

BEFORE THE HEARING OFFICER FOR THE
 ALLEGHENY COUNTY HEALTH DEPARTMENT
 542 4TH AVENUE
 PITTSBURGH, PENNSYLVANIA 15219

UNITED STATES STEEL)	
CORPORATION, a Delaware corporation,)	
)	
Appellant,)	
)	
v.)	Appeal of
)	Enforcement Order
ALLEGHENY COUNTY HEALTH)	#180601
DEPARTMENT)	
)	
Appellee.)	

**APPELLANT UNITED STATES STEEL CORPORATION’S PRE-HEARING
 STATEMENT**

I. INTRODUCTION

United States Steel Corporation (“U. S. Steel”) is challenging an Enforcement Order issued by the Allegheny County Health Department (“ACHD”) regarding the U. S. Steel coke plant located in Clairton, PA (the “Clairton Plant”).

The Clairton Plant is subject to the most stringent standards for coke batteries in the United States. These standards include federal regulations and ACHD’s Article XXI Air Pollution Control regulations, both of which are enforced by ACHD. ACHD employs and contracts¹ with several full-time inspectors who perform inspections that include thousands of observations at the Clairton Plant every single day. While ACHD suggests that the coke batteries at the Clairton Plant have a poor compliance rate, by ACHD’s own calculations, the Clairton Plant is 100% compliant with the federal coke battery regulations and more than 98% complaint with ACHD’s Article XXI coke battery regulations as of the first quarter of 2018. In addition, the Clairton Plant is 99.384% compliant with ACHD’s Article XXI regulations governing battery stack emissions, which ACHD and U. S. Steel agreed is the most effective surrogate for measuring environmental performance across the entire Clairton Plant. Until January of this year, ACHD’s enforcement policy treated coke plant compliance rates above 95% as being reasonable compliance rates. In addition, ACHD and U. S. Steel have historically met on a regular basis and engaged in a collaborative process that

¹ The federal standards applicable to the coke batteries require that the state/local agency hire contractors to conduct daily inspections but payment to the contractors is the responsibility of the owner/operator of the coke plant.

has resulted in significant environmental improvements when needed. Earlier this year, ACHD changed course and, without any notice, issued the Enforcement Order, which includes one of the largest penalties ever imposed by ACHD and severe sanctions threatening the Clairton Plant's business, coke batteries and employees.

The Enforcement Order assesses over \$1 million in civil penalties for alleged violations of various fugitive emissions standards at the Clairton Plant's coke oven batteries alleged to have occurred over three calendar quarters.² The Enforcement Order also imposes arbitrary and excessive sanctions on U. S. Steel unless it meets two additional requirements. First, U. S. Steel must increase its already greater-than-98%-rate-of-compliance at the Clairton Plant for two successive calendar quarters, from January 1, 2019 through June 30, 2019. Second, U. S. Steel must meet a new emissions standard, which ACHD simply made up (it is not found in any existing statute or regulation) and which applies only to the doors on one side of one of the ten batteries at the Clairton Plant. If U. S. Steel does not increase its rate of compliance for two successive calendar quarters *or* does not meet the new emissions standard during every month in this time period, the Enforcement Order requires U. S. Steel to "hot idle" and stop producing coke from two of its ten batteries until it complies with the Enforcement Order.

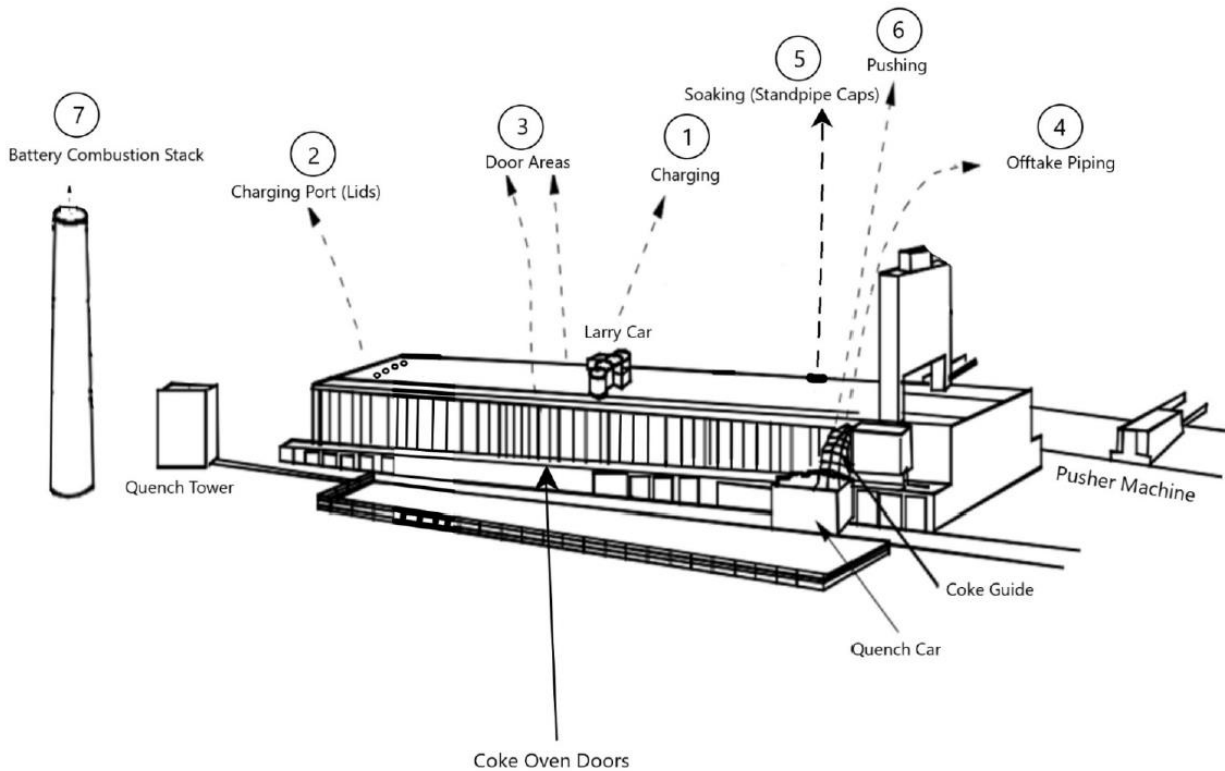
The Enforcement Order is arbitrary, capricious, unjustified, extreme, unlawful and unreasonable. ACHD's issuance of the Enforcement Order is contrary to federal, state and local laws, regulations, and policies including but not limited to the Clean Air Act, Pennsylvania Air Pollution Control Act, ACHD's Article XXI and ACHD's own enforcement policy, as will be fully explained at the hearing.

II. BACKGROUND

A. Coke-making Process and Emissions

U. S. Steel operates the Clairton Plant, a metallurgic coke plant in Clairton, Allegheny County, PA. There are ten coke "batteries" (Nos. 1, 2, 3, 13, 14, 15, 19, 20, B and C) at the Clairton Plant, each of which contain between 61 and 87 ovens that are used to make coke. The following diagram shows a representative coke oven battery and the relevant areas in which air emissions are regulated:

² The Enforcement Order covers fourth quarter 2017 and first quarter 2018. It also includes some alleged violations in the third quarter 2017 that ACHD claims to have mistakenly excluded from a prior enforcement matter.



In brief, coke is produced by loading coal into the ovens from a larry car, a vehicle that travels on the top of the battery and loads coal into the oven chamber through openings called “charging ports.” (See numbers 1 and 2 above.) The process of loading coal into the ovens is called “charging.” (See number 1 above.) After coal is charged into the ovens, the charging ports are covered with lids and the coal is heated in an essentially oxygen free environment (otherwise the coal would simply burn) at extreme temperatures exceeding 2000 degrees Fahrenheit for approximately 18 hours. Each coke battery has a combustion stack, a very tall type of chimney, through which emissions generated during the combustion of treated coke oven gas and other fuels in the underfiring system used to heat the battery are exhausted to the outside air. (See number 7 above.) As part of the coking process, gases containing some of the constituents of the coal (known as “coke oven gas”) are also generated in the ovens, captured, cleaned, and then used as a fuel (in the underfiring system of the battery or elsewhere). By design, relatively small volumes of coke oven gas may be released for brief periods through a standpipe cap located at the top of the oven (process known as “soaking” – see number 5 above) prior to “pushing” coke from the battery which completes the coking cycle in the battery.

Each oven is equipped with two “doors,” which are located on the sides of the coke batteries. (See number 3 above.) One door is located on the side of the oven (known as the “push side”) from where the coke, once ready, is mechanically pushed (using a pusher machine) so that the coke discharges out of the door on the opposite side of the oven, called the “coke side.” The pushed coke falls into a quench car that takes the coke to a “quenching” tower, where it is cooled with water.

Air emissions containing contaminants that can be seen by the naked eye are generally referred to as “visible emissions.” During the coking process, air emissions may periodically or intermittently escape at the areas numbered above (i.e., charging, charging lids, door areas, offtake piping, soaking (standpipe caps) and pushing). These visible emissions are considered “fugitive” emissions because they are not emitted from a stack. Fugitive emissions are not measured with any type of measuring equipment. Instead, they are observed with the naked eye and manually recorded by inspectors (both ACHD employees and contractors) who inspect the batteries at the Clairton Plant 24 hours a day, 7 days a week. In contrast, emissions generated from each battery combustion stack are measured by equipment called a continuous opacity monitoring system (“COMS”), which measures the percent opacity³ of the stack emissions 24 hours a day, 7 days a week. The Enforcement Order only contains allegations that U. S. Steel exceeded fugitive emissions standards. Combustion stack emissions (as well as pushing and soaking at certain batteries) at the Clairton Plant are governed by a 2016 Consent Judgment, which was agreed to by U. S. Steel and ACHD and entered by the Honorable Christine Ward in the Allegheny County Court of Common Pleas.

B. Emission Limits

The coke batteries at the Clairton Plant are subject to numerous emission and opacity standards. Some standards were developed by the United States Environmental Protection Agency (“EPA”) pursuant to the federal Clean Air Act. Other standards were developed by ACHD and are included in ACHD’s air pollution control regulations at Article XXI. ACHD enforces both the EPA limits and the Article XXI limits. All of the EPA limits and Article XXI limits that apply to the coke batteries at the Clairton Plant are contained in U. S. Steel’s Title V Operating Permit. The Title V Operating Permit is a federally required permit that contains all applicable requirements pertaining to air emissions in a single comprehensive document and includes requirements for monitoring, testing, recordkeeping, and reporting.⁴

1. Criteria Pollutant Standards

The federal Clean Air Act requires EPA to establish national ambient air quality standards (“NAAQS”). The NAAQS are established for six pollutants, called “criteria pollutants” – 1) ozone, 2) particulate matter (“PM”), 3) carbon monoxide (“CO”), 4) lead, 5) sulfur dioxide (“SO₂”) and 6) nitrogen dioxide (“NO₂”). The NAAQS are ambient air quality standards that EPA determined are protective of public health and welfare. The Clean Air Act requires periodic reevaluation of the NAAQS, which typically results in a lowering of the NAAQS (e.g., they become more stringent). The two criteria pollutants identified in the Enforcement Order are SO₂ and PM.

³ “Opacity” means the degree, by percentage, to which emissions of air contaminants reduce the transmission of light or obscure the view of an object in the background. ACHD Article XXI, p. A-42.

⁴ All applicable requirements in existence at the time the Title V permit was issued are included the Clairton Plant’s Title V Permit that was issued March 27, 2012. However, some requirements that were created after permit issuance (e.g., C Battery Installation Permit conditions) are not yet included.

The state (or local) jurisdictions are required to monitor air quality in their respective jurisdictions to demonstrate whether ambient air quality meets the NAAQS. This is typically done by installing air monitors at various locations in the jurisdiction (for example, ACHD has installed air monitors in approximately 16 different locations in Allegheny County). State (and local) jurisdictions are also required by the Clean Air Act to develop state implementation plans (“SIPs”) that are basically regulations/plans that regulate emissions from industrial sources to ensure that the NAAQS are met. If air quality does not meet the NAAQS, EPA will designate specified areas as “nonattainment areas.” State (or local) jurisdictions are required to revise their SIPs as necessary to bring any designated nonattainment area back into attainment pursuant to prescribed procedures and deadlines in the Clean Air Act.

ACHD has developed and submitted its SIP as well as its revisions to EPA. EPA regularly reviews and approves the SIP and the revisions. The fugitive emission standards that are the subject of the Enforcement Order have all been approved by EPA in Allegheny County’s portion of the Pennsylvania SIP. For the most part, the Article XXI standards comprise the SIP for Allegheny County. Included in Article XXI is §2105.21, which establishes emission limits on coke batteries.

EPA revised the NAAQS for SO₂ in 2010 to impose a more stringent SO₂ standard. Prior to the promulgation of the new standard and the subsequent nonattainment designation with the revised SO₂ standard, the Clairton area was in attainment with the previous SO₂ standard for many years; and was designated “attainment.” Based on monitoring data, a portion of southern Allegheny County that includes the area where the Clairton Plant is located, was designated nonattainment for SO₂. In response to the nonattainment designation, ACHD worked cooperatively with stakeholders, including U. S. Steel to develop a SIP revision that further reduced SO₂ emissions and included a modeling demonstration that the SO₂ NAAQS would be met. ACHD submitted the SIP revision in September 2017. As part of the 2017 SO₂ SIP revision, U. S. Steel committed to further reduce emissions of SO₂.

EPA revised the NAAQS for PM in 2012 to impose a more stringent standard for PM_{2.5}.⁵ Based on monitoring data, Allegheny County was designated as nonattainment for PM_{2.5} in January 2015. The designation triggered an obligation on ACHD to develop a plan to bring the county back into attainment. ACHD is currently working on the PM SIP revision that it is required to submit no later than September 2019.

The main impacts of the NAAQS and SIP process on U. S. Steel are: (1) the Clairton Plant is subject to emission limitations on coke batteries (codified at §2105.21 of Article XXI) that are currently part of the SIP to address criteria pollutants; and (2) ACHD and the regulated community are to develop a feasible plan for any designated nonattainment area so that the area can attain the NAAQS based on the SIP revision process. The Enforcement Order alleges violations of the existing Article XXI §2105.21 emission limits. Any attempt by ACHD to impose additional

⁵ PM_{2.5} is particulate matter with a diameter of less than 2.5 micrometers in diameter commonly referred to as fine particulate matter.

emission reduction requirements (beyond the enforcement of the existing emission limits in §2105.21) must be done in accordance with the prescribed SIP process.

2. *Hazardous Air Pollutant Standards*

The federal Clean Air Act establishes a framework for regulation of specifically listed “hazardous air pollutants,” which are different than the six criteria pollutants identified above. Section 112 of the Clean Air Act Amendments of 1990 specifically listed approximately 189 hazardous air pollutants. ACHD did not identify any hazardous air pollutants in the Enforcement Order, but now suggests in its Pre-Hearing Statement that hazardous air pollutants are relevant to this appeal. ACHD’s discussion of hazardous air pollutants is misplaced.

The Clean Air Act directed EPA to develop a list of source categories (for example, coke batteries) to be regulated and also established deadlines for EPA to complete such regulations. Because every industry uses different technology and produces different hazardous air pollutants, the Clean Air Act directs EPA to develop industry-specific standards, known as National Emission Standards for Hazardous Air Pollutants (“NESHAP”). To develop the NESHAP standards, under the Clean Air Act Amendments of 1990, EPA first establishes “technology-based” standards based on the “maximum achievable control technology” (“MACT”). This means that the technology and work practices in facilities that produce the lowest hazardous air pollutant emissions are used to set the standards for the rest of the industry.

The Clean Air Act requires EPA to revisit the technology-based standards every 8 years and revise them as necessary. The Clean Air Act specifically requires that, as part of the 8-year review, EPA adjust the technology-based standards as necessary to protect against any remaining risk to human health (referred to as “residual risk” standards). Finally, the Clean Air Act includes specific provisions for coke oven batteries that provide an option: coke oven batteries may either: (1) meet the MACT standards and then meet the residual risk standards developed by EPA to address residual risk; or (2) meet standards based on the lowest achievable emission rate (“LAER”) in which case compliance with the residual risk standards begins on January 1, 2020.

EPA finalized the NESHAP for Coke Oven Batteries (40 CFR Part 63, subpart L) on October 27, 1993. The NESHAP included visible emission limits on charging, lids, doors, and offtakes. The NESHAP also specifies a methodology (Method 303) for monitoring compliance with the NESHAP limits. The NESHAP requires certified Method 303 inspectors to conduct a daily inspection of each regulated emission point on each battery.

On April 15, 2005, EPA finalized its residual risk rulemaking for coke oven batteries. As part of the 2005 rulemaking, EPA imposed revised, more stringent emission limitations than the original 1993 MACT standards. The EPA adjusted the NESHAP standards from MACT to LAER and concluded that sources controlled to the LAER standard do not pose an unacceptable risk to human health.

The coke batteries at the Clairton Plant opted to meet the LAER standards. The coke batteries at the Clairton Plant are 100% compliant with the federal NESHAP limits. Notwithstanding that the Clairton Plant is 100% compliant with the federal NESHAP limits and that the Enforcement Order

does not identify any hazardous air pollutants, ACHD now claims (in its Pre-Hearing Statement) that the Enforcement Order is directed at health hazards caused by hazardous air pollutants including coke oven gas, naphthalene, benzene, toluene, ethyl-benzene and xylene.

Section 112 of the Clean Air Act establishes a comprehensive regulatory scheme for regulation of hazardous air pollutants from coke oven batteries. ACHD has authority to implement and enforce the NESHAP for coke batteries. While the ACHD has regulatory authority over criteria pollutant emissions, it does not have similar authority with respect to hazardous air pollutants. The Pennsylvania Air Pollution Control Act specifically limits the authority to regulate hazardous air pollutants and instead, defers to the federal Clean Air Act for regulation of hazardous air pollutants. As noted above, ACHD does not allege any non-compliance with any NESHAP or any other type of hazardous air pollutant standard, making any attempt by ACHD to regulate hazardous air pollutants via its Enforcement Order inappropriate and unlawful.

III. THE ENFORCEMENT ORDER

On June 28, 2018, ACHD issued the Enforcement Order to U. S. Steel, which includes the following allegations and requirements:

- As support for the severe penalties and potential sanctions included in the Enforcement Order, ACHD included a section entitled “Ongoing and deteriorating issues” that paints a bleak picture of the compliance status of the coke batteries (citing very low compliance percentages of 50%; 67%; etc.). This is not representative of the true compliance status of the coke batteries. What ACHD did not say in the Enforcement Order, and what was learned in discovery, is that ACHD used selective and incomplete data to calculate these alleged compliance percentages. If ACHD had used all of the data it had available, which is the same data it used to determine the alleged violations in the Enforcement Order, the compliance rates are markedly higher and do not show ongoing and deteriorating issues. As noted above, by ACHD’s own calculations, the Clairton Plant is 100% compliant with federal regulations and over 98% compliant with ACHD’s Article XXI regulations.
- ACHD also alleges in the Enforcement Order that U. S. Steel employees have taken actions that skewed or disrupted inspector observations. ACHD correctly notes in its Pre-Hearing Statement that it did not impose any penalty or require any corrective action for these alleged actions. While U. S. Steel strongly disagrees with ACHD’s allegations about U. S. Steel employees purportedly skewing or disrupting inspector observations, it also agrees with ACHD that these allegations are irrelevant to the alleged violations in the Enforcement Order and this appeal.
- The Enforcement Order requires U. S. Steel to increase its compliance rate across all batteries for two successive calendar quarters. (Enforcement Order, ¶ 3, p. 27.) The “baseline” compliance percentage is based on U. S. Steel’s first quarter of 2018 compliance rate and was calculated by ACHD to be 98.152%.
- The two successive calendar quarters begin 30 days after ACHD has approved the emission reduction plan submitted per the Enforcement Order (¶ 2, p. 26). Based on ACHD’s approval of the U. S. Steel plan on October 3, 2018, U. S. Steel was required to begin implementing its plan by November 2, 2018, which it did (without waiving this appeal).

The first full calendar quarter thereafter begins January 1, 2019. Thus, the two successive calendar quarters are first quarter of 2019 and second quarter of 2019. U. S. Steel is required to exceed the 98.152% compliance rate in the first quarter 2019; and U. S. Steel is required to exceed the compliance rate of the first quarter 2019 in the second quarter of 2019.

- The compliance rate required under the Enforcement Order is calculated from an average of all 10 stacks (based on COMS measurements) compliance percentages and all 10 battery fugitives compliance percentages (e.g., doors leaks; charging; pushing; etc.) based on ACHD inspections and Method 303 inspections (which are performed by ACHD's contract inspectors). (Enforcement Order, ¶ 3, p. 27). This effectively treats half of the compliance metric as battery stack emissions (which are already governed by the 2016 Consent Judgment) and half as the collection of fugitive emissions, some of which (such as pushing) are not at issue in the Enforcement Order.
- Based on ACHD's calculation that the overall baseline compliance percentage for the first quarter of 2018 is 98.152%, U. S. Steel is required to achieve a compliance rate of 98.153% or higher in the first quarter of 2019. Assuming U. S. Steel achieves a compliance rate of 98.153% or higher in the first quarter of 2019, U. S. Steel is then required in the second quarter of 2019 to do better than it did in the first quarter 2019 (regardless of how high that compliance percentage was).
- The Enforcement Order imposes a new emissions limit on the coke side doors of B Battery of no more than 10 leaks per month based on the yard-equivalent reading from the ACHD's Method 303 contractor inspections. (Enforcement Order, ¶ 4, p. 27). ACHD has interpreted this condition to require compliance at the same time as the two successive calendar quarters begins (which is January 1, 2019).
- If U. S. Steel does not improve the compliance percentage sequentially in the first quarter of 2019 and again in the second quarter of 2019, then U. S. Steel triggers the obligation to hot idle its two worst performing batteries. (Enforcement Order, ¶ 5, pp. 27-28).
- If U. S. Steel fails to meet the 10 leaks per month standard at the B Battery coke side doors in any month from January of 2019 through June of 2019, it will trigger the hot idling of the two worst performing batteries. (Enforcement Order, ¶ 5, pp. 27-28).
- If the hot idle provision is triggered due to noncompliance with the B battery coke side door standard, the two batteries to be idled are the two worst performing batteries which may not even include B Battery or the battery with the highest level of emissions. In addition, if U. S. Steel demonstrates compliance based on two successive quarters of improved compliance rates but has 11 or more leaks at the coke side doors of B Battery in one month, the Enforcement Order appears to still require hot idling of two batteries.

IV. SUMMARY OF ISSUES

U. S. Steel's Amended Notice of Appeal identifies the ways in which ACHD has abused its discretion and acted unreasonably, arbitrarily, capriciously, contrary to fact and law and in a manner not supported by evidence. Some of U. S. Steel's primary arguments, supplemented with additional information learned through discovery, are summarized below:

- The compliance percentages at the Clairton Plant do not justify the significant penalties and severe sanctions contained in the Enforcement Order. By ACHD's own calculations, the Clairton Plant is 100% compliant with the federal regulations and over 98% compliant with ACHD's Article XXI regulations. In addition, the Clairton Plant is 99.384% compliant with ACHD's Article XXI regulations governing battery stack emissions, which ACHD and U. S. Steel agreed is the most effective surrogate for measuring environmental performance across the entire Clairton Plant.
- ACHD cannot prove the alleged violations in the Enforcement Order, which includes alleged violations from the third quarter of 2017 through the first quarter of 2018, because the alleged violations are based on subjective, flawed and inappropriate inspections that were not conducted in accordance with the specified requirements and appropriate test methods, and some of the alleged violations have previously been resolved.
- ACHD imposed a civil penalty in the amount of \$1,091,950 for the violations alleged in the Enforcement Order. This penalty is inappropriate based on ACHD's inability to prove the alleged violations and also because it is based on an inappropriate retroactive application of ACHD's 2018 penalty policy.
- ACHD's methodology for demonstrating an emissions reduction improperly relies on emissions that are not the subject of any of the alleged violations in the Enforcement Order. Notably, ACHD, in the Enforcement Order, states that it is not taking any action specifically regarding pushing, soaking (batteries 1, 2 and 3) or combustion stacks (as measured by COMS). (*See e.g.* Enforcement Order, ¶ 40, p. 11.) However, ACHD specifically includes pushing, soaking (batteries 1, 2 and 3) and combustion stack emissions in the formula for demonstrating increased compliance/decreased emissions at the coke batteries. If the compliance rate for the Article XXI standards for fugitive emissions *increases* slightly (say by 0.1%) but the compliance rate for the combustion stack (COMS) *decreases* by a higher amount (say 0.3%), U. S. Steel will not be able to demonstrate compliance with the Enforcement Order even though it improved compliance for the fugitive emission standards for which ACHD alleged noncompliance in the Enforcement Order. Despite ACHD's disclaimer that the Enforcement Order does not include any action regarding pushing, soaking (batteries 1, 2 and 3) or combustion stacks (COMS), the Enforcement Order clearly imposes compliance obligations on these sources by requiring them to be included in the emissions reduction/increased compliance obligation. Regulating pushing, soaking (batteries 1, 2 and 3) and combustion stacks is in direct contravention of a 2016 Consent Judgment agreed to by ACHD and U. S. Steel that is currently being implemented and remains subject to the jurisdiction of the Allegheny County Court of Common Pleas. The 2016 Consent Judgment specifically regulates these sources and requires U. S. Steel to demonstrate a 98.5% compliance rate for each of the combustion stacks based on the COMS. The Enforcement Order piles on and requires U. S. Steel to consider COMS in the compliance demonstration such that a compliance percentage higher than the 98.5% may well be required on the combustion stacks.
- ACHD imposed a new emission limit on the B Battery coke side doors without any appropriate technical or legal justification or any input or discussion from U. S. Steel. ACHD simply made up a new emission limit based on its review of some historic data from B Battery coke side door leaks. ACHD's new limit allows no more than 10 leaks per

month from the coke side doors based on the yard-equivalent readings from the Method 303 inspection data. ACHD imposed this new emissions limit despite the fact that the B Battery coke side doors are already subject to emission limits and are 100% compliant with the federal NESHAP that applies to the B Battery coke side doors. Moreover, the ACHD does not allege in the Enforcement Order any violation at the B Battery coke side doors yet imposes a new standard on them via the Enforcement Order. The new standard created by ACHD is significantly more stringent than the existing standards and is not technically achievable on a sustained basis.

- ACHD took the extreme and unlawful measure of including an obligation to “hot idle” two coke batteries. The Enforcement Order requires U. S. Steel to hot idle the two worst performing batteries if U. S. Steel does not meet certain other obligations in the Enforcement Order. Placing a battery on hot idle will impose significant economic consequences on U. S. Steel while the batteries are hot idled in terms of replacement costs for coke and coke oven gas. Moreover, hot idling a battery causes thermal shock and damage to the refractory in the battery. For an older battery, hot idling is likely tantamount to a permanent shutdown of the battery. Hot idling a coke battery is a last resort. The hot idle sanction is severe and including this obligation in the Enforcement Order is unnecessary and an abuse of discretion. ACHD had other more reasonable and lawful measures that it could implement. The most obvious measure is to wait and see how U. S. Steel complies with the Enforcement Order. If ACHD later determines that compliance has not improved sufficiently to its satisfaction, ACHD could then pursue additional measures and sanctions, which could include a hot idle order, at that time. Including it now as an absolute requirement in this Enforcement Order is premature and may not be rational or commensurate with the magnitude of any deviation from the Enforcement Order requirements. ACHD abused its discretion.
- To exacerbate the concern with the hot idle provision, ACHD premised hot idle not only on failure to demonstrate reduced emissions/improved compliance for two successive calendar quarters, but ACHD also crafted the Enforcement Order such that failure to meet the newly created B battery coke side door standard would trigger the hot idle requirement. This means that U. S. Steel will be required to hot idle two batteries if it has more than 10 leaks in one month from the coke side doors on B Battery. A single door leak above the made-up arbitrary and capricious standard of 10 leaks per month will trigger the extraordinary measure of hot idling two batteries. The emissions from one leak are practically immeasurable, yet one additional leak triggers hot idle. This action is clearly going too far and is an abuse of discretion and contrary to law.

V. WITNESS LIST

At this time, U.S. Steel intends to call the following witnesses, in the order listed below. This list and proposed order of witnesses is subject to change in order to adapt to the evidence put on during the hearing as part of ACHD’s case in chief and/or rebut claims or testimony of ACHD.

1. Dean DeLuca (ACHD)
2. Jayme Graham (ACHD)

3. Angela Crowley (ACHD)
4. Gary Downard (ACHD)
5. Jim Kelly (ACHD)
6. Bill Clark (ACHD)
7. Mark Dvorsky (Keramida)
8. Walt Greenewald (Keramida)
9. Melissa Hallas (Keramida)
10. Ed Cherepko (Keramida)
11. Michael Rhoads (USS)
12. Tishie Woodwell (USS)
13. Jonelle Scheetz (USS)

VI. EXHIBIT LIST

1. All documents identified by ACHD in its Pre-Hearing Statement, including the documents it produced in discovery
2. All deposition transcripts
3. All deposition exhibits
4. 52 Fed. Reg. 13,586 (April 23, 1987)
5. 57 Fed. Reg. 57,403 (December 4, 1992)
6. 57 Fed. Reg. 57,534 (December 4, 1992)
7. 58 Fed. Reg. 57,898 (October 27, 1993)
8. 70 Fed. Reg. 19,992 (April 15, 2005)
9. 51 Fed. Reg. 31,076 (August 29, 1986)
10. 58 Fed. Reg. 61,640 (November 22, 1993)
11. 71 Fed. Reg. 55,119 (September 21, 2006)
12. 40 CFR 60, App. A-4, Method 9
13. 40 CFR 51, App. M, Methods 203A, 203B, and 203C
14. 40 CFR 63, App. A, Method 303
15. EPA Visible Emission Inspection Procedures (August 1975)
16. Visible Emissions Field Manual EPA Methods 9 and 22 (December 1993)
17. Collection of diagrams and photographs
18. Collections of ACHD and Keramida inspection sheets
19. 2014-2017 Annual Emissions Inventories
20. 2014-2017 Annual Emissions Statement Acceptance from ACHD
21. Battery stack COMS compliance
22. B Battery door leak standards comparison
23. ACHD memo dated September 14, 2017
24. ACHD Installation Permit #0052-I017 (issued September 14, 2017)
25. ACHD Installation Permit #0052-I011b (issued July 24, 2008)
26. Background Information for Document (April 1987), EPA-450/3-85-028a
27. Enabling Document for National Emissions Standards for Coke Oven Batteries (November 1993) EPA-453/R-93-052

U. S. Steel reserves the right to introduce any exhibit listed in ACHD's prehearing statement and would have listed as exhibits several of the exhibits that have already by listed by ACHD. U. S. Steel reserves the right to amend, supplement or alter the foregoing up to the time of the hearing. Given the voluminous nature of some of the exhibits, U. S. Steel expects that it will present certain evidence in electronic form and/or offer into evidence summaries, charts, or calculations related to the contents of the exhibits consistent with Pa. R. Evid. 1006.

VII. CONCLUSION

ACHD abused its discretion, acted unlawfully and unreasonably in issuing the Enforcement Order. U. S. Steel requests that the Hearing officer rescind, vacate, or otherwise nullify the Enforcement Order.

Respectfully submitted,

/s/ Mark K. Dausch

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Dated: November 15, 2018

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DEPARTMENT, Air Quality Program)	
)	
Appellee.)	

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of November, 2018, a true and correct copy of the foregoing Appellant United States Steel Corporation’s Pre-Hearing Statement was served by electronic mail upon the following:

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Respectfully submitted,

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