United States Senate
WASHINGTON, DC 20510

July 19, 2012

The Honorable Barack Obama
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Obama:

Given that the U.S. Environmental Protection Agency (EPA) has transmitted to OMB the reconsidered rules with regard to industrial boilers, known as the Boiler MACT rules, we are writing to reiterate our interest in this issue of great concern to manufacturers across the country. It has been our shared goal to ensure that the final Boiler MACT rules are achievable, affordable, and protective of public health and the environment, while preventing the loss of thousands of jobs that we can ill-afford to lose. Since the rules were first proposed, we acknowledge that significant revisions have been made. However, we continue to believe that the final rule must be strengthened to include additional compliance time to enable facilities that will be investing billions of dollars to rationally plan for the capital expenses, to clarify the fuel status of key biomass materials, and to establish achievable carbon monoxide (CO) limits for all fuels to ensure the intended benefits.

Considering the number of facilities involved and the complexity of the rules, it is necessary to provide compliance time beyond the traditionally provided three years, and we believe this is possible within the authorities provided to EPA and the President under the Clean Air Act. We request that the rules require that EPA or the states provide an extra year to comply if a facility meets reasonable criteria. We also believe that an additional year is warranted through presidential action. Additionally, the rules should clarify the status of key biomass residuals as fuels so that these materials can be used productively rather than placed into landfills with negative environmental consequences. The Boiler MACT rules should list wastewater treatment residuals as non-waste fuels, create a safe harbor or presumption for other biomass residuals, and eliminate the presumption that materials are wastes until proven otherwise. Finally, the current CO limits under the Boiler MACT rules, which are currently unachievable, should be adjusted for all fuels – biomass, coal, and oil – for both new and existing sources. These standards should be based on the capabilities of real-world boilers.

Final Boiler MACT rules that include flexibility to make the rules achievable and that are consistent with the intent of the Clean Air Act and your Executive Order 13563 to "identify and use the best, most innovative, and least burdensome tools for achieving regulatory ends," are critical to preserving jobs in many manufacturing industries. The rules as they stand today could cost billions of dollars and thousands of jobs. We urge you to carefully consider this need for flexibility and these points as you evaluate the EPA's proposal.

Sincerely,

Susan Collins
United States Senator

Mark Pryor
United States Senator

Lamar Alexander
United States Senator

Mary Landrieu
United States Senator

Lisa Murkowski
United States Senator

Herb Kohl
United States Senator

Roy Blunt
United States Senator

Claire McCaskill
United States Senator

Copy To:

The Honorable Jack Lew, Chief of Staff, Executive Office of the President
The Honorable Cass Sunstein, Administrator, Office of Information and Regulatory
The Honorable Lisa Jackson, Administrator, Environmental Protection Agency
The Honorable Jeffrey Zients, Acting Director, Office of Management and Budget