

Office of the Governor

September 9, 2010

EPA Docket Center, EPA West (Air Docket)
Attention: Docket ID No. EPA-HQ-OAR-2010-0107
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Mail code: 6102T
Washington, DC 20460

To Whom It May Concern:

Pursuant to the solicitation for public comment published in the Federal Register on September 2, 2010, on the U.S. Environmental Protection Agency's proposed rule (Action) To Ensure Authority to Issue Permits under the Prevention of Significant Deterioration (PSD) Program to Sources of Greenhouse Gas Emissions: Finding of Substantial Inadequacy and SIP Call, the State of Wyoming wishes to inform EPA that we are unable to regulate Greenhouse Gas (GHG) emissions and therefore cannot implement the Tailoring Rule.

The Wyoming Environmental Quality Act prevents the State of Wyoming from regulating greenhouse gasses. Authority to do so would require legislative action to amend the statute and any discussion on that possibility would not occur until the 2011 legislative session, long after your January 2, 2011 deadline for the implementation of the Tailoring Rule. Consequently, I am also unable to respond to your request concerning a timeline when the State would be in a position to revise the State Implementation Plan to apply PSD to sources of Greenhouse Gas emissions.

I have serious concerns about EPA's implementation timelines. Given that there are dozens of petitions concerning not only the Tailoring Rule but also the foundation for that rule, there is a high likelihood that any permitting strategy imposed on the states at this juncture is premature. I have two additional concerns. First, it is likely there will be a dual permitting system for Wyoming sources seeking permits to construct. These two systems would be administered by different agencies with different schedules and priorities. It is not unrealistic to think that there will be a tremendous logjam in 2011 if EPA moves forward on the schedule suggested in the proposed rules.

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My second concern is that the application of Best Available Control Technology (BACT) is poorly understood for the myriad of sources subject to the new rule and will likely not be clear anytime soon. We are expecting national guidance on BACT for GHG's.

I respectfully request that EPA reconsider both its Tailoring Rule and the timeline for this implementation. Please note that this letter does not contain all of Wyoming's comments concerning the proposed rule now under consideration, and I intend to submit additional comments by the October 4, 2010 deadline noted in the Federal Register notice.

Best regards,

A handwritten signature in blue ink, appearing to read "Dave Freudenthal". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dave Freudenthal
Governor

DF:pjb

c: The Office of Information and Regulatory Affairs
Office of Management and Budget
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