Surviving the Inevitable: BMACT Litigation Update



CIBO E/E MEETING JUNE 12-13, 2012 LISA M. JAEGER

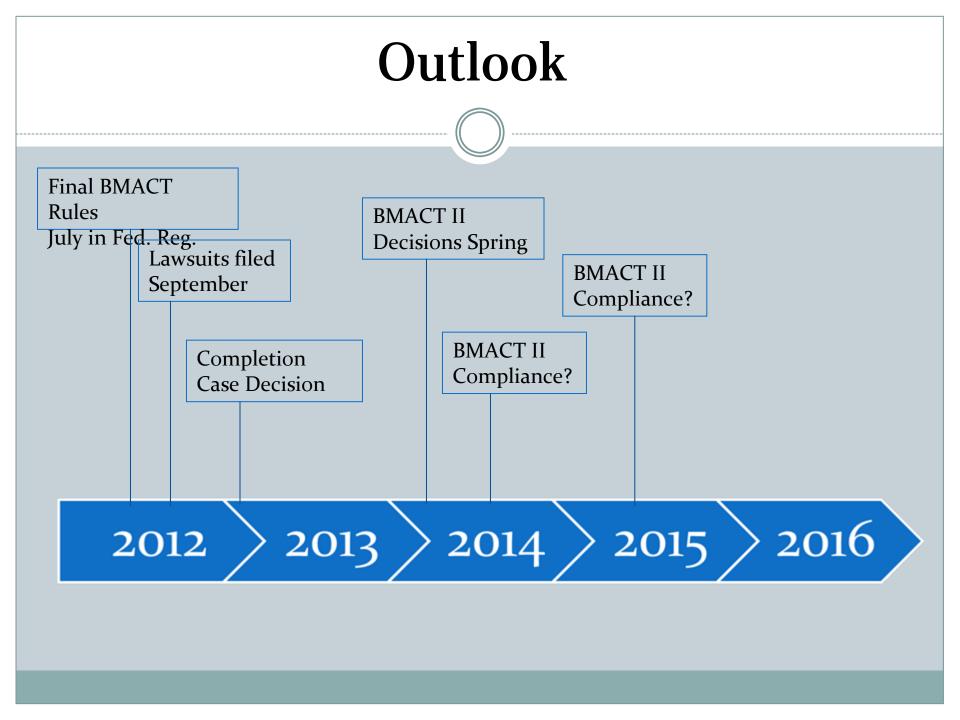
Current Cases

• March 21, 2011 Rules

- DC Circuit
- BMACT, CISWI, Area, NHSM cases in abeyance
- Completion Case EPA Notice that CAA §112(c)(6) obligations complete
 - Oral Argument September 12, 2012
 × Henderson, Tatel, Williams

Final 2012 Reconsidered Rules

- Sent to OMB May 18, 2012
- Fed. Reg. by July 2012?
- DC Circuit Petition September 2012?



Litigation Update

In this world, nothing can be said to be certain except Death and and Taxes J. Regulations.

Benjamin Franklin, Excerpt from a letter to Jean-Baptiste Leroy

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MATS

• White Stallion v. EPA

- Case docketed February 16, 2012
- Petitioners: 40 industry/trade groups, 21 states, environs
- EPA/Intervenors: 18 states, 4 cities, environs

New Source Developers

- Moved to sever new source issues and expedite case (briefing complete May 30, 2012)
- EPA, Environs, States and some industry opposed

Industry generally

- Moved to sever NSPS issues, hold in abeyance
- DOJ expected to oppose abeyance

PC MACT

Proposed Settlement Agreement

- June 15, 2012 EPA to sign Proposed Rule addressing issues
 - **×** Issues under reconsideration
 - **×** Remand from DC Circuit
 - × Holcim Inc. Admin Petition of PM Standard

• Compliance deadline

- × Set as September 9, 2015 or solicit comments on whether existing source compliance deadlines should be extended
- December 20, 2012 EPA to sign Reconsidered Final Rule

Case now in abeyance

 Motions for future proceedings due January 15, 2013 or 15 days after Final Rule signed

NSPS GHG Cases

EPA/Environmental Petitioners Settled, set deadlines •Power Plants Da

- Proposed Rule published April 13, 2012
- Comments due June 25, 2012

Refineries

- Original settlement deadlines delayed
- Proposal date unknown
- Original Settlement, final due November 10, 2012

•Main NSPS : in abeyance

NAAQS

• Ozone

- Briefing scheduled through summer
 - × Final Briefs August 27, 2012
- o Oral argument Fall 2012?
- Decision Winter 2013?

• PM (2009 PM 2.5 Rule Remand)

- Proposed rule under development
- *American Lung Assoc. v. EPA*: Court Order to sign proposal by June 7, 2012

Pending Decision

GHG Cases

- Oral Argument February 28/29, 2012
- Decision Summer 2012?
 - × Endangerment Finding
 - × Light Duty Vehicle Rule (LDV)
 - × Tailoring Rule
 - × Historic PSD Rules Grounds Arising After

• CSAPR

- Oral Argument April 13, 2012
- Decision Fall 2012?

• SO2

- Oral Argument May 3, 2012
- Decision Fall 2012?

Possible Dates for Final Litigation Outcomes

GHG	Summer 2012
SO2	Fall 2012
CSAPR	Fall 2012
Ozone	Winter 2013