



April 29, 2010

The Honorable Barbara Boxer
United States Senate
112 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Boxer:

I am writing to you today on behalf of the Environmental Markets Association (EMA) to seek your support for S. 2995, the Clean Air Act Amendments of 2010, sponsored by Senators Carper and Alexander. EMA was formed after Congress enacted the Clean Air Act Amendments of 1990, which established the first ever cap-and-trade program to address the problem of acid rain. The Clean Air Act's Acid Rain Program has been a resounding success and has served as the model for other cap-and-trade programs to address environmental problems, including global warming.

EMA members represent over 250 professionals, electric generators, and industrial companies that benefit from the ability to trade emission allowances (as well as financial, legal, and consulting firms that support them). We are not lobbyists, but a professional association dedicated to advancing the understanding of role of "cap-and-trade" systems in reducing pollution earlier and at lower cost than required by law. For the last fourteen years, we have provided a forum for our members to discuss the use of markets to address environmental issues, as well as offering training to people in emissions trading in North America, Europe, and Asia.

Ten States have already begun addressing carbon dioxide emissions from power plants through a cap-and-trade program (the Regional Greenhouse Gas Initiative or RGGI), and California is well underway to establishing a cap-and-trade program to address greenhouse gas emissions through both its efforts under AB 32 and the Western Climate Initiative. We are concerned, however, that recent experiences with the Acid Rain Program could undermine these regional and state efforts -- as well as current efforts within Congress to address global warming.

A few years ago, EPA issued the Clean Air Interstate Rule (called CAIR) to address pollution from power plants in the eastern half of the United States. Through CAIR, EPA modified the Acid Rain Program to make it more stringent, and it also created a cap-and-trade program to address annual emissions of nitrogen oxides (NOx). Although environmental groups, the electric utility industry, and others supported CAIR, a small handful of electric generating companies and one state (North Carolina) did not like certain aspects of the rule, and they challenged CAIR in the D.C. Circuit. On July 11, 2008, the D.C. Circuit overturned CAIR, and the environmental markets have not been the same.

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Since that ruling, the Acid Rain Program's market for sulfur dioxide allowances and the annual NOx market have been in complete and utter disarray. EPA is working on a replacement to CAIR, but under the court's decision it may not be able to issue a replacement that solves the problems with cap-and-trade. Without Congressional intervention, these markets may not recover. We believe these experiences are undermining the public's perception of cap-and-trade and are causing people, including those intimately involved in these markets, to lose confidence in them. This, in turn, could undermine efforts in Congress to address global warming and efforts by California to establish its trading program.

For these reasons, we urge you to consider scheduling mark-up for S. 2995 as soon as possible. That bill fixes the problems caused by the D.C. Circuit's ruling on CAIR and would provide some much needed certainty to the sulfur dioxide and NOx markets. Alternatively, if S. 2995 is too much to ask at this time, EMA would strongly support targeted legislation that would solve the problems in the markets that the D.C. Circuit's decision have caused.

We are willing to meet with you or your staff at any time to discuss these matters that are of critical importance to our industry. Thank you for your sincere consideration of our request.

Sincerely,

Thaddeus J. Huettelman
Chairman

cc: The Honorable Thomas R. Carper
The Honorable Lamar Alexander