

Congress of the United States
Washington, DC 20515

July 14, 2014

The Honorable Gina McCarthy
Administrator
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue NW
Washington, DC 20460

Dear Administrator McCarthy:

We have serious concerns with the Environmental Protection Agency's (EPA) proposed National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing (NESHAP) (79 Fed. Reg. 75622), which is expected to be finalized by September 2015. In this draft rule, EPA proposes to regulate "major sources" of air emissions in the ceramic tile industry, even though EPA admits in the preamble that there are no major sources in this industry to regulate. EPA even admits that, because these regulations will regulate no one, they have no environmental benefits – an admission that acknowledges the needlessness of this proposed regulation.

Voluntary action by the tile industry to reduce emissions has resulted in all ceramic tile manufacturing facilities in the country remaining below the major source threshold. Industry has voluntarily spent millions of dollars to permanently reduce emissions, and their success has occurred at least four years earlier than if industry had waited for EPA to promulgate a major source NESHAP. These initiatives have been developed at considerable cost and expense to domestic tile producers. These initiatives include a third-party certified environmental footprint for North American ceramic tile and thousands of products certified to the American National Standards Institute-accredited (ANSI) Green Squared sustainability standard.

Furthermore, since there are no major sources of air emissions in the ceramic tile industry, EPA's proposed rule relies on hypothetical manufacturing and air emissions control strategies, flawed scientific data from a non-validated stack test method, non-validated assumptions taken from other industries with no ceramic tile precedents, and generally questionable science. Using questionable data and conclusions based on flawed science in federal regulation sets an unacceptable precedent.

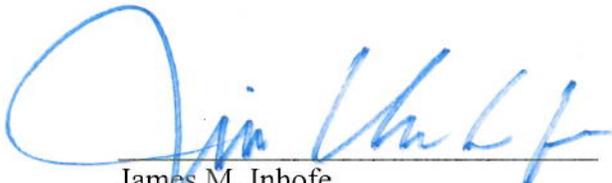
We recognize that EPA entered into a Consent Decree with Sierra Club to settle a deadline lawsuit filed by that group. *Sierra Club v. EPA*, 850 F.2d 300 (D.D.C. 2012). The *Sierra Club* Consent Decree requires EPA to finalize regulations for the major sources in the Clay Ceramics Manufacturing Category. However, under the Administrative Procedure Act, EPA may not agree in a Consent Decree to adopt a particular regulatory outcome. A decision not to establish standards is a final rulemaking.

Further, there are no Consent Decree requirements applicable specifically to the ceramic tile industry because, although it is a subcategory of the Clay Ceramics Manufacturing Category,

there are no major source ceramic tile plants. Even if EPA had the authority to agree to the outcome of a rulemaking in a Consent Decree, the Consent Decree's directive will be satisfied when EPA finalizes regulations for the brick manufacturing and sanitaryware manufacturing industries, subcategories of Clay Ceramics Manufacturing for which there are major sources.

Since there are no costs or emissions reductions expected under the Clay Ceramics Manufacturing rule, it is our request that the standards for ceramic tile manufacturing not be finalized. Any additional time spent on an action that applies to no one would be a waste of federal government resources and taxpayer dollars.

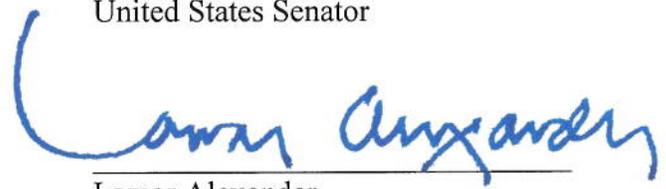
Sincerely,



James M. Inhofe
United States Senator



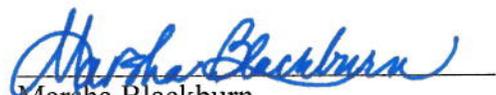
David Vitter
United States Senator



Lamar Alexander
United States Senator



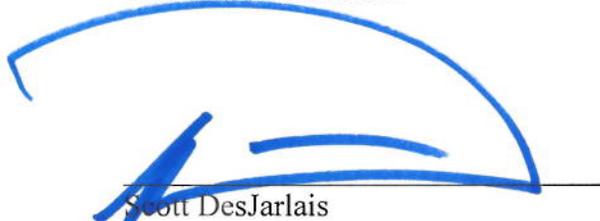
Deb Fischer
United States Senator



Marsha Blackburn
U.S. House of Representatives



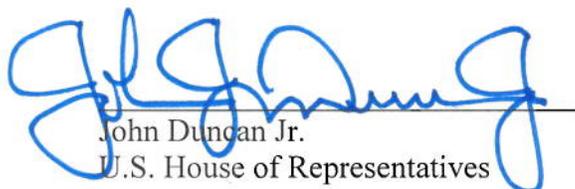
Jeff Sessions
United States Senator



Scott DesJarlais
U.S. House of Representatives



Walter Jones
U.S. House of Representatives



John Duncan Jr.
U.S. House of Representatives



Phil Roe
U.S. House of Representatives


David Rouzer
U.S. House of Representatives


Steve King
U.S. House of Representatives


Doug LaMalfa
U.S. House of Representatives


Ryan Zinke
U.S. House of Representatives

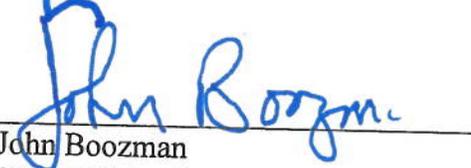

Stephen Fincher
U.S. House of Representatives


Diane Black
U.S. House of Representatives


Chuck Fleischmann
U.S. House of Representatives


John Barrasso
United States Senator


Shelley Moore Capito
United States Senator


John Boozman
United States Senator

cc: Janet McCabe, Acting Assistant Administrator for Air