

Coke Ovens: Pushing, Quenching, and Battery Stacks and Coke Oven Batteries Interim Final Rule

My name is Kerri Gefeke. I am an Associate Attorney at the Environmental Law & Policy Center – a Midwest-based public interest organization with a longstanding project dedicated to protecting air and water quality in Northwest Indiana, particularly from the region’s integrated steel mills – some of which are supported by the two largest coke manufacturing facilities in the U.S.

EPA’s interim final rule would endanger public health and lacks any factual or legal basis. The interim final rule would extend compliance deadlines for coke manufacturing facilities to comply with updated standards to limit hazardous air pollutants until July 5, 2027. These standards will finally limit emissions of 25 previously unregulated hazardous air pollutants such as mercury and acid gases, as well as establish stronger limits to reduce emissions from leaks. The standards also require fenceline monitoring for benzene – a known carcinogen – and establish a corrective action threshold.

EPA found that "the new requirements will increase the likelihood of facilities successfully detecting any HAP emissions in excess of the specified limits, allowing for earlier corrective action and thus preventing pollution increases that could otherwise occur," with total costs of the rule estimated at a mere \$4 million total for the 11 operating facilities. EPA’s economic analysis of industry savings under the Interim Final Rule shows little benefit for the coke facility owners as, in EPA’s own words, “the potential economic impacts of the interim final rule are likely to be small.”

However, the continued delay of these new standards has real impacts on the health and safety of the communities surrounding these facilities as well as for the workers whose labor is so crucial to industry success. Exposure to hazardous air pollutants like Benzene, for example, can cause blood disorders, damage the immune and reproductive systems, and cancer – including leukemia. Recent studies show that three coke plants’ fenceline monitoring data for benzene exceeded occupational workplace thresholds – demonstrating the risk for workers exposed to a toxin like benzene for which *any* amount poses a cancer risk. Additionally, two of the coke plants exceeded the six-month average benzene action level – which means that if the new fenceline monitoring standard was being enforced, these facilities would be required to take corrective action to fix the source of excess benzene emissions.

The Interim Final Rule fails to comply with the Clean Air Act and Administrative Procedure Act for at least three reasons:

- First, EPA issued the Interim Final Rule without following the CAA’s notice and comment requirements by invoking the “good cause” exception in the APA.
 - However, the D.C. Circuit Court recognized in *Utility Solid Waste Activities Group v. EPA* that “[t]he exception is not an ‘escape clause’; its use ‘should be limited to emergency situations.’”
 - EPA has not claimed this is an “emergency situation” nor could it do so

- Second, the Clean Air Act requires existing sources to comply with section 112(d) emission standards “as expeditiously as practicable, but in no event later than three years after the effective date of such standard.”
 - Here, EPA has arbitrarily extended all compliance deadlines to the maximum three years from the Coke Oven’s Rule’s effective date but has not provided any reasoned basis for why this deadline is the most expeditious practicable. Indeed, EPA previously found – after full notice and comment rulemaking – that all earlier deadlines were feasible in the 2024 rule.
 - EPA’s change in position without explanation is arbitrary and capricious
 - This additional delay is particularly indefensible here because the 2024 Coke Ovens Rule set limits on some HAPs for the first time – pursuant to the D.C. Cir. Court’s 2020 ruling in *Louisiana Environmental Action Network v. EPA*.
- Third, the CAA specifically prohibits postponing of an effective date of a rule except for a single, 3-month stay – which the EPA has already used.

In short, EPA has provided no reasoned basis for extending the compliance dates for the Coke Oven rule. EPA must withdraw the Interim Final Rule and reinstate the lawfully executed rule’s compliance deadlines.