

technology review and a residual risk review for the Subparts addressed in the Final Rule.⁸ The court ordered EPA to complete these reviews within 30 months by December 26, 2022, and later extended the deadline to May 23, 2024.

Throughout the proceedings, EPA maintained that it needed additional time due to the significant complexity of the rules governing coke ovens and coke oven batteries. It explained that it had “significant need for additional data and information in order to complete a robust risk and technology review for Subpart CCCCC sources and a similarly robust technology review for Subpart I. sources.”⁹ EPA also decided to make the rulemaking significantly more complex by “expand[ing] the scope of the rulemaking to include the potential relisting of the chemical by-product plants under section 112 of the CAA and developing and proposing MACT standards for these chemical plants under CAA Section 112(d),” which would “require additional data collection as well.”¹⁰

In June and July 2022, two years after the court’s June 26, 2020 order, EPA issued two information collection requests (ICRs) to SunCoke and other affected sources.¹¹ It did not publish its Proposed Rule until August 16, 2023. Despite its complexity, EPA only allowed stakeholders 45 days to comment, despite the Proposed Rule including proposed amendments to two Subparts of the Code of Federal Regulations described by EPA as significantly complex. Because of the court’s deadline, EPA was forced to deny all extension requests, including the extension requests from SunCoke, Coke Energy, LLC, United States Steel Corporation (U.S. Steel), and the Coke Oven Environmental Task Force (COETF).¹² Less than a year later, EPA published the Final Rule in July 2024 days after EPA filed a notice with the court on May 24, 2024 that the Final Rule was completed.¹³

The Final Rule reflects the hurried nature of the rulemaking compelled by the court-ordered deadline, and this Petition for Reconsideration provides an opportunity to fix the errors that would otherwise cause unnecessary and irreparable harm to an enormously important supplier to the American steel industry.

REQUESTED ACTIONS

I. SunCoke’s Petition for Reconsideration and a Stay Pending Reconsideration Under Section 307 of the CAA

Under section 307(d)(7)(B) of the CAA, EPA must “convene a proceeding for reconsideration” if two elements are satisfied: (1) that it was either “impracticable” to raise the objection during the comment period, or the grounds for such objection arose after the period for public comment but

⁸ *Citizens for Pennsylvania’s Future v. Wheeler*, 469 F. Supp. 3d 920, 934 (N.D. Cal. 2020).

⁹ Motion to Amend Order and Judgment, *Citizens for Pennsylvania’s Future*, No. 3:19-cv-02004 (June 2, 2022), Dkt. No. 46.

¹⁰ *Id.*

¹¹ EPA issued the two ICRs in June and July 2022.

¹² See SunCoke’s extension request (Sept. 1, 2023), Docket ID EPA-HQ-OAR-2002-0085-0949; Cokenergy, LLC’s extension request (Sept. 9, 2023), Docket ID EPA-HQ-OAR-2002-0085-0951; U.S. Steel’s extension request (Aug. 29, 2023), Docket ID EPA-HQ-OAR-2002-0085-1578; COETF’s extension request (Aug. 28, 2023), Docket ID EPA-HQ-OAR-2002-0085-1572.

¹³ Notice, *Citizens for Pennsylvania’s Future*, No. 3:19-cv-02004 (May 24, 2024), Dkt. No. 82.