

**ALLEGHENY COUNTY HEALTH DEPARTMENT**

**AIR QUALITY PROGRAM**

In the Matter of: United States Steel  
Corporation — Mon Valley Works  
400 State Street  
Clairton, PA 15025

Order #19060\_\_

**SETTLEMENT AGREEMENT and ORDER**

This SETTLEMENT AGREEMENT and ORDER (“Settlement Agreement”) is entered into this 27th day of June 2019 by and between the ALLEGHENY COUNTY HEALTH DEPARTMENT (“ACHD” or the “Department”) and The United States Steel Corporation (“U.S. Steel”),(collectively, the “Parties”);

WHEREAS, the Director of the ACHD has been delegated authority pursuant to the federal Clean Air Act, 42 U.S.C. §§ 7401 et seq., and the Pennsylvania Air Pollution Control Act, 35 P.S. §§ 4001 et seq., and the ACHD is a local health agency organized under Local Health Administration Law, Act 315 of August 24, 1951, P.L. 1304, as amended, 16 Pa.C.S. §12001 et seq., whose powers and duties include the enforcement of laws relating to public health within Allegheny County, including the Allegheny County Health Department’s Rules and Regulations, Article XXI, Air Pollution Control (“Article XXI”);

WHEREAS, ACHD has issued Enforcement Order #180601, #190305, and #190501, and Administrative Order No. #181002-Revised (collectively “ACHD Orders” or “Orders”) alleging that U. S. Steel violated certain provision of Article XXI;

WHEREAS, U.S. Steel is a corporation organized under the laws of the state of Delaware and operates coke ovens at its Clairton Works facility (“Facility”) situated in the city of Clairton, Allegheny County, PA;

WHEREAS, the Facility includes ten operational coke batteries, each made of a series of ovens. These batteries are designated as Batteries 1, 2, 3, 13, 14, 15, 19, 20, B and C (collectively, the “Batteries”);

WHEREAS, on March 24, 2016, ACHD and U. S. Steel entered into a Consent Judgment, which was entered into the Court of Common Pleas of Allegheny County in Case No. GD-16-004611 dated March 24, 2016 (“Consent Judgment”) to resolve alleged violations at the Facility as described in the Consent Judgment;

WHEREAS, U. S. Steel has complied with the Consent Judgment;

WHEREAS, ACHD and U.S. Steel agree that the requirements of the Consent Judgment have been met such that the Consent Judgment should be terminated and that the Parties agree to file documents sufficient to terminate the Consent Judgment and to discontinue, with prejudice, case No. GD-16-004611;

WHEREAS, on June 28, 2018, ACHD issued Enforcement Order #180601;

WHEREAS, in Enforcement Order #180601 the Department alleged that U. S. Steel violated Article XXI, Clairton Title V Permit No. 0052, Installation Permit No. 0052-I011, and Installation Permit No. 0052-I017; and ordered U.S. Steel to: (1) pay, as a civil penalty, \$1,091,950.00 (for alleged violations that the Department asserts were to have occurred in the third and fourth quarter of 2017 and the first quarter of 2018); (2) develop a plan to reduce sulfur oxides, PM<sub>2.5</sub>, and visible emissions that would be expected to improve compliance for two consecutive quarters; (3) conduct another stack test for the C Battery Quench Tower and provide corrective

action; and (4) limit the number of allowable door leaks from the B Battery coke side doors to no more than ten leaks per month based on the yard-equivalent reading from the Department's Method 303 contractor's inspections;

WHEREAS, Enforcement Order #180601 provided, in part, that in the event U.S. Steel failed to meet a required quarterly compliance rate or if the coke side door leaks from B Battery exceeded the ten leaks per month requirement based on the yard-equivalent readings, U.S. Steel would have to place its two worst performing batteries on hot idle until a new compliance strategy could be implemented for the remaining eight batteries;

WHEREAS, on July 27, 2018, U.S. Steel appealed Enforcement Order #180601 and placed the civil penalty into escrow pending a determination on the merits of its appeal;

WHEREAS, on August 27, 2018, U. S. Steel amended its appeal of Enforcement Order #180601;

WHEREAS, U. S. Steel demonstrated compliance with the C Battery Quench Tower SO<sub>2</sub> limit during a compliance demonstration performed on August 14-16, 2018. U. S. Steel provided the corresponding stack test report to the Department on September 5, 2018;

WHEREAS, on August 27, 2018, without waiving its appeal or any of its objections, U.S. Steel submitted an Assessment of Coke Battery Emission Points and Proposed Measures to Reduce SO<sub>2</sub>, PM<sub>2.5</sub>, and visible emissions as required by Enforcement Order #180601;

WHEREAS, on September 28, 2018, without waiving its appeal or any of its objections, U.S. Steel submitted a C Battery Quench Tower Corrective Actions letter report, as required by Enforcement Order #180601;

WHEREAS, on October 3, 2018, the Department approved U.S. Steel's Proposed Measures to Reduce Sulfur Oxides, PM<sub>2.5</sub> and Visible Emissions that U.S. Steel provided the Department on August 27, 2018;

WHEREAS, U.S. Steel implemented the approved measures to reduce sulfur oxides, PM<sub>2.5</sub> and visible emissions;

WHEREAS, after ACHD issued Enforcement Order #180601, ACHD determined that during the First Quarter 2018 U. S. Steel achieved a facility-wide compliance rate of 98.152% which established the baseline upon which the Facility was required to improve for two consecutive quarters under Enforcement Order #180601

WHEREAS, the ACHD has determined that, during the First Quarter 2019, U. S. Steel demonstrated compliance with Enforcement Order #180601 by: (1) achieving a facility-wide compliance rate of 98.253%; and (2) having no more than 10 B Battery coke side door leaks (yard-equivalent) in any month during the First Quarter 2019;

WHEREAS, the ACHD has determined that, during the Second Quarter 2019, U. S. Steel is currently demonstrating compliance with Enforcement Order #180601 by: (1) achieving a facility-wide compliance rate greater than that achieved during the First Quarter 2019; and (2) having no more than 10 B Battery coke side door leaks (yard-equivalent) in any month during the Second Quarter 2019;

WHEREAS, the Parties engaged in a four-day hearing to adjudicate the merits of U.S. Steel's appeal of Enforcement Order #180601 and following the litigation of the matter before this tribunal, have agreed that resolution of the violations underlying Enforcement Order #180601 is best addressed without the expense and risk of continued litigation;

WHEREAS, U.S. Steel has advised the Department that to increase focus on work practices and as an effort to reduce visible emissions, PM<sub>2.5</sub> and SO<sub>2</sub>, it has since completed Environmental Employee Stand Downs, which are focused training sessions that are directed at improving environmental performance at the Facility;

WHEREAS, U.S. Steel has advised the Department that to increase focus on work practices and as an effort to reduce visible emissions, PM<sub>2.5</sub> and SO<sub>2</sub>, it has since implemented its Continuous Improvement to the Environment (CITE) 2-day training for all coking operations personnel with greater than one year of service;

WHEREAS, U.S. Steel has advised the Department that to achieve more consistent, compliant operations, it has since increased inspections and monitoring of coke oven battery operations;

WHEREAS, U.S. Steel has advised the Department that to further reduce SO<sub>2</sub> emissions and to assist ACHD in its attainment demonstration for the SO<sub>2</sub> NAAQS, it has since completed its SCOT Plant Tail Gas Reroute Project;

WHEREAS, U.S. Steel has advised the Department that to improve B Battery door performance, in 2018, it completed a B Battery coke side door campaign;

WHEREAS, U.S. Steel has advised the Department that to minimize door leaks, in 2018, it has completed upgrades on door seals on Batteries 1-3;

WHEREAS, U.S. Steel has advised the Department that to further reduce SO<sub>2</sub> emissions and to assist ACHD in its attainment demonstration for the SO<sub>2</sub> NAAQS, it has completed its 100 and 600 VCU Tray Upgrade Project;

WHEREAS, U.S. Steel has advised the Department that to assist ACHD in its attainment demonstration for the SO<sub>2</sub> NAAQS, it has accepted reduced SO<sub>2</sub> limits at the Mon Valley Works, including the Facility;

WHEREAS, U.S. Steel has advised the Department that to further reduce SO<sub>2</sub> emissions, it has since committed to complete a No. 2 Control Room Switching Valve project;

WHEREAS, U.S. Steel has advised the Department that to further reduce visible emissions, PM<sub>2.5</sub> and SO<sub>2</sub> and to improve fugitive emissions compliance, since August 2018, U. S. Steel has completed a campaign to replace certain endflues on Batteries 1-3;

WHEREAS, U.S. Steel has advised the Department that to further reduce visible emissions, PM<sub>2.5</sub> and SO<sub>2</sub>, it is in the process of completing ten (10) through wall replacements on Battery 19, with a prior commitment to complete these through wall replacements by September 30, 2019;

WHEREAS, U.S. Steel has advised the Department that to further reduce visible emissions, PM<sub>2.5</sub> and SO<sub>2</sub>, it is in the process of completing two (2) through wall replacements on Battery 20, with a prior commitment to complete these through wall replacements by September 30, 2019;

WHEREAS, ACHD's certified monitoring data shows that 2018 was the cleanest year to date for PM<sub>2.5</sub> at the Liberty Monitor;

WHEREAS, on November 14, 2018, U. S. Steel received Administrative Order #181002 (Revised) as issued by the Department and attributable to visible emission violations observed at the Facility during the second quarter of 2018 and imposed a civil penalty in the amount of \$613,716.00;

WHEREAS, on December 12, 2018, U.S. Steel appealed Enforcement Order #181002 and placed the civil penalty into escrow pending a determination on the merits of its appeal;

WHEREAS, on March 29, 2019, the Department issued Enforcement Order #190305 attributable to visible emission violations observed at the Facility during the third and fourth quarters of 2018 and imposed a civil penalty in the amount of \$707,568.00;

WHEREAS, on April 25, 2019, U.S. Steel appealed Enforcement Order #181002 and placed the civil penalty into escrow pending a determination on the merits of its appeal;

WHEREAS, on May 10, 2019, the Department issued Enforcement Order #190501 attributable to visible emission violations observed at the Facility during the first quarter of 2019 and imposed a civil penalty in the amount of \$337,670.00;

WHEREAS, on June 4, 2019 U.S. Steel appealed Enforcement Order #190501 and placed the civil penalty into escrow pending a determination on the merits of its appeal;

WHEREAS, the ACHD regulates and closely monitors the environmental compliance of the Facility. In addition to reviewing the Facility's reports and compliance records, ACHD typically maintains two coke oven battery inspectors at the Facility five days per normal week;

WHEREAS, the ACHD has hired a third-party Method 303 contractor (for which U. S. Steel reimburses ACHD) to monitor visible emissions from every battery on a daily basis at the Facility, to determine compliance with Federal MACT Standards pursuant to Method 303 as well as to provide ACHD with data to determine compliance with Article XXI standards;

WHEREAS, in addition to periodic monitoring, U. S. Steel continuously monitors many of its sources for environmental performance and compliance at the Facility. These monitors include continuous opacity monitors ("COMs"), continuous emissions monitors and various continuous parametric monitoring systems throughout the Facility which results in having thousands of compliance monitoring data values every day;

WHEREAS, U.S. Steel, in appealing the ACHD Orders, has argued, *inter alia*, that the Department inspectors have failed to follow the test methods required by Article XXI and/or the Title V Permit;

WHEREAS, the Department acknowledges that the Allegheny County's Source Testing Manual requires periodic review and acknowledges that more appropriate test methods should be promulgated for determining compliance with the Department's coke battery standards in Article XXI;

WHEREAS, the Department has submitted an attainment demonstration SIP revision to EPA for approval, prepared in accordance with the Clean Air Act and EPA guidance, that is projected to demonstrate attainment of the National Ambient Air Quality Standards for SO<sub>2</sub> by the applicable attainment date;

WHEREAS, the Department has submitted for public comment an attainment demonstration SIP revision, prepared in accordance with the Clean Air Act and EPA guidance, that is projected to demonstrate attainment of the National Ambient Air Quality Standards for PM<sub>2.5</sub> by the applicable attainment date;

WHEREAS, the Department believes that technically achievable emission reductions that can be obtained by imposing more stringent regulations on the Batteries will reduce the emissions that can lead to off-site odors;

WHEREAS, the Department has determined that the projects and procedures in the Settlement Agreement provide emissions reductions and environmental benefits that go beyond those previously required by Enforcement Order #180601;

WHEREAS, the Parties agree that this Settlement Agreement will benefit the local communities by providing for reduced emissions as well as providing funding for supplemental projects that will benefit the local environment and communities;

WHEREAS, the Parties agree that this Settlement Agreement shall resolve the appeals of the ACHD Orders solely and that the ACHD Orders are superseded and replaced in their entirety by this Settlement Agreement except as specified in Paragraph 8(J);

WHEREAS, at all times relevant to aforementioned ACHD Orders, U.S. Steel has complied with, and completed to the satisfaction of the Department, all required corrective actions and performance metrics imposed by the aforementioned ACHD Orders;

WHEREAS, U.S. Steel's continued compliance with this Settlement Agreement is intended to ensure that the violations addressed in the ACHD Orders are being corrected to the satisfaction of the Department;

WHEREAS, U. S. Steel has denied and continues to deny the violations alleged in the ACHD Orders; maintains that it is not liable for civil penalties or injunctive relief; and states that it is agreeing to the obligations imposed by this Settlement Agreement solely to settle disputed claims without incurring the time and expense of additional contested litigation; and

WHEREAS, the Parties agree that this Settlement Agreement has been negotiated in good faith, that the Settlement Agreement will avoid the potential for continued prolonged and complex litigation among the Parties, and that this Settlement Agreement is fair, reasonable, and in the public interest.

WHEREAS the Parties acknowledge and agree that this Settlement Agreement is to be placed onto the ACHD website for 30 days beginning July 1, 2019 and that the public be permitted

to offer comment. The Parties acknowledge and agree that this Settlement Agreement may be modified to address any comment that the Parties determine necessitates modification.

NOW, THEREFORE, without the adjudication or admission of any issue of fact or law, and intending to be legally bound hereby, the Parties hereto agree as follows:

## **I. JURISDICTION**

1. Solely for the purposes of this Settlement Agreement and the underlying alleged violations U.S. Steel waives all objections and defenses that it may have to jurisdiction or venue. U.S. Steel shall not challenge ACHD's jurisdiction to enter into or to enforce this Settlement Agreement.

## **II. APPLICABILITY**

2. The provisions of this Settlement Agreement shall apply to, be binding upon, and inure to the benefit of the ACHD and U.S. Steel and upon their respective officers, directors, agents, contractors, employees, servants, successors, and assigns.

3. The duties and obligations under this Settlement Agreement shall not be modified, diminished, terminated, or otherwise altered by the transfer of any legal or equitable interest in U.S. Steel or any part thereof. In the event that U.S. Steel proposes to sell or transfer the Facility or any part thereof, U.S. Steel shall provide written notice to the ACHD of such purchaser or transferee at least thirty (30) days prior to the sale or transfer. U.S. Steel shall also provide a copy of this Settlement Agreement to any person or entity U.S. Steel intends to make any such sale or transfer to at least thirty (30) days prior thereto.

4. The undersigned representative of U.S. Steel certifies that he or she is fully authorized to execute this Settlement Agreement on behalf of U.S. Steel, and to legally bind U.S. Steel to this Settlement Agreement.

### **III. GENERAL TERMS**

5. This Settlement Agreement addresses and is intended to resolve all outstanding issues between the Parties relating to quarterly penalties and corrective actions imposed by the ACHD Orders; to provide an agreed-upon process for evaluating and revising Article XXI to impose more stringent emission standards for coke batteries; and to provide agreed-upon test methods for determining compliance with the Article XXI coke battery standards until such time as the Department promulgates new test methods via rulemaking or until the termination of this Settlement Agreement. This Settlement Agreement supersedes and replaces the ACHD Orders, except as provided in Paragraph 8(J).

6. The Parties do not authorize any other persons to use the findings in this Settlement Agreement in any matter or proceeding.

7. Nothing herein is intended to limit the authority of the ACHD with respect to violations that may have occurred prior to the date of this Settlement Agreement, if any, that are not intended to be the subject of resolution hereunder, or to limit the authority of ACHD to seek further enforcement of this Settlement Agreement in the event that U.S. Steel fails to comply with its terms and conditions.

#### IV. COMPLIANCE PLAN - ENVIRONMENTAL IMPROVEMENT PROJECTS

8. U.S. Steel agrees to implement the following compliance plan which the Department approves based on the Department's determination that this Settlement Agreement addresses the violations included in the ACHD Orders to the satisfaction of the Department:

A. **B Battery Shed Improvement:** By November 1, 2019, U.S. Steel shall install mechanisms to close or alarm doors situated on the B Battery shed. By May 1, 2020, U.S. Steel shall install a cover and/or air curtains at the south side of the B Battery shed. These projects will reduce fugitive emissions from the B Battery shed.

B. **CITE Program:** By November 1, 2019, U.S. Steel shall have continued and expanded the deployment of its "Continuing Improvement to the Environment" ("CITE") program to all employees/workers assigned to work at the coking operations the Facility. U.S. Steel shall, on an annual basis, beginning July 1, 2019 through the remainder of the calendar year 2019, issue an Environmental Report detailing its CITE efforts and achievements within 60 days after the end of each calendar year, with the initial report due no later than June 1, 2020.

C. **Enhanced Operation and Maintenance:** U.S. Steel agrees to update its existing Operating and Maintenance (O&M) Plans to include specificity as to its inspections of the fans for the Pushing Emissions Control (PEC) baghouses and maintenance schedules. U.S. Steel shall submit a copy of its enhanced plan by December 1, 2019. U.S. Steel shall conduct monthly flue temperature readings to determine battery performance. No later than 45 days after the last day of each

calendar quarter, U.S. Steel shall submit to the Department a copy of the temperature readings for the prior calendar quarter. Readings are to be submitted in an active spreadsheet format (e.g., Microsoft Excel).

**D. Environmental Air Compliance Audits:** By July 1, 2020, U.S. Steel shall have completed, the first of 5 annual environmental air compliance audits at the Facility. U.S. Steel shall retain, subject to approval by the ACHD, an independent third-party consultant with substantial experience with coke batteries and air pollution control requirements, to conduct the audits. U.S. Steel shall submit a final report of each audit to the ACHD no later 60 days after the completion of each audit. U.S. Steel shall also submit a corrective action plan to the ACHD with technically and economically feasible measures it will implement to address audit findings. The ACHD will review and may approve the corrective action plan. U.S. Steel shall begin implementation of the approved corrective action plan no later than 30 days after receipt of the ACHD's approval.

**E. Pushing Emission Control System Upgrades:** By May 1, 2020, U.S. Steel shall upgrade all filter bags and filter bag cages on all PEC baghouses situated at the Facility. No later than July 1, 2020, U.S. Steel shall submit an application for an installation permit for replacement PEC baghouses for Batteries 13-15 and 19-20 for improved capture and control of particulate matter. No later than 28 months after issuance of an installation permit or other air permitting authorization (plus the amount of time any permit or authorization remains under appeal), U.S. Steel shall have installed replacement PEC baghouses for Batteries 13-15 and 19-20 for improved capture and control.

F. **Batteries 1, 2 and 3 Endflue Repair:** By September 1, 2020, U.S. Steel shall have completed its campaign of repair or replacement of all of the endflues located at Batteries 1, 2 and 3. No later than 60 days after completion, U.S. Steel shall submit to the Department a report indicating that the repairs are complete and indicate what repairs were conducted with respect to the Batteries 1, 2 and 3 endflues.

G. **Battery 15 Stack Replacement:** No later than November 1, 2021, U.S. Steel shall have installed a stack to replace the existing stack for Battery 15.

H. **Battery 15 Through Wall Repair:** No later than February 1, 2024, U.S. Steel shall have repaired all battery oven through walls for Battery 15. No later than 60 days after completion, U.S. Steel shall submit to the Department a report indicating that the repairs are complete and indicate what repairs were conducted with respect to the Battery 15 through walls.

I. **Permitting:** In the event that an installation permit or other air permitting authorization from the ACHD is required for any of the projects described in subparagraphs A – H above, the applicable deadlines for completing the projects identified in subparagraphs A – H above will be automatically extended by the amount of time equal to the number of days that the issuance and receipt of the installation permit or other air permitting authorization exceeds 6 months after the submittal of a complete application, plus the amount of time any permit or authorization remains under appeal. The Department may also extend the deadlines at the request of U.S. Steel upon request for good cause.

**J. Satisfy Emissions Reduction Requirements of Enforcement**

**Order #180601:** U.S. Steel shall continue to implement its emissions assessment and emissions reduction plan that was submitted pursuant to Enforcement Order #180601 so that it meets the quarterly emissions improvement requirements of Paragraph 3 (page 27) of Enforcement Order #180601 for the first two quarters of 2019, subject to the Department exercising discretion to determine that the compliance rates actually achieved were satisfactory.

**V. CIVIL PENALTY PAYMENT**

9. U. S. Steel shall pay a civil penalty of Two Million, Seven Hundred Thirty-Two Thousand, Five Hundred and Four dollars (\$2,732,504) for the violations alleged in the ACHD Orders. This civil penalty represents the amounts calculated and imposed by the ACHD in the Orders, minus \$18,400 that the Department acknowledges was assessed in error based on evidence proffered at the hearing on the appeal of Enforcement Order #180601.

A. The Parties agree that supplemental projects benefitting the local communities or environment are a preferred mechanism for offsetting a significant portion of the civil penalties. Accordingly, the Parties agree that U.S. Steel shall establish a Community Benefit Trust having the Adjacent Communities as beneficiaries of that trust. The corpus of said trust shall be provided by a payment from U.S. Steel equal to 90% of the civil penalty amount included in Paragraph 9 above. In addition, 90% of any stipulated penalties due under this Settlement Agreement shall be offset by payment of the same amount to the Community Benefit Trust. The remaining 10% of stipulated penalties due shall be paid to the Clean Air Fund. The Adjacent Communities shall consist of at least the following: Clairton, Glassport, Liberty, Lincoln, and Port Vue. Additional

communities may be considered Adjacent Communities upon agreement of both the Department and U.S. Steel.

B. The remaining 10% of the civil penalty due under Paragraph 9 above, along with 10% of any stipulated penalties imposed by this Settlement Agreement, shall be deposited into the Clean Air Fund.

## **VI. TEST METHODS**

10. The Parties agree that the Department will pursue a rulemaking to promulgate appropriate test methods for determining compliance with the Department's coke battery standards in Article XXI (§2105.21). The Department agrees that it will pursue such a rulemaking in accordance with applicable administrative procedures, including public notice and comment. The Department acknowledges that this rulemaking must consider: (a) averaging provisions to ensure appropriate and accurate readings; (b) provisions specifying the appropriate positioning of the inspector/observer for visible emission observations to ensure appropriate and accurate readings, including for pushing observations and for coke batteries doors equipped with sheds; and (c) recordkeeping requirements for inspections to support that the test methods were properly followed as well as to provide the regulated entity with the ability to identify any problem(s) and implement timely corrective actions. The Department will submit any such final rulemaking to the United States Environmental Protection Agency as an amendment to the State Implementation Plan.

11. Until such time as the Department establishes appropriate test methods pursuant to Paragraph 10 above, the Parties agree, for purposes of determining compliance with the applicable Article XXI coke battery standards, that compliance shall be determined based upon the test

methods required by Article XXI and the Source Testing Manual, dated May 5, 2010 (“STM”), as clarified or modified below:

A. Doors percent leaking: Chapter 109 of the STM shall be used except as follows: (1) that the walking pace shall be such that the duration of the traverse does not exceed an average of 4 seconds per oven door, excluding time spent moving around stationary obstructions or waiting for other obstructions to move from positions blocking the view of a series of doors. Extra time is allowed for each leak (a maximum of 10 additional seconds for each leaking door) for the observer to make the proper notation; (2) in the formula displayed, substitute the applicable regulatory limit for each battery for the 10% compliance rate listed in the STM; and (3) that observations be made from a minimum distance of 25 feet from each door does not apply to the coke side of B Battery and that the compliance with the door leak standard for B Battery shall be determined by using the daily observations from the Method 303 inspector, including the coke side observations made under the shed, adjusted to yard-equivalent readings in accordance with Method 303;

B. Charging port (lids): Chapter 109 of the STM except that, in the formula displayed, substitute the applicable regulatory limit for each battery for the 2% compliance rate listed in the STM;

C. Offtake piping: Chapter 109 of the STM except that, in the formula displayed, substitute the applicable regulatory limit for each battery for the 5% compliance rate listed in the STM;

D. Pushing: In making pushing observations the observer shall be positioned in accordance with the provisions of Section 2.1 of Method 9. The pushing emissions field data sheets shall include all of the items in Section 2.2 of Method 9;

E. Coke oven gas: compliance with the applicable standards for sulfur compounds measured as H<sub>2</sub>S in COG expressed as gr/100 dscf shall, for the duration of this agreement, be based on an hourly average of any measurements or readings taken;

F. Soaking: The requirements in Article XXI, section 2105.21.i shall apply except that: (1) the exclusion for the two minutes after a standpipe cap is opened shall apply such that the two minute exclusion applies whenever a standpipe cap is initially opened for a push, (this exclusion is for the first two minutes after the standpipe cap is opened during soaking. A second two-minute exclusion shall apply after the initial opening of the standpipe cap if the standpipe cap is closed, reluted, and placed back on the collector main; or if the soaking off gas cannot be ignited and the cap is closed.); and

G. Battery based standards: The coke battery standards in §2105.21.b.4 shall be enforced as written;

H. Topside and Door forms: ACHD shall return to using the “Topside Inspection” form created on 12-19-14, or a similar version that includes the location of the observed opacity leak (i.e. Cap, Flange, Slip, Joint, Base, Piping, etc.). ACHD shall also return to using the Door leak inspection form that was last updated on 3-13-15, or a similar version that includes the location of the leaking door (i.e. Door, Chuck Door, Miscellaneous, etc.). U.S. Steel and ACHD agree to discuss with Keramida the possibility of returning to the “Report of Unsatisfactory

Emission Observations” form that was previously submitted to U. S. Steel upon completion of the inspection with the detailed information that cannot be captured with the tablet software;

H. Representative inspections: The Batteries and emission points to be inspected by the ACHD inspections shall be selected by the ACHD inspectors. Over each calendar month, the ACHD inspectors shall attempt to ensure a representative sampling of all Batteries and emission points as demonstrated by an approximately equal distribution of inspections at each of the Batteries and emissions points. However, inspections may be made in areas of concern as determined by the ACHD Enforcement Chief.

## **VII. ADOPTION OF MORE STRINGENT EMISSION STANDARDS**

12. The Department may pursue a rulemaking to impose more stringent limits on the coke batteries (except C Battery) only if the more stringent limits are determined to be, *inter alia*, technically feasible in accordance with this Paragraph. C Battery is excluded because the existing limits are based upon current Best Available Control Technology. U.S. Steel hereby agrees that it will not challenge, and hereby waives any right to challenge, any such rulemaking on the basis of technical feasibility, provided that any more stringent emission standards are shown to be achievable and maintainable, based on meeting all criteria below:

A. The consideration of EPA’s Upper Prediction Limit (UPL) methodology across all Batteries based on the actual inspections performed from December 24, 2013 to December 23, 2018 (the five-year period just prior to a fire at the No. 2 Control Room that significantly affected plant operations) and shall consist of all required inspection data;

B. Standards must be based on an appropriate compliance rate which shall not be less than 99% for all regulated emissions points on the battery over any consecutive 12-month period

during a five-year period on a battery-by-battery basis. The database for establishing the rate of compliance shall be based on the actual inspections performed from December 24, 2013 to December 23, 2018 (the five-year period just prior to a fire at the No. 2 Control Room that significantly affected plant operations) and shall consist of all required inspection data; and

C. Any more stringent limit must be supported by a demonstration that the such limit is shown to correlate with a measurable reduction in hydrogen sulfide and benzene levels at the Liberty monitor.

### **VIII. COMMUNITY ADVISORY PANEL**

13. The Parties agree that this Settlement Agreement should address the concerns of the community and that in order to accomplish this, agree further to the establishment of a Community Advisory Panel (CAP). The panel shall be composed of, at least, one representative from U.S. Steel, and a local citizen and government official from communities nearby U.S. Steel Clairton operations (nearby communities). The purpose of the CAP is to ensure open and transparent communications between the parties and the nearby communities. This panel shall convene no fewer than once per calendar half. The first meeting shall convene during the first half of 2020.

### **IX. STIPULATED PENALTIES**

14. U.S. Steel consents to payment of the following stipulated civil penalties that shall apply beginning with the second calendar quarter of 2019. The stipulated penalties shall be due within 30 days of receipt of a written demand from the ACHD. The ACHD in its sole discretion, may waive all or part of any stipulated penalties. Stipulated penalties, as required by Section IX may be offset, in whole or part, by approved supplemental projects. Such supplemental projects

could include, but not necessarily be limited to, additional emissions evaluations and testing, and/or emission reduction projects. The approval of supplemental projects to offset the otherwise required stipulated penalties shall be at the discretion of ACHD.

A. A stipulated penalty of one thousand dollars (\$1000.00) for each clock hour that compliance for the Batteries’ combustion stacks are not achieved for opacity limits, as determined by the combustion stack COM, as described in Article XXI, §2105.21(f)(3) and §2105.21(f)(4) except that the first thirty-three (33) clock hour opacity limit violations of each battery stack in any calendar quarter shall be subject to a stipulated civil penalty of two hundred dollars (\$200) per violation. For ovens with completely replaced through walls or endflues, said stipulated civil penalties shall be assessed beginning the eighth coking cycle following the first charge after final heating wall replacement.

B. U.S. Steel shall submit a stipulated civil penalty of fifty-thousand dollars (\$50,000) for each calendar quarter that the COM availability is less than 95%.

C. Stipulated Penalties for violations of Article XXI §2105.21 Standards not included above as follows:

Compliance History Factor per ACHD Civil Penalty Policy*	Stipulated Penalty Base***	If severity of violation is moderate per table 3 of ACHD Civil Penalty Policy***	If severity of violation is major per table 3 of ACHD Civil Penalty Policy***	If short term ambient exceedance H <sub>2</sub> S or SO <sub>2</sub>
1	\$2,000	multiply by 1.5	multiply by 2.5	Add \$1,000 (SO <sub>2</sub> ); and/or \$250 (H <sub>2</sub> S)
0.5	\$1,500			
0.25	\$1,000			
0 **	\$750			
Exceptional † Compliance	\$500			

\* Compliance rate is that rate determined when including all visible emissions inspections conducted by ACHD and Method 303 inspectors when compared to Article XXI standards.

\*\* As per policy, all high opacity door violations have a compliance history factor of 0, which causes high opacity door violations to have a penalty base of \$1,000.

\*\*\* Per table 3 of ACHD Civil Penalty Policy, Effective January 10, 2018. Note that a multiplier of 1.0 applies if the severity of violation is low per table 3 of ACHD Civil Penalty Policy.

† Exceptional Compliance shall mean 99.5% compliance or higher based on the average of both the current quarter being assessed and the prior quarter's compliance rate.

U.S. Steel's agreement to include an additional penalty for exceedance of a short-term ambient air quality standard for SO<sub>2</sub> and/or H<sub>2</sub>S does not constitute an admission by U.S. Steel that emissions from the Facility caused or contributed to any such exceedance.

Stipulated penalties shall be assessed on a quarterly basis. Additionally, each assessment shall note the number of inspections conducted over the assessed quarter.

D. Should U. S. Steel contest the validity of any visible emission observation and/or the assessment of any stipulated penalty, U. S. Steel may invoke the dispute resolution process as provided in Section XI.

## **X. ADDITIONAL TERMS:**

15. In the event that U.S. Steel fails to comply with any provision of this Settlement Agreement, the ACHD may, in addition to any remedies prescribed herein, pursue any remedy available under Article XXI, Section 2109 *et seq.* of the Allegheny County Rules and Regulations for a violation of an order of the ACHD, including an action to enforce this Settlement Agreement. However, the Department may exercise discretion to allow for deviations from this Settlement Agreement that the Department determines are minor or otherwise excusable.

16. The ACHD reserves the right to require additional measures to achieve compliance with this Settlement Agreement. U.S. Steel reserves the right to challenge any action that the ACHD may take to require those measures.

17. U.S. Steel shall be liable for any violations of this Settlement Agreement, including those caused by, contributed to, or allowed by its officers, agents, employees, or contractors.

18. All correspondence with ACHD concerning this Settlement Agreement shall be addressed to:

Jayne Graham  
Program Manager  
Air Quality Program  
Allegheny County Health Department  
301-39<sup>th</sup> Street, Building 7  
Pittsburgh, PA 15201-1811

with a copy to:

Jason K. Willis, Esq.  
Allegheny County Health Department  
Legal Section  
301-39<sup>th</sup> Street, Building 7  
Pittsburgh, PA 15201-1811

19. All correspondence with U.S. Steel concerning this Settlement Agreement shall be addressed to:

Environmental Director  
United States Steel Corporation  
Mon Valley Works  
400 State Street  
Clairton, PA  
Pittsburgh, PA 15025

with a copy to:

David W. Hacker  
Law Department  
United States Steel Corporation  
600 Grant Street – Suite 1500  
Pittsburgh, PA 15219

20. U.S. Steel shall notify ACHD whenever there is a change in the contact person's name, title or address. Service of any notice or any legal process for any purpose under this Settlement Agreement, including its enforcement, may be made by mailing an original or true and correct copy by first class mail to the above addresses. The paragraphs of this Settlement Agreement are severable, and should any part hereof be declared invalid or unenforceable, the remainder shall remain in full force and effect between the Parties.

21. This Settlement Agreement shall constitute the entire integrated agreement of the Parties. No prior or contemporaneous communications or prior drafts shall be relevant or admissible for the purposes of determining the meaning or intent of any provisions herein in any litigation or other proceeding.

22. The Parties shall bear their respective attorneys' fees, expenses, and other costs with regard to the prosecution or defense of this matter or any related matters arising prior to the execution of this Settlement Agreement.

23. This Settlement Agreement may be modified only by written agreement of the Parties hereto.

## **XI. DISPUTE RESOLUTION**

24. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive procedure for resolution of disputes arising between the Parties regarding matters included in this Settlement Agreement.

25. If, in one Party's opinion, there is a dispute between the Parties with respect to implementation of this Settlement Agreement or the implementation of any provision of this Settlement Agreement, that Party may send a written Notice of Dispute to the other Party, outlining the nature of the dispute and requesting informal negotiations to resolve the dispute. The Parties shall make reasonable efforts to informally and in good faith resolve all disputes or differences of opinion regarding the implementation of this Settlement Agreement. Such period of informal negotiations shall not extend beyond thirty (30) days from the date when the Notice of Dispute was received unless the period is extended by written agreement of the Parties. The dispute shall be considered to have arisen when one Party receives the other Party's Notice of Dispute.

26. In the event that the Parties cannot resolve a dispute by informal negotiations under this Section, the position advanced by the Department shall govern, control and be binding unless, within twenty (20) days after the conclusion of the informal negotiation period, U.S. Steel invokes the formal dispute resolution procedures of this Section by mailing to the Department a written statement of position on the matter in dispute, including any available factual data, analysis, or opinion supporting that position, and including any supporting affidavits and/or documentation relied upon by U.S. Steel. Within twenty (20) days following receipt of U.S. Steel's statement of position submitted pursuant to this paragraph, the Department shall issue a written statement of position ("ACHD's Position") on the matter in dispute, including available factual data, analysis, opinion and/or legal arguments supporting the Department's position along with any supporting affidavits and/or documents relied upon by the Department. The ACHD's Position shall be binding upon U.S. Steel unless U.S. Steel, within thirty (30) days of receipt of the ACHD's Position, files with the Hearing Officer and serves upon the Department a petition for dispute resolution ("Petition"). This Petition shall set forth the matter in dispute, the efforts made by the

Parties to resolve it, the relief that the Parties request, and any factual data analysis, opinion, affidavits, legal argument and documentation supporting their respective position. The Petition and ACHDs Position shall constitute the initial record for purposes of resolving the dispute. Either Party may request of the Hearing Officer the opportunity to supplement the record with appropriate additional information, provided that such information could not reasonably have been obtained or discovered prior to filing the Petition. The Hearing Officer shall render his or her final decision on the basis of the full record, including any supplemental materials received. The final decision of the Hearing Officer shall be appealable by either Party to the Court of Common Pleas of Allegheny County.

27. Judicial and administrative review of any dispute governed by this Section shall be governed by applicable provisions of law.

28. Except as provided in Section XII, the invocation of informal or formal Dispute Resolution procedures under this Section shall not of itself extend, postpone, act as a stay, or affect in any way any obligation of U.S. Steel under this Settlement Agreement.

29. Whenever service, process, or notice is required of any dispute pursuant to this Section, such service, notice or process shall be directed to the individuals at the addresses specified in Paragraphs 18-19 of this Settlement Agreement, unless those individuals or their successors give notice in writing to the other Parties that another individual or address has been designated.

## **XII. FORCE MAJEURE**

30. For the purposes of this Settlement Agreement, “Force Majeure” as applied to U.S. Steel or to any person or entity controlled by U.S. Steel, is defined as any event arising from circumstances or causes beyond the control of U.S. Steel, or any person or entity controlled by

U.S. Steel, including, but not limited to, its officers, directors, employees, agents, representatives, contractors, subcontractors, or consultants, that may delay or prevent performance of an obligation under this Settlement Agreement, despite U.S. Steel's diligent efforts to fulfill the obligation. Such Force Majeure events include, but are not limited to, events such as floods, fires, tornadoes, other natural disasters, labor disputes, and unavailability of necessary equipment or qualified labor beyond the reasonable control of U.S. Steel. The requirement to exercise "diligent efforts to fulfill the obligation" includes using diligent efforts to mitigate any delay caused by a Force Majeure event, as that event is occurring and/or following such an event, so that the delay or non-performance is minimized to the greatest extent reasonably possible.

31. If U. S. Steel is prevented from complying with any requirement of this Settlement Agreement due to a potential Force Majeure event, U.S. Steel may claim that such an event constitutes Force Majeure and may petition the Department for relief by notifying the Department in the following manner:

A. By telephone within one hundred-twenty (120) hours, and by U.S. Mail, electronic-mail or the equivalent, within ten (10) working days of the date that U.S. Steel becomes aware, or with reasonable care should have become aware, of the potential Force Majeure event impeding performance.

B. Written notice of a potential Force Majeure event shall include the following:

1. A description of the event and a rationale for attributing the event to Force Majeure;

2. A description of the efforts that have been made to prevent, and efforts being made to mitigate, the effects of the event and to minimize the length of delay or non-performance;

3. An estimate of the duration of the delay or non-performance;
4. A description of a proposed timetable for implementing measures to bring U. S. Steel back into compliance with this Settlement Agreement; and
5. Available documentation, which, to the best knowledge and belief of U.S. Steel, supports U.S. Steel's claim that the delay or non-performance was attributable to a Force Majeure event.

### **XIII. EFFECTIVE DATE AND TERMINATION**

32. The effective date of this Settlement Agreement ("Effective Date") shall be the date on which it is signed by both the ACHD and U.S. Steel. This Settlement Agreement shall remain in effect until terminated. The Settlement Agreement shall be terminated by the earliest of the following: (i) mutual agreement of the Parties; (ii) after the completion of all projects required by Paragraph 8; or (iii) five (5) years after the Effective Date. However, either party may request of the other party an extension of the terms of this Settlement Agreement beyond the termination date in which case, Section XIII of this Settlement Agreement may be modified only by written agreement of the Parties.

IN WITNESS WHEREOF, the Parties hereto have caused this Settlement Agreement to be executed by their duly authorized representatives. The undersigned representatives of U.S. Steel and ACHD certify under penalty of law, as provided by 18 Pa.C.S. § 4909, that he or she is authorized to execute this Settlement Agreement on behalf a party; that U.S. Steel consents to the entry of this Settlement Agreement as a final ORDER of the ACHD; and that, except as otherwise provided herein, U.S. Steel hereby knowingly waives its rights to appeal this Settlement Agreement and to challenge its content or validity, which rights may be available under Article XI

of the ACHD Rules and Regulations for Hearings and Appeals, Article XI, and Pennsylvania Administrative Agency Law, 2 Pa.C.S. §103(a), or any other applicable provision of law. Signature by U.S. Steel's attorney certifies only that this Settlement Agreement has been signed after consulting with counsel.

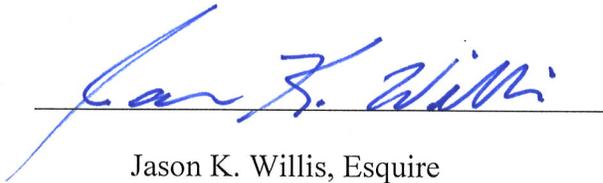
FOR THE ALLEGHENY COUNTY HEALTH DEPARTMENT

Date: June 27, 2019



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Jim Kelly  
Deputy Director for Environmental Health

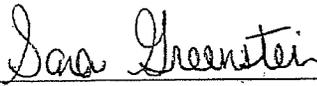


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Jason K. Willis, Esquire  
Assistant Solicitor

FOR THE UNITED STATES STEEL CORPORATION

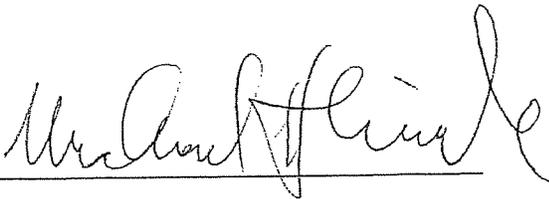
Date: June 27, 2019

  
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Sara Greenstein

Senior Vice President, Consumer Solutions

Date: June 27, 2019

  
\_\_\_\_\_

Michael H. Winek, Esquire

Babst, Calland, Clements and Zornir, P.C.

Counsel for The United States Steel Corporation

ALLEGHENY COUNTY HEARING OFFICER

Date: \_\_\_\_\_, 2019

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Max Slater, Hearing Officer