UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107-4431

In Reply Refer To Mail Code: 3AT23

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CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dr. Roger Westman, Division Manager
Allegheny County Health Department
Division of Air Quality
301 Thirty-ninth Street
Pittsburgh, Pennsylvania 15201

Re: January 26, 1995 Notice of Violation Conference
Facility: USX Clairton Works

Dear Dr. Westman:

Thank you and your colleagues at the ACHD for participating in the January 26, 1995 NOV conference concerning the recent venting incident at Clairton. Enclosed is a copy of the followup letter sent to USX. Thank you for agreeing to advise us of your proposed penalty under your quarterly enforcement program, once you have determined this figure.

On another point, we, at EPA Region III, would like to continue our discussion of Allegheny County's enforcement policy concerning venting incidents, such as those described in the NOV. As we understand it, Allegheny County deems venting incidents totalling less then 60 minutes/battery/year to be de minimus, and typically does not take enforcement actions on the basis of such violations. This one hour policy apparently does not differentiate between flared and unflared emissions of coke oven gas during a venting incident.

Depending on individual circumstances, and as a matter of enforcement discretion, both Allegheny County and EPA may decide whether it is appropropriate to pursue an enforcement action to address a particular venting incident. However, we believe that the current quarterly policy, which defers a penalty action against a source unless the venting incidents lasts cumulatively more than one hour per year, does not provide sufficient deterrence nor does it capture adequeately the severity of the violation and the toxicity of the emissions released. Specifically, we believe that it is necessary that the policy differentiate between flared and unflared coke oven gas.

It is our opinion that the current quarterly penalty policy does not adequately address the release of unflared coke oven gas. Given the requirements of the Coke Oven NESHAP, which explicitly requires all coke oven batteries to be equipped with operable flare systems, the venting of unflared coke oven gas should be a very rare incident. Because of the toxicity of coke oven emissions and the need to ensure proper maintenance of flares, ACHD should ordinarily commence an enforcement action to address the emission of unflared coke oven gas.

With respect to the emissions from the flaring of undesulfurized coke oven gas, a SIP violation, more discretion may be appropriate. However, this discretion should be made on a case-by-case basis and not be viewed on a cumulative annual basis except for minor excursions. For example, in the most recent USX case, the level of violations were such that even if all batteries flared and the duration of violation were less than 1 hour, a significant penalty would be warranted to address the gravity of the release and provide sufficient deterrence to both USX and the regulated community to avoid such occurrences in the future. The application of cumulative levels is more appropriate to address incidental minor violations.

I look forward to working with you and to a productive enforcement partnership.

Sincerely,

David B. McGuigan, Ph.D., Chief
Air Enforcement Section

Enclosure

cc: Bill Smith
Kirk Junker
Charley Goetz
David Street
Mike Ioff
File