

**Statement of Donna A. Harman
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House Subcommittee on Regulatory Affairs, Stimulus Oversight and
Government Spending
Hearing on “Assessing the Cumulative Impact of Regulation on U.S.
Manufacturers”
March 9, 2011**

Chairman Jordan, Ranking Member Kucinich, and Members of the Subcommittee, my name is Donna Harman, and I am the President and CEO of the American Forest & Paper Association (AF&PA). Thank you for the opportunity to testify on the challenges presented by the cumulative impact of existing and expected new EPA regulations.

AF&PA is the national trade association of the forest products industry and advances public policies that promote a strong and sustainable U.S. forest products industry in the global marketplace. The U.S. forest products industry accounts for approximately 5 percent of the total U.S. manufacturing GDP. Industry companies produce about \$175 billion in products annually and employ nearly 900,000 men and women. The industry meets a payroll of approximately \$50 billion and is among the top 10 manufacturing sector employers in 48 states. AF&PA’s member companies make more than 75 percent of the U.S.’s pulp, paper, paper-based packaging and wood building materials—products used every day that are made from renewable and recyclable resources that sustain the environment. The Association’s membership represents the diverse spectrum of the forest products industry—from smaller family-owned mills, to large multi-product, public and private companies that manufacture pulp, paper, paperboard and wood products to independent forest owners.

We in the forest products industry are proud of our environmental stewardship using a renewable resource to make essential products that businesses and families use every day. The forest products industry is also a national leader in renewable energy because of its efficient use of its raw material—wood, a renewable, recyclable and reusable resource. In fact, we produce and use more renewable energy than all the wind, solar and geothermal power combined. Wood biomass is used to manufacture paper and building products, and generate energy that is used to power manufacturing facilities.

We applaud this committee and others for taking seriously the role of oversight of the laws that have been enacted. Many were enacted decades ago and have contributed to significant improvements in air and water quality. The forest products manufacturing supply chain is heavily regulated. We will continue to adapt to well reasoned regulations that are affordable and achievable. But we cannot respond to regulations in a vacuum. Businesses in our sector must consider the global competitive environment in which they operate. They must compete for capital globally and have the time needed to build new regulatory requirements into capital planning processes. They must also be able to rely on the government so that once a regulation is in place, it will not be selectively enforced or changed within a short timeframe.

A key issue for this committee to consider is the cumulative effect of all of the growing number of new regulations. We are facing over twenty Clean Air Act regulations, including Boiler MACT, that could have a dramatic impact on our industry. Attached to this testimony is a diagram of clean air regulations in the pipeline that will affect forest products industry manufacturing facilities. Some of these regulations are listed in the attached letter that we submitted in response to Chairman Issa's inquiry, but I should note that the letter also includes many other areas of concern, including EPA regulations on greenhouse gases, water, and waste, as well as OSHA workplace regulations, Fish and Wildlife Service endangered species regulations and Forest Service management of forest lands.

State of the Industry

The U.S. forest products industry – both paper and wood products-- has been facing trying economic times for more than a decade. U.S. production of paper and paperboard declined 10% between 2007 and 2010. While we experienced some rebound in market demand in 2010, the decline reflects the still-weak economy, competition from electronic media, and cost pressures, including from government regulations.

As a result, the paper industry has earned its cost of capital in only two of the past ten years, and has been forced to restructure to meet global competitive pressures. Paper and allied products industry employment has declined by 58,000 positions, equal to 13 percent of the industry's workforce as 52 paper mills have permanently closed their doors just since 2007.

According to a research paper by the Economic Policy Institute, for every 100 paper industry jobs, an additional 325 jobs are sustained in other industries resulting from the purchase of supplies and the re-spending of worker incomes.¹ Hence, the 58,000 jobs lost in the paper industry suggest total job losses inside and outside the industry of over 250,000.

The wood products side of the industry is also facing huge economic challenges due to the collapse of homebuilding, the leading end-use market for wood building products. Employment in the wood products manufacturing sector has declined by 31 percent (152,000 jobs) since the end of 2007, and by 45 percent (280,000 jobs) since the end of 1999. It will likely take years for wood product markets to fully recover.

Since many wood and paper mills are located in rural areas where these high-paying jobs cannot be replaced, the effect of these job losses on local rural communities can be especially devastating. The closure of a mill in a small town has an enormous ripple effect when that mill is the largest employer and a major contributor to local taxes and community civic programs.

¹ Economic Policy Institute, "Updated Employment Multipliers for the US Economy" (2003).

Government regulations that are not cost-effective can exacerbate what is already a bad situation. For instance, a recent study conducted for AF&PA by Fisher International concluded that several upcoming Clean Air rules other than Boiler MACT would cause 62 additional mills to close and 26,778 paper industry jobs to be lost. If supplier jobs and jobs associated with the re-spending of worker incomes are included, total job losses could reach nearly 114,000. Moreover, the recently announced “final” boiler MACT rules would likely cause thousands of additional job losses in the forest product industry and its related supply chain.

Boiler MACT

The so-called “Boiler MACT” is a regulation issued under the Clean Air Act Amendments of 1990. The statute requires that EPA regulate hazardous air pollutants from emission sources, including boilers, using maximum achievable control technology (“MACT”). Although most boilers already are well controlled for key pollutants, EPA’s Boiler MACT rule will require more than 90% of boilers to make significant changes. For the forest products industry, our initial capital cost estimate of the final rule is over \$3 billion -- and as our technical experts delve deeper, their concerns about achievability and cost have grown. Although the limits for mercury and hydrochloric acid became more reasonable for biomass boilers, the carbon monoxide limits for stoker fired biomass boilers actually became more stringent. When burning wet biomass, it will be very challenging, even with the combustion improvements EPA assumes necessary, to meet the more stringent limits.

Congress gave EPA the authority in section 112(d)(4) to set alternative standards for pollutants with health thresholds in cases where the regular MACT limits may be “far more stringent than necessary to protect public health...”. Boiler MACT is exactly the type of situation Congress had in mind when giving EPA this authority. This rule covers boilers used in numerous industries and in a wide variety of applications and settings. The economics of each setting vary widely and impact a broad cross section of the economy.

While Congress gave EPA the ability to target controls for certain emissions where exposures are low, EPA has failed to use this authority despite repeated requests by members of Congress and many stakeholders. Any reservations about setting health based emission limits have been addressed in public comments. We provided toxicology verification that several of the pollutants have health effect thresholds and suggested a way to account for any additive effects between these pollutants. We also challenged EPA’s perspective that any risk assessments must look beyond the boilers covered in this MACT when by definition MACT is limited to the source category. If EPA had provided a health based emission limitation for threshold pollutants such as manganese and hydrogen chloride that is set for each qualifying facility, then costs could be reduced while still protecting public health.

We think EPA made the right choice in relying on cost-effective work practices for more boilers in the final rule, such as gas units, biomass boilers at small mills and back-up

boilers, providing an affordable way to reduce emissions. EPA could have and should have set flexible work practices for dioxin as well. Some of our mills are not even sure they can measure at the limits being imposed, let alone control for it. Moreover, the final rule barely begins to account for the tremendous variability among boilers by establishing additional subcategories and using new emissions data to set slightly more realistic limits. EPA continues to ignore what real-world, best performing boilers can achieve over the range of normal operating conditions. EPA should ensure that limits are technically achievable for biomass and new boilers to encourage the use of a broad range of fuels and foster new investment in state-of-the-art boilers.

Finally, EPA has created a confusing and inappropriate definition for secondary materials that are solid wastes rather than fuels when burned, shifting many boilers under the more onerous Incinerator MACT. The final Non-Hazardous Secondary Materials rule may cause various renewable biomass residuals to be classified as “solid waste,” creating a stigma that that will result in them being landfilled rather than used as alternative fuels, as they previously have been, and which is essential to the economics of some operations.

The only new boilers that may be viable are those that burn natural gas. After many concerns were expressed about the proposed natural gas standards, EPA eventually adopted much more flexible work practices. The net effect may be to curtail energy options for new boilers. This not only puts all our eggs in one energy basket but also raises serious practical problems. Many boilers simply do not have access to natural gas because the infrastructure is not there. The economics of some manufacturers (including forest products) depend on the ability to use diverse energy sources. Our future will be jeopardized if we cannot use biomass in new boilers. We believe that penalizing renewable clean fuels like biomass and thereby increasing the use of fossil fuels, is counterproductive and contrary to the Administration’s own energy policy.

We anticipate that the capital cost for all manufacturing from the Boiler MACT rule could be well over \$11 billion, plus billions more in annual operating costs. A wide range of manufacturers and the jobs they sustain would be impacted, as well as municipal utilities, universities, hospitals, federal facilities and other facilities that operate larger boilers.

EPA Jobs Study on Boiler MACT

Much has been reported about the dueling jobs studies on the Boiler MACT regulations. The EPA recently released a Regulatory Impact Analysis, which indicated that the final Boiler MACT rule would range from destroying 4,100 jobs to creating 8,500 jobs. The midpoint of the range was 2,200 jobs created. EPA’s jobs analysis was based on a 2002 paper by Morgenstern, Pizer and Shih published in the *Journal of Environmental Economics and Management*.

In using the Morgenstern study, the agency relied on a model that was predicated on data from the 1979-1991 period. While the Morgenstern findings may have indeed been relevant for the 1980s when people had to use paper and foreign competition was not as keen, it needs to be rethought and updated to reflect today’s reality. With increased

foreign competition, electronic competition, and a weak economy, the paper industry is in a far different place today as compared with the 1980s. The EPA's approach fails to recognize that reality. We believe an updated methodology should be used for assessing job losses or gains reflecting today's global competitive factors.

As explained earlier, the U.S. forest products industry has already lost a large percentage of its workforce. If more mills are forced to close their doors permanently we will lose additional high paying, tax generating jobs. Exports will drop and imports will increase since no other country is contemplating requirements this extreme.

Other Pending Clean Air Regulations

Pulp and Paper MACT and Residual Risk:

EPA is considering redoing the Pulp and Paper MACTs issued a decade ago even though MACT is supposed to be a one-time program. Given the stringency and unachievability of the Boiler MACT, we are very concerned that a similar approach will lead to a rule with over \$4 billion in additional capital costs. EPA's obligations are to look at the health risks that remain after MACT, not a total MACT do-over. We believe that the original MACTs reduced emissions significantly (and at great expense) to the point where remaining risks are generally very low based on the extensive information the industry has provided EPA. In addition, any plans to regulate hydrogen sulfide (which could cost close to \$3 billion) should be abandoned, since emissions are below levels of concern. Given the accelerated consent decree schedule, EPA should focus its resources on making a "Residual Risk" determination using reasonable risk assessment methods, data and assumptions, taking costs into account as Congress required in the Clean Air Act.

National Ambient Air Quality Standards (NAAQS):

The National Ambient Air Quality Standard (NAAQS) program has greatly reduced emissions of criteria pollutants. Air quality has improved dramatically for all six NAAQS pollutants at significant cost to industry bringing many areas into attainment – and more reductions are on the way under existing programs. The forest products industry has been part of these reductions, reducing sulfur dioxide and nitrogen oxides by between 25 and 35 percent in the last fifteen years alone, as well as cutting emissions of hundreds of thousand of tons of particulate matter (PM) and volatile organic compounds (VOCs).

Yet, further tightening of the NAAQS is underway with the short-term NO_x and SO₂ NAAQSs finalized last year and the ozone and PM NAAQS scheduled for this year. Collectively, these NAAQS revisions could cost the forest products industry over \$8 billion in capital costs. Of equal concern is the permitting gridlock caused when mills cannot satisfy modeling criteria for plant improvements (even ones that reduce emissions), preventing mill modernization and damaging competitiveness. EPA's standards are so close to background levels for some pollutants that even the dust from roads around a mill are enough to exceed modeling parameters and potentially stop permit revisions.

Under the Clean Air Act, Congress directed EPA to consider, every five years, whether any changes are needed to the NAAQS. In March 2008, EPA replaced the 1997 ozone standard with a new, more stringent standard. Even before that standard will be fully implemented, EPA is considering tightening it further -- two years ahead of the usual statutory schedule. Last month, 38 newly elected Congressmen wrote to Administrator Jackson citing concerns about the impact on jobs and the economy and asking that she withdraw the proposed ozone rule and instead conduct a full science review under the usual five year schedule. A similar bipartisan letter signed by 51 House Members was sent to the Administrator last November. Given the significant economic burden imposed by the ozone NAAQS on the forest products industry and the still fragile economy, we agree that deferral is warranted.

Summary

Living with such an uncertain regulatory environment can not only cost current jobs, but it can prevent new jobs from being created. Companies frequently find themselves tangled in a web of rules and restrictions that result in the decision to simply not make an investment because of the ambiguity and uncertainty of the regulatory process. Others take a gamble and roll the dice that the rule they are making decisions under today will still be in place when their project is completed. When regulations such as Boiler MACT and NAAQS create significant uncertainty because of their affordability and achievability, investing in an energy efficiency project, mill modernization programs, or a new biomass boiler can be very risky, preventing job creation in rural communities that desperately need it. EPA has the power to protect public health while using its statutory authority to create more affordable programs. We hope the Committee's oversight activities will help encourage EPA to focus on the highest priorities. Thank you for taking the time to listen to some of the many regulatory challenges the forest products industry is facing.



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Donna Harman is the President and Chief Executive Officer of the American Forest & Paper Association (AF&PA). As the industry's voice on public policy at all levels of government, Ms. Harman works with AF&PA's more than 140 members to advance policies that promote a strong and sustainable U.S. forest products industry in the global marketplace. In recognition of her leadership and public policy expertise concerning the forest products industry, Ms. Harman was recognized by the Pulp and Paper International magazine as one of the 50 most influential people in the global pulp and paper industry.