

## Environmentalists Seek D.C. Circuit Review in More MATS Litigation

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Following the Supreme Court's 2015 decision in *Michigan v. EPA* requiring EPA to consider costs before regulating utilities under Section 112 of the Clean Air Act, litigation regarding the several aspects of the Mercury and Air Toxics Standards (MATS) continues in the U.S. Court of Appeals for the D.C. Circuit. On October 6, 2016, the Chesapeake Climate Action Network, Sierra Club, and Environmental Integrity Project filed a new lawsuit in the D.C. Circuit seeking review of EPA's denial of their petitions for reconsideration of EPA's final rule amending the MATS startup and shutdown work practice standards. EPA denied the environmental groups' and other petitions for reconsideration on August 8, 2016, concluding that the petitions did not meet the criteria for reconsideration set forth in the Clean Air Act. By scheduling order issued on October 12, 2016, the D.C. Circuit instructed the environmental groups to file a statement of issues to be raised in the litigation by November 14, 2016, and dispositive motions must be filed by November 28, 2016.

The environmental groups are challenging, among other things, the four-hour exemption from the MATS emission limits allowed under the startup work practice standards. Utilities view the four-hour exemption as critical to complying with the MATS emission limits, which are not achievable during startup. During the pendency of this and other litigation challenging MATS, the rule remains in effect.

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