From: Aubrey Baldwin
To: GINSBURG Andy; Comment-SmBoilerPerm
Subject: Will this go forward?
Date: Friday, July 29, 2011 12:57:26 PM

Hello,

There are bills in Congress currently that would postpone or avoid entirely the industrial boiler MACT regulations finalized in February. If that is true, will be DEQ rule still exempt small and mid sized boilers from compliance with Heat Smart, or will it only exempt those boilers that are IN FACT covered by the boiler MACT? I'm trying to clarify this statement in the rulemaking announcement:

The proposed permanent rules would exempt small-scale commercial, industrial and institutional boilers from the Heat Smart regulations if they are subject to federal emissions standards for hazardous air pollutants and the user complies with existing construction approval requirements

So, this new rule would ONLY apply if the boiler MACT is applied to a particular source? Would heat smart apply until then? Would heat smart re-apply if the MACT is overridden by congressional action?

The language in the proposed rule: "The owner or operator of a boiler that is subject to [the MACT] as in effect on December 16, 2011," seems confusing because a source could be "subject to [MACT] as in effect on December 16, 2011," but that MACT may go away soon after, or before, resulting in a need to amend the rule. For example, if the MACT is overridden by congressional action before December 16, 2011, but before EQC adopts the rule, DEQ will perhaps want to make changes to the rule - as no one will be "subject to" 40 CFR part 63, subpart JJJJJJ or DDDDD. Similarly, if the MACTs overridden after December 16, 2011, and after EQC approval, those that were subject will no longer be, thus the rule will not be applicable to them. If that's the case, it seems that small and mid-sized boilers will still be subject to heat smart.

Just trying to clarify what might happen to this rule during the comment period.

Thanks,

Aubrey

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