



TED STRICKLAND
GOVERNOR
STATE OF OHIO

March 15, 2010

Ms. Lisa P. Jackson
Administrator, U. S. EPA
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Dear Administrator Jackson:

I am writing today regarding the U.S. EPA's plans for addressing greenhouse gas (GHG) emissions from stationary sources under the authority of the Clean Air Act (CAA). As the Governor of Ohio, I want to convey my deep concerns with the Agency's impending regulatory approach and the impact this approach will have on Ohio's economy and working families.

Ohio citizens and businesses raise very real and legitimate concerns about the potential impact of climate change measures on business sustainability; job maintenance and creation; future economic growth; and energy affordability. Further, businesses repeatedly express the need for regulatory certainty in order to make their long-term business plans.

While I do not dispute the need to address climate change, I strongly believe that comprehensive federal legislation which accurately and fairly takes into account, and properly addresses the varying economic impacts on the diverse states is the best way to tackle the issue. Any passage of such legislation would only occur after thorough analysis and debate which would allow all perspectives, including Ohio's, to be carefully taken into consideration. Further, given the magnitude of the transformative effect of climate change measures on the nation's and Ohio's energy policy, energy infrastructure, and overall economy, in addition to its significant effect on the day-to-day lives of all our citizens, the federal legislative process is the only process truly suited to the task. I believe we both share this view, and I am hopeful that comprehensive and equitable legislation will be the way in which GHG emissions are ultimately regulated.

If the U.S. EPA moves forward with a regulatory approach under the CAA, I am very concerned that large numbers of stationary sources, such as generating plants, refineries, and manufacturing facilities, to name just a few, will immediately be subjected to GHG permitting requirements. As a result, these stationary sources will be subject to best available control technology (BACT) requirements even though such technology is currently undetermined. The Director of the Ohio EPA has repeatedly expressed to me his concerns that, at this time, there is no clear idea of what BACT for GHGs should be for large stationary sources and that it may take years before BACT for such sources can be efficiently and consistently identified and applied to meet the regulatory requirements.

While I do not disagree with the U.S. EPA's factual assertion that greenhouse gasses do, in fact, cause or contribute to the endangerment of public health and welfare, I feel strongly that a regulatory

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approach, acted upon without legislative consideration of its effect on states that have a heavy industrial base and coal generated electric production, will be financially and economically devastating for Ohio. **Therefore, I support a delay in implementation of GHG regulatory activity until Congress passes a comprehensive climate bill or until technologies are readily available to meet the BACT mandates in the CAA.**

Should you proceed down the regulatory path, and again, I ask that you do not, I believe there are regulatory tools that pragmatically address some of the concerns expressed above.

I appreciate that you have already acknowledged administrative challenges by increasing the threshold limits for emitting facilities from the CAA's 100/250 TPY to 10,000/25,000 TPY of CO₂ equivalents, as proposed in the U.S. EPA's "Tailoring Rule." There is no question that without changes, state air permitting programs would be overwhelmed and would badly impede economic development by delaying the processing of permits required for new projects. However, I believe this increase does not go far enough and that the U.S. EPA should adopt a 250,000 tons per year (TPY) emission threshold. In fact, we believe that a 250,000 TPY threshold captures approximately 95% of GHG emissions in Ohio.

Secondly, I urge the U.S. EPA to defer the application of the permitting rules on large stationary sources of GHGs until commercially available BACT exists to meet the CAA requirements. For example, there is much hope that carbon capture storage (CCS) could be a transformational technology that would significantly reduce GHG emissions. However, just last month the President established a goal of bringing 5 to 10 commercial CCS demonstration projects online by 2016 with commercial deployment not expected until 2020. This illustrates why the date for compliance should be established based on a reasonable expectation of when meaningful BACT will actually be commercially capable of being utilized at stationary sources subject to permitting.

I very much appreciate your consideration of Ohio's perspective on these critical issues. Ohio's economy needs as much regulatory certainty as possible at this time, and we are asking for your guidance and help. If you have any questions, please feel free to contact me or Chris Korleski, Director of the Ohio EPA.

Sincerely,



Ted Strickland
Governor, State of Ohio

cc: Gina McCarthy, Assistant Administrator for Air
Chris Korleski, Director, Ohio EPA