](mailto:Gabriel.Neibergall@illinois.gov)

DATED: September 4, 2018

1021 N. Grand Ave. East  
P.O. Box 19276  
Springfield, IL 62794-9276  
(217) 782-5544