



**American
Forest & Paper
Association**



www.afandpa.org

The Challenge of Boiler MACT and the Cumulative Air Regulatory Burden

August 9, 2011

Paul Noe

National Conference of State Legislatures



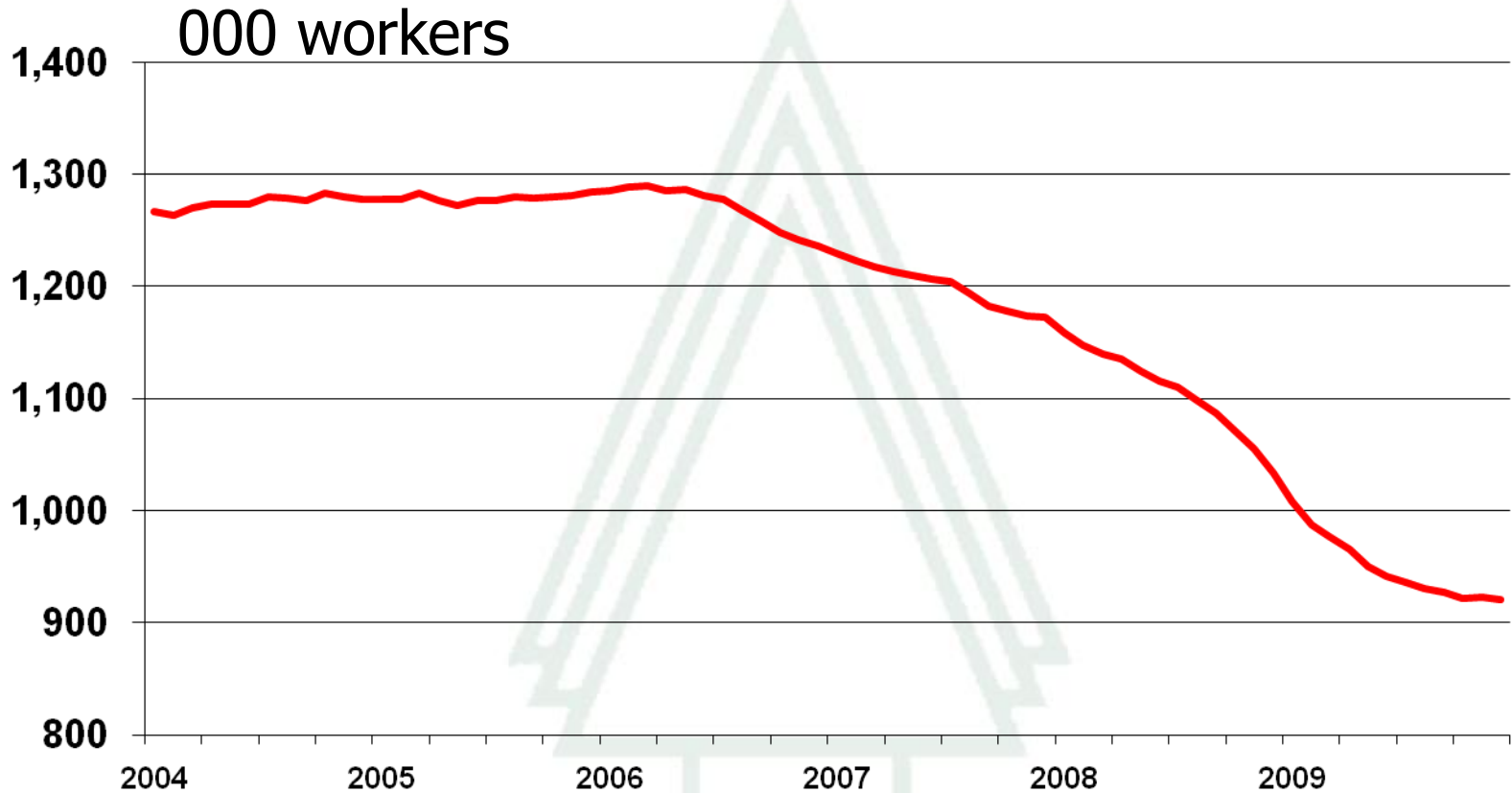
**American
Forest & Paper
Association**

Overview: The Perfect Storm

- State of the Economy
- Cumulative Air Regulatory Burden
- Boiler MACT



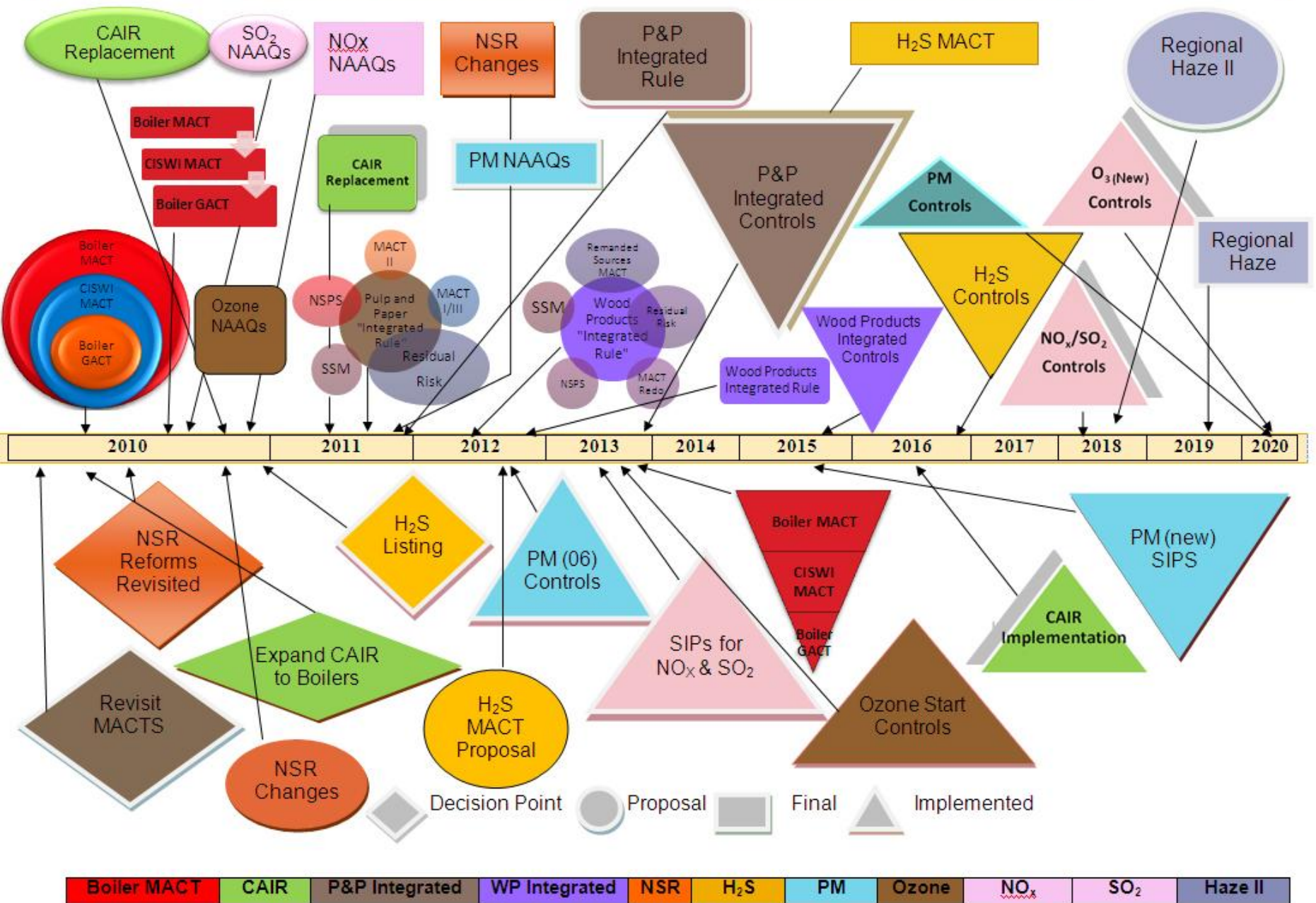
Forest Products Industry Employment*



* Includes paper and allied products, wood products, and logging.

Source: Bureau of Labor Statistics

Potential Air Regulations Affecting Forest Products (2010-2020)



The Boiler MACT Rules

- The Boiler MACT rules are really four rules - linked
 - (1) Boiler MACT: Large boilers (major sources of Hazardous Air Pollutants) Over 13,000 boilers at over 1600 facilities. Emission limits for PM, HCl, Hg, CO, and dioxin will require addition of multiple controls and complex monitoring to meet proposed limits.
 - (2) Incinerator MACT (CISWI): HAPs + PM, NO_x, SO₂
 - (3) Definition of Non-Hazardous Secondary Material (NHSM) if waste go under Incinerator rule
 - (4) Boiler GACT: Smaller Boilers (minor sources of HAPs)
- After EPA was denied a 15-month extension by a court, the final rules were issued this Spring.

NHSM Rule: Perverse Outcomes

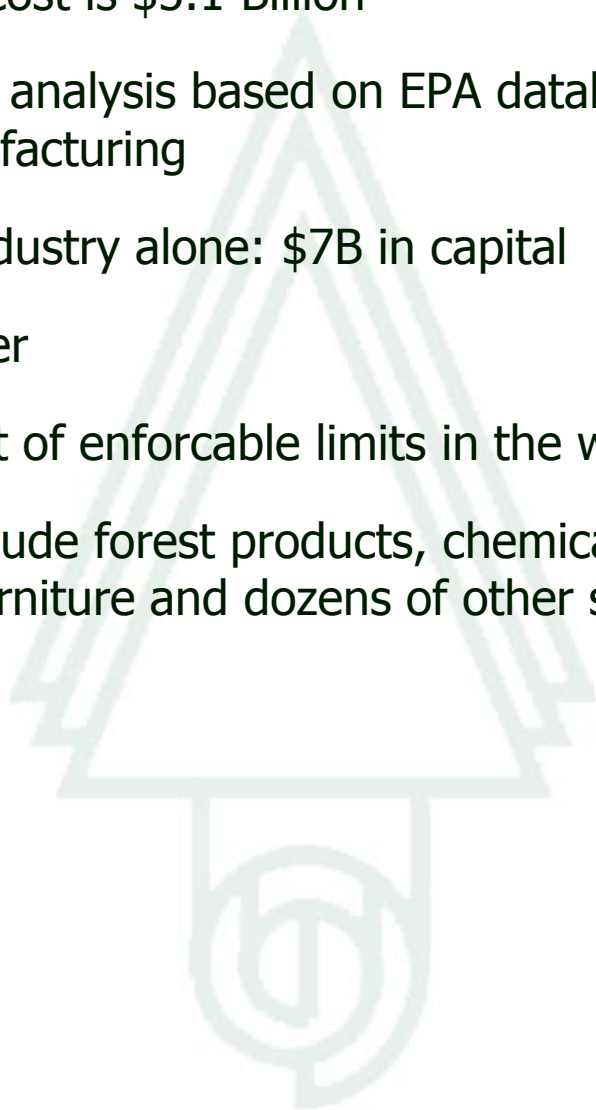
- Preamble identifies many materials as likely to be fuels, BUT
- Rule language requires meeting “legitimacy criteria”
 - contaminant level must be comparable to “traditional fuel” - e.g., wood
 - ignores notion of “discard” and historical use of these alternative fuels
- Many biomass residuals would flunk - turning boilers into “Incinerators” (3X cost)
 - Resinated wood, wastewater and paper process residuals become solid wastes
 - Even process gases might be considered solid wastes – EPA trying to fix
 - No health concerns – very small quantities and well controlled under MACT
- Many facilities will stop burning, landfill materials and buy fossil fuels
 - \$660 million/year just for forest products – some mills won’t survive
 - Millions of tons filling our landfills

Consequences for Biomass

- ❑ Boiler MACT and NHSM Rules are contrary to Administration's and states' efforts to encourage renewable, carbon neutral biomass
 - ❑ Fuels for School, RES, DOE and USDA programs
- ❑ Huge costs and unachievable standards will severely harm industries reliant on biomass
 - ❑ pulp, paper, wood products, furniture, sugar, energy, and food processors
- ❑ Encourages use of natural gas

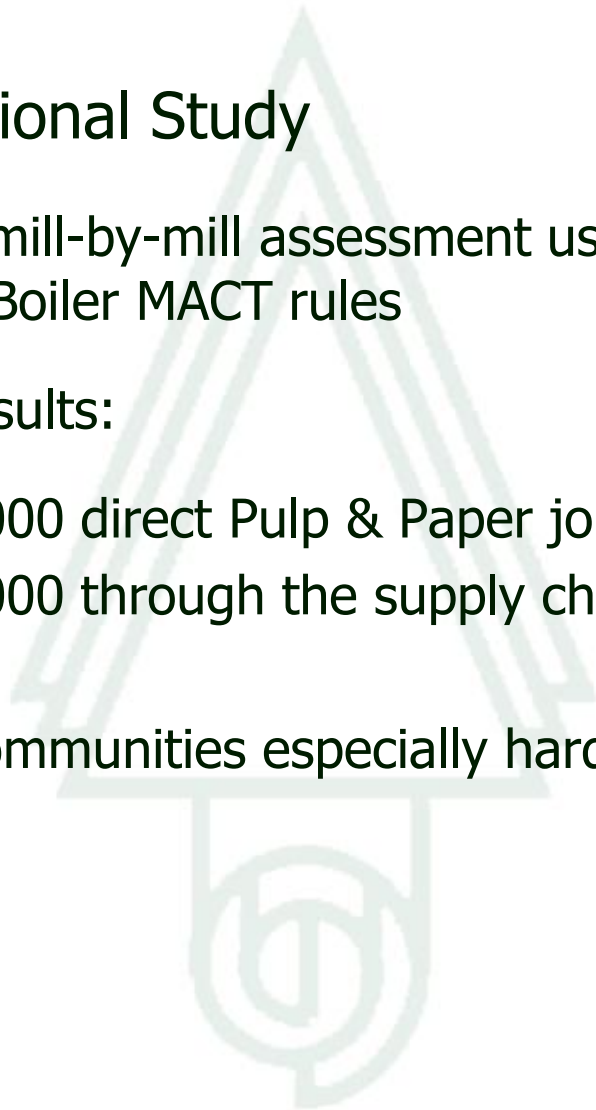
EPA has underestimated Boiler MACT Costs

- EPA says capital cost is \$5.1 Billion
- URS conservative analysis based on EPA database shows capital cost of \$14B for manufacturing
- Forest product industry alone: \$7B in capital
- Largest MACT ever
- Most stringent set of enforceable limits in the world
- Most affected include forest products, chemicals, utilities, food mfg, primary metal, furniture and dozens of other sectors.



Jobs at Risk from Boiler MACT Rules

- Fisher International Study
 - Pulp & Paper mill-by-mill assessment using URS cost estimates for Boiler MACT rules
 - Preliminary results:
 - About 20,000 direct Pulp & Paper jobs
 - About 87,000 through the supply chain
 - Small, rural communities especially hard hit.



Need for Legislation – HR 2250, S. 1392

- Tremendous uncertainty at EPA and in court creates poor business climate for investment and planning – NEED LEGISLATION
- EPA Regulatory Relief Act of 2011
 - **HR 2250**: Griffith (R-VA) and Butterfield (D-NC) leads – Barrow, Matheson, McMorris-Rodgers, Olson, Ross, and Scalise original cosponsors; **90+ co-sponsors**
 - **S. 1392**: Collins (R-ME) and Wyden (D-OR) leads – Pryor, Alexander, Landrieu, Toomey original cosponsors; **22 cosponsors**
 - Guides EPA to use its statutory discretion
- Timing provisions:
 - Stays all the rules – eliminates risk that court overturns EPA's stay
 - Gives EPA at least 15 months to reissue – many issues, use new data, sort out interrelationship between complex rules – get it right or rules could be overturned in court again
 - Gives industry 5 years to comply given complexities and competing rules – better economic times will encourage facilities to make upgrades rather than close

H.R. 2250, S. 1392 (continued)

■ Boiler-CISWI Policy Directives

- Authorizes setting existing and new source standards that are achievable looking at variability of boilers for set of regulated Hazardous Air Pollutants
- Avoids rule that only fictitious (Franken) boiler can achieve
- EPA has authority to do “source-based” standards but chosen to do pollutant-by-pollutant

■ NHSM Policy Directives

- Focuses on whether material is non-hazardous, not discarded and burned for energy recovery
- Many valuable secondary materials become fuels again – similar to EPA’s intent

Broad support for Legislation

- American Forest & Paper Association
- American Chemistry Council
- American Coke & Coal Chemicals Institute
- American Foundry Society
- American Home Furnishings Alliance
- American Iron and Steel Institute
- American Municipal Power, Inc.
- American Petroleum Institute
- American Sugar Alliance
- American Wood Council
- Auto Permitting Forum
- Biomass Power Association
- Brick Industries Association
- Composite Panel Association
- Corn Refiners Association
- Council of Industrial Boiler Owners
- Energy Resource Council
- Fertilizer Institute
- Hardwood Federation
- Hardwood Plywood and Veneer Association
- Institute of Shortening and Edible Oils
- National Association of Manufacturers
- National Cotton Ginners Association
- National Mining Association
- National Oil Recyclers Association
- National Oilseed Processors Association
- National Petrochemical & Refiners Association
- National Rural Electric Cooperatives Association
- Pellet Fuels Association
- Rubber Manufacturers Association
- Society of Chemical Manufacturers and Affiliates
- Treated Wood Council
- U.S. Chamber of Commerce



Wrap-up

- Uniquely challenging time
- Worst economy since the creation of the modern Administrative State
- Stubbornly high unemployment
- Aggressive foreign competition
- Surge of regulation smothers economic recovery
- Need smarter, cost-effective approaches; consider trade-offs.
- Need S. 1392 and HR 2250 to protect both jobs and public health

Questions

■ ???

Paul Noe

Vice President for Public Policy

American Forest & Paper Association

Paul_Noe@afandpa.org

