

**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

judicial review of agency action

administrative law

clean air act

remedies

appellate procedure

PRACTICE AREAS

administrative law

environmental law

appellate procedure

remedies

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.

OPINION

PER CURIAM.

United States Court of Appeals FOR THE DISTRICT OF COLUMBIA CIRCUIT No. 11-1108
September Term, 2016 FILED: DECEMBER 23, 2016 UNITED STATES SUGAR
CORPORATION, PETITIONER v. ENVIRONMENTAL PROTECTION AGENCY,
RESPONDENT AMERICAN CHEMISTRY COUNCIL, ET AL., INTERVENORS 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, 13-1103
_____. No. 11-1141 AMERICAN CHEMISTRY
COUNCIL, PETITIONER v. ENVIRONMENTAL PROTECTION AGENCY, RESPONDENT
AMERICAN FOREST & PAPER ASSOCIATION, ET AL., INTERVENORS Consolidated with
11-1182, 11-1207, 11-1208, 13-1105, 13-1107 On Petition for Panel Rehearing Before:
HENDERSON, BROWN and GRIFFITH, Circuit Judges.

JUDGMENT These causes came to be heard on the petition of the Environmental Protection
Agency for panel rehearing as to remedy, and the responses thereto. On consideration thereof, it is
ORDERED and ADJUDGED that the judgment of this court filed July 29, 2016 remain in effect
as to No. 11-1125, et al., American Forest & Paper Association, Inc., et al. v. EPA, and the above-
captioned cases, in accordance with the opinion filed July 29, 2016.

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. FOR THE
COURT: Mark J. Langer, Clerk BY: /s/ Ken Meadows Deputy Clerk Date: December 23, 2016
Opinion Filed Per Curiam