

ROBERT P. CASEY, JR.
PENNSYLVANIA

COMMITTEES:
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AND FORESTRY

FOREIGN RELATIONS

HEALTH, EDUCATION,
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SPECIAL COMMITTEE ON AGING

JOINT ECONOMIC

United States Senate

WASHINGTON, DC 20510

March 17, 2010

The Honorable Lisa P. Jackson
Administrator
U.S. Environmental Protection Agency
Ariel Rios Building, Mail Code: 1101A
1200 Pennsylvania Avenue, NW
Washington, DC 20460

The Honorable Peter R. Orszag
Director
Office of Management and Budget
Eisenhower Executive Office Building
1650 Pennsylvania Avenue, NW
Washington, DC 20503

Dear Administrator Jackson and Director Orszag:

I am aware that the U.S. Environmental Protection Agency is under court order to issue a proposed Maximum Achievable Control Technology rule for industrial, commercial, and institutional boilers and process heaters, the so-called Boiler MACT, by April 10. As Pennsylvania, and the Nation, struggles to recover from the current economic downturn, I am concerned about the impact of the Boiler MACT on the manufacturing sector, and ultimately, on jobs. I am concerned, as well, about the impact of the rule on schools, institutions, and municipalities in Pennsylvania that operate industrial boilers for heating and other purposes.

The manufacturing sector employs more than 644,000 in Pennsylvania across a broad spectrum of industries including chemicals, primary metals, food products, machinery, paper, plastics, lime and limestone, and cement. These are very good paying jobs with companies that are often the major employer in towns and communities throughout the state. While I fully support efforts by EPA to address potential health threats from boiler emissions from the manufacturing sector, I also believe that regulations need to be crafted by the Agency in a way that sustains both the environment and jobs.

The potential economic impact of the proposed rule cannot be overlooked. I have seen estimates that tens of millions of dollars in capital costs at thousands of facilities across the country would be needed to comply with the new rule. These sorts of capital outlays at a time when the manufacturing sector is struggling to survive will only result in plant closing and further loss of jobs.

However, I understand that there are alternative approaches that EPA could consider relative to the Boiler MACT rule that would achieve the overall goal of protecting human health while easing the compliance burden on the manufacturers and other industrial-scale boiler operators. The first would allow facilities to demonstrate whether or not their specific emissions pose a public health threat. Section 112(d)(4) of the Clean Air Act expressly allows the use of such a "health threshold standard" approach in which a facility could submit a risk demonstration to the Agency and qualify for an exemption from further controls on those emissions. The

second would ensure that in setting a MACT limit EPA takes into account the wide variability in industrial boiler design, operation, fuel type, and control equipment. The concern is EPA may be looking at the "best of the best" in setting a MACT standard that would impose an emission limit that the majority of boilers cannot achieve without expensive retrofits or fuel switching.

In light of the concerns about the potential impact the Boiler MACT rule would on manufacturers and other boiler operators in Pennsylvania, I would ask that you incorporate these two alternatives into the rule making process. In addition, I would also request that you provide a written response to the following questions.

1. Will EPA include in the Boiler MACT rule a "health threshold standard" approach as described in §112(d)(4) of the Clean Air Act for pollutants like hydrogen chloride and manganese? And if not, why not?
2. Will EPA include in the Boiler MACT rule a re-assessment of the emissions data that has been collected to ensure that the variability in boiler design, configuration, fuel type, and control technology is factored into the final MACT standard? And if not, why not?

Thank you for your consideration.

Sincerely,



Robert P. Casey, Jr.
United States Senate

United States Senate

WASHINGTON, DC 20510

March 26, 2010

Administrator Lisa Jackson
USEPA Ariel Rios Building
1200 Pennsylvania Avenue N.W.
Washington, DC 20004

Dear Administrator Jackson:

We are writing to request that EPA address a rulemaking of critical importance to our states in a manner that encourages robust public comment and reflects the best interests of our nation during these challenging economic times.

The Clean Air Act (CAA) offers U.S. EPA discretion in certain areas to balance economic and environmental interests. Exercising this discretion is particularly important during periods of prolonged economic contraction, when job stability and creation as well as business recovery are critical.

We are writing today to ask that you exercise this CAA discretion as you work on the Maximum Achievable Control Technology rule for industrial, commercial, and institutional boilers and process heaters (Boiler MACT). We understand this rule, which EPA is under court order to propose by April 15, could impose significant capital costs at thousands of facilities across the country. This rule would affect boilers that provide steam to university campuses and Federal facilities, the gas-fired boilers that help make recycled paper and foodstuffs, the biomass-fired boilers that recover energy from renewable material to produce furniture or wood products, and the municipal utility boilers that provide reliable local electricity generation.

To help reduce the cost burden in a manner that does not compromise the public health and safety we believe EPA should consider exercising the "health threshold" discretion that Congress allowed under Section 112(d)(4) of the Act. Under this section of the law, for pollutants that are considered safe to human health in concentrations that fall below an established threshold, EPA may use this risk information to set emission standards.

The Clean Air Act also provides EPA with broad discretion to subcategorize within the Boiler source category based on size, type and class of source to help ensure that the emission limitations are determined by the best performing similar sources and that the emission standard can ultimately be achieved in practice. Within the proper subcategory, EPA has further discretion to use a method for setting emissions standards based on what real world best performing units actually achieve so that the units setting the standard for the rest of the subcategory will not have additional emission control obligations.

Letter to Administrator Jackson

March 26, 2010

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We believe that it is critical that the EPA's proposed rule for Boiler MACT present a range of technically sound and cost-effective options, foster robust public comment, and make appropriate use of the discretion afforded EPA to responsibly balance environmental and economic interests. Our states and our nation simply cannot afford job losses associated with rules more stringent than necessary to protect the public health and safety.

We would be glad to discuss our views with you in more depth. Thank you for your consideration.

Sincerely,

Greg V. Kenovich

Shirley Brown

John Comyn

Richard G. Lopez

Laura Alexander

Em Boyle

Jeff Bond

Mark R. Wines

J. Webb

cc:

Gina McCarthy, Environmental Protection Agency
Robert Perciasepe, Environmental Protection Agency
Robert Sussman, Environmental Protection Agency
Cass Sunstein, Office of Information and Regulatory Affairs
Lawrence Summers, National Economic Council

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Congress of the United States
Washington, DC 20515

April 01, 2010

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Ave, NW
Washington, DC 20460

Dear Administrator Jackson:

We write to express our concerns regarding the potential impact of pending Environmental Protection Agency (EPA) standards for industrial, commercial and institutional boilers and process heaters. We are specifically concerned about the proposed Maximum Achievable Control Technology rule (Boiler MACT) and its potential negative impact on jobs and our nation's ability to recover from the current recession.

As the national unemployment rate hovers around 10 percent, and federal, state, and municipal finances are in dire straits, hundreds of thousands of manufacturing workers have lost their jobs in the past year alone. The flow of capital for new investment and hiring is still seriously restricted and could make or break the viability of continued operations. Both small and large businesses are vulnerable to extremely costly regulatory burdens, as well as municipalities, universities, federal facilities, and commercial entities. While we support efforts to address serious health threats from air emissions, we also believe that regulations can be crafted in a balanced way that sustains both the environment and jobs.

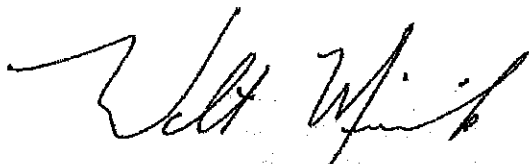
The proposed Boiler MACT rule could impose tens of billions of dollars in capital costs at thousands of facilities across the country. However, if EPA were to provide flexible approaches in the Boiler MACT rule and appropriately address the diversity of units, operations, sectors, and fuels, it could prevent severe job losses and billions of dollars in unnecessary regulatory costs.

First, we encourage EPA to allow facilities to demonstrate that emissions of certain pollutants do not pose a public health threat and set appropriate emission thresholds based upon their findings thereafter. Second, EPA should use a method to set emissions standards that is based on what best-performing units currently in operation actually can achieve. EPA should not ignore the practical capabilities of controls and the variability in operations, fuels and testing performance across the many regulated sectors. The methods used in Boiler MACT will also influence how EPA develops the MACT standards for many other sectors—several of which have deadlines in the near future.

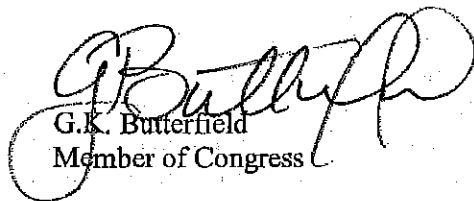
We are confident that you appreciate that imposing such controls could prove burdensome and unnecessary, particularly if there are better ways to protect public health and the environment. We ask that the Boiler MACT proposal provide a neutral presentation of a range of technically sound and cost-effective options and emission limits to foster robust public comment.

Thank you for your consideration of these views.

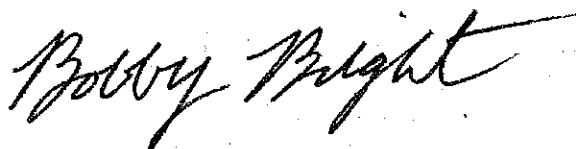
Sincerely,



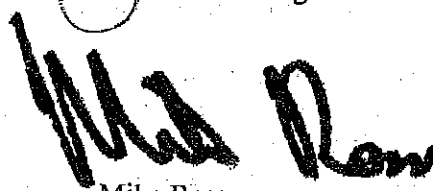
Walt Minnick
Member of Congress



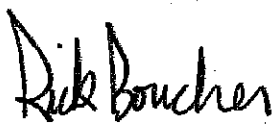
G.K. Butterfield
Member of Congress



Bobby Bright
Member of Congress



Mike Ross
Member of Congress



Rick Boucher
Member of Congress

cc: Gina McCarthy
Robert Perciasepe
Robert Sussman
Cass Sunstein
Lawrence Summers