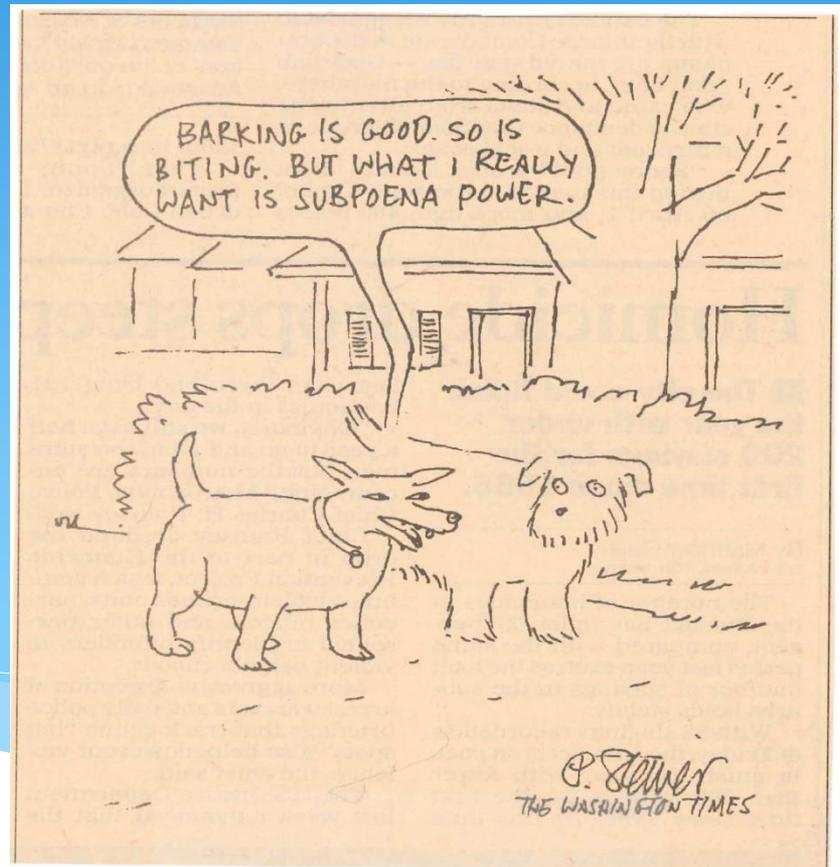


Boiler MACT Update

December 2-3, 2014

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BMACT

EPA Response 11-10-14

ENV Issues / Industry Intervenor Brief 12-17-14

- * CO illegal surrogate for organic HAP
 - * [IND: strong positive correlation required by cases and shown]
- * Subcategories are illegal, based on fuel
 - * [IND: 112d1 allows class size type w/in category or subcategory]
- * Excluding gas co-fired biomass units from floor
 - * [no IND additional argument]
- * UPL unreasonable
 - * [IND: court concerns with *future average* and *accuracy* addressed]

BMACT

Industry Issues / Industry Reply Brief

- * Pollutant-by-pollutant for oil and stoker-coal irrational
- * CO numeric standards arbitrary
 - * [EPA: issue not raised with specificity in comments]
- * Malfunctions must be factored into numeric standards
- * Rejection of HBEL for HCl not supported by record
- * Energy assessment beyond EPA authority

Area Source

EPA Response Brief 11-24-14

ENV Issues / Industry Intervenor Brief 12-24-14

- * CAA 112(c)(6) list has oil & biomass for Hg & POM, must get MACT or delist under 112c9
 - * [IND: sources remain regulated not delisted]
- * Temporary boiler exemption illegal
 - * [IND: temporary boilers are fully permitted]
- * PM standards should be MACT not GACT
- * Work practice for coal not “consistent” with 112d

Area Source

- * GACT standards must require “gen available” controls
- * Title V exemption for synthetic minors illegal
 - * [IND: Title V creates burden w/o added benefit]

Industry Issues/Industry Reply Brief

- * Malfunction work practice standards
- * Energy Assessment beyond EPA 112 authority

CISWI

EPA Response 1-16-15

Industry Opening Brief 10-2-14

- * Best performing units for small remote incinerators
- * SSM periods for CISWI standards
- * Work practice
- * Emissions averaging
- * Unit burning non-wastes is a CISWI unit

CISWI

ENV Opening Brief 10-2-14

- * Exempting CISWI units from standards
- * Modified CISWI as existing CISWI
- * Floor setting
 - * UPL
 - * 720-hour standards
- * Rejection of beyond-the-floor standards

NHSM

- * Final briefs filed 11-12-14; oral argument when?
- * Baby NHSM I
 - * *AF&PA v. EPA* (DC Cir. 14-1201)
 - * C&D wood, CTRTs, paper recycling residuals
 - * CIBO is Petitioner
- * Baby NHSM II
 - * *Treated Wood Council v. EPA* (DC Cir. 14-1202)
 - * Treated wood as waste
 - * CIBO is Petitioner

112(c)(6) Litigation

- * *Sierra Club v. EPA* (DDC 01-1537)
- * Has EPA completed obligation to regulate sources emitting 90% of CAA 112(c)(6) pollutants?
- * Court held EPA must act, with a deadline
 - * Proposal by 12-10-14
 - * Final by 5-25-15
- * 112(c)(6) issue also in Area Source case

MATS SU/SD

- * 79 Fed Reg 68777 (Nov. 19, 2014)
- * Petitions for Review due 1-18-15

We Said...	EPA outcome
More flexibility in definition of the end of startup	1 hour after electricity generated for sale or onsite use
Clean fuels work practice standard	Alternative 4 hours after (will reassess need for alternative)
Expanding clean fuels to include biodiesel and other renewables	Propane, distillate oil, ULSD oil, syn gas meeting FERC specs, syn gas ok for combustion turbine
Controls during SU/SD	Only fabric filter must be engaged
Work practice and SU/SD for EGUs with common stacks	Careful here

MATS Supreme Court

- * Decision by June 2015
- * CAA 112(n): list egus if “appropriate”
- * Whether EPA unreasonably refused to consider costs in determining whether it is appropriate to regulate HAP emitted by electric utilities
- * MATS cost \$9.6 bill/year --- benefit \$4.6 mill/year
- * CIBO role as amicus?
- * Precedential value

SSM

Rule/Case	Description	Status
<p><i>Sierra Club v. EPA</i> (DDC 13-1639)</p> <p>Based on NOI for 46 categories</p>	POTWs – first of 46 MACTs for which EPA failed to complete 8-year review	<p>Case stayed until 12-4-14</p> <p>Pending EPA/ENV settlement with deadlines</p>
<p><i>Sierra Club v. EPA</i> (DC Cir. 14-1110)</p> <p>Administrative Recon</p>	Affirmative Defense in 9 §112 and §129 rules	<p>In abeyance</p> <p>Interventions pending</p> <p>Petition granted</p>
<p>Petroleum Refinery RTR and NSPS</p> <p>EPA proposed finding of SIP inadequacy</p>	<p>Malfunction/affirmative defense</p> <p>State SIPs inadequate due to SSM provisions</p>	<p>SSM coalition comments 10-28-14</p> <p>SSM coalition comments 11-6-14</p>
BMACT, Area, CISWI	Affirm defense severed and put into reconsideration cases	In abeyance

Pending rules / BMACT timeframe

Rule	Proposed	Comment Due
MATS SU/SD	11-19-14 (FINAL)	1-18-15 (Judicial Review)
BMACT Recon	12-2-14	1-16-15?
Area Recon	12-2-14	1-16-15?
CISWI Recon	12-2-14	1-16-15?
112(c)(6) Notice	12-17-14?	2-17-15?
2013 Ozone Standards	12-9-14?	2-9-15?
Coal Ash	12-19-14 (FINAL)	1-17-15 (Judicial Review)

BMACT II Briefing Timeline

