Volume 2

ALLEGHENY COUNTY HEALTH DEPARTMENT

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UNITED STATES STEEL CORPORATION, a Delaware corporation,	:	
Appellant,	:	
	:	Appeal of Enforcement
versus	:	Order #180601
ALLEGHENY COUNTY HEALTH DEPARTMENT, Air Quality Program,	:	
Appellee.	:	

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Verbatim hearing transcript of hearing held at
At Clack Health Center,
Building 7, 301 39th Street,
Pittsburgh, Pennsylvania, on
December 4, 2018
at 9:00 a.m.

BEFORE: MAX SLATER, ESQUIRE, Hearing Officer

ADELMAN REPORTERS
302 Torrey Pine Drive
Mars, Pennsylvania 16046
Phone 724-625-9101; Fax 724-625-9133

APPEARANCES:

JASON K. WILLIS, JR., ESQUIRE - Assistant Solicitor
Allegheny County Health Department
Building 7, 301 39th Street
Pittsburgh, PA 15201

For - Allegheny County Health Department

MARK K. DAUSCH, ESQUIRE
MICHAEL H. WINEK, ESQUIRE
Babst Calland
Two Gateway Center
603 Stanwix Street, 6th Floor
Pittsburgh, PA 15222

For - U.S. Steel Corporation

DAVID W. HACKER, ESQUIRE
U.S. Steel Corporation
600 Grant Street, Suite 1500
Pittsburgh, PA 15219

For - U.S. Steel Corporation

Also Present: Michael Parker, Esquire

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(Exhibits were not provided to court reporter)

PROCEEDINGS OF DECEMBER 4, 2018

HEARING OFFICER SLATER: Let's go on the record. It is Tuesday, December 4th, 2018. This is day two of the hearing, United States Steel Corporation versus Allegheny County Health Department.

For the record, could counsel identify themselves again?

MR. WILLIS: Jason Willis for Allegheny County Health Department.

MR. DAUSCH: Mark Dausch for U.S. Steel.

HEARING OFFICER SLATER: Will any witness who is testifying today, please raise their right hand to be sworn in.

(All potential witnesses were duly sworn by the court reporter.)

HEARING OFFICER SLATER: Mr. Willis, you may proceed with your first witness today.

MR. WILLIS: I will call Dean DeLuca.

DEAN DELUCA, called as a witness, being previously sworn, testified as follows:

DIRECT EXAMINATION

BY MR. WILLIS:

Q. Hello, Mr. DeLuca. Could you state your full name for the record, please?

A. **Dean DeLuca.**

Q. Can you tell me what your current occupation is?

A. **Air pollution control manager, enforcement chief.**

Q. Of what division?

A. **Allegheny County Health Department.**

Q. Are you a part of the Air Quality Program?

A. **Yes.**

Q. How long have you had that position?

A. **About five years.**

Q. And prior to that, what was your job?

A. **I was an Air Quality Engineer III.**

Q. Also with Allegheny County Health Department?

A. **Also with the Allegheny County Health Department.**

Q. And prior to that, what was your position?

A. **I was an Engineer II and I was a trainee also with Health Department.**

Q. And when did you begin that?

A. **I started December of '08.**

Q. And that's your begin date for your employment with the county?

A. **Yes.**

Q. Okay. And prior to your employment with the county, what did you do?

A. **I worked in construction management.**

Q. For?

A. **Declava (phonetic) and RDC, Residential Development Construction.**

Q. How long did you have that position?

A. **A total of about two and a half years between the two companies.**

Q. And prior to that, what did you do?

A. **That's when I graduated college from Bucknell.**

Q. What did you graduate from Bucknell, what was your degree?

A. **Civil environmental engineering.**

Q. Okay. When did you graduate?

A. **2006.**

Q. And have you had any formal education beyond Bucknell?

A. **Yes.**

Q. What would that be?

A. **I got an MBA.**

Q. From?

A. **Argosy University.**

Q. Okay. When did you get that degree?

A. **I graduated about 2012 --**

Q. 2012, okay.

A. **-- to get the exact year.**

Q. Beyond your formal education, have you had any experience or training with respect to steelmaking or coke oven operation?

A. **Through the Allegheny County Health Department, I went up to Canada for a week-long training on blast furnaces one year and coke ovens —**

COURT REPORTER: Sir, you are going to have to speak up because the air is blasting.

BY MR. WILLIS:

Q. Could you repeat your answer? You were talking about Canada training.

A. **Yeah. Through the Allegheny County Health Department, there was a week-long training at McMaster University, one year was for blast furnaces and there were coke ovens the following year. That was in 2014 or '15.**

Q. How long were each of those trainings?

A. **A week long. It was a full day every day for the five days and some stuff in the evening also.**

Q. And what was the nature of that training? What was the subject matter?

A. **The first class was about blast furnaces and the second day was about coke ovens, and people came from various countries to it.**

Q. Was anybody from the industry involved in that training?

A. **Yes.**

Q. Do you remember who or what companies or

organizations?

A. Vasco, ArcelorMittal, SunCoke, a couple names that I won't be able to remember from Australia, I believe DTE Energy. I forget all the companies, maybe 60 or 70.

Q. For each of the companies?

A. Each of the trainings.

Q. Oh, each of the trainings, okay. And with respect to those trainings, did you -- were you trained with respect to the operation and maintenance of the coke oven?

A. That was part of it. It covered how to operate them, which wasn't directly related to the position for me at the time. It was about the inner workings of the blast furnaces and coke ovens, environmental performance, different technologies that some people around the world were using.

Q. Was there any discussion about the chemistry of the coke-making process?

A. A little bit of it. Unfortunately, because I never took organic chemistry, some of it did go over my head. You know, there was a lot of chemistry involved in it.

Q. That's fair enough. I'm going to switch gears a little bit, and I'm going to be switching gears quite a

bit through your testimony, so be prepared to pivot a little bit, if you would.

Could you explain to us and to the Hearing Officer the complaint system that the Allegheny County Health Department has for the reception of the complaints?

A. Yes. We have — it's an Oracle program and then people can enter complaints either through the phone or through the website now. That gets put into our centralized complaint system.

If we receive complaints from the Pennsylvania Department of Environmental Protection, the Environmental Protection Agency, EPA or PA DEP, we manually input them into that same system, and then the inspectors or the enforcement engineers who are related to it can get into that system and review the information in there and respond to the complaints accordingly.

Q. Now, you mentioned the inspectors and their response to complaints. Do we have overnight inspectors?

A. No.

Q. So what happens if there is a complaint at 10 p.m.?

A. Well, we probably won't be able to get out there

at 10 p.m. The morning after, we will look at the complaints that occurred off-shift and they will look at the urgency of them.

If we receive multiple complaints from an area about a specific odor, an issue like that, and it seems like it might be continuing at that point, they would go out first thing in the morning, maybe even go there before they come into the office, see if the episode is still occurring, and then respond accordingly to that one.

If it is something that is a short-term episode that is more of a filing saying, "Okay, we got more complaints in this area," for the future, in case more things come up in the same area, to try and see and respond to them, it is difficult to respond to a short-term episode that happens off-shift.

Q. Why is that?

A. Because the inspectors aren't going to find out about it immediately. They are not going to be able to respond immediately. If it's an episode that will last, we'll say, five to 10 minutes, they are not going to get there.

On top of that, even if it's during the shift, it may be difficult for them to even get to that area or vicinity while the complaint is still occurring.

Q. I see. Again, shifting gears little bit, we -- the Allegheny County Health Department has a civil penalty policy. Are you familiar with that policy?

A. Yes.

Q. Are you familiar with the policy which existed prior to 2018?

A. Yes.

Q. Could you explain the difference between the prior policy and the current policy? What --

A. The current --

Q. I'm sorry. Sorry, go ahead.

A. The current is policy much more formalized. It is a public document that has — goes into a description, a lot of it about what can be done, all the different factors of Article 21 that go into that penalty calculation.

The older policy was more of a short guidance. It was the penalty calculation factors that were used. It incorporated a lot of the factors of Article 21 into that also. That was used for years, we'll say — I don't know how many. And then —

But the newer one does incorporate the affect on the environment more so. It affects all the Air Quality Program, both -- there were two guidances, one for coke ovens and one for other sources previously. Now it is

all in one policy. And that policy — it goes through all the factors. It is more of a descriptor too for the person who is doing the calculation. Anybody in the Air Quality Program can do it. They can use that policy and go through and come up with an amount at the bottom of it.

Q. Okay. With respect to the policy that existed prior to 2018, you mentioned that it was a guidance. Why do you think that is?

A. There was never -- as far as I saw, there was no formal long-duration policy. It was a one page or two page, if it was referred to as a "policy," — I don't know the terminology of it — but it was only one or two pages. The new policy is maybe 15 or so. So it is much more descriptive than the previous policy was.

Q. So the current policy is more comprehensive than the prior policy?

A. Yes.

Q. Okay. With respect to the prior policy or guidance, was it ever formalized in terms of a calculation spreadsheet or anything that could be used to describe how that process operated from the back end?

A. Yeah, that's what it was -- it was a calculation spreadsheet and it had two separate — it is an Excel file with two separate tabs: one had the description of

it and one had the calculation of it. So that was the policy previously.

Q. Oh, so the policy was actually just a spreadsheet with --

A. It was a spreadsheet and then guidance factors, yeah.

Q. And the factors were the same. Are those the same factors that would be found in Article 21?

A. A lot of them are, yes. It just doesn't incorporate all of them.

Q. It does not incorporate all of them?

A. It incorporated the majority of them. I can't remember if it was all of them or not, because I haven't used it in a while.

Q. Before you were the chief of enforcement, who was your predecessor?

A. Ed Peresie.

Q. And do you know who preceded Ed Peresie?

A. Jim Thompson.

Q. And to your recollection, did Jim Thompson become deputy director sometime after?

A. Yes.

Q. Okay. Do you know how Jim Thompson operated with respect to enforcing the penalty policy?

A. I can speak to my time here because he was my --

whenever I was an air quality trainee, he was the enforcement chief/program manager. So at that time, he was my boss. And we used that penalty calculation spreadsheet at that time.

Q. Okay. Were you ever allowed to deviate from that guideline or policy in the past?

A. Yeah, we could.

Q. Were there occasions in which you did?

A. Yes. Because that policy did not account for the EPA BEN model, the economic benefit model, so anything that came up using that BEN model would have been a deviation from that guidance policy.

Q. Could you explain what a BEN model is?

A. I'm sorry. It's an EPA model that is used to determine economic benefit from companies.

The way that the previous guidance was, it was one of the factors in it. And the current — the current policy has it being one of the factors and the additional potential addition for economic benefit if that's not enough.

So the economic benefit model is something that the EPA or somebody that worked for the EPA created this system a while ago. You input the information relating to that violation and then that system will output an economic benefit, and that's what the EPA uses for

economic benefit for violations.

Q. And when you say "economic benefit," what do you mean by economic benefit?

A. The amount that the company benefitted or an individual benefitted from that violation.

Q. Okay.

A. So, for example, if you were supposed to install control equipment and you didn't install control equipment, that program would input the amount of the — the cost of the system, how long you were in noncompliance, and then it would come out with an amount of different factors that go into the back end, but...

Q. Does that model take into consideration the assets or net worth of a violator?

A. That one does not, but another EPA program does.

Q. What is that?

A. It is ABLE, ability to pay. And then it has one for individuals called INDIPAY. So those all take into — the initial BEN model is just this is what the penalty should be, and then the second step is do they have the ability to pay if the company brings up that objection, and that would be the INDIPAY or the ABLE models.

Q. I see. You're familiar with Article 21 regulations with respect to coke ovens, correct?

A. Yes.
Q. And with respect to our penalty assessment, do we base those penalty assessments on visible emissions?
A. That is definitely one of the factors used. It is a frequent one. For coke ovens, visible emissions are a big part of it.
If you are talking specifically about Method 9, not all violations are Method 9; because if we are just counting leaks, it wouldn't be Method 9. But it is emissions which are visible.
Q. Okay. Do you have another method in mind that would take that into consideration?
A. Well, if you are looking at the percent leaking standards for the doors, lids and offtakes, those ones don't read opacity, just is there a leak there. Method 22 is one of the ones that they do use for is there a leak or not.
Q. Do we -- does the -- does Article 21 contemplate opacity standards at all?
A. Yes.
Q. Does it do that with respect to coke ovens?
A. Yes.
Q. What are those standards?
A. Pushing. Pushing and travel for pushing both have opacity standards, has a high-opacity standard for

door leaks. Charging doesn't have opacity. Lids and offtakes do not have opacity, and then soaking has opacity.
Q. Do you know why opacity would be used as a metric for determining compliance?
A. It's a surrogate for emissions coming out of the source, whether — if it is soaking emissions, it would be the emissions coming out. You use what you can see as a surrogate for what you can't see.
So if there's an opening and emissions are coming out and they are visible, you use that as a surrogate for both visible and non-visible emissions.
Q. And how do we get the data with respect to visible emissions? How do we know when there has been a visible emissions event that would cause a penalty?
A. Inspection data.
Q. Who is doing the inspections?
A. It could be ACHD, the county inspectors, coke oven inspectors. It could be — Keramida is the Method 303 contractor.
And then U.S. Steel also employs somebody to do readings per the 2016 Consent Judgment for pushing and soaking.
Q. Okay. Now, let's back up a little bit. ACHD has inspectors that do inspections of the coke ovens at U.S.

Steel Clairton?
A. Yes, there are currently two full-time coke oven inspectors.
Q. When are they there? What are their work hours?
A. Normal working hours, seven to three.
Q. Seven days a week?
A. Five days a week.
Q. Both of them, five days a week?
A. Correct, yes.
Q. With respect to Keramida, what's their purpose?
A. They do the EPA-required Method 303 inspections. They -- every battery in the country -- every coke oven battery in the country has to be inspected on a daily basis, and then Method 303 is the way to do that.
And Keramida is the ACHD contractor that completes those inspections. They do those inspections seven days a week, all the types they have to do, at each of the 10 batteries at Clairton.
Q. I see. Do we pay Keramida? Are they one of our contractors or are they a contractor of U.S. Steel?
A. They are contracted by Allegheny County, and U.S. Steel pays Allegheny County who pays Keramida.
Q. So we are reimbursed by U.S. Steel for the activity of Keramida?
A. Yes.

Q. Okay. With respect to the observations that are made for visible emissions by ACHD employees, how does that -- what do they do in terms of getting the -- well, let me ask you: do they report back to you?
A. Yes.
Q. Daily?
A. No.
Q. Weekly?
A. Every payday, they would come and enter all the inspection data into the system, and then that gets updated every — so every two weeks, generally speaking.
Q. Every two weeks?
A. Yeah.
Q. Do they both come in every two weeks to --
A. No, they would alternate. So one person would come at one time and then the other one, and then they would alternate back and forth.
Q. With respect to the inspection reports that they generate, -- they do generate inspection reports?
A. Correct, yes.
Q. -- do they bring those reports in for just themselves? How does that work? So it's once a month they bring in their reports for --
A. Well, them bring in each other's reports. Every two weeks, we would get those reports. And then the

document manager scans them into the system as time allows, and then we will have access to them once they are scanned into the system.

Q. So if I'm understanding this correctly, every two weeks, one of the two inspectors will come in and drop off the reports for both of them?

A. Yes.

Q. To the document control manager?

A. Yeah. It would be nice if we had the electronic system to do it, but that's what we have.

Q. Okay. With respect to Keramida, how do we get information from Keramida regarding their inspections?

A. Keramida submits daily Excel sheets that are — I don't know if they are audited, and I don't believe they are audited, but daily Excel sheets to U.S. Steel and ACHD with the inspection data for that day, and then we get a monthly summary report of all of that from Keramida.

Q. To your knowledge, do you know whether or not either ACHD inspectors or Keramida inspectors provide daily information to U.S. Steel?

A. Yeah. The ACHD inspectors give U.S. Steel their sheets at the end of the day. They copy them, from what I'm told, and then I know that Keramida's sheets are also sent over to U.S. Steel at the same time that ACHD

gets them.

And then something happened with -- I forget -- I don't know the details of the agreement, but U.S. Steel and Keramida have an agreement also where U.S. Steel will get the Keramida data earlier than the next day after it's QC'd so that the non-quality assured quality control data at the end of the shift, generally maybe an hour after the shift instead of after it's been quality controlled, so they can get the information sooner.

Q. Okay. So in both cases, inspectors are providing U.S. Steel with data with respect to their inspections the same day?

A. Yeah. The only exception to the same day would be if Keramida finishes their shift at, like, 11 or 12 p.m. and then it takes them an hour, so they have to do it the following morning; but that would be the latest, yes.

Q. Okay. Now, you said you've been in this position as enforcement chief for how long now?

A. About five years.

Q. And during those five years, have you issued quarterly penalties against U.S. Steel?

A. Yes.

Q. Before you were the chief of enforcement, do you recall whether or not quarterly penalties were issued

against U.S. Steel?

A. As far as I'm aware, they were; and in the records I saw, it said that.

Q. Okay. How long does it take you -- and I mean by "you," your group, the enforcement group -- to develop a quarterly penalty assessment for U.S. Steel in any given quarter, roughly?

A. It depends on the number of violations how long it takes, really. If there are one dozen violations, it's going to take a lot less time than it does if there's 150 of them.

But if you are looking at the duration on a calendar-wide — the first quarter, we will just use as an example, ends the end of March. We would get the data mid-April, end of April would be the latest we would get all of that data, and then it takes time to analyze that. So the earliest we could would be maybe a month and a half after the end of a calendar quarter.

Q. I see.

A. In that range.

Q. So for -- and let's be specific. For the fourth quarter of 2017, to have a full data set for purposes of computing a penalty, you wouldn't have that data until January?

A. Yeah, maybe — yeah, I don't know what time in

January, mid to late January.

Q. So your actual enforcement exercise for the prior quarter would generally begin in the month subsequent to that quarter?

A. Yeah.

Q. Okay.

A. Maybe two months after, but yeah.

Q. So there would really be no way for you to calculate a full quarter in that quarter?

A. Oh, no.

Q. So -- and let me finish my thought here.

A. I'm sorry.

Q. But if we are talking about the fourth quarter of 2017, there's no way you could generate a penalty for the full quarter of 2017 until January of 2018?

A. Correct.

Q. Okay. Have you issued penalty assessments against U.S. Steel since the 2016 Consent Judgment?

A. Yes.

Q. Are you aware of the 2016 Consent Judgment?

A. Yes.

Q. Have you reviewed the 2016 Consent Judgment?

A. Yes.

Q. Have you ever been asked to ascertain whether or not they are, U.S. Steel, is in compliance with that

judgment?
A. Yes.
Q. And to the best of your knowledge, U.S. Steel has been in compliance with that 2016 Consent Judgment?
A. Correct.
Q. Okay. And I'm sorry, I have to apologize for bouncing all over the place, but I want to get all of this in the record.
Are you aware of what the Allegheny County Health Department's statute of limitations is with respect to the penalty assessment?
A. Seven years.
Q. Which is to mean we could look back seven years to assess a penalty?
A. That's the way I've been told, yeah, it can go back seven years from the date of the violation to the current date.
Q. So if we observed -- if we became aware of a violation which occurred in 2012, we would be able to assess a penalty against that violation?
A. Yes.
Q. And if we were to do so, would we use the penalty policy in place in 2012 or would we use the current penalty policy?
A. The current penalty policy.

Q. Why would we do that?
A. I don't even know if we would be able to find the penalty policy from 2012, but it is the policy effected at the time of the calculation that you use.
Q. Okay. During your tenure with the county, you've been privy to the inspection regime, how inspections were done by ACHD inspectors from the time that you started until now.
Have you instituted or are you aware of any changes in how inspections are done?
A. Is this specific to coke ovens?
Q. Yes, specifically with respect to coke ovens.
A. Yeah. Whenever I had started off, there were a lot of inspections that would be more visual and not actually recorded. It was seeing the state of the battery, is what I was told.
From the hillside, you can see a lot of the plant and, I guess, they would somehow coordinate with the plant to say, "Okay, I see emissions on Battery 3," and that type of direction.
And then I looked at it more and said, "Well, we need to have at least one inspection of every -- for every type of battery a month." So there are those inspection types. Ten batteries each month at least get one inspection. And then beyond that, it's

self-directed on where to go beyond those.
Q. Okay. Have there been more inspections since you've become enforcement chief?
A. Yes.
Q. Could you give me a sense of the scale in terms of what it was like before versus now?
A. Looking at some of the historical data, it looked like there was maybe 10 times as much, something in that range. I have to look at the numbers specifically, but there is a big difference between before and after.
Q. Okay. I may have asked you this, but every single quarter since you've been employed by the Allegheny County Health Department, there has been a penalty assessed against U.S. Steel?
A. Yeah, yes.
Q. Okay. And over the past two years since you've been reviewing the performance in terms of compliance, have you noticed an increase in visible emission observations?
A. Violations, yes. I'm not sure about the actual number of inspections, if that's changed in the last year or two.
Q. But you've noticed an increase in violations?
A. Yeah.
Q. Okay. Any way you can quantify that? Did it go

from two to 10, 10 to 1,000?
A. It would be hard to just because of the inspection types. On a quarterly summation -- I know like the non-stipulated penalties, which is what we write the orders up for, the non-stipulated penalties maybe three or four years ago had 10 or 20 violations and now it's at 150 or so.
Q. You mentioned penalty types. How many penalty types are there? Or inspection types are there, sorry. Not penalty types but inspection types?
A. I mean, just going through, there's charging. There's pushing, and travel is a part of pushing. There's doors. There's high-opacity doors. There's lids. There's offtakes. There's soaking. And then non-inspection would be COMS, Continuous Opacity Monitors.
Q. And you mentioned that U.S. Steel has their own inspectors for compliance with the 2016 Consent Order?
A. Yes.
Q. And you mentioned that -- what are they reviewing? What are they inspecting for?
A. They are doing pushing and soaking on Batteries 1, 2 and 3.
Q. And why aren't we making those inspections?
A. That was part of the 2016 agreement, the

judgment.

Q. Okay. Did we make use of that data beyond the stipulated penalties that were contemplated in the 2016 Judgment, Consent Judgment?

A. Not as far as I'm aware.

Q. Okay. You mentioned that we increased our number of inspections. Can you detail the manner in which those inspections are done? It sounds as though that has been changed somewhat?

A. Any given day, the ACHD inspectors would complete a full set of inspections, soaking, all the sheets. So each sheet has a set of inspections on it. Pushing will have pushes on it. Soaking has three ovens with a push side and coke side. They would do a complete sheet every day.

Q. Now, when you say --

A. In --

Q. I'm sorry, just to clarify, when you say "complete set," are we talking about each inspection type?

A. Yes.

Q. Okay. So they are supposed to do one of each type of inspections a day?

A. One sheet of each type, yeah.

Q. I'm sorry, go ahead.

A. Yeah. So it's, like I said, the pushing and the soaking; and then the topsides, which are lids and offtakes and doors.

Q. You're aware the EPA limits the NESHAPs as they are used by the Keramida inspectors?

A. Yeah, correct.

Q. Would you say that our inspections are more or less stringent than theirs in terms of --

A. Our inspections are the Article 21 regs versus Method 303 regs.

Q. Okay. So let me ask you this then: in terms of the Article 21 regulations versus federal requirements, are ours more stringent than federal requirements?

A. In nearly every case, yes.

Q. Okay. Are aware of the source testing manual?

A. Yes.

Q. Could you describe that for me?

A. It is a manual used by the Allegheny County Health Department to describe different ways to conduct inspections or tests.

Q. Is that used with respect to the Clairton Coke Works?

A. Yes, there is a coke oven section in the source testing manual.

Q. Okay. And how do those inspections and

requirements -- are there requirements? Let me ask you that, first of all.

A. It is not a regulation. It is only a manual.

Q. So we could deviate from that as well?

A. As far as I know, yes. It's not a regulatory requirement.

Q. The source testing manual is not a regulatory requirement?

A. No.

Q. Is it a regulation?

A. No.

Q. I don't know if I asked you that directly, but who adheres to the source testing manual, Keramida?

A. Keramida does not.

Q. Do our inspectors?

A. Our inspectors use the source testing manual, yes.

Q. Is that one of the distinctions between our inspectors and the Keramida inspectors?

A. One of many, yeah.

Q. Okay. Are there any limitations in the source testing manual that Keramida inspectors do not have in terms of our inspections?

A. Any limits in the -- sorry, can you say that again?

Q. Are there any limitations in the manner of our inspections under the source testing manual that Keramida is not subject to?

A. Are you saying do we have restrictions or anything listed in the source testing manual that they don't have?

Q. Yeah.

A. Yes, they don't have to follow the manual. So yes, they have -- they can do things that the manual would not allow, I guess, is one way to put it.

Q. Okay. What would that be?

A. Walking within 25 feet of the doors is one, the most obvious one.

Q. Of the doors? What doors?

A. The source testing manual has a condition in there of 25 feet, at least, from the doors to read doors that are leaking.

The Method 303 does not have that because they have to read every side of every battery. So what they have for the shedded side is a coke-side yard equivalency. That's calculated if they are reading from the bench, which is only a few feet from the doors as opposed to 25 feet.

Q. Okay. Well, let's take a step back. We are talking specifically about Battery B now. Battery B has

the shed on the coke side, correct?
A. Yes.
Q. And that shed is closer than 25 feet from the door of the coke side of the battery?
A. Yeah, it may even extend beyond 25 feet. But the shed is only six inches or a foot from the battery and extends over the hot car area.
Q. Is there any reason why we would not be able to get any closer to make those observations?
A. Well, ACHD inspectors, you can get to the bench and read from the bench; but beyond the bench and meet that 25-foot requirement, it would be unsafe.
Q. It would be unsafe?
A. With the hot car movement, yeah. If the hot car was to completely stop, I'm sure there's a way, but...
Q. So because of the source testing manual's 25-foot minimum distance requirement, we do not do those inspections on that side, on coke side of Battery B?
A. Correct.
Q. Because there's a limitation, a physical limitation, at the plant that prevents us from doing so?
A. Beyond 25 feet, yes.
Q. But the Method 303 inspectors, the Keramida inspectors, can make some readings from that coke side of Battery B?

A. Yeah, they have to.
Q. They have to. And they report those to us?
A. Correct.
Q. Okay. You mentioned something about the coke side or the yard equivalency. Could you explain that?
A. I think it's called coke-side yard equivalent. I may be slightly off in the name. But what that does is it allows for a six-percent reduction in the number of leaks observed when observed underneath a shed or from the bench.
So in Battery B at Clairton's case, they have 75 coke-side doors. So the six percent is a reduction of four and a half doors from the number of observed leaks.
Q. So 10 leaks is not necessarily 10 leaks?
A. Correct.
Q. Could that number be reduced to zero at any point?
A. On a daily basis — well, if you are subtracting off four and a half every inspection that's completed, if you have four or less leaks, that becomes zero.
Q. Oh, okay. So you could have four leaks and then that gets reduced to zero?
A. Yeah.
Q. Okay. So in our enforcement order -- you're familiar with our enforcement order, aren't you?

A. The 2018 one?
Q. Yes.
A. Yes.
Q. The one that is on appeal currently.
A. Correct.
Q. And we said in that order -- and correct me if I'm wrong -- we have a condition for a maximum of 10 door leaks. Using the coke-side yard equivalence standard, we aren't talking about strictly 10 door leaks?
A. No, it's not strictly 10 door leaks.
Q. It could be subsequently more than 10 door leaks?
A. Correct.
Q. Okay. Did you give any consideration -- let me ask -- let's back this up a little bit.
You helped in the development of the enforcement order currently under appeal?
A. Correct.
Q. Did you give consideration to the standard by which we would apply to the coke-side battery doors?
A. Yes.
Q. Okay. During that assessment, did you look at the number of leaks that were on that side of the doors?
A. Historically, yeah.
Q. On that side of the battery?

A. Yeah, and the coke side of Battery B, the number of door leaks historically, yes.
Q. Okay. What did you see with respect to Battery B's coke-side doors and their emissions?
A. The number of leaks increased a lot in 2017, in that range. I don't know exact months when they started going up. But 2016 or '17, the number of leaks on a monthly basis increased a good bit from the past years.
Q. And by "a good bit," are we talking percentages or are we talking...
A. If you're looking at the monthly total of the daily coke-side yard equivalencies, they increase from the range of 10 or so to — it varied, but maybe 50.
Q. Fifty?
A. Yeah. I mean, it varies month to month, but yeah.
Q. Were the numbers on the coke side subsequently greater than the number on the push side?
A. The number of leaks, yes.
Q. And were the number of leaks from the coke side subsequently greater than the number of coke-side leaks with respect to the other batteries?
A. Yes, I didn't specifically look at that. But because the other batteries aren't under a shed, they wouldn't have the coke-side yard equivalency. So I

would have to do a more thorough analysis on that one.

But there was Battery B — yeah, there would have to be a lot more leaks on that side, but I can't confirm that with any numbers. I'd have to look at that.

Q. We do inspections with respect to the coke side on all of the other batteries with the exception of Battery B?

A. Correct, yes, 'cause that's the only one with the shed.

Q. That's the only one with the shed. And based on your reading of those exceedances on those sides, can you say whether or not there are more than the rest of the facility on the coke side versus Battery B?

A. Well, any leaks on that scale would potentially lead to violations on other inspections on the other batteries.

So if you are having — I don't know the exact numbers, but we'll say, like, 200 leaks on the coke side one month and like 15 or 20 on the push side, this is for Battery B, so those 200 leaks over the monthly basis would likely lead to a lot more violations on the other batteries than it would on Battery B because we don't count those. We don't count any leaks on the Battery B side shed for our enforcement.

Q. Why is that?

A. Because we are using the source testing manual on this one.

Q. But the regulations would basically require us to make that observation?

A. Correct. We are more lenient on this one. We don't enforce — we choose not to write violations for those, when in reality, they are.

Q. So technically, there are several unaccounted for violations with respect to the coke side of Battery B?

A. Yes, for the doors.

Q. You've reviewed the 2016 Consent Judgment and you reviewed our enforcement order that's on appeal before it went out. Did you check to make sure that there wasn't going to be any conflict with respect to the penalties that were imposed in the consent judgment versus the enforcement order?

A. Yeah, because the 2016 Consent Judgment focused on the COMS and the 2018 order was on the actual inspection data.

Q. So the stipulated penalties were strictly for the COMS in the consent judgment?

A. And the pushing on all of the batteries and soaking of 1, 2, 3, and COMS. And I think there is a COMS under availability also in there, but that's for the 2016 judgment.

Q. Okay. So there is visible emissions that are accounted for in the 2016 judgment?

A. Yes.

Q. But it is strictly limited to what again?

A. Pushing and soaking of 1, 2, 3.

Q. Just those batteries for just those portions of the process?

A. Correct.

Q. Okay. And have you -- in the penalties that were assessed between -- or following the 2016 Consent Judgment and the order that's currently on appeal, have you made efforts to ensure that there isn't any overlap between the penalties?

A. Yeah, and I've already reviewed the engineer's data for the quarterly summaries. I checked to make sure there's not soaking of 1, 2, 3 or pushing in that quarterly enforcement.

Q. Thus far, have we penalized for any of those violations that were contemplated under the 2016 Consent Judgment?

A. Not that I recall, no.

Q. Okay. You're aware that as a part of the 2016 Consent Judgment, U.S. Steel was to make certain repairs to oven walls and its batteries?

A. Yeah, to do inspections and then repair as the

inspection is noted.

Q. And to your understanding, has that been done?

A. As far as I know.

Q. Is there a completion date for that project?

A. Not definitively, but the stipulated penalties start kicking in. So the assumption would be — actually, I don't know the specific date.

Q. Okay. In your review of the COMS data that has come in over that period of time, have you noticed any improvement?

A. Yeah, there's noticeable improvement.

Q. And during that same period of time, have you noticed any decrease of compliance with respect to visible emission observations?

A. It seems so, yeah. There has definitely been an increased number of violations since that 2016 Consent Judgment of visible emissions.

Q. So it's fair to say that on one hand, the COM performance is going up but the visible emission performance is going down?

A. It seems so, yeah.

Q. Are you aware of any larger coke oven facility in the world?

A. I've been told there's a big one in Italy and I'm sure there are some in China now.

Q. You're sure there are some in China?
A. I don't know that for certain, but because of how much steel China is producing, I'm sure they have big coke plants over there. I don't know.
Q. Okay. So you're just speculating on China?
A. Yeah. I've heard about another large one in Italy. I don't know the exact size of it.
Q. Let's see. And you've mentioned the Veolia inspection. We don't enforce off of the Veolia inspections?
A. Veolia, that's the inspections that do the pushing and soaking on 1, 2, 3. Those ones go to the stipulated penalties for the 2016 Consent Judgment.
Q. But we don't make sure of that data for any other purpose?
A. We don't enforce on it separately, no.
Q. Was the intent of the order to address any sulfur compounds beyond sulfur oxide?
A. The 2018 order?
Q. Yes.
A. It would be for visible emissions and sulfur oxides. Stuff comes out of it, out of the coke battery, out of the leaks and whatever, of other sulfur compounds. H2S is the one that I know of and then that converts to SO2.

Q. I understand. Can you think of a -- currently, there is no control device for the Battery B with respect to gaseous emissions; is that correct?
A. No, there's not.
Q. There's a bag house for Battery B; is that correct?
A. Correct, yes.
Q. And that bag house is picking up what?
A. Particulate matter and controls that.
Q. SO2 is not a particulate matter?
A. It is not.
Q. So it does not control for SO2?
A. No.
Q. Do you know of any control for SO2 or gaseous emissions?
A. The scrub is the most common one.
Q. Can you describe a scrubber?
A. Bubbler, basically. You got liquid coming down, mostly water with something else in it, and dirty -- we will call it dirty gas going up, and then it bubbles through and scrubs it clean; and then on the way out, it is clean gas going out the top, cleaner gas.
Q. But there isn't one for Battery B?
A. There is not one there.
Q. With respect to the shed that's on Battery B, is

that enclosed at all?
A. Not entirely. I mean, there's openings throughout it. There are openings on both ends. There are access doors, maybe some cracks in the roof and whatnot. It's not fully enclosed.
Q. Can you imagine a system or a manner in which you could enclose at least the sides of the battery for that shed -- not battery, the shed?
A. There would be ways to enclose it, but it would have to allow for the movement of the hot car to go through the one side particularly.
So is there something that could be put on the outsides that would create a better capture? Yes, there is.
I'm just picturing those things that are always on garage doors or large doors, like the clear plastic things that go down. Even something like that would contain a lot more of the emissions.
Q. An air carrier?
A. If there is a better draw on the air, that would also capture more of the emissions, the top of it.
Q. If there was an enclosure in the manner of an air curtain, let's say, would that help with the collection of particulate matter?
A. Any way you are increasing capture, you are going

to decrease the emissions coming out. Anything you capture is going to go through that bag house. So if you increase the capture percentage, you are going to decrease the amount of emissions.
Q. Are you familiar with operation of the bag house for Battery B in terms of its capacity or its design?
A. None of the details on it.
Q. But you would expect that, under normal operations, that it would collect the particulate matter that's being emitted from the battery on the coke side?
A. Yeah. They do stack testings required to meet a certain efficiency, typically in the high 90s, and to meet that efficiency every two years probably for a major source test. So it should be collecting at a high efficiency. Well, the capture rate is different from collection. The collection rate is going to be fairly high for that bag house.
Q. If there was an exceedance of door leaks or excessive door leaks, would it capture all excessive door leaks?
A. The shed?
Q. In terms of the emissions, yeah, the shed.
A. The shed —well, it would capture whatever emissions are captured by that shed. If you have an excessive amount of emissions, it can go out the

outsides, go through the cracks, go into the open side away from the hot car. It can find openings if it overwhelms the shed.

So if the shed capture of airflow, if isn't enough, any of those exceeses would go beyond it and they would not be captured. I think that's what you're asking.

Q. Yes, that's what I'm trying to figure out. And you kind of touched on this earlier. Could you explain a NESHAP inspection versus a SIP inspection and who does it?

A. ACHD does Article 21's inspections, Method 303 (sic) does Method 303 inspections, and then we take those Method 303 inspections and compare them to the Article 21 standards.

Q. We issue violations based on those observations?

A. If those exceedances are violations, yeah.

Q. Okay. We discussed earlier the fact that you helped develop the enforcement order that's on appeal currently.

One of the conditions is, again, no more than 10 door leaks on the Battery B coke side using the yard equivalent; am I correct with that?

A. I believe the term is coke-side yard equivalent.

Q. Thank you. Had you looked at any data prior to

that issuance to determine whether or not that is something that U.S. Steel could conceivably achieve?

A. Yes.

Q. Okay. What kind of data did you look at?

A. I looked back at a few years of data from the Method 303 reports and then summarized those to the monthly coke yard equivalency number and then compared it and came up with a number based on that, based on what U.S. Steel had done in the past.

Q. Okay. So this is all historical data showing that this was an achievable condition?

A. Yeah. I mean, it may have been historically to even just the previous month to two or three years or so back.

Q. Okay. I want to talk about the actual civil penalty and what it covers. Do you recall the inspection types that brought about the violations for the order on appeal?

A. That would have been charging, doors, high-opacity doors, lids, offtake and soaking on non-1, 2, and 3.

Q. And for what quarters did that cover?

A. Fourth quarter of 2017, first quarter of 2018, and then some that were missed from third quarter of '17.

Q. Could you explain why they were missed in 2017, the third quarter?

A. The engineer missed the column on the sheet when they were doing it and then I think — yeah, then there was the issue with the Battery 15 doors from Keramida that carried over also.

Q. Could you explain that Battery 15 problem?

A. As good as I can. In the middle of 2017 -- okay. In the first half of 2017, ACHD was enforcing as per Article 21 for door leaks, which says that you have to exclude the door ovens from the last oven charged, anything obstructing from view.

And then after meeting with U.S. Steel, we determined we want to go back to the source testing manual until the source testing manual update was finalized. The source testing manual says minus two, not from the last oven charged.

So that would change — if there were two leaks from the last oven charged, it would be the same in the manual and regulation; however, if it was zero or one from the last oven charged, then it would not be the same and we would be less stringent from the regulation, and then that was changed in the middle of 2017.

On Keramida — 'cause Keramida enters all their data directly into a tablet which goes into their

system. Their — the calculations were incorrect for, I believe, two of the batteries, 15 and 20, and then that created — 'cause they were subtracting as per Article 21, not as per the source testing manual.

So there were a couple violations that got -- they would put in there — because there were violations of Article 21, but they way we are enforcing it is by the source testing manual currently. So those couple of violations we took out.

And then, I can't remember the timeline of it, but there was a discrepancy in their calculations on 15 versus source system manual Method 21. Unfortunately, I can't remember all of the details on it.

Q. Okay. But basically, we decided to operate under the paradigm established under the source testing manual as opposed to Article 21?

A. For those door leaks, yes.

Q. For those doors, for those door leaks. Did we do that unprompted?

A. Keramida brought it to our attention that there was an issue.

Q. Well, I mean, the initial change, that decision to adhere to the source testing manual versus Article 21?

A. Oh, no, sorry, that came from a U.S. Steel

meeting, a meeting with U.S. Steel.

Q. Who initiated that meeting?

A. I don't remember.

Q. Did we reach out to U.S. Steel and offer that?

A. I don't remember who actually set up the meeting. I know it was a meeting between us and U.S. Steel to go over the current issues at the time.

And then from that meeting, they, U.S. Steel, brought up the source testing manual and then the Pennsylvania DEP; and then from that meeting, we decided we were going to go back to the minus two. I don't know who asked for the meeting.

Q. Well, who asked for the minus two?

A. U.S. Steel.

Q. Okay. And that's under the source testing manual, the minus two?

A. Correct.

Q. So they wanted us to adhere to the source testing manual?

A. They also brought it to Pennsylvania DEP, which is different than Article 21 or the source testing manual. Pennsylvania DEP says minus two representing the last oven charged.

So those two -- the source testing manual and the PA DEP regulation was brought up by U.S. Steel, yes.

Q. Well, the PA DEP is an actual regulation but the source testing manual is not, correct?

A. Correct.

Q. Okay. And to the extent that U.S. Steel asked for that accommodation, we gave them that accommodation?

A. Correct.

Q. And that accommodation benefitted U.S. Steel, correct?

A. Correct.

Q. Okay. Was it safe to say for those three quarters that are the subject of this enforcement order, primarily the third quarter of 2017, fourth quarter of 2017 and first quarter of 2018, that there are approximately 300 violations in that order?

A. Yeah, it was around 300.

Q. Okay. Is that typical for U.S. Steel?

A. Unfortunately, the last few quarters have been in that range. Historically, it's not typical.

Q. And by "historically," what do you mean?

A. Going back a few years. Like, I would say — I mentioned earlier, maybe like in the range of 10 or 20 non-stipulated penalties per quarter, and now it's 150 in the last year or so per quarter.

Q. So again, prior to the 2016 Consent Judgment, there were fewer violations?

A. I don't know the exact quarter that it changed; but in that range, yes, the violations increased.

Q. Okay. Could you say that since the 2016 Consent Judgment, that the violations have gone up?

A. Yeah.

Q. That's what you testified to already, okay.

A. Yeah.

Q. I may have asked you this, but let me figure this out. In your development of the -- or your participation in the enforcement order that is currently on appeal, had you discerned whether or not there was a six-month period in which U.S. Steel had fewer than 10 -- 10 or fewer -- I will say 10 or fewer violations using the coke-side yard equivalence?

A. Whenever I was going back through data, it was 2016, I believe, that had nine of the twelve months where they were below the 10 or — they met that condition, they were at 10 or below for nine of those 12 months, and the other months were just slightly above it.

Q. And following the issuance of that order, have you found any additional information which would suggest that they could have reached that six-month requirement on the --

A. Yeah, I went back and did a couple more years,

going backwards to 2014 and '15, and the same trend from 2016 where there were low violations on a monthly basis, low coke-side yard equivalency door leaks on a monthly basis, yeah.

Q. Okay. Now, you're an engineer, correct?

A. Correct.

Q. And you said you weren't really up on your organic chemistry, but maybe you could explain to me something about the emissions coming out of those doors. If there's a door leak, do you know what is coming out of that door?

MR. DAUSCH: I will object to foundation just because of his explanation that he didn't have an organic chemistry background or understand this exact topic.

MR. WILLIS: But he also said that he had training in Canada with respect to the chemistry.

HEARING OFFICER SLATER: I'll overrule the objection but take it as to weight.

MR. DELUCA: Can you ask it again?

BY MR. WILLIS:

Q. Yeah. Do you know what is coming out of those doors when there is an actual door leak?

A. Specifically, no. I think probably the best way to just summarize it is some combination of hazardous

pollutants, whether it be hydrogen sulfide, SO2, BM, BTEX, naphthalene. There's a whole bunch of different chemicals that could be coming out of it. I don't know the exact stipulation or the composition of all of it.

But coke oven emissions by itself is a hazardous air pollutant and those other HAPs located in that. Sorry, HAPs is hazardous air pollutants.

So there are other HAPs coming out of it, basically just a toxic mix of emissions.

Q. Okay. Would it be fair to say that raw coke oven gas would be coming out of a coke oven through a door leak?

A. Yes.

Q. Okay. Could you -- is it safe to correlate the amount of coke oven gas coming through a door leak with the -- well, let me back up.

Say there's an increase of emissions coming from door leaks. Could you say that there would be a correlation between that and an increase of coke oven gas coming through that door leak?

MR. DAUSCH: Can I have a continuing objection to all of the questions on this topic or would you prefer that I object to every question, because I would have the same objection for the foundation?

HEARING OFFICER SLATER: Yeah, your continuous

objection is noted, Mr. Dausch, but I have the same ruling.

MR. DAUSCH: Thank you.

HEARING OFFICER SLATER: I will overrule it but consider it as to the weight of what Mr. DeLuca is saying.

MR. DAUSCH: Thank you.

MR. DELUCA: I'm sorry.

By MR. WILLIS:

Q. If there is an increase in door leaks, could you correlate that to an increase in emissions of coke oven gas?

A. Most likely, yes. If you have more leaks, the assumption is you are going to have more emissions coming out of those leaks, treating all leaks equally.

There's a lot of possibilities of what could happen in reality. You could have one leak with just billowing emissions coming out or you could have five small leaks, and that one small leak could have more emissions.

But without counting for the actual number of it, it's just how many leaks are coming out. We assume more leaks equal more emissions coming out. In this case with the raw coke oven gas, there would be more raw coke oven gas coming out and more leaks than less leaks.

Q. Okay. Now, when you developed the -- or worked on the order that is currently under appeal, did you do any analysis with respect to the baseline for the 2018 first quarter?

A. Analysis of the baseline?

Q. Yeah, did you determine what that baseline would be prior to issuance of that order?

A. Oh, not prior to it.

Q. Did you do it afterwards?

A. Yes.

Q. Okay. Do you know what that number is?

A. 98.152, approximately.

Q. Okay. I'm going to move into the exhibits. We have quite a few, so give me a second.

HEARING OFFICER SLATER: Sure.

BY MR. WILLIS:

Q. I will start with the one I just gave opposing counsel this morning. This is going to be ACHD 11, I believe. Do you recognize this document?

A. Yes.

Q. Did you create this document?

A. Yes.

Q. Do you remember when you created this document?

A. A couple months ago.

Q. Okay. So it was after the issuance of the

enforcement order?

A. Yeah, it would have to be, because June '18 is listed here and June '18 wasn't done by the time the issue was order — or the order was issued.

Q. Okay. Can you tell me what we're looking at?

A. This is the summation of Battery B coke-side door leaks and pusher-side door leaks from the Method 303 monthly reports, along with the calculation of the coke-side yard equivalent.

Q. Okay. And the coke-side yard equivalent is the number that's used for compliance with respect to Battery B and the enforcement order?

A. For this enforcement order, yes.

Q. Okay. And as you noted, the last one that's on here is from June 2018; is that correct?

A. Correct.

Q. That number for the number of door leaks is 15.5?

A. For the yard equivalent, yes.

Q. Okay. In looking at this sheet, could you show me any six-month stretch in which U.S. Steel was at or under 10 door leaks on the coke side, or the coke-side yard equivalent?

A. Yeah, towards the top, April 14th — well, April 2014, May, June, July, August, September. So those six consecutive months, they were at 10 or less of the coke-

side yard.

Q. Okay, so just based on this, it is achievable for them to get 10 or fewer leaks on the coke-side doors?

A. I mean, I think it was achievable for the past history showing the six consecutive months, but this shows that it was done in the past.

Q. Okay. And in looking at that period of time, are you aware of any order from the Allegheny County Health Department which would require them to maintain that door leak standard?

A. No.

Q. Okay. So this is all on their own operation without any enforcement effort by us?

A. Correct, yes. It is the typical operation trying to minimize leaks, I'm assuming.

Q. Okay. And in scanning this sheet, it looks as though from 2014, with some notable exceptions in 2014, that on the coke-side yard equivalent with the door leaks, are there many of these that exceed that standard?

A. For which time period?

Q. Just looking from 2014 through January of 2017.

A. The majority of them are definitely under 10. Some of them are at zero.

Q. Well, from the period of January '14 to January

'17, could you count for me how many times they would have exceeded that limit?

A. Yes. One, two — there are 11 months in 2014, 2015, and 2016 that exceeded 10.

Q. How many?

A. Eleven out of those 36.

Q. Eleven out of those 36. And following January of 2017, it looks like it goes up; am I correct in that?

A. Yes.

Q. And, in fact, after November of 2016 -- no, sorry, December of 2016, there is no other occasion in which it would hit that standard again; is that correct?

A. Yeah, every month then from January of '17 'til June of 2018 was greater than 10.

Q. Okay. Now, looking back at -- if you will take a look at August of 2014, it says that there are 102 coke-side door leaks. Yet, the coke-side yard equivalent door leaks using the standard that we are using as a metric for their compliance in the future is only two; is that correct?

A. Correct, yes.

Q. Could you explain how you go from 102 actual door leaks to two?

A. Well, because of the coke-side yard equivalency, anything that has four or less leaks on a daily basis

goes down to zero. So on a 30-day month, you can have up to 120 leaks count as zero. It depends on how those leaks occur.

So to get to two, there are a couple different ways you can get there; but the easiest example would be, there are five days — or sorry, there are four days where there are five leaks because each of those five leaks count as a half.

So you have five leaks converted to a half, times four days, that's two leaks. Then the rest of the days of that month would have been at four or less leaks.

Q. Okay.

A. I think that explains it, but I'm not positive.

Q. And let's see. On the other end of the spectrum, if you look down at October of 2017, there are 209 actual leaks and that jumps to 74.5 using the coke-side yard equivalency door leak standard?

A. Correct.

Q. Okay. I apologize, Dean, we're going to have to go through quite a number of documents here.

HEARING OFFICER SLATER: Any objection to the admission of ACHD 11?

MR. DAUSCH: No objection.

HEARING OFFICER SLATER: ACHD 11 is admitted.

BY MR. WILLIS:

Q. Okay. Dean, if you take a look at -- in the binder, it's going to be under Exhibit Number 5.

A. Volume 1 or...

Q. Volume 1.

A. I'm assuming all the tabs are the exhibit numbers?

Q. Yes.

A. Okay. USS Exhibit 5?

Q. Yes. What are we looking at here?

A. This is the calculation of the first quarter of 2018 compliance numbers, as an example, for the order and as the baseline for the order.

Q. So this represents the measure, the metric by which U.S. Steel must comply in order to avoid the hot idling?

A. One of the metrics, yes.

Q. One of the metrics, okay. Can you explain -- well, first of all, when did you develop this document? Is this before or after the enforcement order?

A. Oh, it would have been after the issuance.

Q. After the issuance?

A. Correct.

Q. Okay. Do you recall having any conversations with U.S. Steel as to how we figured out these numbers?

A. I know that they had a request for us to show

them how the calculation was going to be completed for each of the batteries that were performing and then also to show what the baseline percentage was, and this is the baseline percentage.

Q. So this was provided to U.S. Steel as a matter of their request?

A. Yes. It was also needed to be done regardless in the future because the order needed to have a baseline calculation.

Q. I understand, okay. Could you walk us through how you came to this 98.152?

A. Okay. I tried to be as descriptive as I could with the steps being listed on here also for reference. And, unfortunately, it's on two sides of the same sheet.

I can't read them both at once, but it would be the summation of all of ACHD inspections. Then the bottom lists the different types of inspections, and then it would be the sum of the compliant inspections from ACHD, so taking out those ones.

And then summing up the Method 303 inspections, which if you're looking at Step 3 on the back, it has -- it ends up being 44 per day, and then the Method 303 compliant inspections from that summing up.

And then Step 5 is the actual calculation where you are just summing up the compliant -- the ACHD

compliant inspections, plus the Method 303 compliant inspections, and dividing that by the sum of ACHD inspections, plus Method 303 total inspections. Then that gives you the inspection compliance percentage portion of the total compliance percentage.

And then the second portion of the calculation is for the plant-wide continuous opacity monitors, which is summing the number of clock hours, multiplying by ten -- or each battery has their own continuous opacity monitor. There are 10 batteries, so the number of hours times 10. Then the number of hours where they did not meet -- "they" being U.S. Steel -- did not meet the 20-percent standard.

Just the total clock hours, minus those exceedances, divided by the clock hours, and then that gives you the COM compliance percentage portion of the total number, and then you combine those two by doing the compliance percentage of the inspection compliance numbers, plus the COM compliance numbers, and then divide that by two.

Q. Okay. In looking at the plant-wide continuous opacity monitor section, it says that the COM compliance percentage is 98.384.

A. 99.384.

Q. Oh, I'm sorry, 99.384.

A. Yeah.

Q. That's a pretty good number, wouldn't you agree, in terms of COM compliance?

A. It's -- I mean, it's above 99-percent compliance; however, in that same number, there are 130 or so violations — or excuse me, hourly exceedances.

Q. Okay. And with respect to the inspections, the compliance percentage as of that first quarter was 96.920, and that is over how many inspections?

A. It looks like about 5,500.

Q. 5,500?

A. 5,500.

Q. So how many violations would that be across 5,500 inspections?

A. Let's see. There is — maybe 160.

Q. 160, okay. So the inspection compliance percentage is a good deal less than the compliance percentage for the COMS; is that fair?

A. Yeah, two and a half percent, whatever that is, a percent less.

Q. And hypothetically, if the COMS were to remain the same and we were looking for improvement, the improvement would come from the inspection compliance?

A. If the COM stays at 99.384, in order to improve compliance, yeah, the inspection compliance numbers

would have to increase.

Q. And the inspections are solely concerning visible emissions?

A. Observed emissions, yeah.

Q. Okay. I have another document here. This is a presentation. I don't think that's in the book. I will give you guys a second to look through that. That document begins on 13655.

MR. WILLIS: Again, we have the two-sided issue that, hopefully, we can resolve in the final day.

MR. DAUSCH: Was this previously in discovery?

MR. WILLIS: Yes. I mean, the Bates number so far -- I believe we have it in there somewhere. It relates to questions about presentations. Do you have it in the book?

MR. DAUSCH: We don't have it in the book. We are trying to find it.

MR. WILLIS: Okay.

HEARING OFFICER SLATER: Do you want to take our morning break now?

MR. DAUSCH: Yeah, we're trying to find the document.

MR. WILLIS: Take the break now?

HEARING OFFICER SLATER: Does that work for you?

MR. WILLIS: That's fine.

HEARING OFFICER SLATER: Let's go off the record.

(The hearing recessed at 10:22 a.m. and reconvened at 10:37 a.m.)

HEARING OFFICER SLATER: Let's go back on the record then.

BY MR. WILLIS:

Q. Okay. Dean, if you would flip to the first -- inside of the first page of ACHD013655, do you know what that document is?

HEARING OFFICER SLATER: Are we marking this as ACHD 12?

MR. WILLIS: Yeah, 12, I believe we are at 12.

MR. DELUCA: A presentation done by Ed Peresie.

BY MR. WILLIS:

Q. Concerning?

A. Coke oven emission regulations.

Q. Okay. And I'm showing this to you for the benefit of the record and for Mr. Slater. Visible emissions are observed on a gradient of -- from zero to 100; is that correct?

A. Correct.

Q. And there's a difference between smoke and steam; is that correct?

A. Correct.

Q. And could you describe what that difference is

between smoke and steam?

A. Whenever you are observing smoke, smoke can be of any color, white, black, blue. It can be any color there.

The white smoke is the one that's hardest to discern the difference between the two. You have steam coming out. Steam typically comes out at high opacity, 100 percent, not all the time.

What you look for is set demarcation after the plume. So the plume comes out. If there is a set line where it all stops, then that's the steam. Then if it continues onward, then it's the smoke. It's one of the ways to differentiate.

Q. Where's that demarcation?

A. It can be anywhere. There are different plume types. Sometimes they — they have detached plumes. There have fanning plumes. There are all different ones.

If it is a detached plume, that means it doesn't actually condense until after the stack. The demarcation just occurs where the steam ends and then after that would be any emissions.

Q. Okay. In looking at that first page where it says, "Evaluating visible emissions..." is this a distinction that you would be looking for or your

inspectors would be looking for in terms of visible emissions?

A. Yeah, 'cause if it's steam, it wouldn't be opacity.

Q. Okay.

A. You wouldn't read the steam.

Q. And in looking at this document, is this document based on any sort of EPA method or any methodology for making that observation? You can take a look at the document.

A. Yeah, I was going to say, I haven't really -- I mean, I recognize that smokestack appears to be from our EPA Smoke School for Method 9 certification.

Q. And you are referring to a page. What page are you looking at?

A. A few of them, actually, but 013656 has two separate stacks; one with white smoke and one with black smoke.

Q. Okay.

A. But those appear to be the ones from the Smoke School, which would make sense for Ed to get those ones.

Q. What is Smoke School?

A. Smoke School is Method 9 recertification, which is done every six months to -- and then at that point, you field certify it to ensure compliance with Method 9.

Q. Who in ACHD goes through that -- goes to Smoke School?

A. All of the enforcement staff and then whoever would like to from other sections.

Q. Oh, that would include permitting and planning?

A. Permitting and planning can if they want to. I don't know the requirements.

Q. Okay. Has that happened in the past, where folks from permitting and planning have gone to Smoke School?

A. Yes.

Q. Okay. But your employees are specifically required to go?

A. Yeah, everybody from enforcement goes. Obviously, if you are on vacation that week, it is a different story; but everybody from enforcement goes.

Q. How often do they go?

A. It's every six months, typically April/October.

Q. So twice a year, they have to be certified?

A. Correct.

Q. For Method 9?

A. Recertified, yes.

Q. Okay, sorry. On the next page, which would be 13657, --

A. Okay.

Q. -- could you explain what we are looking at here?

It seems to be a picture, a cartoon even.

A. Yeah, it does look like a cartoon. This is describing the sun angle, and the sun has to be in that 140-degree angle behind you.

So you can't be looking directly into the sun, and it has to be in that line whenever you are doing Method 9.

Q. Why is that?

A. Well, unless the sun is not out that day. But whenever you look directly into the sun, I believe it's because the -- the opacity changes, where it gets stronger when you are looking into the sun, I believe. I forget exactly which direction it goes.

I just remember that Method 9 requires it to be in that 140-degree angle, unless it is completely overcast, and then the sun wouldn't matter 'cause you can't locate it.

Q. So if you were outside of that 140-degree angle, you could get a misreading of the --

A. Yeah.

Q. -- of the plume?

A. Correct. And it wouldn't be following Method 9, again, unless it's overcast.

Q. Okay. And on the next page, there seems to be some distinction between two different stacks. Could

you explain this?

A. Yeah. Those are images of a 20-percent opacity plume and a 60-percent opacity plume.

Q. Do you have any idea why those particular numbers were selected?

A. Probably because of Article 21 standards, which are actually stated at the bottom, "For a period of three or more minutes in any hour up to 20 percent or 60 percent at any time." That's the Article 21 standard.

Q. Is any part of U.S. Steel Clairton Coke Works subject to that standard?

A. The continuous opacity monitors, the stacks.

Q. The stacks. And just so we can go through this quickly, I'm looking on 13660. It's a little opaque and you can't really read it, but it says, "25 percent."

A. Yes.

Q. The subsequent page says "50" and then "75" and then "100." Can you explain what we are looking at there?

A. This -- I mean, there are pictures of opacity from a stack, like again probably during Smoke School, showing what 25 percent opacity looks like and then 50 percent opacity and 75 percent opacity and then 100 percent opacity.

Q. To your knowledge, has 100 percent opacity ever

been seen at the Clairton Coke Works?

A. Yes.

Q. From the doors ever, the battery doors?

A. I didn't check the numbers. I don't know for certain.

Q. You don't know?

A. I know that there have been high-opacity doors. I don't know if specifically 100 percent has been listed.

Q. What do you mean by "high-opacity doors"?

A. Sorry. High-opacity doors are opacity greater than the standard, the 40 percent standard or the 30 percent standard for Battery C in Article 21. There have been a lot of violations of that. I know that they have been up to 80 and 90. I just don't know for certain if any were 100. They have been close, at least.

Q. Okay. For purposes of this --

MR. WILLIS: For introducing this document -- and in all fairness to U.S. Steel, a lot of this document does not pertain to their facility -- I would limit its introduction solely to page 13717, which seems to be the end of that generalized information regarding --

MR. DAUSCH: So which number?

MR. WILLIS: It is the page that says

"Questions." It is 13717. So although it goes on to 13769, we're not going to consider those for purposes of introduction into evidence.

MR. DAUSCH: Okay.

MR. WILLIS: This is Number 12, I believe.

HEARING OFFICER SLATER: Is this part of the same document that Mr. DeLuca was just looking at?

MR. WILLIS: Yes. Oh, I'm sorry, yes, you already designated this one.

HEARING OFFICER SLATER: Yeah.

MR. WILLIS: Thank you.

MR. DAUSCH: Just so I understand, you are offering it just for the purposes of what he discussed to demonstrate opacity concepts, not because it's related to any specific U.S. Steel plant or issue?

MR. WILLIS: Correct.

MR. DAUSCH: Then no objection.

HEARING OFFICER SLATER: So ACHD 12 is admitted.

MR. WILLIS: Thank you.

BY MR. WILLIS:

Q. Okay. If you will turn to Exhibit 13, please?

A. This is Volume 1?

Q. Volume 1. Can you describe what we are looking at here?

A. This is -- yeah, these are the penalty

calculations for this order.

Q. Is this penalty calculation using the 2018 penalty policy?

A. Yes.

Q. Okay. Could you describe what we are looking at in some detail? I'm looking to understand exactly how, for each of these violations, you calculated the penalty.

And in looking at it -- and correct me if I'm incorrect on this number -- but there are 18 different violation types?

A. There are 18 columns.

Q. Eighteen columns. And each column represents a type of violation?

A. Or a different severity for that specific violation. For example, the first three columns are all charging, so they're all going to have the same standard. One of them is for major, moderate, and then low.

Q. Can you explain major, moderate, and low?

A. Typically when I go through these, I have the penalty policy also and look at them both concurrently. I can do that, but with less detail I can do it without that. I can explain what they are generally.

Q. We're going to get to the penalty policy, but if

you can just give me a general understanding as to what we are seeing here. We will get to the details with how you calculated each of these with respect to the penalty policy, but I want an overview of what we're looking at.

A. Okay, yeah. What this would be, this is the violations which are put into any order. There is a calculation spreadsheet to determine the penalty amount for those violations listed in that order. In this case, like you said, there are 18 separate columns. There are different inspection types with different severities. The severity -- the major severity has a higher penalty than moderate severity than a low severity. So that increases the penalty.

The potential for harm is the other factor. So the potential for harm number in the severity of violation gives you a range of maximum/minimum penalty, and then that's the subtotal prior to the adjustment.

And then beneath that, there are adjustment tables specifically to the source or the situation at hand for the order. You use those adjustment factors based on the policy.

There is a separate one for high-opacity doors because in the penalty policy, it's specifically listed for being separate. And the rest — the remainder of them use the first table adjustment.

Then those numbers carry back up to the subtotals and the total civil penalty, and you make sure that the total civil penalty amount is less than the maximum, the 25,000 per violation per day. If it's greater than that number, you have to reduce it to 25,000 per violation per day.

Q. Okay. And is this the spreadsheet that's used for every penalty calculation out of your Department?

A. Yes.

Q. Okay. So irrespective of coke ovens or coke facilities, this would be used for any facility that's in violation of Article 21?

A. Yeah, this is for open burning, stack test, coke ovens.

Q. Okay. Was this spreadsheet also used with respect to the penalty policy which existed as of 2017?

A. The -- well, there was a spreadsheet. It was different than this.

Q. Oh, there was a spreadsheet but different?

A. Yeah. Well, the 20 — the 2018 penalty policy has a spreadsheet that matches with the 2018 penalty policy, and the previous spreadsheet was different than this 'cause it predated the policy.

Q. I see. And in looking just at these spreadsheets, it -- right above where it says "civil

penalty" in the yellow box, there's an amount that says "maximum penalty amount." What is that?

A. The first sheet has 350,000.

Q. Okay. And the second sheet?

A. 3,725,000.

Q. And the third sheet?

A. 3,975,000.

Q. Okay. What does that represent?

A. That is the statutory limit of the 25,000 per violation per day. So if you have 100 violations, the maximum would be 100 violations times the 25,000.

Q. I see. So basically, it is the regulatory maximum by which we can impose a penalty?

A. Correct.

Q. Okay. And that would apply across the board irrespective of the facility?

A. Yes.

Q. Okay. And you would agree that the actual civil penalty is substantially less than the maximum admissible regulation?

A. Correct.

Q. We're going to come back to that, so hold that to the side.

If you would turn to Number 18 in the same binder, can you tell me what we are looking at here?

A. This is a draft order for the fourth quarter of 2017 for the U.S. Steel Clairton violations.
Q. Am I correct this is dated May 10th, 2018?
A. Correct.
Q. And this is attributable to the fourth quarter of 2017?
A. Correct.
Q. You said "draft." Why do you say it's a draft?
A. 'Cause we didn't issue it.
Q. Do you know why we didn't issue it?
A. We were looking at issuing it and then determined that the — we needed something beyond just a penalty. So we have a corrected action. So we looked at what the corrected action would be, and that extended it beyond this initial draft.
Q. Okay. And the corrective action that you are referring to, is that found in the enforcement order?
A. Correct.
Q. And that's the June 28th, I believe, enforcement order?
A. Yeah, definitely late June.
Q. Okay. And correct me if I'm wrong, but there is a two-month gap between this draft and the actual issuance of that enforcement order?
A. A month and a half, two months, yeah.

Q. Can you explain what went on during that time period for that delay?
A. We've had analysis of what the corrective action would be, determining what that correct action is.
And then by the time we finalized all that and came into agreement with it, the first quarter of 2018, we had all that information already there.
So we decided to put the fourth quarter of 2017 and the first quarter of 2018 into one order. So that delayed it another, I don't know, duration, but it delayed it further because we were waiting to put the first quarter of '18 into it also.
Q. Okay. And by that time, had you noted that there had been some sort of error with respect to the third quarter penalty assessment?
A. Yeah, we would have had to note it before because it went out as part of that order.
Q. Do you remember when that error came to light with respect to the third quarter?
A. Other than prior to the order issuance, no.
Q. Okay.
MR. WILLIS: Do you have that?
MR. DAUSCH: No.
MR. WILLIS: That's for you.
BY MR. WILLIS:

Q. Actually, take a look at this. This is going to be ACHD 13. Can you describe what we are looking at here?
A. Okay, let me just look at it real quick here.
Q. Sure.
A. Yeah, this was an e-mail I sent out to the enforcement staff after we had the new penalty policy finalized.
I wanted everybody to go through — everybody in the section to go through the actual policy and to see what numbers they came up with individually, and then with doing it consistently, seeing what the differences were.
Q. Okay. And what's the date of this?
A. My e-mail was sent out February 8th.
Q. February 8th?
A. February 8th of 2018.
Q. Okay. You would agree that was before the issuance of the third-quarter penalty?
A. Yeah, the third quarter for Clairton was at the end of March sometime.
Q. So this work had already been done prior to the issuance of the penalty attributable to the third quarter of 2018?
A. Yes.

Q. And the purpose of this was to ensure consistency in application of the penalty policy?
A. Yeah, it was a penalty policy that the enforcement engineers hadn't seen before. So before using that, I wanted to make sure everybody was on the same page with it in at least reading everything the same way, seeing if someone had a different interpretation for us to discuss before we started going through with it.
Q. And could you read that last paragraph for me, please?
A. The one that starts with, "Again..."?
Q. Yes, please.
A. "Again, please do this independently and send it back to me by Monday afternoon. Not having discussions with anyone about this calculation is important so I/we can see the variation penalty amounts, especially because this violation has more subjectivity than any others will. All the relevant information is above."
Q. Okay. So again, this was -- the purpose of the -- them doing it independently was to make sure that they were doing it consistently with each other?
A. Yes, across the section.
Q. Okay.
A. Again, because there is some subjectivity, I

wasn't looking for identical amounts, just the same procedure.

MR. WILLIS: I would introduce just this first page. For whatever reason, there are just additional documents that were attached to it that should not have been.

HEARING OFFICER SLATER: The first page of A13?

MR. WILLIS: Yes.

HEARING OFFICER SLATER: Any objection, Mr. Dausch?

MR. DAUSCH: Are the pages after it the attachment to the e-mail?

MR. WILLIS: Oh.

BY MR. WILLIS:

Q. Answer that. I suppose that could be the case. Are these the actual attachments? I hadn't realized that.

A. I know the first one is not. Let me go through the rest.

Q. Okay.

MR. PARKER: The following page, ACHD4905, has some Excel spreadsheet attachments. So I believe those are the attachments to the e-mail on the following page, not the e-mail from --

MR. DAUSCH: No objection to just the e-mail

being Exhibit 13.

HEARING OFFICER SLATER: So A13 is admitted.

BY MR. WILLIS:

Q. Could you take a look at this packet that I'm about to give to you, sir?

MR. WILLIS: What are we up to, 13?

COURT REPORTER: 14.

MR. WILLIS: 14.

BY MR. WILLIS:

Q. There's a lot in here, but I would like to sort of go through it. What are we looking at on the first page, if you could describe it for me, please? That would be 13873.

A. Okay. This is a table and a graph of the number of violations that were enforced through the quarterly enforcement, so the non-stipulated violations at the Clairton plant from first quarter of '13 until the first quarter of '18.

Q. And what does it represent?

A. The number of violations which would have been penalized into quarterly enforcement actions, and then the right is simply a bar chart with the number of violations with a trend line.

Q. And what is the trend?

A. Increasing number of violations.

Q. Okay. Again, using 2016, because that's the beginning of the consent judgment, and at least with respect to Q1 of 2016, how many non-stipulated violations were there?

A. Q1 of '16 is an interesting quarter. There are only -- there are four listed there. That was because the consent judgment affected anything of which the Department would have been aware of as of the date of the judgment, would not have been stipulated through the quarterly enforcement.

Q. Okay. What effect did that have?

A. That decreased the number of violations. It discounted anything from January and February and then parts of May -- I'm sorry, parts of March.

Q. And is that because there was a penalty contemplated to cover those?

A. I don't remember exactly. It had something to do with the wording of the 2016 judgment.

Q. Okay, fair enough. I'm not going to press your mind on that.

But you would agree that by the third quarter of 2017, which this order contemplates, that number had substantially increased?

A. Yes.

Q. To 223 violations?

A. In the third quarter of '17, correct.

Q. And those were not captured by the 2016 Consent Judgment?

A. No, these are just the ones that are not stipulated penalties going through the quarterly enforcement.

Q. In terms of consistency, these are still the same violations which you would have issued a penalty for prior to the 2016 Consent Judgment?

A. Prior to 2016, yeah, those would be the same ones as they would be in 2015, yeah.

Q. Okay. Now, flip the page. What are we looking at here? This would be 13874.

A. This is the calculation of the quarterly compliance at Clairton as per the 2018 penalty policy going back until the first quarter of 2014.

Q. These are facility-wide compliance numbers?

A. Yeah, this is the compliance. The penalty policy specifically states how to do the calculation. So this is that calculation per the policy.

Q. Per the current policy?

A. Per the 2018 policy, yes. And it is backdated to previous months, yes.

Q. So you applied the 2018 policy against 2015, 2016 violations and 2014 violations in this sheet?

A. In this sheet, yes. But those orders would have already been sent out prior to the penalty policy.

Q. Okay. So this is an inaccurate representation of the compliance percentages?

A. Did you say "inaccurate," or...

Q. Is it inaccurate because we are using a different penalty policy for those years?

A. I'm not sure what you mean by that. I mean, these numbers here are if 2014 had the 2018 penalty policy -- I will just use an example.

The first quarter of 2014 has a compliance of 99.39 percent. That is the compliance if the 2018 penalty policy had been effective then, and it showed that the plant exceeded that 99-percent threshold that's listed in the penalty policy.

Q. So that's actually pretty good. I mean, we are looking at 2014 Q1, and it looks as though they were at 99.39 percent and then 99 -- well, at least for 2014, the high number is 99.39 percent?

A. Correct.

Q. Correct? That's employing the current policy?

A. Yeah, to the — to the inspections that occurred at that point if the 2018 policy had been there.

Q. All right. If you look to 13877 all the way through 13882, could you describe what we are looking at

here?

A. Okay. These are the inspections for the fourth quarter of 2017 that were violations at Clairton.

Q. By inspection type?

A. Correct, as inspection type, and then within each inspection type by date. And these would just be the violations that would have been put into the — assuming that they are the same version, these would be the same ones put in the order.

Q. And at the top of 13882 it says, "Exhibit A." Is this something that would have gone to U.S. Steel?

A. Yes.

Q. As a part of a penalty?

A. Yeah.

Q. Do we always give them a breakdown of the penalties as we assess them?

A. Historically, yes. I believe this one may have been missed with the orders. I think I sent it in after, but I'm not positive.

Q. And at the bottom of 13882, it indicates that the Department is not taking any action with respect to soaking at batteries 1, 2 and 3?

A. Correct.

Q. Is that because of the 2016 Consent Judgment?

A. Yes.

MR. WILLIS: That's all I have on that one.

HEARING OFFICER SLATER: Any objection to the admission of ACHD 14?

MR. DAUSCH: My suggestion would be that we make just the first page of this an exhibit, ACHD 14 which was the front and back, because the others are already exhibits.

MR. WILLIS: Yeah, I was trying to figure out a plan.

MR. DAUSCH: We have the correct exhibits for the other ones. I'm not sure that we know that those are the final versions. So exhibit USS 14 has the spreadsheets that were for all of the dates at issue.

MR. WILLIS: Wait a minute. This one is a draft. It has notations on it.

MR. DAUSCH: It's mine. This is the final version.

MR. WILLIS: This is where?

MR. DAUSCH: 14.

MR. WILLIS: 14?

MR. DAUSCH: Yeah.

MR. WILLIS: So you're saying that these are already in 14?

MR. DAUSCH: Uh-huh (affirmative.)

MR. WILLIS: Okay, that's fair.

MR. DAUSCH: So just the first two pages.

HEARING OFFICER SLATER: Okay. So yeah, ACHD 14 is admitted with the note with just the first two pages.

BY MR. WILLIS:

Q. All right. Can you take a look at what is going to be Exhibit 15? Did you generate this document?

A. I created the spreadsheet and then transferred it over for the 2018 calendar year, and then the coke oven inspectors enter the data into the spreadsheet. So I created the actual spreadsheet itself, but I didn't enter all the data.

Q. Okay. What are we looking at, if you can help describe this?

A. Okay, yeah, 14441, this is part of the Excel file where the coke oven inspectors enter the information. And listed on here on the left side is simply the data entry portion of it. And then the right side, as an example, this is Clairton Battery B and the months, the number of inspections, number of compliant inspections, and then the compliant percentage and this is broken down in the Excel format for each battery in a plant total.

Q. Is this just for 2018?

A. It just has January, February, March, and April for 2018. At least no inspections were done here in

May.

Q. Can we take away from that the fact that this is just solely -- this was generated or created after -- well, after the issuance of the enforcement order on appeal?

A. Depends on how far it goes, 'cause the order would have been issued -- the order was issued June 28th and this appears just to go to the end of April. So I'd assume all the data in here would have been entered prior to the order.

Q. Could you review the full document and go through this?

A. In detail?

Q. Just scan --

A. Just scroll through?

Q. Yeah, just scroll through.

A. And I'm just checking to see if it's the same timeframe?

Q. Yes, please.

A. So it looks like it goes up until April 30th for the doors. Yeah, so this is January 1st, 2018 until April 30th, 2018, the coke oven inspections for ACHD's entries into the Excel sheets.

Q. Is it fair to say that this presents the compliance percentages for each of the inspection types?

A. Yeah, for the months listed.

Q. Is it broken down by battery?

A. It is.

Q. Okay.

A. It seems like it might be missing the first sheet; but other than that, yeah.

Q. The first sheet?

A. Yeah, 'cause typically, I have this set up where it goes by plant total, then Battery 1, Battery 2, Battery 3. And this 14441 starts at Battery 2. That's the only difference.

Q. The plant total numbers, those were encapsulated in a prior exhibit, I believe. Did you recall the one that --

A. That would be the plant total for charging. So this is split up by inspection type.

Q. Oh, okay.

A. Yeah, like 14446 shows the Clairton doors from ACHD and then 1 and 2. So that's what I mean by that.

Q. Is it fair to say that this is a good representation of what would be the baseline on a per-inspection type basis?

A. For ACHD's portion, yeah.

Q. Just for ACHD's portion?

A. Yeah. This is not incorporating Keramida or

anything else.

Q. Oh, okay. So for purposes of compliance with the enforcement order, this would be incomplete data?

A. Correct.

Q. Okay.

MR. WILLIS: I would admit that.

HEARING OFFICER SLATER: Any objection to A15?

MR. DAUSCH: No objection.

HEARING OFFICER SLATER: A15 is admitted.

BY MR. WILLIS:

Q. For whatever reason, the Bates labeling is upsidedown on this document. Take a look at that.

HEARING OFFICER SLATER: This will be A16?

MR. WILLIS: 16, please.

BY MR. WILLIS:

Q. Can you tell me what we are looking at here with these documents?

A. This is historical compliance data for the U.S. Steel Clairton plant for pushing and travel. I don't think anything else would be on that. Okay, yeah, so pushing and travel compliance data for U.S. Steel Clairton from 1989 to 2017.

Q. Take a look at, for an example, page 14581 to --

A. Battery 13?

Q. Is that what that represents? I'm looking at the

chart that is next to the table.

A. Okay.

Q. From 2014 to 2016, is that chart saying that there is decreased compliance in terms of percentages?

A. Yeah. If you look at the tables on the left and then match them up with the charts, you have 2014 for Battery 13 pushing was 98.1 percent compliant; and then 2015, it was 94.7; and then down to 86.7 in 2016.

Q. Okay. And just so we have a -- the percentages are fairly high; you would agree with that? I mean, it looks like for 2016, the percentage is 86.7 percent; and then 2017, which did not make its way on the chart, is 97.5 percent compliant; is that correct?

A. Those numbers are, yes.

Q. Okay. And that's over 128 inspections for 2016 and 120 inspections for 2017?

A. Correct.

Q. Just for that inspection type?

A. That would be pushing inspections on Battery 13 done by ACHD for that year, for those two years.

Q. Similarly on ACHD014584, it looks as though there was a dip from 2014 to 2016 and the pushing compliance?

A. Yeah. Are you looking at 19 battery?

Q. Yes.

A. Yes.

Q. And again, over those years, you're looking at over 400 inspections from 2014 to 2017 -- or 2016 per the chart?

A. **Yeah, 2014 to 2016, there is a total of greater than 400 inspections.**

Q. But along with that, there are about 100 and -- estimating -- I'm sorry, for that same period, there is approximately 340 violations?

A. **Compliant inspections.**

Q. Oh, compliant inspections? Thank you for correcting that.

A. **About 60 or so violations, 60 or 70.**

Q. Okay. If we flip to 14587, this is Battery C which is, I believe, the newest battery?

A. **Correct, that's the newest.**

Q. Okay. And we have pretty high compliance numbers there as well, correct?

A. **These numbers are greater than the 78 and 87 percent than the other batteries.**

MR. WILLIS: Okay, that's all I have with those.

HEARING OFFICER SLATER: Any objection to the admission of ACHD 16?

MR. DAUSCH: No objection.

HEARING OFFICER SLATER: ACHD 16 is admitted.

MR. WILLIS: For this exhibit, we are only

concerned about 14596 through 14608. I will try to clean that up in post and take care of that cover page.

BY MR. WILLIS:

Q. This is going to be 17. If you look at 14600...

A. **Okay.**

Q. For 2014, there was only one violation per 165 inspections; is that correct?

A. **Yes. This is Battery 13.**

Q. Thank you. Yet, in 2017, we had 180 inspections, 28 or so -- or 15 or so more inspections. Yet, there were 24 violations; is that correct?

A. **Yeah, the inspections increased by 15. The violations increased by 23.**

Q. Okay. Similarly, on the preceding page -- or the subsequent page, 14601, concerning Battery 14 soaking compliance, in 2014 there was 120 inspections but only one violation?

A. **Correct.**

Q. Yet, in 2017, there were 195 inspections and 27 violations?

A. **Correct.**

Q. And the preceding year in 2016, which was also subject to -- well, scratch that.

In 2016, you had 159 inspections that resulted in 36 violations; is that correct?

A. **Correct.**

Q. So based on 2014, there was decreased compliance over 2016-2017?

A. **Yeah. 2014 was better than 2015, which is better than 2016, and then 2017 was better than 2016 but still worse than '15.**

Q. And worse than '14?

A. **Correct, yeah, '14 was definitely the best.**

Q. Moving to -- moving backwards, we are going to go to 14599. This is regarding Battery 3, soaking compliance percentages.

A. **Okay.**

Q. Would you agree that over 2014 to 2017, there was at least a decrease in compliance percentage?

A. **Yes.**

Q. Okay. And for Battery 2 soaking, there was a decrease in soaking compliance percentages?

A. **Yeah. Battery 2 was a decrease each year, actually.**

Q. Okay. Moving again backwards to 14597, would you agree that there was a decrease in compliance percentage from 2014 to 2017 for soaking at Battery 1?

A. **Yeah, another decreasing compliance percentage.**

Q. Now, taking that as a whole, if we were to look at the entire facility, would you agree, and this is in

reference to 14596, there was a decrease in the compliance percentage with respect to soaking plant-wide?

A. **Yeah, there was a decreased compliance.**

Q. Okay, thank you.

MR. WILLIS: That's all I have for that document.

HEARING OFFICER SLATER: Any objection to the admission of ACHD 17?

MR. DAUSCH: No objection.

HEARING OFFICER SLATER: ACHD 17 is admitted.

BY MR. WILLIS:

Q. Could you look to Exhibit 30 in the binder? I think it's Volume 1.

A. **U.S. Steel Clairton's permit?**

Q. Yes, sir. As the chief of enforcement, did you enforce the permit conditions which are -- that exist in this permit?

A. **Yeah, our section does.**

Q. Do you pay attention to work practices as a part of that?

A. **It's not typically part of the quarterly enforcement. It is a condition of Article 21 that could be enforced.**

Q. If you are aware of an issue with respect to work practices or maintenance and operations of a facility,

would you take enforcement action with respect to that?

A. We have in the past and we definitely could. On the ones that are more -- there's a certain subjectivity to an operation maintenance violation. With that level of subjectivity, I would probably refer to Jayme Graham, the department manager, to make sure it's going to go in that direction before we issue an enforcement order -- or violation.

Q. What --

A. But yes, it's enforceable.

Q. What would lead you, in terms of conditions or the environment at a facility, what would lead you to go to Jayme Graham with an issue regarding work practices or operations?

A. Work practices are a little bit more, we will call it, gray. It's not as defined on what a good work practice is.

So if we see something that is an un -- a bad work practice or a bad environmental work practice, we would have to — I would rather get the manager's approval to go that direction before issuing an order.

For the typical quarterly — fortunately, typical quarterly violations, those ones, it's clear-cut. It's a violation of 210521A. We know the charging condition — as an example, it exceeds that charging limit.

That's an easier one.

Operation and maintenance, some of these other ones are a little bit more -- I want to make sure the Department is in agreement before we issue anything for operation and maintenance.

Q. Okay. You mentioned earlier that you had some training with respect to coke ovens and particularly how they operate.

A. Yeah, at the Canada class.

Q. The Canada class. And that was a week-long class which entailed basically an instruction as to how a properly functioning coke facility should operate?

A. That was definitely a part of it, yes.

Q. Okay. If you turn to page 59 of that permit, that's a section -- in looking at Number 6, it says, "Work practice standards"?

A. Correct.

Q. This relates to coke ovens batteries 1, 2 and 3; would you agree?

A. Yes.

Q. Okay. Could you read letter A?

A. "Coke oven batteries 1, 2 and 3 shall be properly maintained and operated at all times according to good engineering and air pollution control practices."

Q. Okay. And if you turn to page 77, --

A. Okay.

Q. -- could you read "B"?

A. Yeah, "6B: As required by 63.6(e)(1)(i,) the permittee shall operate and maintain each coke battery, including air pollution control and monitoring equipment, in a manner consistent with good air pollution control practices for minimizing emissions at least to the levels required by 40 CFR, Part 63, Subpart 5C."

Q. And is there a citation to Article 21 with that?

A. Two citations, it appears.

Q. Which ones would those be?

A. 2103.12.k and 2103.12.h.6.

Q. Thank you. I'm going to give you what is ACHD 18. Do you recognize this e-mail?

A. I need to read it. It brings back memories, yeah.

Q. Could you tell me what this e-mail is about?

A. It was an e-mail that I sent to Coleen Davis and Jonelle Scheetz at Clairton concerning odor complaints. This is from September 14th, 2016.

Q. Do you remember why you sent this?

A. I believe -- I'm trying to recall here. I believe this was for -- if we had odor complaints in the community, then we were going to send them on to U.S.

Steel so that they could respond accordingly and see if they could find a cause of that odor.

Q. Was this ever followed up by an inspection?

A. I don't recall.

Q. Given that it was one complaint that was of concern here, is this something that we could have enforced against, to your knowledge?

A. Oh, I don't think this is only one complaint; 'cause the second paragraph, it says, "Following in the body is two of the complaints received today." And then the bottom, "...received at least 10 other similar complaints today where stated odors were observed either overnight or this morning."

Q. Is there any way that we could have done an odor investigation on site based on the fact that it's alleged that they were overnight or morning?

A. We could have done observations offsite and seen if we could determine the origination point of that odor; and if we had the citizens confirming that odor existed, we could have done an odor violation for that, yeah. It is a little bit of a harder threshold to reach the odor violation, but...

Q. Why is that?

A. Just because we have to do a full method with it. We have to observe the odor firsthand, Department only.

We can't take the citizens' words saying it smells bad and write an order based off that. It has to be Department-observed. So we have to actually observe it and confirm it with citizens that it exists, that it is the same odor they are smelling.

Q. Do we get a lot of odor complaints overnight?

A. We get a lot of odor complaints. A lot of them happen overnight, yeah, early mornings.

Q. Do we have any in the region of Clairton Coke Works?

A. Sorry, what was that?

Q. Do we get a lot of complaints originating in the area surrounding Clairton Coke Works?

A. I don't look at the complaints anymore because there are too many of them, but I know we get complaints throughout the whole county.

There are definitely complaints which come in from Clairton. I don't know how many.

Q. Okay. But this, at least, puts Clairton on notice that we will be providing them with that information as we receive it?

A. Definitely at this time, yes.

Q. Okay. Is that consistent to what we do now?

A. I don't know if we are still sending that out or not. I would have to talk to current staff.

MR. WILLIS: That's all I have for that one.

HEARING OFFICER SLATER: Any objection to the admission of ACHD 18?

MR. DAUSCH: No objection.

HEARING OFFICER SLATER: ACHD 18 is admitted.

MR. WILLIS: I think you guys have this, but I don't know where. This is the old guidelines.

MR. DAUSCH: 11.

BY MR. WILLIS:

Q. Please turn to Exhibit 11 and describe what we are looking at with respect to Exhibit 11.

A. This — yeah, this is the calculation guidance specifically for coke ovens prior to the 2018 penalty policy.

Q. So this is the old guidance that we have?

A. Yes. It's not the old, yes, but it is a prior one to 2018.

Q. You would agree there is really not much to it?

A. No. The front and back is one sheet and then there was a separate tab I put in there in case anyone wanted to use it, the calculations.

Q. Could you explain the numbering system with respect to this one? It looks as though for each of these categories, health effects, impacts on public, severity, that there is a number attributed to each of

those categories. Could you explain why there is a number system in there?

A. Yeah, those -- there is also the calculation sheet, which would be the first portion of this guidance document. This is a second tab to it. And in that sheet, there are separate categories going down.

The first group incorporated maybe six or seven of these that was zero, one, or two. And then all of these numbers were factored into the maximum potential penalty, and it was basically graded downward from there.

So if you were at the maximum rate for everything, that would come up with the maximum penalty; and then anything lower than that decreased it numerically.

Q. And this is all you had prior to 2018 in terms of determining a penalty to be assessed?

A. For coke ovens, yes. We had a separate one for non-coke ovens.

Q. Turn to the next exhibit, 12.

A. Okay.

Q. What are we looking at here?

A. This is the 2018 ACHD penalty policy. It looks like it has some pages after the policy too, but...

Q. Where does that begin?

A. 12929.

Q. Okay. Now, this penalty policy is 17 pages in length; is that correct?

A. Correct.

Q. And the prior penalty policy was two pages in length, correct?

A. Yeah, yes.

Q. Why the huge difference between the volume of these policies? What is going on that is so different from the new policy to the old?

A. It incorporates a lot more. It was written with legal assistance. It incorporated supplemental and environmental projects. It incorporated more of a description as to how violations should be counted, the number of violations, -- I'm just going through it -- the economic benefit portion of it. It goes into a lot more detail than the prior one did.

Q. So it is fair to say that this is a far more comprehensive policy than the previous policy that was in place?

A. Yeah, yeah. This one also includes the procedure which I know I use, and I'm sure a lot of the engineers also use, whenever they are creating the penalty policies, creating the penalties; going through step by step and figuring out what factor is for each of them

and then putting that into the spreadsheet.

Q. So instead of having merely a 012, there is actually a full description that would appear. Let's take, for example, severity of violation. The severity of violation under the old policy is basically 012 with some description to it. If you look at the new policy under Exhibit 12, it is an entire table.

A. Correct.

Q. Does that make it more comprehensive or less comprehensive than the old policy?

A. It incorporates more information into it, so it's more comprehensive.

Q. And it contemplates different types of sources with respect to the severity, it's not merely just coke ovens that are involved with this?

A. Correct, yeah. This is used for the Air Quality Program.

Q. In fact, the third column on the -- or the third row in this table refers to open burning violations; is that correct?

A. Correct.

Q. Is there anything in here specifically geared towards coke ovens?

A. In this severity of violation table?

Q. In the severity of violation table.

A. The star note on the first row refers to a note for it saying, "Use this factor for determination of high-opacity door violations on coke batteries."

Q. Okay. Where is that referenced in the table?

A. It's the first row.

Q. The first row?

A. Yeah. And o is the only part that has anything specific to coke ovens.

Q. Okay.

MR. WILLIS: You may have this data. If you have the data, then I would just go with the e-mail.

MR. DAUSCH: We have both.

MR. WILLIS: You have both, okay.

MR. DAUSCH: 14.

BY MR. WILLIS:

Q. Could you look at Number 14 in the booklet? Could you identify that e-mail?

A. This is an e-mail that I sent to Mike Dzurinko and Jonelle Scheetz on June 29th, 2018.

Q. It shows there are several attachments. Can you describe the attachments?

A. Yes, it is the first quarter of 2018, the fourth quarter of 2017, and the third quarter of 2017 inspection data.

Q. And that relates to the violations which were

observed and issued as penalties in the order on appeal?

A. Yes, those are the inspections.

Q. Okay. Now, do you typically send out -- and I think you may have mentioned this before -- do you typically send out this information with a violation or Notice of Violation?

A. Yeah, the standard procedure would be to send out the inspections with the order.

Q. And is that to allow the source to understand the nature of the violations?

A. It is a little bit different for coke ovens because of the quantity of violations each quarter. But we want to make sure we are on the same — so we issue all of the violations with — well, the inspection data for the violations with the order itself, and it would do it in table form.

If it is a visible emission inspection at a stack for a different type of plant, we may include the full inspection sheet with it. So because of the number, we can't incorporate all of those inspection sheets. We summarize them in the tables.

Q. I see. And the recipients of this e-mail are: Mike Dzurinko, Jonelle Scheetz, Bill Clark, and AQ Reports. Who is Mike Dzurinko and Jonelle Scheetz?

A. Mike Dzurinko -- I don't know the exact titles,

but Mike Dzurinko is the head of Mon Valley Environmental for U.S. Steel and then Jonelle Scheetz is the U.S. Clairton environmental person and Bill Clark is the enforcement engineer for ACHD.

Q. So with each of these enforcement orders or Notices of Violation, somebody at U.S. Steel is apprised as to the nature of the violations, the breakdown of what they are?

A. Yes.

Q. Okay. And what is AQ Reports?

A. That is the e-mail that the docket manager uses whenever companies submit reports. Anything we want to get scanned onto the system, we send to AQ Report; and then that eventually makes its way onto the network.

Q. Is that used for any specific purpose after it's been sent to that folder, for lack of a better term?

A. I'm not certain. I just know that the e-mails get scanned onto the network from that e-mail address. So the companies will submit reports to that address too.

MR. WILLIS: Again, we have the issue with the two-sided printing. We are only concerned with ACHD's 7210. Again, at the end, we will get together as a collective and try to sort that out.

HEARING OFFICER SLATER: That's all right. So

just the first page?
MR. WILLIS: Just the first page, 7210. What are we at, 19?
HEARING OFFICER SLATER: We are at 19, yeah.
BY MR. WILLIS:
Q. Do you recognize this?
A. This is the — this is part of Keramida's monthly report that they submit to us and this is for December 2017.
Q. What does it represent?
A. It represents the inspections that occur on each shift because we — in the agreement, we had 40 percent as a no-more-than goal to try to ensure the inspections are done on a daily basis throughout the whole day.
Q. And this is something that we asked Keramida to do for us?
A. Yeah, yes.
Q. And what does it represent? I mean, what is your takeaway from this?
A. Well, as an example, just the -- the first row for Battery Number 1, so what that means is for the month of December on Battery 1, 25.81 percent of their inspections were done in the afternoon, 35.48 in daylight, and 38.71 at midnight.
The idea behind it is to ensure that the

inspections are done throughout the whole course of the day, and then that example follows for all 10 of the batteries.
Q. And that's just with Keramida inspections?
A. This is just Keramida, yes.
Q. ACHD does not do midnight inspections?
A. They do not.
Q. Okay. But we do do daylight and afternoon inspections?
A. Yes. The way these shifts — because I believe — the shifts go, I think, from midnight to eight a.m. and then eight to four. So we would be over both of those shifts.
Q. And with respect to those inspections, do we do it sequentially, battery by battery?
A. Which inspections, Keramida's inspections?
Q. ACHD inspections.
A. Not as far as I know.
Q. Okay. How are they performed?
A. ACHD inspections, it just has the monthly requirement to do each battery, each inspection type and each battery at least once at month.
Q. Okay. So you leave it to the inspectors to determine which places they go in any given day so long as they meet that requirement?

A. Yes.
MR. WILLIS: Okay, that's all I have for that one.
HEARING OFFICER SLATER: Any objection to the admission of ACHD 19?
MR. DAUSCH: No objection.
HEARING OFFICER SLATER: ACHD 19 is admitted.
MR. WILLIS: It is 6690, and I think they are sequential to 7210. I'm sorry, not 7210, but 7209.
MR. DAUSCH: Check 32.
MR. WILLIS: I think it is a different set. We have a different set, I think, so...
MR. PARKER: This will be ACHD 20.
BY MR. WILLIS:
Q. So just to make sure we're looking at the same documents here, do you have 6690 -- ACHD6690 through ACHD7209?
A. My first page is 6690, that's correct. My last page is 7208. I'm probably just missing December 31st.
Q. You don't have a backside to that sheet?
A. Wait. Yeah, I do. Sorry.
Q. Okay. The last sheet was --
A. I wasn't expecting that to be the last sheet, yes.
HEARING OFFICER SLATER: This is ACHD 20?

MR. WILLIS: Yes.
BY MR. WILLIS:
Q. If you could take a look through all of these pages really quickly? Just breeze through so you can familiarize yourself with them so you know what we are talking about.
HEARING OFFICER SLATER: Keramida is K-E-R-A-M-I-D-A?
MR. WILLIS: Yes.
MR. DELUCA: After a quick scroll, it looks like it is six months of Keramida's reports, from August to December of 2017.
BY MR. WILLIS:
Q. Okay. It might go further back in that.
A. Well, not six months, but July — the first one I see is July of 2017.
Q. You're familiar with these documents?
A. Yeah.
Q. Can you --
A. I recognize these reports.
Q. Can you describe what they are?
A. This is the monthly summary sheets that Keramida gives to us. Well, monthly summary report that they gave to us that covers their inspections for the month, for 303.

Q. I think you mentioned earlier that we receive daily reports as well?
A. We receive daily e-mails with the raw data for each of the battery inspections, yes; "we" being U.S. Steel and ACHD.
Q. But at the end of any given month, there is an actual quality assured copy of the same data?
A. Yeah, that's what this is. This is the monthly report.
Q. Okay. If you look to ACHD6735, what are we looking at here?
A. This is the Battery B high-frequency, door-leaking summary.
Q. Again, this is provided by Keramida, who will do inspections on the coke side of Battery B?
A. Correct.
Q. Okay. So these are their observations from the coke side of Battery B?
A. The monthly summary of what they've observed, yes.
Q. Okay. Am I correct in thinking that on the left side -- because it says "push side" here, that that side of the table relates solely to observations on the push side?
A. That's correct.

Q. And on the right side of that table, it relates to coke-side observations?
A. Correct.
Q. Okay. How many leaks, based on this sheet, were observed on the push side?
A. Sixteen.
Q. And on the coke side?
A. One hundred sixty.
Q. Did we enforce with respect to that 160 leaks?
A. No, we did not.
Q. Flip to 6740, please.
A. Okay.
Q. Is that the same type of -- inspection type?
A. Yeah, it's the high-frequency door leaking for Battery C.
Q. For Battery C. Battery C doesn't have a shed?
A. They do not.
Q. How many leaks on the push side?
A. Four.
Q. How many leaks on the coke side?
A. Twenty-five.
Q. Would you expect to find more leaks on the coke side than the push side?
A. That's what I've been told secondhand that it is supposed to be because the thermal stresses are greater

on coke side than the push side, but I don't know that for certain.
Q. But would you agree, based on what you see for Battery C, that there are more coke-side leaks than there are on Battery B?
A. Battery C was 25 and Battery B was, I think, 160. So yeah, 160, yeah, there was definitely more in Battery B.
Q. Flip to 6820.
A. Okay.
Q. How many leaks on the push side?
A. This is Battery B. August is 20 on the push side.
Q. And how many for the coke side?
A. Two hundred eleven.
Q. Factor of 10, would you say?
A. Yeah, it was more than 10 times as many on the coke side.
Q. Okay. And just randomly picking another battery, take a look at 6866.
A. Okay.
Q. We're looking at Battery 1, right?
A. Yes.
Q. Battery 1 is one of the oldest batteries at the facility; is that correct?

A. Yes.
Q. Okay. How many leaks on the push side?
A. Three.
Q. How many leaks on the coke side?
A. Forty-nine.
Q. Okay. Let's look at 6909.
A. Okay.
Q. This is for September 2017. How many leaks on the push side?
A. 6909?
Q. Oh, sorry, 6906, I apologize.
A. Okay, 23 on the push side.
Q. And for the coke side?
A. One hundred sixty-nine.
Q. Okay. Let's look to 6993. This is for October 2017.
A. Okay.
MR. DAUSCH: Can you say that again?
MR. WILLIS: 6993.
MR. DAUSCH: Thanks.
BY MR. WILLIS:
Q. So for the push side, how many leaks?
A. Seventeen.
Q. And for the coke side?
A. Two hundred nine.

Q. Okay. And that was for October 2017?
A. **Yeah, October 2017, Battery B.**
Q. Okay. If you'll look to 7084, also door leaks for Battery B?
A. **Yes, this is for November of 2017.**
Q. How many on the push side?
A. **Six.**
Q. How many on the coke side?
A. **One hundred sixty-seven.**
Q. Let's move to 7171.
A. **Okay.**
Q. How many on the push side?
A. **Nine.**
Q. How many on the coke side?
A. **One hundred eighty-nine.**
Q. And in looking at this table, on the left-hand side, there is something -- there is a column called "depiction." Can you describe what that is all about?
A. **That graphically shows -- it will be a longer bar for more violations. So it depicts the number as a longer length bar versus a shorter length bar. If there are no leaks, then the depiction is just going to be blank.**
Q. Okay. And with respect to the depiction on 7171, and looking on the push side, would you say it's kind of

sparse?
A. **Yes, there's only seven entries for the whole month with all the ovens.**
Q. And on the coke side, it's pretty heavily blackened?
A. **It's almost the reverse. This is probably about seven. I can't count them all but about seven.**
Q. Okay, and those are 189 leaks. Did we enforce against that 189 leaks?
A. **We did not.**
Q. Is it fair to say that each of those leaks represents an opportunity for an emission into the air?
A. **Yeah, yes.**
Q. And as you mentioned earlier, those emissions would be -- or could be coke oven gas?
A. **They should be raw coke oven gas coming out of the door leak, more than likely, along with other compounds.**
Q. Okay. All right.
MR. WILLIS: I was going to move for the admission.
HEARING OFFICER SLATER: Oh, yes. Any objection to the admission of A20?
MR. DAUSCH: No objection.
HEARING OFFICER SLATER: A20 is admitted

MR. WILLIS: I have a whole other stack to go through. Can we take a break at this point, because I kind of need to get my head straight?
HEARING OFFICER SLATER: We can take lunch, and then --
MR. WILLIS: If they're okay with that.
HEARING OFFICER SLATER: Is that all right with U.S. Steel?
MR. DAUSCH: That's fine.
HEARING OFFICER SLATER: We'll resume at about 1:05.
(The hearing recessed at 12:08 p.m. and reconvened at 1:05 p.m.)
HEARING OFFICER SLATER: Let's go back on the record then.
BY MR. WILLIS:
Q. I'm going to give you what is going to be ACHD 21. This is also a summary inspection, data summary from Keramida.
A. **It's from October of 2017.**
Q. Okay. Could you look to ACHD3643?
A. **Okay.**
Q. How many leaks on the push side?
A. **This is a high-frequency door, 17 on push side.**
Q. And on the coke side?

A. **Two hundred nine.**
Q. And that's for October 2017?
A. **Correct.**
Q. Just for Battery B?
A. **Battery B, high-frequency door leaking summary.**
MR. DAUSCH: Jason, we've already gone over these. We already did these ones with the last exhibit.
MR. WILLIS: We already did November?
MR. DAUSCH: Yeah, we did third and fourth quarter of November of 2017.
MR. WILLIS: Sorry about that. What's the last one that we have, December?
MR. WINEK: Yes.
MR. DAUSCH: You did up to December of '17, so you are in '18.
MR. WILLIS: Okay. Let's strike that. We are going into 2018.
BY MR. WILLIS:
Q. If you turn to Tab 32 in the binder, you will see what is also a Keramida report.
HEARING OFFICER SLATER: Tab 32?
MR. WILLIS: Yes, sir.
HEARING OFFICER SLATER: All right.
BY MR. WILLIS:
Q. If you can find the Battery B emissions for the

coke-side doors, the door-leaking summary. I believe it's on --

A. 3822?

Q. 3821. 22 is the offtakes and 21 --

A. Correct, yeah, 21.

Q. Okay. Again, this is from December of 2017. How many on the -- how many leaks on the push side?

(Exhibit 21 was marked at this time.)

A. Push side has nine and coke side has 189.

Q. Okay. If you could, look to page 3907.

A. Okay.

Q. How many leaks on the push side?

A. Nine.

Q. And on coke side?

A. One hundred sixty-six.

Q. Again, this is for January of 2018?

A. January for Battery B, January of 2018, yes.

Q. And those are for the door leaks?

A. High-frequency door-leaking summary, yeah.

Q. And then for those 200 -- or sorry, 166 leaks, there were no violations described to as leaks?

A. No.

Q. Okay. Could we have counted those leaks per Article 21?

A. Per Article 21, yes.

Q. And if we were to have counted those leaks under Article 21, would the penalty have been higher?

A. Assuming there would have been violations of that standard, which it appears it would have been, it would have been a higher violation, yes.

Q. Why do you say "appears it would have been"?

A. 'Cause just looking at the number of violations, it would be 160 — or 175 for the month. Just off of an averaging, it's somewhere in the range of three a day. I'm just assuming that it would be at some point, but I can't confirm this by this sheet.

Q. Okay.

MR. WILLIS: Any objection to that?

MR. DAUSCH: No. What number are we on?

COURT REPORTER: 21.

MR. DAUSCH: No objection.

HEARING OFFICER SLATER: So A21 is admitted.

BY MR. WILLIS:

Q. So this will be Exhibit 22. I'm handing you another document also from Keramida, and this one is dated March 9, 2018.

HEARING OFFICER SLATER: I'll mark that as A22.

BY MR. WILLIS:

Q. 22.

A. A22.

Q. If you would, sir, look to -- it's ACHD3995.

A. Okay.

Q. How many leaks on the push side?

A. Push side has three, and the coke side has 208.

Q. And again, those 208 leaks were from under the shed on Battery B?

A. Coke side under the shed, yes.

Q. Okay.

MR. WILLIS: Any objection?

MR. DAUSCH: No objection.

HEARING OFFICER SLATER: All right, A22 is admitted.

BY MR. WILLIS:

Q. Are you familiar with this document, sir, A23?

A. Yes.

Q. It's dated April 10, 2018, also from Keramida. If you would turn to page 4081?

A. Okay.

Q. Okay, this one is interesting. How many leaks on the push side?

A. Eighty-one or 80?

Q. Eighty-one.

A. Okay, the offtakes.

Q. Oh, these are offtakes, I'm sorry. That's why they were interesting. Sorry.

Go back to 4080. How many leaks on the push side?

A. Yeah, this is Battery B, high-frequency door leaking again, was March of 2018. Push side is five and the coke side is 185.

Q. Okay, thank you.

MR. WILLIS: Any objection to that one?

MR. DAUSCH: No objection.

HEARING OFFICER SLATER: All right, A23 is admitted.

MR. WILLIS: Again, Mr. Slater, this is one of those that has the difficulty with the two sides. We are really only concerned with 4717 through 4786.

HEARING OFFICER SLATER: Duly noted. What is this document?

MR. WILLIS: The first page has at the top "2017 charging."

BY MR. WILLIS:

Q. Do you recognize this document, sir?

A. Yes.

Q. Could you describe it for Mr. Slater?

A. This is the ACHD inspection data from 2017 that was entered by the coke oven inspectors for charging.

The left table that goes over multiple pages is the data entry, and the right is the summary tables for

the plant-wide charging and then each individual battery following.

Q. Okay. So this, at least based on the representation of the first page, looks as though you've incorporated both the inspection, the results of the inspection, and then did some compliance calculations to the right in the right-hand tables?

A. Yeah, it does a monthly summary of the compliant inspections over the ACHD total inspections and then the annual summary up to that point.

Q. But it's just ACHD inspections?

A. Correct.

Q. Okay. If you move to page 4724, -- you have to excuse me, but the print is very fine on this page -- what are we looking at here?

A. This is the same Excel spreadsheet just for the doors tab. So it is the doors data entry and then the doors tables.

Q. And it looks as though you did some compliance calculations on the right-hand side; is that correct?

A. Correct, yes.

Q. And this is solely for 2017?

A. Yeah, 2017, ACHD for doors.

Q. Okay. If you look to 4729, can you describe what this is about?

A. This is the high-opacity door exceedances or readings from ACHD from 2017.

Q. Okay. And it's specific for Battery B or is it for all batteries?

A. This is for all batteries.

Q. Okay. It just notes 30 percent for Battery C?

A. Yeah. The 40 percent standard is in Article 21, and Battery C has a 30 percent in their IP, their permit.

Q. Okay. Do you know why Battery C has a 30 percent as opposed to 40 percent?

A. I was not involved in the permit development.

Q. That's a permit condition?

A. Yeah.

Q. Okay. Can you explain -- and I think I know the answer -- but in the far left column -- or sorry, far right column of that chart, there are certain portions of it that just say, "hashtag value, explanation point." Could you explain what's going on up there?

A. Yeah, if you look in the upper right, it explains it a little bit. So that's the read minus charge time.

So if it just has hashtags the whole way across and the read was before the charge, it has hashtag value, then it's from the previous day.

Q. Okay. If go to 4735, the top says, "2017,

topside (lids.)" Could you explain what that is reflecting?

A. Yeah, this is the -- 'cause the topsides do both lids and offtakes. So in the -- what we do, data is only entered on the offtakes tab. And then we will copy and paste it over to the lids tab for the actual compliance data. So that's why it's "topside (lids.)"

Q. Could you explain what you mean by offtakes and lids?

A. Offtakes and lids are two of the inspection types done by ACHD inspectors and Method 303, actually on top of the battery. So it states -- you are comparing it to a percent leaking. So the total number of lids is 100. You count the number of lids which are leaking and that is what is recorded here, and then the percent lid leaking is calculated by the spreadsheet.

Q. And what's a lid?

A. A lid is a -- it's a charging port. It's where coal is introduced into the oven.

Q. And what is an offtake?

A. And offtake is on the outside of the batteries. Each oven has an offtake on both sides, except for Battery C with one offtake, and then that is a point to, I guess, divert gas when they are soaking. And I don't know what else it is used for specifically, but it is on

the outside of each oven and they inspect that for leaks whenever they are doing topside inspections.

Q. Could you explain soaking a little bit for us since you've mentioned soaking?

A. Soaking is the procedure that occurs before pushing of the oven towards the end of the coking cycle. Coke is in there 18 hours or so and they pop up the lids to drop it off the collector main; stop the flow of gas; open up the offtakes for the soaking emissions to occur, if there are emissions. There doesn't have to be emissions. They open that up to let any of the excess gas to come up before they push the ovens.

Q. Okay. Why would you do that?

A. I believe it's for -- I think it's for explosive -- to stop any explosive things from happening, but I'm not positive on the why.

Q. Okay. All right. On 20 -- sorry, on 4739, it also says "topside" but here it says "offtakes."

A. Yes.

Q. So you broke that out from topside lids to topside offtakes?

A. Yeah. If you look at the actual tables for those two, you have a column for offtake leaks and a column for leaking lids. So it's the same -- the information from the topsides is put on the sheet for lids -- for

the offtakes, and then it is transferred over to the lids. So the same data entry is going to be on both of the sheets. Just 'cause of the complexity, we have two separate sheets because there are two separate sets of standards.

Q. Okay. If you look at 4743, this one says, "Clairton pushing." Some of these don't have just pushing, but they have something called travel. Could you explain what travel is?

A. Travel is the part of the pushing where the hot car goes to the quench tower. The pushing operation goes — depending upon Article 21 definitions, it changes depending how much battery it's on.

Basically, the pushing happens when the coke goes out and it goes into the quench tower. The travel is the second half of that operation. After all the coke is put into the hot car, the hot car travels down to the quench tower. That's the act of travel.

Q. Okay. And these are all the observations with respect to that in 2017?

A. For pushing and travel by ACHD, yes.

Q. Okay. Look to 4759.

A. Okay.

Q. What do we have here?

A. This is the soaking inspection by ACHD for 2017.

Q. Same thing, broken out by battery?

A. Broken out by battery on the right tables and the plant total, yes.

Q. And on the left?

A. The left is the data entry portion of it with the times, where it's located, its condition, and the opacity.

Q. Okay. Having reviewed all of these documents, you put together this table, correct?

A. I created the background spreadsheets and then the coke oven inspectors put the data entry into it.

Q. And you've reviewed the data that's been entered?

A. I reviewed what? Sorry.

Q. Do you review the data that's been entered onto the sheet?

A. That's more the engineer that reviews the actual inspection sheets. I'll check the actual spreadsheet itself and see if there are any obvious errors or typos or anything like that at the end of the year. I will go through and check those.

But more of that review is done by the -- well, the inspector that is doing the entry and then the engineer whenever the quarterly enforcement comes up.

Q. But you have had some contact with this particular data set in terms of making sure that it's

consistent, that there aren't anomalies?

A. Yeah, I checked to make sure there is nothing that's — I didn't go through every single inspection for the year, but I checked the spreadsheet itself to make sure that everything in here appears like it's accurate.

A good example would be, if there's an opacity written down of eight percent, we read opacity in five percent increments, so that's a typo. So I would have to check back to the actual inspection sheet to see what that error was, as an example.

Q. And you've been doing this for how long?

A. I know I did it for 2017 and 2016, maybe the last three years.

Q. The last three years?

A. Or something, yeah.

Q. Has anything jumped out at you with respect to any of these inspections? As they are entered in, did you ever --

A. Any individual inspections?

Q. Well, let's say with respect to your view of 2017, did something jump out at you as anomalous?

A. Whenever I put all the data into the annual sheets and saw there were more violations.

Q. Okay. Well, with respect to the data that was

entered by the coke oven inspectors, was there something that jumped out at you as particularly unusual? Maybe, I don't know, a timing?

Because it looks as though there is a start time and an end time for all the recordings. There is a duration of the readings and the battery location.

Does any of that -- did any of the data that you review strike you as unusual with respect to the time of the observation?

A. Not that I recall. Like, there may have been — the same thing, there may have been a typo with the dampered time that it said like 1939 or something like that, something that would, obviously, be in the evening where you couldn't read opacity.

Q. Oh.

A. But nothing that stands out that I can recall.

MR. WILLIS: Okay, that's all I have for that.

HEARING OFFICER SLATER: Any objection to A24?

MR. DAUSCH: No objection.

HEARING OFFICER SLATER: ACHD 24 is admitted.

MR. WILLIS: I don't believe I have any more exhibits, and I don't have any further questions.

HEARING OFFICER SLATER: Mr. Dausch, I assume you have some questions for Mr. DeLuca?

MR. DAUSCH: Yes, I have some questions.

CROSS-EXAMINATION

BY MR. DAUSCH:

Q. Mr. DeLuca, we just spent a lot of time going through monthly summary reports from Keramida and looking at the B battery door leaks, right?

A. Correct.

Q. And you went through every month that's at issue in this enforcement order?

A. Correct.

Q. We started in the third quarter of 2017, went through the first quarter of 2018?

A. I don't know if we did all nine months today.

Q. We generally covered the penalty period?

A. Yeah, correct.

Q. Okay. And in the months that you looked at that are on the record, you compared the coke-side door leaks to the push-side door leaks on the B battery, correct?

A. Correct.

Q. Those are inspections that were done by Keramida?

A. Correct.

Q. The coke-side door leaks were read from a different position than the push-side door leaks; is that fair?

A. Correct.

Q. So the push-side door leaks would have been read

from the yard?

A. Correct.

Q. And the coke-side door leaks would have been read from the bench?

A. Yes.

Q. The bench is much closer to the doors than the yard?

A. Yes.

Q. And you can't compare readings from the yard compared to readings from the bench and say, "One is more than the other" just by looking at the numbers; is that fair?

A. I can look at the two numbers and say that one is greater than the other. I'm not sure what you are — if you are —

Q. It is not an apples-to-apples comparison, is it?

A. Method 303 has a coke-load equivalency that implies it's not. I can't definitively say, but I know you are closer. And if it is a small leak, you are less likely to see it from the yard than the door -- or than the bench.

Q. Mr. DeLuca, if I held up a sheet that has a bunch of numbers, from here is it harder to see if I'm right here or if I'm right up next to you?

A. It's harder to see from across the room.

Q. Would you expect the same to happen when you are looking at door leaks on a coke oven?

A. It would be harder to see. I'm just saying if there is a large leak, you would still be able to see it at both locations.

Q. And there have been studies done on this, right?

A. I don't know.

Q. EPA did a study to come up with the yard equivalent?

A. It — I know that the yard equivalency is in 303. I don't know how they came up with that.

Q. You're not saying it was a random number?

A. I'm assuming it was not, but I don't know.

Q. Okay. Are you assuming that every door leak you could see from the bench you could also see from the yard?

A. I don't believe so.

Q. Okay. And so if you're looking at door leaks from the coke side of B battery and comparing them to leaks on the push side, you can't say they are necessarily equivalent?

A. No. You would assume that from five feet each way, you would be able to see more than 25 feet or so away.

Q. Right, and that's why the yard equivalent

calculation exists?

A. As I know, yes.

Q. You haven't been to the Clairton plant since before the penalty period in this enforcement order, correct?

A. Definitely since before the order; the penalty period, more than likely.

Q. When is the last time you were at the B battery?

A. I've never been on B battery, as far as I can recall.

Q. Okay. So you've never actually seen the B battery shed in person?

A. Not from the battery itself; driving by but not —

Q. Okay. You would agree that operating the coke plant is a highly complex process?

A. I don't know how to do it. I'd assume so.

Q. A highly technical process?

A. There is a technical aspect to it. I don't know how to operate a coke plant.

Q. You're not a coke plant expert; is that fair?

A. I've been told there's a legal definition of "expert." I don't know if I'm that or not. I know that I can't run a coke plant.

Q. Okay. Do you consider yourself to be an expert

in coke plant operations?

A. What I've been told before is the expert is somebody who knows more than 50 percent of people. So I'm assuming I know more than 50 percent of people.

Q. So you're saying you consider yourself a coke plant expert?

A. By that definition, I would not consider myself to be one by that definition.

Q. And have you ever advertised yourself as a coke plant expert?

A. No.

Q. The extent of your coke plant training is a one-week course in Canada?

A. That's the focus of it. There is daily work, but yes.

Q. And you don't have any actual work experience in coke plants; is that fair?

A. Correct.

Q. You mentioned that the B battery coke-side shed has spots that are not closed in?

A. Correct.

Q. And you believe that there's a way to close those in like a garage door?

A. Maybe not for a hundred percent enclosure but to enclose it more so than it is right now. If you have an

open shed that's, I don't know, 25 feet across by 20-foot high and that entire area is open, there are things that you can put in there --

Like the example I used was those clear plastic strips you'll see on doors just to keep temperature differentials from inside the building versus outside the building, and something like that would also increase the capture.

Q. Who creates -- or who manufacturers those clear strips for coke ovens?

A. I have no idea.

Q. Do you know if they even exist?

A. I do not. That was just an example of something that could be used.

Q. Okay. Do you know of any technology that is currently in existence that does what you are describing, that completely closes up any gaps in a coke oven shed?

A. Well, my description wouldn't completely enclose it, it just would increase the capture of it. I know that the prior coke plant, it could design some sort of saddle to increase the capture from their shedded side.

Q. So do you know any product that is on the market now that's what you are describing?

A. I know that Shenango built something in-house to

enclose a bigger area of the shed inside before the quench tower.

Q. And what was that made of?

A. I don't know.

Q. Okay. Do you know where they got that material?

A. I do not.

Q. You talked about a scrubber going on the bag house at the B battery coke-side shed?

A. Well, I think I was asked if there was a way to control gaseous emissions from there, and it would be a scrubber.

Q. Okay. Is there any scrubber that you are aware of that's manufactured that goes on a bag house on a shed from a coke battery?

A. Not that I'm aware of.

Q. U.S. Steel is subject to a higher level of inspections than any other coke plant in the country; is that fair?

A. Method 303 requirements are the same in all coke plants, but we have the two full-time coke oven inspectors, which other regions do not, so that leads to more inspections.

Q. So back to my question. U.S. Steel is subject to a higher number of inspections than any coke plant in the country, correct?

A. Yes.

Q. And there are thousands of fugitive emissions points in a battery?

A. Correct.

Q. And fugitive emissions points are not measured through scientific equipment?

A. Not generally, no.

Q. Okay. They don't go through a stack, so they're harder to accurately measure?

A. Correct.

Q. It's rare to have both full-time Keramida Method 303 inspectors and county inspectors at a coke plant; is that fair?

A. Yes. Not the 303 portion, because that's standard, but the ACHD portion is definitely rare.

Q. Right. It's rare to have both of those together at the same coke plant?

A. Yes, you can take it to both sides.

Q. Every year, U.S. Steel has to put together an annual emissions inventory, correct?

A. Yes.

Q. And that annual emissions inventory has to estimate the total emissions from all different sources at the Clairton plant?

A. Yeah, it goes to data.

Q. And the annual emissions inventory would currently be the most reliable information we have if we wanted to compare total emissions from the battery fugitive emissions points to the site-wide emissions; is that fair?

A. There's always the caveat -- I'm using the estimated actuals for reality in fugitive emissions, and a lot of the battery fugitives -- there's variation in it. There are assumptions made.

The source will submit emission inventories to ACHD and ACHD will review it and determine some conditions to challenge and some conditions to let go.

So there is a question mark to that. Is it the best that we have? Probably.

Q. So it would currently be the most reliable data that we have for that comparison?

A. Unless somebody has done some more detailed analysis other than emissions inventory, yeah.

Q. Is it the most reliable data that you're aware of?

A. That I'm aware of? Yeah.

Q. And before the enforcement order was prepared, you didn't look at any of that data; is that fair?

A. Correct.

Q. Most of the battery emissions points have both

state and federal limits, correct?

A. By state, do you mean Article 21?

Q. Yeah, I'm sorry, Article 21. Let me ask the question again.

Most of the battery fugitive emissions points have both Article 21 and federal limits, correct?

A. The battery fugitive emissions points which are inspected, yes.

Q. Okay. And let's do, for example, doors. If we are looking at door leaks, there would be an Article 21 standard?

A. Yes.

Q. There would be a federal NESHAP standard?

A. Yes.

Q. And for doors, there are violations alleged in the enforcement order?

A. Yes.

Q. Okay. For lids, there would be a federal NESHAP standard?

A. Yes.

Q. There would be an Article 21 standard?

A. Yes.

Q. And in the enforcement order, there are alleged violations related to lids?

A. Yes.

Q. For offtakes, there would be a federal NESHAP standard?

A. Yes.

Q. There would be an Article 21 standard?

A. Yes.

Q. There are violations related to offtakes in the enforcement order?

A. Yes.

Q. Charging would have a federal NESHAP standard?

A. Uh-huh (affirmative,) yes.

Q. It would have an Article 21 standard?

A. Yes.

Q. There are charging violations alleged in the enforcement order?

A. Yes.

Q. High offtake -- or high-opacity doors would have an Article 21 standard?

A. Yes, they do.

Q. There wouldn't be a NESHAP standard?

A. No.

Q. Soaking would have an Article 21 standard?

A. Yes.

Q. There wouldn't be a NESHAP standard?

A. Yes.

Q. Article 21 regulations that apply to all of those

emissions points that we just discussed, they went through a regulatory approval process before they became regulations, correct?

A. Yes, they are in the regulations. They would have had to.

Q. And do you know what that process is?

A. Cursory, I know it goes through stages of approval.

Q. Okay. Do you know if there was a health-based analysis done in any of those in the process for any of those rules or regulations?

A. The coke oven section?

Q. Yes.

A. No, I'm not aware.

Q. The NESHAP limits are the federal emission limits, correct?

A. Yes.

Q. And every industry uses different technology and has different hazardous air pollutants; is that fair?

A. There probably are industries that don't have hazardous air pollutants.

Q. Okay. Do you know the NESHAP regulations are industry-specific regulations?

A. They are pollutant specific, I believe. I'm not positive on that.

Q. You're not sure either way?
A. **No, I'm not.**
Q. Do you know if the federal NESHAP regulations involve some analysis of technological feasibility before they were enacted?
A. **I don't know how they were enacted.**
Q. U.S. Steel was 100 percent compliant with the federal NESHAP limits; is that correct?
A. **Over what timeframe?**
Q. The penalty period that's at issue in this case.
A. **Yes.**
Q. The Keramida inspectors follow Method 303, correct?
A. **Yes.**
Q. And they do inspections for NESHAP limits?
A. **And Article 21 limits; but yes, they do the NESHAP.**
Q. Okay. And the Keramida inspectors inspect every battery every day?
A. **Yes.**
Q. So there should be an equal number of inspections for the different batteries from the Keramida inspectors?
A. **Yes.**
Q. And that's based on the federal requirements in

Method 303?
A. **Yeah, they have to do every battery every day, so...**
Q. Okay. And the Keramida inspectors use a tablet similar to an iPad to do their inspections?
A. **Yeah.**
Q. And that data is available to you on a -- is it a daily basis?
A. **We get the raw data e-mailed daily after the shift, after each battery shift. The monthly summary is more where we actually look at it. That comes every month.**
Q. And you have an electronic system that allows you to have Keramida's daily inspection data?
A. **I have access to the Careport (phonetic) System, yes.**
Q. And that allows you to have daily access to their inspection results?
A. **Correct.**
Q. The Allegheny County Health Department inspectors don't inspect seven days a week?
A. **They do not.**
Q. They inspect five days a week?
A. **Not on vacations and holidays, yeah, normal work.**
Q. And unlike the Keramida inspectors, the county

inspectors have discretion as to where they inspect on any given day?
A. **Correct.**
Q. So we can expect that there would be an uneven number of inspections from the county inspectors because they can pick and choose where they go each day?
A. **Yeah, I wouldn't consider it to be dead even given all the batteries.**
Q. And there's no guidance or written document that puts any restrictions on what or where the county inspectors should be inspecting on any given day?
A. **No.**
Q. The continuity inspectors, they do handwritten inspection sheets for their inspections?
A. **Correct.**
Q. And so every day, they are generating hard copies of their inspections?
A. **Yes.**
Q. And they keep these hard copy pieces of paper with their inspection results and, on some basis, come down to this office and enter them into a computer?
A. **Correct.**
Q. And in that process, they look at the handwritten inspection sheets and enter it into an Excel file that you've created?

A. **Yes.**
Q. The county inspectors don't follow Method 303?
A. **Not for their inspections, no.**
Q. You mentioned Method 22 in your direct testimony. Can you explain what that is?
A. **My recollection of it is that it's just "Is there smoke or not?" It is not one we frequently use. We typically do Method 9 'cause it's more formalized to the standards. But Method 22 is another EPA method for smoke observance.**
Q. And does the Department use Method 22?
A. **Not that I'm aware. We are all Method 9 certified for enforcement, so...**
Q. So you're not aware of any situation where the Department uses Method 22?
A. **Fugitive emissions or roadway emissions, there are potentialities where we could use Method 22, but Method 9 is by far more common.**
Q. Okay. Are you certified in Method 22?
A. **No.**
Q. Do you know if any of the Allegheny County Health Department inspectors are?
A. **I don't know if there's any certification for Method 22.**
Q. Okay. Do you know if any of the inspections that

were used as part of the enforcement order used Method 22?

A. They did not.

Q. The Allegheny County Health Department inspectors follow the methods in the source test manual?

A. That's the manual, yeah.

Q. And the source test manual's method for inspecting coke batteries is different from Method 303?

A. Yes.

Q. And you use both the Keramida Method 303 inspections and the County Health Department inspections for compliance with Article 21?

A. Correct.

Q. And why is it that you do that?

A. Because it's inspection data that we have that we are able to use to compare to the Article 21 standards for enforcement purposes or for inspection purposes, compliance purposes. Occasionally, like, for example, the Battery B shed side doors, for consistent enforcement, we enforce their inspections the same way as ours have been.

So we will take that data and then transfer it to the way that our inspections are done and the way that we are enforcing our inspections, if that's clear.

Q. It's not. Can you explain how you transfer the

data from the Keramida inspectors who use it for Article 21 enforcement?

A. We take the data from their inspections. If they list a number of leaks, for example, we would count those number of leaks and compare those number of leaks to our standards.

Q. And the Keramida inspectors aren't using the source test manual method for their inspections?

A. No, they are not.

Q. And is it the Department's position that the Department can enforce Article 21 standards based on inspections that don't use the source test manual methods?

A. Yes.

Q. And why is that?

A. 'Cause it's evidence of a violation. The manual is just a guidance; the regulation is what has to be followed.

Q. And so is it the Department's position that it doesn't have to follow the source test manual to find violations of the Article 21 regulations?

A. If it's — it goes by the regulation. If you — if somebody sees 12 leaks of a standard, they would compare that to the regulation.

The manual is more of a procedure policy of how

it's supposed to be done. If there is, I guess, discrepancies, we would use the — sorry. I guess, can you ask the question again?

Q. Yeah. Was it the county's position that inspectors do not have to use the source test manual for inspection data that can be used to enforce the Article 21 standards?

A. Oh, correct.

Q. And so the county's position is it does not have to follow the source test manual to enforce Article 21 standards?

A. Correct.

Q. And who gets to make that decision as to whether or not to follow the source test manual?

A. I'm assuming it could be multiple of us. I mean, if an inspection is done that shows leaks that would be a violation, the regulation says that that is an exceedance of that condition. So we would use that regulation.

Q. And as chief of the enforcement section, have you made the decision to use inspection data that doesn't follow the source test manual for enforcement of Article 21 standards?

A. I've continued to, yeah. It was done before I got in the position also.

Q. Okay. And you've made that decision as part of the enforcement that occurred in the enforcement order that is the subject of this appeal?

A. Correct.

Q. Do you know if the Keramida inspectors have the ability to not follow Method 303?

A. There might be a deviation from the everyday condition. Well, there's some sort of deviation if they are unable to get inspections on a daily basis due to a battery outage, shutdown, something like that. There are conditions to not meet the requirements of everyday inspections. But following the method, they do follow Method 303 for their inspections.

Q. And are they allowed to not follow that method if they choose to?

A. They are not.

Q. And does U.S. Steel have to follow the source test manual?

A. In what sense?

Q. Are there requirements for regulated sources that are contained in the source test manual?

A. You mean for stack testing and other portions other than coke ovens?

Q. Correct.

A. Yeah, they would follow the manual. The manual

refers to EPA guidance a lot of the time. So if there is EPA guidance that overrides the manual, they would use the more current EPA guids.

Q. And in one of those situations where there is sections in the manual that apply to U.S. Steel, can it pick and choose which ones it follows?

A. That makes it sound very arbitrary. But if there is something that is better than the source testing manual, they would follow the more recent version; not the source testing manual but the more recent guidance or EPA requirements.

Q. Okay, I'm not sure I understand. Does U.S. Steel have to follow the source test manual?

A. Not if there's something better out there.

Q. So it can pick and choose when it follows the source test manual?

A. No, you are going back to where it's pick and choose again. That sounds arbitrary. If you have a condition in the source testing manual that has a date of 2008 that this was created and then later on in 2016 the EPA has a more recent document that hasn't been put into the manual, they would have to follow the more recent document.

Q. And does U.S. Steel get to make that decision on its own?

A. I don't believe. No, they wouldn't. The most recent would have to be used as long as all the parties are aware of its existence.

Q. And so any time the source test manual references an actual regulation, the actual regulation has to be followed?

A. Yeah.

Q. Okay. And in those situations, neither the Department nor U.S. Steel can deviate from the regulation?

A. As long as everybody is aware of it. If the situation exists where neither party knows it's been revised, then they wouldn't know it's there. In that case, they would deviate from that newer version. But if they are aware of that newer version, they would have to follow the newer version.

Q. And where is that written down?

A. Where is what written down?

Q. That policy that you described.

A. I'm sure it's not.

Q. If the source test manual references a regulation, both the Department and U.S. Steel have to follow that regulation?

A. Yes, as long as it's the most recent one, yeah.

Q. The Keramida inspectors, when they follow Method

303, they use 30-day average calculations?

A. For compliance with the NESHAP, yes.

Q. Okay. None of the alleged violations in the enforcement order use 30-day averages?

A. Correct.

Q. Every Method 303 inspection during the penalty period was compliant?

A. With the Method 303?

Q. With the NESHAP.

A. Yeah, with the NESHAP.

Q. Every Method 303 inspection that used the 30-day average during the penalty period was compliant?

A. Yes.

Q. When an inspector reads opacity, there's some subjectivity that's involved; is that fair?

A. Correct, yeah, the method that describes how, but yes.

Q. There's some room for error when humans are reading opacity; is that fair?

A. Correct.

Q. Did you adjust the violations or penalty in any way based on the accuracy of having humans read opacity?

A. No.

Q. After you review inspection data that you get from either county inspectors or from Keramida

inspectors, is that when you decide whether or not it's appropriate to deviate from the source test manual?

A. Well, if the engineer does the initial review of the inspections but deviates from the source test manual, we have to follow the regulation. It overrides the manual. If the regulation and the manual disagree, you have to agree with the regulation about the manual.

Q. And so when you look at results from either one of your engineers after they reviewed inspection data, or if you yourself are reviewing inspection data, is that when you would decide whether or not it was appropriate to deviate from the source test manual?

A. Or it would be in the spreadsheet itself. But yeah, I mean, that's — before we would enforce anything, we would check that, yeah.

Q. Okay. So after the inspections are done but before an enforcement action is taken is when you would decide whether or not to deviate from the source test manual?

A. Only — well, if the regulation is different than the manual, like I said, you have to follow the regulation, so yeah.

Q. Can you look at Exhibit 22, please?

A. Still in Volume 1?

Q. Yes.

A. 22 you said?
Q. Yes. Are you familiar with this document?
A. Yes.
Q. This is the source test manual?
A. Correct.
Q. This is the most recent version of the source test manual?
A. As far as I'm aware.
Q. Can you look at Chapter 109? That's about three-fourths of the way through the document.
A. Okay. I'm still looking for it.
Q. That's okay, I'll wait for you. It says "Chapter 109." It would be a page on the right-hand side.
HEARING OFFICER SLATER: Coke oven inspection procedures?
MR. DELUCA: No, back one page.
MR. DAUSCH: Yeah, back.
HEARING OFFICER SLATER: Oh, I gotcha.
BY MR. DAUSCH:
Q. Are we all on the page that says "Chapter 109" on the right-hand side?
A. Yes.
Q. Mr. DeLuca, is this the chapter that is used by the Allegheny County Health Department inspectors to do their observations of the batteries at Clairton?

A. Yes.
Q. And it says, "Determination of visible emissions from coke oven batteries, United States Environmental Protection Agency, 40 CFR 61, Appendix B, Method 109 as modified by the Allegheny County Health Department Air Quality Program;" is that correct?
A. That is what it says, yes.
Q. And before issuing the enforcement order, you never reviewed Method 109; is that fair?
A. Not specifically for the enforcement order, no.
Q. Okay. And the Department didn't have a copy of Method 109 in this building; is that fair?
A. Yeah, I don't know what Method 109 is.
Q. Okay. And you didn't know what that Method 109 was when you issued the enforcement order?
A. Correct.
Q. And as far as you know, there is no training for any of the Allegheny County Health Department inspectors on EPA Method 109?
A. Correct.
Q. And as far as you know, the Allegheny County Health Department inspectors, because there was no training, weren't following EPA Method 109; is that fair?
A. If that exists, they weren't following it.

Q. Okay. Let's look at Exhibit 33, and hold your spot on the source test manual 'cause we'll come back to it.
A. Which exhibit again?
Q. 33, please. Do you see in the top left corner of Exhibit 33 it says, "Environmental Protection Agency, 40 CFR, Part 61"?
A. Yes.
Q. Is that the same reference that's in the Allegheny County source test manual, Chapter 109?
A. Sorry, which one is the source testing manual?
Q. Yeah, it's Exhibit 22.
A. Yeah, except for the Appendix B, 109, it is 40 CFR, 61.
Q. Okay. Let's go back to Exhibit 22. If we go to the next page on Exhibit 22, there are actual paragraphs related to the different emissions points that are observed by the county inspectors; is that correct?
A. Correct.
Q. Section C relates to door leaks; is that correct?
A. Yes.
Q. It says, "Observations of door area emissions shall be made from a minimum distance of 25 feet from each door;" is that correct?
A. Correct.

Q. And if we look on the next page, there's a requirement that the observer observe both sides of the battery; is that correct?
A. Is that in that first paragraph?
Q. Yes.
A. "The observer shall continue this..."
COURT REPORTER: I'm sorry, if you're going to read it —
MR. DELUCA: Sorry, I won't read it. Yes, it says it.
BY MR. DAUSCH:
Q. Okay. So there's a specific requirement in the source test manual that inspectors look at both sides of the battery during a door-leak inspection?
A. Correct.
Q. Okay. And we know that the Allegheny County Health Department inspectors do not look at both sides of the doors on the B battery, correct?
A. Correct.
Q. And the Department enforces Article 21 in door-leak regulations even though the inspectors only look at one side?
A. Well, we don't count the other side at all. It basically counts as a "not observed" even in the calculation.

So whenever the ACHD inspectors or Keramida inspectors do their inspection, the entire coke side of the battery is considered as "not observed." So the denominator is just the pusher-side doors.

Q. Let me ask it again. The Allegheny County Health Department inspectors don't observe both sides of the B battery; is that correct?

A. Correct.

Q. And under the source test manual, they are required to, if you follow the terms of the source test manual?

A. Yes.

Q. There are no exceptions in the source test manual; is that fair?

A. I don't see any.

Q. Okay. And even though the Allegheny County Health Department inspectors only look at one side of the B battery, the Department still issues violations related to the B battery doors; is that correct?

A. I mean, on the sheet, it has "doors obstructed from view." I don't know. This might go back to your previous question.

But on the denominator it says, "Minus the number of door areas obstructed from view." So they're all obstructed because of the shed. So that's — we don't

count the shed side in addition to the 25 foot.

Q. And so the Department finds violations of Article 21 even in situations where its inspectors don't inspect both sides of the battery?

A. Yeah, if there are enough leaks on the pushing side, yes.

Q. And is this one of those situations where the Department chooses not to follow the terms of the source test manual?

A. Yes. Well, we don't follow -- we follow the source testing manual for the 25 feet. That's why we don't observe underneath the shed.

But we aren't following Article 21 in the sense that we should be observing both sides. We are following the source testing manual to give U.S. Steel a little bit more leniency on that 25 foot underneath that shed.

Q. Let me back up.

A. Okay.

Q. The Department will find a violation of a door-leak standard even though it doesn't follow the source test manual as it's written?

A. Yes.

Q. That's one of the situations where the Department has determined that it doesn't need to follow the source

test manual to find a violation of Article 21?

A. Yeah, we don't read under the shed, so yeah.

Q. The very last sentence in that paragraph on the right page -- the very last sentence in Section C, Doors, it says, "Compliance with this section shall be calculated by application of the following formula, which excludes two door areas representing the last oven charged from the numerator and obstructive door areas from the denominator;" do you see that?

A. Yes.

Q. Okay. And the source test manual has a compliance calculation that shall be used according to the source test manual, correct?

A. According to the source testing manual, yes.

Q. The Department doesn't follow this calculation?

A. At this point we are, 'cause we decided to use -- based off the meeting with U.S. Steel last year, we went back to subtracting two door leaks at all times.

Q. So it is your testimony that the Department does follow the calculation that is contained in the source test manual for door leaks?

A. The portions of it -- the 10 percent or less is no longer relevant. So ignoring that portion of it, we do count the number of door areas with visible emissions. We are currently subtracting off two of

those before we got anywhere for enforcement.

And then the denominator with the operating ovens, we just subtract the non-operating ovens and we subtract the door areas obstructed from view.

Q. But you don't include the last piece of the calculation?

A. The door areas obstructed from view are subtracted off the bottom if a pushing machine or something is in the way blocking the inspectors.

Q. The calculation says, "Ten percent or less is compliance;" is that correct?

A. Yeah, we don't follow that 'cause that standard no longer applies. That was for the older batteries. The newer standards are more stringent than that.

Q. And so is that another situation where the Department will enforce Article 21 but not follow the source test manual as it's written?

A. Yes.

Q. If the Department followed the source test manual as it's written, there would be significantly less door-leak violations; is that fair?

A. The standard doesn't apply anymore; but using it, yeah, there would be less leaks.

Q. Significantly less?

A. I don't know.

Q. Well, let's look at your Exhibit 14. Will that tell us?

A. I don't know what 14 is. Let's find out.

HEARING OFFICER SLATER: This is U.S. Steel 14?

MR. DAUSCH: Yes.

MR. DELUCA: Okay.

BY MR. DAUSCH:

Q. If the Department uses the compliance calculation that shall be used pursuant to the source test manual terms, how would that affect violations of door areas?

A. Using the 10 percent from the source testing manual, the first quarter of 2018, there was one that was over 10 percent.

And then in the fourth quarter of 2017, there were zero that were over 10 percent.

And then the third quarter of '17, which weren't initially counted, were all also less than 10 percent, both of those.

Q. So one total violation?

A. Yeah, to an old standard, yes.

Q. Okay. So if the Department followed the source test manual as it's written, there would only be one door-leak violation in the entire enforcement order?

A. Yes.

Q. You mentioned a moment ago a mistake that was

made in the third quarter of 2017?

A. There were inspections that weren't initially counted in the third quarter enforcement order which should have been.

Q. That was a mistake from one of your engineers?

A. It was a combination, unfortunately. There was a mistake on Keramida's side and on our internal side.

Q. Okay, explain the mistake on the Department's side.

A. There were violations which simply didn't get added in that were on the -- that should have been added in.

Q. And why didn't they get added in?

A. Missed.

Q. Just overlooked?

A. The column wasn't -- yeah, they were just overlooked and not put in.

Q. And do you know how that occurred?

A. Error in transcription, I guess. It was -- the engineer had them on the draft sheet but they didn't make it onto the final sheet. So they were all missed and not put into the order.

Q. What was Keramida's mistake?

A. There was a calculation error with Battery 15 for the doors whenever we went back to following the source

testing manual for, obviously, subtracting off two doors and not following the regulation for the second half of '17. A couple of those doors were calculated per the regulation and not the source testing manual.

Q. And which battery did that apply to?

A. Fifteen affected compliance, and 20 also had an error but didn't affect compliance.

Q. All of the mistakes that occurred with respect to the third quarter of 2017, those weren't mistakes that U.S. Steel caused; is that fair?

A. Well, the violations were caused by U.S. Steel, actually, but not the actual mistakes.

Q. Okay. The mistakes were either the Department or Keramida?

A. Correct.

Q. And there were more Keramida mistakes?

A. Not in this one, no.

Q. Okay. Can you look at Exhibit 15?

A. Okay.

Q. This is an exhibit where there were more Keramida mistakes, correct?

A. Yeah, this is the Battery 15 doors. Unfortunately, these two that were part of the third quarter were not initially incorporated, and then they we were informed they should be incorporated and then we

were informed they should not be again.

So, unfortunately, those two door leaks of Battery 15, the third quarter, went both ways.

Q. So there were double mistakes?

A. It goes back to the original, yeah.

Q. And these mistakes are still in the enforcement order that's the subject of this appeal?

A. The order as written, yes. This was found September 20th, 2018, this e-mail here in '15, so that would have been after the order was issued. So it wasn't known until after the order was issued.

Q. And the Department didn't go back and fix the enforcement order after these mistakes were found?

A. No. We informed -- I don't know how exactly it was that the information was transferred, but because it's under appeal, I don't know all the procedures on how it has to be done. But we did find that error afterwards and we have done the recalculation for excluding those errors.

Q. Where is that?

A. I honestly couldn't tell you where it is right now. I don't know if U.S. Steel has gotten a copy or not.

Q. Can you pull out Exhibit 14, please? It probably makes sense to take it out of the binder and use it

separately.

A. Okay.

Q. Exhibit 14 is all of the alleged violations that are in the enforcement order, correct?

A. Yeah, this is what I sent over after, yes.

Q. Okay. So let's look back at Exhibit 15, which is the e-mail from Keramida.

A. Okay.

Q. Okay, let's start at the very bottom e-mail. Can you explain to us what's happening here?

A. Yeah. This is where Brian Harrington from Keramida sent me an e-mail saying that -- he had called me on the phone right beforehand saying that was a formula error with the Battery 15 doors. He gave me an attachment with what actually happened before and afterwards, and these are the dates that were impacted with compliance.

Q. And the formula error is because the Keramida inspectors aren't using the source test manual to do their inspections, correct?

A. That's not the cause of the error. The error was that ACHD was enforcing as per the regulation in the first half of 2017; and then somewhere around the middle of 2017, we went back to the source testing manual to always subtracting two doors.

So the calculation error was in the formula where it was subtracting only if it was the oven charged as per the reg, not per minus two.

Q. And does the Department rely on Keramida to determine compliance?

A. They provide the information to us and then we determine compliance or not.

Q. Okay. And do you do any QAQC on their determinations of compliance?

A. Determinations of compliance, yes. The background data is a lot harder to do. We get their sheets and the monthly reports, and whatever data is in the monthly report is what we were using. But checking the background data lead into it.

Q. And so the Department did not check any of Keramida's calculations for all of the mistakes that were identified here and then put those in the enforcement order?

A. Correct. We took the data from the sheets and put them in the enforcement order and then we checked -- or the engineer checked the data in the -- versus what we were putting in ours to make sure there was an exceedance but not the background data that led to that number.

Q. Okay. And these mistakes that Keramida made are

in the enforcement order right now?

A. Yeah, 'cause we didn't go through a formal modification, whatever it's termed, because it's under appeal.

Q. Okay. And it looks like after you received this e-mail on September 20th, 2018 that identified mistakes on Battery 15, you received another e-mail saying that there were mistakes for Battery 20; is that correct?

A. Yeah, the same day, yes.

Q. Okay. So the same day after the enforcement order was issued, you received two e-mails from Keramida about mistakes in their calculations, correct?

A. Well, not the day after the enforcement order was issued but on the same day, September 20th, yes, we received both.

Q. And did that concern you?

A. Yeah.

Q. And did you go back and do any QAQC on the other Keramida calculations in the enforcement order?

A. I had a phone call with Keramida and we went back and looked at the background data at that point to see where the error was, what created it.

And then they came forward afterwards with what they are going to do with corrective actions so it doesn't happen again. And as part of that, we did go

back to see if the calculations were done correctly.

Q. And so the Department itself went back through all of the alleged violations in the enforcement order and made sure that they were calculated correctly?

A. There were only a few of them that we checked, specifically the ones listed here. But yeah, we checked those.

Q. Okay. You only checked the ones that Keramida identified as errors?

A. To be honest, I can't recall if I did more than that or not.

Q. Okay. So you don't know if you went back and rechecked Keramida's calculations after they identified errors in two separate batteries?

A. I went back and rechecked them; I'm just not sure to what extent.

Q. Okay. And if we look at Exhibit 14, which includes all of the alleged violations, we would see these violations that were really errors, correct?

A. I can check right now. They should be in there, yes.

Q. So let's look at the very last page of Exhibit 14.

A. Okay.

Q. These are violations which were not initially

counted in the third quarter of 2017 but should have been counted, correct?

A. Yes.

Q. That's what it says?

A. Yeah.

Q. So these were errors that were missed originally?

A. Correct.

Q. And then there were more errors that Keramida identified in its e-mail which is Exhibit 15?

A. Yes.

Q. Okay. For example, the doors, the second alleged violation is from September 11th.

A. Okay.

Q. Do you see that?

A. Yes.

Q. That is alleged as a violation in this enforcement order, correct?

A. Yes.

Q. There is a penalty that was issued based on this alleged violation?

A. Yes.

Q. U.S. Steel has submitted a check into escrow for this alleged violation?

A. Yes.

Q. It's not actually a violation?

A. Well, that's what I said, as we went back through and recalculated what it should have been afterwards. But because of the appeal process, I don't know what it ended up. But the final of the million and some that is in the enforcement order is slightly incorrect because of a couple violations which are not.

Q. Mr. DeLuca --

A. Well, they are not enforced, sorry. They are still violations.

Q. Let's look at the second page of Exhibit 14.

A. Okay.

Q. At the very bottom, there are alleged door violations from the first quarter of 2018. Do you see that?

A. The very bottom — the 52 is for high-opacity doors.

Q. At the very bottom, it starts on the second page of the exhibit.

A. Oh, I'm sorry, I was looking at the third page. Yes, 10412?

Q. Correct.

A. Okay.

Q. 10412 starts the alleged door violations for the first quarter of 2018; is that correct?

A. Yes.

Q. And it continues on to the next page, which is 10413, correct?

A. Yes.

Q. And there are eight alleged door violations from the first quarter of 2018 in the enforcement order, correct?

A. For the door leaking percentage, yes.

Q. Okay. And we know that not all of those are actually violations, correct?

A. I would have to go back and check. Yeah, 2/26 is listed here and that's listed in both of them, so yes.

Q. Okay. So February 26th, which is on ACHD10413, is identified as a violation, correct?

A. Yes.

Q. U.S. Steel paid a penalty in escrow for that alleged violation?

A. Yes.

Q. And it's not actually a violation?

A. Correct. And then it was --

Q. March 5th --

MR. WILLIS: Could you let him finish?

MR. DELUCA: I wanted to expand a little on it too. There were a couple that weren't listed here that still were non-compliant, but they were non-compliant to a lower severity based off the ACHD's interpretation for

that minus two.

So a couple of them were removed completely as non-violations that were initially violations -- well, enforced as violations.

And then other ones had a decreased severity, which moved them down on the penalty scale. So even -- there are a couple beyond here that were still listed as violations. We had to review them to see if the severity of those violations changed.

BY MR. DAUSCH:

Q. And so the county changed the severity of violations based on mistakes that Keramida made?

A. That data came available and we used it, yeah, so we had to change them. I mean, if there is a mistake made and somebody tells me that it is incorrect, I typically want to correct it.

Q. And are you saying that the Department found more severe violations?

A. No. Because we were following Article 21 previously and that's where the error came in on Keramida's spreadsheet, we were subtracting only the last oven charged and then we were going to enforce it as to minus two. The severity on those violations decreased. So it may have gone from a major to a moderate, for example.

Q. Well, let's look back at ACHD10413 where there are door leak violations alleged from the first quarter of 2018.

A. Okay.

Q. Do you see March 5th?

A. Yes.

Q. That's alleged as a violation?

A. Correct.

Q. And U.S. Steel paid a penalty into escrow for that alleged violation?

A. Correct.

Q. That's not a violation?

A. It's not enforced as a violation. It still is a non-compliant condition, but because we are currently enforcing as per the manual because of our agreement with U.S. Steel, it's a violation that wouldn't have an associated penalty.

Q. Isn't this one of the dates that Keramida said was a mistake and there wasn't actually a violation?

A. Yeah, correct, but that is using that interpretation. It's still non-compliant with Article 21. It just wouldn't be enforced as to the way ACHD is currently doing it.

Keramida, in their e-mail, wrote, "not in compliance to in compliance" because of the way that we

are enforcing it. But the reality is that that still is a non-compliant condition based off of Article 21 that we aren't enforcing.

Q. So is it a violation or not a violation?

A. It's a violation.

Q. And should it be in the enforcement order or shouldn't it be?

A. In my opinion, it should be.

Q. It should be?

A. But it's not.

Q. And your opinion is that for the enforcement order, you should change the agreement you have with U.S. Steel to use calculations consistent with the source test manual?

A. No, no. I think we should be following the regulation if the regulation and the manual disagree. Currently, for this door — for this minus two doors, we are following the manual.

My opinion is we would be following the regulation. It's still a violation, this February — I'm sorry, March 5th, because it's 6.67 percent leaking as per the regulation. That's a non-compliant condition; however, because we are subtracting two at all times from the leaks, that knocks it down below the compliance standard and makes it compliant with that

minus two. But in reality, it still is a violation of Article 21.

Q. Well, Keramida says that its mistake moved this date to in compliance?

A. Correct.

Q. Is Keramida mistaken about its mistake?

A. The terms used there are "not in compliance" and "in compliance," and that's based off of what we have told them what the interpretation is.

Q. Does the Department just pick and choose what it wants to follow for violations?

A. No.

Q. So the March 5th date --

A. I realize it is complex, but yeah.

Q. The door leak that Keramida says was a mistake that should be in compliance, is that considered compliant?

A. We are -- this is where it gets really confusing. I understand your confusion with it.

It is a violation of Article 21. The number of leaks observed, subtracting out the last oven charged, is a violation of Article 21; however, the Department is currently following that manual for the minus two leaks. So subtracting those two leaks out, that moves it to in compliance, which is what Keramida stated here.

So that's what they're referring to, I believe. But not in compliance refers to that of the -- the way we are interpreting it to in compliance off that interpretation.

Q. So the way the Department is interpreting compliance today, is this a violation or not a violation?

A. The basis of your question is different. It's a violation; we are not enforcing it.

Q. So the way the Department is interpreting violations or compliance today, this should be compliant and not in the enforcement order?

A. The way we are enforcing it, it should not be in the enforcement order.

Q. So we can take that one out?

A. Yeah.

Q. Okay.

A. It's still a violation; we just aren't enforcing it right now.

Q. What about the one below it, March 8th?

A. Again, like I said, I redid this calculation with all these changes in it somewhere. March 8th is in the same category as March 5th.

Q. So is March 8th a violation or not a violation?

A. It's in the same location as the March 5th where

it's a violation which ACHD is not penalizing.

Q. So the March 5th calculation is incorrect; is that correct?

A. The calculation listed there is based off of Article 21.

Q. And that's incorrect based on the agreement that the Department has with U.S. Steel?

A. Correct.

Q. Okay. So that should come out?

A. Yes.

Q. How many did we take out of the first quarter of 2018, three?

A. Again, I have to verify the accuracy of it, but there are three dates listed in the first quarter of 2018, yeah.

Q. That should come out?

A. Again, I want to verify before I confirm that, but it appears that way.

Q. Well, look at Keramida's e-mail.

A. This isn't everything. I just can't do it from this. I would rather go beyond this to confirm it under oath for certainty. Yes, there are three dates listed here that should have been changed.

Q. Are there more mistakes that we don't know about?

A. Well, all of the Battery 15 was subtracting those

two. So it's the same time period that had the same issues.

Keramida brought to our attention the ones where the compliance changed. The severity of those violations may have changed also but still have been a violation. There would not be ones beyond that time period.

Q. So three of the eight door-leak violations in the enforcement order should be changed from non-compliant to compliant?

A. We are enforcing it, yes.

Q. Three of eight?

A. Yes.

Q. So what's the Department's compliance percentage on issuing door penalties correctly?

A. I think that's sarcastic. But I'm not sure. What do you mean?

Q. What's that compliance percentage?

A. Five over eight?

Q. Yeah.

A. Sixty-seven and a half.

Q. Do you consider that to be good?

A. No. I don't like when mistakes are made either.

Q. And am I correct that the Department didn't go back and check to see if there were more mistakes with

Keramida's calculations?

A. No, that's — again, I don't remember the extent that I went back to. I know I checked the ones that were under note with that of Battery 15 and 20, I checked those specific ones. I don't remember how much was done beyond that.

Q. You know how to do the door-leak calculations per the source test manual; is that fair?

A. Using the equation of the source testing manual, I can follow the equation.

Q. Why don't we look at the page that is ACHD10415?

A. Okay.

Q. And there are door-leak violations on this page, correct?

A. Yes.

Q. Let's look at the one that is at the very bottom. There's a November 17th door-leak violation, correct?

A. Yes.

Q. And that's for the C battery?

A. Correct.

Q. And Keramida calculated that at 3.01 percent?

A. I don't know if that was Keramida or ACHD.

Q. Can you look at Exhibit 62 and keep this page out?

A. Is that in Volume 2?

Q. That would be in Volume 2.

A. So you want me to go to this November 17th date?

Q. Yeah, it would start on page 22 of Exhibit 62.

HEARING OFFICER SLATER: Page 22 you said?

MR. DAUSCH: Yes.

MR. DELUCA: Is that 3737?

BY MR. DAUSCH:

Q. Or I'm sorry, Exhibit -- it is page 20 of Exhibit 62.

A. Okay.

Q. And then I want to walk through these documents and make sure we understand what they are. If we start on Exhibit 62, page 20, which has Bates label ACHD003758, are you at that document?

A. Yes.

Q. This is a handwritten inspection sheet that was prepared by Keramida?

A. Well, this is just a daily summary of what the inspectors write when they get back to their trailer, but yes.

Q. Okay. And can we tell the number of leaks that were found on the C battery on November 17th, 2017?

A. I never used this for enforcement. It looks like there's seven, but I wouldn't use that as the final one 'cause that is hand copied afterwards. That is not QAQC

or anything.

Q. Would you use the document that's on page 21 that is ACHD3736?

A. Yeah, that's more of what the engineers start with.

Q. Okay. And does this document show the November 17th, 2017 C battery door-leak inspection?

A. Yeah. It has seven leaks.

Q. Okay. And so using the calculation that's in the source test manual, can you explain to us how we determine compliance?

A. So not following the regs but following the source testing manual?

Q. Following the source test manual. Which is what the agreement is with U.S. Steel; is that correct?

A. Yeah, I just wanted to make sure. So what we would do there is we would take the seven number of leaks and then subtract off the two to give you five leaks for Battery C.

And then the denominator would be the number of observed doors. So November 17th has zero non-observed doors. So they would take the denominator there of 168.

Q. Okay. And so it would be 5 divided by 168?

A. Yes.

Q. Can you -- here is a calculator.

A. 2.976.

Q. 2.976?

A. Yeah.

Q. What do you have listed on Exhibit 14?

A. 3.01. That's why I wanted to see more of the background, to see where that 3.01 came from. But using this here, 5 over 168, what may have happened is the denominator may have changed one or two. I'm not positive.

Q. The calculation that you did, 2.97 is compliant?

A. Yes, it's definitely one that is very close to the standards. Do I need the calculator?

Q. Yeah, keep it. If you look at the next page, 22, at the footnote, does that help you?

A. Excludes the two door errors less than charged and the total number of doors observed and two door leaks. Okay, so that's where their --

Q. That's another mistake?

A. I'm not sure what this refers to. Sorry. I'm just trying to review this first right now, which makes it more difficult. I don't think I could speak to that without knowing more, taking more time.

Q. Keramida is subtracting two from the numerator and denominator, aren't they?

A. That's what it sounds like they're doing.

Q. Well, let's do the math and see if it matches their numbers. Instead of 5 divided by 168, the new calculation would be 5 divided by 166. What does that give you?

A. 3.01.

Q. 3.01?

A. Yeah.

Q. What's in your alleged violation?

A. 3.01.

Q. 3.01 is a non-compliance?

A. Yes.

Q. The way you did the calculation was 2.97, correct?

A. The 5 over 168 is 2.97.

Q. That is compliant?

A. Yes, 5 -- well, 5 over 168 is less than 3, so yes.

Q. Another mistake?

A. Potentially. I just say "potentially" because I'm not certain of all the background data that went into 301; but based off of that information here, yes.

Q. And you are not certain because after Keramida identified at least two batteries where there are mistakes, the Department didn't go back and check the other calculations; is that fair?

A. I wouldn't have done that check.

Q. If you look back at --

MR. DAUSCH: Is it a good time to take a break now?

HEARING OFFICER SLATER: Sure, we can take our afternoon break.

Let's go off the record.

(The hearing recessed at 2:30 p.m. and reconvened at 2:41 p.m.)

HEARING OFFICER SLATER: All right. Well, let's try to get this done as soon as we can. I don't know how long this will take.

BY MR. DAUSCH:

Q. Mr. DeLuca, I want to refer you back to Exhibit 14, U.S. Steel 14. Look, again, on the page that is Bates labeled ACHD10415.

A. Okay.

Q. Do you see the door violation that's alleged for November 3rd?

A. Yes.

Q. Okay. And that's for the B battery, correct?

A. Yes.

Q. Can you keep this out and look at Exhibit 62 on page 18?

A. Okay.

Q. And can you tell us what Exhibit 62, page 18 is?
A. **That's a daily inspection sheet from ACHD for November 3rd on B battery for doors.**
Q. And this is an inspection of doors on this date that was performed by an Allegheny County Health Department inspector?
A. **Yes.**
Q. And this inspection only included one side of the battery; is that correct?
A. **Correct.**
Q. There was only inspection on the push side and not on the coke side, correct?
A. **Yes.**
Q. And following the source test manual as it's written, this is not a proper procedure, correct?
A. **Correct.**
Q. Okay. Is there a violation alleged in the enforcement order based on this inspection from November 3rd, 2017?
A. **Yes.**
Q. And is this a situation where the Department issued a violation and didn't follow the source test manual as it's written?
A. **Correct.**
Q. Can you look again on U.S. Steel Exhibit 14,

ACHD10415, at October 18th?
A. **Okay.**
Q. For doors, do you see that?
A. **Yes.**
Q. There is an alleged violation, 5.08 percent, correct?
A. **October 18th, yes.**
Q. Okay. Can you look at Exhibit 62 on page 12?
A. **Okay.**
Q. And Exhibit 62 on page 12 is a handwritten inspection sheet from October 18th, 2017 from Keramida, correct?
A. **Well, not an inspection sheet; but it is a handwritten sheet from them, yes.**
Q. Okay. And the handwritten sheet that reflects inspections that were done on that date?
A. **Yeah, not QC, but yes.**
Q. Okay. And how many Battery 13 door leaks were found that day?
A. **Battery B? I'm sorry, which battery is this? Battery 13 on October 18th, from this sheet, it looks like -- it's hard to read, but it looks like eight.**
Q. Okay. If you look at page 13 on Exhibit 62, does that tell you how many door leaks were observed?
A. **October 18th, Battery 13, yeah, eight.**

Q. Okay. And how many total doors on operating ovens were observed?
A. **One twenty.**
Q. Okay. And can you do that calculation again based on the formula that's in the source test manual and tell me what you get?
A. **So you are doing the 8 leaks over — 8 minus 2, so you have 6 over 120, 5 percent.**
Q. Five percent. What's contained in the enforcement order?
A. **5.08.**
Q. Five percent would be compliant, correct?
A. **I'm not positive. I don't know if it's five or greater than five. I don't — I don't know.**
Q. Okay. If it is greater than five, would it be compliant?
A. **Yeah, if it would be five or less, it would be compliant.**
Q. Okay. Do you know what the answer is?
A. **No, I don't know if the standard is five or greater or greater than five.**
Q. If the standard is greater than five, then this should be compliant instead of non-compliant; is that fair?
A. **Yes, if it's allowed to be five or less, then it**

would be compliant. Again, I didn't do these calculations either, but...
Q. Right, and if the standard was allowed to be five or less, this would be another mistake?
A. **It would be, based off of that minus two; but yes, that's how we are enforcing it, so yes.**
Q. I want to go back to the source test manual, which is Exhibit 22, and look again at Chapter 109.
HEARING OFFICER SLATER: 109?
MR. DAUSCH: Correct.
MR. DELUCA: Okay.
BY MR. DAUSCH:
Q. Chapter 109D provides the county's procedure for inspecting charging ports; is that correct?
A. **D, yes.**
Q. And the very last sentence of that procedure says, "Compliance shall be determined by application of the following formula..." and there is a formula, correct?
A. **Yes.**
Q. And the Department didn't apply the formula as written in the source test manual for the enforcement order; is that fair?
A. **I forget. There are some standards that are still — I think some batteries still have 2 percent**

lead leaks, but there are definitely ones that are less than two, more stringent.

Q. So the Department did not apply the charging ports provisions in the source test manual as they are written in the enforcement order; is that fair?

A. There were times we did not, yeah, correct.

Q. Okay. And had the Department applied the charging ports procedure that's in the source test manual as it's written, there would be less violations in the enforcement order?

A. As long as there were actual inspections from 2 to either .6 or 1 percent, yes, they would be less.

Q. And can you tell that by your Exhibit 14?

A. Going back to 14, yeah, there are some here less than 2 percent.

Q. Okay. So if the Department had followed the source test manual for charging ports, there would be less violations than there are in the enforcement order?

A. Yes.

Q. And are you able to tell how many less?

A. Well, I can tell which ones are less than two, but 10417 sheet has 11 lids of, which three of them are greater than 2 percent.

Q. And so if the Department had applied the source test manual as written charging ports, there would only

be three total violations?

A. For this quarter, for the fourth quarter of '17.

Q. Okay. How many total?

A. You mean in the other quarters?

Q. Yes, all together for the penalty period.

A. This is -- it's just an odd calculation because it's not the regulation. But the first quarter of '18 has six listed in the order, of which two of them are greater than 2 percent, and then the fourth quarter -- the third quarter of '17 doesn't have any lids.

Q. Okay. So how many less violations would there be if the Department had followed the source test manual as written?

A. Twelve.

Q. Twelve less violations?

A. If you followed the manual, yeah.

Q. Okay. I want to look back at Exhibit 22 and Chapter 109 and now look at E, offtake piping.

A. Okay.

Q. Offtake piping goes on to the next page, correct?

A. Yes.

Q. And on the next page, there's a sentence that says, "Compliance shall be determined by application of the following formula..." and then there is a formula for compliance, correct?

A. Yes.

Q. And the Department did not apply this formula for compliance in the enforcement order, correct?

A. Not on all batteries.

Q. Had it applied the formula that's in the source test manual, there would be less violations in the enforcement order, correct?

A. Most likely. I will look through the data now; but yes, there would be less.

Q. Chapter 109A is charging, correct?

A. Yes.

Q. And there are charging violations alleged in the enforcement order, correct?

A. Correct.

Q. Very last sentence of the charging section in the source test manual says, "Compliance shall be determined by summing the seconds of charging emissions observed during each of the four charges," correct?

A. Yes.

Q. And so based on the terms of the source test manual, four charges are supposed to be used for compliance, correct?

A. The source testing manual says "four charges." The older standard is four chargers for 75 seconds, and the newer one is five at 55.

Q. And so the Department did not apply the source test manual as written when it found violations that are contained in the enforcement order; is that correct?

A. Correct.

Q. Okay. And had the Department applied the source testing manual, there would be less violations for charging?

A. I'm not certain on that one actually 'cause the four charges — if the first four charges were greater than 55 seconds on those other batteries, it would still be exceedances. So I'm not certain on that one. I would have to go to the individual charging sheets.

Q. And so you're not sure if there would be less violations for charging because the Department did not use the source test manual as written, correct?

A. I'm not certain, no, because it's the fifth charge — because based off this, it would be each of the four charges.

So if we are reading five charges, we would have to take either one to four and two to five and add those up and ignore the other one. So I don't know based off the total summation.

Q. Okay. And just so we're clear, the Department did not apply the source test manual as written for charging?

A. For the batteries that have a standard of five at 55, it did not.
Q. There are alleged soaking violations in the enforcement order; is that correct?
A. Yes.
Q. And on Exhibit 14, the page that's Bates labeled ACHD10414, there are two soaking violations for January of 2017; is that correct?
A. Yes.
Q. And can you keep that page out and look at Exhibit 64 on page 3?
A. Okay, January 17th, okay.
Q. Is Exhibit 64 at page 3 the inspection sheet that correlates to the January 17th alleged soaking violation?
A. Yes.
Q. Okay. Exhibit 64, page 3 is a Department form for observing soaking; is that correct?
A. Yes.
Q. Who created this form?
A. It may have been me. It may have been secretaries. I'm not positive.
Q. Okay. Do you know when it was created?
A. No.
Q. This is the standard form that all of the county

inspectors use for soaking; is that correct?
A. Right now, yes.
Q. On this form, there's a section for Method 9 readings; is that correct?
A. Yes.
Q. That's because Method 9 is used to read opacity?
A. Method 9, yeah, it's an opacity reading.
Q. And the EPA's Method 9 for reading opacity requires a certification?
A. Yes.
Q. And are Allegheny County Health Department inspectors certified in Method 9?
A. Yes.
Q. And on this form, there's a total of -- a potential total of 21 readings; is that correct?
A. It's the first five minutes on this form. If it goes beyond five minutes, they would extend it. I don't know if it's 21 or not, but it probably is.
Q. Do you know why the form has a five-minute total time period for observations?
A. It fits on one sheet.
Q. Is that the sole reason?
A. Yeah.
Q. Okay. Do you know why the different observations are on 15-second intervals?

A. That's for the 15-second increment for Method 9.
Q. And the way we read the form is you can see how many seconds of visible emission opacity that was recorded based on the row and the time that's associated with that row; is that correct?
A. You would -- you'd — typically, it's assumed to be true. In this case, it's an instantaneous standard. So the first line would lead to non-compliant. If there's -- since they're not looking at it continuously, the assumption is if you have the same opacity, then it's occurring for that entire duration.
Q. And how does an inspector know when to start recording opacity on one of these forms?
A. Typically, whenever they push.
Q. And how does an inspector know that?
A. You'd have to ask them. I don't know specifically.
Q. Okay. There's no guidance or instructions that inspectors have to know when to stop reading opacity for soaking?
A. I think it's defined in Article 21, the soaking process. And then they can -- they have been told they can hear the ram movement of when the push actually starts.
Q. And is it your testimony that Article 21

instructs Allegheny County observers as to when to stop doing soaking observations?
A. I'd have to check. I know that soaking is the pre-pushing process, so soaking would end whenever pushing starts. I just don't know if it's specifically in Article 21.
Q. If it's not in Article 21, do you know any other document that a health inspector could look at to know when to stop observing soaking?
A. I don't know if they have any requirement to stop at a certain point.
Q. So you are not aware of any documents?
A. No. Because, I mean, once they see an exceedance, they could stop, in theory, at that point.
Q. The Allegheny County Health Department inspectors, do they make the final call on whether inspections are compliant or non-compliant with the regulations?
A. No.
Q. Who makes that call?
A. It starts with the engineer. The engineer reviews it and determines compliance and then it comes up to me for a secondary review.
Q. Okay. And as the enforcement chief, do you make the final call on whether an observation is compliant or

non-compliant?

A. Most of the time, although I don't go into as much detail of the background counts as the engineer would.

Q. And do you make final calls on whether or not the Department will deviate or not deviate from the source test manual?

A. I could.

Q. Do you?

A. I suppose I do at times. And again, a lot of this is carryover from the way it was done prior to my starting.

Q. Okay. And so since you've started, you've been the person whose made decisions on whether or not to deviate from the source test manual when determining compliance?

A. I don't know if that is even a conscious decision. I typically refer more to the regulation than the manual. I don't look at the source manual as much. I know it exists and I know what it is, but I look more at the regulation.

Q. And so sometimes, you unconsciously deviate from the source test manual?

A. Potentially, yes.

Q. And sometimes do you consciously deviate from it?

A. There are times — the doors, for example, I know about that one.

Q. Okay. So sometimes you intentionally deviate and sometimes you unintentionally deviate; is that fair?

A. I could. I don't know for certain if I do it unintentionally or not.

Q. Okay. And is there any way for a company like U.S. Steel to know in advance when you are going to deviate and not deviate from the source test manual?

A. Follow the regulation.

Q. And the regulations will tell U.S. Steel when you are going to deviate and not deviate from the source test manual?

A. I'm not just going to willy-nilly ignore it. I would have a reason for it. If the regulation overrides the manual, I would look at the regulation, not the manual.

Q. Okay. And if the regulation doesn't tell U.S. Steel whether or not you are going to deviate from the source test manual, is there any way to know?

A. Well, the regulation wouldn't say that, "Dean is going to deviate it." Because, I mean, the regulation would be the outstanding condition that would be followed.

Q. Right. It wouldn't tell U.S. Steel whether you

would deviate or not deviate?

A. No.

Q. Is there any guidance document or policy within the Department that you know of that tells you when it's appropriate to deviate or not deviate from the source test manual?

A. Just go back to the regulation. You keep going back to the manual. It's the starting point. I start with the regulation.

Q. Okay. So other than the regulation, you are not aware of any written document or guidance that tells you when you can deviate or not deviate from the source testing manual?

A. No. I mean, the penalty policy may indirectly say it, but no.

Q. Okay. I want to switch topics now and talk to you about the 2016 Consent Judgment. You're familiar with that document, correct?

A. Yes.

Q. This was negotiated between U.S. Steel and Allegheny County's Health Department in March of 2016?

A. Yes.

Q. You were the enforcement chief at that time?

A. Yes.

Q. And you are one of the main individuals

responsible for enforcing the 2016 Consent Judgment?

A. Yes.

Q. But that has not expired yet, correct?

A. It has not.

Q. There's still a compliance determination that is in existence for the 2016 Consent Judgment?

A. For the CCMS, yes.

Q. The 2016 Consent Judgment applies not to just CCMS but also to pushing and soaking on batteries 1, 2 and 3, correct?

A. Correct.

Q. And there is a procedure for penalties related to those things: CCMS, pushing, soaking on 1, 2 and 3, correct?

A. Yeah, it's stipulated penalties in that consent judgment.

Q. And can we agree that the major focus of the 2016 Consent Judgment was the battery stacks or the CCMS compliance?

A. Yeah, and then the work that may or may not have been required to achieve better compliance with them.

Q. And can we also agree that the most effective surrogate that's actually measurable for environmental performance at the site, the Clairton site, would be battery stack opacity from the CCMS?

A. That's the best way to look at the state of the battery, not the way it's being operated but the actual state of it, yes.

Q. Would you agree that that's the most effective surrogate that's actually measurable for environmental performance at the site?

A. The whole site is different than the stacks themselves. That is the best surrogate for the stacks themselves. That stack implies the condition of the battery, of the walls in the battery itself. So based off of that, yes.

Q. And is your testimony it's not the best environmental surrogate for the whole site that's measurable?

A. It's -- well, the problem is that you have -- a condition of the site is different than operating the site. The condition of the site, the COMS are the best surrogate for that because it tells you whether there are holes in the walls between the ovens, and any leaks would go into there and eventually would go out the stacks.

But if you operate it, that's different than the way that the COMS exeedance would come in. So the operations is more like the pushing, the charging, and things like that as the operational side of things.

Q. And let me back up to my question. The most effective surrogate that's actually measurable for environmental performance at the site is battery stack opacity; do you agree with that? Yes or no?

A. The best individual surrogate? Yes.

Q. There are no battery stack COMS violations in the enforcement order, correct?

A. No.

Q. I'm correct?

A. Correct, there's no COMS.

Q. And since the -- the 2016 Consent Judgment has resulted in major improvement in battery stacks; is that fair?

A. In the compliance of those, yeah, there's a lot less exceedance.

Q. Okay. And in using the best data that's actually available, there has been a major improvement in the 2016 -- or since the 2016 Consent Judgment and the best overall surrogate for environmental performance across the site?

A. If the best data available you are referring to is the number of non-compliant hours with the COMS, yes, there's been much less exceedances from there. So there has been improvement there.

Q. Major improvement?

A. Yeah, I'd say major improvement from before and after the 2016 judgment.

Q. And you calculated the first quarter 2008 (sic) battery stacks COMS compliance percentage for purposes of this case, correct?

A. Yes.

Q. 99.384 percent?

A. That sounds right.

Q. That's a high compliance percentage?

A. Yeah, there's a lot of violations in that .6 percent. But yeah, it's pretty high.

Q. 98.5 is the target that was agreed to in the 2016 Consent Judgment, correct?

A. I wouldn't categorize it as a target, but that is where the stipulated penalties came in.

Q. Okay. And that's the compliance demonstration that has to be met, 98.5 percent?

A. I'd have to check to remind myself. That sounds right. I'd have to just to check to make sure.

Q. Okay. And that would be in the 2016 Consent Judgment itself? It's a written document, right?

A. Yeah.

Q. Mr. DeLuca, I want to talk a little bit about the enforcement order now that's the subject of this appeal. That's at Exhibit 1 in the U.S. Steel binders.

A. Should I put 14 back in?

Q. Yeah, you can.

A. Okay.

Q. And Exhibit 1 is the enforcement order that's the subject of this appeal, correct?

A. Yes.

Q. Can you look at page 2 of that enforcement order?

A. I'm there.

Q. At the bottom of page 2, there's a section that's called "Ongoing and Deteriorating Issues;" is that correct?

A. Okay, yes.

Q. And in this section, this is a section that you helped prepare, correct?

A. Yes.

Q. And what you did is you identified trends that stood out to you in terms of decreasing compliance, correct?

A. I looked at the compliance over time and then -- specifically looking at the last few years or so, and then figured out ones that were different than they were previously; and yes, that led to a lot of the lower compliance which I put into here.

Q. Right. You identified trends that stood out to you?

A. Yes.
Q. And you identified those different trends by the type of inspection, correct?
A. Correct, and the battery individually.
Q. Okay. And then you put compliance percentages that you associated with those trends, correct?
A. Based off ACHD numbers, yeah.
Q. And that goes to my question. In the enforcement order, you used inspection data from both Allegheny County Health Department inspectors and Keramida inspectors, correct?
A. Yes.
Q. Okay. That's what you used for compliance in the enforcement order?
A. Yeah, for the inspection half of it, yes.
Q. And that's what you used for penalties in the enforcement order?
A. Yes.
Q. Okay. In the Ongoing and Deteriorating Issue section, you didn't use that same data set?
A. Correct.
Q. You used less data?
A. I had less data to look at in Excel, yes.
Q. You used only the Allegheny County Health Department inspections for the ongoing and deteriorating

issues?
A. Yes.
Q. And those inspection compliance percentages are lower than the Keramida inspector compliance percentages?
A. I can't say across the board; but a majority of the time, yes, ACHD has a lower compliance.
Q. So if you actually used all the data that you used for enforcement in this Ongoing and Deteriorating Issue section, the numbers would look different?
A. They would definitely look different. I would assume most of them would look better. But I don't --
Just like, for example, I'm just on page 3 randomly in the middle, it says, "Battery 14 has declined from 100 percent in 2014 to 81 in 2017." The Battery 14 in 2014 numbers may not have been 100 percent compliant.
Q. If a member of the public was to pick up the enforcement order and just read it as written, they wouldn't know that you only use selective data for the Ongoing and Deteriorating Issues section?
A. No.
Q. And the Ongoing and Deteriorating Issues section doesn't identify any ongoing and deteriorating door-leak issues; is that fair?

A. Well, the door area on this inspection has Battery 1 and 3 listed and high-opacity door has other batteries listed. I'm not sure if that answers it or not.
Q. Okay. The door area emissions section doesn't identify any B battery door ongoing and deteriorating issues; is that fair?
A. Yeah, there is none.
Q. Okay. So when you were looking for trends that stood out, you didn't find any trends with respect to the door area emissions from the Battery B?
A. Correct.
Q. The order is not supposed to include any penalties for battery stack violations, pushing and soaking on 1, 2 and 3; is that correct?
A. Correct.
Q. Can you look at paragraph 65?
A. Okay.
Q. I'm sorry, paragraph 59, which is on page 18 of Exhibit 1.
A. Okay.
Q. This paragraph is where it specifically stated that the Department is not taking action with respect to pushing, combustion stacks, or soaking on batteries 1, 2 and 3, correct?

A. Yes.
Q. And that's because that's already covered by the 2016 Consent Judgment?
A. Yes.
Q. Paragraph 65 on the next page, page 19, identifies a violation for soaking from Battery 2?
A. It's not supposed to be listed there. There was no violation for soaking in Battery 2. That was a typo.
Q. Is that another error?
A. Yeah, it's a typo in the order.
Q. So there shouldn't be a soaking penalty for Battery 2 in the enforcement order?
A. Not in this one, no.
Q. The enforcement order includes a baseline calculation as part of the corrective action, correct?
A. Yes.
Q. So the way that works is, in the first quarter of 2018, the Department has determined U.S. Steel's baseline compliance percentage for the batteries?
A. Yeah.
Q. And that baseline includes fugitive emissions points and battery stack compliance, correct?
A. Yes.
Q. It includes battery stack compliance as half of the baseline?

A. Yes.
Q. And battery stack compliance is governed by the 2016 Consent Judgment?
A. Yes.
Q. The baseline also includes fugitive emissions points that are covered by the 2016 Consent Judgment, correct?
A. It incorporates all of the inspection data, so not just the 2016 stuff but everything that we have.
Q. So the baseline also includes pushing emissions which are governed by the 2016 Consent Judgment, correct?
A. Yeah, it includes all pushing and then all soaking also for 1, 2, 3.
Q. And so the baseline includes both pushing and soaking for 1, 2 and 3, which are fugitive emissions points that are already governed by the 2016 Consent Judgment, correct?
A. Yeah, it's just put in there as a metric for compliance, yeah.
Q. And there is a potential situation where pushing compliance could cause U.S. Steel not to meet the two successive quarters improved upon the baseline; is that correct?
A. Any potential battery could, yeah.

Q. And one of those potential points could be pushing, correct?
A. Yeah.
Q. And pushing could be a reason that a hot idle is triggered under the enforcement order as it's written?
A. It could.
Q. And there could be a situation where U.S. Steel would receive a penalty under the 2016 Consent Judgment and also have to hot idle under the enforcement order at the same time; is that correct?
A. Wait, ask that again. I forget the initial part.
Q. So back to the situation where pushing compliance is the reason that hot idle is triggered under the enforcement order, it could also be a scenario where that same pushing compliance results in a penalty pursuant to the 2016 Consent Judgment?
A. So if everything else stays stagnant and pushing compliance is lower than it was, then that would be lower overall compliance, yes.
Q. Okay. And in that situation, there would be penalties for both the 2016 Consent Judgment and a hot idle because of pushing compliance?
A. That goes to where you define the word "penalty." There is no penalty in the 2018 order for pushing, soaking 1, 2, 3 or COMS. It goes into the metric for

the entire battery performance.
And if you basically pick out that portion of it and that potential existence, it could trigger hot idle, but I don't -- I wouldn't consider that to be a penalty by itself. It's not a financial penalty on both orders.
Q. Your testimony is hot idling two batteries is not a penalty to U.S. Steel?
A. It's not a direct financial penalty. It's a penalty, yes.
Q. Do you think there are direct financial consequences for hot idling 20 percent of the Clairton plant?
A. A majority of the time, I would say yes. I don't know the production schedules of where they are at with production. I can see a possibility existing where they can meet all the requirements with eight batteries. I don't know. I don't know U.S. Steel's production schedule and requirements.
Q. Well, let's assume that hot idling two batteries does cause a financial impact to U.S. Steel.
A. Okay.
Q. In that situation, if pushing was the driver for both hot idling and caused a penalty under the 2016 Consent Judgment, U.S. Steel would effectively be penalized twice for its pushing compliance; is that

fair?
A. They would be effected under both orders, yes.
Q. And the same hypothetical situation could apply if we used soaking on 1, 2, and 3?
A. Yes.
Q. Or battery stack compliance?
A. Yeah, it's keeping everything else stacked, yes.
Q. The first time that the county calculated the baseline calculation that U.S. Steel has to meet -- has to beat and then beat again was after the enforcement order was already issued, correct?
A. Yes.
Q. So the enforcement order was drafted and issued and the Department didn't know what the baseline calculation was?
A. No, it was based on just improving off past operation.
Q. And you have already testified under oath that you thought it was in the 90s, maybe above 95 percent; is that fair?
A. Yeah.
Q. And it is significantly higher than that?
A. Yeah, 98.152 is greater than 95.
Q. And that's a fairly high rate of compliance, 98.152 percent?

A. If you look at the compliance percentage, yeah. I mean, there are a few hundred violations in there, though.

Q. Okay. I want to talk to you about the B battery door-leak standard that's in the enforcement order.

What pollutants was the Department trying to regulate with this standard?

A. It was the -- well, it's looking at visible emissions. So the visible emissions would have any particulate matter. And as a surrogate, you would assume, whenever you see visible emissions, that there is also gaseous emissions coming out in that open area from the doors.

And then from those gaseous emissions, it creates a lot of sulfur compounds that eventually come into SO2 and creates particulate matter. It would have the BTEX coming out also. There are a good bit of compounds that come out.

Q. And so the pollutants that were specifically regulated would be PM, SO2, and BTEX. Anything else?

A. What do you mean by "specifically regulated"?

Q. Was there an intent to regulate or control specific pollutants with the B battery door-leak standard?

A. I was aware of a reduction in it, and that would

cause the reduction of the two non-attainment areas for the PM and the SO2.

Q. And the goal was to focus on the two criteria pollutants that are identified in the enforcement order: SO2 and PM2.5?

A. Just basically to decrease emissions back to where it was, and the cause of that would be a decrease in those emissions of those pollutants.

Q. Okay. So the Department didn't have any hazardous air pollutants or gaseous emissions in mind to regulate with the B battery door-leak standard?

A. I don't think I can speak for the whole Department.

Q. Well, you came up with the standard.

A. Yeah.

Q. Did you have any gaseous emissions or hazardous pollutants in mind that you were trying to regulate with the B battery door-leak standard?

A. Well, all of the gaseous emissions aren't controlled. So any of the gaseous emissions would be improved by reduction of leaks on the B side shed.

So the gaseous emissions would incorporate the SO2, the BTEX, naphthalene, any of the coke oven gas emissions, all of that would be controlled better by a reduction in emissions. The bag house controls the

PM2.5.

Q. Can you tell me what exactly are the pollutants in the gaseous emissions that would be emitted?

A. Raw coke oven gas, coke oven emissions, BTEX, H2S, potentially some SO2 maybe as a lower amount.

Q. Anything else?

A. There's a whole -- I don't know all of them.

Q. Anything else that you know about?

A. I've heard carbon disulfide, carbonyl sulfide, naphthalene, anomia. I don't know all of them.

Q. Did you tell me all the ones that you do know?

A. As I recall right now.

Q. And the Department didn't do any risk assessment or analysis to determine the maximum level of any of those pollutants that could come from B battery coke-side doors and still be protective of public health, safety and welfare; is that fair?

A. None of which I'm aware.

Q. Okay. And the B battery coke-side doors has a shed, correct?

A. Yes.

Q. And that shed is a control device that controls PM2.5 emissions; is that fair?

A. Yes.

Q. No other battery at Clairton has a shed designed

to control PM2.5 emissions, correct?

A. Not a full shed, no.

Q. Okay. The B battery coke side has better PM controls than any other battery at Clairton; is that fair?

A. From the coke side, yeah. It has the bag house.

Q. You were testifying during your direct about the data that you used to develop the B battery door-leak standard for the coke side. Do you remember that?

A. Yeah.

Q. That data is in U.S. Steel Exhibit 8, correct?

A. Yes.

Q. And the data that you used goes back to January of 2016, correct?

A. Yes.

Q. And the data that you used to develop the B battery coke-side door-leak standard shows that U.S. Steel would never have met it on any six-month basis, correct?

A. Going back retroactively when they weren't focusing on it, yes, correct, there's not a consecutive six-month period.

Q. Right. And so the data you used to develop the standard shows that U.S. Steel would never have met it; is that fair?

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A. Well, never have met it implies that they didn't. They were attempting to do it and focusing on it at that point.

The past data does not show a six-month period and this order does require a six-month period. So this order has to do slightly better than had been done in the past.

Q. Right. So the standard of the data you used to develop this standard didn't show one scenario where the standard had been met?

A. Correct.

Q. ACHD 11 is additional data that you looked at subsequent to issuing the enforcement order.

A. Are you referring to the sheet that goes back to 2014?

Q. Correct. Why don't you find that?

A. Okay.

Q. Looking at ACHD 11, this is data that you went and looked at subsequent to issuing the enforcement order, correct?

A. Yes.

Q. And why did you do that?

A. Well, because -- kind of because of the deposition. Whenever you guys were saying that there wasn't six consecutive months, I went back to prior

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years to see if it actually did happen.

So whenever I first created it, I looked at it and saw that more than half the time it was happening and then there were a couple months that were just over it.

So if U.S. Steel focused on the Battery B shed side, it would be easily able to reduce those a little bit just by focusing on it. 'Cause in March of 2016, for example, with the half of a leak, there wasn't anything that was requiring them to do that beyond the regulations already in place.

Q. So after the deposition, you realized that the data you used showed that U.S. Steel had never met the standard, so you went back and looked at more data?

A. I'm not -- I -- let me retract a little bit. I'm not sure if it was after the deposition or not. I know it was after the order went out.

Q. Okay. At some point, you realized that the data you used to develop the standard shows that it had never been met?

A. Correct, for six consecutive months.

Q. So you went back a few more years to see what the data showed?

A. Yeah, I went back two more years.

Q. You went back to January of 2016?

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A. Yes.

Q. Which is depicted on Exhibit ACHD 11, correct?

A. Yes.

Q. Let's assume we can go back in time and go back to January 14th -- or January of 2014. Let me back up.

The B battery coke-side door-leak standard becomes effective January 1, 2019, correct?

A. I wouldn't call it a standard, but the portion of the order referring to that does, yes.

Q. The requirement that, if U.S. Steel has more than 10 coke-side door leaks on the B battery using the yard equivalent, that it has to hot idle two batteries, goes into effect starting January 1st of 2019; is that correct?

A. Correct.

Q. It lasts for six months, correct?

A. Correct.

Q. And if U.S. Steel has 11 leaks in any of those months using yard equivalent, it has to hot idle two batteries?

A. Yes.

Q. Okay. So let's pretend we can go back in time to 2014 in January and this standard exists. From the first four months, what would have been the result -- or the first six months, I'm sorry?

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A. January, February, March were all greater than 10. April, May and June were all 10 or less. So it would have been January of 2014 that would have greater exceeded that standard.

Q. And so the first six months of 2014 would have resulted in a hot idle?

A. Yes.

Q. Okay, let's look at the second half of the year for 2014. If we use the second half of the year, the six months of 2014, what would the result have been if the standard was in place?

A. July, August and September would have met and then October would have been greater than 10.

Q. So U.S. Steel would have had to hot idle?

A. Yes.

Q. Okay. Well, let's go to January of 2015 and look at the first six months in 2015. If this standard was in place, what would the result have been?

A. January, they were just over at 11 and a half, so January would have had to hot idle. And the next five months would have been under it.

Q. Okay. So there would have been a hot idle in that scenario?

A. Yes.

Q. Okay. Well, let's look at the second half of

2015, that six-month period. If the standard was in place then, what would the result have been?

A. That would have been a -- July '15 was greater than 10.

Q. So there would have been a hot idle?

A. Yeah.

Q. Okay. Well, let's go to January of 2016 and look at the first six months of 2016. If the standard was in place then, what would the result have been?

A. January was greater than 10 and then February, March, April and May were under and June was over.

Q. So there would have been a hot idle?

A. Yes.

Q. Okay. Well, let's look at the second half of 2016, for that six-month period. If the standard was in place, what would have happened?

A. July, August, and September were under; October was 10 and a half, and then November and December were under. So there would be a hot idle for that 10 and a half.

Q. Okay. What about the first six months of 2017, if the standard was in place, what would have happened?

A. They were all greater than 10, so it would be a hot idle.

Q. Okay. What about the second half of 2017 if the

standard was in place, would have happened?

A. They were all greater than 10, so hot idle.

Q. Okay. What about the first six months of 2018 if the standard was in place, what would the result have been?

A. They were all greater than 10, so hot idle.

Q. Your process for coming up with the 10 door-leak standard was pretty simple?

A. Yes.

Q. You just looked at the 2016 data and thought that 10 was something that was repeatable?

A. I looked at — well, 2016 through 2018 and saw that the numbers were a lot higher in '17 and '18; and went back up and saw that in 2016, there were a lot of months, 9 out of the 12, that were under 10. So that was something that could be achieved, especially 'cause if you are not focusing on something, you are going to typically do a little bit worse than if you focus on it.

Q. So you looked at the data that is in U.S. Steel Exhibit 8 and thought that 10 was a number that looked to be repeatable?

A. Yes.

Q. You didn't do any empirical analysis?

A. It depends what you mean by "empirical." But no, I believe that 9 of the 12 months, they were under.

Q. You didn't do any analysis to see if the standard was technologically achievable; is that fair?

A. I didn't know I would have to if it was met, so no.

Q. You didn't do any risk assessment to determine if the standard was necessary to protect public health?

A. No.

Q. You didn't do any analysis to see what the impact would be on the ambient air quality by imposing this standard?

A. No.

Q. You didn't do any health-based risk emissions standard analysis?

A. No. It was just thought if you have less emissions, you have less in the air; but no, no analysis.

Q. The standard didn't go through any rulemaking process; is that fair?

A. I'm assuming you are referring to the order, 10 leaks?

Q. I am.

A. No.

Q. It wasn't reviewed by the Board of Health?

A. No.

Q. There was no public comment?

A. No.

Q. There was no public hearing?

A. No.

Q. No approval by county council?

A. No.

Q. No input from U.S. Steel?

A. No.

Q. If U.S. Steel does what it's supposed to do under the enforcement order with respect to the baseline and it exceeds it in the first quarter of 2019 and then it exceeds that number in the second quarter of 2019 but it has one month with 11 coke-side door leaks on B battery using the yard equivalent, it has to hot idle two batteries?

A. That's what the order has, yeah.

Q. It seems like a lot, right?

A. It's something that can be done.

Q. Does it seem like a lot?

A. A lot in the sense if it's a strict standard.

Q. Strong penalty?

A. It's strict. I mean, it's something that — like I said, in 2016, it was done without focusing on it. So we do believe it is achievable. Is it a hot -- is it a lot to have two batteries idled for it? It is up to interpretation. It's a strict penalty.

Q. It's excessive?
A. **It's strict.**
Q. Would you agree that it is excessive?
A. **I don't think so, because it's achievable.**
Q. Okay. Did you -- do you remember testifying in a deposition a few weeks ago?
A. **Yes.**
Q. Do you remember you were under oath?
A. **Yes.**
Q. Do you remember you were in my office, I was asking you questions?
A. **Yes.**
Q. Do you remember saying that the B battery coke-side door-leak standard was excessive?
A. **I remember you asking me a lot of questions along the same lines. I don't know all of the answers.**
Q. Okay.
A. **I think it may have been my opinion, I'm not sure.**
Q. So is it fair to say that you had an opinion that the door-leak standard was excessive?
A. **I'm sure you have the document closer than I do. I don't recall.**
Q. In this -- it's underneath one of your binders.
A. **Oh, okay.**

Q. Your deposition is the first one. If you look at page 181 starting with my question on line 4, "For example, if U.S. Steel had 11 door leaks on the coke-side B battery, that would be an excessive penalty to require it to hot idle two batteries?"
Your answer: "Excessive might be different than strong, but it's a strong penalty, yeah."
My question: "You wouldn't agree that it would be excessive?"
Your answer: "I don't know how to define excessive. But, I mean, it seems like a lot for having one bad month of door leaks, but it's also something that has been repeated in the past. Indirectly, I guess it is excessive. It really depends on how you define it."
Is that your testimony?
A. **That's what it says here, yeah.**
Q. Okay. So you testified earlier that the B battery door-leak standard was excessive?
A. **I said, "Indirectly, I guess it's excessive."**
Q. Okay. Do you still stand by that statement?
A. **I mean, the whole statement is, "Indirectly, I guess it is excessive, but it really depends how you define it."**
Q. Okay. Using your definition of excessive, we

agree that it's excessive?
A. **It's what I said there.**
Q. Okay. We looked earlier -- well, actually, on direct, your counsel showed you the penalty policy that was enacted in 2018?
A. **Yes.**
Q. And that penalty policy covers a variety of different sources, correct?
A. **Yeah.**
Q. It doesn't just cover coke ovens, it covers other sources?
A. **Correct.**
Q. And do you know if that penalty policy went out for public comment?
A. **It did not.**
Q. Okay. You also looked in your direct at a prior policy which was Exhibit 11, correct?
A. **Yes.**
Q. And this policy, it was in existence until January of this year?
HEARING OFFICER SLATER: This is U.S. Steel 11?
MR. DAUSCH: Correct.
HEARING OFFICER SLATER: Okay, just making sure.
MR. DELUCA: Yes.
BY MR. DAUSCH:

Q. This penalty policy, which is U.S. Steel 11, is specific to coke ovens, correct?
A. **Yes.**
Q. It doesn't apply to other sources?
A. **It does not.**
Q. Can you look at the second page of this penalty policy please, sir? That page is Bates labeled ACHD010179, correct?
A. **Yes.**
Q. Do you see the section that is "Compliance Frequency"?
A. **Yes.**
Q. And in this section, reasonable compliance efforts during a quarter is the same as a compliance rate above 95 percent, correct?
A. **Both of those conditions lead to a factor of zero.**
Q. Right. And so, they are the same thing?
A. **No, either condition — so if you have reasonable compliance efforts during a quarter that leads to a zero or a compliance rate greater than 95, it's up to the engineer doing it to determine if it's reasonable or not.**
Q. And your testimony now is that reasonable compliance effort during a quarter does not equate to

compliance above 95 percent?

A. **I'm just saying either of those conditions leads to a zero.**

Q. Are they the same thing under this policy? Are they equivalent?

A. **Yeah, yeah. In the sense that they both lead to a zero, yeah, they are the same.**

Q. Okay. So if reasonable compliance is a compliance above 95 percent, U.S. Steel had reasonable compliance?

A. **Where or what?**

Q. In the penalty period for all of the batteries.

A. **This is a different metric. This included ACHD only. So it wouldn't be — I don't know what an "ACHD only" was.**

Q. Let's take this policy for what it says and say that compliance above 95 percent is the same as reasonable compliance. If that's the case, U.S. Steel would be above reasonable compliance?

A. **Yeah, that the plan total is above 95 percent.**

Q. Right. And so if we were using the penalty policy in existence during the first two quarters that are at issue in this case, we would be using Exhibit 11?

A. **Yeah. The reason I'm hesitating is because the fourth quarter, we wouldn't have had all the information**

to do it until after that.

Q. Yeah, I'm talking about --

A. **Whatever occurred in that period when this policy existed.**

Q. Right. When the third quarter of 2017 occurred, the penalty policy that is Exhibit 11 was in existence?

A. **Yes, correct.**

Q. When the fourth quarter of 2017 occurred, the penalty policy that's identified as Exhibit 11 U.S. Steel was in existence?

A. **Yes.**

Q. And in the beginning of the first quarter of 2018, the penalty policy in existence was U.S. Steel Exhibit 11?

A. **Yeah, for the first 10 days or so.**

MR. DAUSCH: Mr. Slater, I would suggest that we take a short break and see if I can get everything done so we can officially finish this witness up.

MR. WILLIS: I still have questions after, by the way.

HEARING OFFICER SLATER: Okay, for redirect?

MR. WILLIS: Yes.

HEARING OFFICER SLATER: Okay.

MR. DAUSCH: So maybe just a short five to 10-minute break so we can try to get this witness done.

HEARING OFFICER SLATER: All right. Let's resume at 3:40.

(The hearing recessed at 3:35 p.m. and reconvened at 3:43 p.m.)

HEARING OFFICER SLATER: All right. Let's go back on the record then.

BY MR. DAUSCH:

Q. In the enforcement order, Mr. DeLuca, there is no exception or discretion built in if the B battery coke-side doors have any problems or malfunctions that causes them to have more than 10 door leaks per month using the yard equivalent; is that fair?

A. **No, there's nothing in the order, that's correct.**

Q. The order, the enforcement order, has a methodology for determining the worst performing batteries; is that correct?

A. **Yes.**

Q. And that's if a hot idle is triggered, there has to be a calculation of the two worst performing batteries pursuant to the enforcement order; is that right?

A. **Yes.**

Q. And as part of this appeal, the Department did that calculation for first quarter 2018 to show how it works; do you recall that?

A. **Right, yes.**

Q. And do you recall that one of the batteries that was identified was the C battery?

A. **Yes.**

Q. And so based on the methodology and the enforcement order, C battery was determined to be one of the worst performing batteries, correct?

A. **Yes, during that period.**

Q. And you were surprised that the B battery showed up, correct -- or C battery?

A. **I was, yes.**

Q. And part of the reason is that C battery is the newest battery?

A. **Correct.**

Q. And has the most advanced technology?

A. **That's what I've been told.**

Q. And did you do any analysis to determine why it was that C battery showed up?

A. **No formal analysis, no. I went back and kind of looked at it. I think it was C soaking that came up.**

Q. And C battery has traditionally been the best battery with respect to COMS or stack compliance?

A. **To COMS, yes.**

Q. C battery has different emission limits than the other batteries at Clairton, correct?

A. Yes.
Q. It's more stringent limits?
A. For most of them, yes.
Q. All right. And so there are certain times where B battery would have an exceedance that wouldn't be an exceedance on another battery?
A. Correct.
Q. And there's no control for that in the worst performing battery methodology, correct?
A. No, it's based off of compliance.
Q. Can we look back at -- if you can take Exhibit 14 out again, I have a few more questions.
Mr. DeLuca, I want to talk about charging. Do you recall from the source test manual the charging section says that, "Compliance shall be determined by summing four charges"?
A. Yeah, from earlier today, yes.
Q. Okay. On October 10th of 2017, there was a charging violation for Battery 14.
A. October 10, 2014 (sic.)
Q. Do you see that?
A. Sixty-one and a half seconds?
Q. Yeah. And that is on ACHD10415, correct?
A. Yes.
Q. The total seconds identified is 61.5, correct?

A. Yes.
Q. Can you look at Exhibit 63 on pages 44 and 45?
A. Okay.
Q. Let's look at page 45 of Exhibit 63.
A. All right, I'm there.
Q. And are you familiar with this page?
A. I know it's from the Keramida monthly reports.
Q. And are you familiar with how to read this?
A. Yes.
Q. And this includes the Battery 14 inspection data for the month of October of 2017, correct?
A. Yes.
Q. And can you find October 10th, 2017?
A. Yes.
Q. And how many charges were included for this date?
A. Five.
Q. And so if the Department had followed the terms of the source test manual, can we agree that there would be no violation for this date for charging?
A. No four consecutive charges greater than 75, so correct, there wouldn't be an exceedance.
Q. Okay. So if the Department had followed the terms of the source test manual, there would be no charging violation for October 10th, 2017 for Battery 14, correct?

A. Yeah, we followed the manual. But again, it's the regulation disagrees with the manual, but...
Q. On December 15th, there's also a charging violation in 2017; is that correct?
A. Yeah.
Q. And that is, again, on Exhibit 14, page ACHD10415, correct?
A. Yeah, Battery 14, 58 seconds.
Q. If you look at Exhibit 63 on page 128 --
A. Okay.
Q. Actually, let's look at page 129 of Exhibit 63.
A. Okay.
Q. This page is the Keramida inspection report for Battery 14, correct?
A. Yeah, for December of 2017.
Q. And it would include the December 15th, 2017 violation that's included in the enforcement order, correct?
A. Yes.
Q. And if the Department had followed the terms of the source test manual to determine compliance with charging, can we agree that there would be no violation?
A. There would not be.
Q. I'm correct?
A. Yes, you are correct, there would not be a

violation following the manual.
Q. Okay. Look back, please, if you would at Exhibit 14, again on page ACHD10415. There's a charging violation for October 23rd, 2017, correct?
A. Yeah, Battery B, 58 seconds.
Q. Okay. Can you look at Exhibit 63 on page 68?
A. Okay.
Q. Are you familiar with this document?
A. Yeah, this is an ACHD charging inspection sheet.
Q. Okay. And based on this charging inspection sheet, can you tell whether or not there would be a violation for charging on October 23rd, 2017 if the Department had followed the terms of the source testing manual?
A. There would not be.
Q. Okay.
MR. DAUSCH: That's all I have.
HEARING OFFICER SLATER: Mr. Willis?
MR. WILLIS: Thank you.

REDIRECT EXAMINATION

BY MR. WILLIS:
Q. Mr. DeLuca, it seems that, based on your testimony during your deposition, that you had a little bit of confusion about the term "excessive" and what it meant; would that be fair?

A. I think it is defined different by different people, yes.

Q. Okay. Well, let me provide you with a definition. I just took an opportunity to look at the Merriam-Webster Dictionary online and "excessive" is defined as: "Implies an amount or a degree too great to be reasonable or acceptable."

Do you believe that the condition -- the corrective action with respect to B battery, coke-side shed and the leaked limit that's imposed, do you think that is too great to be reasonable or acceptable?

A. No, 'cause it was something that was met in the past.

Q. Okay. I'm just going to run through my questions just to get them covered as quickly as possible.

There are, as you recall, over 300 violations that were noted in the enforcement order that's at issue today, right?

A. Yes, for the — correct.

Q. Of those 300, how many were Keramida discussing?

A. I don't know the exact number, but I would say less than 10.

Q. Less than 10?

A. Yes, 10 or less.

Q. Ten or fewer. Do you recall from your penalty

calculation sheet what the maximum penalty was for any one violation?

A. It's 25,000 per violation per day.

Q. But you don't recall the exact number?

A. Of the maximum — I'm sorry?

Q. The actual penalty that was imposed for any one violation, do you remember what the max -- what the highest number would have been?

A. Oh, the highest amount for each individual violation?

Q. Yes.

A. No, I don't recall that.

Q. Let's find that. Sorry, I'm looking for the penalty calculation sheet.

HEARING OFFICER SLATER: Is that U.S. Steel 11?

MR. WILLIS: 11?

HEARING OFFICER SLATER: That's the one before 2018.

MR. WILLIS: No, not that one. Oh, here it is. It's 13.

BY MR. WILLIS:

Q. Can you turn to 13, please?

HEARING OFFICER SLATER: This is U.S. Steel 13?

MR. WILLIS: Yes.

MR. DELUCA: Okay, yes.

BY MR. WILLIS:

Q. I'm just taking a cursory glance, and if you look to what is labeled as ACHD004893, do you see that?

A. Yes.

Q. Look to the number -- Violation Number 10 on that.

A. Okay.

Q. It is in the first quarter of 2018. Do you see the violation, the gravity-based penalty?

A. Yes.

Q. Is that the penalty for one violation, 2,750?

A. Those would be prior to adjustment.

Q. What is it per violation after adjustment, or do you know?

A. I would have to calculate it from here, but it would be the 2,750 is the gravity-based portion. The adjustment would be -- that is the lids. So that would go over to the left table, 2.2, 2,750 times 2.2, so about 5,700, 5,800.

Q. 5,800. So at 10 violations at the maximum violation that I've been able to discover, we are talking about $58,000?

A. I'm sorry, I just remembered I had a calculator here. Yeah, about 6,000. Sorry, what was that question again?

Q. So if we were to say -- well, at 6,000 at 10 violations, that is $60,000?

A. Yes.

Q. Out of a $1,000,000 penalty?

A. Yes.

Q. Is that a significant error in a monetary basis?

A. That would be 60,000 over 1,000,000. No, 6 percent, I mean, that depends on how you define "significant" there. But it's a small portion of the total penalty.

Q. That's enough. Are you aware -- you're aware of Method 22, correct?

A. Yes, maybe not the specific details but I know of it.

Q. Do you know if there is any certification that can be gained from Method 22?

A. None of which I'm aware.

Q. The source testing manual is that regulation?

A. It is not.

Q. Has it gone through any sort of promulgation process for regulation? Has it been before the Board of -- Board of Health for review?

A. No.

Q. Has it been before county council?

A. No.

Q. Okay. So it's not a law that is regulated under Allegheny County Health Department rules and regulations?

A. It's not a final regulation. It just is a manual, so no.

Q. But the manual does contain references to regulations?

A. I would have to review the manual to make sure, actually.

Q. Okay.

A. But I'm not positive.

Q. What is the source testing manual?

A. I think it was 22.

MR. PARKER: Yes, 22.

BY MR. WILLIS:

Q. Let's take a look at the source testing manual real quick. There was a reference to Chapter 109, the determination of visible emissions from coke oven batteries.

A. Yes.

Q. It's an EPA reference. Have you seen that reference, that document before?

A. The 40 CFR, Appendix B, Method 109, no.

Q. Okay. Let's go to 33 which was referenced in relation to that document. If you look at Exhibit

33, --

A. Okay.

Q. -- could you read that top line where it says "Federal Register"?

A. "Federal Register, Volume 52, Number 78, Thursday, April 23rd, 1987 proposed rules."

Q. So as of 1987, this particular item here is just a proposed rule?

A. As it states there, yes. I can't speak to the whole document, though.

Q. Well...

A. It's a proposed rule up top there.

Q. Okay. Look to the whole document. Is there any place that it does not notate that it is anything but a proposed rule?

A. No, it's "proposed" on all the headers.

Q. Okay. I'm not asking for any particular legal knowledge, but you would know the difference between a proposed rule and a final rule?

A. Yeah.

Q. And a rule that has been promulgated?

A. A final rule has been promulgated; a proposed rule would not be.

Q. Okay. The source testing manual requires a 25-foot distance from the coke oven to do a visible

emission reading; is that correct?

A. For doors.

Q. For doors. Is that possible to do at the shed?

A. Not safely.

Q. So by virtue of that, we have not taken in consideration the violations on that side?

A. No. I mean, they could read it from the bench which would be less than 25, but to meet that 25-foot standard, they haven't done that safely. So we have not considered that.

Q. Okay. And at one point, we were taking readings from both sides of the coke Battery B?

A. I'm not certain on that.

Q. Okay. There was a point in which U.S. Steel asked that we not make use of that regulation but to defer to the source testing manual?

A. That 25 foot was in place whenever I started, so it would have predated me. I don't know when that started.

Q. But in terms of our actual application of that portion of the source testing manual, that was something that was specifically requested that we make use of as opposed to going with the regulation?

A. I would assume that, but I can't speak certainly because it's been -- we've being doing the "more than 25

foot" since I started.

Q. Do you remember having the conversation with U.S. Steel with respect to the source testing manual?

A. Yes.

Q. Do you remember any requests being made with respect to how we enforce based off the source testing manual?

A. Yeah, that was the minus two door leaks.

Q. That was the minus two door leaks?

A. Yes.

Q. And notwithstanding the fact that the regulations would have us make use of the readings off of those two door leaks, we opted to go with the source testing manual?

A. In this case, yes.

Q. Okay. And that was at the request of U.S. Steel?

A. Correct.

Q. And to the extent that we would have made use of the source testing manual, that would have benefited U.S. Steel financially in terms of the calculation of penalty?

A. By subtracting two leaks at all times, that would lead to lower leaks and almost every time lead to lower penalties for violations.

Q. Would it be fair to say that any time in which we

make use of the source testing manual and adhere to the source testing manual over the regulation, that that would actually work to the benefit of U.S. Steel in its current form, the source testing manual?

A. As I can recall now, yes.

Q. Would any of that be because some of the regulations have changed with respect to the things that are covered under the source testing manual?

A. Yeah. For example, the ones we were going over before, like the 10-percent door leaks, it's listed as 10 percent or less in the source testing manual but none of the batteries currently apply to that 10-percent standard.

So anything that would be -- so the source testing manual would be less stringent than the regulation; and whenever we followed it for the minus two door leaks, that made it less stringent than the regulation. So there would be less violations enforced.

Q. Okay. To your knowledge, does Keramida do quality assurance on its own data?

A. Yes.

Q. Do you rely on their ability to do quality assurance on their own data?

A. I have to, yeah.

Q. Why is that?

A. I mean, it would be an onerous task to go through all of the inspections because of the 44 databases and QAQC for all of them. So, you know, we rely on Keramida's QAQC.

HEARING OFFICER SLATER: What is QAQC?

MR. DELUCA: Quality assurance/quality control.

HEARING OFFICER SLATER: Okay.

BY MR. WILLIS:

Q. But you did have a conversation with Keramida with respect to the quality assurance problems that they had with some of those inspections?

A. Specifically with those doors, yes.

Q. And those errors were based on our use of the source testing manual over the Article 21 regulation?

A. The change in that interpretation, yes, from that U.S. Steel meeting.

Q. Had we been following the regulation as opposed to the source testing manual, would those errors have occurred?

A. If we had always followed the regulations — no — yeah, 'cause their error was following the regulation. So the errors would not have occurred if we continued to follow the regulation.

Q. Okay. Does U.S. Steel follow the source testing manual?

A. I don't know.

Q. Does U.S. Steel follow -- or is it required to follow the regulation?

A. Yes.

Q. Is it required to follow the conditions of its permit?

A. Yes.

Q. You mentioned with respect to paragraph 65 in the enforcement order where it mentions the soaking of Battery B as a violation?

A. Sorry, that was enforcement order, paragraph 65?

Q. Yes, sir.

A. Is that Exhibit 1?

MR. PARKER: Yes.

MR. DELUCA: What was the question?

BY MR. WILLIS:

Q. You characterize the inclusion of Battery 2 with respect to soaking as an error?

A. Correct.

Q. Is that a typographical error?

A. Yeah, 'cause Batteries 1, 2 and 3 wouldn't be included for soaking.

Q. So the insertion of 2 there is not an insertion of violations with respect to 2?

A. No.

Q. Okay. Is it fair to say the visible emissions are regulated by the coke-side standard that we've had installed in the enforcement order?

A. Sorry, the coke side for Battery B, is that regulated by visible emissions?

Q. I'm saying, is the thing that is sought to be regulated visible emissions?

A. Oh, yes.

Q. Is it fair to say, and based upon your review of the enforcement order, that 2014 is a critical starting point for much of the deterioration that we saw in terms of compliance?

A. That's when I noticed the higher compliance, was in '14; and then afterwards, it decreased. I don't know the exact months or years.

Q. Okay. And I know opposing counsel has gone through a series of six-month spans beginning January to June of '15, '16, '17 to demonstrate that at no time during those periods that they could have gone six months without having violated this new standard that we have in the enforcement order; is that correct?

A. That's correct, based off that data in the past.

Q. Okay. But you would note -- and correct me if I'm wrong -- there was no obligation to meet that door standard at any time prior to this enforcement order?

A. Correct, it hasn't actually come into effect until the first quarter of '19.
Q. Okay. But you did see a period from April of '14 to September of '14 of which there was a six-month period that they were at or under 10 weeks on the coke-side yard equivalency standard?
A. April 2014 to September 2014, there were six consecutive months at 10 or less.
Q. And that would put them in compliance with our order not even trying?
A. If those were the six months used, yeah, six consecutive meeting it.
Q. And that's without any order over their head?
A. Correct.
Q. Would that suggest to you that there is some control over the battery in its operation?
A. It suggests that it was done before, something that should be able to be done again.
Q. Have you seen any violations to the NESHAP with respect to any of the inspections this year?
A. I have not.
Q. Okay. You mentioned that you -- and I don't know if you characterized it, but it sounded as though you allowed your inspectors to randomly do inspections throughout the facility so long as they hit one

inspection point per day, one inspection type?
A. No. Well, I'm not their direct supervisor but the second-level inspector for the coke oven inspectors. But they are required -- what I put on them was to have each battery inspected for each inspection type at least once a month.
Q. Okay. I want to direct you to ACHD Number 4. It should be in that pile of papers there.
A. That's the part one enforcement, 2109, that sheet?
Q. Yes, sir.
A. Okay.
Q. On page I3 it says, "2109-04A, general." Could you just read that first line, please?
A. 2109-A4?
Q. 04A.
A. Okay. "General A, general, whenever the Department finds on the basis of any information available to it, that --
Q. Okay, just the first line. Having read that, is there any requirement that any studies be done?
A. No.
Q. Is there any requirement that all data be used?
A. Any information available, so no.
Q. Okay. Does it say "all information available"?

A. No, it does not.
Q. Does it specify any of the information at all, specifically?
A. It does not, no.
Q. Would I be correct in saying that the only qualification for further enforcement is that there be information available to it?
A. Yeah, the Department finds any information available.
Q. So any information, correct?
A. Yes.
Q. Okay. And on the following page, on the second line, could you read that?
A. "Emissions may otherwise reasonably be anticipated to endanger the public health, safety or welfare."
Q. Okay. You've been working with coke ovens as an enforcement chief for how many years?
A. About five.
Q. And you're aware of the types of emissions that come out of a coke oven battery?
A. Yes.
Q. Would you consider any of those emissions to be a threat or to endanger public health if exposed to those chemicals that come out of a coke battery?

MR. DAUSCH: I'm going to object to the extent he is asking for a legal conclusion based on this regulation.
MR. WILLIS: I'm asking for a factual conclusion. I'm asking if there is anything that he would find that would be a danger to public health.
HEARING OFFICER SLATER: He can answer to the best of his knowledge.
MR. DELUCA: There are a lot of hazardous air pollutants that come out of coke batteries, particularly raw coke oven gas, and those emissions would be unhealthy for those persons to breath.
BY MR. WILLIS:
Q. And could you continue reading the third line? Actually, start where it says, "It may..." on the second line.
A. Okay. "It may order the person responsible for such source to comply with an additional or more stringent emission limitation."
Q. Okay. Does that say that it has to go through county council?
A. It doesn't mention county council at all.
Q. Does it mention the Board of Health?
A. It does not.
Q. Does it mention any sort of rulemaking process

which would be required for the institution of a more stringent standard?

A. No.

Q. On the fourth line after the word "or," could you read that, please?

A. "Or it may order the immediate shutdown of the source or any part thereof."

Q. Okay. Do you -- you've seen the enforcement order?

A. Yes.

Q. Did we order any immediate shutdown of the facility?

A. No.

Q. Did we order the immediate shutdown of any part of the facility?

A. No.

Q. To the -- did we order any condition shutdown of any part of the facility?

A. Hot idle, not a shutdown.

Q. So there's a distinction being made between a shutdown of a battery and a hot idling of a battery?

A. Yeah.

Q. What is the distinction?

A. A hot idle is a temporary stop in operation that could be restarted later on. To me, a shutdown is more

permanent.

Well, let me think about that one a little more. 'Cause you can shut down a facility and stop operation permanently; and with the coke batteries, an immediate shutdown would cause harm to the battery greater than a hot idle. A hot idle would keep it heated so the refractory doesn't break or anything like that. So it is a different condition specific to coke batteries.

A line that's more batch processed, an immediate process — if the batch process where it starts and it stops, it's going to have a different effect from that shutdown.

A coke battery, from an immediate shutdown, that's going to be more hindrance to the battery itself.

Q. I understand. As the way the enforcement order is designed, say they have an exceedance of 10 leaks on the coke-side battery or the coke side of Battery B and a shutdown would be required, would that be required immediately?

A. I don't believe it was --

Q. Let me ask you this: there is a metric for determining the worst two performing batteries; isn't that correct?

A. Yes.

Q. And to determine that, you'd need six months of

data; isn't that correct?

A. Yes.

Q. And that data would be during the six months during that compliance period, correct?

A. Yes.

Q. So in order to determine the worst two performing batteries, you would already have to go through six months of that compliance period?

A. Yes.

Q. So even if they knew that a shutdown would have -- or a hot idle would have to come with respect to any two batteries, it would not happen until after the six months of data gathering with respect to those two -- the performance, right?

A. Yeah, after that six months and after the determination was made to the actual two batteries performing.

Q. Okay. So if there was an exceedance at that 10-leak standard, there wouldn't be any repercussions from that until at least another four or five months down the road?

A. It depends on which month it first exceeded. But if it exceeded during the first or the second month, yeah, it would have to wait until that full six-month period passes.

Q. And we would make that determination, as to what those two worst performing batteries would be, based on that data?

A. Based on those six months, yeah.

Q. And so we would know -- only after having reviewed that data, determine whether or not -- or to determine which of the 10 batteries that existed at Clairton Coke Works would have to go into hot idle?

A. Yeah, we would have to do that calculation afterwards to make a final determination.

Q. All right. With respect to all of the corrective actions that have been requested or demanded as a part of this enforcement order, is there any requirement for a control device?

A. No.

Q. Is it fair to say that these are all operational requirements that we're asking for?

A. To improve compliance, yeah. The only part that may be part of the battery is the maintenance for the COMS. That was the 2016 agreement.

Q. So again, if they maintain COMS and improve on the inspections, compliance with the order should be sufficient?

A. Yeah. I mean, if you improve compliance in one facet and leave the other one stagnant, it would be --

the compliance percentage would increase.

Q. Is it possible for them to control the number of exceedances in the future given how many exceedances they've had in the past?

A. (No response.)

Q. Let me back up. Let me back up.

You already mentioned that Keramida and U.S. Steel provide U.S. Steel with data on a daily basis with respect to exceedances?

A. Yes.

Q. And let's say that in week three of month two they are getting pretty close, they know that they are not going to improve upon the first quarter. Is there something operationally that they can do to remedy that situation going forward?

A. Within week three of month two they find that their compliance is decreasing and they are not going to meet that compliance percentage?

Q. It looks like it's trending towards non-compliance. Can they do something operationally to ensure compliance in that third month?

A. If you pay closer attention to it and do it more slowly, the procedures, the thought is you will have less violations, less exceedances. So you could bring that compliance back up.

Q. So it's really in their hands to make sure that they comply with the terms of the enforcement order?

A. Yeah. I mean, it's the compliance and the Battery B leaks. Both of those are in U.S. Steel's control, the number of leaks in the exceedances.

Q. And I've spoken to you about the source testing manual in the past and you've provided an apt analogy with respect to how we should be thinking about the source testing manual and in comparison to Article 21.

I think it was something to do with a driver's manual, and I think Jayme Graham has made that analogy as well. Can you reiterate what you've -- how you would analyze -- analogize that?

A. The regulation in this case, or the law in this case, is you have to pass the inspection on a vehicle. You have to do the — in Pennsylvania, you have to do the emissions and inspection.

The manual tells you how to do certain maintenance on the vehicle. I'm assuming you are talking about the example I had with my headlights where I — my car — previous car didn't pass inspection.

I had a couple issues with it. One of them was that my headlights weren't clear enough. So the assumption, if you go by the manual, would be to replace the headlights.

I figured, "Well, I don't have a whole lot of money. Let me try to fix this." So I figured out a way to actually get inside the headlight and clean it off and clean it so that it was clear enough to pass inspection.

Well, the rule was, I had to be able to pass inspection with some sort of transparency that the mechanic decided for that headlight, and I met that condition. The manual had a different way of meeting it, which was just replacing the headlight.

Q. I see. And so it really doesn't matter if U.S. Steel adheres to the source testing manual because there is really no requirement for them to do so?

A. It's not a regulation.

Q. Okay. We've had errors with respect to enforcement orders in the past; is that correct?

A. Yes, unfortunately.

Q. When we find those errors, we revise the order?

A. Yeah, if necessary. I mean, we would correct any mistakes we find.

Q. And with respect to discipline, we are prepared to make that correction?

A. Yes.

Q. Okay. But we don't know exactly what that number would be?

A. I remember doing a calculation based off the data I had at that time. We would just -- we would reissue the violation with the correct penalty amount based on the information we have. This one, I know, has some errors in it.

Q. And those violations and the corrections thereto only affect the monetary penalty, it does not affect the other corrective actions that we've asked U.S. Steel to make?

A. The compliance percentage — nothing I know of right now affects the compliance percentage.

Q. And in terms of the performance of the corrective actions, the errors with respect to the penalties has no impact on that?

A. Sorry, ask that one again.

Q. There are two aspects of the enforcement order: there is a civil penalty and the corrective action. The corrective action is not a penalty, is it?

A. Not as I see it. It's a corrective action.

Q. Okay. And so to the extent that there were errors with a penalty amount, does the penalty amount have any bearing on the corrective action?

A. No, they are separate categories. You can change the penalty amount and still have the same corrective actions.

Q. Okay. You mentioned earlier there were thousands of emissions points on the batteries; is that a fair assessment?

A. Yeah. I mean, there are 10 batteries there, and each one has hundreds of emission points on it.

Q. And we don't regulate all of those emission points?

A. Not all of them. A good percentage of them but not all of them.

Q. Is there any practical reason why we don't?

A. The regulations are written as they are.

Q. So the regulations described exactly what we are to regulate?

A. Yeah.

Q. Okay. Nonetheless, would you agree that each of those emission points is an opportunity for a regulated emission to leave and enter the open atmosphere?

A. Yeah, at any point that emissions can escape, yes.

Q. You mentioned something about the shed and the ability to close it off on either side because there's an opening on both sides of the shed, correct?

A. Yes.

Q. And I think what you were trying to get at was you were talking about the plastic flaps in front of a

door. I call them air curtains. Are you familiar with the concept?

A. Yes.

Q. Can you think -- I mean, you're an engineer, right?

A. Civil environmental.

Q. Okay. Can you, as an engineer, discern -- and granted, this is for purposes of this hearing -- but can you discern any technical difficulties in having some control, some sort of device at the site to ensure that the gaseous emissions do -- are limited or reduced?

MR. DAUSCH: I'm going to object to foundation. I don't think there's been any foundation that he can devise controls for coke plants for batteries that he's never physically been to.

MR. WILLIS: He says that he's been to them before.

MR. DAUSCH: He drove by it.

BY MR. WILLIS:

Q. Have you been to Clairton Coke Works?

A. I've been to Clairton Coke Works.

MR. DAUSCH: You're talking about the shed?

BY MR. WILLIS:

Q. Have you seen the shed?

A. I've never been underneath the shed, I've never

been in that area, and I've driven by and seen Battery B area generally.

Q. Have you seen the shed?

A. I'm sure I have, but I don't know specifically.

Q. Okay. Let's take a hypothetical shed. Let's take a shed that has two open sides on it and one that has a port at the top, let's say a chimney, and you want to control the particulate matter -- or let's say there is a fire under that shed. You want to make sure that the fire goes up the chimney and not outside the doors of the shed. What would you do to control the particulate matter from -- or the smoke from going out the sides of the doors and going up the chimney?

MR. DAUSCH: I'm going to object based on foundation, relevance.

MR. WILLIS: It's a hypothetical.

MR. DAUSCH: We are getting way off track.

MR. WILLIS: It's a hypothetical.

HEARING OFFICER SLATER: He can answer to the best of his knowledge.

MR. DELUCA: You can increase capture by increasing the draw of the fan at the top center of that and that would pull in more of the emissions from the outside.

You can develop ways to enclose it more than it

was previously so that those emissions would be captured through the top of it. It's more increasing the capture. The control is beyond the shed itself because it goes to the bag house which is a control device, generally.

But to figure out ways to enclose it more so that more of the emissions would be captured.

BY MR. WILLIS:

Q. Okay. You testified earlier that because of the shed and because of the 303 method in which you're doing the visual emission inspections from the bench, is that from the side of the battery?

A. Method 303 reads from the bench, which is it transverses along the length of the battery on the side.

Q. Okay. And they're doing that because of federal regulation which requires them to do that?

A. Yes.

Q. Okay. And the coke-side yard equivalent is designed to take into consideration that you are so much closer to the battery that your visual emission observations may be skewed?

A. I know it decreases the number. I'm assuming it's because you are closer. It's commonsense. I mentioned earlier that you are going to see more from five feet than 25 feet if it's a small leak.

So that Method 303 coke yard equivalency is designed to reduce the amount of emissions because you are reading it closer. Not the amount of emissions, sorry, the amount of counted leaks.

MR. WILLIS: Okay, that's all I have.

RECROSS-EXAMINATION

BY MR. DAUSCH:

Q. Sir, do you know who had the burden of proof in this case?

A. I believe it's ACHD.

MR. DAUSCH: That's all I have.

HEARING OFFICER SLATER: That's it?

MR. WILLIS: That's it.

HEARING OFFICER SLATER: All right.

(The hearing recessed at 4:25 p.m.)

CERTIFICATE OF REPORTER

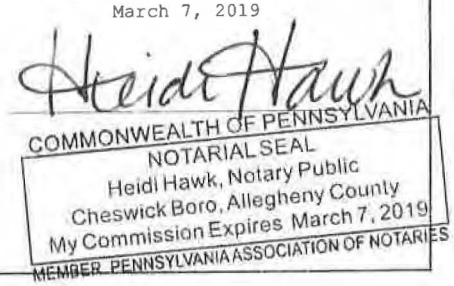
COMMONWEALTH OF PENNSYLVANIA :
:
COUNTY OF ALLEGHENY :

I, Heidi R. Hawk, a Notary Public duly commissioned and qualified in and for the said Commonwealth and County, do hereby certify that pursuant to the notice, the within named persons were sworn by me to testify to the truth and nothing but the truth; that the testimony was reduced to writing under my supervision; that this transcript is a true record of the testimony given by the witnesses.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this hearing was taken; and further, that I am not a relative or employee of any attorney or counsel employed by the parties or financially interested in this action.

In testimony whereof, I have hereunto subscribed my hand and affixed my seal of office this December 26, 2018.

My Commission Expires:
March 7, 2019



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