



QUICK FACTS on the BOILER MACT

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Are you wondering what you should know about EPA's Boiler MACT? This article will provide a quick reference guide for corporate and in-house counsel on keys issues of concern and issues to track.

The Basics: The "[Boiler MACT](#)" is a significant EPA rulemaking effort that will require the use of Maximum Achievable Control Technology ("MACT") for reducing [hazardous air pollutant \("HAP"\) emissions](#) from institutional, commercial and industrial boilers. The Boiler MACT will apply to boilers located at "major" sources of HAPs, those emitting 10 tons per year or more of a single HAP or 25 tons per year of any combination of HAPs. EPA estimates that there are approximately 13,800 of these boilers, which are generally located at large industrial or manufacturing plants. A companion rulemaking, the [Area Source Rule](#), will regulate boilers located at minor sources of HAPs. The Area Source Rule will affect many types of facilities, including industrial or manufacturing facilities with low HAP emissions, and non-industrial facilities such as hospitals, hotels, colleges and universities, and commercial buildings. EPA estimates that there are approximately 187,000 boilers located at area sources of HAPs.

The History First promulgated in 2004, the Boiler MACT was vacated by the D.C. Circuit in 2007 just prior to the compliance deadline for many sources. In an effort to meet a December, 2010 court-imposed deadline for promulgation of a final Boiler MACT rule, EPA proposed a revised version of the Boiler MACT and the new Area Source Rule in June, 2010. The proposed rules met with broad opposition from industry, which claimed that even the lowest-emitting units in each category of boilers could not meet all proposed emission limits simultaneously. Additionally, industry argued that MACT upgrade and compliance costs would have a [significant adverse affect on U.S. industry and the national economy](#). EPA received over 4,800 comments on the proposed rule, and asked the court to extend the final promulgation deadline until April, 2012. EPA's request was denied, and a February 21, 2011 deadline for promulgation of the final rule was imposed.

The Implications: The Boiler MACT and the Area Source Rule will broadly affect both existing and new boilers of all sizes. As proposed, the rules included emission standards for mercury, particulate matter (PM) as a surrogate for non-mercury metals, and carbon monoxide (CO) as a surrogate for organic HAP. Emissions of hydrogen chloride and dioxins and furans would also be regulated at major sources. Control costs may be significant, because a combination of controls may be necessary to meet emission limits. Additionally, according to certain industry segments, the rules may have [a negative effect on the use of biomass as a boiler fuel](#).

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QUICK FACTS on the BOILER MACT (cont'd)

Current Status? The [revised Boiler MACT and Area Source rules](#) were released by EPA on February 23, 2011. EPA promises that the cost of implementing the revised rules will be cut 50 percent from the 2010 proposed rulemakings. EPA has made significant changes to the rules as proposed, including the use of work practice standards in lieu of emission limits for existing area source boilers firing oil or biomass. Likewise, for small (less than 10 MMBtu/hr) and limited use boilers located at major sources, work practice standards are required in lieu of emission standards. Emission standards for mercury, dioxin, hydrogen chloride, PM and CO will apply to large boilers (greater than or equal to 10 MMBtu/hr). EPA has also announced that it will commence an [administrative reconsideration proceeding on certain aspects of the rule](#).

Issues to Watch: The Boiler MACT and Area Source Rule seem to be a moving target, which makes compliance planning difficult for affected sources. The rules released in February are final rules, which means that they apply upon startup to any new boiler, and to existing boilers within three years of rule publication. EPA's reconsideration proceeding will offer an additional opportunity for the public to comment on the rule, and for EPA to evaluate further revisions. However, at this point EPA has not indicated that it would stay the rule during the reconsideration process. Consistent with its lengthy history, the Boiler MACT is sure to attract significant comment from both industry and environmental groups. In-house and general counsel should stay apprised of these proceedings and submit comments from their clients as appropriate.