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October 3, 2025

**VIA EPA DOCKET EPA-HQ-OAR-2002-0083**

U.S. Environmental Protection Agency
EPA Docket Center
Mail Code 28221T
1200 Pennsylvania Avenue, NW
Washington, DC 20460
Submitted via www.regulations.gov

Katie Boaggio
U.S. Environmental Protection Agency
Mail Drop: D243–02
109 T.W. Alexander Drive
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RTP, North Carolina 27711

**Re: Comments on the *National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review: Interim Final Rule*, 90 Fed. Reg. 29,485 (July 3, 2025)**

Dear U.S. EPA,

On behalf of our clients, Cleveland-Cliffs Inc., United States Steel Corporation, and American Iron and Steel Institute, please find enclosed timely comments on the U.S. Environmental Protection Agency's final rule entitled *National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review: Interim Final Rule*, 90 Fed. Reg. 29,485 (July 3, 2025). Please contact the undersigned with any questions.

Respectfully submitted,

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**Comments of American Iron and Steel Institute, Cleveland-Cliffs Inc., and United States Steel Corporation on**
**EPA's National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review: Interim Final Rule, 90 Fed. Reg. 29,485 (July 3, 2025)**

**Docket ID No. EPA-HQ-OAR-2002-0083**

**Submitted October 3, 2025**

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| **2024 Rule** | National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review, 89 Fed. Reg. 23,294 (April 3, 2024) |
| **IFR** | National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review: Interim Final Rule, 90 Fed. Reg. 29,485 (July 3, 2025) |
| **Cliffs Petition** | Cleveland-Cliffs Inc. Petition for Reconsideration and Request for Administrative Stay, EPA-HQ-OAR-2002-0083-1989 |
| **USS Petition** | United States Steel Corporation Petition for Reconsideration and Request for Administrative Stay, EPA-HQ-OAR-2002-0083-1988 |
| **Cliffs Motion** | Cliffs Motion for Stay, ECF 2062303, Cleveland-Cliffs Inc. v. EPA, Case No. 24-1170 (June 28, 2024) |
| **Cliffs Reply** | Cliffs Reply Brief, ECF 2075786, Cleveland-Cliffs Inc. v. EPA, Case No. 24-1170 (Sept. 19, 2024) |
| **USS Motion** | USS Motion for Stay, ECF 2063048, United States Steel Corporation v. EPA, Case No. 24-1171 (July 3, 2024) |
| **USS Reply** | USS Reply Brief, ECF 2075793, United States Steel Corporation v. EPA, Case No. 24-1171 (Sept. 19, 2024) |
| **2024 Rule RIA** | Integrated Iron and Steel Final Rule Regulatory Impact Analysis, EPA-HQ-OAR-200-0083-1977 (April 3, 2024) |
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| **August 2024 Reconsideration** | Letter from Joseph Goffman, EPA-HQ-OAR-2002-0083-1991 (Aug. 14, 2024) |
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| **RTC** | Summary of Public Comments and Responses for Amendments to the NESHAP for Integrated Iron and Steel Manufacturing Facilities, EPA-HQ-OAR-2002-1976 |
| **2024 Rule RIA** | Integrated Iron and Steel Final Rule Regulatory Impact Analysis, EPA-HQ-OAR-200-0083-1977 (April 3, 2024) |

## Table of Attachments

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| 1 | Cliffs Motion for Stay, ECF 2062303, *Cleveland-Cliffs Inc. v. EPA*, Case No. 24-1170 (June 28, 2024) |
| 2 | Cliffs Reply Brief, ECF 2075786, *Cleveland-Cliffs Inc. v. EPA*, Case No. 24-1170 (Sept. 19, 2024) |
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| 5 | Respondents' Opposition to Motion for Summary Vacatur, ECF 2133986, *Clean Air Council, et al. v. EPA*, Case No. 25-1163 (Sept. 8, 2025)[1] |
| 6 | Movant-Intervenors Response in Opposition, *Clean Air Council, et al. v. EPA*, Case No. 25-1163 (Sept. 8, 2025) |

[1] Attachment 5 excludes the following exhibits to the Declaration of Aaron Szabo that are otherwise publicly available on the docket: EPA-HQ-OAR-2002-1976; EPA-HQ-OAR-2002-0083-1989; EPA-HQ-OAR-2002-0083-1988.

## INTRODUCTION

The American Iron and Steel Institute ("AISI"), Cleveland-Cliffs Inc. ("Cliffs") and United States Steel Corporation ("USS") (collectively "Industry Commenters") welcome the opportunity to submit comments on the United States Environmental Protection Agency's ("EPA's") *National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review: Interim Final Rule*, 90 Fed. Reg. 29,485 (July 3, 2025) ("IFR"), which amends the applicable deadlines for certain requirements in EPA's *National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review*, 89 Fed. Reg. 23,294 (April 3, 2024) ("2024 Rule"). These written comments supplement testimony provided by representatives of AISI, Cliffs, and USS at the IFR Public Hearing on September 2, 2025.[2]

The 2024 Rule is deeply flawed. Industry Commenters acknowledge the work EPA has put into reviewing the 2024 Rule and the timely steps EPA has taken to address certain flaws and errors, including:

- Granting discretionary reconsideration on unmeasured fugitive and intermittent particulate ("UFIP") requirements for unplanned bleeder valve openings and beaching and emission limits for blast furnace casthouses. Letter from Joseph Goffman, EPA-HQ-OAR-2002-0083-1991 (Aug. 14, 2024) ("August 2024 Reconsideration").

- Granting mandatory reconsideration on UFIP requirements for unplanned bleeder valve openings, planned bleeder valve openings, bell leaks, and slag processing and handling. Letter from Abigale Tardif, EPA-HQ-OAR-2002-0083-1992 (March 5, 2025) ("March 2025 Reconsideration").

- Granting a 90-day stay of 2025 compliance deadlines for requirements that were added or revised by the 2024 Rule pending reconsideration. Partial Administrative Stay of National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review, 90 Fed. Reg. 14,207 (March 31, 2025) ("Stay Pending Reconsideration").

Industry Commenters likewise back EPA's latest efforts to address significant concerns with the 2025 and 2026 deadlines contained in the 2024 Rule. The IFR provides necessary corrections to these deadlines that arose from insufficient data, technical errors, and erroneous assumptions about the work and time required to achieve these requirements. Correcting the deadlines in an interim final rule offers timely relief from these looming deadlines, for which there was no time to provide prior notice and comment.

Industry Commenters support both EPA's deadline amendments and its decision to proceed with this interim final rulemaking. Industry Commenters also write, however, to continue to urge EPA to timely address the remaining flaws in the 2024 Rule. Shortly after the 2024 Rule was finalized, Cliffs and USS submitted petitions for reconsideration and administrative stay detailing

[2] IFR Public Hearing (Sept. 3, 2025)—Testimony of M Long (Cliffs) 9:50-14:25, C Hardin (USS) 14:40-17:49, P Balserak (AISI) 56:00-1:00:11—available at < >.

a number of additional issues that are subject to mandatory reconsideration and require correction or withdrawal of certain 2024 Rule requirements. Cleveland-Cliffs Inc. Petition for Reconsideration and Request for Administrative Stay, EPA-HQ-OAR-2002-0083-1989 ("Cliffs Petition"); United States Steel Corporation Petition for Reconsideration and Request for Administrative Stay, EPA-HQ-OAR-2002-0083-1988 ("USS Petition"). Cliffs and USS similarly sought a stay pending judicial review from the D.C. Circuit to avoid irreparable harm from the deadlines in the 2024 Rule, including those subject to the IFR and others. Motion for Stay, ECF 2062303, *Cleveland-Cliffs Inc. v. EPA*, Case No. 24-1170 (June 28, 2024) ("Cliffs Stay Motion"); Motion for Stay, ECF 2063048, *United States Steel Corporation v. EPA*, Case No. 24-1171 (July 3, 2025) ("USS Stay Motion"). Industry Commenters urge EPA to take the present opportunity to correct more than the deadline errors addressed by the IFR and comprehensively correct the substantive and procedural flaws in the 2024 Rule set forth in these documents.

In particular:

- EPA should remove the illegal and improper UFIP requirements in the 2024 Rule.
- The RIA should be corrected to reflect more accurate emissions, risk, and cost estimates.
- EPA should stay the 2024 Rule pending judicial review.

## INDUSTRY COMMENTS ON EPA'S IFR

### I. The IFR Appropriately Finds That Compliance Deadlines Of Less Than Three Years Are Infeasible

The Clean Air Act ("CAA") authorizes EPA to set existing source deadlines of up to 3 years from the effective date. 42 U.S.C. 7412(i)(3)(A). The 2024 Rule promulgated earlier one-year and two-year deadlines based on insufficient information and incorrect assumptions, including:

1. 2025 deadlines for planned bleeder openings, bell leaks, BOPF Shops, and BFs. *See, e.g.*, 40 CFR 63.7783.[3]
2. 2025 deadline to commence fenceline monitoring, to be extended until EPA promulgates a test method. 40 CFR 63.7792.

[3] The 2024 Rule places associated work practices, documentation, reporting, recordkeeping, and testing requirements throughout 40 CFR Part 63 Subpart FFFFF. Since these requirements are in some cases triggered after the associated emission requirement takes effect, they are subject to slightly longer deadlines, but for ease of reference all deadlines triggered by the new requirements for planned bleeder valve openings, bell leaks, O&M plans and procedures and new opacity requirements for BOPF Shops and Blast Furnaces are referred to collectively as subject to "2025" deadlines.

3. 2026 deadlines for unplanned bleeder openings, slag processing and beaching. *See, e.g.*, 40 CFR 63.7783.[4]

The IFR appropriately recognizes these 2025 and 2026 deadlines are infeasible and therefore are not "as expeditiously as practicable" as required by the CAA. 42 U.S.C. § 7412(i)(3)(A). In fact, as discussed below, the final 2024 Rule imposes several requirements that are not technically feasible and therefore impracticable to comply with on any timeline. Others will require significantly longer than three years to meet. We recognize, however, that the CAA requires no more than a 3-year compliance deadline, absent a Presidential Exemption pursuant to 42 U.S.C. § 7412(i)(4). We understand EPA's position to be that the new deadlines in the IFR are based on this statutory obligation, rather than a finding that 3 years will be sufficient to meet any of the extended deadlines in the IFR. If that is not the case, we request the opportunity to comment on whatever basis EPA asserts for finding that 3 years is sufficient to meet the obligations in the IFR.

### A. Extension of Infeasible Deadline for Planned Bleeders

As the IFR states, in the 2024 Rule EPA incorrectly assumed "standards could be met without the need for installation of new control equipment, monitors, or measurement equipment." 90 Fed. Reg. at 29,488. This conclusion was based on basic misunderstandings of the activities that would be subject to the opacity limit in the 2024 Rule, the blast furnace operations that impact the timing and duration of planned bleeder valve openings, and the effect of certain work practices on planned bleeder opacity. *See* USS Petition at 12; Cliffs Petition at 23-27.

EPA incorrectly presumed, for example, that "[o]perators can prepare the furnace for planned openings to minimize or eliminate emissions from the bleeder vales,"[5] when operators also initiate openings to address "imminent pressure problems,"[6] which can occur "at any time and on short notice." USS Petition at 12. EPA collected no data on operator-initiated short-notice bleeder valve opening events, preventing EPA from fully understanding the burden of its 8% opacity limit and underestimating the work and time that would be required to achieve compliance. Cliffs Petition at 23-24; USS Petition at 12. EPA also failed to account for emissions variability in interpreting the data and greatly overestimated the effect that certain work practices have on emissions. Cliffs Petition at 24-26; USS Petition at 12. Cliffs conducted an additional planned bleeder observation of one of the best performing sources, Indiana Harbor's No. 7 BF, on May 21, 2024, which demonstrated that, even where all work practices were implemented "to the extent practicable" for this event, a MACT floor source still yielded a 20% maximum 6-minute average opacity. Cliffs Petition at 26 and Cliffs Petition Attach. A (Trinity Report) at 10. The result is a 2024 Rule limit that, contrary to the CAA, three of EPA's five MACT floor sources demonstrably

[4] The 2024 Rule places associated work practices, documentation, reporting, recordkeeping, and testing requirements throughout 40 CFR Part 63 Subpart FFFFF. Since these requirements are in some cases triggered after the associated emission requirement takes effect, they are subject to slightly longer deadlines, but for ease of reference all deadlines triggered by the new requirements for unplanned bleeder valve openings, slag processing, and beaching are referred to collectively as subject to "2026" deadlines.

[5] 89 Fed. Reg. at 23,298.

[6] Cliffs Petition at 23.

cannot meet. *Id.*, Cliffs Petition Attach. A (Trinity Report) at 12; USS Petition, USS Petition Attach. C (Trinity Decl.) at 13; Cliffs Motion Ex. D (Remsberg Decl.) at ¶¶9, 11.b.

EPA has already granted mandatory reconsideration of the opacity limit for planned bleeder valve openings following submission of this centrally relevant and after-arising information. March 2025 Reconsideration at 2. EPA also recognized specific errors in the 2024 Rule's planned bleeder requirements, including how the Rule addresses the timing of planned opening and how this may affect opacity readings, and errors in defining a single bleeder valve opening event, as part of its earlier granting of discretionary reconsideration. August 2024 Reconsideration at 2.

These errors fundamentally affect the achievability of the planned bleeder valve requirements in the 2024 Rule and the time in which compliance could practicably be achieved. As EPA states, "these new data provide evidence that there is more variability in each source's operations and opacity than we accounted for in developing the final opacity standards." 90 Fed. Reg. at 29,488. With respect to the timeline for compliance in particular, the planned bleeder valve requirements cannot be met by even EPA's best performing sources using the existing control methods EPA assumed. Cliffs Petition Attach. A (Trinity Report) at 12; USS Petition Attach. C (Trinity Decl.) at 13-14. Compliance would thus necessitate significant changes to control equipment and would obviate the CAA's mandate about setting limits based on the best performing sources.

Further, conducting the visible emissions monitoring required by the Rule will necessitate significant changes to monitors and monitoring methods. This includes hiring several new visible emission observation personnel to monitor emissions to be available for the short notice "planned" readings covered by the Rule but not anticipated by EPA and potentially reworking the protocols for operation of bleeders to accommodate EPA's overly broad definition of a "planned bleeder" event. USS Petition at 12; Cliffs Petition at 23-27; USS Motion Ex. B (Piscitelli Decl.) at ¶¶25-27; Cliffs Motion Ex. D (Remsberg Decl.) at ¶11b.

If those changes are not effective in achieving compliance, additional development of novel control technology may be required. These control technologies are not commercially available, and monitoring changes were not considered by EPA when it set the original deadline in the Rule, and they cannot practicably be addressed in less than 3 years.

### B. Extension of Infeasible Deadline for Unplanned Bleeders

The unplanned bleeder valve requirements in the Rule improperly pit environmental protection against safety. These limits were imposed without EPA's acknowledgement of comments based on health and safety issues. Unplanned bleeder valve openings should not be limited in the Integrated Iron and Steel NESHAP because the purpose of an unplanned opening is to release pressure that could otherwise build up in the system and cause an explosion. The 2024 Rule's unplanned bleeder valve limits are also based on a fundamental misunderstanding of what valves would be subject to regulation, the causes of unplanned openings, and what impacts EPA's work practices have both on the number of unplanned openings and on other furnace operations. USS Petition at 10-11; Cliffs Petition at 21-23.

As the IFR states, EPA erroneously concluded that "facilities only had to make relatively moderate changes in equipment or operations to comply with" the unplanned bleeder standards in the 2024 Rule. 90 Fed. Reg. at 29,488. This was based on EPA's assumption that "stockline monitors to measure material flows in the blast furnaces and/or material sizing equipment or screens to ensure input material was properly sized, to help prevent unplanned openings" would be sufficient to achieve the unplanned bleeder limits in the 2024 Rule. *Id.* EPA's findings were based on insufficient data and material misinterpretations of the available data. EPA converted data that showed only the opening of dirty gas bleeders more than 30 minutes apart as data reflecting *all* bleeder valve openings (clean, semi-clean, and dirty) from each furnace. Cliffs Petition at 21-22, Cliffs Petition Attach. A (Trinity Report) at 3-5; USS Petition at 10-11, USS Petition Attach. C (Trinity Decl.) at 9-10. As the IFR recognizes, "[t]his technical error will increase the number of unplanned openings that count towards the yearly operational limit, which makes the limit unachievable until a correction is made." 90 Fed. Reg. at 29,488.

EPA also greatly misunderstood the effect that stockline monitoring would have on bleeder valve openings. Cliffs Petition at 22-23, Cliffs Petition Attach. A (Trinity Report) at 6-8; USS Petition at 10-11, USS Petition Attach. A (Piscitelli Decl.) ¶¶5-9, and 24, USS Petition Attach. C (Trinity Decl.) at 11-12. And EPA misunderstood the relationship between clean and dirty gas bleeders, assuming that engaging in practices to reduce dirty gas bleeders would have the same effect on clean gas bleeder openings, failing to understand that clean gas bleeder openings are a critical practice to reduce dirty gas bleeder openings. Response to Comments at 70. The result is standards for large and small blast furnaces that no or almost no blast furnace can comply with. Cliffs Petition Attach. A. (Trinity Report) at 5; USS Petition at 11, USS Petition, Attach. C (Trinity Decl.) at 10; Cliffs Motion Ex. D (Remsberg Decl.) at ¶11.a (3 of 4 large blast furnaces cannot achieve the limit).

EPA has already granted reconsideration on the work practices for unplanned bleeder valves, recognizing that new information significantly undermines the central findings behind EPA's decision to impose these practices and that EPA did not properly distinguish among the different types of bleeders in approaching the 2024 Rule. August 2024 Reconsideration at 2; March 2025 Reconsideration at 2; 90 Fed. Reg. at 29,488.

These errors undermine EPA's central premise for imposing a deadline of less than three years, namely that compliance can be achieved with "relatively moderate changes in equipment or operations." 90 Fed. Reg. at 29,488. As discussed above, the unplanned bleeder valve opening limits for large and small blast furnaces cannot be met by even EPA's best performing sources using the existing control methods, as EPA assumed. Compliance would thus necessitate significant changes to the process including potential unproven novel control equipment that is not commercially available and that EPA did not anticipate in setting the current deadlines. EPA also misunderstood the time required to implement even the prescribed work practices. The declarations supporting Cliffs' and USS' motions for judicial stay in the D.C. Circuit provide further support for this conclusion, explaining that addressing the safety issues arising from EPA's hard limits on the number of unplanned bleeder valve openings may not be technically achievable at all, but will at a minimum require substantial changes to equipment and/or operations. USS Motion Ex. B (Piscitelli Decl.) at ¶¶5-10, 24; Cliffs Motion Ex. D. (Remsberg Decl.) at ¶¶11.a and c and 12.. These steps cannot be practicably completed in less than three years.

Because it is not practicable to perform the substantial work required to attempt compliance with the unplanned bleeder valve requirements in less than three years, the IFR's amendment is well supported.

### C. Extension of Infeasible Deadline for Bell Leaks

As the IFR states, EPA incorrectly assumed "standards [for bell leaks] could be met without the need for installation of new control equipment, monitors, or measurement equipment." 90 Fed. Reg. at 29,488. This was based on fundamental misunderstandings of the intermittency of emissions generated from bell leaks, how emissions from the blast furnace top can be read, the causes of visible emissions, and the impact that certain work practices would have on visible emissions.

For large bells, EPA imposed a self-contradictory requirement to conduct "3 instantaneous visible emission readings" using Method 22 to determine compliance with a 20% opacity limit. 89 Fed. Reg. at 23,324. While there are methods for reading opacity (Method 9), visible emissions (Method 22), and instantaneous emissions (Method 203c), the 2024 Rule jumbled them together, creating a requirement without a method to achieve it. USS Petition at 12, USS Petition Attach. A (Piscitelli Decl.) at ¶12. However EPA ultimately resolves this conflict, the standard assumed that visible emissions from large bells can be read independently from other visible emissions at the blast furnace top. As discussed in USS' Petition, even if this can be achieved, it will require significant changes in monitoring personnel and methods. USS Petition at 12-13, USS Petition Attach B. (Mangahas Decl.) at ¶10. EPA also materially underestimated the timeframe for performing large bell repairs and replacement. Cliffs Petition Attach. A (Trinity Report) at 16-17.

For small bells, EPA incorrectly assumed that small bells have no visible emissions unless they have seals in need of repair, when even a new bell can show visible emissions. Cliffs Petition at 27-28, Cliffs Petition Attach. A. (Trinity Report) at 16; USS Petition at 13, USS Petition Attach. C. (Trinity Decl.) at 14. EPA based its requirements for small bells on the unwarranted assumption that metal throughput or time can be used to prevent visible emissions, when no correlation between these factors and emissions has been demonstrated. Cliffs Petition at 28-29, Cliffs Petition Attach. A. (Trinity Report) at 16; USS Petition at 13, USS Petition Attach. A. (Piscitelli Decl.) at ¶¶14-15, and USS Petition Attach. C (Trinity Decl.) at 14; Cliffs Motion Ex. D (Remsberg Decl.) at ¶11.g. EPA incorrectly assumed that small bells can be reliably read using Methods 9 and 22 when, as a practical matter, reading "small bell leaks" is not technically feasible. USS Petition at 13, USS Petition Attach. A (Piscitelli Decl.) at ¶16, USS Petition Attach. B (Mangahas Decl.) at ¶11; USS Petition Attach. C (Trinity Decl.) at 14.

EPA also failed to appreciate several practical aspects of its bell requirements in the 2024 Rule that significantly affect the steps needed to comply and the time needed to prepare for compliance. EPA failed, for example, to appreciate that repeatedly shutting down blast furnaces to repair and replace bell seals poses safety risks, leads to unnecessary emissions, and places undue burdens on the blast furnace and associated equipment, which will need to be addressed during reconsideration. Cliffs Petition at 28. EPA also failed to consider the significant interference with operations that would be caused by mandating repeated shutdowns for unnecessary repairs on a schedule that cannot be coordinated with scheduled outages. *Id.* at 29. And EPA failed to consider

that its requirements will require facilities to maintain an inventory of spare bells to meet the replacement deadlines in the 2024 Rule. Taking this final step alone will substantially affect operations and may take years to implement, as bell tops are not off-the-shelf products that can be easily stockpiled.

The result is a set of requirements that, contrary to EPA's assumption, will require significant evaluations of changes to procedures and staffing to read and distinguish emissions from large and small bells, implementation of new work practices for inspection and maintenance of large bells, and for small bells, the development of untested and unsound programs for replacing small bells associated with metal throughput or time. These changes cannot feasibly be accomplished in three years. USS Motion Ex. B (Piscitelli Decl.) at ¶¶14-16, 23; USS Motion Ex. C. (Mangahas Decl.)) at ¶¶10-11; Cliffs Motion Ex. E. (Remsberg Decl.) at ¶11.g and 12.

EPA has already granted mandatory reconsideration of the work practice standards for bell leaks to address new information showing the technical infeasibility of these requirements. August 2024 Reconsideration at 2. This information also fully supports amending the deadline to comply with the large and small bell requirements in the 2024 Rule to no less than three years.

### D. Extension of Infeasible Deadline for Slag Processing

As the IFR states, EPA improperly concluded that "facilities only had to make relatively moderate changes in equipment or operations to comply with those [slag processing] standards." 90 Fed. Reg. at 29,488. This was based on EPA's belief that fogging and/or water spray equipment to minimize opacity for slag processing operations would be effective and could be implemented in two years. *Id.*

The 2024 Rule uses vague and inconsistent language to describe the activities subject to new requirements. Cliffs Petition at 33-34; USS Petition at 14, USS Petition Attach. A (Piscitelli Decl.) at ¶17, and USS Petition Attach. C. (Trinity Decl.) at 6-8. This must be fixed before the 2024 Rule's slag processing requirements can be applied non-arbitrarily.

EPA's timeline for installing equipment to address visible emissions from slag processing and handling was also flawed. First, EPA used inadequate data, improper averaging methods, and, in some instances, data from unregulated activities to develop the 10% opacity limit in the 2024 Rule. Cliffs Petition at 35-37, Cliffs Petition Attach. E. (Ochola Decl.) at ¶¶7-11, 18, 20; USS Petition at 14, USS Petition Attach. C (Trinity Decl.) at 7-8. Three of the five MACT floor sources EPA used to establish the emission limit have been shown to not achieve the limit in the 2024 Rule. Cliffs Motion Ex. D (Remsberg Decl.) at ¶11.b. This was further demonstrated by additional testing conducted by Cliffs showing that two facilities in EPA's MACT floor, Burns Harbor and Indiana Harbor, had opacity levels above 10% on a 6-minute average. Cliffs Petition Attach. A (Trinity Report) at 21. As the IFR states, this "new data" shows "higher opacity concentrations than previously known by the EPA for certain specific slag processing and handling activities." 90 Fed. Reg. at 29,488. The resulting 2024 Rule set limits that cannot be achieved by even the best performing sources, again in contradiction to CAA mandates.

Second, EPA's limits may require controls, such as enclosures, that create unsafe operating conditions that will need to be addressed. Cliffs Petition Attach. E. (Ochola Decl.) at ¶¶12-17; Cliffs Motion Ex. D. (Remsberg Decl.) at ¶11.e.

Third, the Method 9 requirements in the 2024 Rule pose significant technical, staffing and safety challenges that will require more than "relatively modest changes." USS Petition at 14-15, USS Petition Attach. A (Piscitelli Decl.) at ¶17, USS Petition Attach. B (Mangahas Decl.) at ¶¶7 and 9.

The result is requirements that present significant safety concerns and require substantial changes to monitoring methods or technology to address. USS Motion Ex. B (Piscitelli Decl.) at ¶17; USS Motion Ex. C. (Mangahas Decl.) at ¶¶7-9; Cliffs Motion Ex. D (Remsberg Decl.) at ¶¶11.d and .e and 12; Cliffs Petition Attach. E (Ochola Decl.) at ¶¶14-16, 20.

EPA has already granted mandatory reconsideration of the opacity limit for slag processing and handling following submission of this centrally relevant after-arising information. March 2025 Reconsideration at 2. It is not clear that a solution to all of the problems posed by the slag processing requirements in the 2024 Rule is available, but at a minimum one cannot practicably be developed, tested, and implemented within 3 years.

### E. Extension of Infeasible Deadline for Beaching

As the IFR states, EPA improperly concluded that "facilities only had to make relatively moderate changes in equipment or operations to comply with those [beaching] standards." 90 Fed. Reg. at 29,488. This conclusion was based on EPA's incorrect belief that partial enclosures or carbon dioxide suppression to minimize fugitives from beaching would be effective and could be implemented in two years. *Id.* EPA has already granted reconsideration in recognition of the need to correct errors in the work practice standards for beaching. August 2024 Reconsideration at 2.

EPA lacked sufficient evidence of HAP emissions from beaching, making it improper for EPA to regulate beaching under the 2024 Rule. Cliffs Petition at 30. EPA also, however, erred in concluding that controls could be effectively implemented in two years. In particular, industry raised multiple concerns with EPA's proposals to use partial enclosure, $CO_2$ shielding, and work practices to reduce emissions. Cliffs Petition at 31-33; USS Motion Ex. B (Piscitelli Decl.) at ¶32; Cliffs Motion Ex. D (Remsberg) at ¶¶11.f and 12. Even where feasible, installation of controls will not be a "relatively moderate change." Carbon dioxide shielding, for example, has been estimated to cost upward of $5 million at a single facility. USS Motion Ex. B (Piscitelli Decl.) at ¶32. Enclosure is in some cases infeasible due to space and in other cases would require new rail lines. Cliffs Petition Attach. A (Trinity Report) at 14-15.

The IFR is therefore correct in concluding that "EPA failed to adequately consider some feasibility challenges with certain required work practices" and that a period of less than three years for compliance would not be practicable. 90 Fed. Reg. at 29,488.

### F. Extension of Infeasible Deadline for Blast Furnace and Basic Oxygen Furnace Work Practices

The 2024 Rule imposes a number of work practices on blast furnaces and basic oxygen furnaces ("BF/BOPF Requirements"). 89 Fed. Reg. at 23,305. EPA did not justify the necessity of imposing new BF/BOPF requirements to address fugitive emissions. EPA therefore lacks a statutory basis to impose them. USS Petition at 20. With respect to the compliance deadlines, as the IFR states, EPA incorrectly assumed that "standards could be met without the need for installation of new control equipment, monitors, or measurement equipment." 90 Fed. Reg. at 29,488. Contrary to EPA's assumption, the monitoring requirements in the Rule present several difficulties in performing safe and accurate readings and pose substantial costs on industry. USS Petition at 20-21, USS Petition Attach. A (Piscitelli Decl.) at ¶¶13 and 21, and USS Petition Attach. B. (Mangahas Decl.) at ¶¶12-15. To overcome these challenges, significant changes would be needed in monitoring personnel or measurement equipment currently in use if these standards remain. Further, as the IFR notes, "there is ambiguity in the regulatory text for the monitoring frequency and location of fugitive emissions that must be addressed to clarify how to demonstrate compliance with these standards." 90 Fed. Reg. at 29,488; *see also* Cliffs Petition at 38. These issues, if unaddressed, make compliance in less than three years impracticable.

### G. Extension of Infeasible Deadline for Fenceline Monitoring

EPA should never have promulgated a fenceline monitoring requirement for multiple reasons. First, EPA has never justified imposition of fenceline monitoring as a "necessary" development under 42 U.S.C. § 7412(d)(6). Cliffs Petition at 38-39; USS Petition at 17-18. Further, EPA has not promulgated a test method for compliance with the chromium fenceline monitoring requirements. This alone renders the fenceline monitoring program contrary to the CAA and arbitrary and capricious. Cliffs Petition at 39, Cliffs Petition Attach. A (Trinity Report) at 24-35; USS Petition at 16-17, USS Petition Attach. C (Trinity Decl.) at 22-23. And the fenceline monitoring program is overbroad, unlawfully regulating beyond the source category, contrary to EPA's authority under 42 U.S.C. § 7412. Cliffs Petition at 39; USS Petition at 18.

There are also numerous technical difficulties with compliance beyond the lack of a monitoring method, including difficulties identifying the source of chromium, conducting root cause analyses, and using fenceline monitoring to manage fugitive emissions, which the 2024 Rule did not address and which will make compliance within 3 years infeasible even if a test method were available. USS Petition at 15-19, USS Petition Attach. A. (Piscitelli Decl.) at ¶¶28, 38, USS Petition Attach. C (Trinity Decl.) at 15-22; Cliffs Petition at 38-39, Cliffs Petition Attach. A. (Trinity Report) at 27-34; USS Motion Ex. B (Piscitelli Decl.) at ¶¶18-20, 28.

This includes errors in setting the action level, variability, monitor placement, the feasibility of root cause analysis, data showing a lack of correlation between UFIP activity and chromium concentrations, and failure to acknowledge practical lessons learned from attempting to trace the root cause of elevated fenceline levels at a mini-mill, all which undermine the factual assumptions EPA used to conclude that fenceline monitoring could be implemented within one year of promulgation of a test method. Cliffs Petition Attach. A. (Trinity Report) at 27-34; USS Petition Attach C. (Trinity Decl.) at 15-24.

With respect to the schedule for compliance in particular, clear problems were identified with EPA's fenceline schedule, including the time needed to conduct "more time resolute monitoring" under 40 CFR 63.7792(d)(4), the cost and accuracy or results, and the time needed to complete analysis. In fact, the resolution to all of these problems are unknown and therefore render EPA's decision in the 2024 Rule that one year is adequate to address these concerns after promulgation of a test method as arbitrary and capricious. USS Petition at 16-17, USS Petition Attach. A (Piscitelli Decl.) at ¶¶28, 38. Further, facilities will not need to prepare a single root cause evaluation, but likely numerous evaluations as EPA's process sets facilities up for long periods of exceedances if a single sample brings the facility over the action level. USS Petition at 19.

These technical and practical concerns must all be addressed in the time after EPA establishes a test method, making compliance in less than three years impracticable in its own right. Further, fenceline monitoring was adopted to "help ensure the work practices and opacity limits are achieving the anticipated reductions." 89 Fed. Reg. at 23,295. With the deadlines for work practices and opacity limits extended, it makes sense to extend the deadline for fenceline monitoring for "consistency." 90 Fed. Reg. at 29,489.

* * *

As set out in the parties' petitions and supporting declarations, even the best performing MACT floor sources are unable to achieve compliance with all the standards established in the 2024 Rule. Furthermore, the steps to implement new technologies and modify operations were not anticipated in EPA's original compliance schedules. In the IFR, EPA recognized that it inaccurately determined that the one-year compliance deadlines for opacity standards for planned openings, work practice standards for bell leaks, and the monitoring frequency for BOPF/BF "could be met without the need for installation of new control equipment, monitors, or measurement equipment." 90 Fed. Reg. at 29,488. Significant uncertainties and delays exist because of required research, testing, pilot demonstrations, retrofit analyses, permitting, procurement, installation, shakedown, and compliance demonstrations, all coordinated among multiple sources and contractors, and conducted while accommodating existing operations. Cliffs Motion Ex. C (Palmer Decl.) at ¶¶4-5, 7-11, 13-15; Cliffs Motion Ex. D (Remsberg Decl.) at ¶¶15-16; USS Motion Ex. B (Piscitelli Decl.) at ¶¶37-43. These unanticipated and added considerations more than justify EPA's finding that less than three years for compliance with the UFIP requirements in the 2024 Rule is not practicable.

These facts distinguish the IFR from cases in which the D.C. Circuit has rejected "stays" of previously promulgated rules, even in the form of a new rulemaking. The IFR is not, for example, barred by *Clean Air Council v. Pruitt*, 862 F.3d 1 (D.C. Cir. 2017). There, EPA attempted to grant a stay pending reconsideration "pursuant to section 307(d)(7)(B) of the CAA" that was longer than 90 days. *Id.* at 9 (quotations omitted). Rather, the IFR is amending deadlines through new rulemaking consistent with the Administrative Procedure Act.

Similarly, the IFR is distinct from the rulemaking in *Air Alliance Houston v. EPA*, 906 F.3d 1049 (D.C. Cir. 2018), where EPA amended the deadlines of the Chemical Disaster Rule, offering as the "only justification" that it "allows the Agency time to consider petitions for reconsideration of the Chemical Disaster Rule and take further regulatory action, as appropriate" and "merely

reference[ing] arguments" against EPA's original rulemaking "without standing behind any of them." *Id.* at 1060 and 1064 (quotations and brackets omitted). Here, EPA is amending the deadlines in the 2024 Rule to reflect errors it has acknowledged that directly bear on whether EPA's original deadlines for multiple requirements in the Rule were "as expeditiously as practicable," as required by the CAA. 42 U.S.C. § 7412(i)(3).

This is also not a "wholesale" extension of the compliance requirements in the 2024 Rule. *Air Alliance Houston*, 906 F.3d at 1067. EPA is specifically addressing only the requirements implicated by specific errors and amending deadlines relevant to those requirements. The IFR's targeted approach to amending deadlines by rule in light of acknowledged errors is consistent with the CAA, APA, and D.C. Circuit Court precedent.

## II. The IFR Process Was Appropriate For This Rulemaking

### A. The Administrative Procedure Act provides for issuance of the IFR without notice and comment under 5 U.S.C. 553(b)(B).

The Administrative Procedure Act ("APA") provides that the general notice-and-comment rulemaking requirements do not apply "when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest." 5 U.S.C. § 553(b)(B); 5 U.S.C. § 553(d)(1) ("[t]he required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except – (1) a substantive rule which grants or recognizes an exemption or relieves a restriction.").[7] Under certain circumstances, EPA must be able to act quickly without notice-and-comment procedures. In many cases, as here, EPA seeks post-promulgation comment, providing the public with the opportunity to comment on the IFR.

The circumstances here justify an IFR because notice and comment prior to IFR issuance was both impracticable and would be contrary to the public interest. This is precisely what the good cause exemption is designed to address.

### B. Prior notice and comment was impracticable.

EPA properly relied on this APA exemption in issuing the IFR, as notice and comment prior to issuing the rule was "impracticable." 90 Fed. Reg. at 29,489. Importantly, EPA has granted mandatory and discretionary reconsideration of a number of issues relative to the 2024 Rule raised in petitions for administrative reconsideration. The Agency is "committed to develop a rulemaking that will be subject to notice-and-comment." *Id.* (citing 90 Fed. Reg. 14207, 14208 (March 31, 2025)). EPA explained that it "recognizes that procedural and drafting errors made in the rulemaking process in addition to information not submitted by the regulated parties until after the close of the comment period for the proposed rule led the EPA to promulgate regulations that pose compliance challenges that must be resolved before regulated parties will be able to comply with many provisions of the 2024 rule." *Id.* The short-term compliance deadlines in the 2024 Rule created imminent compliance issues for regulated parties. "Because the existing compliance

[7] CAA § 307(d)(1)(C) applies to rulemakings promulgated under CAA § 112 under which rules are generally subject to notice and comment; however, CAA § 307(d) states that it "shall not apply in the case of any rule or circumstance referred to in paragraphs (A) or (B) of subsection 553(b) of title 5." 42 U.S.C. 7607(d)(1)(V).

deadlines require action by facilities in the short-term, including investment decisions and modifications to equipment and operating procedures with a significant lead time, revising the compliance dates through prior notice and comment procedures would be impracticable." *Id.*

Moreover, the IFR makes clear that EPA's decision to amend the deadlines in the IFR stemmed in large part from recent deliberations: "Most of the items identified for reconsideration in the two response letters have compliance deadlines of April 3, 2025, or April 3, 2026. After further consideration of all the reconsideration issues, the parties' petitions for reconsideration, and further discussion with stakeholders, the EPA has determined to revise the 2025 and 2026 compliance deadlines in the II&S Manufacturing Facilities NESHAP to April 3, 2027". 90 Fed. Reg. at 29,488. EPA issued an administrative stay on March 31, 2025 – staying the 2025 compliance deadlines until July 1, 2025 – after granting mandatory reconsideration of additional issues on March 5, 2025. If EPA were to undertake notice and comment prior to finalizing this rule, it would miss the July 1, 2025 deadline, with those 2025 compliance deadlines becoming immediately applicable and likely to cause regulated parties to become non-compliant with a rule that "will most likely be revised during the reconsideration rulemaking process." *Id.* at 29,489.

This was not a case of EPA "simply [waiting] until the eve of an administrative deadline then rais[ing] up the 'good cause' banner." *Env't Def. Fund, Inc. v. EPA*, 716 F.2d 915, 921 (D.C. Cir. 1983). In fact, until recently, EPA was defending its original decision in the face of industry opposition in the D.C. Circuit. As noted in the IFR, only after diligent continued review of the record did the problems cited above become clear to EPA. Nothing in the case law prohibits EPA from invoking the good cause exception under these circumstances. Industry Commenters and EPA itself further elaborate on this issue in their briefs in opposition to summary vacatur in the case *Clean Air Council v. EPA*, Case No. 25-1163 (D.C. Cir.), copies of which are included as Attachments 5 and 6 to these comments.

### C. Prior notice and comment would have been contrary to public interest.

Notice and comment prior to issuing the IFR would also have been "contrary to the public interest" under the APA. 90 Fed. Reg. at 29,489. As previously noted, Cliffs and USS each filed a Petition for Administrative Reconsideration and Request for Administrative Stay of the 2024 Rule. As noted in Cliffs' petition, the "Final Rule … does not reflect actual operations and contains unachievable limits that fall well beyond what the CAA permits." Cliffs Petition at 40. It is "critically important the II&S industry be well understood and considered before taking an action that puts the industry at risk, impacting local, regional and national economies and national security interests." *Id*. The vital role of steel cannot be overstated. It is essential to the nation's economy, physical infrastructure, and the national economy. The regulatory costs associated with implementing the 2024 Rule would have significant impacts on local, regional, and national economies. *Id*. at 41.

These impacts would be immediate based on the compliance deadlines established by EPA in the 2024 Rule. As explained in the petitions, the II&S industry would need to immediately invest to develop novel control technologies that that have never been demonstrated domestically or internationally, and if feasible, invest in operational modifications and control technology in order to meet the impending compliance deadlines. For example, Cliffs explained that it "must evaluate,

design, and install any additional control technology so that the Final Rule standards are met by the applicable compliance dates," including:

- Additional stack testing to better determine variability;
- Technology review and selection;
- Pilot or slip-stream testing;
- Site-specific engineering and planning;
- Equipment design;
- Equipment fabrication and delivery;
- Increased demand raising costs;
- Increased demand tying up niche contractors that serve the industry;
- Construction and site-specific modification; and
- Shakedown of new equipment.

*Id*. at 50-51.

Similarly, USS argued that EPA must address the issues with the 2024 Rule "before facilities are forced to commit substantial resources to installing and implementing controls to meet the Rule." USS Petition at 21. USS further noted, "there is the potential for significant adverse consequences from implementing the Rule, including requirements that create safety risks for employees and the general public, requirements that may increase HAP emissions, and provisions that in general interrupt operations and waste resources without resulting in environmental benefit." *Id*. at 22. It explained that "U. S. Steel must act now to be in compliance with the Rule. It cannot wait for reconsideration and judicial review to run their course … companies including U. S. Steel will need far more than the one to three years allowed by the Rule to address many of the requirements it imposes and will likely need to seek extensions." *Id.* "U. S. Steel and others [will] need to commit substantial resources to disrupting operations to implement work practices [that] are not safe or practical and installing and operating pollution controls that will be a substantial and unjustified cost without significant environmental benefit." *Id.*

In the IFR, EPA agreed that Cliffs and USS advanced compelling arguments that immediate actions would be required to meet the 2025 and 2026 compliance deadlines. It recognized that Cliffs and USS notified EPA "that there were several errors in the final regulatory text and certain items that EPA had not properly raised for comment during the proposal." 90 Fed. Reg. at 29,487. The Agency noted that "[m]ost of the items identified for reconsideration … have compliance deadlines of April 3, 2025, or April 3, 2026." "The revision of these compliance deadlines will avoid documented issues regarding compliance with the 2024 rule with respect to the items being reconsidered and corrected." *Id.* at 29,488.

For example, EPA recognized that it inaccurately determined that the one-year compliance deadlines for opacity standards for planned openings, work practice standards for bell leaks, and the monitoring frequency for BOPF/BF "could be met without the need for installation of new control equipment, monitors, or measurement equipment." *Id.* Based on the Petitions for Administrative Reconsideration, EPA now recognizes that "facilities may not be able to comply with the standards as written by April 3, 2024 without clarifications, corrections, or revisions." *Id.* In the IFR, EPA also noted that Industry provided new data that "demonstrate that it likely will be

infeasible for a majority of sources to comply with the 2024 rule's opacity limits for planned bleeder valve openings." *Id.* EPA also determined that "the 2024 rule's regulatory language setting compliance action levels is inconsistent with what was proposed and needs to be clarified" for bell leaks. *Id.* For BOPF shops and BF casthouses, EPA "realized there is ambiguity in the regulatory text for the monitoring frequency and location of fugitive emissions that must be addressed to clarify how to demonstrate compliance with these standards." *Id.* Further, the operational limit for unplanned openings, the opacity limit for slag operations, and the work practice standards for beaching were based on the assumption that facilities could comply within two years. However, EPA has learned that its assumptions for compliance with these standards are "insufficient or infeasible." *Id.* EPA also inadvertently finalized the unplanned bleeder opening standard that would apply to bleeder valve openings that go through a control device, which is a "technical error that increase the number of unplanned openings that count towards the yearly operational limit, which makes the limit unachievable." *Id.*

Avoiding the imminent application of standards that are unsafe, impracticable, and infeasible is in the public interest. Moreover, it is in the public interest to avoid the imposition of requirements that would undermine the operation of the nation's iron and steel making industry, which is critical to the U.S. economy and national security. Nor does the IFR result in any public health or environmental harm. As discussed in Section IV below, EPA has already found that existing standards are protective of public health and the environment with an ample margin of safety and EPA's estimates of emission impacts from the 2024 Rule were grossly overstated.

### D. EPA's issuance of the IFR is consistent with its past practice of issuing interim final rules to avoid significant harm.

EPA has historically utilized interim final rules where unique factual circumstances require action sooner than would be allowed under typical notice-and-comment procedures and generally to mitigate potential significant harms. For example, EPA published the Interim Final Rule, *Federal "Good Neighbor Plan" for the 2015 Ozone National Ambient Air Quality Standards; Response to Judicial Stays of SIP Disapproval Action for Certain States*, 88 Fed. Reg. 49,295, 49299 (July 31, 2023), explaining that following notice-and-comment procedures would be impracticable because "because such procedures would require more time than is available" because "[t]he earliest stay order to which EPA must respond in this action was issued on May 1, 2023, just over three months before the Good Neighbor Plan's upcoming effective date on August 4, 2023, which is the date by which this action responding to the stay order must be effective."

Similarly, EPA issued an Interim Final Rule, *Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) Data Reporting and Recordkeeping Under the Toxic Substances Control Act (TSCA); Change to Submission Period*, 90 Fed. Reg. 20,236, 20,237 (May 13, 2025), where notice-and-comment procedures were impracticable "because there is insufficient time for notice and comment on an extension to the deadlines prior to the reporting deadline of July 11, 2025" where EPA needed additional time to beta test the reporting application needed to demonstrate compliance.

EPA also issued an Interim Final Rule, *Phasedown of Hydrofluorocarbons: Technology Transitions Program and Light Commercial Air Condition and Heat Pump Sector*, 88 Fed. Reg. 88826 (Dec. 26, 2023), because after issuing a final rule with a prohibition on the installation of

new residential and light commercial air conditioning and heat pump systems using regulated systems with global warming potential of 700 or more with a one-year compliance deadline of January 1, 2025, stakeholders reached out to EPA regarding the immediate impacts of the rule. Specifically, EPA learned that builders order equipment well before installation and that the final rule's compliance deadline would leave inventory stranded. To provide relief, EPA extended the deadline by one year under the Interim Final Rule. It also accepted post-promulgation comments for 45 days.

The II&S IFR is consistent with EPA's past practice of issuing an interim final rule to address infeasible and fast-approaching compliance deadlines. Furthermore, as in other cases, while the IFR became effective on July 2, 2025, EPA is accepting comments until October 3, 2025 "on the revised compliance dates." 90 Fed. Reg. at 29,489; *see also Standards of Conduct; Revocation of Superseded Regulations; Revision of Residual Provisions*, 90 Fed. Reg. 40,975 (Aug. 22, 2025). EPA also held a public hearing on September 3, 2025. *Reconsideration of 2009 Endangerment Finding and Greenhouse Gas Vehicle Standards; Extension of Comment Period*, 90 Fed. Reg. 39,333 (Aug. 15, 2025).

## III. The New Compliance Deadlines in the IFR Comply with the Clean Air Act.

While the IFR is not being issued to allow time for reconsideration, EPA appropriately recognizes that many of the factual findings that support the extended compliance deadlines in the IFR were presented to EPA in Cliffs' and USS' petitions for reconsideration, in addition to data that was presented during public comment. 90 Fed. Reg. at 29,487-88. The D.C. Circuit has cautioned against using rulemaking to extend deadlines for the purpose of conducting reconsideration, *Air Alliance Houston*, 906 F.3d 1049, 1064-65 (D.C. Cir. 2018), but nothing in the D.C. Circuit's opinion precludes EPA from using information presented in petitions for reconsideration to support amendment of deadlines if that information shows that EPA's original compliance deadlines were not "as expeditiously as practicable." 42 U.S.C. § 7412(i)(3). Where such information supports mandatory reconsideration, the justification for the amendment of deadlines is particularly justified. Mandatory reconsideration requires a demonstration that objections raised on reconsideration were (1) "impracticable to raise" with the public comment deadline or "the grounds for such objection arose after the period of public comment (but within the time specified for judicial review)"; and (2) "such objection is of central relevance to the outcome of the rule." 42 U.S.C. § 7607(d)(7)(B). Where an objector makes a showing that both the "after-arising" element and the "central relevance" element of 42 U.S.C. §7607(d)(7)(B) are met, EPA is required to reconsider the regulation. *See Alon Ref. Krotz Springs, Inc. v. EPA*, 936 F.3d 628, 641 (D.C. Cir. 2019). Mandatory reconsideration supports EPA's assessment that the original compliance deadlines here were not "as expeditiously as possible."

In particular, USS and Cliffs submitted administrative petitions for reconsideration on June 3, 2024, detailing errors and expressing concern regarding the technical feasibility of many requirements in the 2024 Rule, and requesting corrections. *See* 90 Fed. Reg. at 29,487. These petitions raised concerns with many provisions in the 2024 Rule, including all the UFIP and fenceline monitoring requirements subject to the IFR. USS Petition at 12-21; Cliffs Petition at 19-38. USS and Cliffs further supported the basis for mandatory reconsideration of many of these provisions through multiple declarations submitted with motions for judicial stay in their pending petitions for judicial review with the D.C. Circuit. Cliffs' motion and reply briefing in support of

judicial stay are included as Attachment 1 and Attachment 2 hereto.[8] USS' motion and reply briefing in support of judicial stay are included as Attachment 3 and Attachment 4 hereto.[9]

The Agency first responded to the petitions for reconsideration on August 14, 2024, granting discretionary reconsideration on: (1) numeric emission limit for HCl from BF casthouses; (2) unplanned bleeder valve openings; and (3) beaching. EPA-HQ-OAR-2002-0083-1991. EPA also identified errors in the regulatory text for UFIP requirements for unplanned bleeder valves, planned bleeder valves, and bells, and in the HAP limit requirements for sinter plants, BF casthouses, BF stoves, and BOPF Shops, which EPA said it would correct through a notice of correction. *Id.* On March 5, 2025, EPA then granted mandatory reconsideration on the UFIP requirements for: (1) unplanned bleeder valve openings; (2) planned bleeder valve openings; (3) bell leaks; and (4) slag processing and handling. EPA-HQ-OAR-2002-0083-1992.

EPA's determination for mandatory reconsideration of UFIP requirements for unplanned bleeder valve openings; planned bleeder valve openings; bell leaks; and slag processing and handling is well-supported. Again, the need for mandatory reconsideration underscores the appropriateness of extending deadlines through the IFR process since new information shows that EPA's original compliance deadlines were not "as expeditiously as practicable."

### A. Mandatory reconsideration of unplanned bleeder valve openings justifies extension of the compliance deadline as being "as expeditiously as practicable".

Compliance with the unplanned bleeder valve requirements in less than three years is impracticable. The unplanned bleeder valve requirements improperly pit environmental risk against safety. They were also based on fundamental misunderstandings of what valves would be subject to regulation, the causes of unplanned openings, and what impacts EPA's work practices would have both on the number of unplanned openings and other furnace operations. USS Petition at 10-11; Cliffs Petition at 21-23; USS Motion Ex. B (Piscitelli Decl.) at ¶¶13, 17, 21; USS Motion Ex. C (Mangahas Decl.) at ¶¶4, 7-8, 13, 16. For example, the 2024 Rule limits unplanned bleeder openings based on data that only measured one type of bleeder, and then only over a single year. USS Stay Motion, p. 13.

Cliffs and USS provided data on reconsideration supporting that "[t]he two MACT Floor limitations for unplanned valve openings is not achievable for MACT Floor sources in either subcategory [large or small BFs] even when taking into account EPA's intent to correct the rule."

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[8] *Cleveland-Cliffs, Inc. v. EPA*, D.C. Circuit Court, Consol. Case No. 24-1170: Cliffs Stay Motion, ECF#2062303 (Declaration of Stephen Palmer (June 13, 2024) ("Cliffs Motion Ex. C (Palmer Decl)."); Declaration of Mike Remsberg (June 18, 2024) ("Cliffs Motion Ex. D (Remsberg Decl.)"); Declaration of Ryan Siats (June 18, 2024) ("Cliffs Motion Ex. E (Siats Decl.)"); Declaration of David Mysko (June 13, 2024) ("Cliffs Motion Ex. F (Mysko Decl.)"); Cliffs Stay Reply, ECF#2075786 (Supplemental Declaration of David Mysko (Sept. 17, 2024) ("Cliffs Reply Ex. L (Mysko Decl.)"); Supplemental Declaration of Mike Remsberg (Sept. 17, 2024) ("Cliffs Reply Ex. M (Remsberg Supp. Decl.)"); Declaration of Von L. Baum Jr. (Sept. 16, 2024) ("Cliffs Reply Ex. N (Baum Decl.)").

[9] *Cleveland-Cliffs, Inc. v. EPA*, D.C. Circuit Court, Consol. Case No. 24-1170: USS Stay Motion, ECF#2063048 (Declaration of Alexis Piscitelli (July 2, 2024) ("USS Motion Ex. B (Piscitelli Decl.)"); Declaration of Michael Mangahas (July 2, 2024) ("USS Motion Ex. C (Mangahas Decl.)")); USS Stay Reply, ECF#2075793 (Second Declaration of Alexis Piscitelli (Sept. 19, 2024) ("USS Reply Ex. G (Piscitelli Second Decl.).")).

Cliffs Reply Ex. M (Remsberg Supp. Decl.) at ¶10. In fact, "three of the four MACT Floor large BFs and six out of the six small BFs cannot achieve the limitation." *Id*. These errors were centrally relevant to the unplanned bleeder limits and infeasible to raise during the public comment period. Where the same sources used to establish the limit cannot comply, and any limit creates the same untenable choice between noncompliance and safety, mandatory reconsideration is appropriate. This also demonstrates that compliance could not be achieved within three years.

### B. Mandatory reconsideration of planned bleeder valve openings justifies extension of the compliance deadline as being "as expeditiously as practicable".

Compliance with the planned bleeder valve opening requirements in less than three years is impracticable. The planned bleeder valve opening requirements were similarly based on basic misunderstandings of the activities that would be subject to the opacity limit in the final Rule, the blast furnace operations that impact the timing and duration of planned bleeder valve openings, and the effect of certain work practices on planned bleeder opacity. USS Petition at 12-13; Cliffs Petition at 23-27. EPA's limit was also based on an erroneous understanding of the variability in bleeder valve emissions. USS Petition at 12; Cliffs Petition at 24. These issues could also not feasibly be addressed until EPA identified the basis for its action in the final Rule. This, for example, enabled Cliffs to submit new data demonstrating that even applying EPA's work practices to one of EPA's best-performing sources did not produce the results EPA relied on for the Rule. Cliffs Petition Attach A (Trinity Report) at 8-9. Overall, data provided by Cliffs and USS on reconsideration demonstrated that "three of the five MACT Floor BFs cannot achieve the limitation." Cliffs Reply Ex. M. (Remsberg Supp. Decl.) at ¶10. This new data and EPA's misunderstandings are both centrally relevant to the planned bleeder limits and impracticable to raise during the public comment period. Therefore mandatory reconsideration is appropriate. This also demonstrates that compliance could not be achieved within three years.

### C. Mandatory reconsideration of bell leak requirements justifies extension of the compliance deadline as being "as expeditiously as practicable".

Compliance with the bell leak requirements in less than three years is impracticable. The bell leak requirements in the Rule impose requirements based on an "instantaneous" visible emission reading requirement that does not exist and was not in the proposed rule, and on factual misunderstandings of material issues, such as how emissions from the blast furnace top can be read, the causes of visible emissions, and the impact that certain work practices would have on visible emissions. USS Petition at 12-13; Cliffs Petition at 28-29. In response to public comments, EPA revised the requirements for large bells in the final 2024 Rule to trigger repair or replacement within four months of confirming 20% opacity via Method 9. This trigger standard was not extended to small bells, which must repair or replace seals prior to exceeding the metal throughput documented to produce no opacity at all.

These issues could not feasibly be addressed until EPA identified the basis for its action in the final 2024 Rule. For example, while a redline of the original rule in the record contained a reference to "instantaneous" opacity, apparently as a typo, the preamble to the proposed rule contained no mention of EPA considering a new form of visible emissions monitoring for the II&S source category and Industry Commenters had no notice that EPA would finalize an

"instantaneous" visible emissions requirement in the final 2024 Rule and therefore could not feasibly present comments addressing this requirement.

EPA also failed to respond to Industry Comments on the infeasibility of the small bell work practice standard. The 2024 Rule requires facilities to "prove" that small bells will have no visible emissions, when small but visible emissions are part of normal operation. USS Motion Ex. B. (Piscitelli Decl.) at ¶14. There is also "no direct way to distinguish any opacity from the small bell seal from opacity originating from the Blast Furnace top from other sources and activities." USS Motion Ex. C (Mangahas Decl.) at ¶11. These errors and misunderstandings were centrally relevant to the bell top requirements in the Rule and impracticable to raise during the public comment period. Therefore mandatory reconsideration is appropriate. The above factors also demonstrate that compliance could not be achieved within three years.

**D. Mandatory reconsideration of slag processing, handling, and storage requirements justifies extension of the compliance deadline as being "as expeditiously as practicable".**

Compliance with the slag processing, handling, and storage requirements in less than three years is impracticable. The slag processing, handling, and storage requirements in the 2024 Rule were based on misunderstandings of the data in the record, the operations subject to EPA's final Rule, and the activities that could be safety and effectively employed to limit visible emissions and to conduct opacity readings. USS Petition at 13-15; Cliffs Petition at 33-37. EPA set opacity limits for slag processing, handling, and storage operations that relied on a dataset that did not represent all categories of operations ultimately regulated by the 2024 Rule. Further, the approach relied upon a flawed method of averaging that failed to adequately account for variability across the different types of processes that EPA attempted to capture with a single opacity limit. Cliffs Petition at 22-37. As explained by Trinity Consultants:

> Trinity compared the rulemaking record to data submitted with Industry Comments and in support of EPA reconsideration, which indicates that EPA's final limits do not incorporate an appropriate mechanism to account for long-term variability during operation of MACT Floor sources . . . In fact, EPA's own UFIP memo identified that two Slag Operations MACT Floor sources are unable to achieve the final rule 10% opacity standard. Additionally, Trinity has evaluated data collected to support Agency reconsideration, which further demonstrated that EPA's method of rounding an average is insufficient to account for variability in MACT Floor sources…

Cliffs Motion Ex. D (Remsberg Decl.) at ¶11.d. Overall, record data, combined with data provided by Cliffs and USS on reconsideration, demonstrate that three of the five MACT Floor slag operations sources cannot achieve the limitation. *Id*. These issues are centrally relevant to the slag requirements in the 2024 Rule but could not feasibly have been addressed until EPA identified the basis for its action in the final Rule. Therefore mandatory reconsideration is appropriate. This also demonstrates that compliance could not be achieved within three years.

**E. Mandatory reconsideration of beaching requirements justifies extension of the compliance deadline as being "as expeditiously as practicable".**

Compliance with the beaching requirements in less than three years is impracticable. EPA failed to address multiple feasibility concerns raised by Industry with the requirement to install full or partial enclosures and/or $CO_2$ suppression. Cliffs Petition at 29-33. EPA also failed to address the comment that the enclosure and work practice requirements EPA has imposed as a MACT floor for the control of HAP are not actually shown in the record to be "the average emission limitation achieved" by these sources as required by 42 U.S.C. § 7412(d)(3). USS Petition at 15. Mandatory reconsideration is appropriate for EPA's treatment of beaching because the Agency failed in its statutory duty to respond to comments presented in the proposed rule on these concerns. Industry Commenters could not have known that EPA would fail to respond to comments until after the comment period and after publication of the Agency's Response to Comment document. As such, this objection clearly arose after the end of the comment period. This information is also material because the comments presented were based on industry experience regarding what controls for beaching can be employed across the industry and which are unique to individual facilities. Had EPA adequately considered Industry Comments, it would have changed the outcome of the 2024 Rule. This also demonstrates that compliance could not be achieved within three years.

* * *

The IFR rulemaking and 2024 Rule reconsideration actions are separate processes focused on different aspects of the rule. For the IFR, the issue is whether the current compliance deadlines are "as expeditiously as practicable." For reconsideration of the 2024 Rule, it is whether the substantive requirements in the Rule need to be amended in light of new information or misunderstandings of the original record. Nonetheless, as the IFR notes, much of the evidence supporting the IFR came to light in the reconsideration petitions because this was the first opportunity for Industry to address data errors, omissions, and fundamental misunderstandings that first came to light in the final Rule. 90 Fed. Reg. at 29,488. Therefore, EPA is correct to rely on this same information in support of the IFR.

Addressing the aforementioned issues with the 2024 Rule will require a proposed rule with an opportunity for comment; however, in the meantime, EPA must revise the 2025 and 2026 compliance deadlines "to allow sufficient time to address the issues" discussed above and to "allow sufficient time for compliance." *Id.* at 29,489. The revised compliance deadlines are "as expeditiously as practicable" as required by the CAA.

## IV. The RIA Should Be Corrected to Reflect More Accurate Emissions and Cost Estimates

In the IFR, EPA incorrectly asserts that the IFR will not result in cost reductions but will lead to an increase in HAP emissions during the revised compliance deadline periods. *See* 90 Fed. Reg. at 29490. However, in the Regulatory Impact Assessment ("RIA") for the 2024 Rule, and again in the RIA for the IFR, EPA admits to uncertainty in its assumptions on both emission and cost impacts of the 2024 Rule and IFR. EPA-HQ-OAR-2002-0083-1977 and EPA-HQ-OAR-2002-0083-1995 respectively. As detailed in Section II of Industry Comments on the proposed 2024 Rule (EPA-HQ-OAR-2002-0083-1606, attachment 1), EPA's benefits and cost calculations were based on flawed data, errors and omissions that overstate the HAP emissions, risk, risk

reductions and benefits achieved with the proposed standards and fails to properly consider EPA's finding that the II&S source category poses very low risk under the prior standards. These comments showed that EPA's modeling relied on improper methodologies and unrepresentative datasets, causing inflated HAP emission estimates, risks, and that addressing these errors produces a much lower estimate of the risks and benefits of the 2024 Rule. *Id*., Section II, pages 1-16.

In the final 2020 RTR rulemaking, EPA acknowledged that, based on Industry stack testing results, EPA-developed risk estimates were likely overestimates of the true risks. 85 Fed. Reg. 42,074, 42,083-42,084 (July 13, 2020). However, because EPA was operating under a court-ordered (self-negotiated) deadline, the Agency stated that it did not have the time to rerun the risk model with the correct information. *Id*. at 42,084. While EPA did not revise its risk estimates in making its 2020 determination, it indicated there was no need to do so because the test data only made the risk estimates lower, that is, more protective. *Id*. Unfortunately, because these errors and overinflated HAP emissions and risk values were not corrected, they carried over into the 2024 Rule and the IFR. Intervenor Opposition Ex. A (Remsberg Decl.) at ¶11.[10]

Additional ambient air monitoring data collected since Industry Comments were submitted confirms both EPA's overestimate of the HAP emissions, risks and benefits and underestimate of the cost of the 2024 Rule. As explained by Trinity Consultants: "EPA required fenceline air monitoring for the Information Collection Request (ICR) for this rulemaking (and in the final rule), despite regulatorily required Federal and State ambient air monitoring showing that actual concentration levels of HAPs in ambient air nearby II&S facilities are a fraction of the EPA risk reference threshold concentrations and remain safe today." *Id*. at ¶16. Both ambient air monitoring data, and fenceline data around II&S facilities confirms that "the ambient air levels are well below EPA's lead (Pb) National Ambient Air Quality Standard (NAAQS) and the EPA's risk reference threshold for arsenic (As)." *Id*.

Nonetheless, the IFR continues to rely on the inappropriate and incorrect HAP, particulate matter, risk, benefits and risk reduction estimates in the 2024 Rule which carried over to the IFR, creating a misleading picture of the IFR Rule's HAP emissions, risk, costs and benefits.

Until these material errors are corrected, these comments showed that EPA was significantly inflating the HAP emissions, risks, benefits and underestimating the compliance and economic costs of the rule. EPA-HQ-OAR-2002-0083-1606, Section II, pp. 23-26. EPA should correct its estimates to reflect the best information available on the HAP emissions, risk, costs and benefits of the IFR.

[10] Declaration of Adrian "Mike" Remsberg, Jr., Trinity Consultants, Inc., attached as Exhibit A to Movant-Intervenors American Iron and Steel Institute, Cleveland-Cliffs Inc., and United States Steel Corporation's Opposition To Petitioners' Motion for Summary Vacatur, *Clean Air Council, et al. v. U.S. Environmental Protection Agency, et al*., D.C. Circuit Court, Case No. 25-1163 (Sept. 8, 2025) ("Intervenor Opposition Ex. A (Remsberg Decl.").

## V. EPA Should Administratively Stay The 2024 Rule Pending Judicial Review

### A. Cliffs and USS have separately petitioned for an administrative stay pending judicial review and incorporate those arguments here.

As the IFR notes, Cliffs and USS have separately sought an administrative stay of the 2024 Rule pending judicial review. 90 Fed. Reg. at 29,487. These administrative stay petitions remain pending. Pursuant to § 307 of the CAA (42 U.S.C. § 7606) and § 705 of the APA (5 U.S.C. § 705), Cliffs and USS each filed a Petition for Reconsideration and Request for Administrative Stay, requesting that EPA stay its final rule while judicial review is pending. As Cliffs explained, "the Agency must stay the Final Rule until it reflects a robust understanding of the industry and the emission limitations and standards achieved in practice by the best performing sources." Cliffs Petition at 40. Cliffs went on to note that "when rulemaking is subject to judicial review, the [APA] provides EPA with the authority to 'postpone the effective date of action taken by it, pending judicial review.'" *Id.* (quoting 5. U.S.C. § 705). Similarly, USS raised these same arguments in its Petition, noting that "granting a stay pending judicial review [] will provide necessary time for legal sufficiency of EPA's standards to be addressed before [the Petitioners] and others need to commit substantial resources to disrupting operations to implement work practices [that] are not safe or practical and installing and operating pollution controls that will be a substantial and unjustified cost without significant environmental benefit." USS Petition at 22. EPA may grant a stay pending judicial review "when justice so requires." 5 U.S.C. § 705. Cliffs and USS have demonstrated in their administrative stay petitions that justice requires a stay pending judicial review of the 2024 Rule.

### B. EPA has already used its authority to provide some relief on certain deadlines.

The IFR provides much needed relief from the UFIP deadlines in the 2024 Rule, which were subject to improper and impracticable deadlines of one and two years from the effective date of the Rule. EPA agreed with Cliffs and USS that entities would otherwise need to take immediate action to meet the 2025 and 2026 compliance deadlines. 90 Fed. Reg. at 29,488. Due to the errors EPA acknowledged in the final regulatory text and new data Industry presented, EPA determined "facilities may not be able to comply with the standards as written" and adjusted the compliance deadlines for certain portions of the rule accordingly. *Id.* When discussing the UFIP deadlines in the IFR, EPA explained that "[r]evising the compliance deadlines for these sources allows affected facilities to defer capital investment and avoid operating and maintenance (O&M) costs over the period which compliance is no longer required." *Id.* at 28,489.

While EPA has acknowledged some of these errors in its IFR and has adjusted certain deadlines, it has not provided feasible deadlines for all provisions. EPA must address this now by granting a stay pending judicial review.

### C. Even extended deadlines established by the IFR remain infeasible for regulated entities.

As discussed above and in the Petitions, while EPA is limited to issuing a three-year compliance deadline regardless of practicability, even a three-year deadline for the 2024 Rule is not feasible. Cliffs points out in its Petition that if the 2024 Rule is not stayed, it "will cause the

industry to incur substantial costs now because control measures for these pollutants have never been in achieved in practice for these sources and cannot reasonably be designated within the 3-year compliance period." Cliffs Petition at 48-49.

Shockingly, in several sections where EPA discusses that regulated entities will be able to meet the IFR's new deadlines without additional control technology, EPA offers no or very little and unreliable support. For instance, Cliffs highlighted concerns regarding THC control from BF Stoves, calling attention to the lack of understanding on THC compound speciation. Cliffs Petition at 50. EPA either ignored or did not have time to properly consider these concerns and merely asserted it promulgated MACT floor limits for THC "based on available data that represent current performance using the UPL methodology which accounts for variability." *Id.* (quoting Response to Comments at 48). It provided no support for its expectation that "all facilities will be able to meet the MACT limits based on current controls." *Id.* (quoting Response to Comments at 48). Similarly, Cliffs explained that there is not testing data available to determine the effectiveness and/or feasibility of ACI." *Id.* Again, EPA did not substantively address this issue. *See also* IFR Public Hearing (Sept. 3, 2025)—Testimony of Michael Long, Senior Director of Environmental Affairs, Cliffs (9:50-14:25).[11]

USS explained in its Petition that nothing in the CAA requirements for imposing deadlines to comply prevents EPA from granting a stay pending judicial review. USS Petition at 22. If such a stay is not granted, it opens the II&S source category up to operating under unsafe and untested conditions (e.g., requiring blast furnace emission readings under conditions that are unsafe for the observer), will cost regulated entities hundreds of millions of dollars to attempt to achieve unachievable standards, and will cause drastic interference with normal operations. *Id.* at 23-34. *See also* IFR Public Hearing (Sept. 3, 2025)—Testimony of Christopher Hardin, Environmental Manager, USS (14:40-17:49).[10]

While EPA extended some of the compliance dates out to three years, even this will not give Petitioners and other regulated entities time to test new control technology and implement requirements to meet the rule's standards. As pointed out above and in the Petitions, industry specific technology will need to be developed since controls for the new limits have not been achieved in practice. *See* Cliffs Petition at 51. These issues include, but are not limited to:

- Additional stack testing to better determine variability;
- Technology review and selection;
- Pilot or slip-stream testing;
- Site-specific engineering and planning;
- Equipment design;
- Equipment fabrication and delivery;
- Increased demand raising costs;
- Increased demand tying up niche contractors that serve the industry;
- Construction and site-specific modification; and
- Shakedown of new equipment.

[11] Available at < https://www.youtube.com/live/nZFhAfSIKss >

*Id.* at 51-52. As EPA acknowledged for UFIP and fenceline monitoring in the 2024 Rule, these issues "must be resolved before regulated parties will be able to comply." 90 Fed. Reg. at 29,489. Granting an administrative stay pending judicial review will provide the critical time needed for the legal sufficiency of EPA's standards to be addressed and the practical time necessary for EPA and regulated entities to address the feasibility and safety concerns of meeting those standards.

### D. EPA has the authority to address this issue by granting the petitions for administrative stay pending judicial review, and justice requires a stay.

Under Section 705 of the APA, EPA may stay agency action "pending judicial review" when "justice so requires." *Bauer v. DeVos*, 325 F. Supp. 3d 74, 105 (D.D.C. 2018) (quoting 5 U.S.C.A. § 705). Justice so requires here. The justification for these stays is laid out in USS's and Cliffs' petitions for reconsideration and administrative stay and is further supported by the additional information in these comments. USS and Cliffs therefore submit these comments also as a supplement to their petitions for administrative stay pending judicial review and encourage EPA to review and grant those petitions in light of the original and this new evidence.

While EPA is not required to consider the four-factor test used by courts to evaluate whether a stay is appropriate, the factors can be illustrative of the need for a stay. The factors are (1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. *Nken v. Holder*, 556 U.S. 418, 434 (2009). As USS and Cliffs laid out in their petitions for reconsideration and administrative stay, and in motions supporting judicial stay in their pending D.C. Circuit appeals of the 2024 Rule and supporting declarations,[12] each factor is met in this case, and a stay is justified.

#### 1. Industry Petitioners are likely to succeed on the merits.

When considering the first factor, the "[adjudicating body] is not required to find that ultimate success by the movant is a mathematical probability." *Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977). "The necessary "level" or "degree" of possibility of success will vary according to the court's assessment of the other factors." *Id.* Indeed, if the other three factors strongly favor a stay, the adjudicating body "may exercise its discretion to grant a stay if the movant has made a substantial case on the merits." *Id.* As explained in USS's Petition, for any final rule to be effective, it must be achievable; therefore, at the forefront of EPA's decision-making criteria should be whether MACT standards are indeed "achievable." USS Petition at 1 (citing 42 U.S.C. § 7412(d)(2) and H.R. 101-490, Part 1 (328) ("MACT is not intended to require unsafe control measures, or to drive sources to the brink of shutdown")). As laid out in sections II and VI(C) of these IFR comments above, the deadlines set out in the IFR are not achievable.

Industry Petitioners have raised serious technical issues, errors, and data inadequacies—many of which EPA has already acknowledged in its grants of reconsideration. However, EPA has not gone far enough. Cliffs enumerated many of these errors in its Petition and D.C. Circuit motion

[12] *See footnotes 6 and 7 supra.*

for judicial stay briefing. *See, e.g.,* Cliffs Petition at 45; Attachments 1-2 [Cliffs' motion for stay briefing]. USS also enumerated these flaws throughout its Petition and D.C. Circuit motions for judicial stay briefing. *See*, *e.g.*, USS Petition at 23; Attachments 3-4 [USS' motion for stay briefing]. Just as EPA acknowledged substantial issues in portions of the 2024 Rule, such as for UFIPs, it must now do so for the entirety of the Rule and acknowledge that the deadlines set out in the IFR are not safely and practically feasible.

**2. Industry Petitioners will be irreparably harmed.**

When showing evidence of irreparable harm, petitioners must demonstrate that the injury is "both certain and great." *Cuomo v. United States Nuclear Regulatory Commission*, 772 F.2d 972, 976 (D.C.C. 1985); *see also Ohio ex re. Celebrezze v. Nuclear Regul. Comm'n.*, 812 F.2d 288, 290 (6th Cir. 1987) (listing the relevant factors for evaluating harm: substantiality of the injury alleged; likelihood of its occurrence; and adequacy of proof provided). Discussed above and in the Petitions and D.C. Circuit motions for judicial stay briefing, Cliffs and USS show that the IFR would impose unsafe operating conditions and cost approximately $3.2 billion in capital investment. USS Petition at 23; Attachments 3-4 [USS' motion for stay briefing]; Cliffs Petition at 48; Attachments 1-2 [Cliffs' motion for stay briefing]. Not only will the IFR put Industry Petitioners' employees in danger and cause each to expend hundreds of millions of dollars on control technology that has not been properly tested, but it will also cause Industry Petitioners to immediately face noncompliance. As thoroughly detailed in the Petitions and motions for stay briefing, the standards set in the 2024 Rule will almost certainly be impossible to meet within the even the IFR amended deadlines. *See, e.g.,* Cliffs Petition at 50 (explaining lack of research and understanding for catalytic oxidation, the impossibility of meeting new HAP limits, and the lack of testing available to determine the feasibility of ACI); USS Petition at 24 (pointing out that the 2024 Rule requires compliance with methods that do not yet exist); *see also* Attachments 1-4. Moreover, even where certain thresholds can be met, the harm caused by implementing the methods necessary to meet those thresholds often outweighs the purported benefit. USS Petition at 24.

Because the 2024 Rule relies on ineffective and unproven control devices, even the extended deadlines established in the IFR are effectively unachievable. To insist upon implementing an unachievable rule before the legal system can work out the effectiveness and lawfulness of the rule would undoubtedly cause irreparable harm by forcing entities to expend exorbitant amounts of money in the fool's errand of attempting to achieve unachievable standards. This harm is real and not merely theory. The IFR threatens an industry that directly and indirectly supports millions of jobs, and threatens to cost hundreds of millions to billions of dollars. *Id.* at 49. *See also* IFR Public Hearing (Sept. 3, 2025)—Testimony of Roy Houseman, Legislative Director of United Steelworkers ("USW") (33:07-36:29); Testimony of Paul Balserak, Vice President-Environment, AISI (56:00-1:00:11).[13]

**3. A stay will not substantially harm other interested parties.**

"An order maintaining the status quo is appropriate when a serious legal question is presented, when little if any harm will befall other interested persons or the public." *Washington*

[13] Available at < https://www.youtube.com/live/nZFhAfSIKss >

*Metro. Area Transit Comm'n*, 559 F.2d at 844. An administrative stay pending judicial review will not substantially harm other parties. EPA's own conservative modeling demonstrates that risk from II&S sources is acceptable with an ample margin of safety given the controls that are already in place at the facilities. 89 Fed. Reg. at 23,298-99. EPA itself admitted this detailed low-risk modeling is "likely [a] conservative (upper-end) estimate[]." 85 Fed. Reg. at 42,083. Despite any claims to the contrary, ambient fenceline air monitoring data for HAPs collected since 2017 near II&S facilities confirm "actual concentration levels of HAPs in ambient air are a fraction of the EPA risk reference threshold concentrations." Intervenor Opposition Ex. A (Remsberg Decl.) at ¶16; *see also* IFR Public Hearing-M Long Testimony (11:10-13:02). This supports the conclusion that an ample margin of safety continues to exist from the II&S sector (*id.* at ¶¶16-17; Figures 1-3, *see also* 85 Fed. Reg. at 42,074) without the new limits in the 2024 Rule for which compliance deadlines have been extended by the IFR. Given the existing ample margin of safety, overly conservative emission assumptions in the RIA,[14] and the likelihood of judicial review before full emission reduction benefits would even be realized, a stay is unlikely to harm other interested parties.

**4. A stay supports the public interest.**

There is a substantial public interest in minimizing unnecessary costs that would come from the public coffers. *See B & D Land & Livestock Co. v. Conner*, 534 F. Supp. 2d 891, 910 (N.D. Iowa 2008). The unsafe and costly measures that would be required by the IFR would hamper the iron and steel industry, causing harm to the public. The domestic steel industry provides over $520 billion in economic output and directly and indirectly supports millions of jobs. USS Petition at 25. The IFR's requirements will be prohibitive for some entities and incredibly costly for others, thereby reducing the abilities of the industry to perform and provide much needed jobs.

Courts have also evaluated other factors in determining the public interest, such as the safety of surrounding populations, the protection of vulnerable populations, determination of the proper balance between irreparable harm to the public and economic burdens, and the views of Congress. *See Nat'l Ass'n of Farmworkers Orgs. V. Marshall*, 628 F.2d 604, 616 (D.C.C. 1980). Cliffs expounds on these factors in its Petition. Cliffs Petition at 54-55. Additionally, not only are the deadlines extended by the IFR based on incomplete and misleading data and assumptions, implementation of the underlying requirements would also have negative impacts on the environment and public. Absent IFR extended deadlines, requirements in the 2024 Rule would cause regulated entities to quickly and haphazardly apply untested and, in some cases, unsafe control measures. As noted in USS's Petition, "there is a potential for significant adverse consequences from implementing the [2024] Rule, including requirements that create safety risks for employees and the general public, requirements that may increase HAP emissions, and provisions that in general interrupt operations and waste resources without resulting in environmental benefit." USS Petition at 22.

The public interest supports pursuing a path consistent with the purpose of the CAA, which is to "protect and enhance the quality of the Nation's air resources so as to promote the public health and welfare and the productive capacity of its population." 42 U.S.C §7401(b)(1). EPA

[14] Intervenor Opposition Ex. A (Remsberg Decl.) at ¶11.

protects and enhances air quality by relying on sound science, accurate data, and a rational connection between the facts found and the choices EPA has made. The IFR is necessary to provide EPA the time necessary to evaluate new data, correct its errors, and ensure compliance deadlines are as expeditious as practicable. And the domestic iron and steel industry provides critical raw materials for national security, public health, and the "productive capacity of [the nation's] population." *Id*. The public interest supports a path that ensures the critical domestic steel industry is not harmed by compliance deadlines that are infeasible and therefore are not "as expeditiously as practicable" as required by the CAA.

Under these circumstances, a stay is merited, and EPA has the authority to issue one.

## VI. EPA Should Remove, And Not Merely Delay, The Illegal And Improper UFIP Requirements In The 2024 Rule

In the IFR, EPA claims that, "[r]evising the compliance deadlines for these sources allows affected facilities to defer capital investment and avoid operating and maintenance (O&M) costs over the period during which compliance is no longer requirement." 90 Fed. Reg. at 29,489. Further, "the 2024 rule would no longer reduce emissions of HAP from UFIP emissions sources over the period of April 3, 2025, through April 3, 2027, as projected in the RIA for the 2024 rule." *Id*. While Industry Commenters appreciate the limited relief the IFR provides, EPA's approach in the IFR of simply "kicking the can down the road" in the face of serious flaws, insufficient data, and poor methodology related to the UFIP requirements ultimately does not address the fundamental problem. Instead, the UFIP requirements should be completely removed from the 2024 Rule, as opposed to delayed, and reconsidered entirely.

### A. As stated in our prior comments and petitions, these requirements are not legally authorized and not supported by the record. As a result, they should be withdrawn in their entirety and replaced with a rule that is within EPA's statutory authority and supported by sound science and the record.

Both USS and Cliffs submitted extensive comments and grounds in its petitions for reconsideration explaining why the UFIP requirements under the 2024 Rule and EPA's approach in setting them are unsafe, unsupported, not authorized, and impractical.[15]

EPA asserts that under CAA § 112(h) it is required to impose HAP metal regulations UFIPs because they are a source of HAP metals. However, EPA overestimated the HAP emissions and risk and has never justified either the requirement to regulate UFIPs or the particular requirements imposed in the 2024 Rule. *See* Joint Comments at Sections III and V. That said, even if EPA has

[15] *See* Joint Comments of the American Iron and Steel Institute and United States Steel Corporation: National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review; Proposed Rule, 88 Fed. Reg. 49,402 (July 31, 2023), Docket No. EPA-HQ-OAR-2002-0083, dated September 29, 2023 ("Joint Comments"); *see also* Cleveland-Cliffs Inc. Petition for Reconsideration and Request for Administrative Stay of the National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review, 89 Fed. Reg. 23294 (April 3, 2024), dated June 3, 2024, EPA-HQ-OAR-2002-0083-1989 ("Cliffs Petition"); United States Steel Corporation Petition for Reconsideration and Request for Administrative Stay of the National Emission Standards for Hazardous Air Pollutants: Integrated Iron and Steel Manufacturing Facilities Technology Review, 89 Fed. Reg. 23294 (April 3, 2024), dated June 3, 2024, EPA-HQ-OAR-2002-0083-1988 ("USS Petition").

authority to impose UFIP requirements, they must, under the CAA and the APA, be reasonable, and reasonably based on the record. *See Motor Vehicle Mfrs. Assn. of United States, Inc. v. State Farm Mut. Automobile Ins. Co*., 463 U.S. 29, 43-44 (1983). Further, EPA is required to base its emission limitations on the best available data and on sufficient data to render its decisions reasonable in light of the record. *Id.* (agencies must examine the "relevant data"); *Dist. Hosp. Partners, L.P. v. Burwell*, 786 F.3d 46, 56-57 (D.C. Cir. 2015) ("agencies do not have free rein to use inaccurate data" and "cannot ignore new and better data").

Clearly, in developing the Rule, EPA has failed to meet these obligations and the UFIP requirements are not reasonable or reasonably based on the record or sound science. EPA's errors overestimating HAP emissions and risk, and in setting the requirements are significant and reflect an incomplete understanding of these source categories. These include misapplication of data on different types of bleeder valves, failure to recognize the safety-critical nature of bleeder valve openings, incorrect application of opacity data from one source to another in the context of slag operations, and failure to set limits that reflect opacity achieved in practice by the best performing sources in each category. EPA also failed to respond to industry comments addressing fundamental flaws in the Agency's application of limits for small bells and work practices for iron beaching. EPA's obligation to consider comments is not satisfied by merely acknowledging a comment was made and ignoring its relevance to the proposed requirement. Reconsideration is essential for EPA to properly respond to these comments as required by the APA.

All these serious flaws still apply since the only change between the 2024 Rule and the IFR is the compliance deadline period. We have highlighted these material flaws again in an abridged manner below.

### 1. Removal of unplanned bleeder valve opening requirements in the 2024 Rule is appropriate.

First, the Rule limits the number of unplanned bleeder valve openings in a given year. 89 Fed. Reg. at 23,333. While there are certain furnace-specific work practices that can be employed to minimize the risks of occurrences of unplanned bleeder openings, work practices cannot be used to eliminate or reduce unplanned bleeder valve openings to a specific value. Placing a "limit" on unplanned bleeder valves itself is not a "work practice." This places an improper limit on the operation of necessary safety devices. *See* Joint Comments at VI-3 to VI-4; *see also* USS Petition at 10; Cliffs Petition at 21. EPA should not pit environmental against safety risks.

EPA's expectations are also based on a misstatement of the cause of unplanned bleeder openings, insufficient data, and improper use of the limited data EPA chose to use. For example, EPA's limit is based on the assumption that unplanned bleeder valve openings arise only from large burden slips, and thus can be managed by attentive material management, monitoring of stockline descent, and timely "checking" of the furnace. Summary of Public Comments and Responses for Amendments to the NESHAP for Integrated Iron and Steel Manufacturing Facilities, EPA-HQ-OAR-2002-1976 ("RtC") at 73-76. However, unexpected pressure buildup can occur for a number of reasons. Burden hanging in the furnace is one possibility, but it is not the only cause. USS Petition at p. 10. Pressure can increase rapidly, simply because a new pathway has opened in the burden that rapidly changes the upward flow of gas. *Id*. EPA does not appear to

have assessed these other causes at all, yet is imposing numeric limits on any unplanned bleeder opening, regardless of cause.

Moreover, EPA's work practices are not likely to address the issue. When the burden hangs, a stockline monitor alarm could sound to warn the operators that a problem has occurred, but "checking" the furnace at that time is not likely to address the problem. USS Petition at 10. EPA's asserted connection between the number of unplanned bleeder openings and the mass of HAP emitted is arbitrary and capricious. It is largely based on unwarranted assumptions and oversimplifications that imply a relationship for which there is no supporting data. *Id*. at 11. However, EPA's entire basis for regulating the number of unplanned bleeder openings is that it is a limitation on the amount of HAP from the best-performing sources. Without a clear nexus between unplanned bleeder valve openings and actual HAP emission levels achieved by specific sources, EPA has no basis to impose this requirement as a standard under 42 U.S.C. § 7412(d)(3).

Even if EPA could impose a numeric cap on unplanned bleeder openings as an emission limitation, the limit in the 2024 Rule is not supported by EPA's own or more recent data. For example, as discussed in the USS and Cliffs Petitions for Reconsideration and its corresponding Trinity Report, EPA has not defined a "bleeder valve," causing confusion and inconsistency in the data EPA collected and the assumptions EPA draws from the data. USS Petition at 11; Cliffs Petition at 21. EPA collected data only on dirty gas bleeder valve openings, yet used that data to calculate the number of dirty, clean, and semi-clean gas bleeder valve openings that occurred at each facility in a given year. *Id*. This is unwarranted. If EPA is going to regulate clean gas bleeder openings, as it asserts in the response to comments, RtC at 70, then it needs to use data covering both dirty and clean gas bleeder openings. This is one example of many flaws.

In addition, the work practice and monitoring requirements EPA has required to control unplanned bleeder opening are also unsupported and inappropriate. The Rule incorrectly assumes that unplanned bleeder valve openings can be controlled through monitoring and material management techniques, such as screening of raw materials. RtC at 73-76. These assumptions are not supported by any evidence in the record and are ultimately incorrect. Monitoring can help identify a situation that is likely to result in a bleeder opening, but it does not detect all such conditions, nor is there often any step operators can take to prevent a bleeder opening once monitoring indicates a risk. USS Petition at 11.[16]

**2. Removal of planned bleeder valve opening requirements in the 2024 Rule is appropriate.**

Second, the 2024 Rule imposes an 8% opacity limit on planned bleeder openings and a requirement that all planned bleeder openings be monitored. 40 CFR 63.7821(i). These requirements are arbitrary and capricious. For example, EPA's dataset does not capture variability in actual performance of both large and small furnaces. USS Petition at 12; Cliffs Petition at 24. Thus, the data does not establish a limit with which the best-performing sources have or can consistently comply. *Id.* At a minimum, EPA should have applied a UPL to address uncertainty,

[16] Other flaws are identified in the USS and Cliffs Petitions for Reconsideration. *See* USS Petition at 10-12; Cliffs Petition at 21-23.

but a more robust dataset is also needed to fully capture the performance of the best-performing sources.

Also, the Method 9 testing requirements are overly burdensome and technically flawed. While called "planned" bleeder openings, EPA has defined this term to include any opening that is performed by an operator. 89 Fed. Reg. at 23,298. A planned bleeder opening can therefore occur at any time and on short notice. USS Petition at 12. As a result, reading each planned bleeder opening requires having a reader onsite and available at any time. *Id.* This results in an extreme cost for very little practical information. *Id.* EPA has provided no basis for imposing such a wasteful requirement, let alone shown that it is a requirement necessary to control HAP emissions.

**3. Removal of bell leak requirements in the 2024 Rule is appropriate.**

Third, EPA treats large and small bells differentially even though they are two elements of a common system, causing small bells to effectively have an unachievable opacity limit and infeasible work practice standards. Requiring a small bell to be replaced whenever opacity rises above zero (based on a metal throughput rate) is not accurate as even newly installed bells can yield visible emissions. *See* Cliffs Petition at 27-28. There is no support in the record to establish a zero percent opacity standard, which is also infeasible to achieve. The opacity limit and work practice standards should be reconsidered as a result.

Also, for large bells, the 2024 Rule requires sources to conduct Method 22 testing and take action when the "average of 3 instantaneous visible emission readings" exceeds 20% opacity. 89 Fed. Reg. 23,324. This is self-contradictory, as Method 22 does not read instantaneous opacity. While Method 9 is also referenced in the Rule, this does not involve instantaneous opacity either. Indeed, there is no reference in the Rule to a method for obtaining instantaneous opacity readings. The only EPA method USS is aware of that is even described as instantaneous is Method 203C, which requires at least one minute to read. USS Petition at 12. There is no other indication that EPA intended Method 203C to apply the Rule. The result is that the Rule imposes a requirement without an existing method to achieve it. This is arbitrary and capricious. It was also not raised in the proposed rule, which proposed only Method 22 readings. 88 Fed. Reg. at 49,412.

**4. Removal of beaching requirements in the 2024 Rule is appropriate.**

Fourth, EPA failed to meet its statutory responsibility to respond to Agency comments regarding the beaching UFIP limits applicable to the transfer and pouring of hot molten iron. The emissions generated are not only de minimis in nature but were already adequately controlled by existing work practices – work practices that require flexibility in approach given the spacing and safety limitations based on different facility configurations.

The Cliffs Petition provides the relevant background on why beaching occurs. Cliffs Petition at 29-30. In short, EPA proposed in the proposed rule to require enclosure of the beaching process or use CO2 to suppress flames, and requirements to minimize the height, slope, and speed of beaching. 89 Fed. Reg. at 23,300. In addition, it proposed an annual Method 9 test to demonstrate compliance. Public comments challenged EPA's cost and emission reduction estimates, questioned the Method 9 testing requirement, and proposed alternative work practices that would achieve emission reductions. Joint Comments at VI-37 to VI-41. However, while the

2024 Rule eliminates the Method 9 requirement, it still retains the enclosure and work practice requirements from the proposed rule. RtC at 107-09.

EPA's response to comments does not address the comment that the enclosure and work practice requirements EPA has imposed as a MACT floor for the control of HAP are not actually shown in the record to be "the average emission limitation achieved" by these sources. 42 U.S.C. § 7412(d)(3). For example, industry commenters submitted an alternative set of work practices that, in their experience, better reflect the maximum degree of reduction in emissions achievable during beaching. Joint Comments at VI-40 to VI-41. EPA rejected this alternative with the simple statement that the work practices in the proposed rule "are already in place at some facilities" and that partial enclosures "will result in emission reductions from beaching." RtC at 108. This does not respond to the public comment as required by 42 U.S.C. § 7607(d)(6). Even accepting that partial enclosure, $CO_2$ shielding, and work practices can reduce emissions from beaching, EPA must show more than that before forcing industry to uniformly adopt those controls and practices as a MACT requirement. Even under EPA's reading of the CAA, which both USS and Cliffs disagree with, EPA must show that the requirements it is imposing are the "emission control that is achieved in practice by the best controlled similar source." 42 U.S.C. § 7412(d)(3). EPA has no record basis for finding that the requirements in the 2024 Rule meet this requirement.

To the extent EPA has this information, it should grant reconsideration to incorporate into the public record and allow for notice and comment on it. Otherwise, EPA should remove the beaching requirements from the Rule or, at a minimum, explain why it has rejected Industry's alternative proposed work practices.

### 5. Removal of slag processing, handling and storage requirements in the 2024 Rule is appropriate.

Fifth and finally, EPA set a 10% opacity limit for slag processing, handling, and storage operations that relied on a dataset that did not represent all categories of operations ultimately regulated by the Final Rule. The resulting limits are unachievable by the best performing sources based upon both existing and newly generated test data by Industry. Further, the approach relied upon a similarly flawed method of averaging that failed to adequately account for variability across the different types of processes that EPA attempted to capture with a single opacity limit.

For example, the 2024 Rule's opacity limit is wrongly based on a "straight average of the top five performing facilities." 89 Fed. Reg. at 23,301. As addressed in the Trinity Report used to support USS's Petition, the Rule shows a marked inconsistency in how it describes slag processing, handling and storage activities, creating both material ambiguities in the Rule requirements and an inadequate record basis for the Rule's requirements.

As explained in USS and Cliffs' Petitions, EPA requested that they conduct Method 9 readings from "each operating piece of equipment handing slag" and "each of the following: slag dumping to a pile, digging from a pile, and dumping to stationary equipment." Information Collection Request to USS, Enclosure 2, EPA-HQ-OAR-2002-0083-1337-attachment 3, at Table 2. EPA knew at the time that this was only a subset of the slag processing, handling, and storage activities that can lead to visible emissions. As noted in the information request, "[p]rocessing operations include, but are not limited to, crushing, grinding, screening, and sizing. Handling and

storage events include, but are not limited to: slag flowing in the runners; slag dropping into a slag container (if applicable); slag dropping into the pit; slag flowing and cooling in the pit; end-loader digging and dumping; in-plant truck dumping; use of conveyors, stackers, and reclaimers; storage piles; and loadout for shipping slag offsite, if applicable." *Id.* at 2, n.1. The Rule, however, requires that initial compliance be demonstrated by conduct Method 9 readings at a different list of activities, including "slag dumping to BF pit, BOPF slag dumping to pit, BF pit digging, BOPF pit digging, slag dumping to a pile, slag dumping to a piece of slag handling equipment such as crusher." 89 Fed. Reg. at 23,324-25. Subsequent performance tests are then to be conducted on "BF pit filling; BOPF slag pit filling; BF pit digging; BOPF slag pit digging; and one slag handling (either truck loading or dumping slag to slag piles)." *Id.* at 23,324. It is not clear if EPA intended any distinction between the list of activities to be monitored for initial and subsequent testing. For example, whether "dumping to" a "BF pit" is meant to be the same as "BF pit filling."

None of these terms are defined in the Rule and they are not commonly used in the industry, leaving operators with no clear guidance as to what activities EPA is even trying to require be read. *See* USS Petition at p. 14. Moreover, these activities are not the same as those for which EPA collected data. EPA cannot claim that its opacity limits are reasonably based on the record when the record has no relevant data. EPA must therefore grant reconsideration to establish emission limits that are based on the data in the record.[17]

### B. Since EPA is now conducting a reconsideration rulemaking for the 2024 Rule, it is within EPA's authority to remove these requirements now, rather than focusing only on the feasibility of 2025 and 2026 deadlines. We encourage EPA to do so.

Rather than "kick the can down the road" and merely extend compliance deadlines for requirements that are built upon faulty data and outside of the record, EPA should remove the UFIP requirements entirely in its amendments to the 2024 Rule.

Under the APA, EPA has "broad discretion to reconsider" its regulatory actions "at any time." *Clean Air Council v. Pruitt*, 862 F.3d at8; *see also Trujillo v. Gen. Elec. Co.*, 621 F.2d 1084, 1086 (10th Cir. 1980) ("Administrative agencies have an inherent authority to reconsider their own decisions, since the power to decide in the first instance carries with it the power to reconsider."); *United Gas Improvement Co. v. Callery Properties, Inc.*, 382 U.S. 223, 229 (1965) ("An agency, like a court, can undo what is wrongfully done by virtue of its order.").

Under both the CAA and APA, EPA has an obligation to "examine the relevant data and articulate a satisfactory explanation for its action including a 'rational connection between the facts found and the choice made.'" *Motor Vehicle Mfrs. Ass'n of U.S., Inc.*, 463 U.S. at 43 (quotation omitted); *see also* Unpublished Order, *Texas v. EPA*, Case No. 23-60069, ECF 269-1, at 18 (May 1, 2023) (EPA must ensure it acts within a zone of reasonableness and, in particular, has reasonably considered the relevant issues and reasonably explained its decision" and a court must "set aside any action premised on reasoning that fails to account for relevant factors or evinces a clear error of judgment.") (quotations omitted). Action that is not reasonably grounded in the record or that

[17] There are multiple other methods used by EPA which are inconsistent with its established practices and which warrant reconsideration, as explained in USS's and Cliffs' Petitions for Reconsideration. *See* USS Petition at 13-15; Cliffs Petition at 33-37.

is taken without consideration of important aspects of the problem is arbitrary and capricious. *Motor Vehicle Mfrs.*, 463 U.S. at 43; 42 U.S.C. § 7607(d); 5 U.S.C. § 706.

Given the overwhelming evidence set out above and in the USS and Cliffs Petitions for Reconsideration and Joint Comments, EPA should remove the UFIP requirements entirely and start over, as it has the authority and obligation to do so under the APA and CAA.

### C. Since EPA has chosen in the IFR to focus only on the 2025 and 2026 compliance deadlines, however, we provide comments on those deadlines here, without waiving our right to continue to challenge the legality and appropriateness of the underlying requirements, even under the new deadlines established by the IFR.

We recognize that EPA is only focusing on the 2025 and 2026 compliance deadlines in the IFR. We have provided comments specifically on those deadlines in the above sections, but we expressly reserve our right to continue to challenge the legality and appropriateness of the UFIP requirements. We urge EPA to reconsider these UFIP requirements for the reasons set forth above and the reasons more fully outlined in the USS Petition for Reconsideration, Cliffs Petition for Reconsideration, and Industry Comments.

## VII. EPA Should Continue to Address Flaws in the HAP Emission Limits Imposed in the 2024 Rule

Finally, as discussed in Cliffs' and USS' petitions for reconsideration, the new and revised HAP emission limitations in the 2024 Rule were also largely based on insufficient data and legal errors that impose requirements inconsistent with the CAA, and a misunderstanding of the applicability data that was submitted and the potential performance of new control technologies. Cliffs and USS have documented numerous flaws, technical inaccuracies, and feasibility concerns with all of the HAP limits in the 2024 Rule. *See generally* Cliffs Petition, USS Petition, and Attachments 1-4.

EPA has granted discretionary reconsideration of the MACT limit for hydrochloric acid (HCl) from blast furnace casthouses and errors in the emission standards promulgated for "windbox exhaust stream" for blast furnace casthouses, blast furnace stoves, and basic oxygen process furnace shops. August 2024 Reconsideration at 1-2. Industry Commenters encourage EPA to complete this reconsideration as expeditiously as practicable and also to expand its review to the full suite of HAPs in the 2024 Rule. The errors underlying promulgation of the casthouse HCl limit are not unique and permeate many of the emission limitations in the 2024 Rule and all should be reviewed and correctly in a timely manner, particularly if a stay pending judicial review is not granted.

## VIII. Conclusion

Industry Commenters acknowledge the work EPA has put into reviewing the 2024 Rule and the timely steps EPA has taken to address certain flaws and errors through its grants of discretionary and mandatory reconsideration. Industry Commenters likewise back EPA's latest efforts to address significant concerns with the 2025 and 2026 deadlines contained in the 2024 Rule through the IFR. The IFR provides necessary corrections to these deadlines that arose from

insufficient data, technical errors, and erroneous assumptions about the work and time required to achieve these requirements. Correcting the deadlines in an interim final rule offers timely relief from these looming deadlines, for which there was no time to provide prior notice and comment.

However, Industry Commenters also continue to urge EPA to timely address the additional issues that are subject to mandatory reconsideration and require correction or withdrawal of certain 2024 Rule requirements raised in Cliffs and USS Petitions for Reconsideration. EPA should take the present opportunity to correct more than the deadline errors addressed by the IFR and comprehensively correct the substantive and procedural flaws in the 2024 Rule set forth in these Petitions. Finally, Industry Commenters urge EPA to issue an administrative stay pending judicial review from the D.C. Circuit to avoid irreparable harm from the deadlines in the 2024 Rule, including those subject to the IFR and others.