

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF

RCRA DELISTING ADJUSTED STANDARD)	AS 08- <u>10</u>
PETITION OF PEORIA DISPOSAL COMPANY)	(Adjusted Standard – Land)
)	(RCRA Delisting)

RCRA DELISTING ADJUSTED STANDARD PETITION

NOW COMES Peoria Disposal Company (“PDC”), by its attorneys, Elias, Meginness, Riffle & Seghetti, P.C. and Brown, Hay & Stephens, LLP, pursuant to Section 28.1 of the Illinois Environmental Protection Act (the “Act”), 415 ILCS 5/28.1, 35 Ill. Adm. Code Part 104, and 35 Ill. Adm. Code 720.122 (40 CFR 260.22), and petitions the Illinois Pollution Control Board (the “Board”) to grant an adjusted standard to delist the stabilized residue generated by PDC from the treatment of K061 electric arc furnace dust at PDC’s waste stabilization facility in Peoria County, Illinois.

INTRODUCTION

In 1989, PDC’s waste stabilization facility (the “WSF”) was approved for operations under PDC’s RCRA Part B Permit, issued by the Illinois Environmental Protection Agency (the “IEPA”). The WSF has been in continuous operation since 1989. In 1996, the United States Environmental Protection Agency (the “USEPA”) approved PDC’s request to change the WSF from a waste pile to a containment building unit. The WSF is permitted and authorized for storage and treatment of hazardous and non-hazardous wastes. The principal treatment activity currently conducted in the WSF is chemical microencapsulation of RCRA hazardous wastes utilizing reagents designed to reduce the leachability of inorganic hazardous constituents in

accordance with the Best Demonstrated Available Technology Standards prescribed by the USEPA and the IEPA.

The largest volume of listed hazardous waste currently being treated at the WSF is K061 electric arc furnace (“EAF”) dust generated by steel mills that produce steel using electric arc furnaces. At this time, PDC disposes the K061 EAF dust after treatment in its hazardous waste landfill (the “PDC No. 1 Landfill”) in Peoria County, Illinois, which has been operating for over twenty years pursuant to a RCRA Part B permit issued on November 4, 1987. The PDC No. 1 Landfill was one of the first authorized RCRA facilities in the State of Illinois, and has operated without any notices of environmental violations for over sixteen years. At the present level of operation, the PDC No. 1 Landfill will reach capacity in 2009. When the PDC No. 1 Landfill is full, the WSF will continue operating, but stabilized residue generated by PDC from the treatment of listed hazardous waste, primarily K061 EAF dust, will have to be transported by PDC to another Subtitle C landfill for disposal. The transportation to and disposal of these wastes in a Subtitle C landfill will be very costly.

During the past year, PDC has developed a new proprietary stabilization technology to treat the K061 EAF dust. PDC has utilized the new proprietary stabilization technology in full-scale production at the WSF to conduct nine in-plant trials designed to demonstrate that all applicable criteria for the granting of an adjusted standard to delist K061 EAF dust stabilized residues can be satisfied by the PDC treatment process. Herein, PDC is petitioning the Board for an upfront and conditional delisting for the stabilized residue generated by PDC from the treatment of K061 EAF dust utilizing this new proprietary stabilization technology at the WSF (“EAFDSR”).

The K061 EAF dust is a listed hazardous waste designated as hazardous waste code K061, specified by 35 Ill. Adm. Code 721.132 for “emission control dust/sludge from the primary production of steel in electric furnaces.” The K061 EAF dust must be stabilized to meet applicable land disposal restrictions (“LDR”) treatment standards specified for K061 listed hazardous wastes by Subpart D of 35 Ill. Adm. Code Part 728 prior to land disposal. The residue that PDC currently generates from the treatment of K061 EAF dust remains classified as a K061 hazardous waste by virtue of the “derived-from” rule (35 Ill. Adm. Code 721.103(e)) because it is generated from the treatment of a listed hazardous waste. Therefore, at present, the residue from the treatment of K061 EAF dust must be disposed of in a Subtitle C landfill. Excepting the PDC No. 1 Landfill, the nearest operating Subtitle C landfill to the WSF is located in Roachdale, Indiana, nearly 220 miles from the WSF.

Under the proposed Adjusted Standard, the EAFDSR will be excluded from the list of hazardous wastes contained in Subpart D of 35 Ill. Adm. Code 721 and PDC will be able to transport and dispose of the EAFDSR at a Subtitle D landfill permitted by the IEPA. The K061 EAF dust waste stream will be received from the mills at an approximate average rate of 74,000 tons per year (“tpy”) as part of normal WSF operations, with a maximum of 95,000 tpy. The EAFDSR generated by the treatment process will be a maximum of 142,500 tpy (or 95,000 cubic yards per year). PDC intends to transport the delisted EAFDSR to its affiliated Subtitle D landfill in Tazewell County, Illinois (the “Indian Creek Landfill No. 2”), or to two other Subtitle D landfills affiliated with PDC in Illinois. If the EAFDSR is delisted, PDC will be able to continue to provide a cost-effective method of treating EAF dust for steel mills in the Midwest, particularly ones in Illinois.

PDC's proprietary stabilization technology effectively stabilizes K061 metal constituents and removes the hazard of toxicity, for which the K061 EAF dust received its listing. Representative verification and analytical testing, conducted as part of the full-scale stabilization process trials, demonstrates that the process renders extractable metals below their Land Disposal Restriction standards (LDRs) and proposed delisting levels. Although the EAFDSR contains certain hazardous constituents (*i.e.*, metals listed in Appendix G of 35 Ill. Adm. Code Part 721), these constituents are essentially rendered immobile, such that the concentrations of these hazardous constituents are below: 1) the LDRs applicable to K061 EAF dust, 2) the Characteristic of Toxicity levels established at 35 Ill. Adm. Code 721.124, and 3) risk-based levels established by the USEPA's Delisting Risk Assessment Software ("DRAS") model or other method approved by the USEPA and IEPA to demonstrate that the constituents of concern are at concentrations that are non-threatening to human health and the environment. A description of PDC's process and waste management operations at the WSF is set forth in Section 3 of the "Technical Support Document for the RCRA Delisting Adjusted Standard Petition for PDC EAF Dust Stabilized Residue" (Attachment 2 hereto) (the "Technical Support Document"). It is anticipated that the feed materials used, processes and operations of the treatment process on the K061 EAF dust will not produce waste not covered by this demonstration.

The duration of the proposed delisting will be multi-year and will continue for as long as PDC maintains a valid RCRA Part B Permit for the WSF. The proposed Adjusted Standard will require testing of each daily batch of EAFDSR for the metal constituents of concern ("COCs"), to assure compliance with delisting concentrations. In the event the verification analysis results exceed the delisting level concentrations, the treated residues will either be 1) allowed to

continue to cure which will provide additional treatment as the chemical reagents complete their reactions with the waste, followed by another round of verification sampling and analysis, 2) re-processed through the WSF for additional treatment, followed by another round of verification sampling and analysis, or 3) managed as a K061 hazardous waste at a properly permitted RCRA Subtitle C facility. Using this process, the delisted EAFDSR will not be considered to be generated until verification sampling and analysis demonstrates that it meets the approved delisting levels. This process provides a virtually fail-safe system to ensure that the qualitative nature of the EAFDSR disposed of by PDC will never exceed the approved delisting levels.

As stated above, after over twenty years of operations, the PDC No. 1 Landfill is reaching its permitted disposal capacity. On November 9, 2005, PDC filed an application for local siting approval for an expansion of the PDC No. 1 Landfill with the County of Peoria, which purportedly denied the application. PDC appealed the purported denial to the Board, which affirmed the alleged decision of the County of Peoria. PDC has appealed the decision of the Board to the Appellate Court of Illinois, Third Judicial District, which appeal is currently pending.

After PDC's application for local siting approval for an expansion of the PDC No. 1 Landfill was purportedly denied, PDC submitted an application to the IEPA seeking modification of PDC's RCRA Part B Permit. The modification sought in the application was to allow the development and operation of a landfill unit known as the PDC No. 1 Residual Waste Landfill for acceptance of stabilized residue from the WSF. The application sought authorization to vertically raise Area C of the PDC No. 1 Landfill and to construct a horizontal expansion of the PDC No. 1 Landfill. The expansion was designed to provide additional disposal space to be used solely for PDC's on-site generated stabilized residue from the WSF. On August 30, 2007,

the IEPA denied the modification request because the application did not demonstrate proof of local siting pursuant to Section 39.2 of the Act. PDC appealed the permit denial to the Board, which affirmed the decision of the IEPA. PDC has appealed the decision of the Board to the Appellate Court of Illinois, Third District, which appeal is currently pending.

**A. Standard of General Applicability from Which Adjusted Standard is Sought
(35 Ill. Adm. Code 104.406(a))**

The standard of general applicability from which this Adjusted Standard is sought is the Illinois regulation classifying the K061 EAF dust as a listed hazardous waste. The K061 EAF dust is a listed hazardous waste designated as hazardous waste code K061 specified by 35 Ill. Adm. Code 721.132 for “emission control dust/sludge from the primary production of steel in electric furnaces.”¹ The K061 EAF dust must be stabilized to meet applicable LDR treatment standards specified for K061 listed hazardous wastes by Subpart D of 35 Ill. Adm. Code Part 728² prior to land disposal. The resulting EAF dust treatment residue is classified as a K061 hazardous waste by virtue of the “derived-from” rule (35 Ill. Adm. Code 721.103(e)³) because it is generated from the treatment of a listed hazardous waste.

**B. Statutory Basis of Regulation of General Applicability
(35 Ill. Adm. Code 104.406(b))**

The Illinois hazardous waste regulations, including 35 Ill. Adm. Code Parts 720 - 728, were promulgated to implement the requirements of the federal Resource Conservation and Recovery Act of 1976 (“RCRA”) and the Federal regulations at 40 CFR Parts 260-268.

¹ 35 Ill. Adm. Code 721.132 was initially effective on May 17, 1982, and was most recently amended effective December 20, 2006.

² Subpart D of 35 Ill. Adm. Code Part 728 was initially effective on November 12, 1987, and was most recently amended effective December 20, 2006.

³ 35 Ill. Adm. Code 721.103(e) was initially effective on November 12, 1987, and was most recently amended effective December 20, 2006.

Specifically, the K061 hazardous waste classification set forth in 35 Ill. Adm. Code 721.132(a) is identical in substance to the federal K061 classification in 40 CFR 261.32(a).

**C. Level of Justification Specified by Regulation of General Applicability
(35 Ill. Adm. Code 104.406(c))**

35 Ill. Adm. Code 720.122 contains the requirements for delisting of a hazardous waste established in the RCRA regulations at 40 CFR 260.22. The K061 EAF dust is a listed hazardous waste designated as hazardous waste code K061, specified by 35 Ill. Adm. Code 721.132 for "emission control dust/sludge from the primary production of steel in electric furnaces." The EAF dust treatment residue that PDC currently generates is classified as K061 hazardous waste by virtue of the "derived from" rule (35 Ill. Adm. Code 721.103(e)) because it is generated from the treatment of a listed hazardous waste.

Pursuant to 35 Ill. Adm. Code 720.122(b), a person may petition the Board to exclude from 35 Ill. Adm. Code 721.103(a)(2)(B) or (a)(2)(C), a waste that is described in these Sections and is either a waste listed in Subpart D of 35 Ill. Adm. Code 721 or is derived from a waste listed in that Subpart. This exclusion may only be granted for a particular generating, storage, treatment, or disposal facility. A person seeking such an exclusion must file a petition meeting the requirements specified in 35 Ill. Adm. Code 720.122(n), and such petition must be found by the Board to demonstrate the following:

1. That the waste produced by the particular generating facility does not meet any of the criteria under which the waste was listed as a hazardous or acute hazardous waste. (35 Ill. Adm. Code 720.122(a)(1));
2. That there is a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste. A Board determination under the preceding sentence must be made by reliance on, and in a manner consistent with, "EPA RCRA Delisting Program—Guidance

Manual for the Petitioner,” incorporated by reference in Section 720.111(a). (35 Ill. Adm. Code 720.122(a)(2)); and

3. That a waste so excluded is not hazardous waste by operation of Subpart C of 35 Ill. Adm. Code 721, *i.e.*, it is not a hazardous waste by virtue of exhibiting one of the hazardous characteristics specified in Subpart C. (35 Ill. Adm. Code 720.122(a)(2) and 720.122(b)).

Where the waste is derived from one or more listed hazardous wastes, the demonstration must be made with respect to the waste mixture as a whole; analysis must be conducted for not only those constituents for which the listed waste contained in the mixture was listed as hazardous, but also for factors (including additional constituents) that could cause the waste mixture to be a hazardous waste. 35 Ill. Adm. Code 720.122(b).

Since the EAF dust is listed with hazard code “T” in Subpart D of 35 Ill. Adm. Code 721, PDC must also demonstrate the following:

1. The waste meets the following criteria:
 - A. It does not contain the constituent or constituents (as defined in Appendix G of 35 Ill. Adm. Code 721) that caused USEPA to list the waste (35 Ill. Adm. Code 720.122(d)(1)(A)); or
 - B. Although containing one or more of the hazardous constituents (as defined in Appendix G of 35 Ill. Adm. Code 721) that caused USEPA to list the waste, the waste does not meet the criterion of 35 Ill. Adm. Code 721.111(a)(3) when considering the factors used in 35 Ill. Adm. Code 721.111(a)(3)(A) through (a)(3)(K) under which the waste was listed as hazardous (35 Ill. Adm. Code 720.122(d)(1)(B)).
2. That factors (including additional constituents) other than those for which the waste was listed could cause the waste to be hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste (35 Ill. Adm. Code 720.122(d)(2)); and
3. That the waste does not exhibit any of the characteristics defined in 35 Ill. Adm. Code 721.121, 721.122, 721.123, or 721.124, using any applicable methods prescribed in those sections (35 Ill. Adm. Code 720.122(d)(3) and 720.122(d)(4)).

The foregoing demonstrations required for all wastes sought to be delisted (in 35 Ill. Adm. Code 720.122(a) and (b)) and for wastes coded "T" sought to be delisted (in 35 Ill. Adm. Code 720.122(d)) clearly overlap, and are treated together in the Technical Support Document and in this Petition. These requirements, and the demonstrations that they have been satisfied, are described in detail in the Technical Support Document, and are summarized in Section H, below.

**D. Nature of Petitioner's Activity
(35 Ill. Adm. Code 104.406(d))**

1. Nature of Activity

As discussed in the introduction above and in greater detail in the Technical Support Document, PDC accepts and treats K061 EAF dust at the WSF as set forth in its RCRA Part B Permit. Currently, the stabilized residue is disposed at the PDC No. 1 Landfill upon receipt of verification test results demonstrating LDR compliance. This Adjusted Standard will not only reduce costs, but will also render a hazardous waste non-hazardous by treating its toxicity through chemical stabilization.

2. Location of and Area Affected by Petitioner's Activity

Location:

Peoria Disposal Company
4349 W. Southport Road
Peoria, IL 61615
USEPA RCRA ID No. ILD000805812
IEPA RCRA ID No. 1438120003

Affected Area:

See Figure 1 (Topographic Map showing facility location) and Figure 2 (Site Layout) provided herewith. Also, see discussion found above, regarding three of the landfills in Illinois to which the delisted waste is likely to be taken.

3. Number of Employees and Age of the Facility

The WSF currently employs fourteen workers whose duties include operations management, waste treatment, plant cleaning and maintenance, and administrative compliance. The WSF also requires the efforts of eleven additional employees who are at least partially dedicated to the WSF performing waste receiving inspections, equipment maintenance, and permit compliance and auditing duties. The treatment of EAF dust began at the WSF in 1989 and has been ongoing for the past nineteen years.

4. Pollution Control Equipment Already in Use

As discussed above, the WSF is permitted as a RCRA containment building and, as such, must be fully enclosed. The RCRA Part B Permit requires that the WSF be maintained under negative pressure to prevent fugitive air emissions. To accomplish this, the WSF is equipped with two air pollution control devices: a 60,000 cubic feet per minute (“cfm”) baghouse dust collector and a 30,000 cfm cartridge dust collector. The 60,000 cfm dust collector is tasked with air quality maintenance in the general treatment area and, depending on the activity occurring within the building, its flow can be apportioned in any desired percentage to three focused pick-up points. The 30,000 cfm dust collector is dedicated wholly to the easternmost receiving bay (see Section 3 of the Technical Support Document), which is isolated from the general plant by separator walls and designed to manage dusty wastes without fugitive emissions from the building or an adverse impact on air quality in the general treatment area.

5. Qualitative and Quantitative Description of the Emissions, Discharges or Releases Currently Generated by Petitioner’s Activity

The WSF operates as an area air emissions source under IEPA lifetime Permit No. 143808AAN, which limits emissions from the WSF to a maximum of 33.8 tons per year of particulate matter and 3.9 tons per year of volatile organic materials. Calculated actual WSF

emissions reported to the IEPA for calendar year 2006 were 7.70 tons of particulate matter and 0.9 tons of volatile organic materials. Emissions for calendar year 2007 are not yet calculated or reported (due date of May 1, 2008).

Waste water discharges from the WSF are prohibited by the RCRA Part B Permit and are prevented by facility design. The WSF is constructed with a twelve-inch thick concrete floor slab as primary containment and a 100-mils thick high-density polyethylene (HDPE) liner as secondary containment. The WSF manages rain water and wash water from the curbed and HDPE-lined concrete receiving apron adjacent to the north end of the building by contouring of the containment slab, and/or via pipes to a master sump located within the building. Wash water generated within the containment building is likewise directed to the master sump. The water collected in the master sump is then used as a slurring agent in the chemical stabilization process. This water is not used in the process when performing waste treatment to accomplish delisting.

**E. Efforts Necessary to Comply with Regulation of General Applicability
(35 Ill. Adm. Code 104.406(e))**

PDC's current treatment and disposal process involves principally on-site disposal of chemically stabilized residues that remain hazardous. PDC also currently ships some treatment residues off-site for disposal as non-hazardous waste at its affiliated Subtitle D Landfill located in Tazewell County, Illinois. The non-hazardous residues are decharacterized waste (i.e., originally D004-D011 waste codes) and delisted residues from PDC's treatment of F006 waste. Area C at the PDC No. 1 Landfill is currently active and contains all of the remaining capacity available for disposal. Based on the current rate of receipts, Area C will reach capacity sometime in 2009.

Because the WSF has been in operation for more than nineteen years and is a well maintained plant, all fixed assets necessary to receive waste, treat waste, and store treated waste prior to disposal are in place. Therefore, when considering the cost of the compliance alternative, while no capital investments would be necessary, the variable operating expenses would be so adversely impacted that the viability of continued operations is questionable.

Many variable expenses would remain the same, such as labor, laboratory analysis, utilities, etc. The variable operating costs that would change are the post-treatment transportation to and disposal at an off-site Subtitle C landfill. Presented below are the affected variable costs to ship to the nearest Subtitle C landfill for disposal. PDC, through its Brokerage Services Group, has business relationships with Subtitle C landfills to manage those wastes that the PDC No. 1 Landfill is not equipped to manage or is simply too busy to accommodate. Therefore, the following cost comparison is based on current market price quotations.

Transportation to and Disposal at nearest Subtitle C landfill:

Expense Item	Cost per Ton	Estimated Cost per Year
Transportation for Disposal	\$44.00	\$4,884,000
Disposal	\$97.76	\$10,851,360
Total	\$141.76	\$15,735,360

Alternatively, the next table presents the same line-item expenses if PDC were granted the petitioned Adjusted Standard by the Board and could ship delisted residues to a Subtitle D landfill located in Illinois. These costs are accurate because they are based on experience from the ongoing shipment by PDC of delisted F006 wastes and decharacterized wastes to an affiliated Subtitle D landfill located in Tazewell County, Illinois.

Transportation and Disposal for Subtitle D Landfill:

Expense Item	Cost per Ton	Estimated Cost per Year
Transportation for Disposal	\$8.86	\$983,460
Disposal	\$20.00	\$2,220,000
Total	\$28.86	\$3,203,460

The costs presented for both alternatives are based on an average of twenty-two tons per shipment as would be hauled by semi-truck and aluminum dump trailer combinations, with an average of 111,000 tons per year shipped.

The cost differential between the two compliance alternatives, \$112.90 per ton totaling \$12,531,900 per year, would be an unbearable hardship for PDC that would result in the loss of most of its K061 accounts (which comprise the majority of the WSF receipts), as well as a dramatically increased and perhaps equally unbearable cost burden for its K061-generating customers in the Midwest, many of which (as discussed above) have no feasible or economically viable alternative.

**F. Proposed Adjusted Standard
(35 Ill. Adm. Code 104.406(f))**

1. Proposed Language

PDC proposes that the Board adopt the following adjusted standard:

The Board hereby grants to Peoria Disposal Company (“PDC”) an adjusted standard from 35 Ill. Adm. Code 721 Subpart D subject to the following conditions:

1. This adjusted standard becomes effective on (effective date here).
2. This adjusted standard is provided only for K061 wastes treated using PDC’s mechanical mixer, and only for total annual waste disposal volumes of EAF dust stabilized residue up to 95,000 cubic yards. PDC’s treated K061 residues generated by the PDC K061 waste stabilization process described in its Petition filed xxxxx are non-hazardous as defined in 35 Ill. Adm. Code 721. The EAF dust stabilized residues must meet the verification and testing requirements prescribed in paragraph 3 listed below to ensure that hazardous constituents are not present in the EAF dust stabilized residues at levels of regulatory concern. The EAF dust stabilized residues will no longer be subject to regulation under 35

Ill. Adm. Code Parts 722-728 and the permitting standards of 35 Ill. Adm. Code 703. The EAF dust stabilized residues shall be disposed of pursuant to the Board's non-hazardous landfill regulations found at 35 Ill. Adm. Code 810-815, and disposed of in a lined landfill with leachate collection and all necessary authorizations to receive the non-hazardous EAF dust stabilized residues. The landfill used for disposal shall be located in the State of Illinois.

3. Verification and Testing.

- a. **Treatability Testing.** PDC shall verify through bench-scale treatability testing that each K061 waste stream (other than those already represented in the full-scale, in-plant trials) received by PDC for chemical stabilization can be treated to meet the delisting levels of paragraph 4 prior to the operation of full-scale treatment of that waste stream. PDC shall submit a report of the treatability testing to the Agency within seven days of the completion of such testing.
- b. **Technology Modification Demonstration.** With any significant change in the chemicals used by PDC in its full-scale treatment process, PDC shall first verify through bench-scale treatability testing that each K061 waste stream received by PDC for chemical stabilization can be treated to meet the delisting levels of paragraph 4 using the new chemical treatment regimen prior to the operation of full-scale treatment using the new chemical regimen.
- c. **Testing of Treatment Residues for Inorganic Parameters.** PDC shall collect representative grab samples of each treated mixer load of the EAF dust stabilized residue and composite the grab samples to produce a daily composite sample. This sample shall be analyzed for TCLP leachate concentrations for all the constituents listed in paragraph 4 (a) prior to disposal of the treated batch. If the initial composite sample does not indicate compliance with the delisting levels, the treated residues will either be: 1) treated further using additional curing time as the chemical reagents complete their reactions with the waste, followed by another round of verification sampling and analysis, 2) re-processed through the WSF for additional treatment, followed by another round of verification sampling and analysis, or 3) managed as a K061 hazardous waste at a properly permitted RCRA Subtitle C facility. All verification analyses shall be conducted on a composite that effectively represents the entire batch as did the initial sample. If delisting levels are not achieved within the maximum storage time allowed PDC by its RCRA Part B Permit, the entire batch must undergo re-treatment or be managed as a hazardous waste as required by 35 Ill. Adm. Code 728 and the WSF RCRA Part B Permit.

- d. All analyses shall be performed according to SW-846 methodologies incorporated by reference in 35 Ill. Adm. Code 720. The analytical data shall 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.

4. Delisting Levels.

The concentration in TCLP leachate from the EAF dust stabilized residue must not exceed the values shown below, otherwise such wastes shall be managed and disposed in accordance with 35 Ill. Adm. Code 703 and 722-728.

Constituent	TCLP Delisting Level (mg/l)
Antimony	0.206
Arsenic	0.0936
Barium	21.0
Beryllium	0.416
Cadmium	0.11
Chromium (Total)	0.6
Lead	0.75
Mercury	0.025
Nickel	11.0
Selenium	0.58
Silver	0.14
Thallium	0.088
Vanadium	3.02
Zinc	4.3

5. Data Submittal. All data must be submitted to the Manager of the Permit Section, Bureau of Land, Illinois Environmental Protection Agency, 1021 North Grand Avenue East, P.O. Box 19276, Springfield, Illinois 62794-9276 within the time period specified. At the IEPA's request, PDC must submit any other analytical data obtained pursuant to paragraph C within the time period specified by the IEPA. Failure to submit the required data will be considered a failure to comply with the adjusted standard adopted herein and subject PDC to an enforcement action initiated by the IEPA. All data must be accompanied with 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 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 Peoria Disposal Company, I recognize that this exclusion of wastes will be void as if it never had effect to the extent directed by the Board and that Peoria Disposal Company will be liable for any actions taken in contravention of its RCRA Part B Permit and CERCLA obligations premised upon the Peoria Disposal Company's reliance on the void exclusion.

(Name of certifying person)

Title of certifying person)

Date _____

2. Narrative Discussion of Proposed Adjusted Standard Language

The proposed Adjusted Standard language borrows many of its requirements from PDC's existing F006 Adjusted Standard (*See* the Order of the Board entered on February 4, 1993, in Case No. AS 1991-003, provided herewith in Attachment 1 to this Petition; *see also* the Order and Opinion of the Board entered on March 11, 1993, in Case No. AS 1991-003, also provided herewith in Attachment 1 to this Petition). This is an appropriate approach because, like the F006 delisting, the proposed EAFDSR delisting would be a conditional exclusion requiring testing of each batch prior to managing the treated waste as non-hazardous. Further, PDC requests that the sampling and analytical requirements applicable to the K061 adjusted standard parallel those of the F006 adjusted standard because consistency between the two standards will facilitate personnel training, laboratory communications, and ongoing operational compliance.

The proposed adjusted standard requires that PDC manage all batches of its K061 EAF dust treatment residue as hazardous waste until testing demonstrates that each "batch" meets the delisting criteria. PDC defines a "batch" as the quantity of EAF dust treated during one calendar

day. Only when an individual treated batch meets the delisting criteria would PDC be authorized to manage that batch as non-hazardous waste.

As detailed above, in the event that the initial sample of residues from the treatment of K061 EAF dust does not meet the delisting criteria, the proposed adjusted standard language would permit additional treatment through increased reaction time, followed by re-samples collected and analyzed to demonstrate conformance. While samples of most waste generated by PDC's current process meet the LDR standards on the initial sample and a similar initial success rate is anticipated in meeting the delisting levels, reaction times can vary and, therefore, additional curing time to allow the stabilization chemicals to complete their reactions with the waste is necessary and appropriate. Additional detail regarding the propriety of and procedures for providing additional treatment by allowing increased curing time is provided in Section 3.5 of the Technical Support Document.

The proposed adjusted standard would apply only to wastes properly classified as K061 prior to shipment to and treatment at the WSF. The scope of the adjusted standard would further be limited to those ten K061 generators represented in the full-scale, in-plant trials that are detailed herein, or those that are qualified in the future through the procedure presented in the proposed adjusted standard language. It is important to PDC's viability as an ongoing business enterprise to have flexibility to add additional generators as market conditions change and future opportunities arise without re-petitioning the Board. The proposed qualifying procedure, including bench-scale treatability analyses, will ensure that any added K061 wastes will undergo the appropriate testing necessary to demonstrate that the EAFDSR will be non-hazardous with respect to the original listing criteria. The proposed language that would provide this authority is

modeled after the counterpart condition authorized by the Board in AS 1991-003 and relevant to PDC's F006 delisting

Similarly, the proposed adjusted standard language allows conditioned flexibility regarding the chemical technology employed. The RCRA Part B Permit for the WSF requires bench-scale treatability testing for each new waste stream. In this Petition, PDC presents procedures for qualifying any significant change in the chemical treatment regimen and proposes that those appear in the adjusted standard to dispel any concerns regarding the relative efficacy of any new chemicals. Prior to the filing of this Petition, extensive conversations have been held between PDC technical personnel and representatives of the USEPA and IEPA. USEPA personnel have generally consented to a procedure that would allow for some flexibility and IEPA suggested that PDC include language in the Petition to formalize this procedure. It is PDC's experience that the availability of specific chemicals from specific sources is subject to change over time. Further, even like chemicals from different sources can vary markedly in their specific chemical make-up. As technologies evolve and improve, and the availability of chemicals and sources inevitably change, re-petitioning to the Board would not be required under the proposed adjusted standard language, provided PDC follows the qualifying procedure set forth therein. The proposed qualifying procedure will ensure that any change in chemicals from the technology employed in the in-plant trials will result in a treatment regimen that is equally robust and undergo the testing necessary to demonstrate that the EAFDSR will be non-hazardous with respect to the original listing criteria.

For the purpose of this condition, significant change would mean the utilization of a chemical treatment regimen containing different active ingredients. For example, purchasing the same chemical from a different source would not be a significant change; nor would transitioning

from one lime-based chemical to another. However, changing from a lime-based chemical to a phosphate-based chemical, for instance, would be a significant change and the proposed qualification procedure would be required. These are examples only and it should be noted that under current operations PDC routinely performs some bench-scale testing prior to implementing even minor changes to ensure that the efficacy of the treatment is not jeopardized, which could result in expensive and unnecessary re-treatment.

The proposed adjusted standard language requires that the delisted EAFDSR be disposed in a lined landfill with leachate collection, which is licensed, permitted, or otherwise authorized to accept the delisted waste in accordance with all applicable RCRA Subtitle D requirements. Further, the landfill must be located within the State of Illinois. As detailed in the Technical Support Document, affiliates of PDC currently own three such landfills that have all necessary authorizations in place.

The proposed adjusted standard language proposes testing all metals constituents of concern for each treated batch. The proposed delisting level for each constituent of concern is the lower of either the maximum allowable concentration as determined through risk-based assessment, including that based on DRAS modeling and other methods approved by USEPA personnel, or the Universal Treatment Standard for that constituent at 35 Ill. Adm. Code 728.148 and Table U of that Part.

If the petitioned Adjusted Standard is granted, PDC will be required to submit a Class 2 Permit modification request (35 Ill. Adm. Code 703.282) to the IEPA to incorporate the necessary sampling and analysis changes prior to implementation. As such, no separate notification to the IEPA Bureau of Land regarding implementation of the adjusted standard is necessary. The proposed adjusted standard does not include changes that will increase air

emissions from the WSF. Even at the maximum petitioned volume of EAFDSR, emissions from the WSF would remain well below the limits in the facility's air emissions permit. As such, no permit modification with or separate notification to the IEPA Bureau of Air regarding implementation of the adjusted standard is necessary.

3. Efforts Necessary to Achieve Proposed Standard

The DRAS modeling results and risk analysis presented in Section 6 of the Technical Support Document demonstrate that the constituents of concern detected in the residues treated during the full-scale in-plant trials will not pose a risk to human health or the environment. Based upon the success with the in-plant trials and the proposed adjusted standard language, PDC has designed a process which establishes the efforts necessary to achieve the proposed standard. Besides the use of an improved chemical regimen and verification procedure as described herein, the efforts necessary to achieve the proposed delisting levels are essentially the same as those required of PDC in its current treatment of K061 EAF dust.

The RCRA Part B Permit for the WSF requires two grab samples from each batch for LDR compliance verification, one from the first mixer load and one from the last. The proposed adjusted standard language requires a grab sample from each mixer load to form a daily composite sample. Although the existing F006 delisting also requires a grab sample from each mixer load, PDC typically only treats an F006 batch every one to two weeks. K061 treatment, however, typically occurs daily. As such, it is likely that the increased sampling frequency will necessitate the hiring of a field technician to perform sampling duties. Due to the newly developed chemical treatment regimen, upgrades and modifications were required to be made to the reagent storage and delivery system to accommodate the storage and blending of one additional chemical relative to the existing regimen. Those modifications were made prior to

the in-plant trials. No additional efforts are expected to result from the proposed adjusted standard.

4. Cost Necessary to Achieve Proposed Standard

The cost of compliance with the proposed Adjusted Standard is estimated to be \$110 per ton of untreated waste, compared to the current cost of \$90 per ton of untreated waste. That increase will result principally due to the higher relative cost of the new chemical treatment regimen.

G. Quantitative and Qualitative Environmental Impact of Compliance with Existing Regulations versus Adjusted Standard (35 Ill. Adm. Code 104.406(g))

The quantitative and qualitative impacts have been described in the detailed risk assessment and data evaluations presented in the Technical Support Document. There should be no changes in any expected emissions or discharges from the WSF.

H. Justification of the Proposed Adjusted Standard (35 Ill. Adm. Code 104.406(h))

The level of justification as well as other information or requirements necessary for an adjusted standard as specified by the regulation of general applicability, are provided in Section C, *supra*. The technical justification for the proposed adjusted standard is provided in the Technical Support Document. The following is a statement which explains how PDC has sought to justify, pursuant to the applicable level of justification, the proposed adjusted standard.

1. The EAFDSR does not meet the criteria for which K061 was listed as hazardous. (35 Ill. Adm. Code 720.122(a)(1) and 720.122(d)(1)(B))

35 Ill. Adm. Code 720.122(a)(1) requires that in a delisting petition, “[t]he petitioner demonstrates that the waste produced by a particular generating facility does not meet any of the criteria under which the waste was listed as a hazardous or acute hazardous waste...” 35 Ill.

Adm. Code 720.122(d)(1)(B) provides that, if a waste contains “one or more of the hazardous constituents (as defined in Appendix G of 35 Ill. Adm. Code 721) that caused USEPA to list the waste, the waste does not meet the criterion of 35 Ill. Adm. Code 721.111(a)(3) when considering the factors used in 35 Ill. Adm. Code 721.111(a)(3)(A) through (a)(3)(K) under which the waste was listed as hazardous....”

In accordance with 35 Ill. Adm. Code 720.122(a)(1) and 720.122(d)(1)(B), PDC has demonstrated that the EAFDSR does not meet the criteria for which the EAF dust was listed as hazardous. The EAF dust is considered “emission control dust/sludge from the primary production of steel in electric furnaces” covered under the K061 listing. K061 is listed with the hazard code “T” which indicates that it was listed as a hazardous waste based upon “toxicity”. For a “T” waste, PDC must either demonstrate that the waste does not contain the hazardous constituents that caused USEPA to list the waste as hazardous, or, although containing one or more of those constituents, it does not meet the listing criteria when considering the listing factors in 35 Ill. Adm. Code 721.111(a)(3)(A) through (K), under which the waste was listed as hazardous.

Pursuant to 35 Ill. Adm. Code 721, Appendix G, the hazardous constituents that form the basis for listing K061 as a hazardous waste are hexavalent chromium, lead and cadmium. While the EAFDSR does contain hexavalent chromium, lead and cadmium, PDC has demonstrated that “the waste does not meet the criterion of 35 Ill. Adm. Code 721.111(a)(3) when considering the factors used in 35 Ill. Adm. Code 721.111(a)(3)(A) through (a)(3)(K) under which the waste was listed as hazardous...,” as required by 35 Ill. Adm. Code 720.122(d)(1)(B). PDC has provided a comprehensive database of sample data from this demonstration, including test

results for total chromium (including hexavalent), lead and cadmium, which form the basis for which K061 was listed as a hazardous waste under 35 Ill. Adm. Code 721.132 (40 CFR 261).

For those constituents that were detected, PDC, as a first step, modeled the risk posed by the leachate using the DRAS model specified in the “EPA RCRA Delisting Program--Guidance Manual for the Petitioner,” incorporated by reference in 35 Ill. Adm. Code 720.111(a). The DRAS model takes into account the factors used in 35 Ill. Adm. Code 721.111(a)(3)(A) through (a)(3)(K), including the concentration of each constituent in the waste, health-based standards and the volume of waste that may be released in a plausible worst case scenario. In its most recent delisting opinion, the Board confirmed that the DRAS is the preferred model to be used in a delisting petition pursuant to 35 Ill. Adm. Code 720.122. *See Petition of BP Products North America, Inc. for RCRA Waste Delisting Under 35 Ill. Adm. Code 720.122, AS 07- 1 (Feb. 15, 2007 Opinion and Order p. 8).*

DRAS results for chromium, lead and cadmium, as well as all other identified COCs, are discussed in Section 6 and Appendix H-1 of the Technical Support Document attached herewith as Attachment 2.

Therefore, PDC has demonstrated compliance with 35 Ill. Adm. Code 720.122(a)(1) and 720.122(d)(1)(B).

2. Based on the criteria specified in the “EPA RCRA Delisting Program-Guidance Manual for the Petitioner,” incorporated by reference in Section 720.111(a), there is a reasonable basis to believe that, while factors (including additional constituents) other than those for which K061 was listed could cause the waste to be a hazardous waste, such factors do not warrant retaining the EAFDSR as a hazardous waste. (35 Ill Adm. Code 720.122(a)(2) and 720.122(d)(2))

Pursuant to 35 Ill. Adm. Code 720.122(a)(2), if “[t]he Board determines that there is a reasonable basis to believe that factors (including additional constituents) other than those for

which the [residues from the treatment of EAF dust] was listed could cause the waste to be a hazardous waste” then PDC is required to demonstrate “that such factors do not warrant retaining the waste as a hazardous waste.” This demonstration “must be made by reliance on, and in a manner consistent with, ‘EPA RCRA Delisting Program - Guidance Manual for the Petitioner,’ incorporated by reference in Section 720.111(a).” (35 Ill. Adm. Code 720.122(a)(2)). Similarly, 735 Ill. Adm. Code 720.122(d)(2) requires a demonstration that if the Board has “a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste.”

As is described above, K061 was listed as a hazardous waste because of its hazardous constituents of hexavalent chromium, lead and cadmium. Using the “EPA RCRA Delisting Program - Guidance Manual for the Petitioner,” PDC determined that there are additional constituents of concern in the residues from the treatment of EAF dust, namely, the “COCs” described above and in the Technical Support Document. However, PDC has demonstrated that these COCs “do not warrant retaining the waste as a hazardous waste” “by reliance on, and in a manner consistent with, ‘EPA RCRA Delisting Program - Guidance Manual for the Petitioner,’ incorporated by reference in Section 720.111(a).” (735 Ill. Adm. Code 720.122(d)(2) and 720.122(a)(2), respectively).

For the COCs other than chromium, lead and cadmium, PDC still, as a first step, modeled the risk posed by the leachate using the DRAS model specified in the “EPA RCRA Delisting Program--Guidance Manual for the Petitioner,” incorporated by reference in 35 Ill. Adm. Code 720.111(a). As is discussed at length above and in the Technical Support Document, the DRAS model takes into account the factors used in 35 Ill. Adm. Code 721.111(a)(3)(A)

through (a)(3)(K). As above, DRAS results for all the COCs, including chromium, lead and cadmium, are discussed and presented in Section 6 and Appendix H-1 of the Technical Support Document (Attachment 2 hereto).

Therefore, PDC has demonstrated compliance with 35 Ill. Adm. Code 720.122(a)(2) and 720.122(d)(2).

3. The EAFDSR is not hazardous waste by operation of Subpart C of 35 Ill. Adm. Code 721, i.e., the EAFDSR is not a hazardous waste by virtue of exhibiting any of the hazardous characteristics specified in Subpart C. (35 Ill. Adm. Code 720.122(a)(2), 720.122(b), 720.122(d)(3) and 720.122(d)(4))

35 Ill. Adm. Code 720.122(a)(2), 720.122(b) and 720.122(d)(4) all provide that a waste that meets the tests posed in sections 1 and 2, above, “still may be a hazardous waste by operation of Subpart C of 35 Ill. Adm. Code 721.” 35 Ill. Adm. Code 720.122(d)(3) is more specific, providing that “[t]he petitioner must demonstrate that the waste does not exhibit any of the characteristics, defined in 35 Ill. Adm. Code 721.121, 721.122, 721.123, or 721.124, using any applicable methods prescribed in those Sections.” (The four sections listed are, in fact, the totality of Subpart C of 35 Ill. Adm. Code 721).

The fourth section in Subpart C of 35 Ill. Adm. Code 721, Section 721.124, describes the characteristic of toxicity. As is discussed above, PDC has demonstrated that the EAFDSR does not exhibit the characteristic of toxicity.

The first, second and third sections in Subpart C of 35 Ill. Adm. Code 721 describe the characteristics of ignitability, corrosivity and reactivity. (35 Ill. Adm. Code 721.121, 721.122 and 721.123, respectively). Based on knowledge of the process generating the EAF dust and PDC's knowledge of the chemicals used to treat the waste, the EAFDSR has been determined not to exhibit the hazardous characteristics of ignitability, corrosivity, or reactivity.

Specifically, the EAFDSR is not a liquid so it is excluded from the definition for ignitable and corrosive wastes. Regarding the characteristic of reactivity, PDC presently routinely analyzes a sample collected from each load of EAF dust received at the WSF for reactivity, and the characteristic of reactivity has never been observed. Further, the EAFDSR has no reactive components, and so cannot react violently with water or spontaneously ignite. Therefore, the EAFDSR is not a hazardous waste by virtue of exhibiting one of the characteristics of ignitability, corrosivity, and reactivity. Please see Section 4 of the Technical Support Document.

In accordance with 35 Ill. Adm. Code 720.122(a)(2), 720.122(b), 720.122(d)(3) and 720.122(d)(4), PDC has demonstrated that the EAFDSR is not a hazardous waste by virtue of exhibiting any of the characteristics, defined in Subpart C of 35 Ill. Adm. Code 721. (35 Ill. Adm. Code 721.121, 721.122, 721.123, and 721.124).

4. There were more than four samples used in the analysis herein, taken over a proper period of time. (35 Ill. Adm. Code 720.122(h))

PDC has demonstrated in this Petition and in the Technical Support Document (Attachment 2 hereto) that twelve (12) representative demonstration samples were analyzed, taken over a period of time sufficient to represent the variability and uniformity of the waste, satisfying 35 Ill. Adm. Code 720.122(h).

5. The EAFDSR will be managed in Illinois. (35 Ill. Adm. Code 720.122(p))

PDC has demonstrated in this Petition and in the Technical Support Document (Attachment 2 hereto) a showing that the waste at issue, the EAFDSR, will be generated and managed in Illinois, satisfying 35 Ill. Adm. Code 720.122(p).

6. The Adjusted Standard, if granted, would not render the Illinois RCRA program less stringent than if the decision were made by USEPA. (35 Ill. Adm. Code 720.122(q))

PDC has demonstrated in this Petition and in the Technical Support Document (Attachment 2 hereto), that the Adjusted Standard, if granted, will not render the Illinois RCRA program less stringent than if the decision were made by USEPA, satisfying 35 Ill. Adm. Code 720.122(q).

I. Consistency with Federal Law (35 Ill. Adm. Code 104.406(i))

Federal law provides the regulatory framework for delisting this or any other hazardous waste. The proposed Adjusted Standard meets the requirements prescribed in 35 Ill. Adm. Code 720.122, which are identical in substance to the requirements for delisting a hazardous waste prescribed in 40 CFR 260.122. The Board may grant a delisting petition in accordance with the requirements of 35 Ill. Adm. Code 720.122 (40 CFR 260.22). There are no additional procedural requirements imposed by federal law. Therefore, the Board may grant the proposed adjusted standard consistent with federal law.

J. Waiver of Hearing (35 Ill. Adm. Code 104.406(j))

PDC hereby waives hearing on this Petition.

K. Supporting Documents (35 Ill. Adm. Code 104.406(k))

The figures attached herewith support this Petition, as do the other attachments hereto. The Order of the Board and the "Order and Opinion" of the Board entered on February 4, 1993, and March 11, 1993, respectively, in Case No. AS 1991-003, are provided herewith as Attachment 1. The Technical Support Document is provided herewith as Attachment 2.

CONCLUSION

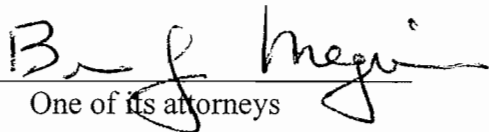
WHEREFORE, PDC requests that the Board grant an Adjusted Standard pursuant to Section 28.1 of the Illinois Environmental Protection Act, 415 ILCS 5/28.1, delisting the EAFDSR generated at the WSF in Peoria, Illinois, consistent with the conditions in the Adjusted

Standard proposed in this Petition and described in the Technical Support Document, or such other reasonable terms and conditions as the Board deems appropriate to provide the relief requested.

Dated: April 24, 2008

Respectfully submitted,

PEORIA DISPOSAL COMPANY,
Petitioner

By: 
One of its attorneys

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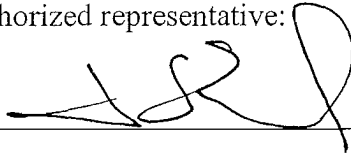
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CERTIFICATION STATEMENT

I certify, under penalty of law, that I have personally examined and am familiar with the information submitted in this Petition and all attachments (including, without limitation, the Technical Support Document), and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

Signed by authorized representative:

Signature: _____



Name: _____

Ron L. Edwards

Title: _____

Vice President

Exhibit 1

ILLINOIS POLLUTION CONTROL BOARD
February 4, 1993

In the matter of:)
)
Petition of Peoria Disposal) AS 91-3
Company for Adjusted Standard) (RCRA Delisting)
from 35 Ill. Adm. Code 721)
Subpart D.)

ORDER OF THE BOARD (by J. Anderson):

This Order grants an adjusted standard to Peoria Disposal Company (PDC). This action is taken in light of the Board's January 21, 1993 grant of the January 14, 1993 joint motion (joint motion) for expedited decision of Peoria Disposal Company and the Illinois Environmental Protection Agency (Agency). The Board's time and resource constraints have resulted in a delay in perfecting the supporting opinion. The Board intends to adopt the supporting opinion at its February 25, 1993 Board meeting.

ORDER

The Board hereby grants to Peoria Disposal Company (PDC) an adjusted standard from 35 Ill. Adm Code 721 Subpart D subject to the following conditions:

1. This adjusted standard becomes effective on February 4, 1993.
2. This adjusted standard is provided only for F006 wastes treated using PDC's mechanical mixer, and only for total annual waste disposal volumes of F006 treatment residues up to 50,000 cubic yards. Peoria Disposal Company's treated F006 residues generated by the PDC F006 waste stabilization process described in their amended petition filed March 2, 1992 are non-hazardous as defined in 35 Ill. Adm. Code 721. The treatment residues must meet the verification and testing requirements prescribed in paragraph 3 listed below to ensure that hazardous constituents are not present in the treatment residues at levels of regulatory concern. The treatment residues will no longer be subject to regulation under 35 Ill. Adm. Code. Parts 722-728 and the permitting standards of 35 Ill. Adm. Code 703. Such wastes shall be disposed of pursuant to the Board's non-hazardous landfill regulations found at 35 Ill. Adm. Code 810-815.
3. Verification and Testing.
 - a) Treatability Testing. PDC shall verify through bench-scale treatability testing that each waste stream received by PDC for chemical stabilization can be treated to meet the delisting levels of paragraph 4

0139-0121

prior to the operation of full-scale treatment of that waste stream. PDC shall submit a report of the treatability testing to the Agency within 7 days of the completion of such testing.

- b) Testing of Treatment Residues for Inorganic Parameters. PDC shall collect representative grab samples of each treated batch of the F006 treatment residue and composite the grab samples to produce a daily composite sample. This sample shall be analyzed for TCLP leachate concentrations for all the constituents listed in paragraphs 4(a) and 4(b) prior to disposal of the treated batch.
 - c) Testing of Treatment Residues for Organic Parameters. PDC shall collect a representative grab sample of each treated batch of the F006 treatment residue daily and this sample shall be analyzed for TCLP leachate concentrations for all the constituents listed in paragraph 4(c).
 - d) Additional testing. PDC shall collect a representative grab sample from each daily grab sample of F006 treatment residue each month and prepare a monthly composite sample. This monthly sample shall be analyzed for the TCLP leachate concentrations for all the constituents listed at 40 C.F.R. Part 423 Appendix A (1991) except those numbered 089-113, 116 and 129. Any compound which is found to be below detection limits for six months of continuous monthly testing shall be deleted from the monthly testing parameter list and shall instead be tested semi-annually. If the compound is detected in the semi-annual tests, it will again be tested monthly for six months as described above.
 - e) All analyses shall be performed according to SW-846 methodologies incorporated by reference in 35 Ill. Adm. Code 720.111. The analytical data shall 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.
4. Delisting Levels.
- a) Metals. The metal concentration in TCLP leachate from the F006 treatment residue must not exceed the values shown below, otherwise such wastes shall be managed and disposed in accordance with 35 Ill. Adm. Code 703 and 722-728.

0139-0122

Parameter	Delisting Level (mg/l)
Cadmium	0.066
Chromium	1.9
Lead	0.29
Nickel	0.32
Silver	0.072

- b) Cyanide. Total leachable cyanide in distilled water extractions from F006 treatment residue must not exceed 3.8 mg/kg, otherwise such wastes shall be managed and disposed in accordance with 35 Ill. Adm Code 703 and 722-728.
- c) Organic Parameters. The organic constituent concentration in TCLP leachate from the F006 treatment residue will be compared with the delisting levels shown below. If the delisting levels for a batch are exceeded, a second composite sample of the same batch shall be prepared and analyzed within five days of the observed exceedance. If a second subsequent exceedance occurs, the batch shall be managed and disposed of in accordance with 35 Ill. Adm. Code 703 and 722-728.

Parameter	Delisting Level (mg/l)
Acetone	76
Bis (2-ethylhexyl)phthalate	0.057
Chloroform	0.114
Ethylbenzene	13.3
Naphthalene	1.9
N-nitrosodiphenylamine	0.133
Styrene	1.9
Total xylenes	190

5. Data Submittal. All data must be submitted to the Manager of the Permit 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, PDC must submit any other analytical data obtained pursuant to paragraph 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 PDC to an enforcement action initiated by the Agency. All data must be accompanied with 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

0139-0123

of the 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 Peoria Disposal Company, I recognize that this exclusion of wastes will be void as if it never had effect to the extent directed by the Board and that Peoria Disposal 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.

(Name of certifying person)

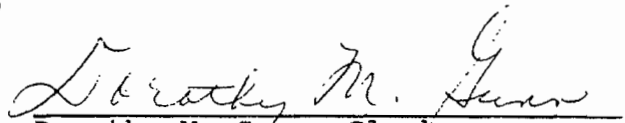
(Title of certifying person)

Date _____

Section 41 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1041) provides for the appeal of final orders of the Board within 35 days. The Rules of the Supreme Court of Illinois establish filing requirements. (But see also 35 Ill. Adm. Code 101.246, Motion for Reconsideration, and Castenada v. Illinois Human Rights Commission (1989), 132 Ill.2d 304, 547 N.E.2d 437.)

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above order was adopted on the 4th day of February, 1993, by a vote of 6-6.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

0139-0124

ILLINOIS POLLUTION CONTROL BOARD
March 11, 1993

IN THE MATTER OF:)
)
PETITION OF PEORIA DISPOSAL CO.) AS 91-3
FOR AN ADJUSTED STANDARD FROM) (RCRA Delisting)
35 Ill. Adm. Code 721.Subpart D) (Adjusted Standard)

ROBIN R. LUNN AND MICHAEL O'NEIL OF KECK, MAHIN & CATE APPEARED ON BEHALF OF PETITIONER, PEORIA DISPOSAL CO.

WILLIAM INGERSOLL AND MARK GURNIK OF THE DIVISION OF LEGAL COUNSEL APPEARED ON BEHALF OF CO-PETITIONER ILLINOIS ENVIRONMENTAL PROTECTION AGENCY.

FRED C. PRILLAMAN AND STEPHEN F. HEDINGER OF MOHAN, ALEWELT, PRILLAMAN & ADAMI APPEARED ON BEHALF OF INTERESTED PERSON ENVIRITE CORP.

OPINION OF THE BOARD (by J. Anderson):

This matter is before the Board on the April 9, 1991 petition of Peoria Disposal Co. (PDC) for an adjusted standard. The petition seeks an adjusted standard from 35 Ill. Adm. Code 721.Subpart D. The petition essentially seeks a hazardous waste delisting for certain listed hazardous wastes generated by PDC at its Peoria County facility. This opinion supports the Board's order of February 4, 1993 granting an adjusted standard on a joint motion for expedited decision, as explained below.

PROCEDURAL HISTORY

Peoria Disposal Co. (PDC) filed its initial petition on April 9, 1991. A Board Order dated April 25, 1991 cited certain deficiencies in the petition. PDC filed its certificate of publication on April 29, 1991, and a response to the Board order on May 15 and June 6, 1991. A Board order dated July 11, 1991 requested additional information. PDC filed a status report on January 29, 1992, and the Agency filed one on February 3, 1992, in response to a hearing officer order of January 9, 1992. PDC filed an amended petition on March 2, 1992, in response to a hearing officer order dated February 10, 1992. The Board accepted the amended petition on March 11, 1992. PDC filed a second amended petition for adjusted standard on May 29, 1992, with the Agency as co-petitioner, which the Board accepted by its order of June 4, 1992. PDC again amended its prayer for relief in its post-hearing brief filed August 18, 1992.

The Board received a request for a public hearing from Mr. Stephen Rone, of East Peoria, on May 13, 1991. Envirite Corp. (Envirite), a competitor of PDC, filed an appearance and a motion

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to intervene on August 19 and September 3, 1991. PDC filed in opposition to intervention on August 23. The hearing officer denied intervention on September 11, 1991, but granted Envirite leave to participate at hearing as an interested person. On March 9, 1992, Envirite requested a public hearing.

The Board held a public hearing in Peoria on June 29, 1992. PDC, the Agency, and Envirite participated. Envirite filed a motion for extension of time to file its post-hearing brief on July 27 and its brief on August 3, 1992. PDC filed a motion for extension to file on August 4 and its post-hearing brief on August 18, 1992. The Board hereby grants both motions for extension of time and accepts both briefs.

PDC and the Agency filed a joint motion for expedited decision on January 14, 1993. Envirite responded on January 26. The Board granted the motion on January 21, 1993, and we granted the requested adjusted standard, with conditions, on February 4. This opinion supports the Board's order of February 4, 1993.

During the course of this proceeding, the Board docketed three public comments. The first public comment (PC 1), dated July 29, 1991, was from Stephen B. Smith, Vice President, Envirite. A letter, dated July 16, 1992 and given public comment number 3 (PC 3), was a copy of correspondence sent by Stephen Smith to Robert Kayser, Chief, Delisting Section, USEPA. Public comment number 2 (PC 2), dated July 27, 1992, was from Robert Kayser to the hearing officer.

The petition filed in April, 1991 originally sought an adjusted standard as to K061 and F006 wastes treated by PDC. The petition of March, 1992, the amended petition of May, 1992, and the amendment requested in the August, 1992 post-hearing brief each sought an adjusted standard as to F006 wastes. PDC has stated that it will seek relief as to K061 wastes at a later time and in a separate proceeding. (March 2, 1992 Amended Petition as 2.) The Board will therefore consider those portions of the record pertaining to F006 wastes.

FACTUAL BACKGROUND

PDC owns and operates a permitted hazardous waste treatment facility in a 7200 square foot building located on a 2-acre site near Peoria. It receives about 30,000 cubic yards (yd³) of F006 wastes into this Waste Stabilization Facility each year. This waste is sent from about 20 to 30 different platers, anodizers, chemical etching and milling, and circuit-board manufacturers. F006 waste is, by definition, wastewater treatment sludge from electroplating operations. (See 35 Ill. Adm. Code 721.131(a).) PDC has operated this facility since August, 1988.

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PDC treats the F006 wastes it receives at this facility with proprietary reagents in order to stabilize them so that they do not leach their hazardous constituents into the environment. It has historically then landfilled the wastes in a hazardous waste landfill that it owns and operates. The incremental increased costs to PDC's customers is about \$65.00 per ton for disposal of the treated residue as a hazardous waste over what it would cost to dispose of this waste as a non-hazardous waste in an industrial landfill. This added cost and the desire to preserve its RCRA-permitted landfill capacity are the reasons PDC has sought to delist the treated residues pursuant to 35 Ill. Adm. Code 720.122 and 106.Subpart G.

PDC has established procedures for screening incoming wastes before accepting them and for verifying that treatment has indeed stabilized the wastes received. PDC has each prospective customer submit certain information about its waste and waste-generation. This includes a material safety data sheet; the results of treatability studies from PDC Laboratories, Inc.; and a certification (or analytical results) indicating that no pesticides or herbicides, PCBs, or dioxins are used in the production of the wastes, and that they do not appear in the wastes. After waste treatment and curing, PDC tests each treated batch of the wastes to assure that stabilization has in fact occurred. These tests for selected contaminants involve using the same RCRA TCLP procedure of 35 Ill. Adm. Code 721.124 that PDC uses to test the effectiveness of its treatability testing. If the treated waste residue is still hazardous, PDC either retreats the waste for further stabilization or disposes of the waste as hazardous waste in its RCRA-permitted landfill.

The adjusted standard granted with conditions by the Board on February 4, 1993 allows PDC to dispose of stabilized waste in its industrial landfill. The stabilized waste that meets the delisting conditions is no longer considered a hazardous waste.

PDC asserts that its compliance alternatives to an adjusted standard are limited. It asserts that the F006 waste cannot be recycled, reused, or treated to render it nonhazardous. The only alternative to the adjusted standard is the continued disposal of this waste in a RCRA-permitted facility. Additionally, PDC and the Agency assert by the joint motion for expedited decision of January 14, 1993 that the decision in Envirite Corp. v. IEPA (3d Dist. Jan. 8, 1993) (No. 3-92-0202), that each of PDC's customers must individually have separate Section 39(h) authorization for landfill disposal of hazardous wastes,¹ threatens to cause it to

Section 39(h) provides in significant part as follows:

[A] hazardous waste stream may not be deposited in a permitted hazardous waste site unless specific

stop receiving the F006 wastes for RCRA-permitted disposal, which would leave PDC with a cessation of operations as the only alternative for compliance unless the Board granted the adjusted standard.

THE ADJUSTED STANDARD

The adjusted standard granted on February 4, 1993, effective as of that date, renders non-hazardous up to 50,000 tons of F006 waste treated by PDC using a mechanical mixer. The treated residues must meet certain verification and testing requirements to qualify. Those wastes that do qualify are subject to the non-hazardous solid waste disposal regulations of 35 Ill. Adm. Code 810 through 815, rather than the Illinois RCRA regulations of 35 Ill. Adm. Code 703 and 722 through 728.

The verification and testing condition requires PDC to perform certain tests, both before and after waste treatment. PDC must perform bench-scale treatability testing before accepting wastes for production-scale treatment. PDC must perform tests on the treated residue to verify treatment using the methods of SW-846 for certain specified inorganic and organic parameters on daily- and monthly-composited samples. PDC must periodically submit the results of the treatability tests and other information requested by the Agency together with a certification, and it must maintain its records of those tests open for state inspection for a minimum of three years.

PDC must test a daily composite sample composed of grab samples from each batch of the treated residue for certain TCLP inorganic parameters (cadmium, chromium, lead, nickel, and silver) and for total distilled-water-leachable cyanide before disposal. If the treatment residue exceeds any of the levels set

authorization is obtained from the Agency by the generator or the disposal site owner and operator for the deposit of that specific hazardous waste stream. The Agency may grant specific authorization for disposal of hazardous waste streams only after the generator has reasonably demonstrated that, considering technological feasibility and economic reasonableness, the hazardous waste cannot be reasonably recycled for reuse, nor incinerated or chemically, physically, or biologically treated so as to render it nonhazardous. . . .

415 ILCS 5/39(h) (1992) [Ill. Rev. Stat. 1991 ch. 111, par. 1039(h)].

for TCLP inorganics or total leachable cyanide², PDC must manage the treated residue as a RCRA hazardous waste.

PDC must also daily test a representative grab sample of each treated batch for certain TCLP organic parameters (acetone, bis-(2-ethylhexyl)phthalate, chloroform, ethylbenzene, naphthalene, N-nitrosodiphenylamine, styrene, and total xylenes). If the initial daily test for a specific treated batch for organics exceeds any of the levels set for TCLP organics³, PDC may analyze a second sample. If the second sample also exceeds any TCLP organic parameter, PDC must manage the batch as a RCRA hazardous waste.

A special note is in order to dispel possible confusion as to the meaning of the word "composite" as applied to organic parameter confirmation sampling, in paragraph 4(c) of the February 4, 1993 order. We wish to avoid an erroneous interpretation that "composite" refers to combining grab samples from more than one treated batch. (See PC 2 at 2-3 (USEPA comment).) This is not the Board's intent. Rather, we intend to allow PDC to composite grab samples from a single treated batch in order to allow it to assure that the confirmation sample taken is indeed representative of the treated batch.

In addition to the daily analyses, PDC must perform a more complete monthly analysis. PDC must take a grab sample from each daily sample and composite them for a single monthly TCLP test for all the 126 priority pollutants listed at 35 Ill. Adm. Code 423, App. A except the pesticides, PCBs, asbestos, and 2,3,7,8-TCDD (dioxin). PDC may reduce the testing frequency to semi-annually for any constituent found to be below the detection limit for six consecutive months. PDC must continue or resume monthly testing for any constituent that appears above the detection limit in any sample.

The adjusted standard granted is substantively very similar to that requested in the May 29, 1992 second amended petition, further amended by PDC's post-hearing brief. The post-hearing brief added the limitation to the use only of a mechanical mixer, thereby dispensing with the original request to allow mixing in a concrete-lined pit by a backhoe. The adjusted standard granted differs, however, in that the failure of a single repeat daily

² 0.066 mg/l for cadmium, 1.9 mg/l for chromium, 0.29 mg/l for lead, 0.32 mg/l for nickel, 0.072 mg/l for silver, or 3.8 mg/kg for cyanide.

³ 76 mg/l for acetone, 0.057 mg/l for bis-(2-ethylhexyl)-phthalate, 0.114 mg/l for chloroform, 13.3 mg/l for ethylbenzene, 1.9 mg/l for naphthalene, 0.133 mg/l for N-nitrosodiphenylamine, 1.9 mg/l for styrene, or 190 mg/l for total xylenes.

sample for TCLP organics triggers the need to manage the treated residue as a RCRA hazardous waste, and the second amended petition and the post-hearing brief requests that the failure of a second repeat sample (i.e., the failure of a third sample) triggers the need to manage the residue as hazardous. The post-hearing amendments more would clearly require a third failure

REGULATORY STANDARD FOR RELIEF

35 Ill. Adm. Code 720.122 (derived from 40 CFR 260.22) provides for delisting of hazardous wastes. Subsection (a) provides for delisting of Part 721, Subpart D (40 CFR 261, Subpart D) listed wastes from a particular facility if the generator demonstrates that the waste exhibits none of the criteria for which it was listed, and the Board determines that no additional factors warrant retaining the waste as hazardous. Subsection (b) provides for rendering inapplicable the "mixtures and derived-from" provisions of 35 Ill. Adm. Code 721.103-(a)(2)(B) and (a)(2)(C) (40 CFR 261.3(a)(2)(ii) and (a)(2)(iii)), which basically maintain that any mixture containing a Subpart D listed waste and any material derived from a Subpart D listed waste are hazardous wastes.

Since PDC treats the F006 wastes from multiple generating sources to produce a waste deemed a F006 hazardous waste by the "mixtures and derived-from rule", it appears that pursuit of either alternative of subsections (a) and (b) might have resulted in rendering the RCRA regulations inapplicable to the PDC-treated residue. PDC nowhere explicitly states that it approaches the Board under either subsection (a) or subsection (b). However, since PDC nowhere mentions either Section 721.103(a)(2) nor full characteristic testing pursuant to 35 Ill. Adm. Code 721.Subpart C, and the thrust of the petition is aimed at demonstrating that the treated residue no longer exhibits either the characteristic for which F006 was listed or any other characteristic warranting continued management as a hazardous waste, the Board infers that PDC submitted its petition pursuant to 35 Ill. Adm. Code 720.122(a).

Under subsection (a), PDC is viewed as the waste generator. For a grant of an adjusted standard delisting its waste, PDC must demonstrate that the F006 waste it generates does not exhibit the toxicity characteristic (cadmium, hexavalent chromium, nickel, or cyanide) for which USEPA listed F006 wastes, and the Board must determine that there is no reasonable basis other than that for which F006 was listed that warrants retaining the treated F006 residue as RCRA hazardous. (See 35 Ill. Adm. Code 720.122(a) and (d), 721.111(a)(3), 721.131, and 721.Appendix G.) Additionally, PDC must demonstrate that the waste will be generated or managed in Illinois (35 Ill. Adm. Code 720.122(p)), and the Board will not grant the delisting if it would render the state RCRA program

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less stringent than the federal program. (35 Ill. Adm. Code 720.122(q).)

DISCUSSION OF ISSUES RAISED

Envirite, PDC's competitor, by its participation throughout this proceeding, and USEPA by PC 2, raised a few issues relating to the requested adjusted standard. This resulted in the imposition of the second-failure trigger for dealing with the treated waste as hazardous based on the organic parameters. Several other arguments did not result in substantive amendment of the requested adjusted standard.

The easiest issue to dispose of is that relating to whether the waste will be generated or managed in Illinois. The facts indicate the PDC will both generate and manage the waste at its facility near Peoria. Neither Envirite nor USEPA challenged the petition on this basis. Therefore, the Board finds that the waste is both generated and managed in Illinois, as required by Section 721.122(p).

Before beginning the discussion of the issues, the Board wishes to take note of the Agency's joining as co-petitioner after discussion with the PDC and careful examination of details of the petition and supporting documents (see, e.g., Tr. 97-103, re sampling protocol, and 110-11, re analytical procedures). While ideally such scrutiny and the Agency's decision to join as a co-petitioner would take place before PDC initially filed its petition, the procedure used nevertheless provides welcome assistance to the review process. (See In re Petition of Keystone Steel and Wire Co. for Hazardous Waste Delisting, No. AS 91-1, (Feb. 6, 1992) at 9-10.)

Additionally, USEPA submitted comments on the proposed adjusted standard. (PC 2.) It is worthy of note that USEPA commented that PDC submitted ample data with its petition, with the reservation that it would have sought groundwater monitoring data. (PC 2 at 1.) USEPA did not comment adversely to the Board granting the requested adjusted standard. Rather, USEPA noted a small number of conditions it would impose. For example, USEPA would require more information before allowing use of backhoe mixing, USEPA would require PDC to manage batches of waste as hazardous until shown to meet the delisting criteria, and USEPA would add analyses for additional organic contaminants to the testing conditions. (PC 2 at 2-3.) We discuss these issues topically below.

The first contested issue relates to whether PDC has demonstrated that its treated F006 residue is stable over time. Envirite contended that PDC's analytical results (see March 2, 1992 Amended Petition at app. E, tables 33-51) indicate increased metals mobility with time, and a rapid drop in pH with time

0140-0111

indicates that this trend will continue. Envirite cites the need to continue the testing to follow up on such a trend and cites USEPA method 1320 in support of this contention. (See Ex. 1 at 1-2 and App. B; Envirite post-hearing brief at 5 and 12-13.)

PDC responds that it properly applied the appropriate testing for the proper duration. PDC responds that it employed the TCLP (USEPA method 1311) procedure of 35 Ill. Adm. Code 721.124 and 40 CFR App. II to perform the tests. It argues that this TCLP test has supplanted the former EP toxicity test to which the multiple extraction procedure (MEP) of method 1320 applies, and the TCLP procedure is far more aggressive than the EP former toxic-MEP procedure because of the selection of acids and the repeated agitation of samples. PDC questioned the relevance of the aggressive TCLP procedure to the realities encountered by the waste disposed of in a landfill. (PDC post-hearing brief at 14-16; Tr. 117-21.)

USEPA did not question the trend in the analytical results. Rather, USEPA stated generally that "PDC appears to have provided an extensive set of analytical data to support its petition (PC 2 at 1), and "In general, the testing conditions included in the proposed delisting are consistent with the format that USEPA has used in past delistings." (PC 2 at 2.) However, we note that this is not an issue specifically raised in PC 3, the letter of July 16, 1992 that Envirite sent to USEPA.

Initially, the Board agrees with PDC's assertion that there are no fixed criteria for evaluating the MEP results using the TCLP procedure. In examining the results tabulated by PDC in the March 2, 1992 amended petition that also provide initial TCLP results (app. E, tables 33 through 48), we do not see any distinct trend or correlation between the slight drop in pH in subsequent days' testing (about 1 pH lower on day nine than at the start of testing) and the appearance of metals in the TCLP leachate. Of sixteen samples, only two that would have passed the TCLP test subsequently showed elevated metals concentrations at levels of regulatory concern, two showed elevated metals concentrations in the initial TCLP that diminished below levels of regulatory concern in subsequent days, and one showed an elevated metal concentration in the initial TCLP as well as in later tests. The Board does not see a distinct or significant trend in these data, as argued by Envirite.

Envirite next argues that some of the testing results contained in the petition indicate that some of the treated PDC residue contains hazardous constituents at levels above those of

regulatory concern.⁴ PDC does not dispute this assertion. USEPA expresses concern that PDC manage no treated waste residue as non-hazardous until it is shown to meet the delisting criteria. (PC 2 at 2-3.)

The Board agrees that PDC failed to show that 13 of 18 samples of treated residue met the delisting criteria.⁵ The Board also agrees that PDC should handle no batch of treated F006 waste as non-hazardous until testing shows that the batch meets the delisting criteria. However, this is no basis to deny a delisting. The adjusted standard granted requires PDC to manage all treated F006 batches as RCRA hazardous waste until testing demonstrates that each batch meets the delisting criteria. When an individual treated batch is shown to meet the delisting criteria, PDC is free to dispose of that batch as a non-hazardous solid waste. This is despite whether the waste passes the test nearly immediately after treatment or PDC allows an extended cure time before it meets the delisting criteria. (See Tr. 181-83.)

Envirite next cites laboratory quality control deficiencies and sampling deficiencies in the PDC petition. After review of the petition and transcript, the Board agrees with USEPA. PDC has "provided an extensive set of analytical data to support its petition." (PC 2 at 1.) Further, as stated above, that PDC sampled over a limited time from random or selected receipts of waste is immaterial because this adjusted standard does not delist the waste stream. Rather, the adjusted standard granted applies only to those treated batches that meet the delisting criteria.

Another issue raised by Envirite, and noted by USEPA, relates to a lack of groundwater monitoring data in the petition. (Envirite post-hearing brief at 5; PC 2 at 1.) While the Board agrees that the provision of such data would have been useful under certain circumstances, those circumstances do not exist here. Although the permitted PDC RCRA hazardous waste landfill includes treated F006 residue in the fill, the record indicates

⁴ PDC employed USEPA's composite model for landfills (EPACML) in conjunction with the Agency to determine the levels of regulatory concern at the compliance point based on the hypothetical disposal of 50,000 tons of treated residue per year. (See March 2, 1992 Second Amended Petition at tab 2, pp. 3-5; Tr. 93-95.)

⁵ Two failed for cadmium, one for chromium, one for lead, one for nickel, three for acetone alone and one for acetone and ethyl benzene (although acetone appeared in all blanks), one for naphthalene, one for N-nitrosodiphenylamine and styrene and one for N-nitrosodiphenylamine alone, and one for bis-(2-ethylhexyl)-phthalate.

that this is in conjunction with other wastes. (Tr. 122-23.) Groundwater monitoring data would have included information relevant to the co-disposed wastes, and not wholly relevant to the treated F006 residues.

The final issue raised by Envirite, and noted by USEPA, relates to the adequacy of PDC's monitoring and verification program. (See Envirite post-hearing brief at 5-6; PC 2 at 2-4.) The Board believes that the adjusted standard granted adequately addresses these concerns.

We bear two things in mind in examining the testing and verification plan. These are the standard for issuance of a waste delisting and the fact that the Agency or PDC can petition the Board for modification of the adjusted standard if future information indicates that this is necessary.

The standard for delisting, cited above, is that the waste must show none of the criteria for which USEPA originally listed it, and there must be no other basis for determining that the petitioner should continue to manage the waste as hazardous. As noted, USEPA listed F006 waste as a "T" (toxicity) waste due to its cadmium, chromium, nickel, and cyanide content. (See 35 Ill. Adm. Code 721.App. G; 40 CFR 261, App. VII.) PDC must test each lot of treated waste for each of these contaminants. Further, partially in response to the Agency's suggestion (see Tr. 97-98.), PDC selected additional contaminants and tested its wastes for those, then selected the treatment parameters based on the results obtained.

The petition indicates that PDC tested its treated residues for a host of contaminants not included in the delisting criteria, and its untreated F006 wastes for a few more. (See March 2, 1992 Amended Petition at app. E, tables 21-32.) This indicates that PDC did not include all the hazardous constituents or TCLP parameters (see 35 Ill. Adm. Code 721.124 or 721.App. H; 40 CFR 261.24 or 261, App. VII) tested in the delisting criteria because either these did not appear at levels of concern, when considering a dilution and attenuation factor (DAF) of 19 (e.g., mercury, selenium, chlorobenzene, trichloroethylene, tetrachloroethylene), or because there was no reason to suspect that the wastes would contain the contaminants (pesticides, PCBs, and dioxin).

Finally, PDC must periodically test its treated residues for all the 126 priority pollutants (except the pesticides, PCBs, and dioxin) and submit those results as required by the Agency. The broader list of contaminants includes the two of concern to USEPA: trichloroethylene and tetrachloroethylene. (PC 2 at 3.) The Board is not unmindful that if the Agency later finds cause for concern because these constituents appear at levels of significance, it can then deal with the situation by filing an

appropriate petition for modification of the adjusted standard before the Board. The record includes nothing specific to indicate that the Board should add contaminants to either the delisting criteria or the periodic testing regime.

CONCLUSION

The Board examined the petition to determine its completeness in light of the factors of 35 Ill. Adm. Code 720.122(i). We have considered the arguments opposed to a grant of an adjusted standard and the public comments received. After review of the petition and the record, the Board has determined to grant the adjusted standard delisting PDC's treated F006 residues that meet the delisting criteria proposed by PDC and the Agency. The petition supports the delisting criteria proposed by PDC and the Agency. It adequately describes the PDC process for treating F006 waste and the methods and procedures PDC will use to accept and treat this waste and assure that the treated residue meets the delisting criteria. Further, the petition set forth an ongoing regime of testing that will have the effect of either confirming PDC's delisting criteria, procedures, and process, or it will ultimately highlight any inadequacies to the Agency and PDC.

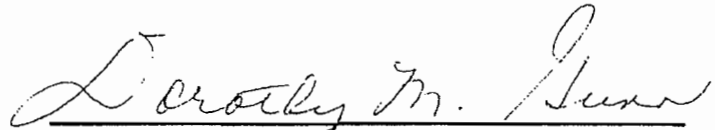
In granting this adjusted standard, the Board has made one substantive change in the adjusted standard as proposed by limiting the number of retests PDC may perform if any particular batch fails to meet the delisting criteria. We believe that PDC should be allowed to retest a failed batch, since sampling or analytical errors could occur. Further, additional curing time could result in a more stable waste residue. However, we believe also that PDC must either re-treat the waste or dispose of it as a RCRA hazardous waste if the second sample confirms the first.

In addition to this single substantive change, the Board has made a handful of minor stylistic revisions to the proposed language. None of these warrant individual discussion.

In short, PDC has met its burden under 35 Ill. Adm. Code 720.122 of showing that the adjusted standard granted assures 1) that PDC's treated F006 waste residue that meets the delisting criteria do not exhibit the characteristic for which USEPA listed F006 waste, and 2) that there is no other basis for retaining the waste as RCRA hazardous.

IT IS SO ORDERED.

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, do hereby certify that the above opinion was adopted on the 11th day of March, 1993, by a vote of 6-0.



Dorothy M. Gunn, Clerk
Illinois Pollution Control Board

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE
APR 25 2008
STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF

RCRA DELISTING ADJUSTED STANDARD) AS 08- 10
PETITION OF PEORIA DISPOSAL COMPANY) (Adjusted Standard – Land)
) (RCRA Delisting)

ENTRY OF APPEARANCE

To the Clerk of this Court and all parties of record:

Please enter our appearance as counsel of record in this case for the following:

PEORIA DISPOSAL COMPANY

Dated: April 24, 2008.

Respectfully submitted,

ELIAS, MEGINNES, RIFFLE & SEGHETTI, P.C.

By: Brian J. Meginnes
Brian J. Meginnes, Esq.

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Brian J. Meginnes, Esq.
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908-0288

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

APR 25 2008

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF

RCRA DELISTING ADJUSTED STANDARD) PETITION OF PEORIA DISPOSAL COMPANY))))	AS 08- <u>10</u> (Adjusted Standard – Land) (RCRA Delisting)
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ENTRY OF APPEARANCE

To the Clerk of this Court and all parties of record:

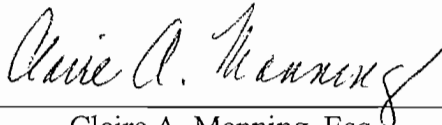
Please enter our appearance as counsel of record in this case for the following:

PEORIA DISPOSAL COMPANY

Dated: April 16, 2008.

Respectfully submitted,

BROWN, HAY & STEPHENS, LLP

By: 
 Claire A. Manning, Esq.

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908-0289

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

APR 25 2008

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF

RCRA DELISTING ADJUSTED STANDARD)	AS 08- <u>10</u>
PETITION OF PEORIA DISPOSAL COMPANY)	(Adjusted Standard – Land)
)	(RCRA Delisting)

MOTION TO FILE REDUCED NUMBER OF COPIES

NOW COMES Peoria Disposal Company (“PDC”), by its attorneys, Elias, Meginnis, Riffle & Seghetti, P.C. and Brown, Hay & Stephens, LLP, and moves the Illinois Pollution Control Board (the “Board”) to allow the filing of a reduced number of copies (to four copies plus the original) of the Technical Support Document attached as Attachment 2 to the RCRA Delisting Adjusted Standard Petition filed in the above-captioned matter, further stating as follows:

1. Board regulations require that for any document filed with the Board, the filing party must file an original plus nine copies. 35 Ill. Adm. Code §101.302(h).
2. Contemporaneously herewith, PDC is filing an original plus nine copies of its RCRA Delisting Adjusted Standard Petition (the “Petition”) with all attachments thereto, other than the Technical Support Document, which is Attachment 2 to the Petition.
3. The Technical Support Document (not including Appendix N thereto which is discussed below) consists of two (2) large three-ring binders, or approximately eight (8) inches of paper, per copy. For this reason, PDC is requesting that it be permitted to file an original and four (4) copies of the Technical Support Document, rather than an original and nine copies. PDC

has filed an original and four (4) copies of the Technical Support Document contemporaneously herewith.


4. In addition, Appendix N to the Technical Support Document, containing Laboratory Raw Data, consists of two (2) "Banker's Boxes" of paper (or one (1) "Banker's Box" if double-sided). For this reason, PDC is requesting that it be permitted to file an original and one (1) hard copy of Appendix N with the Technical Support Document. Copies of the Technical Support Document not filed with a hard copy of Appendix N will include, instead, a CD containing Appendix N. PDC has filed an original and one (1) hard copy of Appendix N and has otherwise filed CDs of Appendix N pursuant to this Motion, contemporaneously herewith.

WHEREFORE, PDC respectfully requests that the Board permit PDC to file an original and four (4) copies of the Technical Support Document, instant, and permit PDC to file an original and one (1) hard copy of Appendix N, given the size of the documents, and grant PDC such other and further relief as is deemed appropriate under the circumstances.

Dated: April 24, 2008

Respectfully submitted,

PEORIA DISPOSAL COMPANY,
Petitioner

By: 
One of its attorneys

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BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE

APR 25 2008

STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF

RCRA DELISTING ADJUSTED STANDARD)
PETITION OF PEORIA DISPOSAL COMPANY)

AS 08- 10
(Adjusted Standard – Land)
(RCRA Delisting)

MOTION FOR EXPEDITED REVIEW

NOW COMES Peoria Disposal Company (“PDC”), by its attorneys, Elias, Meginnis, Riffle & Seghetti, P.C. and Brown, Hay & Stephens, LLP, and pursuant to 35 Ill. Adm. Code §101.512, requests that the Illinois Pollution Control Board (the “Board”) expedite its review and determination of the RCRA Delisting Adjusted Standard Petition filed in the above-captioned matter, further stating as follows:

1. As is set forth in the RCRA Delisting Adjusted Standard Petition (the “Petition”), filed contemporaneously herewith, PDC is seeking delisting of stabilized residue generated by PDC at its Waste Stabilization Facility (the “WSF”) from the treatment of electric arc furnace dust (“EAF dust”), pursuant to the Resource Conservation and Recovery Act.

2. At present, the stabilized residue sought to be delisted is disposed of in PDC’s on-site Subtitle C landfill, the PDC No. 1 Landfill. With the exception of the PDC No. 1 Landfill, the Subtitle C landfill accepting waste nearest the WSF is in Roachdale, Indiana, approximately 220 miles from the WSF.

3. The PDC No. 1 Landfill is nearing capacity, and is predicted to be completely full in 2009. At such time, if the stabilized residue from treatment of EAF dust at the WSF is not

delisted, PDC will be required to transport such stabilized residue hundreds of miles for disposal at a Subtitle C landfill.

4. In the alternative, if the stabilized residue is delisted, PDC will be able to transport the stabilized residue to a Subtitle D landfill in Illinois (most likely the Indian Creek Landfill #2, located in Tazewell County, Illinois, as set forth in the Petition).

5. The additional transportation costs identified herein would be onerous for PDC's customers, and would place PDC at a competitive disadvantage.

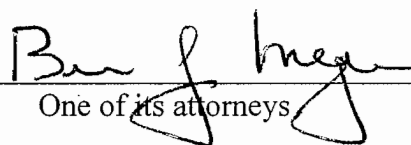
6. Attached herewith as Exhibit A is the affidavit of PDC's Vice President, Ron L. Edwards, attesting to the truth of the facts cited herein, submitted pursuant to 35 Ill. Adm. Code §101.512(a).

WHEREFORE, PDC respectfully requests that the Board expedite its review and determination of the Petition, and grant PDC such other and further relief as is deemed appropriate under the circumstances.

Dated: April 16, 2008

Respectfully submitted,

PEORIA DISPOSAL COMPANY,
Petitioner

By: 
One of its attorneys

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EXHIBIT A

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF

RCRA DELISTING ADJUSTED STANDARD)	
PETITION OF PEORIA DISPOSAL COMPANY)	AS 08-_____
)	(Adjusted Standard – Land)
)	(RCRA Delisting)

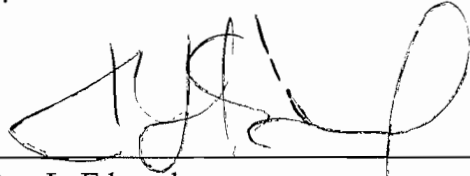
AFFIDAVIT
In Support of Motion for Expedited Review

STATE OF ILLINOIS)	
)	ss.
COUNTY OF PEORIA)	

Ron L. Edwards, having been first been duly sworn upon his oath, deposes and states as follows:

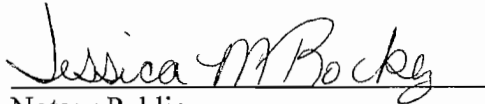
1. My name is Ron L. Edwards. I am an adult and I am competent to testify to the matters set forth herein.
2. I am Vice President of Peoria Disposal Company (“PDC”).
3. In my role as Vice President of PDC, I have had occasion to review the facts cited in the Motion for Expedited Review, to be filed in the above-captioned matter.
4. The facts cited in the Motion for Expedited Review are within my knowledge and operational control as Vice President of PDC.
5. The facts cited in the Motion for Expedited Review, to be filed in the above-captioned matter, are true and correct to the best of my knowledge as Vice President of PDC.
6. If called upon to testify in this matter, I could competently testify to the facts stated herein.

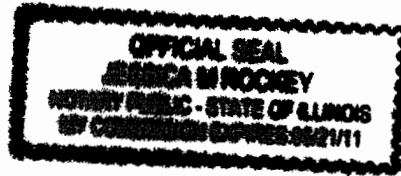
FURTHER AFFIANT SAYETH NOT.



Ron L. Edwards
Vice President, Peoria Disposal Company

Subscribed and sworn to before me
this 16th day of April, 2008.


Notary Public



908-0158

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

RECEIVED
CLERK'S OFFICE
APR 25 2008
STATE OF ILLINOIS
Pollution Control Board

IN THE MATTER OF

RCRA DELISTING ADJUSTED STANDARD) AS 08- 10
PETITION OF PEORIA DISPOSAL COMPANY) (Adjusted Standard – Land)
) (RCRA Delisting)

**AFFIDAVIT OF FILING BY HAND DELIVERY and
SERVICE BY U.S. MAIL, FIRST CLASS**

The undersigned attorney hereby certifies that she has caused to be filed and served the following documents in the above-captioned matter in accordance with the Illinois Environmental Protection Act and regulations, by causing the original and nine copies of each document (except as otherwise noted) to be delivered by hand to the Clerk of the Illinois Pollution Control Board on the 25th day of April, 2008, with a check in the amount of \$75.00 to pay the filing fee:

- a) RCRA Delisting Adjusted Standard Petition (the "Petition") of Peoria Disposal Company ("PDC");
- b) an original and ~~six~~^{five} copies of Attachment 2 to the Petition, titled "Technical Support Document," of which the original and one copy include a complete Appendix N in hard copy, and five copies include Appendix N on CD (all copies of Appendices B and F are redacted, pursuant to 35 Ill. Adm. Code §130.404(d));
- d) Entry of Appearance of Elias, Meghinnes, Riffle & Seghetti, P.C.;
- e) Entry of Appearance of Brown, Hay & Stephens, LLP;
- f) Motion to File Reduced Number of Copies;
- g) Motion for Expedited Review; and
- h) This Affidavit of Filing and Service.

One copy of each of the foregoing documents was served by placing same in the U.S. Mail, First Class postage prepaid, addressed as follows:

United States Environmental Protection Agency
Office of Solid Waste and Emergency Response
1200 Pennsylvania Avenue, NW
Washington, D.C. 20460

United States Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, IL 60604

Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

(All copies of the Technical Support Document served on the above-listed parties include redacted Appendices B and F, and include Appendix N on CD).



Janaki Nair

Subscribed and sworn to before me
this 22nd day of April, 2008



Notary Public



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Springfield, Illinois 62701
Telephone: (217) 544-8491
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908-0196

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