

ILLINOIS POLLUTION CONTROL BOARD

November 7, 1996

IN THE MATTER OF:)
)
PETITION OF ENVIRITE CORPORATION) AS 94-10
FOR AN ADJUSTED STANDARD FROM) (RCRA Delisting)
35 ILL. ADM. CODE 721 SUBPART D:)
LIST OF HAZARDOUS SUBSTANCES,)
APPENDIX I)

ORDER OF THE BOARD (by R.C. Flemal):

This matter is before the Board on Envirite Corporation's Motion to Reopen Docket and for Substitution of Petitioner. Envirite Corporation requests that the Board reopen and revise AS 94-10 to grant the identical delisting order to Envirite of IL, Inc. Both Envirite Corporation and Envirite of IL, Inc. have waived hearing regarding this motion.

The United States Environmental Protection Agency (USEPA) granted Envirite Corporation's hazardous waste treatment facility at Harvey, Illinois, a delisting of the residue generated following the treatment processes. The Board granted approval of the delisting as an identical-in-substance exclusion, by way of the Board's site-specific rulemaking procedures¹. In 1994 Envirite Corporation requested that the delisting be updated in accordance with regulatory and technological changes. The Board granted that request In the Matter of: Petition of Envirite Corporation for an adjusted standard from 35 Ill. Adm. Code 721 Subpart D: List of Hazardous Substances, Appendix I (February 16, 1995), AS 94-10.

Envirite Corporation is in the process of transferring ownership and operation of its Illinois assets, including the Harvey facility, to Envirite of IL, Inc. Pursuant to 35 Ill. Adm. Code 703.260, Envirite Corporation and Envirite of IL, Inc. have concurrently petitioned the Illinois Environmental Protection Agency (Agency) to transfer the Harvey facility's Part B permit from Envirite Corporation to Envirite IL, Inc. The petitioner also notes that the USEPA has procedures for substituting new owners on the list of excluded wastes pursuant to 40 C.F.R. 270.40.

¹ In the Matter of: Petition of Envirite Corporation, R87-30, Adopted rule, final order, June 30, 1988, 90 PCB 665; effective July 12, 1988.

DISCUSSION

The adjusted standard provisions at Section 28.1 of the Act provide for two varieties of adjusted standards. Those varieties are the “rule-specific” and “generic” adjusted standards, found at 28.1(b) and 28.1(c) respectively. In a “rule-specific” adjusted standard the level of justification necessary for grant of the adjusted standard is specified within the rule from which the adjusted standard is requested. In a “generic” adjusted standard the showings necessary for granting the adjusted standard default to those specified within the Act at Section 28.1(c). The instant matter, a waste delisting, is a “rule-specific” adjusted standard because the level of justification is provided for by rule at 35 Ill. Adm. Code 720.122.

Section 720.122, Waste Delisting, sets forth the requirements for any person seeking to exclude a waste from a particular generating facility from the lists in 35 Ill. Adm. Code 721.Subpart D. Specifically Section 720.122 states:

- a) Any person seeking to exclude a waste from a particular generating facility from the lists in 35 Ill. Adm. Code 721.Subpart D may file a petition, as specified in subsection (n). The Board will grant the petition if:
 - 1) The 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; and
 - 2) If the Board determines 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.

In the instant matter Envirite Corporation claims:

There will be no change in the management, or operation of the facility as a result of the Reorganization and the plant will continue to operate in accordance with all applicable orders and standards using the same processes and activities for which it is currently approved. The treatment facility will continue to have appropriate insurance coverage, policy amounts, and letters of credit.

The Board previously found Envirite Corporation’s justification for delisting the wastestreams warranted a grant of an adjusted standard. (AS 94-10, December 14,

1994). Envirite Corporation and Envirite of IL, Inc. assure the Board that the relevant factors required to justify the adjusted standard have not changed.

CONCLUSION

Based upon the waste and facility specific demonstrations which must be made pursuant to 35 Ill. Adm. Code 720.122, along with the parties' assurances to continue the same management and operation of the facility, and the Board's opinion In the Matter of: Petition of Envirite Corporation for an Adjusted Standard from 35 Ill. Adm. Code 721 Subpart D: List of Hazardous Substances, Appendix I (AS 94-10) December 14, 1994, the Board will substitute the name of Envirite of IL, Inc. for Envirite Corporation in its February 16, 1995 order.

ORDER

The Board hereby amends its February 16, 1995 order in this matter, and grants to Envirite of IL, Inc. an adjusted standard from 35 Ill. Adm. Code 721 Subpart D for Envirite of IL's Harvey, Illinois, facility, for the processes and activities described in Envirite Corporation's Petition to Revise Adjusted Standard filed in this case. This adjusted standard is granted subject to the following conditions:

1. This adjusted standard is effective as of November 7, 1996. It supersedes the site-specific rule adopted by the Board by order of June 30, 1988 and found at 35 Ill. Adm. Code 721. Appendix I.
2. This adjusted standard is provided for the following waste codes:

F006	F011	K003	K007
F007	F012	K004	K008
F008	F019	K005	K062
F009	K002	K006	

This adjusted standard is provided for disposal volumes of treatment residues up to 200,000 tons per year. Envirite of IL, Inc.'s treated residues are non-hazardous as defined in 35 Ill. Adm. Code 721, provided that the treatment residues meet the verification and testing requirements prescribed in paragraphs 3 and 4 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.** Envirite of IL, Inc. shall verify through bench-scale treatability testing that each waste stream received can be treated to meet the delisting levels of paragraph 4 prior to the operation of full-scale treatment of that waste stream.
- b) **Testing of Treatment Residues for Inorganic Parameters.** Envirite of IL, Inc. shall collect a representative grab sample of each treated batch and composite these samples together daily. These composite samples shall be analyzed for TCLP leachate concentrations for all the constituents listed in paragraphs 4(a) prior to disposal of the treated batch.
- c) **Testing of Treatment Residues for Cyanide.** Envirite of IL, Inc. shall collect a representative grab sample of each treated batch and composite these samples together daily. These composite samples shall be analyzed for leachable cyanide concentrations as described in paragraph 4(b).
- d) **Testing of Treatment Residues for Organic Parameters.** Envirite of IL, Inc. shall collect a representative grab sample of each treated batch and composite these samples together daily. These composite samples shall be analyzed for TCLP leachate concentrations for the organic constituents listed in paragraph 4(c).
- e) **Additional Testing.** Envirite of IL, Inc. shall collect a representative grab sample from each batch composite sample of treatment residue and prepare a monthly composite sample. This monthly composite 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, 118-119, 122, 124-125 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.
- f) All analyses shall be performed according to Third Edition 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 representative of the State of Illinois.

4. Delisting Levels.

- a) The metal concentration in TCLP leachate from the treatment residue must not exceed the concentrations shown below. These delisting limits are the lower of:

- i.) the RCRA BDAT Land Disposal Restriction limits for F006 treatment residues or,
- ii.) the health-based-levels listed in the U.S. EPA MANUAL, "Petitions to Delist Hazardous Wastes - A Guidance Manual, Second Edition", multiplied by a dilution/attenuation factor (DAF) of 13.

Otherwise, such wastes shall be managed and disposed in accordance with 35 Ill. Adm. Code 703 and 722-728. The parameters to be analyzed and the delisting limits are as follows:

<u>Parameter</u>	<u>Delisting Level (mg/l)</u>
Cadmium	0.065
Chromium	1.3
Lead	0.195
Nickel	0.32
Selenium	0.13

- b) Cyanide. Total leachate cyanide in distilled water extractions from the treatment of all listed wastes must not exceed 2.6 mg/l, otherwise such wastes shall be managed and disposed in accordance with 35 Ill. Adm. Code 703 and 722-278.
- c) Organic Parameters. For all residues produced from the treatment of listed wastes, the concentration in TCLP leachate of the organic compounds shown below must not exceed the health-based-levels listed in the U.S. EPA manual, "Petitions to Delist Hazardous Wastes - A Guidance Manual, Second Edition", multiplied by a dilution/attenuation factor (DAF) of 13. 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 exceedence. If a second subsequent exceedence occurs, the batch shall be managed and disposed of in accordance with 35 Ill. Adm. Code 703 and 722-729. The parameters to be analyzed and the currently effective delisting limits are as follows:

<u>Parameter</u>	<u>Delisting Level (mg/l)</u>
Methylene Chloride	0.065
Tetrachloroethylene	0.065
Trichloroethylene	0.065

- 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. Failure to submit the required data will be considered a failure to comply with the adjusted standard adopted herein and subject Envirite of IL, Inc. 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 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 Envirite of IL, Inc., 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 Envirite of IL, Inc. will be liable for any actions taken in contravention of the company's RCRA and CERCLA obligations premised upon the company's reliance on the void exclusion.

(Name of certifying person)

(Title of certifying person)

(Date)

IT IS SO ORDERED.

Board Members Yi and McFawn concurred.

Section 41 of the Environmental Protection Act (415 ILCS 5/41 (1994)) provides for the appeal of final Board orders within 35 days of the date of service of this order. The Rules of the Supreme Court of Illinois establish filing requirements. (See also 35 Ill. Adm. Code 101.246 "Motions for Reconsideration.")

I, Dorothy M. Gunn, Clerk of the Illinois Pollution Control Board, hereby certify that the above order was adopted on the ____ day of _____, 1996 by a vote of _____.

Dorothy M. Gunn, Clerk
Illinois Pollution Control Board