

ILLINOIS POLLUTION CONTROL BOARD  
December 19, 1991

IN THE MATTER OF: )  
 ) R91-12  
PETITION OF USX ) (Identical in Substance  
CORPORATION FOR HAZARDOUS ) Rulemaking)  
WASTE DELISTING )

ADOPTED RULE. FINAL ORDER.

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

<sup>1</sup> By Order attached hereto, pursuant to Section 7.2 and 22.4(a) of the Environmental Protection Act (Act), the Board effects amendments to the Illinois RCRA hazardous waste regulations at 35 Ill. Adm. Code 721.Appendix I, Table B. The amendment adopts an exclusion for fully cured, chemically stabilized electric arc furnace dust/sludge from the USX Steel Corporation, Southworks Plant, Chicago, Illinois. This amendment is identical in substance to an exclusion adopted by USEPA on April 29, 1991. The Board will allow post-adoption comments through January 21, 1992.

Section 22.4(a) provides for quick adoption of regulations establishing the RCRA program in Illinois when those regulations are "identical in substance" to federal regulations. The adoption proceedings for identical in substance rulemakings are quicker because these rulemakings are not subject to Title VII of the Act or Section 5 of the Administrative Procedure Act and, therefore, are not subject to first or second notice review by the Joint Committee on Administrative Rules (JCAR). (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1022.4(a).) In place of the Title VII and Section 5 proceedings is the requirement that the Board consider comments from USEPA, Agency, the Attorney General, and the public before adopting the regulation. Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1007.2(a). Identical in substance rulemakings are therefore proposed for a comment period before adoption.

PUBLIC COMMENTS

The Board proposed the amendments for public comment on June 6, 1991. The proposed amendments were published in the Illinois Register on June 28, 1991 (15 Ill. Reg. 9288). The Board received three public comments in the 45 day comment period

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<sup>1</sup>The Board acknowledges the contributions of Elizabeth Handzel and Morton Dorothy in preparing this Opinion and Order.

following the date of publication.

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| PC 1 | Illinois Environmental Protection Agency, August 12, 1991             |
| PC 2 | United States Steel Corporation, August 13, 1991                      |
| PC 3 | United States Steel Corporation, August 29, 1991<br>(amended comment) |

In addition, a memorandum from the Administrative Code Division was received on July 11, 1991.

#### HISTORY

The federal RCRA regulations are found at 40 CFR 260 through 270. The history of the corresponding Illinois RCRA regulations, together with more stringent State regulations particularly applicable to hazardous waste, can be found in the August 8, 1991 Final Opinion of the Board in docket R91-1. \_\_\_\_\_ PCB \_\_\_\_\_, August 8, 1991. As detailed in R91-1, adoption of the RCRA regulations has proceeded in several stages.

The pertinent section for this rulemaking, 35 Ill. Adm. Code 721.Appendix I, was adopted in R81-22, 43 PCB 427; 5 Ill. Reg. 9781, effective May 17, 1982. Table B of Appendix I, entitled "Wastes Excluded From Specific Sources", has been amended twice when the Board adopted, identical in substance, USEPA delistings for Amoco Oil Company (R85-2, 69 PCB 314, April 24, 1986; 10 Ill. Reg. 8112, effective May 2, 1986) and Envirite Corporation (R87-30, 90 PCB 665; June 30, 1988; 12 Ill. Reg. 12070, effective July 12, 1988.).

Of particular interest to this matter, on March 1, 1990, USEPA delegated authority to Illinois to administer several additional components of the RCRA program, including the authority to delist hazardous waste in lieu of USEPA and pursuant to 35 Ill. Adm. Code 720.122. (55 Fed. Reg. 7320.) As a result of the USEPA delegation of delisting authority, the Board's identical in substance regulations required modification. The Board adopted R90-17 on February 28, 1991, (effective May 9, 1991) to amend 35 Ill. Adm. Code 720.120, 720.122, 721.110 and 721.111 to allow use of the adjusted standards procedures for delistings and make several other changes. Several post-adoption modifications to R90-17 were made in a Board Order of April 11, 1991.

Section 720.122(m) continues to authorize persons to propose "identical in substance" delistings following USEPA action. This provision was retained after State authorization for situations where USEPA might retain authority to delist. The Board does not adopt identical in substance delistings unless and until someone

files a petition for such action.

On July 5, 1990, the Board received a letter from USEPA concerning the transfer of the USX Steel delisting petition and file. A Board non-identical in substance rulemaking docket was reserved on July 19, 1990 and the USEPA file was transferred to the Board docket (R90-18) on August 27, 1990. On November 9, 1990, USX notified the Board that USEPA had agreed to reopen its file and make a final determination on the delisting petition. The Board granted USX a six month extension on November 29, 1990 to await final action by USEPA.

On April 29, 1991, USEPA published its final decision granting an exclusion from the hazardous waste lists for specific wastes generated by USX. (56 Fed. Reg. 19579) On May 9, 1991, USX requested the Board to "accept without further review the delisting" of the specified hazardous waste. The Board reserved docket R91-12 for an identical in substance rulemaking in this matter. The original docket, R90-18, was dismissed by separate Order.

#### DISCUSSION

The Board's proposal for public comment, issued June 6, 1991, specifically solicited comment on five questions concerning the correct method of testing for conditions 1 (A) and (B), the effect of the delegation of delisting authority on data submittal, revocation, withdrawal and modification of the delisting, and the equivalent State statute to 18 U.S.C. §6928, as cited in condition 3. The Board specifically requested that USEPA comment on these questions as well as the Agency and USX. USEPA did not file a comment with the Board.

#### EP vs. TCLP Testing Methodologies

The federal delisting for USX specifies that initial (first four weeks of operation ) and subsequent sample collection and testing of the delisted waste must be performed according to SW-846 methodologies and, more specifically, using EP toxicity analysis. The Board questioned whether the EP toxicity analysis was the proper methodology to use for testing the delisted waste. The Board's inquiries stemmed from recent changes to the federal RCRA regulations mandated by the 1986 Hazardous and Solid Wastes Amendments. Those changes to the federal RCRA regulations altered the regulatory definition of hazardous waste by replacing the EP toxicity characteristic with the TCLP toxicity characteristic. The USEPA adoption of the TCLP toxicity analysis became effective on September 25, 1990. The Board adopted the federal changes in R90-10, an identical in substance rulemaking, on August 30, 1990. Considering this recent change, the Board asked for comment on the use of the EP toxicity analysis.

Both the Agency and USX addressed this question. The Agency responded that the delisting should be tested using TCLP analysis because the land disposal restrictions are based on TCLP methodologies for this type of waste. USX's response contained a comparison of the EP and TCLP methodologies. USX proposes that since both provide nearly equivalent results in the analysis of leachable metals from the treated material, EP toxicity analysis is as correct as TCLP toxicity analysis.

The Board has retained the EP toxicity analysis for final adoption of the delisting for three reasons. First, it appears that USX is correct in implying that in this instance the EP toxicity analysis would not be dissimilar to the TCLP analysis. Second, the Board notes that when the TCLP methodology was adopted the Board stated in its opinion that the EP methodology could still be used for testing. Specifically, the opinion noted that "[an August 2, 1990 USEPA correction] also advised generators wishing to continue using the EP toxicity test that, although the test was removed from the regulations, it was available as Method 1310 in SW 846." R90-10, \_\_\_ P.C.B. \_\_\_, August 30, 1990.

The third reason the Board is retaining the EP toxicity analysis is because of limitations on identical in substance rulemaking found in the Act. Section 7.2(a) of the Act states in part;

"In adopting "identical in substance" regulations, the only changes that may be made by the Board to the federal regulations are those changes that are necessary for compliance with the Illinois Administrative Code, and technical changes that in no way change the scope or meaning of any portion of the regulations, except as follows:

7. The Board may correct apparent typographical and grammatical errors in USEPA rules."

(Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1007.2(a)).

Without input by USEPA to the contrary, the Board will assume that the testing with the EP methodology specified in the federal delisting remains the correct analysis to be used on the treated waste material. For these reasons the EP toxicity analysis will be retained in the State delisting regulation.

#### Authority to Delist and Enforce

In its proposal for public comment, the Board sought comment on the problem of who had the authority to revoke, modify or withdraw the exclusion as a result of this delisting occurring in the middle of the transfer of delisting authority from the federal to the state level. This issue arises out of the fact

that USEPA had virtually completed its review of the USX delisting petition but had not taken final action when Illinois received delisting authority. At that time, even though the authority had been delegated, the petition was granted by the USEPA as a matter of administrative economy. The effect of this set of facts is to leave the status of the USX delisting in a gray area between federal delisting and enforcement authority and state delisting and enforcement authority. The Board specifically requested that USEPA and the Agency address this issue.

As noted earlier, the USEPA did not file a comment and USX's comment deferred to the Agency and USEPA. The Agency's comment states,

"According to the Chief of the Delisting Section at USEPA, Mr. Bob Kayser, the USEPA may act on the federal level, independent of any state action.

The Agency should have the authority to revoke the delisting on the state level. The USEPA should have the authority to revoke the delisting on the federal level. Thus, both Agency and USEPA should be referenced in the regulation."

While the Board accepts the USEPA's comments as relayed by the Agency, we believe that the Agency misstated its own role here. Under the Illinois system, the Agency's enforcement powers differ from those of the USEPA in that the Agency cannot be delegated the power to, in effect, unilaterally undo a Board rule. Only the Board can revoke a delisting.

With regard to the USX delisting petition and the effects of Illinois's newly delegated authority, the Board construes the USX delisting as having the same status as that of Amoco Oil Company and Envirote Corporation. As noted above, these companies have also been delisted under Section 7.2 of the Act, the identical in substance procedures, after review and final action by USEPA. The function of the Board under Section 7.2 of the Act is not to review the merits of these petitions, but to assure that the Board's regulations reflect federal actions. The Board concludes that, despite the recently delegated delisting authority, the Board is still required to ensure that its regulations reflect any USEPA action to modify or revoke any one of these delistings (or USEPA action allowing it to be withdrawn).

With regard to enforceability at the State level, the effect of the delegation of delisting authority to Illinois on enforceable remedies varies depending on whether the Board or the USEPA first initiated the delisting process. The question here is how does the delegation affect the enforceable remedies of USEPA initiated delistings adopted via identical in substance

procedures. One could argue that the delisting delegation to the State does not change the enforcement picture, since identical in substance delistings were not adopted pursuant to the delisting delegation. The Board concludes, however, that the delegation of delisting authority to Illinois implicitly enhances the opportunity for enforcement at the State level for violations of the Board's identical in substance delistings. But, the remedies available to a party bringing an enforcement action before the Board are limited to those that will not cause the remedy to alter the Board's rule so as to be in conflict with the substance of the USEPA delisting. This suggests that any remedy concerning modifications or revocations of this delisting would need to be taken in some manner in concert with the USEPA. The Board notes that there are other remedies authorized by the Act, including penalties, that remain available as enforcement tools.

Condition 5 has been added to the delisting to incorporate the conclusions of the Board concerning the effect of the delegation of delisting authority to Illinois on the USX delisting. Condition 5 lists the violations that are enforceable against USX and states that enforcement is governed by Title VIII of the Act. Although this Condition specifically references the Agency as the enforcing authority, the Act allows any person to enforce violations of the Board's regulations.

Finally, Condition 6 of the delisting has been added to allow the state delisting to track with the federal delisting. Condition 6 requires USX to notify the Board of USEPA action which modifies, terminates, revokes, or otherwise alters the federal delisting. USX is required to notify the Board by filing a petition that requests that the Board take action equal to the USEPA action.

#### Data Submittal

The Board also requested comment on whether USX should be required to submit its testing and analysis results to the Agency. One result of the Board's decision to follow State regulatory and enforcement policies with regards to this delisting is that the Agency must compile its own records on the USX delisted waste. The Agency comment agreed that since the State will exercise its delisting authority independent of USEPA, Agency should receive testing data for evaluation of USX's compliance with the delisting.

USX's comment stated that sending duplicate data to Agency seemed unnecessary. Even so, USX agreed to send test result data to the Agency for the first four weeks of operations, in compliance with the terms of condition 1(A). USX agreed to make the data compiled pursuant to condition 1(B) available to the Agency. This is in essence what is required of USX by the USEPA delisting.

The Board has included, in the new condition four, the terms under which the Agency will receive data submittal of the test results from analysis of the treated waste. These terms are identical to the terms for data submittal to the USEPA contained in condition 3. Although the Agency requested that two divisions receive the data submittal, the Board is including only one division address to avoid undue burden on USX.

#### Enforcement Statute

The final question posed by the Board in its proposal for public comment concerned the statutory authority for enforcement of fraudulent data submittal. Condition 3, governing data submissions to the USEPA, cites to 18 U.S.C. 6928 for this authority. The Board wanted to know whether or not an equivalent state statute could be included in the state delisting. As discussed above, the Agency can enforce this delisting using any provisions of the Act which do not conflict with the restrictions of an identical in substance rule, including Section 44. (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1044.) The Board has decided not to specifically identify this one section of the Act within the context of the delisting so as to avoid any confusion which might result.

#### General Changes

In every identical in substance rulemaking, it is necessary for the Board to make certain clarifying changes throughout the proposed regulation. These changes involve the identification of and division of authority between the federal and state government agencies. In this case, the Board needs to clarify which delisting, federal or state, is being referenced, which government is being referenced, and which state agency is to make decisions according to the general division of functions within the Act and other Illinois statutes.

The Board has identified, whenever the term "exclusion" or "delisting" is used, whether the term refers to the federal or the state delisting. In situations in which the Board has determined that USEPA will retain decision-making authority, the Board has replaced the terms "EPA" and "Agency" with "USEPA". References to the Illinois Environmental Protection Agency in the regulation are made using the term "Agency".

When determining the general division of authority between the Agency and the Board, as required by Section 7.2(a)(5) of the Act, the Board considers the following:

1. Is the person making the decision applying a Board regulation, or taking action contrary to ("waiving") a Board regulation? It generally takes some form of Board

action to "waive" a Board regulation.

2. Is there a clear standard for action such that the Board can give meaningful review to an Agency decision?
3. Is there a right to appeal? Agency actions are generally appealable to the Board.
4. Does this action concern a person who is required to have a permit anyway? If so there is a pre-existing permit relationship which can easily be used as a context for Agency decision. If the action concerns a person who does not have a permit, it is more difficult to place the decision into a procedural context which would be within the Agency's jurisdiction.
5. Does the action result in exemption from the permit requirement itself? If so, Board action is generally required.
6. Does the decision amount to a determination of defining or implementing environmental control standards within the meaning of Section 5(b) of the Act? If so, it must be made by the Board.

After consideration of the above factors, the new subsection (4) of this delisting reflects the division of power between the Agency and the Board. The Agency will receive all data submittal from USX and has the authority to request additional data obtained by USX through conditions 1(A) and (B).

Finally the Board notes that, as originally proposed in the proposal for public comment, the Board has added a statement that SW-846 is incorporated by reference in 35 Ill. Adm. Code 720.111 in condition 1 of the proposed exclusion. In condition 3, the Board has also altered the phrase "conditions (1)(A) or (1)(B)" to read "conditions (1)(A) or (B)" to conform to Illinois drafting practice.

In the proposed notice to amend, the Board corrected several typographical errors in other areas of Part 721. One of those errors, the misspelling of the word "subpart" in the table of contents, has already been corrected. (R91-1,      PCB     , August 8, 1991.) The Board will still be correcting a misspelling of the word "crystallization" in 35 Ill. Adm. Code 721.Appendix I, Table A and Table B.

As noted above, the Board will allow post-adoption comments through January 21, 1992.

ORDER



The following proposed amendments to 35 Ill. Adm. Code 721.Appendix I are submitted for publication in the Illinois Register and for public comment:

TITLE 35: ENVIRONMENTAL PROTECTION  
 SUBTITLE G: WASTE DISPOSAL  
 CHAPTER I: POLLUTION CONTROL BOARD  
 SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 721  
 IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART A: GENERAL PROVISIONS

Section	
721.101	Purpose of Scope
721.102	Definition of Solid Waste
721.103	Definition of Hazardous Waste
721.104	Exclusions
721.105	Special Requirements for Hazardous Waste Generated by Small Quantity Generators
721.106	Requirements for Recyclable Materials
721.107	Residues of Hazardous Waste in Empty Containers
721.108	PCB Wastes Regulated under TSCA

SUBPART B: CRITERIA FOR IDENTIFYING THE CHARACTERISTICS OF HAZARDOUS WASTE AND FOR LISTING HAZARDOUS WASTES

Section	
721.110	Criteria for Identifying the Characteristics of Hazardous Waste
721.111	Criteria for Listing Hazardous Waste

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

Section	
721.120	General
721.121	Characteristic of Ignitability
721.122	Characteristic of Corrosivity
721.123	Characteristic of Reactivity
721.124	Toxicity Characteristic

SUBPART D: LISTS OF HAZARDOUS WASTE

Section	
721.130	General
721.131	Hazardous Wastes From Nonspecific Sources
721.132	Hazardous Waste from Specific Sources
721.133	Discarded Commercial Chemical Products, Off-Specification Species, Container Residues and Spill Residues Thereof

Appendix A	Representative Sampling Methods
Appendix B	Method 1311 Toxicity Characteristic Leaching Procedure (TCLP)

Appendix C	Chemical Analysis Test Methods
Table A	Analytical Characteristics of Organic Chemicals (Repealed)
Table B	Analytical Characteristics of Inorganic Species (Repealed)
Table C	Sample Preparation/Sample Introduction Techniques (Repealed)
Appendix G	Basis for Listing Hazardous Wastes
Appendix H	Hazardous Constituents
Appendix I	Wastes Excluded under Section 720.120 and 720.122
Table A	Wastes Excluded from Non-Specific Sources
Table B	Wastes Excluded from Specific Sources
Table C	Wastes Excluded From Commercial Chemical Products, Off-Specification Species, Container Residues, and Soil Residues Thereof
Appendix J	Method of Analysis for Chlorinated Dibenzo-p- Dioxins and Dibenzofurans
Appendix Z	Table to Section 721.102

AUTHORITY: Implementing Section 22.4 and authorized by Section 27 of the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, pars. 1022.4 and 1027).

SOURCE: Adopted in R81-22, 43 PCB 427, at 5 Ill. Reg. 9781, effective as noted in 35 Ill. Adm. Code 700.106; amended and codified in R81-22, 45 PCB 317, at 6 Ill. Reg. 4828, effective as noted in 35 Ill. Adm. Code 700.106; amended in R82-18, 51 PCB 31, at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19, 53 PCB 131, at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 PCB 247, at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9, at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991.

Section 721.Appendix I Wastes Excluded under Section 720.120  
and 720.122

Table A Wastes Excluded From Non-Specific  
Sources

Facility Address	Waste Description
Envirite Corp. Harvey, Illinois	<p>Dewatered wastewater sludges (EPA Hazardous Waste NO. F006) generated from electroplating operations; spent cyanide plating solutions (EPA Hazardous Waste No. F007) generated from electroplating operations; plating bath residues from the bottom of plating baths (EPA Hazardous Waste No. F008) generated from electroplating operations where cyanides are used in the process; spent stripping and cleaning bath solutions (EPA Hazardous Waste No. F009) generated from electroplating operations where cyanides are used in the process; spent cyanide solutions from salt bath pot cleaning (EPA Hazardous Waste No. F011) generated from metal heat treating operations; quenching wastewater treatment sludges (EPA Hazardous Waste No. F012) generated from metal heat treating where cyanides are used in the process; wastewater treatment sludges (EPA Hazardous Waste No. F019) generated from the chemical conversion coating of aluminum after November 14, 1986. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern, the facility must implement a contingency testing program for the petitioned wastes. This testing program must meet the following conditions for the exclusions to be valid:</p> <ol style="list-style-type: none"> <li>1) Each batch of treatment residue must be representatively sampled and tested using the EP Toxicity test for arsenic, barium, cadmium, chromium, lead, selenium, silver, mercury, and nickel. If the</li> </ol>

extract concentrations for chromium, lead, arsenic, and silver exceed 0.315 ppm; barium levels exceed 6.3 ppm; cadmium and selenium exceed 0.063 ppm; mercury exceeds 0.0126 ppm; or nickel levels exceed 2.205 ppm, the waste must be re-treated or managed and disposed as a hazardous waste under 35 Ill. Adm. Code 722 to 725 and the permitting standards of 35 Ill. Adm. Code 702, 703, and 705.

- 2) Each batch of treatment residue must be tested for reactive and leachable cyanide. If the reactive cyanide levels exceed 250 ppm or leachable cyanide levels (using the EP Toxicity test without acetic acid adjustment) exceed 1.26 ppm, the waste must be retreated or managed and disposed as a hazardous waste under 35 Ill. Adm. Code 722 to 725 and the permitting standards of 35 Ill. Adm. Code 702, 703, and 705.
- 3) Each batch of waste must be tested for the total content of specific organic toxicants. If the total content of anthracene exceeds 76.8 ppm, 1,2-diphenyl hydrazine exceeds 0.001 ppm, methylene chloride exceeds 8.18 ppm, methyl ethyl ketone exceeds 326 ppm, n-nitrosodiphenylamine exceeds 11.9 ppm, phenol exceeds 1,566 ppm, tetrachloroethylene exceeds 0.188 ppm, or trichloroethylene exceeds 0.592 ppm, the waste must be managed and disposed as a hazardous waste under 35 Ill. Adm. Code 722 to 725 and the permitting standards of 35 Ill. Adm. Code 702, 703, and 705.
- 4) A grab sample must be collected from each batch to form one monthly composite sample which must be tested using gas chromatography, mass spectrometry analysis for the compounds listed in No.3 above as

well as the remaining organics on the Priority Pollutant List (incorporated by reference, see 40 CFR 423 App. A (1983) (as adopted at 47 Fed. Reg. 52,309 (Nov. 19, 1982)), not including later amendments).

- 5) The data from conditions 1-4 must be kept on file at the facility for inspection purposes and must be compiled, summarized, and submitted to the Administrator of USEPA by certified mail semi-annually. The USEPA will review this information and if needed will propose to modify or withdraw the exclusion. Should USEPA propose to modify or withdraw the exclusion, Envirote shall promptly provide notice thereof to the Board. The decision to conditionally exclude the treatment residue generated from the wastewater treatment systems at Envirote's Harvey, Illinois facility applies only to the wastewater and solids treatment systems as they presently exist as described in the delisting petition submitted to the USEPA. The exclusion does not apply to the proposed process additions described in the petition submitted to USEPA as recovery including crystallization crystallization, electrolytic metals recovery, evaporative recovery, and ion exchange.

(Source: Amended at Ill. Reg. , effective )

Table B

## Wastes Excluded From Specific Sources

Facility Address	Waste Description
Amoco Oil Company Wood River, Illinois	150 million gallons of DAF float from petroleum refining contained in four surge ponds after treatment with the Chemfix stabilization process. This exclusion applies to the 150 million gallons of waste after chemical stabilization as long as the mixing ratios of the reagent with the waste are monitored continuously and do not vary outside of the limits presented in the demonstration samples; one grab sample is taken each hour from each treatment unit, composited, and EP toxicity tests performed on each sample. If the levels of lead or total chromium exceed 0.5 ppm in the EP extract, then the waste that was processed during the compositing period is considered hazardous; the treatment residue shall be pumped into bermed cells to ensure that the waste is identifiable in the event that removal is necessary.
Envirite Corp. Harvey, Illinois	Spent pickle liquor (EPA Hazardous Waste No. K062) generated from steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332); wastewater treatment sludge (EPA Hazardous Waste No. K002) generated from the production of chrome yellow and orange pigments; wastewater treatment sludge (EPA Hazardous Waste No. K003) generated from the production of molybdate orange pigments; wastewater treatment sludge (EPA Hazardous Waste No. K004) generated from the production of zinc yellow pigments; wastewater treatment sludge (EPA Hazardous Waste No. K005) generated from the production of chrome green pigments; wastewater treatment sludge (EPA Hazardous Waste No. K006) generated from the production of chrome oxide green pigments (anhydrous and hydrated); wastewater treatment sludge (EPA Hazardous Waste

No. K007) generated from the production of iron blue pigments; oven residues (EPA Hazardous Waste No. K008) generated from the production of chrome oxide green pigments after November 14, 1986. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern, the facility must implement a contingency testing program for the petitioned wastes. This testing program must meet the following conditions for the exclusions to be valid:

- 1) Each batch of treatment residue must be representatively sampled and tested using the EP Toxicity test for arsenic, barium, cadmium, chromium, lead, selenium, silver, mercury, and nickel. If the extract concentrations for chromium, lead, arsenic, and silver exceed 0.315 ppm; barium levels exceed 6.3 ppm; cadmium and selenium exceed 0.063 ppm; mercury exceeds 0.0126 ppm; or nickel levels exceed 2.205 ppm, the waste must be re-treated or managed and disposed as a hazardous waste under 35 Ill. Adm. Code 722 to 725 and the permitting standards of 35 Ill. Adm. Code 702, 703, and 705.
- 2) Each batch of treatment residue must be tested for reactive and leachable cyanide. If the reactive cyanide levels exceed 250 ppm; or leachable cyanide levels (using the EP Toxicity test without acetic acid adjustment) exceed 1.26 ppm, the waste must be re-treated or managed and disposed as hazardous waste under 35 Ill. Adm. Code 722 to 725 and the permitting standards of 35 Ill. Adm. Code 702, 703, and 705.
- 3) Each batch of waste must be tested for the total content of specific organic toxicants. If the total content of anthracene exceeds 76.8 ppm, 1,2-diphenyl hydrazine exceeds

0.001 ppm, methylene chloride exceeds 8.18 ppm, methyl ethyl ketone exceeds 326 ppm, n-nitrosodiphenylamine exceeds 11.9 ppm, phenol exceeds 1,566 ppm, tetrachloroethylene exceeds 0.188 ppm, or trichloroethylene exceeds 0.592 ppm, the waste must be managed and disposed as a hazardous waste under 35 Ill. Adm. Code 722 to 725 and the permitting standards of 35 Ill. Adm. Code 702, 703, and 705.

- 4) A grab sample must be collected from each batch to form one monthly composite sample which must be tested using gas chromatography, mass spectrometry analysis for the compounds listed in No. 3 above as well as the remaining organics on the Priority Pollutant List (incorporated by reference, see 40 CFR 423 App. A (1983) (as adopted at 47 Fed. Reg. 52,309 (Nov. 19, 1982)), not including later amendments).
- 5) The data from conditions 1-4 must be kept on file at the facility for inspection purposes and must be compiled, summarized, and submitted to the USEPA Administrator by certified mail semi-annually. The USEPA will review this information and if needed will propose to modify or withdraw the exclusion. Should USEPA propose to modify or withdraw the exclusion, Envirite shall promptly provide notice thereof to the Board. The decision to conditionally exclude the treatment residue generated from the wastewater treatment systems at Envirite's Harvey, Illinois facility applies only to the wastewater and solids treatment systems as they presently exist as described in the delisting petition submitted to the USEPA. The exclusion does not apply to the proposed process additions describ-



ed in the petition submitted to USEPA as recovery, including ~~crystallization~~ crystallization, electrolytic metals recovery, evaporative recovery, and ion exchange.

USX Steel Corporation,  
Chicago, Illinois

Fully-cured chemically stabilized electric arc furnace dust/sludge (CSEAFD) treatment residue (EPA Hazardous Waste No. K061) generated from the primary production of steel after April 29, 1991. This exclusion (for 35,000 tons of CSEAFD per year) is conditioned upon the data obtained from USX's full-scale CSEAFD treatment facility. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern once the full-scale treatment facility is in operation, USX shall implement a testing program for the petitioned waste. This testing program must meet the following conditions for the exclusion to be valid:

1. Testing: Sample collection and analyses (including quality control (QC) procedures) must be performed according to SW-846 methodologies. SW-846 is incorporated by reference in 35 Ill. Adm. Code 720.111.
  - A. Initial Testing: During the first four weeks of operation of the full scale treatment system, USX shall 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 the EP leachate concentrations of all the EP toxic metals, nickel, and cyanide (using distilled water in the cyanide extractions), and the total concentrations of reactive sulfide and reactive cyanide. USX shall report the

analytical test data, including quality control information, obtained during this initial period no later than 90 days after the treatment of the first full-scale batch.

- B. Subsequent Testing: USX shall collect representative grab samples from every treated batch of CSEAFD generated daily and composite all of the grab samples to produce a weekly composite sample. USX then shall analyze each weekly composite sample for all of the EP toxic metals, and nickel. The analytical data, including quality control information, 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 USEPA or the Agency.
2. Delisting levels: If the EP extract concentrations for chromium, lead, arsenic, or silver exceed 0.315 mg/l; for barium exceeds 6.3 mg/l; for cadmium or selenium exceed 0.063 mg/l; for mercury exceeds 0.0126 mg/l; for nickel exceeds 3.15 mg/l; or for cyanide exceeds 4.42 mg/l, total reactive cyanide or total reactive sulfide levels exceed 250 mg/kg and 500 mg/kg, respectively, the waste must either be re-treated until it meets these levels or managed and disposed of in accordance with Subpart C of the Resource Conservation and Recovery Act (42 U.S.C. 6901 et seq.).
3. Data submittal to and enforcement by USEPA: Within one week of system start-up USX shall notify the Section Chief, Delisting

Section (see address below) when its full-scale stabilization system is on-line and waste treatment has begun. The data obtained through condition (1)(A) shall be submitted to the Section Chief, Delisting Section, CAD/OSW (OS-333), U.S. EPA, 401 M Street, S.W., Washington, DC 20460 within the time period specified. At USEPA's request, USX must submit any other analytical data obtained through conditions (1)(A) or (B) within the time period specified by the Section Chief. Failure to submit the required data obtained from conditions (1)(A) or (B) within the specified time period or maintain the required records for the specified time will be considered by USEPA, at its decision, sufficient basis to revoke USX's federal exclusion to the extent directed by USEPA. 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 the Federal Code which include, but may not be limited to, 18 U.S.C. §6928), I certify that the information contained in or accompanying this document is true, accurate and complete. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete. In the event that any of this information is determined by USEPA in its sole discretion to be false, inaccurate or incomplete, and upon conveyance of this fact to the company, I

recognize and agree that this federal exclusion of wastes will be void as if it never had effect or to the extent directed by USEPA and that the company 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."

4. Data Submittal to Agency: The data obtained through condition (1)(A) must be submitted to the Illinois Environmental Protection Agency, Planning and Reporting Section, 2200 Churchill Road, P.O. Box 19276, Springfield, IL 62794-9276 within the time period specified. At Agency's request, USX must submit any other analytical data obtained through conditions (1)(A) or (B) within the time period specified 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. As to the (those) identified section(s) of this document for which I cannot personally verify its (their) truth and accuracy, I certify as the company official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate and complete.
  
5. Enforcement by the Agency: Whenever the Agency finds that USX has violated the standards in this exclusion, has failed to submit the required data obtained from

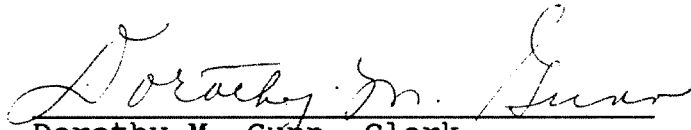
conditions (1)(A) or (B) within the specified time period, has failed to maintain the required records for the specified time or has submitted false, inaccurate or incomplete data, the Agency may take such action as is allowed by Title VIII of the Act.

6. Notification to the Board: Upon modification, termination, revocation, or other alteration of this exemption by USEPA, USX shall file a petition, pursuant to Part 102, with this Board requesting that the Board follow the USEPA action.

(Source: Amended at Ill. Reg. , effective )

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above Order was adopted on the 14<sup>th</sup> day of December, 1991, by a vote of 6-0.

  
Dorothy M. Gunn, Clerk  
Illinois Pollution Control Board