

**BEFORE THE ALLEGHENY COUNTY HEALTH DEPARTMENT
542 FOURTH AVENUE
PITTSBURGH, PA 15219**

UNITED STATES STEEL)	
CORPORATION,)	
Appellant,)	
)	
v.)	Appeal of Enforcement Order
)	# 220304
ALLEGHENY COUNTY HEALTH)	
DEPARTMENT,)	
)	
Appellee.)	

NOTICE OF APPEAL

Pursuant to Sections 1103 and 1104 of Article XI of the Rules and Regulations of the Allegheny County Health Department (“ACHD”), Appellant United States Steel Corporation (“U. S. Steel”) appeals Enforcement Order #220304 issued by the ACHD on March 24, 2022 (“Order”) to U. S. Steel’s Clairton Coke Works (“Clairton Plant”), located in Clairton, Pennsylvania. A copy of the Order is attached to this Notice of Appeal as Exhibit A. This submission constitutes timely filing of a Notice of Appeal of an ACHD action and specifies the manner in which U. S. Steel is aggrieved by the ACHD’s action, the nature of U. S. Steel’s direct interest in the action, and the grounds for appeal.

The Clairton Plant operations have a tremendous impact on the local, regional, and national economy. The Clairton Plant employs approximately 1,400 highly skilled United Steelworker union-represented and non-represented employees. Since the Clairton Plant is the nation’s largest producer of coke and coal chemicals, its operations have a multiplier effect in supporting thousands of additional steel plant, chemical, energy, transportation, and supplier jobs, not only in the

Clairton area in Allegheny County, and the Southwestern Pennsylvania region, but also across the United States.

Furthermore, the Federal government has determined that domestic steelmaking is necessary for our nation's security production requirements and without domestic steel production we run the risk of not being able to adequately respond to a national emergency. In addition, the U.S. Department of Homeland Security has designated steelmakers like U. S. Steel, including its Clairton Plant, to be a vital component of our nation's critical manufacturing sector, which is necessary for the economic prosperity, security, and continuity of the United States. The COVID-19 pandemic and the Russian-Ukrainian conflict have highlighted the importance of having robust domestic manufacturing capabilities to supply important products that are essential to national, economic and health security. Therefore, it is imperative that any and all enforcement actions and demands are accurate and well-grounded in the law.

Environmental stewardship and safety remain core values at U. S. Steel, where we spend approximately \$100 million annually on environmental compliance across the Mon Valley Works. The Clairton Plant is firmly committed to environmental compliance, beginning with the incorporation of International Organization for Standardization (ISO) 14001 into our environmental management systems. The Clairton Plant is certified in compliance with this standard and has been since 1998, having become the first coke plant in the country to be so certified. Most recently, there were two ISO 14001 surveillance audit events in February and August of 2021. The Mon Valley Works, including the Clairton Plant, achieved unconditional approval of the ISO 14001 Environmental Management System following these audits.

In 2020, the Clairton Plant achieved monthly, quarterly, and annual compliance records for battery combustion stack performance. Stack compliance at the Clairton Plant continued to be

99.9% in 2021 (including many days where all ten battery stacks recorded a compliance rate of 100%), detailing Clairton’s continued commitment to environmental stewardship. In addition to remarkable stack performance, the Clairton Plant’s compliance with the fugitive emission requirements exceeded 98% for 2020 and 2021. The Mon Valley Works and its 1,400 hard working men and women are dedicated to protecting the air quality in the Mon Valley – and this commitment is being realized by the environmental performance (as highlighted above) and improved air quality. For the years 2020 and 2021, *all monitors* in Allegheny County have demonstrated attainment with *all* National Ambient Air Quality Standards (NAAQS), noting in particular that for the second consecutive year, the Liberty Monitor demonstrated attainment with the PM_{2.5} and SO₂ standards.

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

1. U. S. Steel owns and operates the Clairton Plant, a by-products coke plant located at 400 State Street, Clairton, PA 15025, with telephone number (412) 233-1002 (hereinafter “Facility”).

2. The Facility operates pursuant to Major Source Operating Permit No. 0052 (“Permit”), issued March 27, 2012.

3. The ACHD issued and U. S. Steel received the Order on March 24, 2022.

4. Pursuant to ACHD Order 202.E, issued on March 28, 1990, U. S. Steel has provided monthly reports to ACHD for over 30 years (over 380 reports). The reports include, among other things, total pushes per month, the monthly percentage availability (on-line time) of the pushing emission control system, and time and the number of pushes when the baghouse was not operational for a push. The Order was also incorporated into the Permit when it was issued on March 27, 2012.

5. ACHD Order 202.E requires, among other things, U. S. Steel to provide information regarding pushing emission control system outages exceeding sixty minutes in duration; and exempts such reporting for outages with a duration of sixty minutes or less.

6. U. S. Steel has complied with the Order by completing the monthly reports with the required information since 1990; and the corresponding Permit requirements since March 2012.

7. During the time period from January 1, 2020 to March 15, 2022, as well as other times pursuant to ACHD Order 202.E, U. S. Steel provided the Department with breakdown reports (pursuant to § 2108.01 of Article XXI) for outages of the pushing emission control system.

8. During the time period from January 1, 2020 to March 15, 2022, as well as other times pursuant to ACHD Order 202.E, as reported in the monthly reports, U. S. Steel pushed over 450,000 ovens and achieved a percentage availability of over 99.8% for the pushing control system for the Facility. The percentage availability for the pushing emission control system during the time period January 1, 2020 to March 15, 2022 is consistent with or higher than the percentage availability reported to ACHD on a monthly basis pursuant to ACHD Order 202.E in the over 380 reports provided to the ACHD during the preceding 29 years.

9. On or about January 10, 2018, at an ACHD Board of Health meeting, the ACHD introduced and explained its Air Quality Civil Penalty Policy No. 363 (“Policy”) to the Board of Health, the regulated community and the public. The Policy became effective on or about January 9, 2018, and to U. S. Steel’s knowledge and belief, the Policy was in effect during the time period January 1, 2020 to March 15, 2022; and remains in effect today, without modification as to what was introduced in January 2018. During its presentation of the Policy to the Board of Health on or about January 10, 2018, ACHD informed the Board that, “the violation target has been moved to 99% from 85-95%” and that coke plants were included in the policy. In response to the Board’s

request to explain the violation target, the ACHD responded that, “nowhere is 100% compliant, as breakdowns do occur” so “99% is the compliance target.”

10. In the Order, ACHD alleges that, on 318 instances between January 1, 2020 to March 15, 2022, Batteries 1-3 at the Facility violated Condition V.B.1.a and c of the Permit, which respectively require that U. S. Steel install a pushing emissions control system baghouse and vent pushing emissions through a pushing emission control system baghouse at these Batteries.

11. In the Order, ACHD alleges that, on 193 instances between January 1, 2020 to March 15, 2022, Batteries 13-15 at the Facility violated Condition V.D.1.a and c of the Permit, which respectively require that U. S. Steel install a pushing emissions control system baghouse and vent pushing emissions through a pushing emission control system baghouse at these Batteries.

12. In the Order, ACHD alleges that, on 320 instances between January 1, 2020 to March 15, 2022, Batteries 19 and 20 at the Facility violated Condition V.F.1.a and c of the Permit, which respectively require that U. S. Steel install a pushing emissions control system baghouse and vent pushing emissions through a pushing emission control system baghouse at these Batteries.

13. In the Order, ACHD alleges that the 831 total instances of violations of the Permit conditions identified above also constitute separate violations of § 2103.10.b.3 of Article XXI of the ACHD’s Rules and Regulations.

14. For these alleged violations, ACHD assessed a civil penalty of \$4,570,500, and ordered U. S. Steel to submit to the ACHD a “plan to achieve and maintain compliance with its permit requirement to capture emissions from all pushes to the PEC baghouse” for ACHD approval. The ACHD did not include a worksheet or other attachment to the Order detailing how it calculated the civil penalty.

15. U. S. Steel objects to the Order, ACHD's alleged conclusions and findings in the Order, the civil penalty assessment in the Order, and the requirement to submit a plan to ACHD for approval, because the ACHD has abused its discretion and acted unreasonably, arbitrarily, capriciously, contrary to fact and law and in a manner not supported by evidence, including:

- a. The violations alleged by ACHD and/or penalties assessed in the Order are not supported by U. S. Steel's Permit, Article XXI, the Pennsylvania Air Pollution Control Act, or the Clean Air Act, or the regulations and policies developed therefrom.
- b. Conditions V.B.1.a, V.D.1.a, and V.F.1.a cited by the ACHD in its Order are incomplete excerpts of the applicable Permit language. Consideration of the full language of those Permit conditions establishes that they specifically prohibit operation of Batteries 1-3, 13-15, and 19-20 "unless there is *installed* [emphasis added] on each battery a pushing emission control system baghouse which is designed to reduce fugitive emissions from pushing to the minimum attainable through the use of BACT, nor shall the permittee operate" these Batteries in such manner that it does not meet (1) a particulate mass emission rate of 0.010 grains per dry standard cubic feet from the pushing emission control system device, or (2) a 20% opacity standard for emissions from the pushing emission control system device outlet. The ACHD's finding of violation with respect to these conditions is unsupported by the Permit language because: (1) the Facility did install a pushing emission control system baghouse that was designed to reduce fugitive pushing emissions from pushing to the minimum attainable through the use of BACT; and (2) the ACHD did not find that the Facility violated the 0.010 grains particulate

mass emissions standard or the 20% opacity standard for the pushing emission control system device.

- c. The Order's finding of violations and penalty assessment based on alleged occurrences of "uncontrolled" pushing is erroneous, unsupported, and contrary to law and the United States Environmental Protection Agency's ("EPA's") interpretation of that term, considering work practices that the Facility employs to control pushing emissions.
- d. The Order's finding of violations and penalty assessment is unreasonable, an abuse of discretion, and contrary to law, based on the fact that the ACHD approved U. S. Steel's Enhanced Operating and Maintenance Plan under the June 27, 2019 Settlement Agreement and Order entered between the parties, which, among other things, provides for specific work practices for the Facility to implement in the event of a breakdown or reduced efficiency of a pushing emission control system. The ACHD failed to consider that the Facility complied with these work practices during the instances alleged in the Order.
- e. By changing its interpretation of Article XXI and the Permit in a manner inconsistent with the Air Pollution Control Act and ACHD policies, and by assessing excessive penalties under the new interpretation without notice to U. S. Steel or other interested parties, the Department's action violates due process and is otherwise unlawful.
- f. ACHD has accepted pushing emission control system monthly reports for 30 years with similar data and has never raised a concern to U. S. Steel, establishing that the ACHD's determination of severity or harm in the Order is specious and

unsupported. In addition, there has been an unreasonable delay by the ACHD in bringing enforcement relating to pushing emission control system compliance, and this unreasonable delay has prejudiced U. S. Steel, considering U. S. Steel's reliance on the ACHD's interpretation of the Permit and Article XXI, as well as its application of its Civil Penalty Policy.

g. ACHD abused its discretion, acted arbitrarily and capriciously, and contrary to law, when determining the penalty assessment. The civil penalty assessed in the Order is unreasonable, arbitrary and capricious, and contrary to law, for several reasons, including but not limited to:

- i. It is presumably based on a finding of violation of Conditions V.B.1.a, V.D.1.a, and V.F.1.a of the Permit, which finding, as discussed above, is unsupported by the text of these Conditions;
- ii. It is presumably based on a finding of violations of § 2103.10.b.3 of Article XXI, which findings are wholly duplicative of and not substantially distinguishable from the findings of violation of Conditions V.B.1.c, V.D.1.c, and V.F.1.c of the Permit, and which serve to artificially inflate the civil penalty assessed without establishing any other material fact beyond that required to establish violations of the Permit;
- iii. It is presumably based on counting separate violations of Conditions V.B.1, V.D.1, and V.F.1 for each individual battery, which artificially inflates the number of violations, because these Conditions treat Batteries 1-3 as one source, Batteries 13-15 as one source, and Batteries 19-20 as one source;

- iv. It reflects an arbitrary and capricious and unreasonable amount when considering the civil penalty factors in the Pennsylvania Air Pollution Control Act and § 2109.06.b.1 of Article XXI, namely including the lack of actual harm to the public health, safety, and welfare or damage to the air of the County, the lack of economic benefit, and the lack of willfulness of the violation, and no indication of non-cooperation on the part of U. S. Steel.
- v. It reflects an excessively large and unreasonable adjustment for compliance history of the Facility, and unreasonably and erroneously characterizes the Facility's compliance history in a manner contrary to the ACHD's Civil Penalty Policy and the ACHD's historical expressions of target compliance rates for the Facility.
- vi. It reflects an excessively large and unreasonable adjustment for the mere fact that the Facility operates pursuant to a Title V permit, which is not a factor enumerated as part of determination of a civil penalty under Article XXI or the Pennsylvania Air Pollution Control Act. Although the "size of the violator" is a factor that is listed in these authorities, the ACHD's Civil Penalty Policy already accounts for this adjustment in a separate section and, based on the characteristics of the number of employees at the Facility, would not be adjusted upwards or downwards for its size.
- vii. It is based on improperly or erroneously determined potential for harm and severity associated with the alleged violations and is inconsistent with the ACHD's Civil Penalty Policy, the Pennsylvania Department of Environmental Protection's "Guidance for the Application of Regional

Civil Assessment Procedures”, and the EPA’s “Clean Air Act Stationary Source Civil Penalty Policy”.

- viii. It is inconsistent with the Department’s stated interpretation and application of its civil penalty policy.
- ix. It is inconsistent with the declarations of policy under Article XXI and the Pennsylvania Air Pollution Control Act.
- x. The Department abused its discretion, and acted arbitrarily and capriciously, in misapplying “adjustment factors” that more than doubled the penalty assessed.
- xi. It (and/or factors derived to determine the penalty amounts) is duplicative of prior penalties demanded by ACHD and/or paid by the Facility, or is otherwise improper because it is not consistent with the amounts provided in the stipulated penalty framework contained in a June 27, 2019 Settlement Agreement and Order.

B. U. S. Steel’s Direct Interest in this Appeal

1. U. S. Steel is a named entity to which the Order was issued, and who was alleged to have committed violations of Article XXI and assessed a civil penalty. As a result, U. S. Steel is negatively impacted by the Order and has a direct interest in the Order and this Appeal.

C. Conclusion

1. 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 ACHD’s Rules and Regulations.

2. For the foregoing reasons, U. S. Steel respectfully requests that the Hearing Officer vacate the Order and issue any and all other appropriate and just relief.

Respectfully submitted,



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EXHIBIT A

Enforcement Order # 220304

March 24, 2022

COUNTY OF



ALLEGHENY

RICH FITZGERALD
COUNTY EXECUTIVE

March 24, 2022

CERTIFIED MAIL – 9489 0090 0027 6045 1970 22

Michael Rhoads
United States Steel Corporation
Clairton Works
400 State Street
Clairton, PA 15025

RE: Enforcement Order # 220304 – 400 State Street, Clairton, PA 15025 – Article XXI,
§2103.10.b.3 and Operating Permit #0052.

Dear Mr. Rhoads,

Please find enclosed a copy of the Enforcement Order pertaining to uncontrolled pushes at Batteries 1, 2, 3, 13, 14, 15, 19, and 20 occurring between January 1, 2020 and March 15, 2022. Also attached is an “Important Notice” for you to review.

Thank you for your anticipated prompt attention to this matter and future increased efforts to comply with all applicable regulations. Any questions concerning this Order should be directed to the ACHD’s representative, Shannon Sandberg at 412-578-7969 or e-mail at shannon.sandberg@alleghenycounty.us.

Sincerely,

Shannon Sandberg
Air Quality Enforcement Section Chief

cc: Gary Fischman, Air Quality Engineer (via email)
File



DEBRA BOGEN, MD, DIRECTOR
ALLEGHENY COUNTY HEALTH DEPARTMENT
AIR QUALITY PROGRAM
301 39TH STREET • CLACK HEALTH CENTER • BUILDING 7
PITTSBURGH, PA 15201-1811
PHONE (412) 578-8103 • FAX (412) 578-8144
24-HR (412) 687-ACHD (2243)
WWW.ALLEGHENYCOUNTY.US/HEALTHDEPARTMENT



To: Michael Rhoads
United States Steel Corporation
Clairton Works
400 State Street
Clairton, PA 15025

Re: March 24, 2022 Enforcement Order

IMPORTANT NOTICE

An Enforcement Order dated March 24, 2022, was mailed to you by the Allegheny County Health Department (ACHD) notifying of the possibility that a Civil Penalty will be levied by virtue of your failure to take certain action.

If you fail to take action pursuant to said enforcement order, a judgment may be entered against you in the Court of Common Pleas of Allegheny County. The sheriff may take your money or other property to pay the judgment any time after the judgment is entered.

YOU ARE WARNED THAT IF YOU FAIL TO CORRECT VIOLATIONS AND/OR PAY FINES OR PENALTIES LEVIED AGAINST YOU IN THE ENFORCEMENT ORDER THAT THE ALLEGHENY COUNTY HEALTH DEPARTMENT MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU WITHOUT FURTHER NOTICE. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

Allegheny County Health Department
Air Quality Program
301 39th Street, Building #7
Pittsburgh, PA 15201-1811

**ALLEGHENY COUNTY HEALTH DEPARTMENT
AIR QUALITY PROGRAM**

In the Matter of:

United States Steel Corporation
Clairton Plant
400 State Street
Clairton, PA 15025

Violation No. 220304

Violations of Article XXI (“Air
Pollution Control”) at property:

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

ENFORCEMENT ORDER

NOW, this 24th day of March, 2022 the Allegheny County Health Department (hereinafter "ACHD") issues this Enforcement Order after it has found and determined the following:

I. AUTHORITY

1. The Director of the ACHD has been delegated authority pursuant to the federal Clean Air Act, 42 U.S.C. Sections 7401 -7671q (hereinafter “CAA”), and the Pennsylvania Air Pollution Control Act, 35 P.S. Sections 4001-4014 (hereinafter “APCA”), and the ACHD is a local health agency organized under the Local Health Administration Law, 19 P.S. §§ 12001-12028, whose powers and duties include the enforcement of laws relating to public health within Allegheny County including, but not limited to, the ACHD’s Rules and Regulations, Article XXI, Air Pollution Control (Allegheny County Code of Ordinances Chapters 505, 507 and 535) (hereinafter “Article XXI”).

II. BACKGROUND

2. United States Steel Corporation (hereinafter “U.S. Steel”) owns and operates a coke making facility in Clairton, Allegheny County, Pennsylvania (hereinafter “Clairton Coke Plant”).

3. The Clairton Coke Plant operates ten coke batteries and produces approximately 11,000 tons of coke per day from the destructive distillation (carbonization) of approximately 14,000 tons of coal.

4. During the carbonization process, approximately 170 million cubic feet of coke oven gas are produced. The volatile products of coal contained in the coke oven gas are recovered in the by-products plant. In addition to the coke oven gas, daily production of these by-products includes approximately 100,000 gallons of crude tar, 14,000 to 30,000 gallons of light oil, 40 tons of elemental sulfur, and 50 tons of ammonia.

Pushing Operations

5. Pushing is generally the operation by which coke that has completed the coking cycle is mechanically pushed from a coke oven into a traveling car (“hot car”) and transported to a quench station where the coke is cooled with water.

6. During normal operation of the coke oven batteries at the Clairton Coke Plant, a fume collection hood (“traveling hood”) is moved into place above the hot car outside the door of a coke oven at the completion of the coking cycle for that oven. The door on the side of the oven where the hot car is located (coke side) is then removed prior to pushing coke from the oven.

7. Emissions occur during the pushing operation from activities such as the physical movement of the coke mass from the oven, dropping of coke into the hot car, or partial combustion of coke due to the high temperature of the coke contacting ambient air.

8. To significantly reduce emissions from the pushing operation, the traveling hood is connected to a fan which provides suction at the hood, pulling emissions from the pushing operation into the hood and through ductwork to the Pushing Emission Control (PEC) baghouse.

9. At the PEC baghouse, the gas stream carrying pushing emissions passes through multiple filter compartments or modules. Each module contains a series of fabric filters which together remove more than 99% of dust (filterable particulate emissions) from the gas stream before this stream is vented through a stack connected to that module.

Uncontrolled Pushing

10. The Clairton Coke Plant has experienced process and equipment failures which resulted in the traveling hood to not properly position above the hot car, a loss of suction to the baghouse, or other issues causing emissions not to be captured during the push.

11. The pushing of coke from an oven without first capturing and ducting the emissions to the PEC baghouse is known as an “uncontrolled push.”

12. As identified in detail below, U.S. Steel elected to perform numerous uncontrolled pushes without capturing and ducting the emissions to the PEC baghouse which resulted in increased filterable particulate emissions.

III. FINDINGS OF VIOLATIONS

13. On March 27, 2012, the ACHD issued a Major Source Operating Permit No. 0052 to U.S. Steel for the Clairton Coke Plant (hereinafter “Clairton Operating Permit”).

14. The Clairton Operating Permit, Condition V.B.1 (“Restrictions”), states:

- a. The permittee shall not operate, or allow to be operated, Battery 1 or Battery 2 or Battery 3 coke ovens unless there is installed a pushing emission control system baghouse which is designed to reduce fugitive emissions from pushing

* * * *

- c. The permittee shall not operate, or allow to be operated Battery 1 or Battery 2 or Battery 3, unless the Battery 1, 2, & 3 PEC System baghouse is properly installed, operated and maintained according to the following conditions, at all times:

- 1) Emissions due to the pushing of Battery 1, 2, & 3 coke ovens shall be vented through the PEC System baghouse dust collector.

15. The Clairton Operating Permit, Condition V.D.1 (“Restrictions”), states:

- a. The permittee shall not operate, or allow to be operated, Battery 13 or Battery 14 or Battery 15 coke ovens unless there is installed a pushing emission control system baghouse which is designed to reduce fugitive emissions from pushing

* * * *

- c. The permittee shall not operate, or allow to be operated Battery 13 or Battery 14 or Battery 15, unless the Battery 13, 14, & 15 PEC System baghouse is properly installed, operated and maintained according to the following conditions, at all times:

- 1) Emissions due to the pushing of Battery 13, 14, & 15 coke ovens shall be vented through the PEC System baghouse dust collector.

16. The Clairton Operating Permit, Condition V.F.1 (“Restrictions”), states:

- a. The permittee shall not operate, or allow to be operated, Battery 19 or Battery 20 coke ovens unless there is installed a pushing emission control system baghouse which is designed to reduce fugitive emissions from pushing

* * * *

- c. The permittee shall not operate, or allow to be operated Battery 19 or Battery 20 unless the Battery 19 and 20 PEC System baghouse is properly installed, operated and maintained according to the following conditions, at all times:

- 1) Emissions due to the pushing of Battery 19 and 20 coke ovens shall be vented through the PEC System baghouse dust collector.

17. The ACHD has reviewed data regarding uncontrolled pushes for Batteries 1, 2, 3, 13, 14, 15, 19, and 20 provided by U.S. Steel in its monthly Process Information Reports dating from January 1, 2020 through March 15, 2022 as such reports are required under Conditions V.B.5.a, V.D.5.c, and V.F.5.c of the Clairton Operating Permit, as well as information provided in Breakdown Reports submitted pursuant to Article XXI, § 2108.01.c, and information provided in U.S. Steel’s 2020 Emission Inventory Statement submitted pursuant to Article XXI, § 2108.01.e.

18. The ACHD has determined that between January 1, 2020 and March 15, 2022, uncontrolled pushes occurred at the above-mentioned batteries as shown in the table below:

Year	Uncontrolled Pushes			Total
	Batteries 1, 2, and 3 (Condition V.B.5.a)	Batteries 13, 14, and 15 (Condition V.D.5.c)	Batteries 19 and 20 (Condition V.F.5.c)	
2020	155	34	79	268
2021	155	159	193	507
2022 (partial)	8	0	48	56
Total	318	193	320	831

19. Article XXI, § 2103.10.b.3 (“Prohibition of Operation in Violation of Conditions”), states: “It shall be a violation of this Article giving rise to the remedies provided by Section 2109.02 of this Article for any person to fail to comply with any terms or conditions set forth in any permit issued pursuant to this Subpart.”

20. Each uncontrolled push is a separate violation of the applicable permit condition stated above for the battery where the push occurs and of Article XXI.

21. The ACHD finds that U.S. Steel's failures to use its pollution control device constitute 831 violations of Article XXI, § 2103.10.b.3, for failing to comply with the conditions set forth in the Clairton Operating Permit.

IV. ORDER

NOW THEREFORE, pursuant to the authority granted to the ACHD by Article XXI §§ 2109.03 and 2109.06 and the Local Health Administration Law, 19 P.S. § 12010, it is hereby ORDERED that:

22. Within thirty (30) days, U.S. Steel shall take action to prevent future noncompliant pushes from occurring and provide ACHD with a plan to achieve and maintain compliance with its permit requirement to capture emissions from all pushes to the PEC baghouse. The compliance plan shall be subject to ACHD approval. Upon notification of the ACHD's approval of the compliance plan, U.S. Steel shall immediately begin implementing the plan and complete implementation within forty-five (45) days following approval. U.S. Steel shall submit a report to the ACHD within sixty (60) days following approval detailing actions completed and completion dates.

23. If the ACHD determines that the compliance plan is ineffective in eliminating uncontrolled pushes, the ACHD may require U.S. Steel to submit a revised compliance plan.

24. Nothing in this Order shall prohibit the ACHD from taking further enforcement action for uncontrolled pushes not specifically identified in this Order.

25. Please be advised that failure to comply with this Order within the times specified herein is a violation of Article XXI giving rise to the remedies provided by Article XXI § 2109.02 including civil penalties of up to \$25,000 per violation per day.

26. For the violations set forth in the preceding paragraphs, U.S. Steel is hereby assessed a civil penalty of **FOUR MILLION FIVE HUNDRED SEVENTY THOUSAND FIVE HUNDRED DOLLARS** (\$4,570,500.00). The civil penalty is as follows:

A. Gravity Based Component

Violation	Gravity Based Penalty	Violations	Total Gravity Penalty
Uncontrolled Pushing: OP #0052, Conditions V.B.1.c, V.D.1.c, and V.F.1.c (Article XXI, § 2105.03)	\$2,500.00	831	\$2,077,500.00
GRAVITY COMPONENT SUBTOTAL			\$2,077,500.00

B. Adjustment Factors

Compliance History: 9 Issued violations in last 2 years	\$ 2,077,500.00
Title V Source:	\$ 415,500.00
TOTAL CIVIL PENALTY	
\$ 4,570,500.00	

27. U.S. Steel shall pay the civil penalty amount within thirty (30) days of receipt of this Order. Payment shall be made by corporate or certified check, or the like, made payable to the "Allegheny County Clean Air Fund", and sent to Air Quality Program Manager, Allegheny County Health Department, 301 39th Street, Bldg. #7, Pittsburgh, PA 15201.


28. The ACHD has determined the above civil penalty to be in accordance with Article XXI § 2109.06.b. reflecting relevant factors including, but not limited to: the nature, severity and frequency of the alleged violations; the maximum amount of civil and criminal penalties authorized by law; the willfulness of such violations; the impact of such violations on the public

and the environment; the actions taken by U.S. Steel to minimize such violations and to prevent future violations; and U.S. Steel's compliance history.

29. Pursuant to Article XI § 1104.A ("Hearings and Appeals"), of the Allegheny County Health Department Rules and Regulations, you are notified that if you are aggrieved by this Order, a Notice of Appeal shall be filed no later than thirty (30) days after receipt of written notice or issuance of this Order. Such a Notice of Appeal shall be filed in the Office of the Director at 542 Fourth Avenue, Pittsburgh, PA 15219. This Order is enforceable upon issuance and any appeal of this Order shall not act as a stay unless the Director of the ACHD so orders. In the absence of a timely appeal, the terms of this Order shall become final.

30. Please be aware that if you wish to appeal this Order, you are required within 30 days of receipt of this Order to either forward the penalty amount of the ACHD for placement in an escrow account or post an appeal bond to the ACHD in the amount of the penalty. Please review the specific requirements for prepaying the penalty or posting the appeal bond found in Article XXI §§ 2109.06.a.2-3. A copy of Article XXI and Article XI may be found at <https://www.alleghenycounty.us/Health-Department/Health-Department-Regulations.aspx>.

DONE and **ENTERED** this 24th day of March, 2022, in Allegheny County,
Pennsylvania.



Dean DeLuca
Air Quality Program Manager



Date

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing, as well as a check in the amount of \$4,570,500 for placement in escrow, was filed and served via hand delivery this 22nd day of April, 2022 upon the following persons:

Max Slater, Esq.
Administrative Hearing Officer
Allegheny County Health Department - Office of the Director
542 Fourth Avenue
Pittsburgh, PA 15219
max.slater@alleghenycounty.us

The following individuals were served a true and correct copy of the foregoing by electronic mail this 22nd day of April, 2022:

Jason Willis, Esq.
Allegheny County Health Department
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