

Testimony of Mr. Mike Carey
President, Ohio Coal Association
Before the
House Committee on Energy and Commerce, Subcommittee on Energy and Power
"EPA's Greenhouse Gas Regulations and Their Effect on American Jobs"
March 1, 2011

Chairman Whitfield, Ranking Member Rush, Members of the Committee, good afternoon.

Thank you for inviting me to testify today at this very important hearing on the so-called “greenhouse gas” rules and regulations being mandated by the United States Environmental Protection Agency (“USEPA”) and their effects on American jobs. My name is Mike Carey, and I am President of the Ohio Coal Association. I also serve on the National Coal Council, which is an advisory committee to the Secretary of Energy on energy resource issues.

The Ohio Coal Association (“OCA”) provides a voice for the many thousands of our citizens working in the Ohio's coal sector. We continually seek to educate state and federal lawmakers on the effects that their policies have in keeping Ohio and the rest of our Country competitive with foreign nations in the areas of low cost energy resources, reliable electric power production, and global manufacturing competitiveness. Cheap, affordable coal is what powers the manufacturing base and maintains our families across the Midwest and in other regions of America. The low cost electricity that coal provides is a staple of life and essential to our standards of living in most of America.

The companies we represent are proud to directly employ over 3,000 individuals in Ohio alone, with over 30,000 additional jobs, according to university studies, dependent on our industry. Coal provides our country with a strong international competitive advantage, as we have more coal than Saudi Arabia has oil and gas. Energy Information Administration data shows that at least 261.5 billion tons of coal reserves are available in America using existing mining techniques. Again, not only is coal America's most abundant energy resource, but, by far, it is our lowest cost domestic energy resource.

The impacts of USEPA's draconian, planned rules on power plants and industrial facilities are on the minds of most Americans. They will impact all facets of everyday life. Allowing the USEPA to regulate greenhouse gases will increase the costs to power our Country, cause massive transfers of wealth, and result in huge job losses that will not be recovered.

In fact, it is difficult for me to confine my remarks to only the greenhouse gas regulations, because our energy sector is facing an unprecedented onslaught of new rules that will eliminate the coal industry and the direct and indirect jobs associated with it. However, to be clear, we are not advocating for a rollback or repeal of the current and existing Clean Air Act programs. But what is coming out of the Obama USEPA is a host of new regulatory proposals, including the Clean Air Transport Rule and Utility MACT, which comprise the "train wreck" designed to reengineer our economy by forcing fuel switching away from low cost, affordable coal. We are opposed to this new regulatory onslaught which not only appears designed to force coal out of business, but also to transfer massive amounts of wealth to some New England and West Coast states.

Already, because of threats from the Obama Administration and his USEPA, United States power companies have announced plans to retire nearly 14,000 megawatts of coal-fired electric generation capacity between 2011 and 2020. Power company executives have called the Obama USEPA's actions "unprecedented" and warned that the onslaught of regulations, such as the Clean Air Transport Rule, set to take effect in 2012, will likely cause coal-fired units to be retired at an even faster rate. One credible consulting firm has determined that ultimately 67,000 megawatts of existing coal-fired capacity will be destroyed. This is nearly 100 million tons of lost coal demand annually.

All of this is being dictated by the Obama Administration at a time when our Country must achieve more energy independence. We cite the disruption to oil and gas supplies currently underway in the Middle East, which will continue for many years.

Specific, targeted, proposals of the Obama USEPA to force electric utilities to abandon coal as a fuel source are: (1) the greenhouse gas "endangerment finding; (2) the so-called Clean Air Transport Rule; (3) the National Ambient Air Quality Standards for Ozone; (4) cap and trade schemes; (5) the denial of Clean Water Act Section 402 and 404 permits; (6) coal ash regulations; (7) renewable, subsidized energy standards, and (8) usurping of states' rights and those of the United States Corps of Engineers in denying permits needed for coal mining. There are others from different Obama cabinet departments.

According to an analysis by the U.S. Chamber of Commerce, the use of coal as a power source could decline by seventy-eight percent (78%) in the next twenty-four (24) years if Congress adopts the "clean energy standard" proposed by the Obama Administration. The Chamber advises that coal-fired generation will decline from 44.5% in 2009 to 7.6% in 2035.

Congress must take charge here and see that this is not permitted. Remember, there is a projected thirty-five percent (35%) rise in energy demand in our Country by 2030.

Regarding greenhouse gas regulations, it is important to note that the emission of CO₂ does not have a negative health impact, and its repeal is not a rollback of the Clean Air Act, since Congress did not intend for it to be regulated in 1990 and Congress has not passed “cap and trade” legislation. It is also important to remember what USEPA Director Lisa Jackson said two years ago when asked what impact unilateral U.S. action on climate change would be, she said "it would have no significant impact on atmospheric greenhouse gas levels." But, the manufacturing jobs in my home state of Ohio will definitely go to China and India even though there will be no global environmental benefit.

USEPA regulations on coal production and use place our Country at a distinct economic disadvantage when compared to developing nations, such as China, that are subsidizing coal at the national level to rapidly and unrestrictedly increase coal use to fuel economic growth. China’s increased coal burning has intensified Chinese emissions which migrate to the United States. Legislation is needed to immediately stop Obama regulatory authorities from regulating coal use until such time as the international community comes to agreement on how to most fairly regulate coal production and use.

We absolutely must oppose the new effort by the Obama Administration to eliminate coal through the new proposed plant emissions and greenhouse gas regulations. In 2008, President Obama said "If someone wants to build a new coal-fired power plant they can, but it will bankrupt them because they will be charged a huge sum for all the greenhouse gas that's being emitted". Vice President Biden, in his election campaign declared “no coal in America”. The

President and Vice President could not have been clearer in their intentions, and this Administration is following through on their promise in their war on coal.

The USEPA isn't alone, Mr. Obama's Department of Interior's Office of Surface Mining and the Department of Labor, through the Federal Mine Safety and Health Administrative, are working on their own efforts to impose strict, costly, and prohibitive new regulatory policies on the coal industry. Even by the Administration's own measure, just one of these rules alone will cost states with coal resources 7,000 direct job losses, which is over 77,000 total jobs, counting the secondary ones. It is unbelievable that such a rule would be pushed in these difficult economic times.

In addition to Ohio, I am confident that the esteemed members of this Committee from states such as West Virginia, Pennsylvania, Illinois, Virginia, and Michigan can appreciate what we are up against with these rogue, out-of-control Obama agencies and departments. Without legislation to stop the USEPA from regulating greenhouse gases, we will see over seventy-seven percent (77%) of all coal mining jobs in America disappear by 2030, per three (3) independent studies. Electricity prices will increase, and our manufacturing base will continue its migration to other parts of the world. This is not a recipe for "winning the future," as President Obama likes to say. Ohio's unemployment rate is currently over 9.5%, and Mr. Obama's USEPA's greenhouse gas regulations will push this rate well into double digit unemployment, with those who remain employed, and those on fixed incomes, struggling to find ways to afford skyrocketing electricity bills.

The discussion draft legislation that is being circulated on this matter recognizes a logical starting point, and that is that Congress never intended greenhouse gases to be regulated when

the Clean Air Act was written. It is my hope that this Committee will take action on legislation that will interrupt this flood of regulations that are an overt attack on coal, power producers, and our manufacturing base.

We are already seeing some of the effects of the Obama USEPA's plan to regulate greenhouse gases. Domestic energy resource companies are unable to move forward with economic development plans that could mean thousands of new jobs across the Country. In particular, there are companies that cannot get access to crucial capital from lenders because of the lack of clarity surrounding greenhouse gas regulations. What our domestic market needs in these challenging economic times is certainty. In many cases, that's all they need; passing legislation to permanently prevent the USEPA from attempting to regulate greenhouse gases under the cloak of climate change is the certainty that our economy requires. Lenders will come back to the table, major companies will seek to invest in the United States, new jobs will be created and old jobs will be saved.

The overreaching regulations of the Obama USPEA affect all facets of business and rate payers of electric power. We cannot forget that many jobs in these industries are often in some of the more rural parts of our Country, such as Appalachia in Ohio, where job losses and massive industrial shifts forced by government rules have had devastating effects. No stimulus or recovery package can come to the rescue when someone loses their job in these regions, as often all they have is their home and their community. Simply picking up and moving on to search for new work is not an option, because, if they own anything, it is their home, and if there are no jobs, who will buy their home? These people, who only want to work with honor and dignity, are permanently forced from the positive to the negative side of our economic ledger.

As the Committee contemplates specific legislative actions, I wish to emphasize that the desire for some to only postpone or delay the USEPA from regulating specific greenhouse gases is not a viable solution. I think those of us who have worked with bureaucracies to try to obtain permits or even a direct answer know that a two-year delay of greenhouse gas regulations is nothing more than a political ploy, and no one in our industry is fooled by this tactic. Regulators will simply sit on their hands for a few years, and then move full-steam ahead to push misguided and costly new rules. This is a completely arbitrary approach that does not rely on the free market or the technology required for carbon capture and sequestration on a commercial scale. A two-year delay also does nothing to improve certainty in the investment community.

Mr. Chairman, we are supportive of clean coal technologies, alternative fuels, and continuing our Country's strong record of safety and productivity. But the Clean Air Act should not be used as a basis to regulate Ohioans out of work, nor did Congress ever intent this. We will work with the leadership in Congress on energy solutions that are clearly on the minds of many Americans, as we observe the frightening developments in the Middle East in recent weeks. We must adamantly oppose the Obama USEPA's trying to impose regulations after they have failed to legislatively pass a fatally flawed "cap and trade" program.

Why are these USEPA regulations such a problem? First, through the courts, USEPA has basically been given unchecked and arbitrary authority over jobs through Clean Air Act permitting. Their actions are unaccountable to anyone, including Congress.

The mere existence of the flawed, illegal 'Tailoring Rule' concept shows that USEPA is redefining, on their own and outside of Congressional authority, who they believe should get

special consideration. Much like President Obama's political waivers under the healthcare law, the Administration can chose winners and losers, and is doing so.

The USEPA has now undertaken to overrule permits granted by state authorities on virtually any grounds. We are seeing this already in Louisiana with the permit for the Nucor Steel plant, which, if built, will provide 1,250 new jobs. The Obama USEPA has been critical of the State's permit and has yet to approve it. Imagine how much more wide-spread this will be once the spotlight is off these dictatorial regulations.

Under present circumstances, the USEPA can purposefully err in granting a permit, thereby allowing activists to object and sue in court. Already we are seeing groups such as the Center for Biological Diversity challenge dozens of projects across the Country for climate grounds under NEPA. This will expand exponentially with the new Clean Air regulations, and the USEPA can sit back and say it wasn't their fault.

We already know that, if you are an aggrieved business or even State (like Texas or West Virginia), you have no timely and effective court appeal opportunity against the Obama USEPA. In Texas alone, they are holding up 167 permits.

The USEPA can, at any time, declare natural gas to be BACT, thereby sealing the fate of coal jobs. Remember what President Obama promised; they will bankrupt anyone who plans to build a coal facility.

These are some of the likely scenarios that will occur, and are actually occurring now. I wish I could give a more concrete assessment on how many jobs will be lost, but I note that Mr. Obama and his USEPA have not developed a job loss determination either. They are required under section 321(a) of the Clean Air Act to complete a jobs impact/employment shift analysis for major rules. They have illegally not done so.

No one has any idea what the cumulative effect of the Obama Administration regulations on American job losses is, or will be. Administrator Lisa Jackson said on February 9 that EPA has not performed a comprehensive economic analysis of its numerous GHG regulations. However, a recent analysis by the American Council for Capital Formation concluded that uncertainty caused by EPA's GHG regulations could, by 2014, result in the loss of \$25-75 billion in investment in the economy and that this could result in the loss of 476,000-1.4 million jobs.

What is ultimately needed is an independent review. I believe we need legislation that mandates that the House and Senate review and approve all significant rules and or regulations promulgated by the Executive Branch. In addition the cost should be determined by Congress ensuring an independent third party to do the review.

If we had this in place, the out of control Obama Administration could not destroy the American industry and jobs for our families, as these rules would certainly do.

Since all economic activity releases CO₂ in one form or another, the question really comes down to whether Congress wants the USEPA to unilaterally decide where economic development will occur and in which industry, how America will get its energy supply, and how affordable that energy will be so far all of this is being done without Congressional authorization.

Not a day goes by that hard working coal miners across our Country do not wonder what their futures will be as the USEPA takes hold of unilaterally regulating greenhouse gases. Americans working in related industries that depend on low cost electricity made from coal are asking what America is doing to ensure their livelihood. These same individuals, living in many states throughout the nation, rely on coal as an affordable, reliable source of energy. They are vociferously rejecting this attempted overreach by Mr. Obama's USEPA.

I thank you for this opportunity to testify, Mr. Chairman, and stand ready to answer any questions the committee may have about the job impacts of what is a purposeful war on coal by the current Administration.