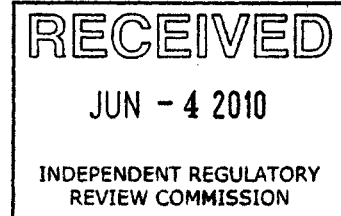




United States Steel Corporation
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Fred T. Harnack
General Manager
Environmental Affairs

2806



VIA CERTIFIED RETURN RECEIPT MAIL
VIA email: irrc@irrc.state.pa.us

June 4, 2010

Pennsylvania Independent Regulatory Review Commission
333 Market Street,
14th Floor,
Harrisburg, PA 17101

SUBJECT: Final-Form Rulemaking - 25 Pa. Code Chapter 95; TDS, Chlorides, and Sulfates Effluent Standards, IRRC No. 2806, Regulation No. 7-446

Members of the Commission:

United States Steel Corporation (U. S. Steel) respectfully offers the following comments regarding the final-form rulemaking proposal to amend Chapter 95 to establish effluent standards for Total Dissolved Solids (TDS), chlorides, and sulfates applicable to new or increased TDS dischargers.

U. S. Steel participated in the development of and supports those comments as submitted to the Independent Regulatory Review Commission by the Pennsylvania Chamber of Business and Industry (Chamber) and the Allegheny Conference on Community Development (Conference). As the Chamber and Conference comments reflect, the proposed amendments are premature and the potential economic impacts are substantial and widespread.

In addition to the Chamber and Conference comments, U. S. Steel specifically provides the following comments as listed below:

1. Lack of Regulatory Definition - "Authorized by the Department"

Reference(s): Chapter 95.10(a) and "Notice of Final Rulemaking Department of Environmental Protection Environmental Quality Board [25 Pa. Code Ch. 95], Wastewater Treatment Requirements, Order ("Order")

Issue: Chapter 95.10(a) specifically states that discharges already "authorized by the Department" are exempt from the treatment requirements of the regulation. However, "authorized by the Department" is not defined within the regulation itself.

However, the Order¹ states, "if TDS data have been reviewed by the Department as part of an application for an authorized discharge, the discharge load of TDS has been authorized by issuance of the permit (or other vehicle), regardless of whether there is an actual limitation or monitoring requirement."

All of U. S. Steel's current operations located in the Commonwealth are permitted through the National Pollutant Discharge Elimination System (NPDES) program. TDS data has been reviewed by the Department through the NPDES program. As such, U. S. Steel's current operations would be exempt from the proposed regulation.

However, omitting the "authorized by the Department" definition from the regulation will create confusion and differences in regards to the application of the regulation via agency permitting actions.

Requested Action: The proposed Chapter 95.10(a)(1) regulation should include the definition of "authorized by the Department" as, "if TDS data have been reviewed by the Department as part of an application for an authorized discharge, the discharge load of TDS has been authorized by issuance of the permit (or other vehicle), regardless of whether there is an actual limitation or monitoring requirement."

2. Inconsistent Approach to Establishing TDS Baseline Levels

Reference: Order, Page 18 and 19

Issue: The Order² states that past authorized, or pre-existing, TDS loads are considered as an existing load for the purposes of determining whether or not a facility expansion may or may not be considered a facility 'net' increase in TDS. In contrast, the Order³ goes on to state that existing loads can be established through sampling of the existing discharge for the purposes of separating existing TDS loads from proposed load expansions.

Referencing two different mechanisms (pre-existing and existing TDS loads) in the Order by which to define existing loads is conflicting and will result in differences in regards to the application of the regulation via agency permitting actions. Additionally, the omission of a clearly defined approach within the regulations could create confusion and differences in regards to the application of the regulation via agency permitting actions.

Requested Action: Add language to Chapter 95.10(a)(1) of the regulation that clarifies that sampling of existing discharge for the purposes of separating existing TDS loads from proposed load expansions is an available option in the event that data regarding past authorized loads is not available. Adding such language would add clarity and uniformity in the application of the regulation.

¹ Page 18.

² Page 18 and 19.

³ Page 19.

U. S. Steel will be forced to consider locating future expansions or upgrades that are subject to the proposed rule to other states that do not place the Corporation at such a competitive disadvantage that the final-form rulemaking represents. The final-form rulemaking could also affect U. S. Steel's decision making process(es) associated with investing in state-of-the-art equipment that helps to ensure long term employment and other economic benefits to the state of Pennsylvania. As such, the regulation is a deterrent to expansion or upgrade of our existing facilities and development of new business in Pennsylvania.

Thank you for considering these comments related to the final form rulemaking. If you have any questions or should need additional information, please do not hesitate to contact me at 412.433.5901 or fharnack@uss.com

Sincerely,

A handwritten signature in cursive script that reads "Frederick T. Harnack".

Frederick T. Harnack
General Manager – Environmental Affairs
United States Steel Corporation

2806

From: Lisa A Zemba [LAZemba@uss.com]
Sent: Friday, June 04, 2010 2:49 PM
To: IRRC
Cc: David Smiga; Fred Harnack; Christopher J Masciantonio; Tishie Woodwell; Matthew E Caprarese; Emily B Petrovich; Mike Hohman
Subject: U. S. Steel Comments to IRRC on TDS
Attachments: 20100604141521856.pdf

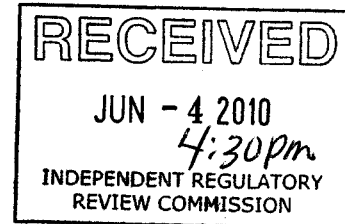
This message is being sent of behalf of Fred Harnack:

Members of the Commission:

United States Steel Corporation respectfully offers the attached comments regarding the final-form rulemaking proposal to amend Chapter 95 to establish effluent standards for TDS, chlorides, and sulfates applicable to new or increased TDS dischargers. Please contact me should you have any questions.

Thank you,

Fred T. Harnack
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General Manager Environmental Affairs
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(See attached file: 20100604141521856.pdf)