

Office of the President

December 28, 2009

U.S. Environmental Protection Agency  
Mailcode: 2822T,  
1200 Pennsylvania Avenue, NW.,  
Washington, DC 20460

RE: Prevention of Significant Deterioration and Title V Greenhouse  
Gas Tailoring Rule, **Docket ID No. EPA-HQ-OAR-2009-0517**

To Whom It May Concern:

Kansas Farm Bureau is pleased to offer its comments on the proposed rule to tailor application of the Prevention of Significant Deterioration (PSD) and Title V programs to the regulation of greenhouse gases (GHG) under the Clean Air Act. While the basic premise of the rule is to mitigate the broad economic and regulatory burdens that will result from the regulation of greenhouse gases under the Clean Air Act we have significant concerns in the potential impacts of the rule on farms and ranches across the nation.

First, the economic consequences of regulation for farmers and ranchers will be severe. In particular we are apprehensive about the application of Title V permits to the livestock industry. In 2008, the U.S. Department of Agriculture (USDA) filed comments with the Office of Management and Budget on the Advance Notice of Proposed Rulemaking on possible greenhouse gas regulation stating:

“If GHG emissions from agricultural sources are regulated under the Clean Air Act, numerous farming operations that are currently not subject to the costly and time-consuming Title V permitting process would, for the first time, become covered entities. Even very small agricultural operations would meet a 100-tons-per-year emissions threshold. For example, dairy facilities with over 25 cows, beef cattle operations over 50 cattle, swine operations with over 200 hogs, and farms with over 500 acres of corn may need to get a Title

V permit. It is neither efficient nor practical to require permitting and reporting of GHG emissions from farms of this size.”<sup>1</sup>

The Kansas economy relies heavily on the livestock industry; the State ranks 6<sup>th</sup> nationally in beef cow numbers, 3<sup>rd</sup> nationally in the value of live animals and meat exported to other countries and second nationally in fed cattle marketed.<sup>2</sup> The potential facilities that could fall under further regulation due to this rule in Kansas include the current 450 federally permitted CAFO facilities and 1350 state permitted feeding facilities. It is unclear how many of the 1350 state facilities might fall under the thresholds for GHG emissions, but all 450 of the federal facilities would be regulated under the proposed rule.

USDA statistics for 2007 indicate that these thresholds would cover about 99 percent of total dairy production, more than 90 percent of beef production, and more than 95 percent of all hog production in the United States. The resulting Title V fee structure would be significantly felt within the dairy, beef and pork sectors.<sup>3</sup>

Requirements of the Title V program are exacerbated by the fact that any person can challenge a permit during the 60-day comment period prior to issuance. Given the significant number of entities that would be required to obtain Title V permits if GHG were regulated under the Clean Air Act, the possibility of “citizen suits” has the potential to effectively hamstring large parts of the economy. This could be especially devastating for animal agriculture.

Similarly, application of the PSD program will also have adverse economic consequences for agriculture. The PSD program requires the owner of a stationary source emitting more than 250 tons per year of a regulated pollutant to acquire a pre-construction permit in order to modify any facility that would result in any increase of emissions. “Stationary source” is broadly defined not only to include single buildings or facilities, but all buildings under a single owner that may even be located on adjacent property. For agricultural producers, it would apply to all barns, greenhouses, or other facilities that are part of farming or ranching operations.

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<sup>1</sup> Letter to Susan E. Dudley, OMB from the Secretaries of Agriculture, Transportation, Commerce and Energy, July 9, 200

<sup>2</sup> Kansas Agriculture Statistics Service

<sup>3</sup>Section 424 of the FY 2010 Interior-Environment Appropriations Act prohibits the expenditure of funds to promulgate or implement any regulation requiring Title V permits based on biological processes from livestock. Thus, for at least FY 2010, livestock producers will not be required to obtain Title V permits based on emissions from livestock.

Secondly, we remain concerned that the rule provides no regulatory certainty for any covered entity even if they emit less than 25,000 tons of a covered pollutant per year. Because the rule is designed as a temporary measure – providing no exemption for sources emitting less than 25,000 tons – the implication becomes not whether regulation will occur, but when. The net result of this uncertain environment will likely stifle business development and expansion by producers who fear the state of affairs may change placing them under regulation and forcing additional expense to comply.

Additionally, because the rule does not affect the application of state law it will not correct inconsistencies that currently exist and will not provide uniform application to polluters across the nation.

As you consider this rule please contemplate the impact on agricultural producers across the nation. We appreciate the opportunity to submit these comments.

Respectfully,

A handwritten signature in black ink, appearing to read "Steve Baccus". The signature is fluid and cursive, with a large initial "S" and a long, sweeping underline.

Steve Baccus  
President