

SC Perspective on MACT Vacatur and 112(j)

Fall 2007 CAPCA

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Presentation Overview

- **Delegation of Authority**
- **Plywood & Composite Wood Products MACT**
- **Brick/Clay/Boiler MACT**
- **112(j)**

Delegation of Authority

- **“Straight” (automatic) delegation of all MACT Standards upon promulgation**
 - **Full Title V Program Approval June 26, 1995**
 - **Adopted NESHAP standards into SC R. 61-62.63**
 - **Update NESHAP rules annually**
 - **DHEC serves as “delegated authority” and “permitting authority” for SC**

Plywood and Composite Wood Products Subpart DDDD (Plywood MACT)

- **Partial vacatur June 19, 2007; mandate issued October 4, 2007**
 - **Vacated the Low Risk Compliance Demonstration**
 - **Vacated the amended compliance date**
 - **Compliance date now 10/01/2007**
- **SC Facilities**
 - **24 subject facilities**
 - **3 new sources**
 - **9- no substantial requirements (kilns only)**

Plywood MACT Compliance Extensions

- **§63.6(i)(1)-(14) – General Provisions (Subpart A)**
 - **Written request submitted at least 120 days prior to compliance date (later if circumstances arise beyond facility's control)**
 - **Need additional time to install controls**
 - **Only allowed for existing sources**
 - **States have 30 days to deem request complete, 30 days to approve or issue letter of intent to deny request**
 - **Can only extend compliance date up to 1 year**
 - **States have discretion (EPA approval not required)**

Plywood MACT

Compliance Extensions: What SC Considers

- **Timeliness of request**
- **Adequate justification**
 - **Actions taken since promulgation of rule to comply by compliance date; circumstances that lead to making the request**
- **Reasonable compliance schedule**
- **Possible environmental benefits**
 - **Unit soon to be replaced**
 - **Have requested additional reductions in some cases**

Plywood MACT Compliance Extension Approval Process

- **Case-by-case decision**
- **Facility must enter into a binding Compliance Agreement with established milestone dates**
- **Quarterly (or more frequent) progress reports**
 - **Approval can be revoked if reasonable progress not being made**

Plywood MACT Extension Requests

- **Received four extension requests**
- **All facilities putting on additional controls**
- **Sept 27, 2007 EPA memorandum to encourage extensions, where needed**
- **Compliance agreements under draft**
- **63.6(i)(4)(i)(C): Rule is stayed for timely, nonfrivolous requests until final agreement is signed**

Brick & Structural Clay and Clay Ceramic MACTs Subparts JJJJJ & KKKKK (Brick & Clay MACT)

- **Existing source compliance date: May 16, 2006**
- **Vacatur March 13, 2007; Mandate issued June 18, 2007**
- **SC Facilities**
 - **4 existing JJJJJ- Brick & Structural Clay Products**
 - **1 existing KKKKK-Clay Ceramic Manufacturing**

Industrial, Commercial, Institutional Boilers and Process Heaters Subpart DDDDD (Boiler MACT)

- **Existing source compliance date:
September 13, 2007**
- **Vacatur June 08, 2007; Mandate
issued July 30, 2007**
- **SC Facilities**
 - **~30 facilities with existing solid fuel units**
 - **~50 facilities with existing gas, liquid fuel**
 - **~16 facilities took limits to avoid MACT**

State Regulation

- **SC Regs. 61-62.63- incorporates MACT standards**
- **State regulation is intact, effective and enforceable**

State Regulation Impact on Brick & Clay MACT facilities

- **Brick & Clay MACTs**
 - **Compliance date May, 2006**
 - **Sources had controls, monitoring in place**
 - **Continue to comply with requirements**

State Regulation Impacts on Boiler MACT facilities

- **Boiler MACT new sources**
 - **Comply upon startup**
- **Boiler MACT existing sources**
 - **BAQ received several requests for extensions**
 - **Facilities needed additional time to test, establish SSM plans, install CEMs**

State Regulation Impact on Boiler MACT facilities

- **Timing of vacatur (June, 2007) and compliance date (Sept, 2007)**
- **Existing facilities given additional 12 months to comply**
 - Moves compliance timeline ahead a year
- **Emission reductions**
 - keep controls devices operating
- **No impact to existing sources with no or few (i.e. initial notification) requirements**

112(j) Case by Case MACT

- **Concerns & Questions**
 - EPA has stated 112(j) applies
 - SC awaits EPA guidance/notification of applicability
 - What is the date triggering Part 1 application due date?
 - State notification to facilities?
 - EPA notification?
 - Vacatur or mandate dates?