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Boiler MACT Compliance Changes in Store for Major Sources of Hazardous Air Pollutants

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The U.S. Environmental Protection Agency (EPA), on July 9, 2020 issued a proposed rule to provide stricter pollution guidelines and update emission standards, based on maximum achievable control technologies (MACT), for certain categories of boilers subject to the Boiler MACT. The rule aims to further reduce hazardous air pollutant (HAP) emissions from certain types of units by updating the 2013 national emission standards for hazardous air pollutants (NESHAP) applicable to process heaters and industrial, commercial, and institutional boilers. When first issued by the EPA, the original Boiler MACT required many of these facilities to invest significant capital in installing new control equipment and continuous emissions monitoring systems (CEMS), and in performing annual stack tests, energy assessments, tune-ups, and fuel analyses. The proposed rule would recalculate the allowable emission limits, set during the Obama Administration, by factoring in the emission rates achieved by the lowest-performing boilers.

Through this rulemaking, EPA responds to three issues remanded by the U.S. Court of Appeals for the D.C. Circuit in two lawsuits – *U.S. Sugar Corp. v EPA* in 2016, and *Sierra Club, et al. v. EPA in 2018*. In *U.S. Sugar Corp.*, the court found that EPA improperly excluded certain sources from consideration when calculating the MACT floor emission limits. On remand, the EPA proposes to recalculate 34 of 90 emission limits for certain “boilers,” which are defined as new or existing combustion devices used to generate steam or hot water for on-site use in certain industrial plant operations (not including boilers used at power plants that are regulated separately). Of the affected 34 emissions limits, 28 will become more stringent and will apply to pollutants from 23 subcategories of industrial boilers. The remaining six limits will actually become less stringent and increase by almost 25 percent each.

To satisfy the remaining two remand issues from the D.C. Circuit, the proposed rule would update EPA's rationale for using carbon monoxide as a surrogate for controlling organic HAPs, and for the Agency's original determination that setting a carbon monoxide standard below 130 parts per million would not provide any additional HAP reduction. According to EPA, the proposed amendments will continue to reduce emissions of HAPs, including mercury, formaldehyde, benzene, and polycyclic organic matter.

Facilities covered by the proposed rule would have up to three years to meet the new emissions limits. The EPA estimates approximately 444 boilers will be subject to the revised emission standards, and 33 of those must take active steps to further reduce emissions. The Agency approximated industry costs of \$21.5 million a year. EPA expects the proposal to slightly increase carbon dioxide emissions, as pollution control devices may end up using more electricity; EPA estimates the extra greenhouse gas emissions to cost up to \$90,000 a year.

Although EPA did not measure the monetary impact of the health benefits resulting from the proposed rule's reduction of HAPs (such as mercury, hydrochloric acid, formaldehyde and benzene), the Agency estimated that these pollutants would be reduced by a total of 37.35 tons per year nationwide. EPA did calculate \$232 million a year in benefits that would come from ancillary reductions of particulate matter by 250 tons a year, and of sulfur dioxide by almost 400 tons a year.

The American Forest & Paper Association and the American Wood Council have expressed support for the rule, characterizing the proposed limits as clear, reasonable, and attainable. The EPA invites further public comment on the proposal until 60 days after the date of the proposed rule's publication in the Federal Register.

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