



**Testimony of
American Forest & Paper Association
and
American Wood Council**

Subcommittee on the Environment, House Energy and Commerce Committee

**Hearing Entitled: "Modernizing Environmental Laws: Challenges and Opportunities for Expanding Infrastructure and Promoting Development and Manufacturing."
February 16, 2017**

We appreciate the opportunity to submit testimony on the challenges and opportunities for promoting development and manufacturing.

The American Forest & Paper Association (AF&PA) serves to advance a sustainable U.S. pulp, paper, packaging, tissue and wood products manufacturing industry through fact-based public policy and marketplace advocacy. AF&PA member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry's sustainability initiative - *Better Practices, Better Planet 2020*. The forest products industry accounts for approximately 4 percent of the total U.S. manufacturing GDP, manufactures over \$200 billion in products annually, and employs approximately 900,000 men and women. The industry meets a payroll of approximately \$50 billion annually and is among the top 10 manufacturing sector employers in 45 states.

The American Wood Council (AWC) is the voice of North American wood products manufacturing, representing over 75 percent of an industry that provides approximately 400,000 men and women in the United States with family-wage jobs. AWC members make products that are essential to everyday life from a renewable resource that absorbs and sequesters carbon. Staff experts develop state-of-the-art engineering data, technology, and standards for wood products to assure their safe and efficient design, as well as provide information on wood design, green building, and environmental regulations. AWC also advocates for balanced government policies that affect wood products.

The forest products industry is of critical importance to the U.S. economy. More than 75 percent of U.S. pulp, paper and wood product mills are located in rural counties where

they often serve as an economic driver for the community, and every person directly employed by the paper industry supports 3.25 jobs in supplier industries and local communities and every job in the wood products industry supports another 2.25 jobs

In addition to facing the challenges of an increasingly competitive global economy, American manufacturing must wrestle with an economy here at home that has become distorted by an ever-growing patchwork of mandates and incentives. The vast majority of these mandates and incentives are not enacted by elected representatives in Congress but instead are promulgated by agencies as regulations, which accumulate at the rate of roughly 3,500 each year. In addition, the cumbersome federal permit process has stymied new investment and the expansion and modernization of manufacturing facilities.

The paper and wood products manufacturing industry has met many costly regulatory challenges over the years, spending billions of dollars as part of its environmental stewardship. Those investments have led to major improvements in air quality, including a 29 percent reduction in emissions of nitrogen oxide and 53 percent for sulfur dioxide by our pulp and paper facilities since 2000. Unfortunately, the industry faces challenges from new and existing regulations — driven by lawsuits under the Clean Air Act — that together could impose more than \$10 billion in new capital obligations on the industry over the next 10 years. This cumulative regulatory burden is unsustainable.

The following are a small but important sample of the environmental regulatory challenges currently facing the U.S. forest products industry, and attached to this statement is a letter submitted to House and Senate Leadership detailing a broader picture of the cumulative regulatory burden faced by the industry.

Carbon Neutrality of Biomass

Paper and wood products mills sustainably use biomass residuals from their manufacturing operations to generate bioenergy. The energy is used to make products, and it provides significant greenhouse gas reduction benefits to the environment.

Prior to 2010, the U.S. clearly recognized forest-based biomass energy as carbon neutral, as the rest of the world does. In EPA's Greenhouse Gas (GHG) Tailoring Rule, for the first time, no such designation was made, subjecting biomass energy used in stationary sources to Clean Air Act permit program requirements. In 2011, EPA issued a rule deferring regulation of biogenic CO₂ emissions while it studied the issue and pledged to complete an accounting framework for biogenic emissions from stationary sources by July of 2014. To date, EPA has not completed its work, and the issue remains in regulatory limbo.

EPA's policy shift on biogenic CO₂ emissions ignores the manner in which the forest products industry produces and uses biomass energy as part of the sustainable carbon cycle, harnessing energy value that would otherwise be lost. EPA has missed multiple opportunities to resolve the regulatory uncertainty it created.

Forest biomass energy should be considered carbon neutral as long as forest carbon stocks are stable or rising on a broad geographical scale. EPA also should recognize the forest products industry's use of forest products manufacturing residuals for energy as carbon neutral regardless of forest carbon stocks because they would emit greenhouse gases anyway if not used for energy, and they displace fossil fuels. AF&PA and AWC urges policymakers to clearly recognize our industry's use of biomass for energy as carbon neutral.

Modernize Air Permitting to Enable Manufacturing

EPA's out of date, rigid, and time-consuming permitting process results in unnecessary delays for American manufacturing growth. Regulated industries that want to expand or modernize their manufacturing plants after installing the latest controls are approaching a permitting gridlock.

Every five years, EPA must decide whether the National Ambient Air Quality Standards (NAAQS) are sufficiently protective of public health. NAAQS (for particulate matter, ozone, sulfur dioxide and nitrogen oxides) have dropped closer to background levels and it has becoming increasingly difficult to demonstrate that air quality standards will continue to be achieved with the current permit and air quality modeling process that must be followed. The challenges with the ever-tighter NAAQS are exacerbated by a lack of (or inappropriate) emission measurement methods, poor estimates of emissions and inappropriate use of air dispersion models where performance has not been validated.

EPA should establish a new permitting process and adjust its modeling criteria to be more reflective of actual impacts. Regulatory air quality models have the capabilities to calculate ambient air concentrations based on variable emissions, background, and meteorological conditions; however, long-standing policies that are obsolete considering present-day standards preclude their use. Simply stated, regulatory implementation of stringent new standards has outpaced the availability of reliable implementation tools and appropriate guidance.

EPA should address the rapidly developing air permitting gridlock by committing sufficient resources and adopting more flexible policies to allow use of more realistic emissions and modeling data within the next year. In addition, states should be given more discretion in running their permitting programs including advancing new tools, models and permitting approaches through guidance to the states and Regional Administrators.

In addition, EPA should not revise current NAAQS unless evidence shows a significant public health concern and previous NAAQS revisions have been fully implemented. Moving these multiple regulatory goal posts every five years creates significant business investment uncertainty when the air quality in the U.S. is some of the best in the world and will continue to get better under current programs and trends. A ten year review cycle would be much more appropriate.

Elimination of Start-up, Shut-down, and Malfunction Provisions, including Affirmative Defense

EPA has systematically eliminated long-standing provisions in various air rules under section 111 and 112 of the Clean Air Act governing how emissions during start-ups, shutdowns and malfunctions (so-called SSM events) are treated. In the past, EPA has acknowledged that even the best operating facilities have brief periods of higher emissions during SSM events.

In June 2015, EPA finalized a rule that directed 36 states to revoke SSM-related provisions in their state rules, even though it is not required by law or necessary to meet air quality standards. The rule set a November 2016 deadline for state submittals that about twenty states met. There is a six month grace period for other states to respond.

Facilities already have a duty to minimize the occurrence and duration of SSM events, but these releases are necessary to protect process and pollution control equipment, and above all, worker safety. EPA has failed to demonstrate that these brief periods of emissions are causing any harm. No Clean Air Act regulation should treat companies as violators and subject them to possible citizen suits for events that are unavoidable even when facilities are operated according to best practices.

EPA should return to previous SSM policies where SSM emissions are covered separately from the limits governing “normal operations.” In the case of the SSM SIP call, EPA should revisit the merits of the rule and in the meantime accept flexible SSM work practices and allow site-specific provisions to be incorporated in Title V permits rather than in the State Implementation Plans.

Federal Regulatory Reform

The president and Congress have an historic opportunity to dramatically improve the regulatory process to serve the public interest, promote jobs, and increase the competitiveness of the American pulp, paper, packaging, and wood products industry. We recognize that sensible regulations provide important benefits, such as the protection of the environment, health and safety. Unfortunately, poorly designed regulations unintentionally can cause more harm than good, waste limited resources, undermine competitiveness and jobs, and erode the public’s confidence in government. It therefore is essential that regulations be designed to provide net benefits to the public based on the best available scientific and technical information, with due consideration of the cumulative regulatory burden.

To support the goal of increased competitiveness of the industry, AF&PA and AWC recommend the following policy proposals:

- **Do More Good Than Harm:** Congress should enact a judicially enforceable benefit-cost decision rule to ensure that regulations do more good than harm.

- **Sound Science:** Regulatory decisions should be based on the best available scientific and technical information.
- **Transparency:** Agencies should disclose data to the public early, outline models and other key information used in high-impact rulemakings and provide an adequate opportunity for meaningful public input. Moreover, court settlements between regulators and interest groups to require rulemakings should be published and disclosed to the public and reviewed by OIRA before going final.
- **Retrospective Review of Rules:** There should be an institutionalized, retrospective review to streamline and simplify existing rules and to remove outdated and duplicative rules. The retrospective review process should be the beginning of a bottom-up analysis of how agencies can best accomplish their statutory goals. This should include a careful analysis of regulatory requirements and their necessity, as well as an estimation of their value to achieve needed outcomes.
- **Accountability:** The president should direct all regulatory agencies, including the independent agencies, to promptly implement the preceding policy proposals. As all regulation starts with the delegation of lawmaking authority from Congress, Congress should elevate these proposals into binding law.

The quality of air in the U.S. is among the best in the world. Implementing the changes suggested above will allow for the continued improvement of our environment while at the same time allowing American business to thrive and grow. Thank you for the opportunity to submit this statement.



**American
Forest & Paper
Association**

Office of the President

December 16, 2016

Majority Leader Mitch McConnell
United States Senate
S-230, The Capitol
Washington, DC 20510

Speaker Paul Ryan
US House of Representatives
H-232, The Capitol
Washington, DC 20515

Dear Majority Leader McConnell and Speaker Ryan:

Congratulations on an historic election. Paper and wood products manufacturers across the country are looking forward to working with the 115th Congress and the Trump administration to tackle the numerous regulatory challenges confronting the U.S. forest products industry. The coming year offers tremendous opportunity to make lasting changes to the regulatory structure that will help the economy reach its full potential for the benefit of all Americans.

The American Forest & Paper Association (AF&PA) represents U.S. manufacturers of pulp, paper, packaging, tissue and wood products with fact-based public policy and marketplace advocacy. More than 75 percent of forest products industry facilities are located in predominantly rural counties across America and are often the economic driver for their communities, large and small. The approximately 900,000 family wage jobs in our industry represent a \$50 billion annual payroll, making our industry among the top 10 manufacturing sector employers in 45 states. AF&PA member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry's sustainability initiative - *Better Practices, Better Planet 2020*.

We believe that the American free enterprise system has been the greatest engine for prosperity and liberty in history, and we are optimistic about the future. We also recognize that sensible regulations provide important benefits, such as the protection of the environment, health and safety. Unfortunately, poorly designed regulations unintentionally can cause more harm than good, waste limited resources, undermine competitiveness and jobs, and erode the public's confidence in government. It therefore is essential that regulations be designed to provide net benefits to the public based on the best available scientific and technical information, with due consideration of the cumulative regulatory burden. To that end, we hope that the following list of regulatory challenges and recommended solutions are constructive for your work in the coming year.

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We would be happy to discuss the examples provided in the attached document in greater detail or to provide further information. If you have any questions, please feel free to contact me at (202) 463-5151.

Best Regards,



Donna A. Harman
President and Chief Executive Officer
American Forest & Paper Association

Enclosure

cc:

Senator Mike Crapo, Chair
Senate Committee on Banking, Housing and Urban Affairs

Senator John Barrasso, Chair
Senate Committee on Environment and Public Works

Senator Orrin Hatch, Chair
Senate Committee on Finance

Senator Lamar Alexander, Chair
Senate Committee on Health, Education, Labor, and Pension

Senator Ron Johnson, Chair
Senate Homeland Security and Governmental Affairs Committee

Representative Virginia Foxx, Chair
House Committee on Education and the Workforce

Representative Greg Walden, Chair
House Committee on Energy and Commerce

Representative Jason Chaffetz, Chair
House Committee on Oversight and Government Reform

Representative Bill Shuster, Chair
House Committee on Transportation and Infrastructure

Representative Kevin Brady, Chair
House Committee on Ways and Means

Summary of Key Regulations of the Forest Products Industry and Needed Reforms

The regulations and reforms enumerated below cut across many regulatory areas such as the environment, energy and product specific issues. While the specific regulations have their own technical aspects, a common thread across them all is the impact they have on the competitiveness and viability of the paper and wood products manufacturers, which provide family wage jobs that support rural communities from coast to coast. The forest products industry employs 900,000 men and women, and those men and women manufacture necessary paper and wood products that 300 million Americans depend on in their daily lives, as well as billions more around the world.

Environmental Protection Agency:

Air and Water Rules:

- **Carbon Neutrality of Biomass:**

EPA's recent policy shift, beginning in 2010, on biogenic CO₂ emissions ignores the manner in which the forest products industry produces and uses biomass energy as part of the sustainable carbon cycle, harnessing energy value that would otherwise be lost. EPA has missed multiple opportunities to resolve the regulatory uncertainty it created.

- **Forest biomass energy should be considered carbon neutral as long as forest carbon stocks are stable or rising on a broad geographical scale. EPA also should recognize the forest products industry's use of forest products manufacturing residuals for energy as carbon neutral regardless of forest carbon stocks because they would emit greenhouse gases anyway if not used for energy, and they displace fossil fuels.**

- **Federal Human Health Water Quality Criteria (HHWQC):**

Under the Clean Water Act, states have the primary responsibility for issuing water quality standards and establishing the acceptable risk levels in those standards. After already pressuring Oregon, EPA Region X has pressured Washington and Idaho to adopt EPA's preferred Fish Consumption Rate (one of the variables in the HHWQC derivation formula) and acceptable risk levels, which would result in extremely stringent HHWQC. In turn, those HHWQC would result in water permit limits that would impose very high compliance costs or are simply unattainable, all while not providing meaningful human health benefits. If applied to other programs, these policies will determine "how clean is clean" for Superfund cleanups and make other standards

unfeasibly stringent and expensive, without a commensurate improvement in human health.

EPA recently issued a final rule partially disapproving Washington's recently-revised criteria and imposing federal HHWQC in their place. The agency will soon do the same in Maine, based on its earlier disapproval of Maine's water quality standards. Maine sued EPA over that disapproval.

- **EPA should amend the federal rule for Washington (RIN: 2020-AF59) to fully approve the Washington water quality standards, including the HHWQC that were submitted for EPA approval, and rescind the approval/disapproval letter.**
- **Similarly, EPA should amend the Maine rule (RIN 2040-AF56) and issue a federal rule approving the existing water quality standards and HHWQC, and rescind the disapproval letter.**
- **As soon as possible, EPA should signal its intent to reconsider the rules so that Washington and Maine do not feel compelled to move forward with permitting under the federal rules.**
- **EPA also should stop insisting on overly conservative HHWQC that impose virtually no additional human health protection at enormous cost.**

- **Air Permit Gridlock:**

Every five years, EPA must decide whether the National Ambient Air Quality Standards (NAAQS) are sufficiently protective of public health. As NAAQS (for particulate matter, ozone, sulfur dioxide and nitrogen oxides) have dropped closer to background levels, it is becoming increasingly difficult to pass the test and get an approved permit. Regulated industries are approaching a permitting gridlock. EPA should establish a new permitting process and adjust its modeling criteria to be more reflective of actual impacts. The challenges with the ever-tighter NAAQS is exacerbated by a lack of (or inappropriate) emission measurement methods, poor estimates of emissions, use of unrealistic air dispersion models, and several rigid permitting policies.

- **EPA should address the rapidly developing air permitting gridlock by committing sufficient resources and adopting more flexible policies to allow use of more realistic emissions and modeling data within the next year. States should be given more discretion in running their permitting programs. One simple action EPA could take is to not require source-specific photo-chemical modeling for ozone that would thwart even more projects. Another improvement would be to allow adjustments in the modeling locations around facilities where barriers, such as roads and rivers, make exposure very unlikely. Finally, EPA should embrace the use of probabilistic methods in air modeling rather than always assume worst case.**
- **EPA also should not revise current NAAQS unless evidence shows a significant public health concern and previous NAAQS revisions have been fully implemented.**

- **Clean Power Plan:**

Increases the costs of electricity and natural gas and creates reliability challenges, putting American manufacturers at risk in a globally competitive economy. Vastly expands EPA's traditional authority far beyond specific source categories, reaching into the entire electricity supply and demand chain, and could serve as a model for future direct regulation of manufacturing industries, hitting manufacturers twice. Currently stayed by U.S. Supreme Court until litigation is resolved.

- **EPA's Clean Power Plan (RIN: 2060-AR33) should be repealed.**

- **Risk Management Plan Rule:**

This pending final EPA rule requires a Safer Technology and Alternatives Analysis for paper mills and a few other industries, including evaluation of inherently safer technologies; third-party audits rather than internal audits; evaluation of "root causes" for incidents; additional procedures around emergency response coordination; and new information sharing. The final rule is expected in December 2016.

- **EPA's Risk Management Plan Rule (RIN: 2050-AG82) should be repealed.**

- **Elimination of Start-up, Shut-down, and Malfunction Provisions, including Affirmative Defense:**

EPA is in the process of systematically eliminating long-standing provisions in various air rules under section 111 and 112 of the Clean Air Act governing how emissions during start-ups, shutdowns and equipment or process malfunctions (so-called SSM events) are treated. In the past, EPA has acknowledged that even the best operating facilities have brief periods of higher emissions during SSM events.

On June 12, 2015, EPA finalized a rule that would direct 36 states to revoke SSM-related provisions, even though it is not required by law or necessary to meet air quality standards and will impose large burdens on states with limited resources. The rule set a November 22nd deadline for state submittals that few states met.

Facilities already have a duty to minimize the occurrence and duration of SSM events, but these releases are necessary to protect process and pollution control equipment, and above all, worker safety. No Clean Air Act regulation should treat companies as violators and subject them to possible citizen suits for events that are unavoidable even when facilities are operated according to best practices.

- **EPA should either return to previous SSM policies, or where SSM emissions are inappropriately lumped into limits covering "normal operations," set separate work practices and put site-specific provisions in Title V permits and establish the framework in the State Implementation Plans.**

- **Regional Haze:**

States have been working to implement the Regional Haze (RH) program under the Clean Air Act based on EPA guidance to improve visibility, especially in National Parks. The statute gives states the primary role for implementing air quality programs, including for regional haze. Recently, ENGOs have sued EPA for failing to act on state RH proposals. As a result, EPA is now second guessing state judgments in Texas, Oklahoma and Arkansas by issuing Federal Implementation Plans (FIPs) that could result in millions of additional expenses for an imperceptible visibility improvement.

- **EPA should leave states to implement the Regional Haze program unless there are egregious oversights by states.**

Council on Environmental Quality:

- **Procurement Guideline for Paper and Paper Products Containing Recovered Materials:**

President Obama's Executive Order 13693 directs agencies to plan for federal sustainability for the next decade. Section 3(i) of E.O. 13693 requires federal agencies to be consistent with statutory mandates for purchasing preference, and then consider sustainable products with specifications, labels or standards recommended by EPA.

The White House Council on Environmental Quality (CEQ) is evaluating increasing the minimum required recycled content for printing papers. Such a change would lead to negative economic and environmental consequences, including:

- Fewer, not more, producers of recycled content printing paper;
- Forcing recovered fiber to uneconomic end uses, which in turn will have negative ripple effects on the economics of the market-based recovery system;
- Increased virgin fiber use in some products that currently use recovered fiber; and
- Less paper recovery as a result of market distortion.

In addition, E.O. 13693 has resulted in the implementation of Interim Guidelines for Environmental Standards and Ecolabels that will be required for federal purchasing that have the potential to add costs and restrict the federal market for American-made products.

- **The interim guidelines on Environmental Standards and Ecolabels should be repealed or amended to reflect all credible labeling systems; and EPA should not increase the current recycled content mandate for paper products and should eliminate the distinction between “pre-consumer” and “post-consumer” recovered fiber content in the Comprehensive Procurement Guidelines. By doing so, it would align the Comprehensive Procurement Guidelines with leading market-based certification systems, such as the Sustainable Forestry Initiative and the Forest Stewardship Council, which give equal weight to “pre-consumer” and “post-consumer” recycled content in paper products.**

- **NEPA Guidance for Greenhouse Gases:**

On August 2, 2016, the White House Council on Environmental Quality (CEQ) released final guidance on how federal agencies should consider the effects of greenhouse gas (GHG) emissions in National Environmental Policy Act (NEPA) reviews. NEPA requires federal agencies to disclose and consider potential environmental effects of proposed actions, and analyze alternatives to mitigate these effects. The guidance expanded the scope of environmental impact statements and environmental assessments under NEPA and provides additional grounds for legal challenges to federal approvals, permits and licenses, including a wide variety of infrastructure projects such as energy projects. Advocates already have cited the guidance as an additional basis to oppose needed natural gas pipelines. CEQ fails to address the unique and diverse challenges that NEPA reviews of land and resource management actions face, overlooks the negative effect this one-size-fits-all guidance will have on the land management decision-making process, and exacerbates the risk that NEPA challenges will prevent agencies from fulfilling their statutory mandates to promote and authorize multiple, diverse uses of federal land.

- **CEQ should repeal the NEPA guidance.**

- **Social Cost of Carbon:**

EPA, the Department of Energy, and other federal agencies use the social cost of carbon (SCC) to estimate the climate benefits of rulemakings. The SCC is an estimate of the economic damages associated with a small increase in carbon dioxide (CO₂) emissions (one metric ton) in a given year. This dollar figure also represents the value of damages avoided for a small emission reduction (i.e. the benefit of a CO₂ reduction). The integrated assessment models used to develop SCC estimates do not currently include all of the important physical, ecological, and economic impacts of climate change recognized in the climate change literature due to a lack of precise information on the nature of damages and the delay in incorporating the most recent science into these models

- **The SCC calculation should be withdrawn and not be used in any rulemaking and/or policymaking until it undergoes a more rigorous notice, review and comment process.**

Securities and Exchange Commission:

- **Proposed SEC Rule 30e-3:**

The U.S. Securities and Exchange Commission (SEC) has issued a proposed regulation (Rule 30e-3), which would eliminate the current default requirement for mutual funds to transmit important information to investors in paper form. The new rule would: (1) permit funds to satisfy shareholder report requirements by making shareholder reports and quarterly portfolio holdings available online; (2) shift the burden on investors by requiring them to “opt-in” to paper delivery of important fund information as opposed to the current option of “opting-in” to electronic delivery; and

(3) potentially confuse millions of investors who suddenly stop seeing important fund performance material from investment firms. Shareholder reports are important investment tools, and implementing this change could harm millions of investors – the majority of whom have already expressed a preference for paper-based reports.

- **The SEC should withdraw proposed Rule 30e-3 (RIN: 3235-AL42).**

Food and Drug Administration:

- **Proposed E-Labeling Rule for Prescription Drug Inserts:**

FDA's proposed rule, "Electronic Distribution of Prescribing Information for Human Prescription Drugs, Including Biological Products," would allow distribution of the prescribing information intended for health care professionals electronically and, with few exceptions, not in paper form. This information currently is distributed in paper form on or within the package from which the medicine is dispensed, as Congress required by statute. Relying on electronic labeling as a complete substitute for paper labeling could adversely impact public health by limiting the availability of drug labeling for some physicians, pharmacists, and patients by requiring them to access drug labeling through an electronic medium with which they might be uncomfortable, might find inconvenient, or that might be unavailable. The net result could seriously harm public health. If paper drug labeling ceases to exist, costs also undoubtedly will shift from drug manufacturers to pharmacies to obtain and/or provide this information to patients who ask for it.

- **The FDA has failed to make a reasonable case for this proposed rule (RIN: 0910-AG18), and it should be withdrawn promptly.**

Occupational Safety and Health Administration:

- **Combustible Dust Rulemaking:**

OSHA is currently conducting a combustible dust rulemaking. An ANPRM was issued in 2009, and recently OSHA indicated it intends to convene a Small Business Regulatory Enforcement Fairness Act panel sometime in the near future.

Such a rulemaking is unnecessary because on April 21, 2015, OSHA provided new guidance to inspectors that more accurately reflects real world dust properties. The revised guidance explicitly acknowledges that low bulk density dust, including many types of paper and wood dust, may not create a hazard even at an accumulation level of ¼ inch or more. Instead of relying on the old 1/32 inch maximum accumulation criterion, OSHA inspectors are now asked to send dust samples collected at the site to a laboratory for bulk density determination if: (1) the material is light (such as paper dust or fabric fibers); (2) the layer thickness is greater than ¼ inch and not more than one inch; and (3) the accumulation extends over five percent of the floor area of a room or a building or 1000 ft², whichever is less.

- **OSHA should withdraw the combustible dust rulemaking (RIN: 1218-AC41) and adhere to the practical combustible dust guidance issued in 2015.**

- **Globally Harmonized Hazard Communication Standard:**

OSHA's 2012 Hazard Communication Standard seeks to align workplace hazard communication in the U.S. with the Globally Harmonized System (GHS). The new regulation requires products that are shipped as articles (such as rolls or sheets of paper or lumber/wood panels) that may be processed by downstream users in such a way that combustible dust could be generated to include an HCS-compliant label warning with the first shipment. However, companies that ship these products do not necessarily know with certainty how the products will be used/processed by customers and should not be required to provide such warnings unless they are shipping a material that is itself a combustible dust.

- **OSHA should amend its Hazard Communication Standard (RIN: 1218-AC20) so that only materials that present a combustible dust hazard in the form in which they are shipped need to carry a warning label.**

Internal Revenue Service:

- **Proposed Section 385 Regulations:**

The IRS on April 4, 2016 issued proposed debt-equity regulations under Section 385 of the Internal Revenue Code which would overturn long-standing tax principles and well-established case law and regulations, significantly increase the cost of doing business in the United States, and create further obstacles to much needed investment, job creation and economic growth. The proposed regulations go far beyond cross-border mergers and apply to a wide range of ordinary business transactions by global and domestic companies both in and outside the U.S. The proposed 385 regulations affect all aspects of both a company's capital structure and the funding of its ordinary operations and fundamentally alter the U.S. tax rules on intercompany debt by overturning the well-established facts and circumstances analysis used by the courts and the IRS to determine whether an instrument is debt or equity. Whether an instrument is debt or equity has significant, collateral consequences to business operations that go well beyond the interest deduction on the instrument and include the legal classification of an entity, eligibility for withholding tax exemptions under tax treaties and the ability to file a consolidated tax return. These issues present a severe impediment to the use of intercompany financing for even normal operations and will significantly increase the cost of capital and limit the amount of capital available to invest in the United States.

- **The IRS should withdraw the proposed Section 385 regulations (RIN: 1545-BN40).**

The American Forest & Paper Association (AF&PA) serves to advance a sustainable U.S. pulp, paper, packaging, and wood products manufacturing industry through fact-based public policy and marketplace advocacy. AF&PA member companies make products essential for everyday life from renewable and recyclable resources and are committed to continuous improvement through the industry's sustainability initiative -

[Better Practices, Better Planet 2020](#). The forest products industry accounts for approximately 4 percent of the total U.S. manufacturing GDP, manufactures over \$200 billion in products annually, and employs approximately 900,000 men and women. The industry meets a payroll of approximately \$50 billion annually and is among the top 10 manufacturing sector employers in 45 states.