

The Final Rule Is Based on Multiple Errors and Omissions.

16. In setting the new MACT floor limits, EPA made numerous errors including: (1) ignoring relevant data clearly demonstrating that the limits cannot be met with existing controls; (2) failing to account for variability in coal (the raw material); (3) failing to account for operational differences among SunCoke's plants; (4) failing to account for differences in controls between SunCoke's facilities; (5) using a methodology for calculating emissions with a too-limited data set; (6) adopting numeric emission limits, rather than work practice standards or surrogacy determinations for sources with emissions where no data exists or emissions are near or below detection; and (7) setting limits without regard to technical achievability. All these errors result in limits that are not achievable using existing controls.

17. Due to the Final Rule's deadline for compliance with the new MACT floor limits, and the substantial evidence that the new limits cannot be met with existing controls, SunCoke is forced to immediately perform testing. It must begin to design, engineer, procure and install controls—at exorbitant cost to the company—while this case is pending before this Court. SunCoke must do all this despite the fact that EPA