

## MEMORANDUM

DATE: December 30, 1977

SUBJECT: Offset Requirements for U.S. Steel's Fairfield Modernization

FROM: Deputy Assistant Administrator for General Enforcement

TO: Paul J. Traina, Director Enforcement Division, Region IV

This is in response to your request for assistance in responding to the September 26, 1977, letter from James Cooper of the Alabama Air Pollution Control Commission. While most of OE's comments have already been related by phone, this memo will clarify the OE position on the three new sources at this facility.

### Legal Analysis

Based upon the facts present by your October 12, 1977, memorandum to Marvin Durning, and by subsequent communications between our offices, I agree with your conclusion that the provisions of the Interpretative Ruling (IR) apply to the new Q-BOP vessel, blast furnace, and coke battery currently under construction at United States Steel Corporation's (USSC) Fairfield Works. As indicated by Stanley Legro's April 7, 1977, memorandum (copy attached), the conditions of the IR apply to new sources permitted both before and after the date of the Ruling. EPA has maintained that the IR is merely an interpretation of those provisions of 40 CFR Section 51.18 prohibiting the construction of new sources which would interfere with the attainment and maintenance of National Ambient Air Quality Standards, and is not the imposition of new requirements. A strict application of 40 CFR Section 51.18 to USSC's new facilities prior to the adoption of the Ruling could, in fact, have prohibited their construction. Thus, because the construction permits issued by the State of Alabama to USSC covering the new Q-BOP vessel

and blast furnace do not satisfy the conditions of the IR, EPA could enforce the provisions of 40 CFR Section 51.18 by bringing a civil action under Section 113(b)(5). As the new coke battery is currently under construction without a State permit, the preferred type of civil action to enforce the provisions of 40 CFR Section 51.18 against this new source would be under Section 113(b)(1), since no finding can be made that the State has violated the IR.

The provisions of 40 CFR Section 51.18 also require the States to prohibit the construction of new sources which would result in violations of the applicable control strategy. It is my understanding that the above referenced State permits for the blast furnace and Q-BOP vessel do not explicitly require compliance with the SIP process weight regulation regarding the fugitive and non-fugitive components of the particulate matter emissions from these two sources. While the State may maintain that this regulation defer to a State's interpretation of its SIP, but rather views the regulation in light of the Agency's interpretation at the time the SIP provisions was approved. I believe we have no justifiable reason for not applying the process weight regulation to the sum of all emissions. Thus, EPA enforcement of 40 CFR Section 51.18 against the new Q-BOP vessel and blast furnace could also proceed under Section 113(b)(1) to enforce the provisions of the SIP requirement, as interpreted by EPA, for process weight.

Thus, EPA could act under either the SIP or the IR to enforce the provisions of 40 CFR Section 51.18 against the Q-BOP and blast furnace. However, because EPA has not previously acted to judicially enforce the provisions of the IR against sources which recieved invalid permits before the adoption of the IR, claims of arbitrary and capricious enforcement could be raised by USSC if EPA enforcement proceeded under the provisions of the IR. The precedential impact of an unsuccessful Section 113(b)(5) action could be detrimental to the entire new source review program. As the type of controls necessary for the new blast furnace to meet the SIP and the IR are essentially the same, I would prefer that any enforcement action against this USSC facility rely primarily upon the provisions of 40 CFR Section 51.18 requiring new source compliance with the SIP. While this similarity of controls is not applicable to the Q-BOP, enforcement against this source using the control strategy provisions of 40 CFR Section 51.18 may also be preferable.

A decision on how to proceed against the new Q-BOP will obviously depend, in part, upon the differences in the degree of control achieved through equipment necessary to meet the SIP and LAER, the likelihood of the success of a Section 113(b)(5) action, and the enforcement strategy chosen to enforce 40 CFR Section 51.18 against the new blast furnace.

### Emissions Requirements

The LAER requirements for the new No. 2 coke battery and the third Q- BOP vessel described on page 5-8 of Appendix 1 of your October 12, 1977, letter to DSSE are acceptable for these specific units. As you are aware, USSC was told by EPA in 1977 that it will have to meet more restrictive LAER limitations for new preheated coal coke batteries at Clairton and Conneaut, which are to be constructed subsequent to the start-up of the Fairfield No. 2 battery. We concur with the changes in restrictiveness for the Fairfield No. 9 battery of page 2 of your Appendix 1, should this battery be determined to be subject to the IR.

The only exception to the foregoing is that the requirement for no visible emissions from doors and off takes during coal charging (page 5, Appendix 1) is not now supportable. The same issue arose in October 1977 in Region III for USSC's Clairton proposed new preheated coal batteries 13, 15, 19, and 20. We decided that a study involving preheated coal batteries would have to be performed, and a standard developed subsequent to that testing. We believe we can work with USSC towards the mechanism for such a study as part of the LAER requirements for these emission points.

The blast furnace casthouse LAER requirements should be the same as those cited to USSC in the Conneaut review (outlet of a baghouse at 0.05 lb. per ton or iron, full capture of emissions from the trough, runners, and skimmers).

If you have any questions regarding this matter, please call Chuck Hungerford (FTS-755-2570) or Bernard Bloom (FTS-755-8139) of DSSE.

Richard D. Wilson

Attachment