

ILLINOIS POLLUTION CONTROL BOARD
June 20, 2024

UNITED STATES STEEL CORPORATION,)
)
Petitioner,)
)
v.) PCB 24-77
) (Permit Appeal - Air)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
Respondent.)

ORDER OF THE BOARD (by M. Gibson):

On June 12, 2024, United States Steel Corporation (US Steel) timely filed a petition (Pet.) asking the Board to review a May 8, 2024 determination of the Illinois Environmental Protection Agency (IEPA or Agency). US Steel attached to the petition a supporting record (SR) consisting of various documents. The Agency’s determination concerns US Steel’s Granite City Works, an iron and steel manufacturing facility at 1951 State Street in Granite City, Madison County. For the reasons below, the Board accepts the petition for review.

LEGAL AUTHORITIES

Under the Environmental Protection Act (415 ILCS 5 (2022)), the Agency is the permitting authority, responsible for administering Illinois’ regulatory programs to protect the environment. In this case, the Agency denied US Steel’s application to revise its construction permit/Prevention of Significant Deterioration (PSD) approval for the Granite City Works. SR at 1-91.

US Steel submitted its petition under Section 40.3(a)(1) of the Act, which provides that, if the Agency refuses to grant a PSD permit or grants a PSD permit with conditions, “the applicant may, within 35 days after final permit action, petition for a hearing before the Board to contest the decision of the Agency.” Pet. at 2 (¶4), *citing* 415 ILCS 5/40.3(a)(1) (2022); 35 Ill. Adm. Code 105.604(a).

Section 40.3(a)(2) provides that “[a]ny person who participated in the public comment process and is either aggrieved or has an interest that is or may be adversely affected by the PSD permit may, within 35 days after final permit action, petition for a hearing before the Board to contest the decision of the Agency.” 415 ILCS 5/40.3(a)(2) (2022); *see* 35 Ill. Adm. Code 105.604(c).

Under Section 40.3(a)(2), the petition must

- i) include such facts as necessary to demonstrate that the petitioner is aggrieved or has an interest that is or may be adversely affected; (ii) state the issues proposed for review, citing to the record where those issues were raised or explaining why such issues were not required to be raised during the public comment process; and (iii) explain why the Agency's previous response, if any, to those issues is (A) clearly erroneous or (B) an exercise of discretion or an important policy consideration that the Board should, in its discretion, review. 415 ILCS 5/40.3(a)(2) (2022); *see* 35 Ill. Adm. Code 105.608(b).

US Steel asserts that, because its application to revise its construction permit/PSD approval included a request for Integrated Processing of revisions to its Clean Air Act Permitting Program (CAAPP) permit, it also submitted its petition under Section 40.2(a) of the Act. Section 40.2(a) provides that, if the Agency refuses to grant a CAAPP permit or grants a CAAPP Permit with revisions, the applicant "may, within 35 days after final permit action, petition for a hearing before the Board to contest the decision of the Agency." Pet. at 3 (¶5), *citing* 415 ILCS 5.40.2(a) (2022), 35 Ill. Adm. Code 105.302.

US Steel also asserts that, because its application to revise its construction permit/PSD approval addressed general construction permit requirements, it also submitted its petition under Section 40(a) of the Act. Section 40(a) provides that, if the Agency refuses to grant a permit or grants a permit with conditions under Section 39.2 of the Act, "the applicant may, within 35 days after the date on which the Agency served its decision on the applicant, petition for a hearing before the Board to contest the decision of the Agency." Pet. at 3, (¶6), *citing* 415 ILCS 5/40(a)(1) (2022).

Finally, US Steel states that it "did not apply for a permit under 35 Ill. Adm. Code 203." However, because the Agency's denial addressed Nonattainment New Source Review issues, US Steel filed its petition under Sections 40(a) and 40(d) of the Act to include "all of the Agency's purported bases for denial." Pet. at 3, (¶6), *citing* 415 ILCS 5/40(a), (d) (2022); 35 Ill. Adm. Code 105.204.

PUBLIC COMMENT ON APPLICATION

US Steel states that the Agency in July 2023 issued a Notice of Intent to Deny and a draft denial of its application and sought public comment. Pet. at 11 (¶26), *citing* SR at 522, 571-72. After an extension of the comment deadline, US Steel submitted a comment letter. Pet. at 11 (¶26), *citing* SR at 480-519.

US Steel adds that the Agency in December 2023 issued a Notice of Intent to Deny and a revised draft denial of its application and sought comment. Pet. at 11 (¶27), *citing* SR at 359. US Steel submitted comments on January 8, 2024. Pet. at 11 (¶27), *citing* SR at 320-58.

US Steel asserts that its submissions constitute participation in the public comment process. Pet. at 11 (¶28), *citing* 35 Ill. Adm. Code 105.608(b)(2). It argues that "all issues

proposed for review were raised during the public comment process.” Pet. at 11 (¶28), *citing* 415 ILCS 5/40.3(a)(2)(ii); 35 Ill. Adm. Code 105.608(b)(2).

AGENCY DETERMINATION

In a letter dated May 8, 2024, the Agency denied US Steel’s application. Pet. at 11 (¶29), *citing* SR at 1-91. The letter states that “[t]he permit application is DENIED because, if a revision to Permit 95010001 were issued as requested by this application, it might violate various Sections of the Illinois Environmental Protection Act (Act) and various provisions in Illinois’ regulation pursuant to the Act.” Pet. at 11-12 (¶29), *citing* SR at 1. The Agency letter included Attachment 1, a listing of denial points. Pet. at 12 (¶30), *see* SR at 3-77. It also included an Appendix A listing sections of the Act cited in Attachment 1 as bases for denial (SR at 78-81), and an Appendix B listing provisions of Title 35 of the Illinois Administrative Code cited as bases for denial (SR at 82-91).

US Steel concludes that it “has been aggrieved by the denial and its interests have been adversely affects by the permit denial.” Pet. at 13 (¶32), *citing* 415 ILCS 5/40.3(a)(2)(i); 35 Ill. Adm. Code 105.608(b)(3).

DENIAL POINTS

US Steel states that it petitions the Board for review of the entire Agency denial, including each of the 24 points in the Agency’s determination. Pet. at 15 (¶36), *citing* SR at 1-91. US Steel argues that the Agency’s reasons for denying its permit “fail to demonstrate that issuing the permit would result in a violation of the Act or Board regulations.” Pet. at 15 (¶38). It further argues that no violation of the Act or regulations will occur if the Agency grants its permit application. *Id.*

US Steel asserts that the Agency’s response to the issues it raised were either “(a) clearly erroneous considering the facts and the law; (b) involved an exercise of discretion by the Agency that the Board, in its discretion, should review; or (c) involved an important policy consideration that the Board should, in its discretion, review.” Pet. at 15 (¶38). US Steel concludes that

the Agency’s Denial Points are technically and legally flawed, its rationale is erroneous, its discretionary decisions in denying the Permit were improper, its claimed reasons and legal bases for denial were insufficient, improper, and inadequate, the Agency’s decision was not rational in light of all the information in the record, and legal and policy considerations support finding that the Agency should have granted the Permit instead of denying it. Pet. at 16 (¶39).

The Board briefly reviews the 24 denial points in the following subsections.

Denial Point 1: Revised Netting Analysis for Nitrogen Oxide

The Agency’s first denial point asserted that “the revised netting analysis for the project for nitrogen oxides (NO_x) does not fulfill relevant requirements of new source review (NSR) for

such analyses.” SR at 3; *see* Pet. at 16 (¶40); SR at 161-209. IEPA concluded that the application had not shown that the project “would still not be a major modification for NO_x emissions for purposes of NSR with the increase in NO_x emissions that are requested to address errors in the initial permitting of the Project.” Pet. at 16 (¶40).

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 23 (¶53), *citing* SR at 330-35, 491-94. US Steel argues that its updated NO_x emission increase calculations “fully conform to and satisfy the source obligation provisions of the PSD and Nonattainment New Source Review (NNSR) rules. Because the Project would not become a major modification with respect to NO_x emissions solely by virtue of the requested relaxations, the substantive requirements of PSD and NNSR programs are not required elements of the Application.” Pet. at 30 (¶68), *citing* SR at 335.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 32-33 (¶73). It argues that the Agency’s decision on this point “was clearly erroneous considering the facts and the law. The Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial. Additionally, the Agency’s decision involved a discretionary decision and an important policy consideration that the Board should review and reverse.” *Id.* at 33 (¶74).

Denial Point 2: Baseline NO_x Emissions

The Agency’s second denial point asserted that “the determination of baseline NO_x emissions in the revised netting analysis cannot be independently confirmed.” SR at 9; *see* Pet. at 33 (¶75); SR at 209-18. IEPA concluded that the application did not include data and information supporting the determination and cannot show that the project would not become a major modification for NO_x under NSR. Pet. at 33 (¶76), 34 (¶77) *citing* SR at 9.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 35 (¶80), *citing* SR at 336-39, 494-97. It argues that the Agency’s claim that it had not provided sufficient information “is without merit.” Pet. at 35 (¶81). US Steel asserts that the application shows that the project would not become a major modification. *Id.* at 37 (¶84).

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 37 (¶84). It argues that the Agency’s decision on this point “was clearly erroneous considering the facts and the law. Additionally, the Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial. Moreover, this is an important policy consideration that the Board should review and reverse.” Pet. at 37 (¶85).

Denial Point 3: Actual NO_x Emissions

The Agency’s third denial point asserted that “the application lacks information for the actual NO_x emissions of project-affected fuel burning units, specifically that the revised netting analysis for NO_x does not show that the value for the maximum future NO_x emissions form

certain fuel burning units (706 tons/year), in aggregate, is appropriate.” Pet. at 37 (¶86); *see* SR at 13-14.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 40 (¶90), *citing* SR at 336-39, 350, 494-97, 508. US Steel argues that its application “provided a basis for the proposed maximum future NO_x emissions of 706 tons per year from certain fuel combustion sources” and requested continued use of that limit that had been in the existing permit since 1999. Pet. at 40 (¶91), *citing* SR at 339.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 40 (¶92). It argues that the Agency’s decision on this point “was clearly erroneous considering the facts and the law. Additionally, the Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial. Moreover, this is an important policy consideration that the Board should review and reverse.” Pet. at 40 (¶93).

Denial Point 3A: Actual NO_x Emissions

This denial point asserts that the application “lacks supporting information regarding the actual amount of maximum future NO_x emissions from certain fuel burning units, 706 tons/year.” Pet. at 40 (¶94); *see* SR at 15-16.

US Steel states that the Agency’s initial draft denial letter did not include this point, but US Steel addressed the issues raised by this point in written comments. Pet. at 42 (¶97), *citing* SR at 336-39, 349-51, 494-97, 507-09. US Steel asserts that its written comments “provided a basis for the proposed maximum future NO_x emissions of 706 tons per year from certain fuel combustion units.” Pet. at 42 (¶99), *citing* SR at 339. US Steel argues that it requested continued use of that limit that had been in the existing permit since 1999. *Id.*

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 43 (¶99). It argues that the Agency’s decision on this point “was clearly erroneous considering the facts. The Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial. Additionally, the Agency’s position that US Steel could not rely upon an existing emission limit which had already been approved by the Agency involves a discretionary decision and an important policy consideration that the Board should review and reverse.” Pet. at 43 (¶100).

Denial Point 4: Potential for Uncaptured Emissions

This denial point asserts that the application “does not include information regarding uncaptured emissions of NO_x, VOM [volatile organic material], and CO [carbon monoxide] for the BOFs [basic oxygen furnaces] that occur through the room monitor on the building in which the BOFs are located.” Pet. at 43 (¶102); *see* SR at 17-22.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 44 (¶104), *citing* SR at 339-40, 497-98. US Steel argues that its application reflects the position that, if there are uncaptured emissions, they are fugitive emissions that are not quantifiable and not counted for purposes of PSD and NNSR applicability determinations. Pet. at 45 (¶105), *citing* SR at 339-40. US Steel asserts that the Agency has conceded that it addressed this denial point. Pet. at 45 (¶106), *citing* SR at 221, n.149.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 45 (¶107). It argues that the Agency's decision on this point "was clearly erroneous considering the facts and the law. The Agency's reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial. Additionally, the Agency's decision involved a discretionary decision and an important policy consideration that the Board should review and reverse." Pet. at 45-46 (¶108).

Denial Point 5: CO Emissions

This denial point asserts that "the Air Quality Modeling Report, which provides the Source Impact Analysis, in the application is deficient because it does not address certain CO emissions of units that are at, or were at, the facility." Pet. at 46 (¶109), *citing* SR at 131-44; *see* SR at 23-25.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 49 (¶117), *citing* SR at 325-27, 386-487. US Steel argues that neither the Act nor Board rules require information that the Agency seeks. Pet. at 49 (¶118), *citing* SR at 326.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 50 (¶121). It argues that the Agency's decision on this point "was clearly erroneous considering the facts. The Agency's reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial." *Id.* (¶122).

Denial Point 5A: Background Air Quality

This denial point asserts that "as related to baseline ambient air quality for CO, the Air Quality Modeling Report, which includes the air quality analysis, included in the Application is deficient in that it does not address baseline ambient air quality as existed at the time that the Project was initially permitted or as it presently exists." Pet. at 50-51 (¶123), *citing* SR at 131-44; *see* SR at 26-27.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 52 (¶127), *citing* SR at 324, 485. US Steel argues that the background CO concentration data from 2016-2018 was the most current quality-assured data available when it submitted its permit application. Pet. at 52 (¶128).

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 53 (¶130). It argues that the Agency's decision on this point "was clearly erroneous considering the facts and the law. The Agency's reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial." *Id.* (¶131).

Denial Point 6: Group Emission Limits

This denial point asserts that the permit application "does not show that proposed collections of emissions units for 'group limits' of annual emission of particulate, NO_x, and VOM are appropriate." Pet. at 53 (¶132), *citing* SR at 28-29.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 55 (¶136), *citing* SR at 350-51, 508-09. US Steel argues that its application proposes "annual emission caps covering groups of related emissions units and emission points" that would be enforceable as a practical matter. Pet. at 55 (¶137), *citing* SR at 341, 342.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 58 (¶146). It argues that the Agency's decision on this point "was clearly erroneous considering the facts and the law. The Agency's reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial. Additionally, the Agency's decision involved a discretionary determination that the Board should review and reverse." *Id.* at 55-56 (¶139).

Denial Point 7: Fuel Burning Units

This denial point asserts that the permit application "did not contain information supporting revisions to the Permit to revise or eliminate existing limitations for usage of fuels by Project-affected fuel burning units." Pet. at 56 (¶140), *citing* SR at 33-35.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 57 (¶144), *citing* SR at 341-42, 499-500. US Steel suggests that it relied on the Agency's position that "enforceable emission caps are superfluous and unnecessary where the maximum potential emissions of the affected unit or units is less than or equal to the emission caps under consideration." Pet. at 58 (¶145), *citing* SR at 350. US Steel added that limits on other units were not appropriate because they were not affected by the project and were irrelevant. *Id.*

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 55 (¶138). It argues that the Agency's decision on this point "was clearly erroneous considering the facts and the law. The Agency's reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial. Additionally, the Agency's decision involved a discretionary determination that the Board should review and reverse." *Id.* at 58 (¶147).

Denial Point 8: Emission Factors

This denial point asserts that the permit application “does not include information justifying the future use of ‘prescribed emission factors’ for certain units for the purpose of determining compliance with the requested revised limitations.” Pet. at 58-59 (¶148), *citing* SR at 36-40.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 61 (¶152), *citing* SR at 346-49, 504-07. US Steel argues that it supplied all required information and more than its predecessor had submitted in an earlier application and that the Agency approved. Pet. at 61 (¶153), *citing* SR at 347.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 62 (¶154). It argues that the Agency’s decision on this point “was clearly erroneous considering the facts and the law. The Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial. Additionally, the Agency’s decision involved a discretionary determination and an important policy consideration that the Board should review and reverse.” *Id.* (¶155).

Denial Point 9: Roof Monitor

This denial point asserts that the permit application “did not include information justifying the use of the requested ‘prescribed emission determination methodology’ for the uncaptured NO_x and VOM emissions of the blast furnace casthouse.” Pet. at 62 (¶156), *citing* SR at 41-42.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 65 (¶160), *citing* SR at 343, 501. US Steel argues that its “proposed approach is an appropriate compliance demonstration method for inclusion in the revised construction permit and Illinois EPA should have allowed it in its discretion.” Pet. at 65 (¶161), *citing* 89 Fed. Reg. 23294 (Apr. 3, 2024); SR at 343.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 52 (¶162). It argues that the Agency’s decision on this point “was clearly erroneous considering the facts and the law. The Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial. Additionally, the Agency’s decision involved a discretionary determination and an important policy consideration that the Board should review and reverse.” *Id.* (¶163).

Denial Point 10: Emission Factors

This denial point asserts that the permit application “does not include information justifying the future use of the proposed ‘prescribed emission factors’ for the purpose of determining compliance with the requested revised limitations for the emissions of the Project-affected units.” Pet. at 66 (¶164), *citing* SR at 43-44.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 68 (¶167), *citing* SR at 343-48, 501-06. US Steel asserts that its proposed emission factors are derived from factors published by the United States Environmental Protection Agency or long applied by IEPA. Pet. at 68-69 (¶¶168, 169), *citing* SR at 343-44, 346, 347.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 69 (¶170). It argues that the Agency's decision on this point "was clearly erroneous considering the facts and the law. The Agency's reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial. Additionally, the Agency's decision involved a discretionary determination and an important policy consideration that the Board should review and reverse." *Id.* (¶171).

Denial Point 11: Particulate Emissions

This denial point asserts that the permit application "did not provide supporting information for the baseline emissions from handling coke, iron pellets, and limestone." Pet. at 69 (¶172), *citing* SR at 45-46.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 71 (¶176), *citing* SR at 340-41, 498-99. US Steel asserts that its application included all required information. Pet. at 71 (¶177), *citing* SR at 341.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 71 (¶178). It argues that the Agency's decision on this point "was clearly erroneous considering the facts and the law. The Agency's reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial. Additionally, the Agency's decision involved a discretionary determination and an important policy consideration that the Board should review and reverse." *Id.* at 71-72 (¶179).

Denial Point 12: Grouping of Units

This denial point asserts that the requests in the permit application "to change the grouping of units to be consistent with the CAAPP Permit were inappropriate." Pet. at 72 (¶180), *citing* SR at 47-51.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 74 (¶184), *citing* SR at 352-54, 510-13. US Steel asserts that its application included information addressing the Agency's positions about changes to the permit proposed to make the permits more consistent with one another. Pet. at 74-76 (¶¶185-87), *citing* SR at 352-54.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 76 (¶188). It argues that the Agency's decision on this point "was clearly erroneous considering the facts and the law. The Agency's reasons, statutory bases, and regulatory bases are insufficient, improper, and

inadequate to support denial. Additionally, the Agency’s decision involved a discretionary determination that the Board should review and reverse.” *Id.* (¶189).

Denial Point 13: Emission Factors

This denial point asserts that, because the application requests emission factors for certain units, US Steel “needed to request certain revision to the Permit to ensure consistency with the CAAPP Permit.” Pet. at 76 (¶190), *citing* SR at 52-53.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 78 (¶193), *citing* SR at 351-52, 510. US Steel asserts that it “requested that the Permit be subject to ‘integrated processing,’ which requires Illinois EPA to process the Permit Application and draft the permit using a program that ‘meets procedural and compliance requirements equivalent to those’ imposed in the CAAPP Permit.” Pet. at 79 (¶194), *citing* SR at 351.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 79 (¶195). It argues that the Agency’s decision on this point “was clearly erroneous considering the facts and the law. The Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial. Additionally, the Agency’s decision involved a discretionary determination and an important policy consideration that the Board should review and reverse.” *Id.* (¶196).

Denial Point 14: Authorized Amendment

This denial point asserts that the application “was not accompanied by a request or application for an administrative amendment to incorporate changes to the CAAPP Permit 96030056 that are authorized by Construction Permit 11050006 issued on April 1, 2013.” Pet. at 79-80 (¶197), *citing* SR at 54-56, 274-77.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 81 (¶202), *citing* SR at 355, 513-14. US Steel asserts that its application “includes all required information relating to identification of the CAAPP Permit to be administratively amended following Integrated Processing of the Construction Permit Application.” Pet. at 81 (¶203), *citing* SR at 355, 513.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 84 (¶207). It argues that the Agency’s decision on this point “was clearly erroneous considering the facts and the law. The Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial.” *Id.* (¶208). It adds that the Agency’s position on this point “involves an important policy consideration that the Board should review and reverse.” *Id.*

Denial Point 15: Dust Control

This denial point asserts that, regarding emissions of fugitive dust, the application does not propose revisions to clarify the relationship between different recordkeeping and reporting requirements. Pet. at 84 (¶209), *citing* SR at 57-59.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 86 (¶213), *citing* SR at 355-56, 514. US Steel asserts that it “is not required to specify the relationship between existing permit terms and applicable rule requirements” and that this point cannot be a basis to deny its application. Pet. at 87 (¶215), *citing* SR at 355, 514.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 87 (¶216). It argues that the Agency’s decision on this point “was clearly erroneous considering the facts and the law. The Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial.” *Id.* (¶217). Additionally, the Agency’s decision “involves an important policy consideration that the Board should review and reverse.” *Id.* (¶218).

Denial Point 16: CAAPP Permit Changes

This denial point asserts that the application does not address changes to the CAAPP Permit that are needed because of revisions to the NESHAPs for iron and steel that could be expedited by integrated processing. Pet. at 88 (¶218), *citing* 40 CFR 63 Subpart FFFFF; SR at 60-61, 280-83.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 89 (¶222), *citing* SR at 356, 514-15. US Steel asserts that the Agency “may adjust CAAPP permit terms to assure compliance with all applicable requirements.” Pet. at 99 (¶223), *citing* 415 ILCS 5/39.5(15)(a)(iv) (2022); SR at 356, 515. US Steel adds that applicable requirements of the NESHAP are legally enforceable. Pet. at 89 (¶224), *citing* 85 Fed. Reg. 42074 (July 13, 2020); SR at 356, 515.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 91 (¶227). It argues that the Agency’s decision on this point “was clearly erroneous considering the law. The Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial.” *Id.* (¶228). Additionally, the Agency’s decision involves “an important policy consideration that the Board should review and reverse.” *Id.*

Denial Point 17: Shutdown of Emission Units

This denial point asserts that the application does not identify or address changes to the CAAPP Permit that result from permanent shutdown of emission units as revisions to be issued through integrated processing. Pet. at 92 (¶229), *citing* SR at 62-64, 283-85.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 93 (¶233), *citing* SR at 356-57, 515-16. US Steel asserts that neither the Act nor the rules

require its application to request changes “other than those directly resulting from the requested revisions of the underlying construction permit.” Pet. at 93 (¶235), *citing* SR at 357, 515.

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 95 (¶239). It argues that the Agency’s decision on this point “was clearly erroneous considering the facts and the law. The Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial.” *Id.* (¶240). Additionally, the Agency’s position “involves an important policy consideration that the Board should review and reverse.” *Id.*

Denial Point 18: Best Available Control Technology for Evaluation

This denial point asserts that the Best Available Control Technology (BACT) evaluation for CO in the application was not sufficient on various grounds. Pet. at 96 (¶241), *citing* SR at 65-68, 144-57.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 97 (¶245), *citing* SR at 327-30, 487-90. US Steel asserts that its application met any BACT obligations regarding CO emissions. Pet. at 97 (¶246).

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 101 (¶255). It argues that the Agency’s decision on this point “was clearly erroneous considering the facts and the law. The Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial.” *Id.* (¶256).

Denial Point 19: BACT Evaluation for Sulfur Dioxide and Carbon Monoxide

This denial point asserts that the application did not include BACT demonstrations for sulfur dioxide (SO₂) and CO from the burning of coke oven gas. Pet. at 102 (¶257), *citing* SR at 69-70, 144, 157-60.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 103 (¶262), *citing* SR at 30, 490-91. US Steel asserts that the Agency’s denial relates to the historical issue of the burning of coke oven gas, “which was only available when the by-product recovery coke batteries were in operation prior to their shutdown in 2015.” Pet. at 103 (¶263).

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 105 (¶267). It argues that the Agency’s decision on this point “was clearly erroneous considering the law. The Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial.” *Id.* (¶268). Additionally, the Agency’s position “involves an important policy consideration that the Board should review and reverse.” *Id.*

Denial Point 20: SO₂ Emissions

This denial point asserts that, on the issue of SO₂ emissions, the application is inconsistent with and conflicts with an earlier application for revisions. Pet. at 106 (¶269), *citing* SR at 71-72, 128-31.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 107 (¶274), *citing* SR at 324-25, 485-86. US Steel asserts that it submitted the earlier application under a consent order and that the Agency has not acted on it.” Pet. at 107 (¶275).

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 109 (¶280). It argues that the Agency’s decision on this point “was clearly erroneous considering the facts and the law. The Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial.” *Id.* (¶281). Additionally, the Agency’s position “involves an important policy consideration that the Board should review and reverse.” *Id.*

Denial Point 21: Emission Limits for SO₂, Lead, and CO

This denial point asserts that the application does not request or propose for various processes changes to the current emission factor limits for SO₂, lead, and CO to resolve pending permit appeals. Pet. at 109 (¶282), *citing* US Steel Corp. v. IEPA, PCB 13-62; U.S. Steel Corp. v. IEPA, PCB 13-53; SR at 73-75, 125-127.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 110 (¶287), *citing* SR at 324, 485. US Steel asserts that there is not authority requiring the application to address the pending appeals and that not addressing the appeals provides no basis to deny the application. Pet. at 110 (¶288).

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 112 (¶291). It argues that the Agency’s decision on this point “was clearly erroneous considering the law. The Agency’s reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial.” *Id.* (¶281).

Denial Point 22: Certification

This denial point asserts that the application as submitted on October 7, 2022, “did not include a certification of the truth, accuracy and completeness of the application.” Pet. at 112 (¶293), *citing* SR at 76-77, 122-125.

US Steel asserts that its written comments addressed the issues raised by this point. Pet. at 113 (¶299), *citing* SR at 322-24, 483-85. US Steel asserts that the material submitted in October 2022 constitute a supplement that does not require a separate certification. Pet. at 114, 115 (¶¶301, 303). It adds that its comment to the Agency’s initial draft denial letter included a new certification. *Id.* at 115, (¶304).

US Steel concludes that the provisions of the Act and rules cited by the Agency on this point would not be violated by granting its application. Pet. at 117 (¶307). It argues that the Agency's decision on this point "was clearly erroneous considering the facts and the law. The Agency's reasons, statutory bases, and regulatory bases are insufficient, improper, and inadequate to support denial." *Id.* (¶308). Additionally, the Agency's position "involves an important policy consideration that the Board should review and reverse." *Id.*

US Steel Summary

US Steel requests that the Board grant review of the Agency's final decision to deny its application and schedule a hearing to review the decision. US Steel further requests that the Board adopt an order finding that "the Agency's final decision was clearly erroneous, was not supported by the record, was not supported by the Act or Board regulations, and involved important policy issues" that the Board resolves in its favor. Pet. at 118 (¶311). US Steel requests that the Board remand to the Agency with instruction to issue the permit as requested in its application. Pet. at 118.

BOARD ORDER

US Steel's petition meets the content requirements of 35 Ill. Adm. Code 105.210. The Board accepts the petition for hearing.

US Steel has the burden of proof. 415 ILCS 5/40(a)(1) (2022); *see also* 35 Ill. Adm. Code 105.112(a). The Board's hearing and decision will be based exclusively on the record before the Agency at the time the Agency issued its permit decision, unless the parties agree to supplement the Agency record. 415 ILCS 5/40.3(d)(1) (2022); 35 Ill. Adm. Code 105.614(a). "Any PSD permit issued by the Agency must be upheld by the Board if the technical decisions contained in the permit reflect considered judgment by the Agency." *Id.*

Upon its own motion or the motion of any party, the Board or the hearing officer may order that the hearing be held by videoconference. In deciding whether to hold the hearing by videoconference, factors that the Board or the hearing officer will consider include cost-effectiveness, efficiency, facility accommodations, witness availability, public interest, the parties' preferences, and the proceeding's complexity and contentiousness. *See* 35 Ill. Adm. Code 101.600(b), 105.110.

Hearings will be scheduled and completed in a timely manner, consistent with the decision deadline (*see* 415 ILCS 5/40.3(b) (2022)), which only US Steel may extend by waiver (*see* 35 Ill. Adm. Code 101.308). If the Board fails to take final action by the decision deadline, "the PSD permit shall not be deemed issued; rather, any party shall be entitled to an Appellate Court order pursuant to subsection (d) of Section 41 of this Act." 415 ILCS 5/40.3(b) (2022), *citing* 415 ILCS 5/41 (2022). Currently, the decision deadline is Thursday, October 10, 2024, which is the 120th day after the Board received the petition. *See* 35 Ill. Adm. Code 105.114. The Board meeting immediately before the decision deadline is scheduled for Thursday, October 3, 2024.

Unless the Board or the hearing officer orders otherwise, the Agency must file the entire record of its determination by Friday, July 12, 2024, which is 30 days after the Board received US Steel's petition. *See* 35 Ill. Adm. Code 105.116(a), 105.612. If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. *See* 35 Ill. Adm. Code 105.116(a). The record must comply with the Board's requirements for content, organization, and certification. *See* 35 Ill. Adm. Code 101.1030(g), 105.116(b), 105.612(b). In addition, the Agency must file the record electronically. Specifically, the record must be filed through the Clerk's Office On-Line (COOL) or on compact disk or other portable electronic data storage device and, to the extent technically feasible, in text-searchable Adobe PDF. *See* 35 Ill. Adm. Code 101.302(h)(2)(A), 105.116(a).¹

IT IS SO ORDERED.

I, Don A. Brown, Clerk of the Illinois Pollution Control Board, certify that the Board adopted the above order on June 20, 2024, by a vote of 4-0.



Don A. Brown, Clerk
Illinois Pollution Control Board

¹ Any questions about filing the record in an electronic format should be directed to the Clerk's Office at (312) 814-3620 or (312) 814-3461.