

estimates that the pollution controls required to comply with the main requirements of the Copper Rule will cost in the range of \$237 million to \$309 million or higher and will reduce only between 0.2 and 2.2 tons per year of metal hazardous air pollution (“HAP”). Using the annualized capital and operating cost approach under the EPA’s Air Pollution Cost Control Manual, these controls will cost between \$21 million and \$164 million per ton of metal HAP removed. That figure is between 16 and 123 times higher than the EPA’s long-established cost-effectiveness limit of \$1.3 million per ton metal HAP.³ Such radical cost-ineffectiveness renders the required technology “unavailable” under any commonsense understanding of the term. This radical cost ineffectiveness is compounded by the absolute cost of compliance, which will run into the hundreds of millions of dollars.⁴ An inability to maintain or increase throughput at the Miami Smelter—a potential outcome given the Copper Rule’s radical cost-ineffectiveness—would have significant impacts on the domestic copper supply chain to the detriment of national security interests of the United States.

II. A two-year compliance extension is in the national security interests of the United States because of the importance of domestically sourced copper

The Miami Smelter is one of only two primary copper smelters left in operation in the United States and is a key asset that supports Freeport-McMoRan Inc.’s production of some 70 percent of the nation’s domestic copper. The President has recognized that copper is “a critical material essential to the national security, economic strength, and industrial resilience of the United States.”⁵ Copper plays a key role in national defense, energy production, building construction, transportation equipment, industrial machinery and equipment, advanced electronics, and emerging technologies like artificial intelligence. Independent analysts are reasonably concerned that as soon as 2035, global copper production may fall short of global demand by some 12 billion pounds annually.⁶ At present, the nation’s smelting and refining capacity is critically low, has long been in decline, and lags significantly behind that of global competitors. As a result, the United States

³ See 88 Fed. Reg. 55858, 55879 (Aug. 16, 2023) (coke oven proposed NESHAP revisions). These engineering-based cost estimates are much higher than the EPA anticipated during rule development.

⁴ FMMI has expressed its longstanding objections to the Copper Rule—including its outlandish compliance costs—through its public comments, its petition for reconsideration, and its petition for judicial review of the final rule.

⁵ Exec. Order No. 14,220, *Addressing the Threat to National Security from Imports of Copper*, 90 Fed. Reg. 11001 (Feb. 25, 2025); see also Exec. Order No. 14,241, *Immediate Measures to Increase American Mineral Production*, 90 Fed. Reg. 13673 (Mar. 20, 2025).

⁶ S&P Global, *The Future of Copper: Will the Looming Supply Gap Short-Circuit the Energy Transition?* 46 (2022), <https://perma.cc/FGD2-6KHH> [hereinafter *Future of Copper*].