

GHG Permitting Federal Implementation Plan Hearing

September 14, 2010

Testimony of

Howard J. Feldman

American Petroleum Institute

Good morning. I am Howard J. Feldman, Director of Regulatory & Scientific Affairs at API. API represents over 400 member companies involved in all aspects of the oil and natural gas industry, an industry that supplies most of America's energy, supports 9.2 million U.S. jobs and 7.5 percent of the U.S. economy, and has invested nearly \$2 trillion in U.S. capital projects since 2000, including those spurring advances in nearly every form of alternative energy. Thank you for the opportunity to testify today. We do not believe the proposed rules under discussion can adequately address the implementation challenges the states face. But, more important, they cannot remedy the incurable shortcomings of attempting to regulate greenhouse gas emissions under the Clean Air Act, which we believe poses a major threat to the nation's economic recovery and putting Americans back to work.

The agency's proposed implementation rules are an admission that the states are unprepared to issue PSD and new facility permits for control of stationary source greenhouse gas emissions. The state agencies deserve no blame for this. With little guidance and little lead-time, they have been asked to define and apply industry-specific and even equipment-specific greenhouse gas emission standards for an indefinitely vast segment of the American economy. It is unclear what, how many, and what parts of entities would be covered, how many permits would be involved, what emission control technologies would be acceptable, and how much putting such a program into operation would cost the states. Many state officials have complained. It is hard to see how the proposed rules would provide the support, guidance and time the states will need.

Nor, as I have said, would they lessen the adversity and sacrifice that EPA's stationary source greenhouse gas emission regulation would impose on American workers, business and industry, and the economy. Temporarily changing who is going to do the permitting does not solve the underlying problems with the regulation itself. No matter who signs off on the permits or how government implementation plans are revised, regulating these emissions under the Clean Air Act will create vast uncertainty for U.S. business, spur endless litigation, slow or reduce investment in new enterprises – or possibly send that investment out of the country entirely – and reduce job creation and economic growth.

EPA's own past evaluations of the impacts of its regulation largely confirm this. While the agency has carefully avoided providing a formal regulatory impact analysis on the costs of the regulation – even while claiming benefits for entities that might temporarily escape its requirements – it has acknowledged the regulation could affect 6.1 million U.S. emission sources, introduce \$78 billion annually in costs from just one element of the permitting requirements, cause “at least a decade or longer” of permitting delays, “slow construction nationwide for years,” introduce state and tribal burdens that are both administratively “infeasible” and “overwhelming,” and impact sources otherwise “not appropriate at this point to even consider regulating.”

Climate change is a serious issue and the oil and natural gas industry recognizes that action is needed. That is one of the reasons why America's oil and natural industry

invested more than \$58 billion between 2000 and 2008 in climate change mitigation, including efforts to increase the energy efficiency of its operations, develop lower carbon fuels, reduce natural gas flaring and fugitive emissions, and capture and sequester carbon emissions. It also is one of the reasons why government has increased fuel efficiency standards for highway vehicles, which promise to produce major reductions in carbon emissions.

But the challenge we face cannot justify the agency's ill-advised stationary source greenhouse gas regulation. The Clean Air Act was not designed to address greenhouse gas emissions. And modifying the existing statutory thresholds to make them work for greenhouse gases, as the agency has done, amounts to rewriting the Clean Air Act, not applying it. Furthermore, forcing the Clean Air Act into a service for which it is ill-suited will unnecessarily increase the costs of emission reductions. This doesn't ever make sense, and it beggars belief the administration would do this when the nation is mired in one of the worst economic downturns since the Great Depression, with 15 million Americans still jobless.

The answer is clear. Set the regulation aside. Let Congress address climate change with new legislation. That will take time. But the result will be a fit-for-purpose law that reflects the will of the people and reduces the burden on the economy and the American worker.

Thank you.