

ILLINOIS POLLUTION CONTROL BOARD

July 15, 2008

IN THE MATTER OF:)	
)	
RCRA DELISTING ADJUSTED)	AS 08-10
STANDARD PETITION OF PEORIA)	(Adjusted Standard – Land)
DISPOSAL COMPANY)	

HEARING OFFICER ORDER

As provided in the notice of hearing issued on June 17, 2008, a public hearing will be held in this proceeding on August 18, 2008. The hearing officer's June 16, 2008 order advised the parties that:

The hearing officer will send pre-hearing questions to the parties on or about July 14, 2008. The deadline for responses, as well as any prehearing testimony, is August 11, 2008. The mailbox rule will not apply. AS 08-10, Hearing Officer Order at 1 (June 16, 2008).

To that end, the hearing officer directs Peoria Disposal Company (PDC) to address the issues set forth in Attachment A to this order. Written responses, as well as any pre-hearing testimony, must be filed by 4:30 p.m. on August 11, 2008, and the mailbox rule (35 Ill. Adm. Code 101.300(b)(2)) does not apply.

The parties are reminded that pursuant to the hearing officer order of June 16, 2008, a telephonic status conference with the hearing officer is scheduled for August 11, 2008, at 2:00 p.m. The telephonic status conference must be initiated by PDC.

IT IS SO ORDERED.



Carol Webb
Hearing Officer
Illinois Pollution Control Board
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ATTACHMENT A
to July 15, 2008 Hearing Officer Order

AS 08-10, RCRA Delisting Adjusted Standard Petition of Peoria Disposal Company

1. Please describe any treatment operating guidelines Peoria Disposal Company (PDC) has concerning curing times based on weather conditions.
2. Please explain PDC's position on whether its shipments of electric arc furnace dust stabilization residue (EAFDSR) that meet delisting levels would be subject to the Board's "special waste" regulations, including manifesting requirements (35 Ill. Adm. Code 808, 809).
3. Please comment on the appropriateness of including a condition in the adjusted standard language requiring that PDC, before transporting an initial load of delisted EAFDSR to a given disposal facility, provide the Illinois Environmental Protection Agency (IEPA) with a one-time written notification identifying that disposal facility. How many days before transporting those initial loads to the respective disposal facilities can PDC reasonably provide such notification?
4. Please comment on the appropriateness of requiring PDC to provide IEPA with written notice of any "significant change" and the results of the related bench-scale treatability testing prior to operating full-scale treatment using the new chemical regimen. *See* proposed condition 3(b).
 - a. PDC's petition states that "significant change" would "mean the utilization of a chemical treatment regimen containing different active ingredients." Petition at 18. Please explain whether this definition of "significant change" should be a part of the adjusted standard conditions.
 - b. PDC has provided a "Reagent Constituent of Concern Evaluation" in its petition for the current recipe. Please comment on how verification under proposed condition 3(b) would ensure evaluation of potential constituents of concern (COCs) when changing the chemicals used by PDC in the treatment process.
5. Please comment on the appropriateness of including a condition in the adjusted standard language requiring PDC to submit annually to IEPA the data (and/or a summary of the data) collected pursuant to proposed condition 3(c). *See* 67 Fed. Reg. 1888, 1895 (Jan. 15, 2002) (Heritage Environmental Services, LLC delisting, ¶B(4)).

6. Hexachlorophene, which is a 40 C.F.R. Appendix IX constituent that is not a chlorinated pesticide or herbicide, does not appear to be in PDC's analytical results. Please address sampling and analysis for hexachlorophene.
7. PDC's Technical Support Document (TSD) (Petition Attachment 2) refers to two federal delistings involving chemically-treated EAF dust: Heritage Environmental Services, LLC (Heritage) on January 15, 2002 and Conversion Systems, Inc. (CSI) on June 13, 1995. TSD at 4-9. Although the TSD refers to its Appendix C for more information on these delistings, Appendix C does not contain the relevant material. Please provide the information referred to at 4-9 of the TSD regarding the federal delistings for Heritage and CSI.
8. The "EPA RCRA Delisting Program Guidance Manual for the Petitioner" dated March 23, 2000, states that "a final list of constituents can be prepared to include only the metals and organics from the 40 CFR 261.24 Toxicity Characteristics list plus all additional constituents that were detected in the first sample when analyzed for totals concentrations of constituents on the initial list." Manual, Appendix H, Attachment 2.
 - a. PDC detected dioxins and furans in EAFDSR samples but the constituents were not included in the final list of COCs. In an email dated 1/31/08, Todd Ramaly of the United States Environmental Protection Agency (USEPA) Region 5 commented on excluding dioxins and furans from the final list of COCs: "we're not sure of this conclusion and did not yet agree that DF are no longer an issue." TSD Appendix C. Please describe any resolution PDC may have reached with USEPA concerning dioxins and furans not being on the final list of COCs.
 - b. Bis(2-ethylhexyl)phthalate was detected above both the Method Detection Limit (MDL) and the Estimated Quantitation Limit (EQL), but was not included in the final list of COCs. Although semivolatile organic compounds (SVOCs) are discussed generally in the TSD at 4-6, there is no specific reference to bis(2-ethylhexyl)phthalate. Please explain why bis(2-ethylhexyl)phthalate was not included in the final list of COCs.
9. In a communication record dated 1/24/08, PDC's consultant, RMT, summarizes the agenda for a conference call between PDC, RMT, IEPA, and USEPA. One point states: "With comparison to Illinois Tiered Approach for Corrective Action (TACO) screening values and DRAS [Delisting Risk Assessment Software] v.2 values, the results from the SAP [Sampling and Analysis Plan] implementation provided supports analytical results to exclude additional constituents of concern (COCs) other than the 14 metals listed in the SAP/QAPP [Quality Assurance Project Plan]." TSD Appendix C. In an email response, Todd Ramaly of USEPA Region V commented on the draft by striking the above sentence and adding, "[Laura – I don't think we discussed this last point during the call.]" TSC Appendix C (email from Ramaly to Curtis dated 1/13/08). Please describe any

- resolution PDC may have reached with USEPA concerning this approach to excluding detected constituents as COCs.
10. The values for dioxin and furan congeners and toxicity equivalency quotient (TEQ) in Table 3a and Appendix L of the TSD do not seem to agree with the raw laboratory data from Pace Analytical in Appendix N of the TSD. Please reconcile the raw data with the summarized data.
 11. The TSD indicates the TEQ value of 160 ng/kg was used in the spreadsheet calculation model for the dioxin fish ingestion pathway. Please comment on whether the higher value of 220 ng/kg (Sample R5-01) reported in the Pace Analytical raw laboratory data should be employed in the evaluation. If it should be, please provide revised input and results and address the resulting carcinogenic risk “Fishing CR,” “Fish Concentration Edible Portion,” and “Fishing DL” of the revised values. If PDC provides revised results, please update the comparison with the table “Background Dioxin Concentrations in Fish Tissue” presented in Appendix H of the TSD.
 12. Based on the TCLP results of the dioxin/furan analyses, please comment on how the highest value of 0.052 pg/L (TSD Appendix N, Sample R1-04, 1064827002, 12/07/07) compares to the groundwater adult dermal pathway that was determined as a limiting pathway by the DRAS v.2 analysis of 2.05×10^{-10} mg/L in Appendix H of the TSD. Also, please compare how the detected TCLP value of 0.052 pg/L compares to the revised “Fishing DL” in the dioxin spreadsheet calculation model.
 13. Please provide all of the pages from each of these DRAS runs: 2/20/08 (Arsenic) and 2/19/08 (Screening Levels to Identify COCs). *See* TSD Appendix H.
 14. In a communication record dated 1/24/08, RMT summarized the agenda for a conference call between PDC, RMT, IEPA, and USEPA. One point states: “PDC requested discussing how to handle . . . altering delisting criteria acceptable by the Agency (i.e., arsenic concentration based on 1×10^{-5} risk). It was decided that a conference call on 1/28/08, after the Agency call on 1/25/08 would be scheduled for the purposes of providing the path forward and technical answers regarding the DRAS model.” TSD Appendix C. Please describe any resolution PDC may have reached with USEPA or IEPA concerning altering the delisting criteria for arsenic.
 15. PDC’s proposed adjusted standard language specifies TCLP concentrations not to be exceeded for 14 metals. Unlike the federal delisting for Heritage, however, PDC’s proposed language does not contain a delisting level for total mercury. *See* 67 Fed. Reg. 1888, 1895 (Jan. 15, 2002).
 - a. Please quantify the contribution from mercury to the aggregate hazard index.

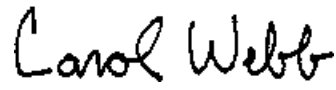
- b. Please comment on the appropriateness of including a delisting level for total mercury.
16. PDC premises its dioxin modeling for the fish ingestion pathway on disposal in the Indian Creek Landfill. The proposed adjusted standard language, however, does not limit disposal of EAFDSR to that landfill. Please consider re-running the model using the default generic values for a less site-specific analysis. If PDC wishes to use site-specific information in its modeling, rather than the default generic values, please consider either providing site-specific modeling for all the potential Illinois landfills at which the EAFDSR might be disposed, or limiting the proposed adjusted standard language to only those disposal facilities for which site-specific modeling was performed.
17. References in the proposed adjusted standard language to the “mechanical mixer” and the “K061 stabilization process described in its Petition” (*see* proposed condition 2) could encompass the stabilization process that PDC has used for the past 19 years. Please comment on the appropriateness of more narrowly-tailoring the adjusted standard language to PDC’s “new proprietary stabilization technology,” subject to proposed condition 3(b). Petition at 2. As appropriate, please propose amendatory language.
18. Proposed conditions 3(c)(1) and (2) each refer to “another round of verification sampling and analysis.” Please clarify whether these additional rounds would include testing for all COCs or only for those that exceeded the delisting concentrations in the prior round. If PDC is proposing the latter approach, please explain how PDC will verify that over-treatment has not increased the solubility of other metals that may be amphoteric.
19. PDC states that its proposed adjusted standard language requires that the delisted EAFDSR be disposed of in a lined landfill with leachate collection in Illinois that is “licensed, permitted, or otherwise authorized to accept the delisted waste in accordance with all applicable RCRA Subtitle D requirements.” Petition at 19. Please explain what types of landfills other than permitted landfills PDC believes would be able to accept the delisted EAFDSR.

CERTIFICATE OF SERVICE

It is hereby certified that true copies of the foregoing order were mailed, first class, on July 15, 2008, to each of the persons on the attached service list.

It is hereby certified that a true copy of the foregoing order was hand delivered to the following on July 15, 2008:

John T. Therriault
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