

**BEFORE THE DIRECTOR
ALLEGHENY COUNTY HEALTH DEPARTMENT
542 4TH AVENUE
PITTSBURGH, PENNSYLVANIA 15219**

UNITED STATES STEEL)	
CORPORATION, a Delaware corporation,)	
)	
Appellant,)	
)	
v.)	Appeal of Enforcement Order
)	#190202
ALLEGHENY COUNTY HEALTH)	
DEPARTMENT, Air Quality Program)	
)	
Appellee.)	

NOTICE OF APPEAL

NOW COMES, Appellant, UNITED STATES STEEL CORPORATION (hereinafter “U.S. Steel”), pursuant to Sections 1103 and 1104 of Article XI of the Allegheny County Health Department’s Rules and Regulations, before the Director of the Allegheny County Health Department, filing this appeal from Enforcement Order #190202 (hereinafter “Order”), as issued by the Allegheny County Health Department, Air Quality Program (hereinafter “Department”), to U. S. Steel Clairton Works, and received by U. S. Steel on or about February 28, 2019 (attached hereto as Exhibit A). This Notice of Appeal properly specifies the manner in which U.S. Steel is aggrieved by the Department’s action, the nature of U.S. Steel’s direct interest in the action and the grounds for appeal.

A. Manner in which U.S. Steel is Aggrieved and Grounds for Appeal

1. U.S. Steel owns and operates Clairton Coke Works (“Clairton”), a by-products coke plant which includes 10 coke batteries located at 400 State Street, Clairton, PA 15025, with telephone number (412) 233-1002.

2. On December 24, 2018 at about 4:30 AM, Clairton experienced a significant fire which destroyed much of the equipment integral to performing desulfurization activities, byproduct recovery and cleaning processes for coke oven gas. The fire was sudden and unforeseeable.

3. As a result of the fire, Clairton cannot fully clean coke oven gas generated from its coke ovens to remove excess sulfur constituents contained in it. In response, Clairton has already implemented several mitigation measures to minimize any potential environmental impacts as a result of the fire.

4. U.S. Steel has been in close contact with the Department regarding the fire and mitigation measures and has worked with the Department to implement additional mitigation measures as is practicable.

5. Notwithstanding this background, the Department unilaterally issued the Order yesterday (February 28, 2019) and imposed numerous immediate requirements on Clairton, some of which require action today (March 1, 2019).

6. The Order requires U.S. Steel to, among other things, immediately extend coking times for each of its batteries, and implement either further coking time extensions, reduced charging of coal into its ovens (partial charging), or hot idling (i.e., shutdown) of some or all of its batteries to achieve a SO₂ limit of 13,597.69 lbs/day from Clairton, ET and Irvin plant, with obligations starting today (March 1, 2019), the day after the Order was issued.

7. U. S. Steel objects to the Order. For the following reasons, the Department has abused its discretion and acted unreasonably, arbitrarily, capriciously, contrary to law and in a manner not supported by evidence:

- a. Paragraph 5 of the Order's Penalty Assessment requires Clairton to implement either (1) partial charging in terms of a reduction in the volume of coal to a magnitude capable of limiting SO₂ emissions to 13,597.59 lbs/day in each coke oven within 7 days, (2) extending coking time up to 30 – 36 hours for each battery beginning on an incremental basis immediately, (3) hot idling as many batteries as necessary to achieve compliance with a 35 grains/dscf H₂S standard within 35 days, or (4) develop an alternative means of achieving the Order's SO₂ standards and submit it to the Department for approval and implementation within 5 days. None of these approaches are possible to achieve within the timeframes specified in a legal and safe manner. It is impossible to safely hot idle batteries within 35 days; it is impossible to reduce coal volume charged in each battery without threatening worker and public safety, and it is impossible to extend coking times to the degree and schedule specified in the Order without causing exceedances of other regulatory limits and of other Department-issued orders and/or judicial orders. The issuance of such an order, that in essence requires the recipient to break the law or threaten public and/or worker safety or otherwise face shutdown is unreasonable and contrary to law.
- b. The SO₂ emissions limit in Paragraph 5 of the Order's Penalty Assessment is an arbitrary and baseless departure from the SO₂ limits that have already been

established for each of the emission units specified in the Order via Title V, Installation Permits and/or other legal requirements.

- c. The Department established a binding SO₂ emissions standard in Paragraph 5 without satisfying the administrative procedural requirements of public notice and comment and County Commissioner approval, among other things, as required under the Local Health Administration Law, 16 P.S. Section 12001 et seq.
- d. The Department did not properly determine that Clairton's emissions are causing or contributing to a NAAQS exceedance or endangering the public health, nor is Paragraph 5 of the Order necessary to prevent exceedance of a NAAQS or endangerment to the public health. Paragraph 5 of the Order is therefore an abuse of discretion, unreasonable and unlawful.
- e. The Order's requirement to immediately extend coking times as specified in Paragraph 1 of the Order's Penalty Assessment will impede Clairton's ability to comply with combustion stack opacity standards, the 2018 Enforcement Order, and the 2016 Consent Judgment, and will render it virtually impossible to comply with the Order and these other authorities simultaneously. Such an order is unreasonable and unlawful.
- f. The Order alleges violations of Clairton's permit and Article XXI. Such allegations are unfounded since any exceedances directly caused by the fire to the #2 and 5 Control Rooms, a sudden and reasonably unforeseeable event beyond the control of Clairton, were "emergency" exceedances, which are not violations under Article XXI and federal authorities.

- g. The Order's requirement to extend coking times will also likely lead to an increase in the number of PM2.5 NAAQS exceedances, which the Department is not authorized to order under Article XXI or the Pennsylvania Air Pollution Control Act.
- h. The Order's requirement to hot idle batteries either as a SO2 reduction measure under Paragraph 5 or as a response measure in the event that Paragraph 5 is not met is an abuse of the Department's discretion in that it unreasonably redirects resources expended by U.S. Steel towards addressing damage to the #2 and 5 Control Rooms and bringing the desulfurization capabilities back online as quickly as possible, and instead diverts them towards hot idling batteries, which is harmful to the batteries and which can increase emissions from the batteries upon restart.
- i. In issuing the Order, the Department exceeded its enforcement authority as provided in Article XXI of the Department's Rules and Regulations and other applicable laws.
- j. Complying with the all conditions in Order will pose significant and unacceptable risks to worker safety and the public health and welfare.
- k. The measures required in Paragraph 5 would cause significant harm to Clairton's batteries, as well as amount to exorbitant costs incurred in order to either repair and/or replace damaged batteries, maintain batteries in hot idle state, offset economic losses due to lost production, and to pay stipulated and other civil penalties incurred as a result of following the requirements of the Order. The imposition of such harm and costs as a result of the Order is unreasonable and contrary to law.

- l. The Order contains requirements and deadlines that are unreasonable and not necessary to prevent or abate air pollution.
- m. The Order mischaracterizes U. S. Steel's compliance with applicable air emission laws and regulations.
- n. The Order is inconsistent, vague and insufficiently specific.
- o. The entire Order, and the timeframes included therein, deprive U.S. Steel of its fundamental right to procedural due process. The Order, and the timeframes included therein, deprive U.S. Steel of a meaningful process to test the allegations in the Order and hold the Department to its burden of proving the highly technical allegations and punitive requirements in the Order.

B. U.S. Steel's Direct Interest in the Action

6. U.S. Steel is a named entity to which the Order was issued, and whose activities are restricted by the Order. As a result, U.S. Steel is adversely impacted by the Order and thus has a direct interest in the Order and this Appeal.

C. Conclusion

7. Through this Notice of Appeal, U.S. Steel has identified its objections to the Order, but reserves the right to amend or supplement the factual and legal basis of its Appeal as authorized by the Department's Rules and Regulations.

8. For the foregoing reasons, U.S. Steel respectfully requests that the Director vacate the Order, or alternatively, vacate and remand the Order to the Department for consideration consistent with the Director's opinion.

Respectfully submitted,

/s/ Mark K. Dausch

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Dated: 3-1-19

EXHIBIT A

Enforcement Order No. 191202
February 28, 2019

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DEPARTMENT, Air Quality Program)	
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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of March, 2019, a true and correct copy of the foregoing Amended Notice of Appeal was served via hand delivery and addressed as follows:

Karen Hacker
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The following individuals were served by electronic mail:

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Respectfully submitted,

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