



INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

We Protect Hoosiers and Our Environment.

100 N. Senate Avenue • Indianapolis, IN 46204
(800) 451-6027 • (317) 232-8603 • www.idem.IN.gov

Eric J. Holcomb
Governor

Brian C. Rockensuess
Commissioner

June 28, 2024

NOTICE OF DECISION

The Commissioner of the Indiana Department of Environmental Management (IDEM) has issued a Hazardous Waste Management Operating Permit Renewal to United States Steel Corporation – Midwest Plant (USS), located in Portage, Indiana. The permit will allow USS to continue to operate a hazardous waste landfill at the facility.

Copies of documents pertaining to the Hazardous Waste Permit are available for public viewing via IDEM's Virtual File Cabinet (VFC). To view these documents, go to www.in.gov/idem/legal/public-records/virtual-file-cabinet/. VFC permit Content IDs are:

Permit Conditions 83660327

Permit Attachments:

A 83659312 B 83659314 C 83659315 D 83659316 E 83660329
F 83659317 G 83659320 H 83659321 I 83659322 J 83659323

A Response to Comments has been prepared for comments received during the public comment period. The Response to Comments is enclosed for your information.

Any aggrieved party has the right to appeal this decision pursuant to IC 4-15-10.5 (see enclosure). The Petition for Administrative Review and the Petition for Stay must be submitted to the Indiana Office of Administrative Law Proceedings (OALP) within 15 days of your receipt of this notice.

If you have questions regarding this notice, please contact Robert Marshall at (317) 232-4534 or rmarshall@idem.IN.gov.

Sincerely,

Donald W. Stilz, Chief
Hazardous Waste Permit Section
Permits Branch
Office of Land Quality

REM
Enclosures



Visit on.IN.gov/survey or scan the QR code to provide feedback.

We appreciate your input!



RESPONSE TO COMMENTS
RCRA DRAFT PERMIT RENEWAL
UNITED STATES STEEL CORPORATION – MIDWEST PLANT
PORTAGE, INDIANA
INR000109017
6/28/2024

INTRODUCTION

The public comment period for the United States Steel Corporation – Midwest Plant (USS) Draft Permit Renewal began on April 4, 2024, with a public notice in The Times of Northwest Indiana and a mass mailing to interested parties. The notice and announcement requested comments regarding the Draft RCRA Permit Renewal. The public comment period ended on May 20, 2024.

This Response to Comments is issued pursuant to 329 IAC 3.1-13-13, which requires that the Indiana Department of Environmental Management (IDEM):

1. briefly describe and respond to all significant comments on the Draft Permit;
2. specify which provisions, if any, of the Draft Permit have been changed, and the reasons for the change; and
3. explain the right to request an adjudicatory hearing on the permit as specified in IC 4-21.5.3.5 (see Notice of Decision).

RESPONSE TO FACILITY COMMENTS

USS submitted the following comments in accordance with the public comment procedures. The comments are described in the following sections along with the IDEM's response and any changes made as a result of the comments.

1. COMMENT: Permit Condition III.A.3: Applicable Guidance

This paragraph in the Draft Permit references IDEM's 2012 Remediation Closure Guide (RCG). However, USS understands that the July 2022 Risk-Based Closure Guide is intended to supersede the 2012 RCG and should therefore be referenced here instead.

RESPONSE:

IDEM concurs.

CHANGE:

The wording in Permit Condition III.A.3 has been modified, as requested.

2. COMMENT: Permit Condition III.B.2: SWMUs Requiring Corrective Action

The most recent submittal from USS to IDEM for the Tin Line Trench Solid Waste Management Unit (SWMU) is dated January 30, 2024. This letter transmitted the results

from the 2023 quarterly groundwater monitoring and proposed the continuation of quarterly groundwater monitoring in 2024. This letter should be referenced instead of (or in addition to) the January 31, 2023 letter referenced in the Draft Permit. The proposal to extend the quarterly groundwater monitoring through the end of 2024 was approved by IDEM in a letter dated March 26, 2024.

RESPONSE:

IDEM concurs.

CHANGE:

The wording in Permit Condition III.B.2. has been modified, as requested.

3. COMMENT: Permit Condition III.D.4: Community Relations Plan

The draft language of this condition is ambiguous as to its applicability only to off-site investigation activities and does not specify a timeframe within which submittal of the Community Relations Plan to IDEM must be completed, should such a plan become required. USS requests the following revision to the language of this condition.

If the Permittee determines through completion of approved RFI workplan activities that offsite investigation activities are necessary for a release from the Facility, then within 90 days, Permittee will prepare and submit to IDEM for review and approval a Community Relations Plan for the dissemination of information to the public regarding the offsite investigation activities. The plan must be consistent with "IDEM's Guide for Citizen Participation" and U.S. EPA's "1996 RCRA Public Participation manual."

RESPONSE:

IDEM concurs.

CHANGE:

The wording in Permit Condition III.D.4. has been modified, as requested, with an update to IDEM's current guidance regarding community involvement.

4. COMMENT: Permit Condition III.F: Corrective Action Activities Schedule

Item 9 in the Draft Permit indicates that Progress Reports are to be provided "Semi-annually; to coincide with groundwater reporting if possible". Currently, the only SWMU where RCRA Facility Investigation (RFI) activities are regularly occurring is the Tin Line Trench SWMU and groundwater data is being submitted to IDEM on an annual basis. Accordingly, USS requests that the frequency for submission of Progress Reports revert to the language in the current permit (issued April 22, 2019) as follows:

9. Progress Reports	"Annually, on January 31 st of each year after the effective date of this permit."
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Additionally, this section of the existing permit specifies that annual reports are required

for specific RCRA Corrective Action activities (i.e., Tasks 1 through 4). It would be helpful if the Draft Permit were updated to specify which RCRA Corrective Action tasks are intended to be covered within the Progress Reports.

RESPONSE:

IDEM concurs.

CHANGE:

The wording in Permit Condition III.F.9. has been modified, as requested.

A Corrective Action Scope of Work (CA SOW) was referenced in the previous permit and annual reports were required for Tasks 1 through 4 of the CA SOW. The CA SOW is a general guidance document for conducting RCRA Corrective Action at a facility and is no longer included in the permit. Progress reports should cover any on-going Corrective Action activities being conducted at the facility.

5. COMMENT: Permit Condition V.B.2: Installation of New Soil Borings, Groundwater Monitoring Wells and Piezometers

Section E-7b in Attachment E to the Draft Permit states:

*With the addition of Cell D to the Greenbelt II Landfill at some point in the future, existing monitoring wells located north of Cell A will be abandoned. However, as indicated on Figure 53d in the Hydrogeology Assessment presented as **Appendix E-1**, no additional monitoring wells will be installed with the addition of Cell D.*

Based on the above information, the provisions for adding new monitoring wells to the groundwater monitoring network contained in this section of the Draft Permit can be removed, as there's no need for future installation of any new soil borings, groundwater monitoring wells, or piezometers.

USS requests that this permit condition be modified to acknowledge that adjustments to the groundwater monitoring network will be required with the addition of Cell D, but those adjustments will be limited to the abandonment of the monitoring wells north of Cell A located in the footprint of future Cell D, which includes: MW-G24A/B and MW-G25A/B. These monitoring wells will be abandoned in accordance with 312 IAC 13-10-2 or an alternative procedure approved by IDEM that provides equivalent protection no more than 45 days prior to the initiation of construction of Cell D. USS will provide IDEM with written notification of its intention to abandon the above monitoring wells at least 45 days prior to abandoning these monitoring wells. Upon completion of the well abandonment, the permittee will submit written notification of abandonment to the Indiana Department of Natural Resources (DNR) and IDEM within 30 days after plugging is complete. The permittee will also submit updates to the applicable portions of Attachment E (Groundwater Monitoring) of the Permit to IDEM (i.e., narrative text, tables, figures, etc.) within 30 days after completion of the above monitoring well abandonments.

RESPONSE:

Provisions for adding new monitoring wells to the groundwater monitoring network need to remain in the Permit in case a well is damaged and needs to be replaced.

CHANGE:

No change.

6. COMMENT: Permit Condition V.F: Evaluation of the Groundwater Surface

The language in the Draft Permit stating “each time the Permittee collects groundwater samples, the Permittee must...” is requested to be modified to indicate: “For each regular semi-annual groundwater monitoring event...”. This reverts to the language that is in the current permit (issued April 22, 2019). Further, this adjustment is warranted because the entire monitoring well/piezometer network does not need to be measured for groundwater elevation if just one monitoring well is sampled during a verification sampling event, for example. This adjustment will make this language consistent with Attachment E, Section E-7d(8) of the Draft Permit (Data Review, Record Keeping and Reporting), which states that groundwater flow maps and calculation of flow velocity are required “for each regular semi-annual sampling event”.

RESPONSE:

IDEM concurs.

CHANGE:

The wording in Permit Condition V.F. has been modified, as requested.



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What if you are not satisfied with this decision and you want to file an appeal?

Who may file an appeal?

The decision described in the accompanying Notice of Decision may be administratively appealed. Filing an appeal is formally known as filing a “Petition for Administrative Review” to request an “administrative hearing”.

If you object to this decision issued by the Indiana Department of Environmental Management (IDEM) and are: 1) the person to whom the decision was directed, 2) a party specified by law as being eligible to appeal, or 3) aggrieved or adversely affected by the decision, you are entitled to file an appeal. (An aggrieved and adversely affected person is one who would be considered by the court to be negatively impacted by the decision. If you file an appeal because you feel that you are aggrieved, it will be up to you to demonstrate in your appeal how you are directly impacted in a negative way by the decision).

The Indiana Office of Administrative Law Proceedings (OALP) was established by state law – see Indiana Code (IC) 4-15-10.5 and is a separate state agency independent of IDEM. Review by OALP of IDEM decisions is limited to the review of environmental pollution concerns or any alleged technical or legal deficiencies associated with the IDEM decision making process. Once your request has been received by OALP, your appeal may be considered by an Administrative Law Judge.

What is required of persons filing an appeal?

Filing an appeal is a legal proceeding, so it is suggested that you consult with an attorney. Your request for an appeal must include your name and address and identify your interest in the decision (or, if you are representing someone else, his or her name and address and their interest in the decision). In addition, please include a photocopy of the accompanying Notice of Decision or list the permit number and name of the applicant, or responsible party, in your letter.

Before a hearing is granted, you must identify the reason for the appeal request and the issues proposed for consideration at the hearing. You also must identify the permit terms and conditions that, in your judgment, would appropriately satisfy the requirements of law with respect to the IDEM decision being appealed. That is, you must suggest an alternative to the language in the permit (or other order, or decision) being appealed, and your suggested changes must be consistent with all applicable laws (See Indiana Code 13-15-6-2) and rules (See Title 315 of the Indiana Administrative Code, or 315 IAC).

The effective date of this agency action is stated on the accompanying Notice of Decision (or other IDEM decision notice). If you file a “Petition for Administrative Review” (appeal), you may wish to specifically request that the action be “stayed” (temporarily halted) because most appeals do not allow for an automatic “stay”. If, after an evidentiary hearing, a “stay” is granted, the IDEM-approved action may be halted altogether, or only allowed to continue in part, until a final decision has been made regarding the appeal. However, if the action is not



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“stayed” the IDEM-approved activity will be allowed to continue during the appeal process.

Where can you file an appeal?

If you wish to file an appeal (petition for administrative review), you must do so in writing. To access the petition form and more information on filing a petition with OALP, visit their website at <https://www.in.gov/oalp/>. Submit your petition form electronically as directed on the OALP website, or send or deliver it to:

**Office of Administrative Law Proceedings
100 North Senate Avenue, Suite N802
Indianapolis, IN 46204**

If you file an appeal, also please send a copy of your appeal letter to the IDEM contact person identified in the Notice of Decision, and to the applicant (person receiving an IDEM permit, or other approval).

Your appeal must be received by OALP in a timely manner. The due date for filing an appeal may be given, or the method for calculating it explained, on the accompanying Notice of Decision (NOD). Generally, appeals must be filed within 18 days of the mailing date of the NOD. To ensure that you meet this filing requirement, your appeal request must be:

- 1) Delivered in person to OALP, by the close-of-business on the eighteenth day (if the 18th day falls on a day when OALP is closed for the weekend or for a state holiday, then your petition will be accepted on the next business day on which QALP is open), or
- 2) Given to a private carrier who will deliver it to the OALP on your behalf, (and from whom you must obtain a receipt dated on or before the 18th day), or
- 3) For those petitions sent by U.S. Mail, your letter must be postmarked by no later than midnight of the 18th day, or
- 4) Submitted using OALP’s online petition form, available at <https://www.in.gov/oalp/>

What are the costs associated with filing an appeal?

The OALP does not charge a fee for filing documents for an administrative review or for the use of its hearing facilities. A cost that could be associated with your appeal would be for attorney’s fees. Although you have the option to act as your own attorney, the administrative review and associated hearing are complex legal proceedings; therefore, you should consider whether your interests would be better represented by an experienced attorney.

What can you expect from the Office of Administrative Law Proceedings after you file for an appeal?

The OALP will provide you with notice of any prehearing conference, preliminary hearings, hearings, “stays,” or orders disposing of the review of this decision. In addition, you may contact the OALP by phone at 1-800-457-8283 with any scheduling questions. However, technical questions should be directed to the IDEM contact person listed on the Notice of Decision.

Do not expect to discuss details of your case with OALP other than in a formal setting such as a prehearing conference, a formal hearing, or a settlement conference. The OALP is not allowed to discuss a case without all sides being present. All parties to the proceeding are expected to appear at the initial prehearing conference.