

United States' iron mining industry, which is the life blood of domestic iron and steel manufacturing, is central to the country's national security interests.

REGULATORY BACKGROUND

On March 6, 2024, in the last year of the Biden Administration, U.S. EPA promulgated the final Taconite Rule, revising the Trump EPA's 2020 Residual Risk and Technology Review ("RTR") rulemaking for the Taconite Iron Ore Processing source category. The 2020 Taconite RTR Rule concluded that the original 2003 Taconite MACT Rule addressed the risk from hazardous air pollutants with an ample margin of safety to protect public health and the environment and that there were no new technologies that justified revisions to the 2003 MACT standards under CAA § 112(d)(6). In 2024, armed with an expansive interpretation of a new D.C. Court decision, the Biden EPA concluded the Trump EPA was wrong and proceeded to impose new and unwarranted emission limitations on processing the iron ore critical to the United States iron and steel manufacturing sector.

EPA's regulation of hazardous air pollutants ("HAPs") from Taconite Iron Ore Processing started over two decades ago when, in 2003, U.S. EPA promulgated the National Emission Standards for Hazardous Air Pollutants for Taconite Iron Ore Processing (40 CFR Subpart RRRRR §§ 63.9580, *et. seq.*). U.S. EPA carefully evaluated the taconite processing sector and set maximum achievable control technology ("MACT") standards that regulated HAP emissions based on what the best controlled sources in the source category achieved in practice. *See* CAA §112(d). This process resulted in establishing particulate matter ("PM") standards as surrogates for HAP, including acid gases. Based on this evaluation, U.S. EPA decided not to regulate acid gases individually or to set mercury limits as MACT standards considering available control technologies and the best available science.

In 2020, EPA issued a final rule to fulfill its obligations under CAA §§ 112(d)(6) and (f)(2), or the "risk and technology review" ("RTR"). U.S. EPA found that "risks from the Taconite Iron Ore Processing source category are acceptable [and] that the standards provide an ample margin of safety to protect public health" and therefore found that it was unnecessary to set standards for hydrogen chloride ("HCl"), hydrogen fluoride ("HF"), or mercury, fulfilling the Agency's CAA § 112(f)(2) obligation. *National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing Residual Risk and Technology Review*, 85 Fed. Reg. 45476, 45479 (July 28, 2020). U.S. EPA further determined that "[t]here are no developments in practices, processes, or control technologies that necessitate revisions to the standards," fulfilling the Agency's CAA § 112(d)(6) obligation. *Id.*

In the rulemaking process that led to U.S. EPA's 2024 Taconite Rule, U.S. EPA was not motivated by additional human health risk. U.S. EPA did not disturb its 2020 determination that the 2003 Taconite MACT rule controlled HAP from the Taconite Iron Ore Processing industry to an acceptable risk level with an ample margin of safety, without any additional controls. Cliffs provided detailed comments on the proposed rule explaining why U.S. EPA should follow the