Exhibit 6

United States Environmental Protection Agency
Office of Enforcement and Compliance Assurance
Office of Criminal Enforcement, Forensics and Training

ENFORCEMENT CONFIDENTIAL

CLEAN AIR ACT COMPLIANCE INVESTIGATION

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TONAWANDA COKE CORPORATION
Tonawanda, New York
NEIC Project No.: VP0842

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INTRODUCTION

The U.S. Environmental Protection Agency's (EPA) National Enforcement Investigations Center (NEIC) was requested by EPA's Region 2 to conduct a Clean Air Act (CAA) investigation focusing on 40 Code of Federal Regulations (CFR) part 61, subpart L, National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants; 40 CFR part 61, subpart V, National Emission Standard for Equipment Leaks (Fugitive Emission Sources); 40 CFR part 61, subpart FF, National Emission Standard for Benzene Waste Operations; and Title V permit compliance at the Tonawanda Coke Corporation (TCC) facility located in Tonawanda, New York. TCC is located approximately 10 miles north of Buffalo, New York, at 3875 River Road. EPA databases specify a longitude of 42.983639 and latitude of -78.927278.

TCC is a merchant by-product coke facility whose products include metallurgical foundry and furnace coke and whose by-products include coal tar and light oil. TCC purchased the facility from the Semet-Solvay Company in January 1978. TCC operates under standard industrial classification (SIC) code 3312, "Steel Works, Blast Furnaces (including coke ovens), and Rolling Mills," and under the North American Industry Classification System (NAICS) as 324199, "All Other Petroleum and Coal Products Manufacturing."

Pollution control and waste generation and management operations for the facility are regulated by environmental permits and regulations administered by EPA and the New York State Department of Environmental Conservation (NYSDEC).

BACKGROUND

Coke is produced through a destructive distillation process in which coal is heated in ovens in an oxygen-deficient atmosphere. The volatile materials in the heated coal are removed from the ovens as coke oven gas (COG). COG is processed to remove desired by-products (e.g., coal tar and light oil), and then the gas is combusted in boilers to produce steam for the facility and in the coke ovens to heat the coal. In addition to coke, Tonawanda Coke also produces and sells coke making by-products, including coal tar and light oil.

TCC operates a single Wilputte by-product coke battery consisting of 60, 4-meter ovens. The battery began operations in early 1962, and all 60 ovens are operational today. From approximately 1972 through the present, the coke battery has been operated as a merchant foundry coke producer rather than the more common integrated furnace coke producer. Merchant coke plants slow production when the merchant coke market slows. According to Tonawanda Coke, producing foundry coke rather than furnace coke results in about one-half fewer pushes, charges, and consistently lower operating temperatures. In general, coke

production at a foundry coke plant is significantly less than that of a furnace coke plant due to longer coking cycles. There are approximately 120 employees at TCC. There are three shifts with operations 24 hours per day, seven days per week.

TCC was issued its current CAA Title V operating permit, permit number 9-1464-00113/00031, by NYSDEC on April 30, 2002. The Title V permit expired on May 1, 2007; however, the permit has been administratively extended until a new Title V permit is issued by NYSDEC because TCC submitted a timely Title V air permit renewal application.

Emission units listed in the TCC Title V permit include: three boilers (U-00001), a steam stripper for ammonia removal from ammonia liquor (U-ACBLD), coke oven gas by-product recovery unit (U-BPROD), coal handling equipment (U-COALM), equipment used for the operation of the coke oven battery (U-COKEB), coke handling equipment (U-COKES), a light oil storage tank (U-LOSTG), a weak ammonia liquor surge tank (U-SURGT), three weak ammonia liquor storage tanks (U-WLSTG), and a virgin wash oil storage tank (U-WOSTG).

Through discussions with EPA Region 2 personnel, the principal investigation objectives were defined as follows:

- Evaluate compliance with 40 CFR part 61, subpart L, National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants
- Evaluate compliance with 40 CFR part 61, subpart V, National Emission Standard for Equipment Leaks (Fugitive Emission Sources)
- Evaluate compliance with 40 CFR part 61, subpart FF, National Emission Standard for Benzene Waste Operations

ONSITE INSPECTION SUMMARY

The CAA inspection was conducted from April 14 through 21, 2009. During the opening conference, credentials were presented to Mark Kamholz, TCC manager of environmental control. Throughout the inspection, TCC representatives presented process information on raw materials, products, by-products, and wastes for the coke by-product recovery plant. The coke by-product recovery plant process description is located in **Appendix A**. NEIC inspectors also reviewed CAA-related records/documents, conducted a visual inspection of the facility, performed toxic vapor analyzer (TVA) field measurements of coke by-product recovery equipment components, collected wastewater and air canister samples, and interviewed plant personnel. EPA Region 2 and NYSDEC personnel also participated in the investigation. At the conclusion of the onsite inspection, an exit meeting was held to discuss preliminary findings. NEIC personnel stressed that final determinations would be made in conjunction with regional

and state personnel. Photographs taken by NEIC during the onsite inspection are located in **Appendix B**.

Table 1 summarizes the findings and observations of the investigation.

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Table 1. SUMMARY OF FINDINGS AND OBSERVATIONS
Tonawanda Coke Corporation (TCC)
Tonawanda, New York

	Citation	Observation/Finding	Supporting Information
	AREAS OF NONCOMPLIANCE		
	Subpart L – National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants		
1.	**40 CFR § 61.132(a)(1) –** *Each owner or operator of a furnace or a foundry coke byproduct recovery plant shall enclose and seal all openings on each process vessel, tar storage tank, and tar-intercepting sump.* **40 CFR § 61.131 – *Tar-intercepting sump*** *means any tank, pit, or enclosure that serves to receive or separate tars and aqueous condensate discharged from the primary cooler.*	TCC has not enclosed and sealed all openings on its tar-intercepting sumps. TCC has three uncontrolled sumps: tar precipitator sumps (2), downcomer sump (1). These three sumps are tar-intercepting sumps because they separate tar and aqueous condensate and are located downstream of the primary cooler. These three sumps are required to be controlled.	**Appendix B**, Photographs 18, 20, 51, 53
2.	**40 CFR § 61.132(d) –** *Each owner or operator of a furnace coke by-product recovery plant also shall comply with the requirements of (a)-(c) of the section for each benzene storage tank, BTX storage tank, light-oil storage tank, and excess ammonia-liquor storage tank.* **40 CFR § 61.131 – *Excess ammonia-liquor storage tank*** *means any tank, reservoir, or container used to collect or store a flushing liquor solution prior to ammonia or phenol recovery.*	TCC has not complied with all the requirements for their excess ammonia-liquor storage tanks and light-oil storage tank. TCC has operated as a furnace coke by-product recovery plant since 2007 (assuming 6 percent breeze). Production records show TCC produced greater than 25% furnace coke (less than 75% foundry coke) in 2007 and 2008. TCC is required to enclose and seal all openings on its light-oil storage tank and excess ammonia-liquor storage tanks. At the time of the onsite inspection, TCC was using five uncontrolled/vented excess ammonia-liquor storage tanks. ▪ Excess ammonia liquor storage tanks (2) ▪ Additional excess ammonia liquor storage tank ▪ Surge tank ▪ Ammonia removal system sump	**Appendix C**, 2004 through 2008 TCC annual coke production records **Appendix D**, NEIC Excel spreadsheet – Furnace and Foundry Coke Split **Appendix A**, NEIC Coke By-Product Recovery Plant Process Description, Process Flow Diagram, page 3 **Appendix E**, TCC Process Flow Diagram **Appendix B**, Photograph 61 - Light oil tank

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		TCC was using two uncontrolled excess ammonia-liquor storage tanks (weak liquor storage tanks) and was beginning to use one additional uncontrolled storage tank due to ammonia stripper repair. TCC also has a vented surge tank and uncontrolled ammonia removal system sump that meets the definition of excess ammonia-liquor storage tanks. The light oil storage tank at TCC was not enclosed and sealed for the time period (since at least 2007) TCC has been operating as a furnace coke by-product recovery plant. TCC installed controls on the light oil storage tank and truck filling line in late 2008/early 2009. A suction line has been connected to the light oil storage tank and truck filling line, and the exhauster on the COG header is used to supply the vacuum. The light oil system was taken out of service on November 20, 2008, and has not been put back into service since.	Photographs 03, 04, 55, and 56 - Excess ammonia liquor storage tanks (weak liquor storage tanks) Photograph 8 - Surge tank Photographs 28 and 48 - Ammonia removal system sump
3.	**40 CFR § 61.135(a) –** *Each owner or operator of equipment in benzene service shall comply with the requirements of 40 CFR part 61, subpart V...* **40 CFR § 61.245(b)(3) –** *The instrument shall be calibrated before use on each day of its use by the procedures specified in Method 21.* **40 CFR § 61.245(b)(4) –** *Calibration gases shall be: (i) Zero air...; and (ii) A mixture of methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane.*	**Calibration** TCC does not use the required calibration gases. TCC uses a Foxboro Century OVA-128GC gas chromatograph for equipment leak monitoring. TCC uses a mixture of methane in air calibration gas at a concentration of 497.8 parts per million (ppm) methane. TCC does not use a zero air calibration gas. TCC also does not use a mixture of methane in air calibration gas at a concentration of approximately 10,000 ppm methane or *n*-hexane. The 497.8 ppm methane in air calibration gas used by TCC did not have a specified shelf life. Per 40 CFR part 60, Appendix A, Method 21, Section 7.2, cylinder gases "must be analyzed and certified by the manufacturer to be within 2 percent accuracy, and a shelf life must be specified." TCC uses a dilution probe when monitoring components with a 10,000 ppm leak definition (i.e., exhausters). TCC does not calibrate the OVA-128GC with the diluter probe in place. When TCC used the 10,000 ppm methane in air calibration	**Appendix F**, LDAR calibration gas Certificate of Analysis

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		gas provided by NEIC, the reading on the OVA-128GC instrument using the dilution probe was approximately 1,500 ppm, which is not within the required 10 percent calibration precision required for the gas value.	
4.	**40 CFR § 61.246(b)(1) –** *When each leak is detected... the following requirements apply: (1) A weatherproof and readily visible identification, marked with the identification number, shall be attached to the leaking equipment.*	Leaking equipment identification was not attached to the leaking equipment found on 04/17/09 (four pieces of equipment).	
5.	**40 CFR § 61.135(a)** – *Each owner or operator of equipment in benzene service shall comply with the requirements of 40 CFR part 61, subpart V...* **40 CFR § 61.242-2(a)(1) –** *Each pump shall be monitored monthly to detect leaks...* **40 CFR § 61.242-7(a) –** *Each valve shall be monitored monthly to detect leaks...*	TCC missed five required monthly monitorings for pumps and valves in benzene service. Monthly monitoring was not conducted in the following months: September 2006, January 2007, May 2007, July 2007, and April 2008. On the basis of the TCC document "Hazardous Air Pollutant Emission Inventory," this monitoring would include 36 valves and 2 pumps in the light oil system.	**Appendix G,** TCC HAP Emission Inventory (Page 4-2)
6.	**40 CFR § 61.135(c)** – *Each piece of equipment in benzene service to which this subpart applies shall be marked in such a manner that it can be distinguished readily from other pieces of equipment in benzene service.*	TCC has not marked equipment in benzene service. TCC could not provide NEIC a listing of unique identification markings for each piece of equipment in benzene service. Based on the TCC document "Hazardous Air Pollutant Emission Inventory", TCC has 36 valves, 37 flanges, and 2 pumps in the light oil system. TCC also has 35 valves, 1 pressure relief valve, and 2 exhausters in the coke oven gas system. There is potential that the coke oven gas system components, other than the exhausters which are required to be included (1% benzene), may not contain the 10% benzene to be considered in benzene service.	**Appendix G,** TCC HAP Emission Inventory (Page 4-2)
7.	**40 CFR § 61.138(a) –** *The following information pertaining to the design of control*	TCC could not provide detailed schematics, design specifications, and piping and instrumentation diagrams for control equipment installed to comply with 40 CFR	

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	equipment installed to comply with §§61.132 through 61.134 shall be recorded and kept in a readily accessible location: (1) Detailed schematics, design specifications, and piping and instrumentation diagrams. (2) The dates and descriptions of any changes in the design specifications.	§ 61.132.	
8.	**40 CFR § 61.138(e)(1)** – *An owner or operator of any source to which this subpart applies shall submit a statement in writing notifying the Administrator that the requirements of this subpart and 40 CFR 61, subpart V, have been implemented.* **40 CFR § 61.138(e)(4)** – *The statement is to contain the following information for each source: (i) Type of source…. (ii) For equipment in benzene service, equipment identification number and process unit identification: percent by weight benzene in the fluid at the equipment; and process fluid state in the equipment (gas/vapor or liquid). (iii) Method of compliance with the standard…. This includes whether the plant plans to be a furnace or foundry coke by-product recovery plant for the purposes of §61.132(d).*	A statement notifying the Administrator that the requirements of 40 CFR part 61, subpart L and 40 CFR part 61, subpart V had been implemented was not submitted within 90 days of the effective date, September 14, 1989. TCC requested a compliance waiver on December 1, 1989. The proposed timeline extension was to September 15, 1991. TCC submitted a letter to EPA Region 2 addressing 40 CFR § 61.138(e) on January 9, 1992. However, the letter does not meet the requirements of 40 CFR § 61.138(e)(4) for each source. The letter does not include the following: all sources, type of all sources, equipment in benzene service (including equipment identification number and process unit identification: percent by weight benzene in the fluid at the equipment and process fluid state in the equipment (gas/vapor or liquid)), and method of compliance with the standard for all sources.	**Appendix H**, 40 CFR Part 61 Subpart L Request for Waiver and Compliance Update Letter **Appendix I**, January 1992 40 CFR Part 61 Subpart L Notification Letter **Appendix J**, May 1992 TCC Response to Compliance Order **Appendix K**, July 1992 Response to 114 Request **Appendix L**, September 1992 40 CFR Part 61 Subpart L Semiannual Report
9.	**40 CFR § 61.138(f)** – *A report shall be submitted to the Administrator semiannually…, which includes the following information:*	The semiannual reports submitted from September 13, 2005 through March 12, 2009 (seven semiannual reporting periods) do not indicate whether there are any visible defects in the source or ductwork and do not provide a brief description of	**Appendix M,** 40 CFR Part 61 Subpart L Semiannual Reports for 09/13/05 through 03/12/09

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	(1) For sources subject to §61.132... *(i) A brief description of any visible defect in the source or ductwork,* *(ii) The number of leaks detected and repaired, and* *(iii) A brief description of any system abnormalities found during each annual maintenance inspection that occurred in the reporting period and the repairs made.* *(2) For equipment in benzene service subject to §61.135(a), information required by §61.247(b).* *(3) For each exhauster subject to §61.135 for each quarter during the semiannual reporting period,* *(i) The number of exhausters for which leaks were detected as described in §61.135(d) and (e)(5),* *(ii) The number of exhausters for which leaks were repaired as required in §61.135(d) and (e)(6),* *(iii) The results of performance tests to determine compliance with §61.135(g) conducted within the semiannual reporting period.* *(4) A statement signed by the owner or operator stating whether all provisions of 40 CFR part 61, subpart L, have been fulfilled during the semiannual reporting period.* *(5) For foundry coke by-product recovery*	any system abnormalities found during the annual maintenance inspection, if one occurred during the reporting period. No information is provided regarding equipment in benzene service as required by 40 CFR §61.247(b). There is no discussion about the number of exhausters found leaking, if the leaks were repaired, or the results of any performance tests conducted to determine compliance with 40 CFR §61.135(g) (exhausters designated as no detectable emission sources). There is no statement by the owner or operator stating "whether all provisions of 40 CFR part 61, subpart L, have been fulfilled during the semiannual reporting period." The statement is signed by the TCC environmental control manager instead of the owner, and the statement only discusses TCC "compliance with emission control." Because TCC claims to be a foundry coke by-product recovery plant, the annual coke production for both furnace and foundry coke are required to be included. The 2005 and 2006 annual coke production was not included in the semiannual reports. TCC did begin reporting the annual coke production with the 2008 coke production, after NYSDEC pointed out to TCC that this information was missing. No revisions to the original January 9, 1992, submittal have been reported in the semiannual reports reviewed by NEIC, although changes have occurred (e.g., TCC originally had three exhausters and removed one exhauster, and now only two are onsite).	

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	plants, the annual coke production of both furnace and foundry coke, if determined during the reporting period. *(6) Revisions to items reported according to paragraph (e) of this section if changes have occurred since the initial report or subsequent revisions to the initial report.*		
10.	**40 CFR § 61.138(g) –** *In the first report submitted as required in §61.138(e), the report shall include a reporting schedule stating the months that semiannual reports shall be submitted. Subsequent reports shall be submitted according to that schedule unless a revised schedule has been submitted in a previous semiannual report.*	In its first report submitted on January 9, 1992, TCC did not include a reporting schedule stating the months that semiannual reports shall be submitted.	**Appendix I**, January 1992 40 CFR Part 61 Subpart L Notification Letter
	Subpart FF – National Emission Standard for Benzene Waste Operations		
11.	**40 CFR § 61.355(a) –** *An owner or operator shall determine the total annual benzene quantity from facility waste by the following procedure: (1) For each waste stream subject to this subpart…(i) Determine the annual waste quantity for each waste stream using the procedures specified…*	TCC did not include all waste streams on its original total annual benzene quantity (TAB) submittal. TCC's original TAB submittal, initially in 1990 with a follow-up letter March 18, 1993, indicates the only subpart FF applicable waste stream at TCC is the weak liquor stream. NEIC identified a number of additional streams that are required to be included. ▪ Coke oven gas drip leg condensate – approximately 10 drip leg locations ▪ Downcomer sump (secondary cooler sump) ▪ Tar precipitator sumps (2) ▪ Ammonia removal system sump NEIC collected benzene waste samples from numerous locations. These samples	**Appendix N**, 40 CFR Part 61 Subpart FF Notifications and Correspondence **Appendix O**, NEIC Laboratory Report **Appendix P**, NEIC Benzene FF Calculations **Appendix A**, NEIC Coke By-Product Recovery Plant Process Description, Process Flow Diagram

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		were intended for use in calculating the benzene contribution from both individual and group sources. However, in order to calculate benzene quantities, it is necessary to have both an annual average benzene concentration and an annual waste quantity or flow rate. For most of the individual waste streams, TCC could not document or provide reliable waste quantities. Portions of the facility were not operating under normal conditions, and, therefore, the benzene concentration measured in the collected samples may not be representative. Because of these factors, an accurate estimate of the facility's annual TAB quantity cannot be calculated. However, an estimate of the benzene quantity associated with the sampled waste streams is provided in Appendix P.	
12.	**40 CFR § 61.355(a)(4) –** *If the total annual benzene quantity from facility waste is less than 10 Mg/yr but is equal to or greater than 1 Mg/yr, then the owner shall: (i) Comply with the recordkeeping requirements of §61.356 and reporting requirements of §61.357 of this subpart; and (ii) Repeat the determination of total annual benzene quantity from facility waste at least once per year...*	TCC has failed to report an annual TAB quantity for at least the last five years (2004 through 2008), when information submitted by TCC shows greater than 1 megagram (Mg) of benzene in the wastewater sent to the ammonia stripper. TCC reported a TAB quantity of 0.456 Mg/yr in 1990 and submitted a letter in 1993 that confirmed the previous submittal. On the basis of NYSDEC, Division of Air Resources, 2004 to 2008 annual emission statements, TCC generates greater than 1 Mg of benzene in wastewater, resulting in a TAB quantity of greater than 1 Mg. The benzene quantity stripped in the ammonia stripper is: ▪ 2008 3,692 pounds benzene ▪ 2007 2,657 pounds benzene ▪ 2006 2,806 pounds benzene ▪ 2005 2,403 pounds benzene ▪ 2004 2,426 pounds benzene	**Appendix Q,** 2004 through 2008 Annual Emission Statements **Appendix G,** TCC HAP Emission Inventory
	AREAS OF CONCERN	**Areas of concern are inspection observations of potential problems that could result in environmental harm, noncompliance with permit or regulatory requirements, or are associated with pollution prevention issues.**	
A.	**Area of Concern** **[40 CFR § 61.355(c)(3) and (c)(3)(ii)(F)]**	Samples collected for the original TAB determination were not cooled, according to Mark Kamholz, TCC manager of environmental control.	

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B.	**Area of Concern** **[40 CFR § 61.132(a)(2)]**	TCC has installed piping to duct gases from the tar decanter, BH liquor collection tank, and two tar storage tanks to the coke oven gas collection line, which is operated under negative pressure. The pressure gauge located on the tar decanter was reading positive 0.5 to 1.5 pounds per square inch gauge (psig), and the pressure gauge on the tar storage tanks was reading negative 9.5 psig. TCC was unable to provide an explanation for these contradictory pressure readings.	**Appendix B**, Photographs 98, 102
C.	**Area of Concern** **[40 CFR part 60, Appendix A, Method 21]**	When TCC personnel calibrate the Foxboro Century OVA-128GC, a glass flask and cotton cloth are used to hold the calibration gas mixture and the instrument probe is placed inside the glass flask instead of using tubing with a gas regulator, which would allow the instrument to pull the gas directly into the instrument. A cigarette lighter is used to ignite the instrument because the auto igniter no longer operable. TCC has had the OVA-128GC instrument since the early 1990s and has never sent the instrument off-site to the manufacturer or authorized repair location for maintenance.	
D.	**Area of Concern** **[40 CFR § 61.135(d)]**	On Friday, 04/17/09, NEIC found the following equipment leaking: ▪ Exhauster bearing/seal on exhauster #2 – approx. 60,000 ppm ▪ Flange leak on discharge side of exhauster #2 – >10,000 ppm ▪ Light oil storage tank pump conservation vent (discharge side) – 22,000 ppm ▪ Light oil storage tank open farrell fitting on pump – flame out ▪ Light oil storage tank leaks later found to be not leaking (when in shadow of building) According to TCC, the light oil system has been out of service since November 20, 2008; however, components were found to be leaking. TCC has not reported/documented any equipment leaks in the last three years. TCC had not made a first repair attempt as of 04/20/09 on the exhauster #2 bearing but had five days, until 04/22/09, to make a first repair attempt.	**Appendix R**, 40 CFR Part 61 Subpart L Benzene NESHAPs Monitoring Files and Calibration Records **Appendix B**, Photographs 57,58, 86 – Exhauster #2 Photograph 61 – Light oil storage tank

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E.	**Area of Concern**	TCC has curbing around a general area that encompasses the tar decanter, surge tank, BH collection tank, tar storage tanks, and decommissioned process vessels no longer in service. TCC refers to this area as "the moat." Historically, the area had four or five sump pumps designed to keep the area dry. However, during the onsite inspection, only one pump was operational and liquid was present in the curbed area. The area had liquid in it the entire time NEIC was conducting the onsite inspection. The liquid includes, but is not limited to: some COG drip leg condensate, pumphouse sump liquids that are routed outdoors to the moat, storm water, and liquids dripping from leaking pipes and connectors in the moat area, including pipes off the primary cooler. The liquid has oil and tar on the water surface and is brownish in color. NEIC collected three samples from the moat area. Also, when NEIC investigators walked around the perimeter of the moat with TVA instruments, the volatile organic compound (VOC) readings were elevated from 2-3 ppm background levels up to 5–15 ppm. The benzene concentration in the wastewater samples collected was approximately 0.5 ppm, even though the liquid surface had been exposed to the atmosphere. The moat area is a square or rectangular area at least 100 feet wide by 100 feet long.	**Appendix B**, Photographs 12, 13, 16, 17, 38, 39, 60, 81
F.	**Area of Concern**	TCC has a pressure relief valve (PRV) on the COG line returning to the coke ovens. The COG pressure is measured in the line coming off the exhausters. The COG pressure is typically between 100 and 150 centimeters (cm) oil. The PRV was set to release at 120 to 130 cm oil, which meant the PRV was releasing COG to the atmosphere as frequently as every half hour on 04/21/09, as NEIC observed on the circular chart on which data was being. The circular chart provided by TCC for 04/20/09 also shows pressures exceeding 130 cm oil. The COG releases typically do not last for more than 15 seconds; however, a large quantity of air toxics could be emitted as a result of this practice. TCC could not explain why the PRV is set at a pressure within normal operations. TCC was checking into setting the PRV release pressure at the high end of normal operating pressures.	**Appendix B**, Photographs 97, 103

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