

ILLINOIS POLLUTION CONTROL BOARD

MINUTES OF REGULAR BOARD MEETING JULY 24, 1997 CHICAGO, ILLINOIS - 10:30 A.M.

After calling the meeting to order, Board Member G. Tanner Girard welcomed members of the public and staff, and announced that the August 7, 1997 Board Meeting will be in Springfield. Thereafter, the Clerk was asked for a roll call and all Board Members answered present except Ronald C. Flemal, Claire A. Manning, and Marili McFawn, who were absent.

In R96-10, RCRA Update, USEPA Regulations (July 1 through December 31, 1995); R97-3, UIC Update, USEPA Regulations (January 1 through June 30, 1996); R97-5, RCRA Update, USEPA Regulations (January 1 through June 30, 1996), a Proposal for Public Comment, Proposed Opinion and Order, were adopted by a vote of 4-0. **(KMH)**

This petition for an adjusted standard was accepted by the Board: #AS 97-10, Petition of Waste Professionals, Inc., d/b/a Pekin Landfill for an Adjusted Standard from 35 Ill. Adm. Code Part 814, Subpart D.

An Order granting the Agency's motion for an extension of time until July 31, 1997, to file its response to the petition, and also accepting the petition for hearing, was adopted in #AS 97-11, Petition of the Greater Rockford Airport Authority for an Adjusted Standard from 35 Ill. Adm. Code Part 814 Subpart D, by a vote of 4-0. **KMH**

An Interim Opinion and Order was adopted in #AC 97-41, County of Will v. Utilities Unlimited, Inc., Charles Petrekis, Sr., d/b/a Utilities Unlimited, Inc., by a vote of 4-0. **(JTM)**

An Order denying the respondent's motion to reconsider the Board's May 15, 1997 default order, was adopted in #AC 97-53, County of Will v. Ernest Angelina, by a vote of 4-0. **(GTG)**

An Opinion and Order was adopted in #AC 97-60, IEPA v. Stacy Hess, by a vote of 4-0. **(JTM)**

A Default Order finding that the respondents violated Section 21(p)(1) of the Illinois Environmental Protection Act, and assessing a \$500.00 penalty, was adopted in #AC 97-67, County of LaSalle v. Mike and Janet Brown, by a vote of 4-0. **(GTG)**

A Default Order finding that the respondent violated Section 21(p)(1) of the Illinois Environmental Protection Act, and assessing a \$500.00 penalty, was adopted in #AC 97-68, County of Vermilion v. Randall Richter, by a vote of 4-0. **(GTG)**

These Administrative Citations were accepted by the Board: ##98-2, IEPA v. Frank A. Olson; 98-3, County of Will v. Sherry Fetcho.

An Order granting the petitioner's motion to dismiss, was adopted in #95-115, Illico Independent Oil Company v. IEPA, by a vote of 4-0. (GTG)

An Order denying the parties' request for relief from the hearing requirement, and accepting the matter for hearing due to a timely filed letter of objection, was adopted in #97-10, People of the State of Illinois v. Allsteel, Inc., by a vote of 4-0. (JTM)

An Order directing the Clerk of the Board to cause publication of the required newspaper notice of a motion to request relief from the hearing requirement, was adopted in #97-127, People of the State of Illinois v. Pettibone Corporation, by a vote of 4-0. (JTM)

An Order directing the Clerk of the Board to cause publication of the required newspaper notice of a motion to request relief from hearing requirement, was adopted in #97-231, People of the State of Illinois v. Graftek Press, Inc., by a vote of 4-0. (JTM)

An Order determining that the complaint is neither duplicitous or frivolous, and accepting the matter for hearing, was adopted in #97-234, Antonio D.H. Nam v. Kikon Suh, by a vote of 4-0. (GTG)

An Order determining that the complaint is neither duplicitous or frivolous, and accepting the matter for hearing, was adopted in #98-10, Village of Niles v. Mobil Oil Company, by a vote of 4-0. (GTG)

An Order accepting the matter for hearing, was adopted in #98-15, Consolidation Coal Company v. IEPA, by a vote of 4-0. (KMH)

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 10, 1997, 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 #98-16, Evergreen Plaza Associates v. IEPA, by a vote of 4-0. (GTG)

A mandatory hearing will be held in #98-17, People of the State of Illinois v. Scrap Tire Recycling Center, Inc., f/k/a Russell Foundry, Thomas Ratkovic, an individual, and Leon Benish, an individual.

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 16, 1997, 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 #98-19, Chicago Sun-Times, Inc. v. IEPA, by a vote of 4-0. (GTG)

This regulatory matter was discussed and held for further discussion or possible decision: R97-23, Wastewater Pretreatment Update, USEPA Regulations (July 1, 1996 through December 31, 1996), Adopted Rule, Final Order, Opinion and Order.

These cases were discussed and held for further discussion or possible decision: ##97-64, People of the State of Illinois v. Unique Marble Products, Inc.; 97-209, Land and Lakes Company v. IEPA.

The motion for a Closed Deliberative Session to be held August 7, 1997 at 1:00 p.m. in the Springfield office, carried by a vote of 4-0.

ADDENDUM

Respondent's motion for an extension of time to file a response to complainant's motion to strike affirmative defenses of respondent in #97-62, People of the State of Illinois v. Geon Corporation, was handled by the hearing officer.

An Order granting the petitioner's motion to withdraw its petition for review, and also closing the docket, was adopted in #97-213, Ryder Truck Rental, Inc. v. IEPA, by a vote of 4-0. (GTG)

An Order granting the petitioner's motion to withdraw its petition for extension of prior variance, and also closing the docket, was adopted in #97-216, The Knapheide Manufacturing Company v. IEPA, by a vote of 4-0. (JTM)

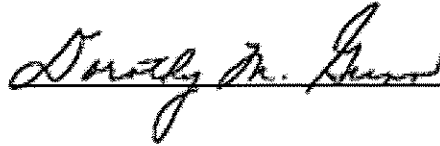
The meeting reconvened in the Chairman's office at 11:25 a.m.. Present in the Chicago office were Board Members G. Tanner Girard, K.M. Hennessey, J. Theodore Meyer, and Joseph Yi. Chairman Manning joined the meeting telephonically from Reno, Nevada.

Thereafter, a provisional variance was granted in #98-20, Commonwealth Edison Company (Dresden Power Station) v. IEPA, by a vote of 4-0. Board Member K.M. Hennessey abstained. (GTG)

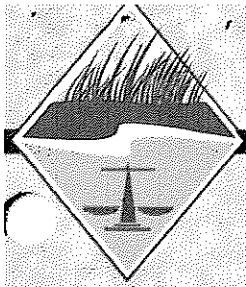
Motioned and seconded, by a vote of 5-0, the meeting was adjourned at 11:30 a.m..

All other matters not disposed of as listed were held:

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Minutes were approved this 21st day of August 1997, by a vote of 4-0.

A handwritten signature in cursive script, reading "Dorothy M. Gunn", written over a horizontal line.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board



ILLINOIS POLLUTION CONTROL BOARD

JRTC ♦ 100 W. Randolph ♦ Suite 11-500 ♦ Chicago, IL 60601 ♦ 312-814-3620 ♦ Fax 312-814-3669

GOVERNOR

Honorable Jim Edgar



CHAIRMAN

Claire A. Manning
Springfield

MEMBERS

Ronald C. Fernald
DeKalb

G. Tanner Girard
Grafton

Kathleen M. Hennessey
Chicago

Marili McFawn
Inverness

J. Theodore Meyer
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Joseph C. Yi
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REGULAR BOARD MEETING AGENDA JULY 24, 1997 CHICAGO, ILLINOIS CONFERENCE ROOM 9-040 10:30 A.M.

ADDENDUM

MOTIONS AND OTHER MATTERS

95-143 Gordon Krautsack v. Bhogilal Patel, an (RCF)
L-E, individual, Subhash Patel, an individual, and
Citizens Electronic Interconnect, Inc. - Complainant's
Motion to Bar Response (7/22)

A-V 96-191 White Cap, Inc. v. IEPA - Motion for Leave to (JTM)
File Attachment and Attachment to Petitioner's
Response to the Agency's Motion to Modify
Board Order dated November 7, 1996 and
Motion to Expedite Board Decision (7/23)

A-E 97-62 People of the State of Illinois v. Geon (JTM)
Corporation - Respondent's Motion for an
Extension of Time to File a Response to
Complainant's Motion to Strike Affirmative
Defenses of Respondent (7/22)

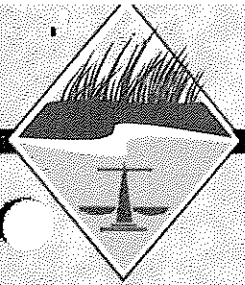
P-A, Land 97-210 ESG Watts, Inc. v. IEPA - Petitioner's Response (JY)
and Suggestions in Opposition to Respondent's
Motion for Summary Judgment (7/23)

UST- 97-213 Ryder Truck Rental, Inc. v. IEPA - Petitioner's (GTG)
Appeal Motion to Withdraw Petition for Review (7/23)

MOTIONS AND OTHER MATTERS (Cont'd)

97-216 The Knapheide Manufacturing Company v. (JTM)
A-V IEPA - Petitioner's Motion to Withdraw Petition
 for Extension of Prior Variance (7/23)

98-20 Commonwealth Edison Company (Dresden (GTG)
W-V Power Station) v. IEPA - Provisional Variance



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Honorable Jim Edgar



CHAIRMAN

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Cathleen M. Hennessey
Chicago

Marili McFawn
Inverness

J. Theodore Meyer
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Joseph C. Yi
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AGENDA

JULY 24, 1997 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.

Roll Call

Minutes

July 10, 1997

REGULATIONS AND ADJUSTED STANDARDS

R96-10 RCRA Update, USEPA Regulations (July 1 through December 31, 1995; UIC Update, USEPA Regulations (January 1 through June 30, 1996); RCRA Update, USEPA Regulations (January 1 through June 30, 1996) - Proposal for Public Comment, Proposed Opinion and Order (KMH)

R97-15(B) Amendments to the Livestock Waste Regulations, 35 Ill. Adm. Code 506 - Department of Agriculture's Motion for Acceptance and Request for Waiver of Rules (7/22) (McF)

AS 94-20 Petition of the Galesburg Sanitary District for an Adjusted Standard from 35 Ill. Code 304.105 (Ammonia Nitrogen) - Petitioner's Motion to Strike Agency's Response to its Motion for Reconsideration (7/8), Agency's Reply to the Petitioner's Response to Request for Reconsideration and Response to Motion to Strike Agency's Response (7/17) (JY)

AS 97-10 Petition of Waste Professionals, Inc., d/b/a Pekin Landfill for an Adjusted Standard from 35 Ill. Adm. Code Part 814, Subpart D - Petitioner's Certificate of Publication (7/10) (RCF)

AS 97-11 Petition of the Greater Rockford Airport Authority for an Adjusted Standard from 35 Ill. Adm. Code Part 814 Subpart D - Agency Motion for Extension of Time to File Response to the Petition for an Adjusted Standard (7/3), Petitioner's Certificate of Publication (7/18) (KMH)

ADMINISTRATIVE CITATIONS

AC 97-41 County of Will v. Utilities Unlimited, Inc., Charles Petrekis, Sr. d/b/a Utilities Unlimited, Inc. - Interim Opinion and Order (JTM)

ADMINISTRATIVE CITATIONS (Cont'd)

AC 97-53 County of Will v. Ernest Angelina - Letter - Petition for Review/Motion for Reconsideration (6/2), Petition for Review (6/12)(**Note: A Default Order was adopted at May 15, 1997 Board Meeting**) (GTG)

AC 97-60 IEPA v. Stacy Hess - Joint Stipulation of Settlement and Dismissal of Respondent's Petition for Administrative Review (7/7) (JTM)

AC 97-67 County of LaSalle v. Mike and Janet Brown - Default Order (GTG)

AC 97-68 County of Vermilion v. Randall Richter - Default Order (GTG)

AC 98-2 IEPA v. Frank A. Olson - Accept Case - No Order

AC 98-3 County of Will v. Sherry Fetcho - Accept Case - No Order

MOTIONS AND OTHER MATTERS

93-191 People of the State of Illinois v. Lloyd Weimann d/b/a Weimann Ice and Fuel, Texaco Refining and Marketing, Inc., and Eugene UST-E and Cheryl Halbrooks - Respondent Texaco Refining and Marketing, Inc.'s Motion for Entry of Sanctions Against Respondent Lloyd Weimann d/b/a Weimann Ice & Fuel (6/16) (CAM)

95-64 People of the State of Illinois v. Donald Pointer, Mitchell Holder, L-E and Whiteway Sanitation, Inc. - Complainant's Motion for Partial Summary Judgment and Memorandum in Support of Motion for Partial Summary Judgment (5/28) (CAM)

95-90 Minnesota Mining & Manufacturing Company v. IEPA - A-V Petitioner's Second Amendment to Petition for Declaration of Compliance or in the Alternative for Variance (7/1) (McF)

MOTIONS AND OTHER MATTERS (Cont'd)

| | | |
|---------------------------------------|---|-------|
| 95-115 UST-FRD | <u>Illico Independent Oil Company v. IEPA</u> - Petitioner's Motion to Dismiss (7/14) | (GTG) |
| 95-143 L-E, Citizens | <u>Gordon Krautsack v. Bhogilal Patel, an individual, Subhash Patel, an Individual, and Electronic Interconnect, Inc.</u> - Complainant's Motion for Partial Summary Judgment (5/20) | (RCF) |
| 96-76 RCRA-E | <u>People of the State of Illinois v. Chemetco, Inc.</u> - Respondent's Motion for Leave to File Opposition to Complainant's Motion for Summary Judgment Instantly (7/11), Complainant's Motion for Leave to File Reply Brief (7/18) | (CAM) |
| 96-164 T-C, Appeal | <u>CGE Ford Heights, L.L.C. v. IEPA</u> - Petitioner's Motion for Further Stay (7/16) | (CAM) |
| 96-180) 97-11) W-E, Citizens | <u>Environmental Site Developers, Inc. v. White & Brewer Trucking, Inc.</u> - Complainant's Motion for Extension of Time (7/21) | (McF) |
| 96-191 A-V | <u>White Cap, Inc. v. IEPA</u> - Agency Motion to File Motion to Modify Board Order dated November 7, 1996 Instantly, Motion to Expedite Board Decision and Motion to Modify Board Order dated November 7, 1996 (6/30), Petitioner's Response to the Agency's Motion to Modify Board Order dated November 7, 1996 and Motion to Expedite Board Decision (7/9), Agency Leave to File Reply to Petitioner's Response to Agency's Motion to Modify Board Order dated November 7, 1996 (7/16) | (JTM) |
| 97-10 RCRA-E | <u>People of the State of Illinois v. Allsteel, Inc.</u> - Request for Hearing (See letter of objection filed by John DuRocher on 7/18) | (JTM) |

MOTIONS AND OTHER MATTERS (Cont'd)

| | | |
|-------------------------|--|-------|
| 97-38 RCRA-E | <u>People of the State of Illinois v. Amsted Industries, Inc. d/b/a Griffin Wheel Company, L.E. Swiderski d/b/a Griffin Wheel Company, and Horsehead Resource Development Company, Inc.</u> - Complainant's Motion for Voluntary Dismissal Without Prejudice of Respondents Amsted Industries, Inc. and Horsehead Resource Development Company, Inc. (4/24), Respondent Horsehead Resource Development Company's Objection to Complainant's Motion for Voluntary Dismissal Without Prejudice (5/5), Complainant's Motion for Leave to File Reply to Respondent Horsehead Resource Development Company's Objection to Motion for Voluntary Dismissal (5/8), Complainant's Response to Respondent's Objection to Complainant's Motion for Voluntary Dismissal (6/16), Respondent Horsehead Resource Development Company's Motion for Leave to File Reply and Reply to Complainant's Response to Horsehead Resource Development Company's Objection to Complainant's Motion for Voluntary Dismissal (6/25), Complainant's Objection to Respondent Horsehead Resource Development Company's Motion for Leave to File Reply (7/3) | (JY) |
| 97-40 L-E | <u>People of the State of Illinois v. James R. Womack, d/b/a Womack Brothers Excavating</u> - Motion for Relief from Hearing Requirement (7/22) | (McF) |
| 97-62 A-E | <u>People of the State of Illinois v. Geon Company</u> - Complainant's Motion to Strike Affirmative Defenses of Respondent (7/11) | (JTM) |
| 97-92 W-E | <u>People of the State of Illinois v. Victor G. Heuermann</u> - Respondent's Motion to Dismiss (7/14), Complainant's Response to Respondent's Motion to Dismiss (7/18) | (JY) |
| 97-102 W-V, NPDES | <u>Borden Chemicals and Plastics Operating Limited Partnership v. IEPA</u> - Petitioner's Verified Amended Petition for Variance (7/11), Petitioner's Motion to File Verified Amended Petition for Variance Instantly (7/16) | (McF) |

MOTIONS AND OTHER MATTERS (Cont'd)

| | | |
|----------------------------|---|-------|
| 97-127 EPCRA-E | <u>People of the State of Illinois v. Pettibone Corporation</u> - Motion to Request Relief from Hearing Requirement (7/18) | (JTM) |
| 97-148 L-E, Citizens | <u>Marilyn J. Richey v. Texaco Refining and Marketing, Inc.</u> - Respondent's Motion to Dismiss or Stay the Proceeding (6/2), Complainant's Response to Respondent's Motion to Dismiss or in the Alternative Stay the Proceedings (7/14) | (GTG) |
| 97-175 EPCRA-E | <u>People of the State of Illinois v. Circuit International, Inc.</u> - Complainant's Motion for Summary Judgment (7/16) | (RCF) |
| 97-177 EPCRA-E | <u>People of the State of Illinois v. ESS L.P.</u> - Complainant's Motion for Summary Judgment (7/16) | (RCF) |
| 97-202 W-V | <u>Commonwealth Edison Company, Zion Power Station v. IEPA</u> - Joint Motion to Vacate (7/9) | |
| 97-207 A&L-E | <u>People of the State of Illinois v. Inspiration Development Company</u> Respondent's Motion for an Order (6/30), Respondent's Brief in Support of its Motion to Dismiss (7/1), Complainant's Response to Respondent's Motion to Dismiss (7/3), Respondent's Motion for Leave to File Reply to Complainant's Response to its June 26, 1997 Motion (7/14), Complainant's Response to Respondent's Motion to Stay (7/16) | (JY) |
| 97-210 P-A, Land | <u>ESG Watts, Inc. v. IEPA</u> - Respondent's Motion for Summary Judgment (7/7) | (JY) |
| 97-221 W-E Citizens | <u>Debra Conway v. Edward and Winona Johnson, Sr.</u> - Respondents' Motion to Dismiss (6/20) | (GTG) |

MOTIONS AND OTHER MATTERS (Cont'd)

| | | |
|------------------------------|--|-------|
| 97-231 A-E | <u>People of the State of Illinois v. Graftek Press, Inc.</u> - Motion to Request Relief from Hearing Requirement (7/17) | (JTM) |
| 97-234 UST-E, Citizens | <u>Antonio D.H. Nam v. Kikon Suh</u> - Awaiting Duplicitous/Frivolous Determination | (CAM) |
| 98-9 UST-E, Citizens | <u>Edward Malina v. Emro Marketing Company and Marathon Oil Company</u> - Awaiting Duplicitous/Frivolous Determination | (CAM) |
| 98-10 UST-E, Citizens | <u>The Village of Niles v. Mobil Oil Company</u> - Awaiting Duplicitous/Frivolous Determination | (CAM) |
| 98-15 P-A, Air | <u>Consolidation Coal Company v. IEPA</u> - Accept for Hearing Order | (McF) |
| 98-16 P-A, 90-Day Ext. | <u>Evergreen Plaza Associates v. IEPA</u> - Joint Request for 90-Day Extension of Appeal Period (7/16) | (GTG) |
| 98-17 L-E, Tires | <u>People of the State of Illinois v. Scrap Tire Recycling Center, Inc., f/k/a Russell Foundry, Thomas Ratkovic, an individual, and Leon Benish, an individual</u> - Hold for Duplicitous/Frivolous Determination - No Order | |
| 98-18 N-E, Citizens | <u>James R. and Lucille J. Metz v. United States Postal Service</u> - Hold for Duplicitous/Frivolous Determination - No Order | |
| 98-19 P-A, 90-Day Ext. | <u>Chicago Sun-Times, Inc. v. IEPA</u> - Petitioner's Request for 90-Day Extension of Appeal Period (7/18), Joint Request for 90-Day Extension of Appeal Period (7/22) | |

CASES PENDING DECISION

R97-23 Wastewater Pretreatment Update, USEPA Regulations (July 1 (JY)
R, Water 1996 through December 31, 1996) - Adopted Rule, Final Order,
Opinion and Order

97-64 People of the State of Illinois v. Unique Marble Products, Inc. (JTM)
EPCRA-E

97-209 Land and Lakes Company v. IEPA (due 9/19) (KMH)
L-V

Motion for Closed Deliberative Session to be held August 7, 1997
at 1:00 p.m. in the Springfield Office

ADJOURNMENT

LIST OF NEW CASES FILED SINCE JULY 10, 1997 BOARD MEETING

| | |
|---------|---|
| AC 98-2 | IEPA v. Frank A. Olson |
| AC 98-3 | County of Will v. Sherry Fetcho |
| 98-15 | Consolidation Coal Company v. IEPA |
| 98-16 | Evergreen Plaza Associates v. IEPA |
| 98-17 | People of the State of Illinois v. Scrap Tire Recycling Center, Inc., f/k/a Russell Foundry, Thomas Ratkovic, an individual, and Leon Benish, an individual |
| 98-18 | James R. and Lucille J. Metz v. United States Postal Service |
| 98-19 | Chicago Sun-Times, Inc. v. IEPA |

REGULAR BOARD MEETING SCHEDULE FOR CALENDAR YEAR 1997

August 7 *
August 21

September 4
September 18

October 2
October 16 *

November 6
November 20

December 4
December 18

NOTE: All Board Meetings held in Chicago will be held in Conference Room 9-040. Those noted with an asterisk will be held in Conference Room 9-031. The August 7, 1997 Board Meeting will be held in Springfield in the 3rd floor Conference Room of the Illinois Police Training Board, 600 South Second Street, Springfield at 3:00 p.m.

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 RCRA | 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 Act proceeding (hazardous waste only) | S0 ₂ | S0 ₂ Alternative Standards (35 ILL. ADM. CODE 302.211(f)) |
| SWH-E | Special Waste Hauling Enforcement | SWH-V | Special Waste Hauling Variance |
| T | Thermal Demonstration Rule | T-C | Tax Certifications |
| T-S | Trade Secrets | UST-Appeal | Underground Storage Tank Corrective Action Appeal |
| UST-E | Underground Storage Tank Enforcement | UST-FRD | Underground Storage Tank Fund Reimbursement Determination |
| W-E | Water Enforcement | W-V | Water Variance |
| WWS | Water-Well Setback Exception | | |