OFFICE OF THE GOVERNOR

BOB RILEY
GOVERNOR

STATE CAPITOL
MONTGOMERY, ALABAMA 36130

(334) 242-7100
FAX: (334) 242-0937

STATE OF ALABAMA

July 23, 2010

Ms. Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Ave NW
Ariel Rios Building
Washington, DC 20004-2403

Dear Ms. Jackson:

I am writing to express my concern about the proposed Boiler MACT rule – the Maximum Achievable Control Technology rule for industrial, commercial and institutional boilers and process heaters – that was published on June 4th. As Alabama strives to recover from the current recession, I am deeply concerned that the potential impact of pending Clean Air Act regulations could be unsustainable for Alabama manufacturing, particularly for the forest products sector and the high-paying jobs it provides. Both small and large businesses are vulnerable to the extremely costly regulatory burdens under Boiler MACT, as are municipalities, universities, government facilities, and commercial entities. The combined cost to these entities in Alabama is $710 million.

As our state's unemployment rate hovers around 11 percent, enacting stringent federal Boiler MACT rules would jeopardize more good paying jobs across the manufacturing sector. The Alabama forest products industry employs almost 43,500 individuals, and the industry continues to work hard to thrive in the renewed economy. The flow of capital for new investment and hiring is still seriously restricted, and the proposed rules are estimated to cost the Alabama forest products industry more than $620 million, which could make or break the viability of continued operations. While I support efforts to address serious health threats from air emissions, I also believe that regulations can be crafted in a balanced way that sustains both the environment and jobs.

Additionally, I understand that the Boiler MACT rule alone could impose tens of billions of dollars in capital costs at thousands of facilities across the country. Accordingly, I appreciate your willingness to consider flexible approaches that appropriately address the diversity of boilers, operations, sectors, and fuels that could prevent severe job losses and billions of dollars in unnecessary regulatory costs. The proposal asks for comment on an approach that would allow facilities to demonstrate that emissions of certain pollutants do not pose a public health threat.

The proposal concludes that the use of the authority under Section 112(d)(4) of the Clean Air Act is discretionary and EPA does not support its use in Boiler MACT. I believe that provision reflects Congress' intent to provide for flexibility where there is not a public health threat. In such cases, it makes sense to allow that approach in the final rule for threshold substances. Furthermore, EPA should use a method to set emissions standards that is based on what real world best performing units actually can achieve for all the regulated pollutants. EPA should not ignore biases in its emissions database, the practical capabilities of controls or the variability in operations, fuels and testing performance across the many regulated subcategories of boilers.

As EPA turns to developing a final Boiler MACT rule, I hope you will carefully consider sustainable approaches that protect the environment and public health while fostering economic recovery and jobs within the bounds of the law. Thank you for your consideration of these views.

Sincerely,

Bob Riley
Governor of Alabama

cc: Regina McCarthy, Environmental Protection Agency
Stan Meiburg, Environmental Protection Agency