

Integrated Iron and Steel 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 dedicated to advocacy for improving environmental quality and protecting public health and natural resources. ELPC has a longstanding project dedicated to protecting air and water quality in Northwest Indiana, particularly from the region’s multiple large integrated steel mills.

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 iron and steel operations to comply with updated standards to limit hazardous air pollutants, which were finalized on March 18, 2024, until April 3, 2027. Among other things, these standards would have finally regulated such hazardous air pollutants as mercury, hydrochloric acid, and dioxins. It would have also required fence-line monitoring for chromium – a known carcinogen, and established work practices for basic oxygen process furnaces to capture more fugitive emissions of particulate matter and toxic metals.

EPA estimated that these new standards would have a net public health benefit of \$3.7 billion from 2026 to 2035 – measured in reduced incidents of asthma, fewer lost school and work days, and reduced numbers of hospitalizations, while costing industry less than 1% of revenues. Acute exposure to particulate matter for example, can cause asthma attacks, heart attacks, and even premature death. Exposure to hazardous air pollutants can lead to lung and other cancers, developmental defects, and neurological disorders. The continued delay of these new standards has real implications for the health and safety of the communities surrounding these facilities, as well as for the workers whose labor is so crucial to industry success.

The interim final rule directly conflicts with earlier EPA findings made during the rulemaking process, but the agency provides no justification for this about-face.

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

- First, EPA did not have “good cause” to ignore the CAA’s notice and comment requirements
 - 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 II&S Mills 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 the II&S

Mills could achieve these standards within 1 or 2 years of the rule's effective date – and have even argued such in pleadings before the D.C. Circuit and expressly found that 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 II&S Mill Rule set limits on some HAPs for the first time – even though EPA had been statutorily required to set them over two decades prior.
- 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 this rule – and has specifically not provided a reasoned basis that April 2027 is the most expeditious practicable date for compliance. EPA must withdraw the Interim Final Rule and reinstate the lawfully executed rule's compliance deadlines.