

ILLINOIS POLLUTION CONTROL BOARD

MEETING MINUTES



SEPTEMBER 3, 1998 CHICAGO, ILLINOIS
CONFERENCE ROOM 9-040
10:30 A.M.

ANNOUNCEMENTS

After calling the meeting to order, Chairman Manning welcomed members of the public and staff to the meeting, and introduced new staff member Erik Lyons.

ROLL CALL

The Clerk of the Board called the roll and all Board Members answered present.

APPROVAL OF MINUTES

Minutes of the August 20, 1998 meeting were approved by a vote of 7-0.

RULEMAKINGS

R97-16	<u>In the Matter of: Proportionate Share Liability</u> - The Board adopted a first notice opinion and order in this proposed rulemaking to establish procedures for determining proportionate share liability in environmental actions.	7-0 R, Land
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ADJUSTED STANDARDS

AS 97-9	<u>In the Matter of: Petition of Recycle Technologies, Inc. for an Adjusted Standard under 35 Ill. Adm. Code 720.131(c)</u> - The Board granted to this DuPage County facility an adjusted standard, with conditions, from 35 Ill. Adm. Code Part 720.131(c), which allows the Board to determine that certain materials are not solid wastes if they meet certain criteria.	7-0 Land
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ADJUSTED STANDARDS (CONTINUED)

AS 98-2 In the Matter of: Petition of the City of Salem for an Adjusted Standard from 35 Ill. Adm. Code 814. Subpart D - No action was taken on petitioner's motion for reconsideration. Land

AS 99-2 In the Matter of: Petition of Sun Chemical Corporation for an Adjusted Standard from 35 Ill. Adm. Code 218.626(b) - The Board acknowledged receipt of this petition for an adjusted standard from certain requirements on behalf of a Cook County facility and held it pending receipt of a certificate of publication. Flemal
Air

ADMINISTRATIVE CITATIONS

AC 99-3 IEPA v. City of Sesser - The Board found that this Franklin County respondent violated Sections 21(p)(1) and 21(p)(2) Act (415 ILCS 5/21(p)(1), 21(p)(2) (1996)) Act of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(2) (1996)) and ordered respondent to pay a civil penalty of \$1,000. 7-0

AC 99-4 IEPA v. City of Paris and Ingrum's Waste Disposal - The Board found that these Edgar County respondents violated Sections 21(p)(1) and 21(p)(3) of the Environmental Protection Act (415 ILCS 5/21(p)(1), 21(p)(3) (1996)) and ordered respondents to pay a civil penalty of \$1,000. 7-0

AC 99-8 IEPA v. William Burr and Shirley Burr - The Board accepted an administrative citation against these Marion County respondents.

AC 99-9 IEPA v. Terry Patrick - The Board accepted an administrative citation against this Piatt County respondent.

ADJUDICATORY CASES

Provisional Variances

- PCB 99-39** Commonwealth Edison Company (Dresden Power Station) v. IEPA 6-0
- Upon receipt of an Agency recommendation, the Board granted Hennessey
this Grundy County facility a 24-day provisional variance, subject abstained
to conditions, from certain thermal effluent discharge requirements Water
as set forth in 35 Ill. Adm. Code 302.211, 304.141(b) of the Board's
water regulations and in the Board's order in In the Matter of: 410
(c) Petition for Dresden Nuclear Generating Station (July 8, 1981),
PCB 79-134.
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Motions and Other Matters

- PCB 94-288** People of the State of Illinois v. Grayslake Gelatin Company, 7-0
Blidco, Inc., ACME Construction Company, Inc., Diversified A-E
Abatement Contractors, Inc., and John Nordigan, individually and as
President of Diversified Abatement Contractors, Inc. - The Board
entered an order which granted complainant's motion for summary
judgment against respondent Diversified Abatement Contractors,
Inc. (Diversified) and found that this Lake County respondent
violated Section 9.1(d)(1) of the Environmental Protection Act (Act
(415 ILCS 5/9.1(d)(1) (1996)). Complainant's motion for summary
judgment against respondent John Nordigan was denied. The
Board reserved ruling on complainant's request for relief against
Diversified for penalties, a cease and desist order, costs, and
attorney's fees. Within 14 days of the date of this order the
complainant may file with the Board a request for a hearing on
penalties, a cease and desist order, costs, and attorney's fees. If no
request for hearing is made the Board will rule on the complainant's
request for relief after the following briefing schedule: within 30
days of the date of this order the complainant may file a brief on
penalties, a cease and desist order, costs, and attorney's fees to be
imposed on Diversified; within 20 days of the complainant's filing,
Diversified may file a response brief.
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- PCB 96-247** Macon County Landfill #2 and #3 v. IEPA - The Board granted 7-0
petitioner's motion for withdrawal of this permit appeal involving a P-A, Land
Macon County facility.
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ADJUDICATORY CASES (CONTINUED)**MOTIONS AND OTHER MATTERS (CONTINUED)**

PCB 97-50	<u>Lionel P. Trepanier, Wes Wager, Maureen Cole, Lorenz Joseph, Maxworks Garden Cooperative and Avi Pandya</u> - No action taken.	A-E, Citizens
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PCB 97-66	<u>People of the State of Illinois v. D'Angelo Enterprises, Inc.</u> - No action taken.	RCRA-E
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PCB 97-117	<u>People of the State of Illinois v. United Scrap Metal, Inc.</u> - Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this land enforcement action against a Cook County facility, the Board ordered publication of the required newspaper notice.	7-0 L-E
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PCB 97-121	<u>Matteson WHP Partnership v. James W. Martin and Eva D. Martin, individually and d/b/a Martin's of Matteson</u> - No action taken.	RCRA-E, Citizens
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PCB 97-148	<u>Marilyn J. Richey v. Texaco Refining and Marketing, Inc.</u> - The Board granted complainant's motion for withdrawal of this citizen's land enforcement action against a Madison County facility.	7-0 L-E, Citizens
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PCB 97-168	<u>People of the State of Illinois v. Old World Industries, Inc., and Specialty Sealant Tapes, Inc.</u> - No action taken.	L-E
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PCB 97-187	<u>Martin Oil Marketing, Ltd. v. IEPA</u> - The Board granted petitioner's motion for withdrawal of this underground storage tank appeal involving a Rock Island County facility.	7-0 UST-Appeal
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PCB 97-211	<u>Gord Leonard Union 76, Inc. v. IEPA</u> - The Board granted petitioner's motion for withdrawal of this underground storage tank appeal involving a Lake County facility.	7-0 UST-FRD
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PCB 97-234	<u>Antonio D.H. Nam v. Kikon Suh</u> - No action taken.	UST-E, Citizens
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ADJUDICATORY CASES (CONTINUED)
MOTIONS AND OTHER MATTERS (CONTINUED)

PCB 98-1 City of Salem. v. IEPA - No action taken. L-V

PCB 98-18 James R. and Lucille J. Metz v. United States Postal Service - No action taken. N-E, Citizens

PCB 98-58 People of the State of Illinois v. Stephen Berger d/b/a Layer One - 7-0
Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this RCRA enforcement action against a Winnebago County facility, the Board ordered publication of the required newspaper notice. RCRA-E

PCB 98-84 Scott Behrmann and Shelly Behrmann v. Okawville Farmers Elevator-St. Libory - The Board granted complainants's motion for leave to file, and accepted the third amended complaint. 7-0
N-E, Citizens

PCB 98-160 Devro-Teepak, Inc. (Permit Application No. 95120325) v. IEPA - T-S
The Board referred respondent's motions for leave to file answer instanter and agreed motion for *in camera* hearing to the hearing officer for disposition.

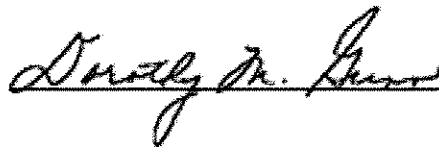
PCB 98-161 Devro-Teepak, Inc. (Permit Application No. 95120326) v. IEPA - T-S
The Board referred respondent's motions for leave to file answer instanter and agreed motion for *in camera* hearing to the hearing officer for disposition.

PCB 98-169 Union Oil Company of California d/b/a Unocal v. Barge-Way Oil Company, Inc., Bargeway Systems, Inc., Joseph Kellogg, Nielsen's Bargeway, Gertrude Kellogg, Robert Nielsen, Robert F. Atkins, and Mobil Oil Company - No action taken. UST-E, Citizens

ADJUDICATORY CASES (CONTINUED)
MOTIONS AND OTHER MATTERS (CONTINUED)

PCB 98-170	<u>People of the State of Illinois v. Village of St. Libory</u> - Upon receipt of a proposed stipulation and settlement agreement and an agreed motion to request relief from the hearing requirement in this air enforcement action against a St. Clair County facility, the Board ordered publication of the required newspaper notice.	7-0 PWS-E
PCB 99-12	<u>Chemetco, Inc. v. IEPA</u> - The Board granted petitioner's motion for counsel to appear before the Board <i>pro hac vice</i> .	7-0 P-A, RCRA
PCB 99-19	<u>Anthony and Karen Roti, Paul Rosenstock, and Leslie Weber v. LTD Commodities</u> - The Board found that the noise pollution allegations in this matter were not duplicitous or frivolous, accepted that portion of this citizens noise enforcement action involving a Lake County facility for hearing, but dismissed the allegations regarding light.	7-0 N-E Citizens
PCB 99-30	<u>Lucille Wathen v. Daniel and Wendy Stryker</u> - The Board held for a later duplicitous/frivolous determination this citizen's noise enforcement action involving a Cook County facility.	N-E Citizens
PCB 99-33	<u>Brickyard Disposal & Recycling, Inc. v. IEPA</u> - The Board granted this request for a 90-day extension of time to file a permit appeal on behalf of a Vermilion County facility.	7-0 P-A, 90-Day Ext.
PCB 99-36	<u>Nina Enterprises, Inc. v. IEPA</u> - The Board accepted for hearing this air permit appeal involving a Cook County facility.	7-0 P-A, Air
PCB 99-37	<u>Sun Chemical Corporation v. IEPA</u> - The Board accepted for hearing this request for variance involving a Cook County facility.	7-0 Air

I, Dorothy M. Gunn, Clerk, of the Illinois Pollution Control Board, hereby certify that the above minutes were approved this 17th day of September 1998 by a vote of 7-0.

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

MEETING AGENDA



SEPTEMBER 3, 1998 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. Thank you for your interest.

ROLL CALL

APPROVAL OF MINUTES

August 20, 1998

RULEMAKINGS

R97-16	<u>In the Matter of: Proportionate Share Liability</u> - Proposed Rule, First Notice, Opinion and Order	Manning McFawn Hennessey R, Land
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ADJUSTED STANDARDS

AS 97-9	<u>In the Matter of: Petition of Recycle Technologies, Inc. for an Adjusted Standard from 35 Ill. Adm. Code 720.131(c)</u>	Hennessey Land
AS 98-2	<u>In the Matter of: Petition of City of Salem for Adjusted Standard from 35 Ill. Adm. Code Part 814.Subpart D - Petitioner's Motion to Reconsider (8/14)</u>	McFawn Land
AS 99-2	<u>In the Matter of: Petition of Sun Chemical Corporation for Adjusted Standard from 35 Ill. Adm. Code 218.626(b) - Hold for Certificate of Publication</u>	Flemal Air

ADMINISTRATIVE CITATIONS

AC 99-3	<u>IEPA v. City of Sesser - Default Order</u>	Manning
AC 99-4	<u>IEPA v. City of Paris and Ingram's Waste Disposal - Default Order</u>	Manning
AC 99-8	<u>IEPA v. William Burr and Shirley Burr - Accept Case - No Order</u>	
AC 99-9	<u>IEPA v. Terry Patrick - Accept Case - No Order</u>	

ADJUDICATORY CASES

Decisions

Provisional Variances

Since the Board must decide provisional variances within forty-eight hours of their filing, any provisional variances filed prior to this meeting will be included here.

ADJUDICATORY CASES (CONTINUED)

Provisional Variances (Continued)

PCB 99-39	<u>Commonwealth Edison Company (Dresden Power Station) v. IEPA</u> - Provisional Variance	Manning W-V
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Motions and Other Matters

Additional motions on the following cases filed prior to this meeting may be included here.

PCB 94-288	<u>People of the State of Illinois v. Grayslake Gelatin Company, Blidco, Inc., ACME Construction Company, Inc., Diversified Abatement Contractors, Inc., and John Nordigan, individually and as President of Diversified Abatement Contractors, Inc. - Complainant's Motion for Summary Judgment (7/2)</u>	Hennessey A-E
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PCB 96-247	<u>Macon County Landfill #2 and #3 v. IEPA - Petitioner's Motion for Voluntary Dismissal (8/24)</u>	McFawn P-A, Land
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PCB 97-50	<u>Lionel P. Trepanier, Wes Wager, Maureen Cole, Lorenz Joseph, Maxworks Garden Cooperative and Avi Pandya v. Speedway Wrecking Company and the Board of Trustees of the University of Illinois - Respondents' Joint Motion for Summary Judgment and Respondents' Memorandum in Support of Joint Motion for Summary Judgment (6/22), Complainants' Motion To Strike Respondents' Affidavits and Motion for Summary Judgment (7/13), Respondents' Joint Memorandum in Opposition to Certain Complainants' Motion to Strike (7/20), Complainants' Response to Respondents' Motion for Summary Judgment (8/17), Complainants' Motion for Correction of Typographical Error in August 14, 1998 Affidavit of Trepanier Opposing Summary Judgment Motion (8/17), Respondents' Reply Memorandum in Support of Their Joint Motion for Summary Judgment (8/21)</u>	Hennessey A-E, Citizens
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PCB 97-66	<u>People of the State of Illinois v. D'Angelo Enterprises, Inc. - Complainant's Motion for Summary Judgment (8/5)</u>	Hennessey RCRA-E
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ADJUDICATORY CASES (CONTINUED)

Motions and Other Matters (Continued)

PCB 97-117	<u>People of the State of Illinois v. United Scrap Metal, Inc.</u> - Motion to Request Relief from the Hearing Requirement (8/19)	Flemal L-E
PCB 97-121	<u>Matteson WHP Partnership v. James W. Martin and Eva D. Martin, individually and d/b/a Martin's of Matteson</u> - Complainant's Motion for Summary Judgment (7/2), Respondents' Response to Complainant's Motion for Summary Judgment (8/20)	McFawn RCRA-E, Citizens
PCB 97-148	<u>Marilyn J. Richey v. Texaco Refining and Marketing, Inc.</u> - Complainant's Motion for Voluntary Dismissal (8/27)	Girard L-E Citizens
PCB 97-168	<u>People of the State of Illinois v. Old World Industries, Inc., and Specialty Sealant Tapes, Inc.</u> - Respondent Old World Industries, Inc.'s Motion to Dismiss Complaint and Memorandum of Law in Support of its Motion to Dismiss (6/22), Complainant's Response to Respondent Old World Industries, Inc.'s Motion to Dismiss (7/6), Old World Industries, Inc.'s Reply Brief in Support of Its Motion to Dismiss the Complaint (7/20)	Manning L-E
PCB 97-187	<u>Martin Oil Marketing, Ltd. v. IEPA</u> - Petitioner's Motion for Voluntary Dismissal (8/26)	Flemal UST-Appeal
PCB 97-211	<u>Gord Leonard Union 76, Inc. v. IEPA</u> - Petitioner's Motion to Dismiss (8/31)	Hennessey UST-FRD
PCB 97-234	<u>Antonio D.H. Nam v. Kikon Suh</u> - Complainant's Motion for Summary Judgment and Memorandum in Support of Complainant's Motion for Summary Judgment (7/16)	Manning UST-E, Citizens

ADJUDICATORY CASES (CONTINUED)

Motions and Other Matters (Continued)

PCB 98-1	<u>City of Salem v. IEPA</u> - Petitioner's Motion to Reconsider (8/14)	McFawn L-V
PCB 98-18	<u>James R. and Lucille J. Metz v. United States Postal Service</u> - Complainants' Motion for Leave to File Amended Formal Complaint and Amended Complaint (8/5), Respondent's Motion to Dismiss Amended Complaint (8/20/)	Girard N-E, Citizens
PCB 98-58	<u>People of the State of Illinois v. Stephen Berger d/b/a Layer One</u> - Motion to Request Relief from Hearing Requirement (8/27)	Hennessey RCRA-E
PCB 98-84	<u>Scott Behrmann and Shelly Behrmann v. Okawville Farmers Elevator-St. Libory</u> - Complainants' Motion for Leave to File Third Amended Complaint and Third Amended Complaint (7/23)	Yi N-E Citizens
PCB 98-160	<u>Devro-Teepak, Inc. v. IEPA</u> - Agreed Motion for In Camera Hearing (8/21), Respondent's Answer and Motion to File Answer Instanter (8/24)	Manning T-S
PCB 98-161	<u>Devro-Teepak, Inc. v. IEPA</u> - Agreed Motion for In Camera Hearing (8/21), Respondent's Answer and Motion to File Answer Instanter (8/24)	Manning T-S

ADJUDICATORY CASES (CONTINUED)

Motions and Other Matters (Continued)

PCB 98-169	<u>Union Oil Company of California d/b/a Unocal v. Barge-Way Oil Company, Inc., Bargeway Systems, Inc., Joseph Kellogg, Nielsen's Bargeway, Gertrude Kellogg, Robert Nielsen, Robert F. Atkins, and Mobil Oil Company - (See Respondent Mobil Oil Company's Motion to Dismiss Complaint filed 7/6; Respondent Gertrude Kellogg's Motion to Dismiss filed 7/16; and Complainant's Motion for Extension of Time Within Which to Respond to Motion to Dismiss filed 7/16; Respondent Barge-Way Oil Company, Inc.'s Motion to Join the Motion to Dismiss Complaint of Mobil Oil Corporation Instantly filed 7/21; Respondent Robert Nielsen's Motion to Dismiss and Join Mobil Oil Company's Motion to Dismiss Instantly filed 7/30; and Motion of Respondents Bargeway Systems and Robert F. Atkins to Join Instantly Respondent Mobil Oil Company's Motion to Dismiss Complaint filed 8/4, Respondent Robert Nielsen's Motion to Strike Address of Nielsen's Bargeway filed 8/17, Opposition of Complainant Union Oil Company of California to Respondents' Motion to Dismiss Complaint filed 8/18)</u>	Manning UST-E, Citizens
PCB 98-170	<u>People of the State of Illinois v. Village of St. Libory - Motion for Relief from Hearing Requirement (8/31)</u>	McFawn PWS-E
PCB 99-12	<u>Chemetco, Inc. v. IEPA - John F. Cowling's Request for Admission (8/13)</u>	Hennessey P-A, RCRA
PCB 99-19	<u>Anthony and Karen Roti, Paul Rosenstock, and Leslie Weber v. LTD Commodities - Duplicitous/Frivolous Determination - Order (See Respondent's Motion to Dismiss filed 7/29; and Complainants' Karen & Anthony Roti et al. Objection to Respondent's Motion to Dismiss filed 8/4)</u>	Melas A-E Citizens
PCB 99-30	<u>Lucille Wathen v. Daniel and Wendy Stryker - Hold for Duplicitous/Frivolous Determination</u>	Melas N-E Citizens

ADJUDICATORY CASES (CONTINUED)

Motions and Other Matters (Continued)

PCB 99-33	<u>Brickyard Disposal & Recycling, Inc. v. IEPA</u> - Joint Request for 90-Day Extension of Appeal Period (8/18) - Order	Manning P-A, 90-Day Ext.
PCB 99-36	<u>Nina Enterprises, Inc. v. IEPA</u> - Accept for Hearing Order	Melas P-A, Air
PCB 99-37	<u>Sun Chemical Corporation v. IEPA</u> - Accept for Hearing Order	Flemal Air
PCB 99-38	<u>Lawrence C. Sweda v. Outboard Marine Corporation and the City of Waukegan</u> - Hold for Duplicitous/Frivolous Determination (See Respondent Outboard Marine Corporation's Motion to Dismiss and Memorandum in Support Thereof filed 8/28; and Respondent City of Waukegan's Motion to Dismiss filed 8/31)	N-E, Citizens

CASES PENDING DECISION

R97-15(B)	<u>In the Matter of: Livestock Waste Regulations, 35 Ill. Adm. Code 506</u> - Proposed Rule, Second Notice, Opinion and Order	McFawn Land
R98-14	<u>In the Matter of: Petition of PDV Midwest Refining, L.L.C. for a Site-Specific Rulemaking Amendments to 35 Ill. Adm. Code 304.213</u> - Proposed Rule, Second Notice, Opinion and Order	Yi R, Water
R98-21	<u>In the Matter of: RCRA Update, USEPA Regulations (July 1, 1997, through December 31, 1997); In the Matter of: RCRA Update, USEPA Regulations (January 1, 1998, through June 30, 1998); In the Matter of: UIC Update, USEPA Regulations (January 1, 1998, through June 30, 1998) - Proposed Rule, Proposal for Public Comment, Opinion and Order</u>	Hennessey R, Land

CASES PENDING DECISION (CONTINUED)

R98-24 In the Matter of: Enhanced Vehicle Inspection and Maintenance
(I/M) Regulations: Amendments to 35 Ill. Adm. Code 240 -
Expedited Correction Order McFawn
R, Air

PCB 95-163 People of the State of Illinois v. Clark Refining & Marketing Flemal
A,W &
RCRA-E

PCB 97-30 People of the State of Illinois v. Shell Oil Company Flemal
A-E

OTHER ITEMS

ADJOURNMENT

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		

ILLINOIS POLLUTION CONTROL BOARD

NEW CASE LISTING



NEW CASES FILED SINCE AUGUST 20, 1998 BOARD MEETING

AS 99-2	In the Matter of: Petition of Sun Chemical Corporation for Adjusted Standard from 35 Ill. Adm. Code 218.626(b)
AC 99-8	IEPA v. William Burr and Shirley Burr
AC 99-9	IEPA v. Terry Patrick
PCB 99-33	Brickyard Disposal & Recycling, Inc. v. IEPA
PCB 99-36	Nina Enterprises, Inc. v. IEPA
PCB 99-37	Sun Chemical Corporation v. IEPA
PCB 99-38	Lawrence C. Sweda v. Outboard Marine Corporation and the City of Waukegan
PCB 99-39	Commonwealth Edison Company (Dresden Power Station) v. IEPA