the tons of hazardous dust disposal at 761 tons per year.[26] The correct number would be closer to 4,360 tons per year.[27]

F. EPA Erroneously Relied on Dollar Threshold Taken from Rulemaking for A Different Industry to Find the Proposed BTF Measures were Cost-effective

The preamble to the Proposed Rule states that because EPA found $1.3 million/ton of HAP metals to be cost effective in another rulemaking about a different (unrelated) industrial process (lead smelters), any measures that cost less than that amount are per se "cost effective." 88 Fed. Reg. 55858, 55879 (Aug. 16, 2023). As discussed above, when the correct assumptions are incorporated into the cost and efficacy calculations, the actual number ***($24.7 million*** per ton for non-mercury HAP metals) far exceeds the selected benchmark. *See supra* Section VIII.C. But even if EPA's numbers did not grossly overestimate cost-effectiveness, the use of a cost-effectiveness threshold from another rulemaking as a benchmark is erroneous as a matter of law absent any showing that the economics of the two processes are the same; what is "cost effective" cannot be viewed in isolation but must be determined based on the context of the affected industry. As stated by the D.C. Circuit, EPA cannot use a one-size-fits-all number to determine cost-effectiveness in different regulatory contexts:

> This court has adopted an 'every tub on its own bottom' approach to EPA's setting of standards pursuant to the CAA, under which the adequacy of the underlying justification offered by the agency is the pertinent factor—not what the agency did on a different record concerning a different industry.

Sierra Club v. EPA, 353 F.3d 976, 986 (D.C. Cir. 2004); *see also Portland Cement Ass'n v. Ruckelshaus*, 486 F.2d 375, 389 (D.C. Cir. 1973) ("The essential question is whether the mandated standards can be met by a particular industry for which they are set, and this can typically be decided on the basis of information concerning that industry alone"); *Kennecott v. EPA*, 780 F.2d 445, 456 (4th Cir. 1985) ("This court does not have before it the records of the rulemakings for the five other industries; we are, therefore, reluctant to launch comparisons of model technologies established for one industry with those established for another."). The Proposed Rule's indiscriminate use of a threshold for "cost-effectiveness" from another industry, despite no reason to believe it is cost-effective for this industry (coke manufacturing), let alone this unique facility (Jewell), is arbitrary.

IX. THE PROPOSED MACT LIMITS FOR SUNCOKE'S HNR FACILITIES ARE UNNECESSARY, BASED ON LIMITED AND/OR UNRELIABLE DATA, AND NOT "ACHIEVABLE"

EPA's proposed MACT limits for SunCoke's HNR facilities are unnecessary and are based on limited and, in some circumstances, unreliable data, among other data issues, and are therefore not "achievable." The proposed amendments are inconsistent with EPA's Risk and Technology Review ("RTR") findings for the PQBS source category. EPA found through its RTR that risks due to the HAP emissions from coke ovens' PQBS are "acceptable"; that the existing PQBS rule "provides an ample margin of safety to protect public health"; and that there "are no developments in practices, processes or control technologies that necessitate revision of standards for this source

[26] Attachment D (TRC Technical Memo, Workbook, "Utility Cost Summary").
[27] Attachment D (TRC Technical Memo).