

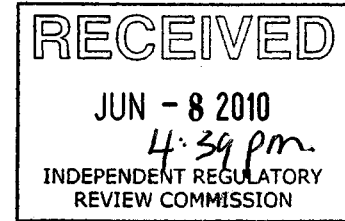


United States Steel Corporation  
1350 Penn Avenue, Suite 200  
Pittsburgh, PA 15222-4211  
412 433 5901  
412 433 5920 Fax  
fharnack@uss.com

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 Order<sup>1</sup> 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 Order<sup>2</sup> 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 Order<sup>3</sup> 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.

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<sup>1</sup> Page 18.

<sup>2</sup> Page 18 and 19.

<sup>3</sup> 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](mailto: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