and the compliance deadlines contained therein, pursuant to section 307 of the CAA[2]; and

2. Grant SunCoke's request for a stay of the effect of the Final Rule and the compliance deadlines set forth therein under section 705 of the APA[3] or agree to amend the Final Rule to rectify EPA's violation of the procedural requirements of the CAA and the APA and issue a new rule establishing appropriate, scientifically sound emissions standards, with ample time for public notice and comment, pursuant to section 553(e) of the APA.[4]

BACKGROUND

SunCoke is the largest independent coke producer in the United States, producing over one-third of the coke supply used by the domestic steel industry.[5] Coke is an essential ingredient in the blast furnace production of steel. Maintaining a strong domestic steel industry is critical to national defense, to the health of the nation's infrastructure, and to many manufacturing industries essential to a strong economy.[6]

Like EPA, SunCoke is committed to producing coke in the most environmentally responsible way possible. SunCoke has integrated cutting-edge practices, processes, and control technologies into its cokemaking plants to protect the environment and public health. In fact, EPA has declared SunCoke's cokemaking process to be the most environmentally friendly way to make coke and has adopted SunCoke's heat-recovery cokemaking process as the industry maximum achievable control technology (MACT).[7] Because SunCoke's patented heat recovery cokemaking process creates higher quality, higher strength coke, steelmakers use less coke in their blast furnaces, thereby lowering their GHG emissions.

In April 2019, several environmental groups sued EPA for failing to undertake the statutorily required residual risk and technology reviews for the two coke oven source categories: "Coke Oven Batteries," 40 C.F.R. Part 63, Subpart L, and "Coke Ovens: Pushing, Quenching, and Battery Stacks," 40 C.F.R. Part 63, Subpart CCCCC. There was no dispute that EPA had failed to meet its statutory obligations. On June 26, 2020, a federal district court ordered EPA to conduct both a

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[2] 42 U.S.C. § 7607(d)(7)(B) ("The effectiveness of the rule may be stayed during such reconsideration, however, by the Administrator or the court for a period not to exceed three months.").
[3] 5 U.S.C. § 705.
[4] 5 U.S.C. § 553(e) ("Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.").
[5] Letter from H. Knight, Beveridge & Diamond, P.C., to EPA at pp. 2, 5 (Oct. 2, 2023), Docket ID EPA-HQ-OAR-2002-0085-0968 [hereinafter "SunCoke comment letter"].
[6] During the shutdown caused by the COVID-19 pandemic, all companies in the coke and steel industry continued operations as critical members of the manufacturing sector that are crucial to the economic prosperity and continuity of the United States. *See* https://www.cisa.gov/topics/critical-infrastructure-security-and-resilience/critical-infrastructure-sectors/critical-manufacturing-sector.
[7] *See, e.g.*, 66 Fed. Reg. 35326, 35328–29 (Jul. 3, 2001); 42 U.S.C. § 7412(d)(8)(A) (directing the Agency to establish emission standards for coke oven batteries, and, in establishing such standards, to evaluate "(ii) as a basis for emission standards under this subsection for new coke oven batteries that begin construction after the date of proposal of such standards, *the Jewell design Thompson non-recovery coke oven batteries and other non-recovery coke oven technologies*, and other appropriate emission control and coke production technologies, as to their effectiveness in reducing coke oven emissions and their capability for production of steel quality coke") (emphasis added).

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