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November 9, 2009

Mr. Joseph Sherrick
Department of Environmental Protection
Rachel Carson State Office Building
400 Market Street
Harrisburg, PA 17105

RE: Comments on draft Pennsylvania Climate Change Action Plan

Dear Mr. Sherrick:

On behalf of its 24,000 members and customers, representing the spectrum of Pennsylvania industry, business, and commercial enterprises, the Pennsylvania Chamber of Business and Industry appreciates the opportunity to provide comments concerning the draft Pennsylvania Climate Change Action Plan.

We would like to take this opportunity to commend the members of the Climate Change Advisory Committee (CCAC) for their significant investment of time and effort on this issue. The draft Action Plan contains many good suggestions which warrant consideration by the legislature, independent of any climate change concerns. Many of the suggestions represent sustainable practices which should be considered merely from a conservation standpoint. This is particularly true for some of the measures regarding energy conservation and the use of waste materials as an energy source.

Given the amount of work and time put into the Pennsylvania draft climate change action plan, and the potential impacts for all sectors of Pennsylvania's economy, the comment period on this draft should be longer than thirty days; and it severely limits the ability of the public to effectively comment or to obtain the level of independent expertise appropriate for such a significant undertaking.

Aside from the many good suggestions contained in the document, the plan in our view, should be a policy document based upon sound science, unbiased economic analysis and should present a diversity of views as required by Act 70 so that the legislature can evaluate all options and impacts. Instead of such a document, the Action Plan appears to be a publication of a pre-determined result to bolster the decisions the Department already made.

Observations of the CCAC Process

Organizations were able to support the carefully crafted legislation creating a climate change advisory committee because it assured a fair and open process. Unfortunately, the Department deliberately skirted the legislative directives contained in Act 70.

We were disappointed that the Department did not adhere to Act 70's requirement that it retain the services of a third-party facilitator to conduct the activities of the Committee. The facilitator was an employee from within the Administration, and allowed the Department to run the CCAC meetings. This was not the intent of the Legislature, rather it had envisioned that an independent third party without a predetermined bias would be hired to facilitate the meetings.

In a recent press release issued by DEP, Governor Rendell said that "...The report, adopted by the Climate Change Advisory Committee and the Department of Environmental Protection, calls for a 30 percent reduction in greenhouse gas emissions below year 2000 levels by 2020." While the CCAC did vote on the PADEP sponsored 30% reduction target; and on each of the 52 work plans contained in the draft climate change action plan, the CCAC did not cast a vote on the draft climate change action plan as a whole. It is important to make this distinction to the public and the Legislature.

Another example of how the process fell short with meeting the requirements of Act 70 was the participation of the DEP Secretary at almost every monthly CCAC meeting. The Secretary stated at the outset of these monthly meetings that the issue of climate change was very personal to him, and he would be making these meetings a priority. Of course the Secretary can attend any public meeting that he chooses, however he should have been sitting in the audience, not at the table with the voting members of the CCAC. Act 70 was carefully crafted to make sure DEP did not have a seat on the CCAC, to allow free and uninhibited discussion among the members. The Secretary became engaged in numerous debates of the CCAC, and in our view, applied undo pressure on the members of the CCAC.

In addition, several months ago the CCAC approved a motion to support passage of Senator Mary Jo White's climate change action plan extension legislation, SB 829. DEP had agreed to send a letter of support over to the Legislature from the CCAC, however a letter was never submitted.

Impacts and Economic Opportunities Report- flawed from the beginning

The Pennsylvania Chamber submitted comments on the draft Impacts and Economic Opportunities Report in May, 2009, that included an analysis by Dr. Margo Thorning, Chief Economist, American Council for Capital Formation. The potential Impacts and Economic Opportunities Report was supposed to present the potential impact of climate change in this Commonwealth pertaining to the following areas: weather patterns; human health, the economy and the management of economic risk, forests, wildlife, fisheries, recreation, agriculture and tourism and any significant uncertainties about the impact of climate change.

The Impacts Report failed to meet the requirements of Act 70 by not fully reflecting the diversity of opinion among the entities required to be consulted by the Department, nor did the Department seek a diversity of views within the scientific community. Act 70 also required that the Report reflect any significant uncertainties about the impact of climate change. While relying almost exclusively on the IPCC Report, the Impacts Report fails to acknowledge even the Key Uncertainties contained within the IPCC Report itself.

In a recent article penned by Dr. Margo Thorning on the Impacts and Economics Opportunities Report, she states, “..... Whatever a legislator’s decision, it should be based on good information. The state’s draft report has failed to broadly consider voices and evidence that may give legislators pause. In effect, it has argued the merits of only one side and the effect is of essentially talking the state into a pre-determined position. This sin of omission may leave Pennsylvanians paying the price.”

Recommendation to Reduce GHGs by 30%

In the Executive Summary, DEP states that the recommendation adopted by the CCAC and Department is: “30 percent reduction in GHG emissions below year 2000 levels by 2020.” In fact, the language that was adopted by a simple majority of the CCAC is as follows: “The Committee agrees to DEP’s proposed target of a 30 percent reduction from 2000 GHG emission levels by 2020 as a reasonable aspirational non-binding goal for implementation of the program and policies recommended by the DEP and that the goal should be used to assess the progress of implementation of the Committee’s recommendation.” Although this language is reflected in Chapter 1 of the Report, we would ask that the exact language that was adopted by the CCAC be included in the Executive Summary as well.

The Pennsylvania Chamber is very concerned with the goal of 30 percent GHG reduction because such a goal can easily be turned into a mandate on commerce and individuals, lessening Pennsylvania’s global competitiveness. In addition, the 30 percent reduction is much more aggressive than what is being proposed at the federal level. Not only are we concerned about the potential for a mandate, we are puzzled by DEP’s response as to why a 30 percent reduction is being recommended for Pennsylvania. DEP has said that 30 percent is within the range of the IPCC recommendations. It is clear that there wasn’t any Pennsylvania specific data used as the basis for this recommendation.

Comparison to Other States

In Chapter 1 of the draft climate change action plan, there is a brief discussion of what other states have adopted as emission reduction targets, and why Pennsylvania should follow suit. The majority of the states listed are not economies that Pennsylvania should be looking to emulate. Most are dealing with record debt levels, and high unemployment rates. Levying a GHG reduction mandate on Pennsylvanians does not make economic sense.

Macroeconomic Analysis

The Pennsylvania Chamber believes the examination of cost-effectiveness is one of the major failings of the Action Plan. In our view, the economic analysis is superficial and biased, and quite frankly, lacks credibility. Virtually every work plan predicts that greenhouse gas reductions can be accomplished not only at no cost, but also with a cost savings. If this were truly the case, one must ask why the market has not already driven businesses, governments, communities and individuals to carry out these activities.

While it is obvious to electricity consumers that if one reduces their energy consumption, they will pay less in energy bills, the fact remains that the Action Plan falls short on its analysis of cost to the economy as a whole and in particular to Pennsylvania’s economy.

DEP has said that it went beyond the requirement of Act 70 in commissioning a macroeconomics report. We find this statement to be inconsistent with the statute which requires that the Action Plan evaluate “cost-effective strategies” and to identify the costs of greenhouse gas reduction strategies. Accordingly, the Department is doing no more than what is required by the statute, but is doing it belatedly and superficially.

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Without a good economic analysis, the legislature is left without the necessary tools to make important public policy judgments and will need to conduct its own hearings. It is simply not credible that such far reaching changes to Pennsylvania's economy can be mandated at no cost.

The fatal flaw in this Action Plan is that it states Pennsylvania emits only 1% of the so-called greenhouse gases. Consequently, any actions taken by Pennsylvania alone, even if we were to totally eliminate GHG emissions, would have a negligible effect. Greenhouse gases do not respect state or national borders. Therefore, to the extent that GHG emissions are a problem, any actions taken must be on a national or international level to have any practical effect. If Pennsylvania takes steps that are not adopted by other states, it will likely worsen the business climate in Pennsylvania versus other states without making any measurable difference in the problem that those actions purportedly cause.

Further, there is no discussion of what benefit will be derived from a Pennsylvania program if developing countries such as Russia, India and China continue to increase greenhouse gas emissions. There is no discussion as to what price Pennsylvania citizens should pay if the net result of the Action Plan is no benefit to global greenhouse gas levels.

Again, we recognize all of the hard work that has gone into this document. However, the CCAC process was flawed from the beginning and came up short. As a result, what could have been a helpful management tool for the Legislature has simply become window dressing to support preconceived regulatory programs which the Department would like to implement.

Sincerely,

A handwritten signature in cursive script that reads "Floyd Warner".

Floyd Warner
President