

**UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA
CIRCUIT**

United States Sugar Corporation v. Environmental Protection Agency

United States Sugar · No. 11-1108; consolidated with 11-1124, 11-1134, 11-1142, 11-1145, 11-1159, 11-1165, 11-1172, 11-1174, 11-1181, 13-1086, 13-1087, 13-1091, 13-1092, 13-1096, 13-1097, 13-1098, 13-1099, 13-1100; No. 11-1141; consolidated with 11-1182, 11-1207, 11-1208, 13-1105, 13-1107 · Decided December 23, 2016

SUMMARY

The United States Court of Appeals for the District of Columbia Circuit denied the EPA's petition for panel rehearing as to the remedy. The court left its July 29, 2016 judgment in effect and remanded the numeric MACT standards in the Major Boilers Rule for new and existing sources in eighteen subcategories without vacatur.

CASE DETAILS

COURT	United States Court of Appeals for the District of Columbia Circuit
WRITING FOR THE COURT	Patricia M. Wald Henderson; Judith W. Rogers Brown; Thomas B. Griffith
JURISDICTION	Federal
DECIDED	December 23, 2016
DOCKET	11-1108; consolidated with 11-1124, 11-1134, 11-1142, 11-1145, 11-1159, 11-1165, 11-1172, 11-1174, 11-1181, 13-1086, 13-1087, 13-1091, 13-1092, 13-1096, 13-1097, 13-1098, 13-1099, 13-1100; No. 11-1141; consolidated with 11-1182, 11-1207, 11-1208, 13-1105, 13-1107
DISPOSITION	remanded
PROCEDURAL POSTURE	The court considered the Environmental Protection Agency's petitions for panel rehearing concerning the remedy imposed in the court's prior July 29, 2016 opinion.
PRECEDENTIAL VALUE	published
PARTIES	United States Sugar Corporation, American Chemistry Council v. Environmental Protection Agency

TOPICS

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QUESTIONS PRESENTED

1. Whether the court should modify its prior judgment concerning the remedy for the numeric MACT standards in the Major Boilers Rule.
2. Whether those numeric standards should be remanded without vacatur for further agency proceedings.

HOLDINGS

1. The numeric MACT standards for new and existing sources in each of the eighteen subcategories must be remanded without vacatur for EPA to conduct further proceedings consistent with the court's prior opinion.

KEY QUOTATIONS

“It is FURTHER ORDERED and ADJUDGED that the numeric MACT standards set in the Major Boilers Rule for new and existing sources in each of the eighteen subcategories be remanded without vacatur for the agency to conduct further proceedings consistent with the court's prior opinion issued July 29, 2016, in accordance with the opinion issued here in this date.” (Judgment)

FACTUAL BACKGROUND

The case concerns EPA's Major Boilers Rule and the numeric maximum achievable control technology standards established for new and existing sources in eighteen subcategories. Following the court's prior opinion, EPA sought rehearing limited to the appropriate remedy.

PROCEDURAL HISTORY

The petitions for review of EPA's Major Boilers Rule were consolidated in the D.C. Circuit. After the court issued its July 29, 2016 opinion, EPA sought panel rehearing as to the remedy. The court left its prior judgment in effect while remanding the numeric MACT standards for new and existing sources in eighteen subcategories without vacatur.

DISPOSITION

remanded

REMAND INSTRUCTIONS

Remand the numeric MACT standards set in the Major Boilers Rule for new and existing sources in each of the eighteen subcategories without vacatur, for EPA to conduct further proceedings consistent with the court's July 29, 2016 prior opinion and the December 23, 2016 rehearing opinion.

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