

Cooper, Kathy

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From: David W Hacker [DWHacker@uss.com]
Sent: Monday, April 08, 2013 3:53 PM
To: EP, RegComments
Cc: Van Orden, Dean; David L Smiga; Christopher J Masciantonio; Fred Harnack; Tishie Woodwell; Mike Dzurinko; Mark Jeffrey; Coleen Davis
Subject: Air Quality Title V Fee Amendment
Attachments: US Steel Comments - Proposed Title V Fee Amendment.pdf

Attached please find United States Steel Corporation's comments regarding the proposed Title V Fee Amendment, as published in the February 2, 2013 Pennsylvania Bulletin (43 Pa.B. 677). Consistent with the notice, a one page summary of the comments is also being provided for the Board's consideration. We appreciate the opportunity to offer our views on this important proposed rule. If EQB or PADEP has any questions on our comments, please feel free to contact me at (412) 433-2919 or by replying to this email.

Regards,

David W. Hacker
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United States Steel Corporation
Law Department
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David W. Hacker
General Attorney-Environmental

April 8, 2013

VIA E-MAIL – RegComments@pa.gov

Environmental Quality Board
Rachel Carson State Office Building
16th Floor
400 Market Street
Harrisburg, PA 17105-8477

Re: United States Steel Corporation Comments
Air Quality Title V Fee Amendment – Proposed Rule [43 Pa.B. 677]

Ladies and Gentlemen:

United States Steel Corporation is pleased to submit comments on the subject proposed rule (Title V Fee Amendment Rule). United States Steel Corporation has operations throughout the world, has many operations in Pennsylvania, and has been a partner with the communities in which we operate. U. S. Steel has a long history of commitment and investment in Pennsylvania. We are currently engaged in major capital expenditure projects at our facilities in Pennsylvania that are aimed at improving air quality¹, while increasing our competitiveness and preserving our presence in Pennsylvania as well as globally. Throughout its history, U. S. Steel has invested in emission reduction projects and efforts, and has significantly reduced its air emissions on an annual and per ton of product basis. We believe these efforts have led to improved ambient air quality in the areas in which we operate.

Notwithstanding the Pennsylvania Department of Environmental Protection's (PADEP's or Department's) claims of lack of sufficient funding to administer the Title V program, U. S. Steel questions the necessity of increasing the fees by nearly 50%. Such an increase that would be borne predominantly by manufacturing is untimely and grossly excessive in the current manufacturing economic environment. U. S. Steel respectfully requests that Environmental Quality Board (EQB) and PADEP reconsider this proposal for the following reasons, as discussed in more detail herein:

¹ For example, at our Clairton, Pennsylvania plant, U. S. Steel recently replaced three older coke batteries with one new state-of-the-art coke battery equipped with Best Available Control Technology and a Low Emissions Quench Tower. In addition, separately, U. S. Steel is in the process of replacing two older quench towers with two new Low Emissions Quench Towers. U. S. Steel also installed new baghouse compartments for its steel making operations at its Edgar Thompson plant in Braddock, Pennsylvania. These are just some of the recent examples of the environmentally beneficial projects implemented by U. S. Steel.

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1. An increase by 50% is unjustified and unreasonable – even considering PADEP’s concerns with regards to funding declines because of pollution reductions.
2. The fees are substantially out of line with the fees collected in other states with a strong manufacturing base, including those in which U. S. Steel operates.
3. Imposing an increase for the current calendar year (in which we operate) is essentially a “retroactive tax.”
4. EQB and PADEP fail to recognize the inordinate regulatory costs borne by the manufacturing industry in the last several years as major regulatory initiatives have resulted in significant costs to industry. While some of the reductions achieved were voluntary, others were the result of more stringent regulations. Therefore, the true costs of the regulations would not be evaluated.
5. The current and proposed fee structure is skewed by capping the fees on a pollutant-by-pollutant basis; and the fee structure does not recognize the reduced need of resources to renew a Title V permit when compared to the resources needed to issue an initial Title V permit.
6. The majority of the proposed increase of fees would inequitably be absorbed by a few manufacturing facilities and is not commensurate with PADEP’s (or Allegheny County Health Department’s) resources needed to administer the air program with those facilities.
7. The increase would serve as a disincentive to build or expand a significant manufacturing facility in Pennsylvania.

Each of these issues is briefly explained below. In addition, U. S. Steel is proposing some alternative fee structures that would more equitably place the fee burden upon the regulated community.

1. An increase by 50% is unjustified and unreasonable – even considering PADEP’s concerns with regards to funding declines because of pollution reductions.

In the current manufacturing economic environment, the additional costs to industry are not reasonable. The manufacturing industry still continues to slowly recover

at an ever slow pace. An increase in fees could adversely affect the opportunity to hire more employees in the manufacturing sector and could hinder implementation of beneficial capital projects. Instead of being rewarded for environmental improvements and commitment to working in Pennsylvania, the major manufacturing sector is essentially being penalized for reducing pollution. The EQB and PADEP did not appear to consider other funding options. The means by which the EQB proposes to increase fees, by nearly 50%, in a single year, is illogical and creates a great burden on the manufacturing sector. While U. S. Steel questions the need of increasing the emissions fees, notwithstanding EQB's and PADEP's proposed rationale to the contrary, imposing a spike or jolt in the fees without phasing the increase in is inappropriate, especially in light of the current questionable stability of the current economy and manufacturing in general. Finally, the current and proposed fee structure assumes that the amount of emissions correlate directly with the amount of resources needed to administer the Title V program. This is simply not true; as a smaller but more complex source may be more demanding of the Department's resources than a larger more straight-forward source. In short, U. S. Steel believes that the Department should establish emissions fees that are commensurate with the resources necessary for the Department to administer the air program to the source; and, any emissions increase should be phased-in as opposed to requesting the increase all at one time.

2. The fees are substantially out of line with the fees collected in other states with a strong manufacturing base, including those in which U. S. Steel operates.

U. S. Steel respectfully notes that the fees imposed by the PADEP rules are already considerably higher than most other states in which U. S. Steel has operations. For example, other states in which we operate integrated iron and steel facilities have emissions fees ranging from \$18/ton to \$47/ton and some also impose a "facility cap" as opposed to a fee per pollutant cap. U. S. Steel suggests that the EQB consider a facility cap since the approach is more equitable and is more in line on how the Department's resources are utilized to administer the air program with the source. U. S. Steel also respectfully questions EQB's analysis of the costs where PADEP indicates that the reduction of emissions and retirement of sources has resulted in reduced revenue to administer the program. However, the EQB and PADEP do not adequately address the issue that the reduction in emissions and retirement of sources indicates that less resources would be required by the Department to administer the program.

3. Imposing an increase for emissions occurring in the current calendar year in which we operate is essentially a "retroactive tax."

While U. S. Steel respectfully generally objects to the proposed emissions fees increase for reasons explained herein, U. S. Steel specifically disagrees with the proposed implementation that would involve an emissions fee increase for the current year. Such an approach is essentially a “retroactive tax” for which the regulated community did not have prior knowledge since it is well within the 2013 calendar year; and any fee increases to be paid in 2014 are for emissions currently occurring and that have occurred since January 1, 2013. The regulated community would unjustifiably be required to pay an additional fee for operations that it has already conducted and for which the additional fees were (and would otherwise remain) uncertain at the time the emissions occur. Any changes in the emission fee structure should not be applied retroactively and should not apply to any such emissions until *after* the rule is promulgated and effective.

4. EQB and PADEP fail to recognize the inordinate regulatory costs borne by the manufacturing industry in the last several years as major regulatory initiatives have resulted in significant costs to industry. While some of the reductions achieved were voluntary, others were the result of more stringent regulations. Therefore, the true costs of the regulations would not be evaluated.

The number of significant Federal and State rulemakings in recent years has resulted in significant costs to the regulated community by way of additional controls (which, ironically, the EQB and PADEP indicate is one reason the fees must increase) and the dedication of other resources to work with regulators on implementing the rules. The EQB’s analysis does not address such cost impacts and their impacts on the regulated community. In sum, the EQB would be adding additional costs to such rulemaking and such costs were not considered in the cost analysis of impacts of the regulations. While a proposed emissions fee increase of \$27.50 per ton of pollutant may seem nominal on its face, the impacts to a large source and the regulated community as a whole are significant. Perhaps if the regulated community knew that it would only be penalized for reducing emissions to respond to a rule or to be exempt from a rule, the comments on the proposals of such rulemaking may have been different.

5. The current and proposed fee structure is skewed by capping the fees on a pollutant-by-pollutant basis; and the fee structure does not recognize the reduced need of resources to renew a Title V permit when compared to the resources needed to issue an initial Title V permit.”

In addition to the comment above noting that less Department resources should be necessary to issue permits and administer the program as a result of less emissions and the retirement of sources, U. S. Steel also respectfully notes that less Department resources are needed to issue renewed Title V permits and to administer the program for

sources that have Title V permits than are needed to issue an initial Title V permit and to initially implement the program. However, the EQB's analysis does not address the reduction of necessary resources in these situations and one would *not* expect the costs to be linear as the program is fully implemented. The current fees are structured to be proportional with the resources and are adjusted based upon the Consumer Price Index. In this economic climate where industry, companies, and families are asked to tighten their belts, the government's universal resolution seems to be to increase fees to increase revenues.

6. The majority of the proposed increase of fees would inequitably be absorbed by a few manufacturing facilities and is not commensurate with PADEP's (or Allegheny County Health Department's) resources needed to administer the air program with those facilities.

U. S. Steel respectfully notes that the proposed increase in fees would inequitably be absorbed by a few manufacturing facilities and is not commensurate with PADEP's (or Allegheny County Health Department's) resources needed to issue permits and to administer the air program with those facilities. For example, U. S. Steel estimates that out of the PADEP calculated increase in revenues in Allegheny County, approximately 40 percent of those increased fees would be borne by U. S. Steel's three major operating facilities in Allegheny County. This clearly is not commensurate with the resources needed to issue permit and administer the program to these three major sources; and the sources have significantly reduced emissions in recent years.² U. S. Steel suggests that to make the fees more equitably collected upon the regulated community that any modifications to the fee structure place a reasonable cap of 4,000 tons per facility (not per pollutant per facility).

7. The increase would serve as a disincentive to build or expand a significant manufacturing facility in Pennsylvania

Finally, U. S. Steel notes that such high emissions fees would place Pennsylvania at a disadvantage in attracting new or expanding existing manufacturing facilities. In addition, it would place manufacturing facilities in Pennsylvania at a disadvantage to those in other states with reasonable fees.

In summary, U. S. Steel respectfully disagrees with the EQB's proposed emissions fee increase and respectfully requests that the EQB and PADEP reconsider its proposed

² In addition, U. S. Steel also separately pays significant fees related to coke plant inspectors and the 303 Program.

Environmental Quality Board
April 8, 2013
Page 6

approach consistent with the suggestions contained herein. U. S. Steel believes that the regulated community should be afforded an opportunity to more fully explore other means of ensuring that the Department can continue to administer the Title V program such as those provided herein. As provided in the notice of proposed rulemaking, a summary of these comments is also attached and is requested that it be included in the agenda packet for distribution to each Board member prior to the meeting in which the final regulation will be considered.

We appreciate the opportunity to offer our views on this important proposed rule. If EQB or PADEP has any questions on our comments, please feel free to contact me at (412) 433-2919 or dwhacker@uss.com.

Sincerely,

A handwritten signature in black ink, appearing to read "D. W. Hacker", with a long horizontal flourish extending to the right.

David W. Hacker

Attachment

cc: D. Van Orden (dvanorden@pa.gov)
D. Smiga (USS)
C. Masciantonio (USS)
F. Harnack (USS)
T. Woodwell (USS)
M. Dzurinko (USS)
M. Jeffrey (USS)
C. Davis (USS)



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SUMMARY OF COMMENTS OF UNITED STATES STEEL CORPORATION
ON PROPOSED AIR QUALITY TITLE V FEE AMENDMENT
PROPOSED RULE [43 Pa.B. 677]

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