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July 13, 2009

The Honorable Lisa Jackson
Administrator
Environmental Protection Agency
Ariel Rios Federal Building
1200 Pennsylvania Avenue, N.W.
Washington, D.C. 20460

Dear Administrator Jackson:

I have a procedural hold on the nomination of Robert Perciasepe as the Deputy Administrator for the Environmental Protection Agency (EPA). This hold does not to serve as a reflection on Mr. Perciasepe's ability to perform in the role of the Deputy Administrator. Rather, it is based on my continued dissatisfaction with EPA's analysis of the Waxman-Markey American Clean Energy and Security (ACES) Act of 2009, and the agency's subsequent response to these concerns.

In a letter dated June 9, 2009, I and several of my Republican colleagues on the Senate Environment and Public Works Committee stated that Congress must have a dependable and thorough economic analysis of the effects that ACES will have on American consumers and the economy. We asked that EPA promptly address our concerns with assumptions made in the ACES analysis. While I appreciated EPA Assistant Administrator Gina McCarthy's response sent on July 1, 2009, I believe that it failed to address our key concerns. To help Congress fully understand how this bill would affect consumers and the economy, I ask again that EPA provide reliable and realistic analysis by addressing the remaining flaws in its modeling.

First, EPA cannot claim to have conducted a comprehensive analysis of the entire legislative package if the agency's modeling does not explore the cumulative impacts of the bill's cap and trade program, renewable energy mandate, and demand reduction requirements. By excluding major portions of the legislation from analysis, EPA's assessment is of limited value in determining how families and workers could be affected by the legislation. Indeed, the bill creates a system of overlapping and redundant requirements and technology mandates that may reduce or eliminate flexibility in compliance and thus inhibit cost-effective emissions reductions. As the Senate moves to consider this legislation, it is imperative that policymakers understand how the entire legislative package will work and that they have a thorough understanding of the potential economic and energy effects that may stem from its implementation.

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Second, EPA's analysis contains significant flaws that mask the economic consequences of the bill. Those flaws center around the agency's assumptions regarding the availability of certain low-carbon technologies and the widespread availability of international offsets. Specifically, the assumptions in the model fail to recognize existing practical, technological, economic and political constraints related to the rapid deployment and/or commercialization of new and expanded nuclear energy and carbon capture and sequestration technologies. I am also concerned that the analysis assumes that a total of 2 billion offsets will be readily available on an annual basis to help meet emissions targets. According to your own analysis, without these offsets the cost of the program would nearly double. This means verifying their availability is essential to implementing the program at a reasonable cost. The analysis should have a greater appreciation of the economic consequences that may result from a slower adoption of low-carbon technologies and greater scarcity of offsets than EPA assumes.

I will be working over the next few days to provide your agency a more detailed summary of my concerns and request for a refined analysis. I want to make it clear that my request for this information is not to slow any legislative or administrative processes, but to ensure both the public and policy makers alike have an accurate understanding of the potential consequences of such important energy and environmental policies under consideration by Congress.

Sincerely,

George V. Voinovich

George V. Voinovich
United States Senator

cc: Carol M. Browner, Assistant to the President for Energy and Climate Change