

ILLINOIS POLLUTION CONTROL BOARD
April 23, 1992

IN THE MATTER OF:)
)
PETITION OF KEYSTONE STEEL) AS 91-1
AND WIRE CO. FOR) (RCRA Delisting
HAZARDOUS WASTE DELISTING) Adjusted Standard)

SUPPLEMENTAL OPINION AND ORDER OF THE BOARD (by J. Anderson):

This matter comes before the Board on a March 12, 1992, filing of a motion for modification by Keystone Steel and Wire Company (Keystone). The Illinois Environmental Protection Agency (Agency) filed its response to the petitioner's motion for modification on March 27, 1992. Keystone filed a motion for leave to file and reply on April 7, 1992, which is granted. On February 6, 1992, the Board granted a delisting of Keystone's chemically stabilized electric arc furnace dust (CSEAFD) from the lists of hazardous wastes from specific sources found at 35 Ill. Adm. Code 721.132. Keystone's motion requests modification of one of the conditions imposed on the delisting. The motion to modify is granted.

Keystone requests that condition B, limiting the amount of CSEAFD which is delisted, be changed from the specified 10,000 tons per year (tpy) to a greater amount. The 10,000 tpy amount currently specified in the adjusted standard was based on Keystone's estimate of "normal" generation of electric arc furnace dust (EAFD) before the chemical stabilization treatment.

First, Keystone's motion for modification states that it did not anticipate a limitation on annual waste generation; otherwise it would have presented the Board with the "maximum" monthly and annual generation rates at its facility for use as a limitation on annual waste generation.¹ Keystone's motion to modify includes a certification of maximum generation rates and acknowledges that it "appears proper" for the Board to impose a maximum annual generation rate based on Keystone's certification. Keystone believes this is compatible with previous USEPA practice for delisting a waste. In its motion for Leave to File and Reply, Keystone states that the terms and conditions of its air operating permit are separate from the Board's delisting action. Further, Keystone argues that the imposition of a maximum annual generation rate of waste should not be limited by production levels the Agency has included as a condition in Keystone's air

¹ The use of annual generation limitations on delistings for K061 wastes (such as Keystone's) is relatively new.

permit, but rather on the facility's maximum (steel) production rate as certified by Keystone.

Second, Keystone contends that the 10,000 tpy limit currently specified in the adjusted standard applies to the untreated waste (i.e. EAFD) and was not multiplied by a factor of 1.4 to achieve the actual amount of the chemically stabilized waste (i.e. CSEAFD). The 1.4 factor is the "bulking" weight added by the stabilization process to the untreated waste.

Keystone further notes that because it will be adversely affected if the Board does not modify the limit, a new petition for adjusted standard will be filed if the motion for modification is denied.

In its response, the Agency states that it is opposed to the specific limitation proposed in the motion for modification. The Agency states that although Keystone's facility may have a maximum generation rate, Keystone's operating permit allows a lesser amount of untreated waste generation. The Agency proposes that any modification to the amount of CSEAFD allowed to be delisted should be based upon the limits present in Keystone's operating permit.

The Agency also states that the Board should limit the amount of untreated EAFD waste generated by Keystone's facility instead of the amount of chemically stabilized waste (i.e. the CSEAFD). This type of limitation would ensure against violations of Keystone's operating permit and ensure the actual amount of wastes treated even if there are improvements to the chemical stabilization process.

The Board finds that the figure of 10,000 tpy of CSEAFD in condition B of Keystone's adjusted standard is incorrect. The actual figure of 10,000 tpy in the petition for adjusted standard represented an amount of untreated waste. To achieve the proper figure for waste treated by the chemical stabilization process, the 10,000 tpy must be multiplied by a factor of 1.4. Therefore, the Board will modify condition B to allow for the bulking that takes place during the stabilization process.

The Board declines to consider modifying condition B into the higher amounts proposed by the Agency and Keystone for the following reasons. First, the Agency is incorrect in assuming that the Board is strictly bound to adhere to a limit imposed by the Agency as a condition in a permit. An adjusted standard is for relief from a Board regulation (limitation, standard) of general applicability. Second, whatever the Agency's reasons may be for a maximum generation limit based on Keystone's operating permit, such specification will not serve the purpose of ensuring that the wastes actually generated at the facility, and only those wastes, will be treated and delisted.

Instead, the Board believes that no maximum waste generating limitation needs to be specified and that its intent in granting Keystone's delisting will be ensured if: (a) it is made clear that only that quantity of EAFD actually generated each calendar year from Keystone's operation will be allowed to be stabilized in the Super DeTox process; (b) the delisting applies only to the stabilized waste from that Super DeTox process (i.e. CSEAFD meeting the specified delisting levels) whose total quantity cannot exceed 1.4 times the quantity of EAFD generated and treated; and (c) Keystone provides the Agency with reports or data showing the amount of EAFD generated at the facility, amount treated using the Super DeTox process each calendar year and the amount of CSEAFD delisted each calendar year. The Board considers this approach of linking waste quantities to be delisted to the actual amount of waste generated and tracking a facility's wastes (generated, treated and delisted) to be an improvement over the USEPA approach of specifying a single maximum generation rate based on a facility's certification.

The "capping" approach does not as effectively regulate the wastestream when the quantities generated are below that cap. Further, the Board's approach does not have the effect of unnecessarily, we believe, limiting the levels of Keystone's steel production. What it assures is that the specific waste generated solely from a particular level of production at that facility, and only that waste, is what is treated and disposed in a nonhazardous waste facility. The Board will modify Sections B and C(1) of its Order accordingly. The Board also finds the last sentence, "These conditions are specific to the upfront exclusion petitioned for by Keystone." of Section C(1), to be unnecessary and will delete it.

The second part of Keystone's motion for modification noted Keystone's concern for the Board's application of the USEPA's generic exclusion levels, derived from best demonstrated available technology (BDAT) treatment standards for high zinc wastes, to Keystone's non-BDAT treated waste. Keystone does not request modification of these standards but requests that the Board consider "modify[ing] its position regarding the application of generic exclusion levels to delistings."

The Agency's response supported the Board's application of the generic exclusion levels to Keystone's stabilized waste. The Agency stated that USEPA does not consider the difference between the generic exclusion levels and the "facility-specific delistings" to be significant. The Agency believes that the Board applied the proper standards and requests that the Board not modify its opinion.

The Board's opinion of February 6, 1992 is based upon Keystone's petition for delisting. An adjusted standard proceeding is decided on a case by case basis and its outcome

relies heavily on the petitioner's information and efforts. As stated in the Board's opinion, due to a lack of certain data in Keystone's petition, the Board took a cautious approach to the granting of the adjusted standard and chose to apply the generic exclusion levels. The Board's action did not establish a general rule applicable to all delistings. Therefore, the Board will not reconsider or modify its opinion on this issue.

To avoid confusion, the Board will reproduce the entire adjusted standard order in this supplemental opinion and order. The order contains the changes to conditions B and C(1) as defined above.

This supplemental opinion constitutes the Board's supplemental findings of fact and conclusions of law in this matter.

ORDER

- A. Pursuant to the authority of Section 28.1 of the Environmental Protection Act, the Board hereby adopts the following adjusted standard. This adjusted standard becomes effective on April 9, 1992 and is applicable only to the electric arc furnace dust wastes collected in Keystone's baghouses and treated by the Super Detox process.
- B. Keystone Steel and Wire Company's fully cured and uncured chemically stabilized electric arc furnace dust ("CSEAFD") treatment residue generated by the Super DeTox stabilization process described in their petition filed January 22, 1991 is nonhazardous, as defined in 35 Ill. Adm. Code 721. Keystone shall use the Super DeTox process to treat no more than the actual amount of electric arc furnace dust (EAFD) generated during each calendar year. This exclusion for the actual amount of CSEAFD treatment residue produced each calendar year (but not exceeding 1.4 times the quantity of EAFD generated and treated during a calendar year) is conditioned upon the treatment residue meeting the verification and testing requirements stated in Section C listed below to ensure that hazardous constituents are not present in the treatment residues at levels of regulatory concern. When this exclusion becomes effective both the uncured and fully cured treatment residues will no longer be subject to regulation under 35 Ill. Adm. Code, Parts 722 through 728 and the permitting standards of 35 Ill. Adm. Code 703. Such wastes shall be required to be disposed of pursuant to the Board's non-hazardous landfill regulations found at 35 Ill. Adm. Code 810 through 815.
- C. Verification and Testing Requirements

1. Keystone is required to both verify that the treatment system is on-line and operating as described in the petition, and to submit a report to the Agency showing that the on-line treatment system can meet the delisting levels of Section D prior to the operation of the full-scale treatment system. Keystone shall also report annually to the Agency in accordance with a date set by the Agency, the previous calendar year's quantities, in tons per year, of: EAFD generated, EAFD treated using the DeTox stabilization process, and CSEAFD produced that has been delisted.
2. Testing
 - a. Initial Testing: During the first four weeks of operation of the full-scale treatment system, Keystone must collect representative grab samples of each treated batch of the CSEAFD and composite the grab samples daily. The daily composites, prior to disposal, must be analyzed for TCLP leachate concentrations for all the constituents listed in condition (D)(1) including cyanide (using distilled water in the cyanide extractions), and analyzed for the constituent concentrations in condition (D)(2). Analyses must be performed according to SW-846 methodologies, incorporated by reference in 35 Ill. Adm. Code 720.111. Keystone must report the analytical test data obtained during this initial period not later than 90 days after the treatment of the first full-scale batch.
 - b. Subsequent Testing: Keystone shall collect representative grab samples of each treated batch of the CSEAFD and composite the grab samples to produce a weekly composite sample. The weekly composites, prior to disposal, must be analyzed for TCLP leachate concentrations for all the constituents listed in condition (D)(1) including cyanide (using distilled water in the cyanide extractions), and analyzed for the constituent concentrations in condition (D)(2). Analyses must be performed according to SW-846 methodologies, incorporated by reference in 35 Ill. Adm. Code 720.111. The analytical data must be compiled and maintained on site for a minimum of three years. These data must be furnished upon request and made available for inspection by any employee or representative of the State of Illinois.

D. Delisting levels: The TCLP concentrations of the CSEAFD leachate in mg/l and the concentrations in the CSEAFD waste in mg/kg shall not exceed the concentrations listed below, otherwise such wastes shall be managed and disposed in accordance with 35 Ill. Adm. Code 703 and 722 through 728.

1.		<u>mg/l</u>
	Antimony	0.063
	Arsenic	0.055
	Barium	6.3
	Beryllium	0.0063
	Cadmium	0.032
	Chromium (Total)	0.33
	Lead	0.095
	Mercury	0.009
	Nickel	0.63
	Selenium	0.16
	Silver	0.3
	Thallium	0.013
	Vanadium	1.26
	Zinc	-.-
	Cyanide	4.42

2.		<u>mg/kg</u>
	Total Reactive Cyanide	250
	Total Reactive Sulfide	500

E. Data submittal: All data must be submitted to the Manager of the Permits Section, Division of Land Pollution Control, Illinois Environmental Protection Agency, 2200 Churchill Road, P. O. Box 19276, Springfield, Illinois, 62794-9276, within the time period specified. At the Agency's request, Keystone must submit any other analytical data obtained through Section C within the time period specified by the Agency. Failure to submit the required data will be considered a failure to comply with the adjusted standard adopted herein and subject Keystone to an enforcement action initiated by the Agency. All data must be accompanied by the following certification statement:

Under civil and criminal penalty of law for the making or submission of false or fraudulent statements or representations (pursuant to the applicable provisions of Illinois' Environmental Protection Act), I certify that the information contained in or accompanying this document is true, accurate and complete.

In the event that any of this information is determined by the Board in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to Keystone, I recognize and agree that this

exclusion of wastes will be void as if it never had effect or to the extent directed by the Board and that Keystone will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.

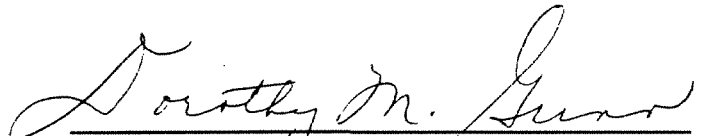
(Name of Certifying Person)

(Title of Certifying Person)

Date _____

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above supplemental opinion and order was adopted on the 23rd day of April, 1992, by a vote of 7-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board