

ORAL ARGUMENT NOT YET SCHEDULED

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

**AMERICAN FOREST & PAPER
ASSOCIATION, AMERICAN WOOD
COUNCIL, BIOMASS POWER
ASSOCIATION, CHAMBER OF
COMMERCE OF THE UNITED STATES
OF AMERICA, CORN REFINERS
ASSOCIATION, NATIONAL
ASSOCIATION OF MANUFACTURERS,
NATIONAL OILSEED PROCESSORS
ASSOCIATION, RUBBER
MANUFACTURERS ASSOCIATION, AND
SOUTHEASTERN LUMBER
MANUFACTURERS ASSOCIATION**

Petitioners,

V.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,**

Respondent.

[illegible]

No. 13-1100
(consolidated under
No. 13-1086)

NONBINDING STATEMENT OF ISSUES OF PETITIONERS

Pursuant to this Court’s Order of April 2, 2013, the American Forest & Paper Association (“AF&PA”), American Wood Council (“AWC”), Biomass Power Association (“BPA”), Chamber of Commerce of the United States of

America (“Chamber”), Corn Refiners Association (“CRA”), National Association of Manufacturers (“NAM”), National Oilseed Processors Association (“NOPA”), Rubber Manufacturers Association (“RMA”), and Southeastern Lumber Manufacturers Association (“SLMA”), Petitioners in No. 13-1100, submit this Nonbinding Statement of Issues to be raised in this proceeding to review the final action of Respondent United States Environmental Protection Agency, entitled, “National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters,” published at 78 Fed. Reg. 7138 *et seq.* (January 31, 2013) (hereinafter “Final Boiler MACT Rule”).

1. Whether the definitions of Startup and Shutdown and Startup Work Practices are arbitrary, capricious, an abuse of discretion, or otherwise unlawful because they are not achievable.
2. Whether the required operating parameter limits for boiler/process heater loads are arbitrary, capricious, an abuse of discretion, or otherwise unlawful because they contain errors and inconsistencies and are otherwise not achievable.
3. Whether the energy assessment requirements are arbitrary, capricious, an abuse of discretion, or otherwise unlawful because they are beyond EPA’s statutory authority and otherwise ineffective.

Respectfully submitted,

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Dated: May 2, 2013

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CERTIFICATE OF SERVICE

I hereby certify that, on this 2nd day of May, 2013, a copy of the foregoing Nonbinding Statement of Issues was served electronically through the court's CM/ECF system on all registered counsel.

/s/ William L. Wehrum
William L. Wehrum