ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING AUGUST 1, 1996 CHICAGO, ILLINOIS - 10:30 A.M.

After calling the meeting to order, Chairman Manning welcomed members of the public and staff to the meeting. Thereafter, the Clerk was asked for a roll call and all Board Members answered present except Board Members Dr. Ronald C. Flemal and Marili McFawn, who were on vacation.

Minutes of the July 18, 1996 Board Meeting were approved by a vote of 5-0.

In R96-4, Listing of Federal Hazardous Air Pollutants, Great Lakes Commissions Toxic Compounds and Great Waters Program Toxic Compounds, and Source Reporting for Illinois Toxic Air Contaminants: Amendments to 35 Ill. Adm. Code 232, a Proposed Rule, First Notice, Opinion and Order was adopted by a vote of 5-0. (JY)

This Adjusted Standard was accepted by the Board and held for the agency's recommendation: #AS 96-10, Petition of Commonwealth Edison Company for an Adjusted Standard from 35 Ill. Adm. Code 302.211(d) and (e).

An Order dismissing the proceedings and directing the Clerk of the Board to close the docket, due to the petitioner's failure to file a certificate of publication on or before July 11, 1996, was adopted in #AS 96-11, Petition of Chemetco, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 720.131(a), (c), by a vote of 5-0. (CAM)

This Adjusted Standard was accepted by the Board and held for the agency's recommendation: #AS 96-12, Petition of Illinois Department of Transportation, District 8 for an Adjusted Standard from 35 Ill. Adm. Code 302.208, 304.124 and 302.203 (if required).

An Opinion and Order was adopted in #94-240, International Union, United Automobile, Aerospace and Agricultural Implement Workers of America and UAW local 974 and Citizens For a Better Environment v. Caterpillar, Inc., IEPA, Party-in-Interest, by a vote of 5-0. (CAM)

An Opinion and Order granting the parties' joint motion for waiver of hearing requirement, and accepting the Stipulation and Proposal for Settlement in the amount of \$35,000.00, was adopted in #96-169, People of the State of Illinois v. Kerr-McGee Refining Corporation, by a vote of 5-0. (GTG)

A Default Order finding that the respondent violated Sections 21(p)(1) and 21(p)(3) of the Illinois Environmental Protection Act, and assessing a \$1,000.00 penalty, was adopted in #AC 96-53, IEPA v. Elmer Meints, by a vote of 5-0. (CAM)

Because Petitions for Review were received, these Administrative Citations will be set for hearing: ##96-57, County of Jackson v. Southern Illinois Regional Landfill v. County of Jackson; 96-58, County of Jackson v. Gary Easton.

ADDENDUM

This Administrative Citation was accepted by the Board: #97-5, County of Vermilion, Illinois v. Lowell Null, and M & N Pallet, Inc..

<u>AGENDA</u>

An Order granting the petitioner's motion to withdraw and closing the docket, was adopted in #95-117, Kean Brothers, Inc. v. IEPA, by a vote of 5-0. (JTM)

An Order denying the Petitioner's motion to strike objector's objection and waiver of right to public hearing, was adopted in #95-162, Illinois Landfill, Inc. v. IEPA, by a vote of 5-0. (GTG)

An Order granting the petitioner's motion to withdraw its underground storage tank appeal and closing the docket, was adopted in #96-52, Raleigh Realty Corporation v. IEPA, by a vote of 5-0. (JTM)

An Opinion and Order granting the Agency's motion for summary judgment and denying the petitioner's cross-motion for summary judgment, was adopted in #96-102, Kathe's Auto Service Center v. IEPA, by a vote of 5-0. (JY)

An Order denying the respondents' motions to dismiss and to strike the amended complaint, and directing the respondent to file an answer to all allegations in the complaint, as amended, on or before September 3, 1996, was adopted in #96-143, People of the State of Illinois v. Michel Grain Company, Inc., d/b/a Michel Grain Fertilizer, and Caryle Michel, by a vote of 5-0. (CAM)

An Order granting the parties' joint motion to stay the proceedings until October 1, 1996, was adopted in #96-147, People of the State of Illinois v. Illinois Cement Company, by a vote of 5-0. (CAM)

An Order denying the complainant's motion to strike the respondent's affirmative defenses, and granting the complainant leave of the Board for 21 days to file a response to the respondent's affirmative defenses, was adopted in #96-208, People of the State of Illinois v. Frank Merkendorfer, Belden Tools, Inc., and Phil Pinello, by a vote of 5-0. **(ED)**

An Order granting the petitioner's motion for an expedited decision consistent with the Board's resources, and denying the motions to intervene by Miguel A. Checa, Jeffrey L. Houghtby, and Linda L. Lahey individually and on behalf of Citizens Advocacy Network (CAN), Dorianne Burg, John T. Hepperly, Jr., Clyde Brown, Maureen Brown, Jonathan Reich, and Children of

Dekalb, Margaret M. Zonca, was adopted in #96-246, City of DeKalb v. IEPA, by a vote of 5-0. (JTM)

An Order denying the respondent's motion to dismiss, was adopted in #96-264, People of the State of Illinois v. American Waste Processing, Ltd., by a vote of 5-0. **(ED)**

An Order extending the 35-day appeal period, reserving the docket for any appeal which may be filed by the petitioner, noting that in the event that the petitioner fails to file an appeal on or before September 24, 1996, the Board will dismiss the docket as unnecessary, and advising the petitioner that a \$75.00 filing fee will be required at such time as the petitioner files a petition, was adopted in #97-18, Laidlaw Waste Systems, Inc. v. IEPA, by a vote of 5-0. (CAM)

An Order extending the 35-day appeal period, reserving the docket for any appeal which may be filed by the petitioner, noting that in the event that the petitioner fails to file an appeal on or before September 11, 1996, the Board will dismiss the docket as unnecessary, and advising the petitioner that a \$75.00 filing fee will be required at such time as the petitioner files a petition, was adopted in #97-19, Laidlaw Waste Systems, Inc. v. IEPA, by a vote of 5-0. (CAM)

A mandatory hearing will be held in #97-20, People of the State of Illinois v. Bentronics Corporation.

An Order extending the 35-day appeal period, reserving the docket for any appeal which may be filed by the petitioner, noting that in the event that the petitioner fails to file an appeal on or before September 27, 1996, the Board will dismiss the docket as unnecessary, and advising the petitioner that a \$75.00 filing fee will be required at such time as the petitioner files a petition, was adopted in #97-22, NPK Storage, Inc. v. IEPA, by a vote of 5-0. (CAM)

An Order accepting the matter for hearing, was adopted in #97-23, The City of Lockport v. IEPA, by a vote of 5-0. (CAM)

A provisional variance was granted in #97-24, Grace Container Products v. IEPA, by a vote of 5-0. (CAM)

These regulatory matters were discussed and held for further discussion or possible decision: R96-1, Proposed Alternative Standards for Coal Combustion Power Generating Facilities Waste Landfills, Adopted Rule, Final Order, Opinion and Order; R96-3, Steel and Foundry Industry Waste landfills: Amendments to 35 Ill. Adm. Code 817.309 (Facility Location for Landfills Accepting Potentially Usable Waste), Proposed Rule, First Notice, Opinion and Order; R97-8, Revision of the Board's Procedural Rules Parts 101 - 120, Proposal for Public Comment, Proposed Opinion and Order; AS 96-9, Petition of Commonwealth Edison Company for an Adjusted Standard from 35 Ill. Adm. Code 811.814.

These cases were discussed and held for further discussion or possible decision: ##96-182, A.F. Moore & Associates v. IEPA; 96-218, Mobil Oil Corporation (Joliet Refinery) v. IEPA.

ADDENDUM

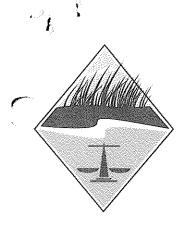
An Order accepting the matter for hearing, was adopted in #96-250, White & Brewer Trucking, Inc. v. IEPA, by a vote of 5-0. (CAM)

All other matters not disposed of as listed were held.

Moved and seconded, by a vote of 5-0, the meeting was adjourned at 11:10 a.m..

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 1500 day of 2000, 1996, by a vote of 4-0.

Dorothy M. Gunn, Clerk Illinois Pollution Control Board



GOVERNOR Honorable Jim Edgar

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CHAIRMAN Claire A. Manning Springfield

MEMBERS Emmett E. Dunham II Elmhurst

Ronald C. Flemal DeKalb

G. Tanner Girard Grafton

Marili McFawn Inverness

J. Theodore Meyer Chicago

> Joseph C. Yi Park Ridge

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Illinois Pollution Control Board

James R. Thompson Center ♦ Suite 11-500 ♦ 100 West Randolph Street ♦ Chicago, Illinois 60601 312-814-3620 ♦ Fax 312-814-3669

REGULAR MEETING AGENDA AUGUST 1, 1996 CHICAGO, ILLINOIS CONFERENCE ROOM 9-040 10:30 A.M.

ADDENDUM

ADMINISTRATIVE CITATIONS

AC 97-5 <u>County of Vermilion, Illinois v. Lowell Null,</u> and M & N Pallet, Inc. - Accept Case - No Order

MOTIONS

95-162	Illinois Landfill, Inc. v. IEPA - Objector	(GTG)
L-V	William J. Regan's Response to Petitioner's	
	Motion to Strike Objector's Objection to	
	Petitioner's Amended Petition for Variance and	
	Waiver of Hearing (7/31)	

MOTIONS (Cont'd)

96-246

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PWS-V

<u>City of DeKalb v. IEPA</u> - Response to Objections to Application to Intervene on behalf of Dorianne Burg, John T. Hepperly, Jr., Clyde Brown, Maureen Brown, Jonathan Reich, and Children of DeKalb (7/31), Reply to Objections to Applications to Intervene by Miguel A. Checa, Jeffrey L. Houghtby, Linda L. Lahey, and Margaret M. Zonca, each individually and on behalf of Citizens Advocacy Network (7/31), Petitioner's Objection to Application to Intervene (7/31), Petitioner's Amended Objection to Application to Intervene filed by Miguel A. Checa, Jeffrey L. Houghty, Linda L. Lahey, and Citizens Advocacy Network (7/31), Petitioner's Amended Objection to Application to Intervene filed by Margaret M. Zonca and on her behalf Citizens Advocacy Network (7/31), Petitioner's Amended Objection to Application to Intervene filed by Dorianne Burg, John T. Hepperly, Jr., Clyde Brown, Maureen Brown, Jonathan Reich and Children of DeKalb (7/31)

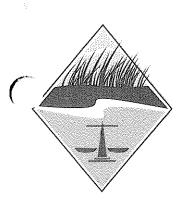
(JTM)

CASES TO BE SET FOR HEARING AND OTHER CASE PROCESSING ORDERS OR MATTERS

96-250	White & Brewer Trucking, Inc. v. IEPA -	(CAM)
P-A	Accept for Hearing Order	

CASES PENDING DECISION

R96-3	Steel and Foundry Industry Waste Landfills:	(RCF)
Land	Amendments to 35 Ill. Adm. Code 817.309	
Lanu	(Facility Location for Landfills Accepting	
	Potentially Usable Waste) - Proposed Rule, First	
	Notice, Opinion and Order	
	-	



GOVERNOR Honorable Jim Edgar

CHAIRMAN Claire A. Manning Springfield

MEMBERS Emmett E. Dunham II Elmhurst

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AGENDA AUGUST 1, 1996 CHICAGO, ILLINOIS CONFERENCE ROOM 9-040 10:30 a.m.

Announcements

The Pollution Control Board welcomes the public to this open meeting. During the meeting itself, only the Board members or staff that are recognized by the Chairman are allowed to speak. If you have any questions about anything that occurred at the meeting, please feel free, after the meeting, to direct your questions to any one of the many staff members in attendance.

Appearance of an item on the agenda does not guarantee that the Board will take action on that item, since the Board may decide to hold the item over for additional review and action at a later meeting. Dates of future meetings of the Board appear on the last page of this agenda. Thank you for your interest.

<u>Roll Call</u>

Minutes

July 18, 1996

REGULATIONS AND ADJUSTED STANDARDS

R96-4 Air	Listing of Federal Hazardous Air Pollutants, Great Lakes Commissions Toxic Compounds and Great Waters Program Toxic Compounds, and Source Reporting for Illinois Toxic Air Contaminants: Amendments to 35 Ill. Adm. Code 232 - Proposed Rule, First Notice, Opinion and Order	(JY)
R97-9 Air	Procedures for Collection of Air Pollution Site Fees: Amendments to 35 Ill. Adm. Code 251	
AS 96-10 T-Water	Petition of Commonwealth Edison Company for an Adjusted Standard from 35 Ill. Adm. Code 302.211(d) and (e) - Petitioner's Supplement and Corrections to Amended Petition for Alternate Thermal Standards and Proof of Publication of Petition Notice (7/11)	(ED)
AS 96-11 Land, RCRA	Petition of Chemetco, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 720.131(a), (c) - Dismissal Order	(CAM)
AS 96-12 Water	Petition of Illinois Department of Transportation, District 8 for an Adjusted Standard from 35 Ill. Adm. Code 302.208, 304.124 and 302.203 (if required) - Petitioner's Proof of Publication (7/23)	(ED)

DECISIONS

94-240 RCRA-E, Citizens	International Union, United Automobile, Aerospace and Agricultural Implement Workers of America and UAW Local 974 and Citizens For a Better Environment v. Caterpillar, Inc., IEPA, Party-in-Interest	(CAM)
96-169	People of the State of Illinois v. Kerr-McGee Refining Corporation - Stipulation	(GTG)

ADMINISTRATIVE CITATIONS

AC 96-53	IEPA v. Elmer Meints - Default Order		
AC 96-57	County of Jackson v. Southern Illinois Regional Landfill - Accept for Hearing - No Order		
AC 96-58	County of Jackson v. Gary Easton - Accept for Hearing - No Order		
MOTIONS			
94-240 L&W-E	International Union, United Automobile, Aerospace and Agricultural Implement Workers of America and UAW Local 974, and Citizens For A Better Environment v. Caterpillar, Inc Complainants' Motions to Amend Complaint (5/30/95 and 7/6/95), Respondent's Motion to Strike Exhibit B of Complainants' Brief (7/14), Complainants' Oral Motion to Renew Motion to Strike the Agency's Section 30 Investigative Report, Complainants' Motion for Leave to File a Post-Hearing Brief in Excess of 25 Pages (8/7), Agency's Motion to File Supplement to the Agency's Section 30 Investigative Report (8/16), Respondent's Motion for Sanctions (8/24), Respondent's Oral Motion to Decide Case at Close of Complainants' Case, Respondent's Motion to Strike Complainants' Response to Surreply Brief (9/27)	(CAM)	
95-117 A-V	Kean Brothers, Inc. v. IEPA - Petitioner's Withdrawal of Variance Petition (7/18)	(JTM)	
95-162 L-V	<u>Illinois Landfill, Inc. v. IEPA</u> - Objection to Petitioner's Amended Petition for Variance and Request for Public Hearing by William J. Regan (7/17), Petitioner's Motion to Strike Objector William J. Regan's Objection to Petitioner's Amended Petition for Variance and Waiver of Right to Public Hearing (7/24)	(GTG)	

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MOTIONS (Cont'd)

96-52 UST-FRD	<u>Raleigh Realty Corporation v. IEPA</u> - Petitioner's Motion for Summary Judgment (3/11), Agency Response to Petitioner's Motion for Summary Judgment and Agency Cross-Motion for Summary Judgment in Excess of Fifteen Pages (3/27), Petitioner's Withdrawal of Appeal (7/18)	(JTM)
96-102 UST-FRD	<u>Kathe's Auto Service Center v. IEPA</u> - Agency's Motion for Summary Judgment (4/5), Petitioner's Cross-Motion for Summary Judgment, Petitioner's Response Brief to the Agency's Motion for Summary Judgment (4/15), Agency's Response to Petitioner's Cross-Motion for Summary Judgment (5/2)	(JY)
96-143 W-E	People of the State of Illinois v. Michel Grain Company, Inc., d/b/a Michel Fertilizer, and Caryle Michel - Respondents' Motion for Leave to File Instanter Motion to Dismiss Complainant's Complaint and Memorandum in Support of Motion to Dismiss (2/6), Complainant's Objection to Respondents' Motion for Leave to File Instanter Motion to Dismiss Complaint and Memorandum in Support of Motion to Dismiss (2/15), Respondents' Reply to Complainant's Objection to Respondents' Motion for Leave to File Instanter Motion to Dismiss Complaint and Respondents' Motion for Leave to File Reply to Complainant's Objection to Respondents' Motion for Leave to File Instanter Motion for Leave to File Reply to Complainant's Objection to Dismiss Complaint (2/27), Complainant's Motion to Strike Respondents' Motion for Leave to File Reply (3/7), Respondents' Motion to Strike Complainant's Amended Complaint (5/8)	(CAM)
96-147 W-E, Mine	People of the State of Illinois v. Illinois Cement Company - Complainant's Motion to Stay Proceedings (7/25)	(CAM)

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MOTIONS (Cont'd)

96-158 P-A, Air	<u>Frederick Cooper Lamps, Inc. v. IEPA</u> - Petitioner's Motion for Summary Judgment on the Application of the Appropriate Coating Limitation, Memorandum in Support of Motion for Summary Judgment on the Application of the Appropriate Coating Limitation and Joint Motion for Expedited Consideration (6/14), Agency Response in Opposition to Petitioner's Motion for Summary Judgment on the Application of the Appropriate Coating Limitation (6/27), Petitioner's Reply to Respondent's Response in Opposition to Petitioner's Motion for Summary Judgment (7/1)	(McF)
96-208	People of the State of Illinois v. Frank Merkendorfer, Belden	(ED)
RCRA-E	<u>Tools, Inc., and Phil Pinello</u> - Complainant's Motion to Strike Respondent's Affirmative Defenses (7/18), Respondent Belden Tools, Inc.'s Memorandum of Law in Opposition to Complainant's Motion to Strike Respondent Belden Tools, Inc.'s Affirmative Defenses (7/29)	
96-246	<u>City of DeKalb v. IEPA</u> - Application to Intervene by Miguel A.	(JTM)
PWS-V	Checa, Jeffrey L. Houghtby, and Linda L. Lahey individually and on behalf of Citizens Advocacy Network (CAN) (7/17), Agency's Motion to File Recommendation Instanter (7/18), Objection by Mrs. Diane Ulman (7/22), Application for Intervention on behalf of Dorianne Burg, John T. Hepperly, Jr., Clyde Brown, Maureen Brown, Jonathan Reich, and Children of DeKalb (7/22), Application to Intervene by Margaret M. Zonca (7/22), Petitioner's Motion for Expedited Decision (7/29), Agency's Objections to Applications to Intervene (7/30)	
96-264	People of the State of Illinois v. American Waste Processing,	(ED)
RCRA-E	<u>Ltd.</u> - Respondent's Motion to Dismiss in Lieu of Answer (7/12)(Note: Notice of Pleading Captioned as "Respondent's Answer to Complainant's Complaint"), Complainant's Response to Respondent's Motion to Dismiss (7/22)	

CASES TO BE SET FOR HEARING AND OTHER CASE PROCESSING ORDERS OR MATTERS

96-206 N-E Citizens	Anne Shepard, James Verhein and Jerold Leckman v. Northbrook Sports Club - (See Respondent's Motion to Dismiss as Frivolous filed 4/9; Complainants' Response to Respondent's Motion to Dismiss as Frivolous filed 6/6)	(CAM)
96-265 L, SW, RCRA-E Citizens	Edward M. Pearl v. Bicoastal Corporation, Singer Corporation, Controls Corporation of America Employee Profit Sharing and Retirement Trust, and Eaton Corporation - Hold for Duplicitous/Frivolous Determination - No Order	(JY)
96-266 L, SW, RCRA-E Citizens	J. Clarke Baker & Company and Real Estate Fund, Inc. v. Brunswick Corporation, L & J Engineering, Inc., GPE Controls, Inc. and Vapor Corporation - Hold for Duplicitous/Frivolous Determination - No Order	(McF)
97-17 RCRA-E Citizens	Irma L. Lopez, Jose Martinez, Joel R. Garay and Jose Gonzalez v. Celotex Corporation, AlliedSignal, Inc., and the IEPA - Hold for Duplicitous/Frivolous Determination - No Order	(CAM)
97-18 UST-Appeal	Laidlaw Waste Systems, Inc. v. IEPA - Joint Request for 90-Day Extension of Appeal Period (7/18)	(CAM)
97-19 P-A, Land	Laid Waste Systems, Inc. v. IEPA - Joint Request for 90-Day Extension of Appeal Period (7/18)	(CAM)
97-20 W-Е	People of the State of Illinois v. Bentronics Corporation - Hearing Mandatory - No Order	(RCF)
97-21 W-V, NPDES	DeKalb Sanitary District v. IEPA	

CASES TO BE SET FOR HEARING AND OTHER CASE PROCESSING ORDERS OR MATTERS (Cont'd)

97-22 UST-Appeal	<u>NPK Storage, Inc. v. IEPA</u> - Joint Request for 90-Day Extension of Appeal Period	(CAM)
97-23	The City of Lockport v. IEPA - Accept for Hearing Order	
P-A, NPDES		
97-24	Grace Container Products v. IEPA - Provisional Variance	(CAM)
A-V		
CASES PEN	DING DECISION	
R96-1	Proposed Alternative Standards for Coal Combustion Power	(JY)
Land	Generating Facilities Waste Landfills - Adopted Rule, Final Order, Opinion and Order	
R96-3	Illinois Cast Metals Association Proposed Amendment for	(RCF)
Land	Accepting Potentially Usable Steel or Foundry Industry Waste: Amendments to 35 Ill. Adm. Code Part 814.902 (Standards for Operation and Closure) - Proposed Rule, First Notice, Opinion and Order	
R97-8	<u>Revision of the Board's Procedural Rules Parts 101 - 120</u> - Proposal for Public Comment, Proposed Opinion and Order	(CAM)
AS 96-9	Petition of Commonwealth Edison Company for an Adjusted	(RCF)
Land	Standard from 35 Ill. Adm. Code 811.814	
96-182	A.F. Moore & Associates v. IEPA (due 8/15)	(McF)
UST-Appeal		
96-218	Mobil Oil Corporation (Joliet Refinery) v. IEPA (due 8/15)	(JTM)
W-V		

ADJOURNMENT

LIST OF NEW CASES FILED SINCE JULY 18, 1996 BOARD MEETING

R97-9	Procedures for Collection of Air Pollution Site Fees: Amendments to 35 Ill.
	Adm. Code 251
97-17	Irma L. Lopez, Jose Martinez, Joel R. Garay and Jose Gonzalez v. Celotex
	Corporation, AlliedSignal, Inc. and the IEPA
97-18	Laidlaw Waste Systems, Inc. v. IEPA
97-19	Laidlaw waste Systems, Inc. v. IEPA
97-20	People of the State of Illinois v. Bentronics Corporation
97-21	DeKalb Sanitary District v. IEPA
97-22	NPK Storage, Inc. v. IEPA
97-23	The City of Lockport v. IEPA
97-24	Grace Container Products v. IEPA

REGULAR BOARD MEETING SCHEDULE FOR THE FIRST HALF OF FY97

August 15

> September 5 September 19

October 3 October 17

November 7 November 21

December 5 December 19

NOTE: All Board Meetings will be held in Conference Room 9-040 unless otherwise noted

CASE TYPE CODES:

3d P	Third Party Action	A-C	Administrative Citation		
A-E	Air Enforcement	A-S	Adjusted Standard		
A-V	Air Variance	CSO	Combined Sewer Overflow Exception		
GW	Groundwater	HW Delist R	CRA Hazardous Waste Delisting		
L-E	Land Enforcement	L-S-R	Landfill Siting Review		
L-V	Land Variance	MW	Medical Waste (Biological Materials)		
N-E	Noise Enforcement	N-V	Noise Variance		
P-A	Permit Appeal	PWS-E	Public Water Supply Enforcement		
PWS-V	Public Water Supply Variance	R	Regulatory Proceeding		
RCRA	Resource Conservation and Recovery	\$0 ₂	S0 ₂ Alternative Standards (35 ILI		
	Act proceeding (hazardous waste only)	2	ADM. CODE 302.211(f))		
SWH-E	Special Waste Hauling Enforcement	SWH-V	Special Waste Hauling Variance		
Т	Thermal Demonstration Rule	T-C	Tax Certifications		
T-S	Trade Secrets	UST-Appeal	Underground Storage Tank Correctiv		
			Action Appeal		
UST-E	Underground Storage Tank Enforcement	UST-FRD	Underground Storage Tank Fun		
			Reimbursement Determination		
W-E	Water Enforcement	W-V	Water Variance		
WWS	Water-Well Setback Exception				