

Statement of Timothy Hunt  
Senior Director, Air Quality Programs, American Forest & Paper Association  
EPA Hearing on Boiler MACT, Arlington, VA  
June 15, 2010

Good morning, my name is Timothy Hunt; I am the Senior Director for Air Quality Programs at the American Forest & Paper Association. Thank you for the opportunity to briefly highlight our initial reactions to EPA's four proposed boiler related rules published on June 4<sup>th</sup>. I am making this statement on behalf of AF&PA and the American Wood Council which represent over 60% of the wood products industry. We in the forest products industry are proud of our environmental stewardship using a renewable resource -- our forests -- to make products that businesses and families use every day while we sustain green jobs and continue to shrink our environmental footprint. For example, key air emissions (NO<sub>x</sub> and SO<sub>2</sub>) were reduced by nearly a quarter in this decade alone. However, our operations are energy-intensive, which requires many different types and sizes of boilers. In fact, there are almost 2000 boilers across the forest products sector, and they use a wide variety of fuels and secondary materials, including an ever-increasing amount of carbon-neutral biomass, which currently provides 65% of our energy needs, and that number is rising steadily. Unfortunately, **EPA's proposed rules will create serious disincentives for the use of biomass and thereby increase use of fossil fuels which we believe is counterproductive and contrary to the President's own energy policy.**

AF&PA is the national trade association of the forest, pulp, paper, paperboard, and wood products industry. The U.S. forest products industry accounts for approximately 6 percent of the total U.S. manufacturing, placing it roughly on par with the automotive and plastics industries. The forest products industry generates over \$200 billion a year in sales and employs approximately one million people earning \$50 billion in annual payroll. The industry is among the top ten manufacturing sector employers in 48 states. We support policy efforts to increase our nation's energy security, and our member companies are leading the effort to achieve this objective by combining advanced technology and innovative manufacturing practices with responsible stewardship of our nation's natural resources.

AWC is the voice of North American traditional and engineered wood products, representing over 60% of the industry. From a renewable resource that absorbs and sequesters carbon, the wood products industry makes products that are essential to everyday life. AWC's engineers, technologists, scientists, and building code experts develop state-of-the-art engineering data, technology, and standards on structural wood products for use by design professionals, building officials, and wood products manufacturers, to assure the safe and efficient design and use of wood structural

components. AWC also provides technical, legal, and economic information on wood design, green building, and manufacturing environmental regulations advocating for balanced Federal policies that sustain the wood products industry.

We intend to do our best to provide as much data, responses to the issues highlighted in each of the four rules and suggestions for improvements by the August 3<sup>rd</sup> comment deadline but they will be incomplete given the scope of the task and background material EPA provided on June 4. We certainly appreciate the Agency's efforts to release some of the background material after the rule was signed April 29<sup>th</sup>. However, in the end, we are concerned that EPA will not have enough time to fully consider all the comments it receives and undertake a detailed and careful review of the underlying data by the December 16<sup>th</sup> court ordered promulgation deadline. **We strongly encourage the Agency to ask the court for as much time as it needs to finalize reasonable and well supported rules.** Failure to do so may result in a weak record that is vulnerable if challenged.

Let me focus on Boiler MACT and then end with a few comments on the other rules. **We believe EPA has significant discretion in the MACT program to protect public health while avoiding the unnecessary burdens these proposed regulations could impose. Boiler MACT alone could cost the forest products industry alone over \$6 billion** in capital expenditures and hundreds of millions more in annual costs unless significant changes are made. We are coming out of the worse economic recession since the Great Depression and the forest products industry has lost over 350,000 jobs in the last three years. Our total industry profits averaged just \$1 billion in the last two years and would be insufficient to provide a viable return on the enormous capital investment required by this rule. These economic conditions are not expected to change dramatically by the time these expenditures would be necessary in 2013. To be a sustainable industry supporting high paying jobs and providing sustainable products we need sustainable environmental regulations. Otherwise, costs of this scale that will force further mill closures and tens or even hundreds of thousands of additional job losses especially given other expected, significant environmental regulatory costs. Exports will drop and imports will increase since no other country is contemplating requirements this extreme. Our international competitiveness and favorable balance of trade for paper products in 2009 will surely and quickly be reversed.

We have indentified four broad areas for improvement in the Boiler MACT.

**First, EPA should utilize its authority in section 112(d)(4) of the Clean Air Act to set health-based emission limits to protect the environment and public health. This would avoid unnecessary controls where emissions of threshold pollutants, like acid gases and manganese, are low enough to be safe.** We believe

this approach should be adopted in the final rule for use on a facility by facility basis without complicated and unnecessary procedures that would restrict its use. Existing EPA guidelines are sufficient to ensure conservative assessments do not underestimate risks to the communities around our mills. It is the best way to target investments only to where problems exist as Congress intended. **We can ill-afford not to include such a health based emission limitation given the economic implications of the rule.**

**Second, EPA should set more reasonable limits that reflect the variability of real-world, best performing boilers.** Boilers go through warm-ups, shutdowns, load swings, fuel mix and fuel quality changes, control efficiency differences, and performance testing adjustments. When EPA relies on HAP test data from a short period of time, it is missing this inherent variability that occurs even at well operated boilers. For example, EPA should collect long-term CO data from existing CO monitors which show large variations rather than conclude (based on short term data) that CO performance is steady. Finally, some boilers are used for limited periods of time for back-up and should be treated differently than boilers running day in and day out.

**Third, EPA should base the limits on more realistic data. The data used in setting emission limits is heavily biased given the way it was collected and sorted. EPA required the best performing units to test and then took the best of that small data set to the point where they represent the “best of the best” performers – the top one percent, not the top 12% as the law instructs.** This is borne out by the fact that only a handful of existing units can meet all the limits when you would expect 12 percent of the thousands of boilers to achieve the limit. And for new units, it's unclear whether state of the art boilers could be guaranteed to perform at the necessary levels. In addition, EPA needs to apply different statistical approaches that align with the data sets and their use in the rulemaking. Ultimately, EPA needs to look at other available data such as emission factors and not just available emission information to paint a more realistic picture of boiler performance for each HAP and subcategory and make sure real world best performing boilers can meet the SET of HAP limits.

**Finally, EPA should not penalize clean fuels like biomass. Several of the existing and new source limits for biomass are extremely low because the baseline of emissions is very low compared to other fuels.** Emissions of mercury, dioxin and hydrochloric acid are present in very small amounts in wood and are inconsequential sources of these HAPs yet the costs to achieve these very low levels becomes exponentially more expensive and can't be consistently achieved. The biomass limits are unduly influenced by tests that could not detect the HAP (so called non-detects) which suggests that emission limits should be dropped or at least replaced by alternative work practices as was done for natural gas fired boilers. Finally, over sixty boilers burn biomass with as little as 10% coal but the proposal classifies them as coal

boilers setting unachievable CO limits. The CO limits for these combination boilers should be the same as the ones for biomass fired boilers. **If we want to continue to encourage and expand the use of renewable, carbon neutral biomass in this country, the rule needs to change dramatically.**

In addition to Boiler MACT, EPA has proposed three other related rules that will affect the forest products industry – Boiler Generally Achievable Control Technology. (GACT), Non-Hazardous Secondary Material Definitions, and Commercial Industrial Solid Waste Incinerator (CISWI) MACT.

- Under Boiler GACT, small facilities such as sawmills will also be severely, economically harmed by EPA’s boiler rules for area sources even though their emissions are tiny and not harmful. We believe EPA should not set numerical limits for CO for these biomass and oil-fired boilers located at small mills but instead set good combustion practices and tune-up requirements that will achieve the same results at far lower cost. EPA should use its discretion so as not to burden facilities that are still hurting from the building downturn.
- The solid waste definitions EPA sets have the potential to seriously restrict which types of biomass may be burned for their carbon-neutral energy and which may be pushed into the waste stream. In the Non-Hazardous Secondary Materials rule, EPA should define these secondary biomass materials like resinated trim, urban wood, and pulp, paper and wastewater residuals as fuels and promote their use which displace fossil fuels and is consistent with the President’s call for greater use of renewable fuels
- Finally, many of the same concerns about the data quality in Boiler MACT also are relevant to the CISWI rule. We would just add there is no need to set a separate opacity limit in the rule since it is not one of the listed section 129 pollutants.

Let me end by recognizing that EPA has a tremendous task to complete four separate rulemaking of this complexity and economic importance, with expansive data sets, and numerous policy issues, on the accelerated schedule given by the court. The public also will be challenged to provide comprehensive comments by August 3<sup>rd</sup>. We have two process suggestions:

- First, the public’s task of providing meaningful comments is complicated by EPA not settling the question of what is a “solid waste” under RCRA first. This question is fundamental to determining which units should be considered in the MACT floor calculations for the Boiler MACT and which for the CISWI rule and jeopardizes our rights to fair notice and comment. For example, we are focusing our review of data for the “floor units” and working to provide additional information that shows the true variability in emissions, whether the boiler is misclassified, or data is inaccurate (a task EPA should do before promulgation).

Those units could easily change based on the definition ultimately chosen. Therefore, **we recommend EPA complete the Definition of Non Hazardous Secondary Materials rulemaking first, then issue a Notice of Data Availability for the new preliminary floor units for public comment, and only at that point proceed with the promulgation of the other three Clean Air Act rules.**

- **Second, we strongly encourage the Agency to ask the court for as much time as it needs to finalize reasonable and well supported rules.** If an extension to the comment period is given, more time will be needed for EPA to completely assess the new information. Failure to do so may result in a weak record that is vulnerable to challenge.

Thanks you for the opportunity to express AF&PA's and AWC's initial views on these critical rules.