

**Statement of Keith Van Scotter**  
**President and CEO – Lincoln Paper and Tissue**  
**Congressional Rural Solutions Working Group Forum**  
**September 29, 2010**

Good afternoon, my name is Keith Van Scotter. I am the President and CEO of Lincoln Paper and Tissue, a leading manufacturer of specialty tissue and paper, located in Lincoln, Maine. I am making this statement on behalf of the forest products industry, which represents the pulp, paper and packaging industry, the wood products industry, and forest landowners. Thank you for the opportunity to highlight our concerns with how the current Federal Regulatory environment is harming the direct jobs we create and sustain and the indirect jobs we support across this nation. Our industry employs nearly 900,000 people (almost as much as the auto industry) in family wage jobs with benefits mostly in rural areas. State of Maine data indicates that each employee in a company such as ours supports nearly 5.5 indirect jobs.

We in the forest products industry are proud of our environmental stewardship using a renewable resource -- our forests -- to make 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. Wood biomass is used to both manufacture paper and building products and generate most of the energy required for that process. On average, our industry self generates two-thirds of our energy using biomass and in some cases excess energy is generated and sold to a third party on the grid.

**BoilerMACT**

Currently, our industry faces several regulatory challenges but there are two in particular I would most like to speak with you about today. The others can be found in my written testimony. The first is the Environmental Protection Agency's (EPA) proposed boiler rules

published in June. The “Boiler MACT” is a rulemaking 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 is in the process of issuing the Boiler MACT rule to require 99% of boilers to do much more; they are under a court order to finalize the rule by January 14, 2011.

The methodology EPA is using results in extremely stringent emission limits, in some cases, below detectable levels and/or unachievable levels using any known engineering techniques. To meet these new standards, our industry will have to spend over \$6 billion. The capital cost for all manufacturing could be \$21 billion, plus billions more in annual costs.

This rule impacts any entity that uses a boiler or a furnace, including municipalities, universities, federal facilities and others. Even boilers using relatively clean fuels like biomass will be subject to ultra-low emission levels. EPA would end up penalizing clean fuels like biomass and thereby increase use of fossil fuels, which we believe is counterproductive and contrary to the Administration’s own energy policy.

EPA has a choice – they can regulate in a way that protects both jobs and the environment – or they can regulate in a way that sacrifices jobs. We believe EPA should avoid unnecessarily burdensome regulations that will destroy jobs and upend the lives of workers, their families, and communities that already face severe economic stress.

A study done by a leading forest industry consultant, Fisher International, shows that Boiler MACT regulations could cause the closure of 30 paper mills across the country and result in the loss of almost 17,000 jobs. These lost jobs will cause a ripple effect through the supply chain and surrounding communities, resulting in an overall job loss of over 72,000 due to Boiler

MACT in the forest industry alone. According to a study commissioned by the Council of Industrial Boiler Owners, more than 300,000 jobs across the economy would be put at risk.

Since 2006, the forest products industry has already contracted by 30%, losing 380,000 jobs. It can hardly be expected to sustain the impact this rule will have upon it. If companies are forced to close their doors permanently we will have lost high paying, tax generating jobs. Exports will drop and imports will increase since other countries are not contemplating requirements this extreme.

These additional job losses can be avoided. There were several flaws in how EPA set these limits. Specifically, under the Clean Air Act, Congress authorized EPA to set flexible, health-based emissions standards where there is not a public health concern. EPA could greatly reduce the unnecessary burden of the proposal by targeting the final rule on real risks to health. In addition, EPA failed to set the MACT limits based on what real best performing sources can achieve. Instead, the approach was based on data “cherry picked” from various sources, creating a hypothetical super performing boiler.

This is an unsustainable regulatory burden, even in good times, but will be disastrous now.

### **Tailoring Rule**

I would like to highlight another EPA rule we see as having a severe impact on rural economies - EPA's Tailoring Rule. The rule is of grave concern to the forest products industry because it would treat carbon dioxide greenhouse gas emissions from the combustion of biomass the same as such emissions from the combustion of fossil fuels. We are concerned with EPA's decision because it departs from the long-standing, established federal government and international precedents of excluding biomass combustion emissions in calculating GHG emissions.

By challenging the status of biomass as a carbon neutral energy source, EPA's decision will discourage the responsible development and utilization of renewable biomass that should play a more significant role in our nation's energy policy. We are concerned that it will impose new, unnecessary regulations on the current use of biomass for energy, and that future biomass projects will have to offset their emissions just like fossil fuel projects. Investors and industries planning to undertake investments in these areas would be paralyzed precisely at a moment when the national and global economies need those types of investments.

EPA should recognize the carbon neutrality of biomass and suspend application of GHG emission regulation to facilities with biomass combustion until a public review of carbon neutrality and its role under the Clean Air Act can be completed.

### **Summary**

Living with such an uncertain regulatory environment can not only cost current jobs, but it can prevent new jobs from being created. I personally know fellow CEOs in this industry who have put job creating projects on hold because of the ambiguity and severity around this Administration's regulatory activity. Investing in energy or plant expansion projects when Boiler MACT and the Tailoring Rule, among other issues, are still outstanding is too risky and prevents job creation and economic growth.

Thank you for the time to listen to some of the many regulatory challenges our industry is facing as the forest products industry tries to sustain good paying, environmental friendly jobs across rural America.

## **OTHER REGULATORY ISSUES OF CONCERN**

### **Biomass Crop Assistance Program (BCAP)**

The forest products industry has concerns with the United States Department of Agriculture's proposed rule to implement the Biomass Crop Assistance Program. The draft final rule was sent to OMB for final review on September 24. The proposed rule severely discriminates against forest products mills. If the rule is finalized as proposed, it may divert the raw material supply of the forest products industry, particularly to already rapidly growing and subsidized export markets for pellets to Europe and to wood-fired utilities in the U.S. That would impose serious hardship on many forest products industry facilities and their workers in rural areas.

Our industry submitted comments to USDA showing that it has an alternative policy choice to reach its stated goal to avoid diverting any materials from existing value-added manufacturing. If USDA focuses the BCAP eligible materials and payments on those woody biomass materials without a viable market, it can provide equal treatment of all existing and new producers of biomass within the bounds of budget constraints, avoid negative tradeoffs between existing and new renewable energy and jobs and fulfill the goals of Congress and the President.

### **Air Standards**

#### **Pulp and Paper MACT**

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 unachievable nature of the proposed Boiler MACT, we are very concerned that a similar approach will lead to a rule that costs over \$4 billion in additional capital.

EPA's obligations are to look at the health risks that remains after MACT, not a total do-over. We believe that the original MACTs reduced emissions significantly (and at great expense) to the point where remaining risks are generally acceptable. EPA should focus on its obligations to complete a "Residual Risk" rule especially since it is on a court ordered schedule and not expand its scope given the other regulatory burdens facing the paper sector.

### **Ozone National Ambient Air Quality Standards (NAAQS):**

Under the Clean Air Act, every five years the EPA must consider whether any changes are needed to NAAQS. In March 2008, EPA replaced the 1997 standard with a new, more stringent standard. Even before that standard could be implemented, EPA proposed in January 2010 an even tighter range. A final decision from EPA is expected at the end of October 2010.

States have yet to fully implement the 1997 and 2008 standards. The range under consideration would greatly increase the stringency of the Ozone NAAQS again when current implementation steps are just beginning, including new emission restrictions and controls significantly affecting a broad variety of businesses and consumers. EPA's proposed range would likely result in a large portion of the U.S. being in non-attainment. Now, States face the possibility of imposing a new and more costly standard on local businesses at a time just after the recession and historic unemployment nationwide. These new costs would close businesses and manufacturing, send U.S. jobs overseas, and discourage new development, thereby hindering our ability to recover and compete in the global marketplace.

Any change in an ambient concentration set by a NAAQS standard must be "requisite" to protect human health or welfare, based on a review of updated scientific information. The range under consideration is controversial because there is no new scientific evidence to justify strengthening the standard. In fact, ambient air quality is getting significantly better *even as our economy grows*. Moreover, current and scheduled EPA rules will continue to achieve significant

improvements without the need for a change in the Ozone NAAQS. EPA should defer any action until the regular five year review cycle comes around.

### **New Source Performance Standards (NSPs)**

EPA is considering revising and expanding the NSPSs for Kraft pulp mills even though there is no evidence of a need. Other regulatory programs over the last two decades have reduced emissions from pulp mills significantly, especially MACT. Now EPA is gearing up a new regulatory initiative that will start with a massive survey taking up significant resources from mill environmental staff. EPA should scale back the survey and stay focused on its mandatory responsibilities rather than making changes in every conceivable part of the Clean Air Act.

# The Washington Post

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## Biomass Subsidy Has Hidden Cost

By Juliet Eilperin

It sounded like a good idea: Provide a little government money to convert wood shavings and plant waste into renewable energy.

But as laudable as that goal sounds, it could end up causing more economic damage than good -- driving up the price of raw timber, undermining an industry that has long used sawdust and wood shavings to make affordable cabinetry, and highlighting the many challenges involved in decreasing the nation's dependence on oil by using organic materials to create biofuels.

In a matter of months, the Biomass Crop Assistance Program -- a small provision tucked into the 2008 farm bill -- has mushroomed into a half-a-billion dollar subsidy that is funneling taxpayer dollars to sawmills and lumber wholesalers, encouraging them to sell their waste to be converted into high-tech biofuels. In doing so, it is shutting off the supply of cheap timber byproducts to the nation's composite wood manufacturers, who make panels for home entertainment centers and kitchen cabinets.

While it remains unclear whether Congress or the Obama administration will push to revamp the program, even some businesses that should benefit from the subsidy are beginning to question its value.

"It's not right. It's not serving any purpose," said Bob Jordan, president of Jordan Lumber & Supply in North Carolina, even while noting that he might be able to get twice as much money for his mill's sawdust and shavings under the program.

"The best thing they could do is forget about it. All it's doing is driving the price of wood up."

A range of renewable materials can be converted into energy sources: Wood pellets, rice hulls and fiber from sugar cane can produce electricity; algae and corn cobs can be converted into liquid fuel. The federal government is actively working to support the growth of as many of these biomass crops as possible, in part to meet requirements under the 2007 energy bill: The country must produce 5.5 billion gallons of advanced biofuels annually in five years, and 21 billion gallons by 2022. Right now, almost no U.S. land is devoted to raising biomass crops; according to congressional estimates, by 2022 the country will need between 22.2 and 55.5 million acres for this purpose.

### A struggling industry

The new subsidy provided a critical boost to an industry that took off in the late 1970s after the federal government mandated that utilities obtain part of their supply from independent power producers. Many of these contracts have now expired, leaving the industry struggling to compete in light of low natural gas prices and higher wood costs.

The future of the biomass program -- which will eventually include a subsidy to get farmers to grow crops such as switchgrass and an array of trees and shrubs -- could be determined by the Office of Management and Budget, which has been reviewing the federal rule for the program since September. In the meantime, federal money has started to flow: The administration sent \$23 million to the state offices of the Farm Service Agency in the fall, and is poised to distribute another \$514 million.



Biomass energy representatives, such as the Biomass Power Association president, Bob Cleaves, said those subsidies are critical to support a sector that currently supplies half of the nation's renewable energy (the other half coming from wind, solar and other sources). Seven of Maine's 10 biomass energy plants would have shut down without the new influx of funds, he said.

"The industry needs help," Cleaves said. "Is the country not prepared to spend half a billion dollars on half the country's renewable energy resources?"

The Agriculture Department, for its part, says it has no choice but to implement the subsidy the way Congress envisioned it under the 2008 farm bill. That legislation made no distinction between a waste product with little market value, such as corn husks, and the sawdust that sells for roughly \$45 a dry ton.

Farm Service Agency Administrator Jonathan Coppess said his agency is strictly adhering to the statute's language and intentions. "We understand that policymaking, legislation and rule making are perfecting processes, not perfect processes, and we look forward to providing the best regulation possible to implement an important program with significant potential to benefit our national energy and agricultural economies," Coppess said in a statement.

But at least one key senator, Tom Harkin (D-Iowa) -- who helped author the 2008 farm bill as Agriculture Committee chairman at the time-- now questions whether the program has gone awry.

"My bottom line is we have to examine those rules and make sure the payments incentivize the use of new, additional biomass for energy," Harkin said, "which is the objective Congress intends and wrote in the law."

'At what expense?'

In at least some cases, that's not happening. The federal government can provide up to \$45 a ton in matching payments to businesses that collect, harvest, store and transport biomass waste to an authorized energy facility. That means sawdust or wood shavings may be twice as valuable if a lumber mill sells them to a biomass energy company instead of to a traditional buyer.

This is bad news for the composite panel industry, which turns these materials into particleboard and medium-density fiberboard, and outranks the U.S. biomass industry in terms of employees and economic impact, with 21,000 employees and annual sales of \$7.9 billion, according to 2006 U.S. Census data.

The biomass subsidy program could "wipe us out," said T.J. Rosengarth, the vice president and chief operating officer of Flakeboard, the largest composite panel producer in North America. "You can say, 'I've made more alternative energy,' but at what expense?"

The much larger pulp, paper, packaging and wood products industry, which ranks among the top 10 manufacturing employers in 48 states, is just as worried. The American Forest and Paper Association sent a letter to OMB on Oct. 27 warning that the biomass program "could have the unintended consequence of jeopardizing the forest products industry and the many jobs it sustains, as well as the significant quantities of renewable energy it produces."

But pellet mill owners such as the Rolf Anderson, chief executive of Bear Mountain Forest Products, said the program will eventually create an incentive for people to bring small pieces of wood left by loggers out of the forest, which will give companies like his a cheap and steady stream of raw materials.

"It opens up economic opportunities. It opens up healthier forests, and it helps companies and individuals save on their energy costs," said Anderson, whose company is based in Oregon.

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