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March 31, 2025

U.S. Environmental Protection Agency
1200 Pennsylvania Ave., NW
Washington, DC 20460
Submitted by Electronic Mail to: airaction@epa.gov

Re: Presidential Exemption: National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, and Coke Oven Batteries; Residual Risk and Technology Review, and Periodic Technology Review (89 FR 55684; July 5, 2024) (Coke Ovens Rule)

Cleveland-Cliffs Inc. hereby requests a Presidential Exemption under Clean Air Act (CAA) section 112(i)(4) for Cleveland-Cliffs Burns Harbor LLC; Cleveland-Cliffs Cleveland Works LLC, Warren Location; and Cleveland-Cliffs Monessen Coke LLC (collectively "Cleveland-Cliffs") from compliance with the standards and limitations in the National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, and Coke Oven Batteries; Residual Risk and Technology Review, and Periodic Technology Review, 89 Fed. Reg. 55684 (July 5, 2024) (collectively, the "Coke Ovens Rule").

Cleveland-Cliffs operates three coke oven plants that feed our five integrated steel mills across Indiana, Michigan, and Ohio. We also purchase coke from merchant suppliers including Sun Coke and ESS Coke. Cliffs invested \$1 billion to build a facility to produce Hot Briquetted Iron (HBI), consumption of which in our furnaces has reduced coke consumption. However, Cliffs' ironmaking operations must still rely on coke as a key raw material to meet critical production needs.

On July 5, 2024, EPA promulgated the final Coke Ovens Rules, which establishes:

- 1) New maximum achievable control technology (MACT) standards for acid gases (AG), dioxin and furans (D/F), formaldehyde, hydrogen cyanide (HCN), mercury (Hg), polycyclic aromatic hydrocarbons (PAH), and volatile organic HAP (VOHAP) from coke oven pushing operations;
- 2) MACT and work practice standards for AG, D/F, HCN, Hg, PAH, particulate matter (PM), HAP metals, and VOHAP from coke oven battery stacks;
- 3) New facility fence-line emission monitoring and corrective action requirements; and

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- 4) Lowered limits for leaks from coke oven doors, lids, and offtakes.

The American Coke and Coal Chemicals Institute (ACCCI) and Coke Oven Environmental Task Force (COETF), in which Cleveland-Cliffs participates, filed a petition for reconsideration and administrative stay of the Coke Ovens Rule, urging EPA to reconsider numerous aspects of the Coke Ovens Rule and to stay the effective date pending promulgation of replacement regulations.¹ On March 12, 2025, EPA announced it will reconsider several National Emission Standards for Hazardous Air Pollutants (NESHAPs) affecting a broad range of American industry, including the Coke Ovens Rule. On March 21, 2025, EPA informed the COETF that it will reconsider all the issues included in our petition for reconsideration for the Coke Ovens Rule.

CAA section 112(i)(4) provides that the President may exempt any stationary source from compliance with any standard or limitation under section 112 for up to two years if the President determines that the technology to implement such standard is not available and it is in the national security interests of the United States to do so. Section 112(i)(4) further provides that an exemption may be extended one or more additional periods, each additional period not to exceed two years.

Cleveland-Cliffs is requesting a two-year Presidential Exemption for each of the following Coke Ovens Rule requirements:

- 1) Fenceline monitoring, root cause and corrective action, and related reporting requirements;
- 2) Limits for allowable leaks from coke oven battery doors, lids, and offtakes and related reporting requirements; and
- 3) New MACT and work practice standards for coke oven pushing and battery stacks and related testing and reporting requirements.

A Presidential Exemption is warranted for the reasons detailed below.

I. This Request is Timely

This request has been submitted by the March 31, 2025 date indicated in EPA's Clean Air Act Section 112 Presidential Exemption Information fact sheet.

¹ The ACCCI/COETF's comments on the proposed rule and petition for reconsideration and stay are hereby incorporated by reference in support of this request. See ACCCI/COETF Petition for Reconsideration and Stay of the National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, and Coke Oven Batteries; Residual Risk and Technology Review, and Periodic Technology Review (Sept. 3, 2024) ("ACCCI/COETF Petition for Reconsideration and Stay"); COETF Comments on the Proposed Rule National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, and Coke Oven Batteries; Residual Risk and Technology Review, and Periodic Technology Review (Oct. 2, 2023) ("COETF Comments"), available at <https://www.regulations.gov/comment/EPA-HQ-OAR-2003-0051-1380>.

II. The Technology Needed to Implement the Coke Ovens Rule is Not Available

A. Fenceline Monitoring Requirements

For the reasons set forth in the ACCCI/COETF petition for reconsideration, the fenceline monitoring benzene action level in the Coke Ovens Rule is overly stringent and is not based on modeling showing the correct highest benzene concentration at the facility fenceline using allowable (vs. actual) emissions. As a result, new and currently unavailable emission controls and leak detection/repair technology would be necessary to comply with the unlawful action level. Due to the complex nature of coke facilities, developing new control strategies and technologies would involve engineering suitable capture and control systems at multiple locations. The technologies needed to identify and engineer controls suitable for each location are not currently demonstrated or available for the coke ovens or associated coke byproducts recovery systems.

Likewise, the “root cause” investigation and corrective action requirements add significant complexity and technology challenges, considering the many miles of piping and thousands of valves and flanges at a coke facility. Methods to further reduce benzene emissions are not currently demonstrated for coke facilities and would include redesign or modification of process vessels, tar decanters, gas blanketing and vapor collection systems, replacing sections of coke oven gas piping, and redesign of tar and light oil loadout systems to reduce fugitive emissions and/or leak rates.

B. Revised Standards for Coke Oven Battery Doors, Lids, and Offtakes

The Coke Ovens Rule lowers the long-standing allowable leak limits for coke battery doors, lids, and offtakes including for the first time more stringent leak rate allowables on a single coke facility based on annual coke production. However, industry commenters informed EPA that there have been no changes or improvements in leak control technology or practices across the industry, which means facilities cannot consistently achieve the lower leak rate limits without developing novel new leak control methods or technologies for both coke ovens and associated coke byproduct operations.

For coke oven doors, this requires a technical evaluation to identify new ways to reduce the number of already very low door leaks in order to comply with the new Coke Ovens Rule limits. This may include replacing door machines, rebuilding or replacing oven doors, and redesigning door-jamb cleaning mechanisms, or other currently unidentified means to control leaks around coke oven doors. For coke battery lids and offtakes, this requires research and trials on new ways to reduce leaks to comply with the revised limits. Control methods could include redesigning or replacing lids or developing different sealing materials.

None of the technologies needed to comply with these new standards are currently available or demonstrated in the coke byproduct recovery industry.

C. New MACT and Work Practice Standards for Coke Oven Pushing and Battery Stacks

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The Coke Ovens Rule imposes numerous new MACT and work practice standards covering multiple hazardous air pollutants (HAP), which EPA claimed are in response to the D.C. Circuit decision in *Louisiana Environmental Action Network v. EPA (LEAN)*, 955 F.3d 1088 (D.C. Cir. 2020). However, the technologies that would be needed to control these HAP are not available and have not been demonstrated to work for the coke byproduct recovery industry, either in the US or internationally.

The very short 18-month compliance period (i.e., January 5, 2026) in the Coke Ovens Rule is one-half the time allowed under the Clean Air Act and was based on EPA's incorrect and unsupported assumption that facilities would only need to do testing to confirm EPA's assumption that all coke facilities *can meet* the new MACT limits. EPA failed to address specific concerns and data submitted by commenters showing that facilities *cannot meet* the new standards without costly and undemonstrated control technologies. EPA also did not address data submitted by commenters showing raw material (i.e., coal) and process variability that affect emission performance, which make these limits unachievable without developing and installing novel emission control technology that is not commercially available.

As provided in numerous technical reports and declarations,² emission control technologies to achieve compliance with the PQBS emission limitations and coke oven leak rates and benzene action levels are not commercially available.³ Even assuming that facilities are ultimately able to research and develop the new technologies needed to implement these new MACT standards, facilities need much longer than the 18-month compliance period under the Coke Ovens Rule. A Presidential Exemption is warranted for several reasons:

- The technologies used in some other industries to control these HAP have not been demonstrated to work in the coke byproduct recovery industry. Controlling multiple pollutants and retrofitting controls into existing equipment and operations adds technical and engineering complexity due to process interactions of the requirements for control, including pollutant interactions, flow rates, chemistry, and temperatures.
- The Coke Ovens Rule includes first-time emission limits for hydrogen cyanide (HCN); however, it is widely acknowledged that there are no existing technologies available to control HCN. Air pollution control vendors indicate that any potential solution for control of HCN is not technically feasible for coke battery combustion stack or pushing emissions.⁴
- The coke battery underfiring system is naturally drafted, with the underfire gas stream predominantly located underground. Added equipment such as heat exchangers, sorbent injection systems, etc., result in static pressure loss, necessitating installation of an induced draft fan. The impacts of added fans and equipment need to be studied to ensure adequate

² See ACCCI/COETF Petition for Reconsideration and Stay (Sept. 3, 2024); COETF Comments (Oct. 2, 2023); COETF Motion for Stay, filed Sept. 30, 2024, in *Am. Coke and Coal Chemicals Inst. and Coke Oven Env't Talk Force v. U.S. EPA*, Case No. 24-1287 (D.C. Cir.) ("COETF Motion for Stay"); COETF Reply, filed November 5, 2024, in *Am. Coke and Coal Chemicals Inst. and Coke Oven Env't Talk Force v. U.S. EPA*, Case No. 24-1287 (D.C. Cir.) ("COETF Reply") and associated exhibits/attachments.

³ *Id.*

⁴ *Id.*

heating of the batteries have never been implemented for a by-product battery. Furthermore, enough physical space to install potential additional new equipment may not be feasible. This poses obstacles and engineering challenges for any new add-on equipment, which could include construction of a new battery combustion stack.⁵

- Changes to the underfiring system requires coke battery outages, during which purchased natural gas is needed to keep the battery hot. All coke production would cease; and battery refractory brick and other equipment could suffer unanticipated damage, which takes more time and expense to correct.
- Limited available physical space within coke oven battery areas requires vertical construction, adding complexity and time to all related construction, and may be infeasible altogether.
- Retrofitting additional controls on mobile pushing emission control devices involves unique engineering challenges compared to non-mobile sources, this type of retrofit is not commercially available.

III. An Exemption is in the National Security Interests of the United States

The impact of the Coke Rule is far-reaching and undermines U.S. national security interests given that metallurgical coke is an essential raw material input for the integrated iron and steel industry, which is an industry critical to national security interests of the U.S. The Coke Ovens Rule will have far-reaching consequences, given that the American iron and steel industry is the backbone of the nation's defense and transportation industries and is critical to national security. Steel is one of the most important building materials in America and an essential component for all types of buildings, transportation infrastructure, and military hardware. Currently, approximately 70% of steel produced globally is made using metallurgical coke, a high-quality fuel and reductant used in blast furnaces to separate iron from iron ore to make steel.⁶ A strong, competitive coke and steel manufacturing industry is vital to building and maintaining critical infrastructure and military readiness.

The U.S. Department of Commerce recognized that domestic steel production is essential for national security applications which it indicated encompasses transportation systems, the electric power grid, water systems, and energy generation systems in its report summarizing the findings of an investigation conducted by the Department of Commerce pursuant to Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. § 1862 ("Section 232")), into the effect of imports of steel mill products ("steel") on the national security of the United States.⁷ In a 2021 Congressional Research Service Report on U.S. Steel Manufacturing: National Security

⁵ *Id.*

⁶ See R. Nolan, *Build Back Better with America's Met Mines* (May 20, 2021) <https://mining.org/2021/05/20/met-coal-steel-mill-structure/>

⁷ See U.S. Department of Commerce Bureau of Industry and Security Office of Technology Evaluation, *The Effect of Imports of Steel on the National Security Report, Report by the January 11, 2018*, https://www.commerce.gov/sites/default/files/the_effect_of_imports_of_steel_on_the_national_security_-_with_redactions_-_20180111.pdf

and Tariffs, it was noted that under the Defense Production Act, 50 U.S.C. §4533, “Congress provides the President with a broad set of authorities ..., including Title III, which authorizes the use of economic incentives to secure domestic industrial capabilities essential to meet national defense and homeland security needs. DOD has funded several Title III projects to increase domestic production of steel products,” including a \$56 million agreement in 2020 to boost steel plate production signed by the predecessor owner of a Cliffs’ facility.⁸

A Presidential Exemption would advance all of the following national security interests while EPA goes about reconsidering and revising the Coke Ovens Rule: (1) maintaining a strong domestic steelmaking industry; (2) avoiding regulatory mandates that lead to coke and steel shortages, offshoring of coke production, and resulting supply chain impacts; (3) promoting economic and job growth made possible by the coke and steel industries; and (4) avoiding wasteful commitments of resources on regulatory mandates that provide no discernable public health or environmental benefit.

Without a Presidential Exemption, the coke production industry would be faced with an estimated \$1.3 billion in new capital costs, plus more than \$220 million in annual operating costs. Coke facilities would be forced to install new, unproven pollution control technologies in an effort to comply with the new standards, even though compliance may not be feasible using available technology. The cost associated with the Coke Ovens Rule would substantially impact local and national economies and would undermine the coke and steel sectors’ vital role in producing the iron and steel needed to support critical infrastructure, defense, and national security.

The importance of avoiding these harms to the coke and steel industry is emphasized in a December 6, 2023 letter from eight current and former U.S. Senators – including then-Senator JD Vance – to EPA warning that the Coke Ovens Rule and two other rules aimed at the steel sectors “... would dramatically undermine the domestic steel industry and national security while driving production overseas likely resulting in no net reduction in emissions from the steel industry globally.”⁹ Likewise, in a June 14, 2024 letter six current and former U.S. Senators – again including then-Senator Vance – urged EPA to reconsider the Coke Ovens Rule and two other rules aimed at the steel industry, warning that “... the steel industry will be forced to proceed with planning and spending for unproven technologies and work practices while the final provisions of the rules remain uncertain. Given that these regulations will impact nearly every aspect of the integrated iron and steelmaking process, it is imperative that EPA grant both the petitions for reconsideration and requests for stay of the rules.”¹⁰ Similar concerns were raised in a letter to EPA from Congress Members Crawford and Mrvan of the Congressional Steel Caucus.¹¹

⁸ Congressional Research Service Report, U.S. Steel Manufacturing: National Security and Tariffs (August 12, 2021), <https://www.congress.gov/cts/product/1111897>

⁹ Letter from U.S. Senators Vance, Brown, Braun, Manchin, Casey, Klobuchar, Capito, and Young to Administrator Regan, p. 1 (Dec. 6, 2023).

¹⁰ Letter from U.S. Senators Vance, Brown, Braun, Casey, Klobuchar, and Young to Administrator Regan, p. 2 (June 14, 2024).

¹¹ Letter from Congressmen Crawford and Mrvan to Administrator Regan, p. 1 (Dec. 18, 2023).

The threat of global steel imports raised by the Senators in the letters to EPA is a material threat. Foreign steel imports risk the competitiveness and advancement of the domestic steel industry, to the point of potentially threatening U.S. domestic production capacity and continued investment in taconite iron mining, coke manufacturing, and iron and steelmaking capacity based on the costs outlined above. As emphasized by the U.S. Department of the Treasury's Committee on Foreign Investment in the United States ("CFIUS"), without such domestic steelmaking investment, there could be ripple effects on the supply chains that depend on such steel, particularly supply chains that are part of our national defense infrastructure such as "critical manufacturing, energy, transportation, and communications (all vital to national security)." ¹² National defense infrastructure, for example, needs ready access to high purity steel from blast furnaces. ¹³ Once these complex iron and steel making operations are shut down and/or idled, it is no simple matter to restart them. In short: "The loss of domestic production is a critical national security concern given the ubiquitous nature of steel throughout multiple critical industries." ¹⁴

IV. Conclusion

For all the reasons stated above, Cliffs urges the issuance of a 2-year exemption from the compliance deadlines in the Coke Ovens Rule, pending EPA's review of the rule.

Thank you for your consideration of this Presidential Exemption request. If additional information is needed, please contact Walter Tamukong at walter.tamukong@clevelandcliffs.com or 216-649-4862.

Sincerely,



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¹² Letter from Andrew Fair, Acting Assistant Secretary for Investment Security, U.S. Department of the Treasury, to Ama Adams, Ropes & Gray LLP, and Mark Plotkin, Covington & Burling LLP, Re: CFIUS Case 24-154 (Dec. 14, 2024) ("CFIUS Letter"), p. 28.

¹³ See *id.* at p. 24.

¹⁴ *Id.* at p. 28.