

Additional Materials in Support of Request for Presidential Exemption

On March 12, 2025, the U.S. Environmental Protection Agency (“EPA” or the “Agency”) announced that it will reconsider several National Emission Standards for Hazardous Air Pollutants (“NESHAP”) rulemakings.¹ One NESHAP rulemaking identified by that announcement is the one applicable to primary copper smelting, entitled “National Emission Standards for Hazardous Air Pollutants: Primary Copper Smelting Residual Risk and Technology Review and Primary Copper Smelting Area Source Technology Review,” published at 89 Fed. Reg. 41648 (May 13, 2024) (“Copper Rule”).² The EPA also announced that “[t]he Trump Administration is considering a 2-year compliance exemption under Section 112(i)(4) of the Clean Air Act (the “Act”) for affected facilities while EPA goes through the rulemaking process.”

In response to the EPA’s announcement, Freeport-McMoRan Miami Inc. (“FMMI”) has submitted a request for an exemption pursuant to Section 112(i)(4) of the Act, for its primary copper smelter located in Gila County, Arizona, near the town of Miami (“Miami Smelter”). FMMI requests that the Section 112(i)(4) compliance exemption exempt the Miami Smelter from the new standards and limitations prescribed by the Copper Rule for the full initial two-year period authorized under the statute. As explained below, FMMI believes that the statutory criteria for a Section 112(i)(4) compliance exemption are met.

I. Background

A. FMMI and the Miami Smelter

FMMI owns and operates the Miami Smelter, a primary copper smelter³ that was constructed and put into operation in 1915. By FMMI’s estimate, the Miami Smelter was one of nineteen primary copper smelters operating in the United States in the 1970s, spread out across multiple states. Over time, however, most of those smelters have shuttered. As of today, only three primary copper smelters remain, with only two (one of which is the Miami Smelter) currently operating. And of those, the Miami Smelter is the only active facility regulated under the Copper Rule.⁴

Over the years, FMMI has made significant capital investments in the Miami Smelter, including the installation of an electric furnace, gas handling/cleaning systems and a double contact sulfuric

¹ EPA Press Office, *Trump EPA Announces Reconsideration of Air Rules Regulating American Energy, Manufacturing, Chemical Sectors (NESHAPs)* (Mar. 12, 2025), <https://perma.cc/89EN-VELB>. FMMI incorporates all authorities cited herein by reference.

² *Id.* (identifying the “NESHAP[] for . . . copper smelting”); EPA, *National Hazardous Standards for Hazardous Air Pollutants (NESHAP): Powering the Great American Comeback Fact Sheet*, <https://perma.cc/3CCW-3MQI> (last visited Mar. 18, 2025) (specifically identifying the Copper Rule).

³ Primary copper smelting entails extracting copper directly from copper-bearing mined ore. It is distinct from secondary copper smelting, which recycles copper from scrap and other “waste” sources.

⁴ See 40 C.F.R. Part 63, Subpart QQQ.