



NACAA Response to EGU MACT Vacatur

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Background

- 1990 CAA Section 112(n) required EPA to study HAPs from EGUs and file a report
- In December of 2003 EPA published a determination that it was necessary and appropriate to regulate EGUs under Section 112 of the Act
- In 2005 EPA reversed this determination and adopted the Clean Air Mercury Rule (CAMR) under Section 111



Background

- A number of states and environmental groups sued EPA over these rules claiming EPA failed to follow Section 112(c)(9) in its delisting
- On February 8, 2008, the DC Circuit struck down CAMR in its entirety (vacatur)
- On March 14, 2008 the Court issued its mandate



Consequences of the Vacatur

- EPA and UARG have appealed the ruling
- Section 112(g) of the ACT applies
 - Case-by-case MACT analysis for all HAPs emitted in significant amounts for any new or modified EGU
- Part 75 CEM rule also vacated



NACAA Survey

- What is your state's plan with regard to the control of mercury from coal-fired utility boilers?

- What is your state's plan with regard to the Part 75 mercury CEM rule that also has been vacated?
- What can NACAA provide to help you with your state plan?



Early Survey Results

- Predictable that states with more stringent rules are planning to keep them
- States that had adopted the federal rule will wait for EPA to respond to the mandate
- Nearly all states were counting on the Part 75 monitoring rule



What do States want from NACAA?

- Continued monthly calls
- Communication with EPA on Part 75—try to find a way to save this part of the rule
- Emissions and control data to help with 112(g) determinations
- Work with EPA on MACT rule at the appropriate time