Statement

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ACC: OVERLY BROAD EPA 'TAILORING RULE' WILL SLOW ECONOMIC RECOVERY, CLEAN ENERGY INVESTMENT

Greenhouse Gas Emissions Alone Should Not Require Clean Air Act Permitting

ARLINGTON, VA (May 13, 2010) – Today the U.S. Environmental Protection Agency (EPA) released the final rule on Clean Air Act permitting for greenhouse gases (GHGs), also known as the 'tailoring rule.' Additional information is available at http://www.epa.gov.

American Chemistry Council (ACC) President and CEO Cal Dooley issued the following statement:

"We are extraordinarily concerned about EPA's plans for regulating stationary sources under the Clean Air Act (CAA), as outlined in the 'tailoring rule' released today. By 2016, as many as six million U.S. sources of greenhouse gas emissions could be required to obtain a permit to build or modify facilities. This would include many of America's smallest sources, such as a new 100,000-square-foot hotel, a new restaurant, a major source that wants to add a gas furnace or space heater, a large commercial property with a $5,000 monthly natural gas bill, and nearly every chemical facility in the country. The approach could delay or cancel much-needed business investment, including energy efficiency-related projects that could help reduce the nation's GHG emissions. With EPA's plans for stationary source regulation now clear, we call on Congress to enact legislation to revisit this policy immediately. We look forward to working with lawmakers in this urgent effort.

"The problem stems from EPA's shortsighted decision to require CAA permitting for sources that would be deemed major sources only based on GHG emissions, not 'criteria pollutant'emissions. The sound, sensible approach would have been to limit CAA permitting only to those major sources that emit significant levels of criteria pollutants. The fact that EPA is phasing in sources over time and initially (i.e. until mid-2011) limiting permitting to criteria pollutant sources suggests EPA recognizes that broad permitting requirements are not feasible. We agree with EPA Administrator Lisa Jackson's earlier comment that regulating GHGs at vast numbers of stationary sources under the Clean Air Act would create 'absurd results.' The results will be no less absurd in the latter years of EPA's transition approach than they are today. EPA should have permanently adopted a rule under which the Prevention of Significant Deterioration (PSD) program is triggered only when a major source emits a criteria pollutant for which there is a National Ambient Air Quality Standard.

"EPA's pathway will cause uncertainty when it comes to business investment, including energy efficiency-related investment. It will create legal uncertainty due to possible litigation, permitting uncertainty due to insufficient state resources for reviewing and issuing permits, state statutory

uncertainty due to the need to amend state laws to conform with the federal tailoring rule, and technical uncertainty due to as-yet undefined 'Best Available Control Technology.' Finally, EPA's transition approach, while providing a small delay in permitting requirements, exacerbates uncertainty because it is unknown what requirements will be in place when a permit is issued.

"The chemical industry has not waited for Congress to act. Our GHG emission fell 16 percent between 1990 and 2008, exceeding Kyoto Protocol requirements, while energy efficiency improved 28 percent. And the U.S. industrial sector is the only one in which GHG emissions are falling. According to the U.S. Energy Information Administration, U.S. industrial GHG emissions fell 5.9 percent between 1990 and 2008, while commercial GHG emissions increased 36.9 percent, electricity increased 30 percent, residential increased 27.3 percent, transportation increased 21.6 percent and agriculture increased 11.3 percent."

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