

3.)

- New pH operating limits and monitoring requirements *(See amendments to 40 CFR 63 Subpart RRRRR including but not limited to 40 CFR §§ 63.9590(b)(5); 63.9622(g), (g)(1)-(2); 63.9623(c), (c)(1); 63.9623(f) 63.9631(f); 63.9632(b)-(e) as applied to pH monitoring; 63.9632(g); (g)(1)-(4); 63.9634(i); (i)(1)-(4); Subpart RRRRR Tables 1-4.)*
- New notification, operations, maintenance, work practice, monitoring, performance testing, reporting and recordkeeping requirements as they relate to mercury, hydrogen chloride and hydrogen fluoride. *(See amendments to 40 CFR 63 Subpart RRRRR including but not limited to the following provisions as applied to the new mercury, hydrogen chloride, and hydrogen fluoride standards §§ 63.9590, 63.9591, 63.9600 through 63.9625; 63.9630 through 63.9637; 63.9640 through 63.9643; 63.9650 through 63.9652; and Table 4)*

A two-year Presidential Exemption for these requirements is in the national security interest because it is necessary and appropriate to prevent irreparable harm to the domestic steel industry, which is vital to national security, and is supported for the reasons below.

### **BACKGROUND**

In CAA § 112(i)(4), Congress gave exclusive authority to the President to “exempt any stationary source from compliance with any standard or limitation under this section [Clean Air Act Section 112] for a period of not more than 2 years if the President determines that the technology to implement such standard is not available and that it is in the national security which includes economic security interests of the United States to do so. An exemption under this paragraph may be extended for 1 or more additional periods, each period not to exceed 2 years. The President shall report to Congress with respect to each exemption (or extension thereof) made under this paragraph.” While the provision has very little precedent in being exercised, if there were ever a time to exercise such authority, the time to do so is now with respect to the Taconite RTR Rule as the Taconite RTR Rule, without such an exemption and if left in place, would result in materially adverse consequences on U. S. Steel and domestic steel industry. These consequences would significantly and harmfully alter domestic steel production as well as the United States’ infrastructure, investments and economic security landscape which as the current and prior administrations have determined that the domestic steel industry is a key, vital component.

While the President has broad authority in issuing such exemptions and while not controlling to issuing Presidential Exemptions, we note that in implementing extensions under Clean Air Act Section 112(i)(3)(B), EPA has broadly construed “standards” to include compliance measures. (See 66 Fed. Reg. 16318, 16328 (Mar. 23, 2001) Such “other compliance measures” include, among other things, “... obtaining or implementing technology hardware or