

November 30, 2010

The Honorable David Obey  
Chairman  
Committee on Appropriations  
House of Representatives  
Washington, DC 20515

The Honorable Jerry Lewis  
Ranking Minority Member  
Committee on Appropriations  
House of Representatives  
Washington, DC 20515

Dear Mr. Chairman and Mr. Lewis:

As you know, earlier this Fall Congress approved a Continuing Resolution (CR) to continue funding the government at Fiscal Year (FY) 2010 levels until December 3, 2010. The CR did not include language to postpone implementation of the Environmental Protection Agency's (EPA) new rules to regulate stationary sources of greenhouse gas (GHG) emissions under the Clean Air Act. Because of the detrimental effects these rules will have on America's industrial facilities, power plants, hospitals, agricultural and commercial establishments we are writing to urge you to include a moratorium on stationary source rules as Congress considers a long-term CR or omnibus spending bill for FY 2011.

The state of the economy and high U.S. unemployment were major themes in this year's elections. The industrial and agricultural sectors are vital to a strong economy, and have a necessary role in maintaining and creating jobs. Unfortunately, EPA's GHG rules will stifle job growth in these sectors and further burden State budgets already hampered by the slow revenue growth and increased costs.

The stationary source rules will have real consequences on future job growth and industrial expansion. These rules will hamper construction and modifications for facilities in the United States. Indeed, we can expect a virtual freeze on new construction of manufacturing facilities or energy efficiency modifications to existing facilities. That result will harm not only our industries but those that are dependent on construction and the clean energy sector.

Our concerns are underscored by the U.S. Department of Commerce's Bureau of Economic Analysis most recent update of the National Income and Products Account data.<sup>1</sup> The data demonstrate that while the decline in personal consumption has most certainly impacted the economy, the decline in investment far outweighs the decline in personal consumption. Indeed, for the last seven quarters, the decline in investment was more than twice the decline in personal consumption. The uncertainty and difficulty surrounding the new GHG permitting requirements will likely serve as an additional barrier to investment, when investment growth is what is needed to reduce unemployment. The attached graph summarizes the dramatic decline in investment over the last two years.

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<sup>1</sup> Available at

<http://www.bea.gov/national/nipaweb/TableView.asp?SelectedTable=6&ViewSeries=NO&Java=no&Request3Place=N&3Place=N&FromView=YES&Freq=Qtr&FirstYear=2007&LastYear=2010&3Place=N&Update=Update&JavaBox=no>. This data was used to generate the attached graph depicting the decline in investment since the 4<sup>th</sup> quarter of 2007.

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Although EPA has recently released guidance to permitting authorities on determining best available control technology (BACT), which the GHG permits will require, the guidance still creates uncertainty over what technologies will be required to satisfy the permits. More importantly, the guidance leaves considerable discretion in the hands of permitting authorities, and there is a possibility of inconsistent permit decisions. Finally, because these permits are subject to legal challenge, the choice of BACT is likely to fuel additional future litigation. In short, the uncertainty added by the BACT guidance does not do enough to protect U.S. jobs. Further, EPA's 14-day public comment period on the BACT guidance only adds to the uncertainty, since it is too short to analyze and discuss GHG-limiting technologies in any level of detail for our industries.

EPA has pledged to move forward with its stationary source rules and will begin to regulate on January 2, 2011. Before the 111<sup>th</sup> Congress adjourns for the year and session, it needs to address these rules so that the industrial and agricultural sectors are able to help turn the economy around and enhance job growth and U.S. productivity. We need real action to halt the EPA, and we encourage your strong support for funding restrictions on EPA's stationary source rules.

Sincerely,

American Chemistry Council  
American Forest & Paper Association  
American Iron and Steel Institute  
American Petroleum Institute  
Association for Convenience and Petroleum Retailing  
Ball Clay Producers Association  
Industrial Minerals Association – North America  
International Diatomite Producers Association  
Missouri Forest Products Association  
National Association of Chemical Distributors  
National Association of Manufacturers  
National Association of Wholesalers-Distributors  
National Industrial Sand Association  
National Lime Association  
National Mining Association  
National Oilseed Processors Association  
National Petrochemical and Refiners Association  
Society of Chemical Manufacturers and Affiliates  
The Aluminum Association  
The Fertilizer Institute  
Treated Wood Council  
U.S. Chamber of Commerce

Attachment

cc: Members of the House of Representatives Committee on Appropriations

