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ENVIRONMENTAL QUALITY BOARD



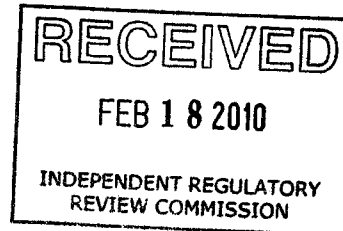
**CARPENTER**  
Specialty Alloys

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February 10, 2010

Environmental Quality Board  
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**Subject: Carpenter Technology Corporation's Comments on the Pennsylvania Department of Environmental Protection's Proposed Rulemaking, *Wastewater Treatment Requirements*, 25 PA. Code Chapter 95, Pennsylvania Bulletin, November 7, 2009.**

Dear Sir/Madam,

Carpenter Technology Corporation (Carpenter) strenuously objects to the Pennsylvania Department of Environmental Protection's (the Department) rulemaking for the establishment of state-wide effluent discharge limitations for TDS, sulfates and chlorides.

Carpenter objects to the proposed rule as it believes that the Department exceeded its powers provided in the Pennsylvania Clean Streams Act (the Act) by not considering the mandated elements in developing the rulemaking. Carpenter also believes that the Department acted arbitrarily and capriciously in establishing the effluent limitations as they are unrelated to water quality or a designated use of a water body in the vast majority of the state.

Carpenter will be substantially harmed by the implementation of this proposed rule to the extent that its continued ability to operate and employ thousands of fellow Pennsylvanians will be threatened even though its existing NPDES permitted discharge is not causing water quality problems or interfering with a designated use of the water body it discharges into.

Section 5(a) which relates to the establishment of rules and regulations of the Act is as follows:

***SECTION 5. POWERS AND DUTIES.***

- (a) *The department, in adopting rules and regulations, in establishing policy and priorities, in issuing orders or permits, and in taking any other action pursuant to this act, shall, in the exercise of sound judgment and discretion, and for the purpose of implementing the*

*declaration of policy set forth in section 4 of this act, consider, where applicable, the following:*

- (1) Water quality management and pollution control in the watershed as a whole;*
- (2) The present and possible future uses of particular waters;*
- (3) The feasibility of combined or joint treatment facilities;*
- (4) The state of scientific and technological knowledge;*
- (5) The immediate and long-range economic impact upon the Commonwealth and its citizens.*

The Act plainly states that the Department ***shall*** consider the five enumerated elements when establishing rules and regulations. The Department failed to adequately consider or consider at all the following three elements.

- (1) Water quality management and pollution control in the watershed as a whole;*
- (4) The state of scientific and technological knowledge;*
- (5) The immediate and long-rang economic impact upon the Commonwealth and its citizens.*

***Water quality management and pollution control in the watershed as a whole***

The Department is attempting to establish a state-wide TDS discharge standard for all watersheds in the commonwealth based upon an issue identified within only one watershed, the Monongahela River. No data or analysis is provided for the remaining watersheds across the state concerning water quality issues associated with these contaminants or what impact the proposed rule will have on future water quality or designated uses associated with TDS levels in these watersheds.

The Department has existing regulations to address watershed-specific water quality issues such as TDS levels in the Monongahela River. These are the Total Maximum Discharge Limitation (TDML) regulations.

The Department has acted arbitrarily and capriciously by attempting to establish a state-wide TDS, sulfate and chloride discharge limitation rulemaking based upon an issue associated with a particular watershed. The Department has provided no technical, scientific or regulatory basis for expanding the TDS discharge limitations to other watersheds.

***The state of scientific and technological knowledge;***

The Department has failed to consider scientific and technical knowledge in the rulemaking as follows:

***Establishment of the proposed 500 mg/l TDS, 250 mg/l sulfate and 250 mg/l chloride discharge standards for new or modified high-TDS discharges***

The Department failed to consider the scientific or technical impacts of limiting TDS discharges on the individual water bodies throughout the commonwealth. The Department proposed to utilize Secondary Maximum Contaminant Levels (SMCL) for these contaminants as the basis of

the proposed effluent limitations.

While this limit may make sense for the Monongahela River watershed where the SMCLs were exceeded in drinking water supplies, the Department acted arbitrarily and capriciously by attempting to apply the same discharge limitations to all water bodies across the state even though they do not have the same water quality issues or may not even be designated as a drinking water source.

The Department did not consider any scientific or technical knowledge nor did the Department provide any scientific or technical basis for establishing state-wide TDS, sulfate or chloride discharge limitations based upon the SMCLs. Individual water bodies have individual abilities to assimilate TDS and other salts. It is obvious that the impact of high-TDS discharge into a small stream will be completely different than a high-TDS discharge into a large river.

Many facilities, including Carpenter, currently discharge High-TDS wastewater without impacting drinking water supplies or interfering in the designated use of the water body they discharge into.

The Department provided no information, analysis or consideration as to whether the establishment of the state-wide high-TDS discharge limitation will improve the water quality of or impact a designated use of water bodies in the state, except for the Monongahela River watershed.

#### **Abandonment of Osmotic Pressure Standard for TDS Discharges**

The department failed to consider the scientific or technical knowledge in abandoning the osmotic pressure standard for establishing TDS, sulfate, or chlorides discharge limitations when developing NPDES permits. No scientific or technical rationale or analysis is provided as to why the Department has proposed abandoning the standard in the rulemaking and establishing arbitrary standards that are unrelated to maintaining water quality or attaining a designated use of a water body.

The proposed adoption of arbitrary effluent limitations as opposed to the use of a scientific methodology to establish effluent limitations clearly demonstrates that the Department did not consider scientific or technical knowledge in developing the proposed standards as is required by the Act.

#### **Treatment**

The Department failed to consider the scientific or technical impacts of treating TDS, sulfates or chlorides in developing the proposed rule. No analysis was provided for treatment technologies, performance standards, treatment feasibility for mixed waste streams, treatment costs, availability of waste disposal for reject water and other waste streams associated with treatment, limitations with installing treatment, including facility size, age, location, community impact of waste haulage, cross media or waterway transfer of TDS constituents due to treatment, increased air pollution due to evaporative processes fuel combustion, etc.

The Department has not demonstrated or considered that treatment may not be technically or economically feasible or whether that the implementation of treatment in itself will improve water quality or impact the designated use of a water body.

**The immediate and long-range economic impact upon the Commonwealth and its citizens**

The Department failed to consider the immediate and long-range economic impact upon the Commonwealth and its citizens in developing the rule. This rule will significantly impact business costs, preclude existing high-TDS dischargers from modifying their existing processes or adding additional processes and will preclude new high-TDS dischargers from establishing in the state.

The Department provides estimated treatment costs for high-TDS wastewater of twenty-five cents per gallon. Carpenter nominally discharges a million gallons per day of high-TDS wastewater. Based upon the Department's estimate, Carpenter would spend over **\$80,000,000.00** per year to treat its effluent if it made even a trivial change in its manufacturing processes. This does not include the capital cost of installing the equipment which Carpenter estimates is over thirty-million dollars.

Due to the exorbitant cost, this draconian rule will preclude Carpenter from installing new high-TDS processes or upgrading current processes at its Pennsylvania facilities, even if these modifications are trivial or would reduce emissions.

This will force Carpenter to expand operations in other states or overseas, decreasing the state's employment and tax-base and jeopardizing the local economy in which Carpenter is a major employer. Pennsylvania will lose a large segment of its specialty steel industry over time. The industry group employs over ten-thousand Pennsylvanians. Specialty steel is not alone in this respect. Many other industries will be unnecessarily impacted by the proposed rule, decreasing the state's competitiveness, employment, and tax base.

The immediate and long range economic impacts upon the Commonwealth and its citizens were not considered in developing the rule as is required by the Act. No mention of the rule's impact on employment, economic development, or economic losses was presented in the rulemaking.

In summary, Carpenter believes that the Department exceeded its powers established by the Act by not considering the elements required by the Act when developing the proposed rulemaking. Carpenter also believes that the Department acted arbitrarily and capriciously in establishing the proposed TDS, sulfate and chloride effluent limitations based upon SMCLs as the proposed limitations are unrelated to water quality or the designated use of the receiving water in the vast majority of the state's waterways.

Carpenter objects to the proposed rule for the aforementioned reasons. Carpenter believes that the best way to approach water quality problems for particular watersheds, including the Monongahela River watershed, is to utilize the existing TMDL process.

Sincerely,



Sean McGowan  
Manager, Environmental Affairs  
610-208-3018