

November 17, 2011

The Honorable Sherrod Brown  
United States Senate  
713 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Brown,

We noted with interest the October 4th letter that you and 10 of your colleagues sent to EPA Administrator Lisa Jackson regarding the Definition of Non-Hazardous Secondary Materials (NHSM) rule. We are encouraged that EPA has committed to revise the rule, but it is unclear whether the diversity of materials commonly used as fuels will remain available to industry as alternative sources of energy. In addition, the NHSM rule is only one part of the flawed Boiler MACT regulations, and litigation on each regulatory component will create significant uncertainty for several years. Bipartisan legislation (S. 1392) has been introduced in the Senate to provide a more certain path forward to achievable rules that finally can be implemented. We urge you to cosponsor this important legislation.

We understand that EPA has submitted a revised proposed rule to the Office of Management and Budget (OMB) which may be released shortly. Affected industries will review this carefully, but legislation continues to be the best way to guarantee that EPA has enough time to receive the additional testing data it needs to develop achievable Boiler MACT rules. For example, the forest products industry is testing certain biomass boilers over a range of conditions to determine emissions variability over time. The current schedule of producing a final rule in April 2012 will not allow enough time to generate enough additional data.

The legislation also encourages EPA to set achievable standards for new boilers across a range of fuels. As currently written, the rules make it nearly impossible to use fuels other than natural gas in new boilers. Many industries could install more modern and efficient boilers using a range of fuels if the new source standards are modified. The statute intended that these regulations be fuel neutral, so it is important that the EPA make changes that will allow companies to replace old boilers with a variety of new types of boilers.

Furthermore, the legislation encourages EPA to use its existing discretion to provide less costly alternatives, such as work practices for emissions at such low levels that there is high uncertainty in measurement and controls. EPA has used work practices in many such circumstances. Finally, S. 1392 provides additional time for companies to comply with this regulation. Additional time is needed because of the scope of changes that will be needed and the number of affected facilities. In most cases, the technology required must be specifically designed and engineered for the manufacturing facility to meet old and new requirements. This takes more time and planning especially when other industries are competing for the same qualified vendors and consultants.

Again, we appreciate your engagement on this critical issue, and we urge you to cosponsor S. 1392 to help ensure the final Boiler MACT rules protect American jobs and public health.

Sincerely,

American Chemistry Council  
American Forest & Paper Association  
American Foundry Society  
American Petroleum Institute  
American Wood Council  
APA - The Engineered Wood Association  
Archer Daniels Midland Company  
Associated Oregon Industries  
Association of American Railroads

Association of Free Community Papers  
Association of Washington Business  
Belden Brick Company  
Biomass Power Association  
Boise Inc.  
Composite Panel Association  
Council of Industrial Boiler Owners  
Covanta  
Creosote Council

Domtar  
Energy Recovery Council  
Florida Sugar Industry  
Forging Industry Association  
Georgia-Pacific LLC  
Glen-Gery Corporation  
HW Culp Lumber Co.  
Industrial Energy Consumers of America  
Industrial Fasteners Institute  
Institute of Shortening and Edible Oils  
International Paper  
Kennametal Inc.  
Kitchen Cabinet Manufacturers Association  
Koppers Inc.  
Longview Fibre Paper and Packaging, Inc.  
LyondellBasell Industries  
Marvin Windows and Doors  
Masco Corporation  
MeadWestvaco  
Metals Service Center Institute  
Mid-Atlantic Community Papers Association  
Minnesota Chamber of Commerce  
Modine Manufacturing Company  
Momentive Specialty Chemicals Inc.  
NACCO Industries, Inc.  
National Association of Manufacturers  
National Federation of Independent Business  
National Oilseed Processors Association  
National Solid Wastes Management Association  
NewPage

North American Die Casting Association  
Ohio Forestry Association  
Ohio Manufacturers Association  
Ohio Municipal Electric Association  
Oregon Cherry Growers Inc.  
Oregon Women in Timber  
Owens-Illinois, Inc.  
Pacific Wood Preserving Companies  
Pellet Fuels Institute  
PolyOne Corporation  
PPG Industries  
Resolute Forest Products  
Rock-Tenn Company  
Rubber Manufacturers Association  
S.I. Storey Lumber Co., Inc.  
Southeastern Lumber Manufacturers Association  
Stella-Jones Corporation  
Temple-Inland Inc.  
Textile Rental Services Association of America  
The Lincoln Electric Company  
The Manitowoc Company  
The Schwan Food Company  
The Timken Company  
The Toro Company  
The Vinyl Institute  
Treated Wood Council  
U.S. Chamber of Commerce  
Verso Paper Corp.  
Window and Door Manufacturers Association  
Weyerhaeuser