Trump EPA's approach in 2020 and decline to set new standards, or in the alternative, should set standards that were reasonable, less costly and more likely achievable by the industry. Nevertheless, U.S. EPA rejected Cliffs' comments and promulgated the final Taconite Rule imposing onerous, unreasonable and extremely costly standards for HCl, HF and Mercury.

THE 2024 TACONITE RULE

The 2024 Taconite Rule was rushed without adequate consideration of industry input and without making the required finding that additional emission standards were "necessary" considering cost and other factors. *See* CAA § 112(d)(6)

For example, acid gases were adequately controlled under the existing 2003 MACT Rule through PM surrogacy standards. The Biden EPA's 2024 Taconite Rule justified new individual acid gas emission limits for HCl and HF premised on characterizing long-standing, existing technology as a "new" development under CAA § 112(d)(6). It was not new. Facilities that used existing wet scrubber control technology for PM met the new acid gas standard. The Tilden Mine, which happens to use electrostatic precipitators ("ESPs") as its existing particulate control technology, cannot meet the new acid gas standard. The 2024 Taconite Rule concedes that replacing ESPs with wet scrubbers was too costly, but the Taconite Rule assumed without evidence that Tilden could inject lime into its exhaust to bind with acid gases to be removed at the ESP. This technology is not demonstrated in the taconite industry. In fact, injecting such lime material causes build-up in the ducts, ESPs, and other associated equipment, thereby disrupting the taconite facility's complex systems and ability to operate. A Presidential exemption is warranted in this situation where technology is not available to implement the standard.

Then, relying on an aggressive interpretation of the D.C. Circuit's decision in *Louisiana Environmental Action Network v. EPA* ("*LEAN*"), 955 F.3d 1088 (D.C. Cir. 2020), the Biden EPA decided to set emission limits for mercury that U.S. EPA had rejected in the original 2003 Taconite MACT Rule and subsequent 2020 RTR Rule as impractical and unnecessary. Taconite iron ore is mined in Michigan and Minnesota where naturally occurring mercury is variably encountered at trace concentrations within the ore deposits. It is impossible to exclude mercury from the mining process, and it is unreasonably expensive to control for mercury that is variably present at trace concentrations with the taconite iron ore being processed. Nonetheless, the 2024 Taconite Rule imposed stringent mercury emission limits based on emission tests at facilities that happened to be processing lower-mercury ores at the time. As the Trump EPA had concluded in 2020, no taconite facility was controlling for mercury or otherwise demonstrating that such control was technically feasible or economically reasonable. As such, there is no demonstrated technology that Cliffs' facilities can use to meet the mercury emission limits.

Cliffs sought relief from the Taconite Rule, filing a petition for judicial review in the D.C. Circuit and a motion for judicial stay of the final rule. Cliffs also filed a petition for administrative reconsideration and sought administrative stays of the rule with U.S. EPA. The request for judicial stay was denied on October 3, 2024 by the D.C. Circuit Court of Appeals after being opposed by the Biden EPA. The Court has since ordered the challenges to the Taconite Rule be held in abeyance pending U.S. EPA action on the petitions for reconsideration.