

ROBERT P. CASEY, JR.
PENNSYLVANIA

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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

AMY KLOBUCHAR
MINNESOTA

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United States Senate
WASHINGTON, DC 20510

March 16, 2010

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
1200 Pennsylvania Avenue, Northwest
Washington, DC 20460

Dear Administrator Jackson:

I write to express my concern about the potential economic impact of new Environmental Protection Agency standards for industrial, commercial, and institutional boilers and process heaters. I support efforts to address serious health threats from air emissions but I encourage you to craft the regulations in a balanced way that sustains both environmental health and jobs.

As you know, under court order, the EPA is required to issue a draft rule of maximum achievable control technology standards for industrial, commercial and institutional boilers and process heaters (Boiler MACT). This rule could unnecessarily impose tens of billions of dollars in capital costs at thousands of facilities across the country. To avoid this, I encourage EPA to provide flexible approaches in the Boiler MACT rule and appropriately address the diversity of units, operations, sectors, and fuels. Specifically, EPA should set emission thresholds that appropriately reflect the level of health concern, and facilities should demonstrate their compliance with that threshold. Moreover, EPA should use a method to set emissions standards that is based on what real world best performing units 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 may also influence how EPA develops the MACT standards for many other sectors in the near future. I am confident that you appreciate the importance of protecting our public health in a way that incorporates technical feasibility, and I encourage you to carefully consider options and ideas presented in the public comment period of this rule-making process.

Sincerely,



Amy Klobuchar

Cc: The Honorable Regina McCarthy
Assistant Administrator, Office of Air and Radiation, EPA

The Honorable Cass Sunstein
Director, White House Office of Information and Regulatory Affairs