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ONE HUNDRED TENTH CONGRESS

U.S. House of Representatives
Committee on Energy and Commerce
Washington, DC 20515-6115

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October 2, 2008

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The Honorable Steny Hoyer
Majority Leader
U.S. House of Representatives
Washington, D.C. 20510

Dear Majority Leader Hoyer:

I write regarding H.R. 1424, the "Emergency Economic Stabilization Act of 2008." Although I am a strong supporter of the goals of this legislation, I am concerned about the process by which we are now receiving the bill from the Senate. As you know, the Senate added many new provisions and there is limited (if any) opportunity to address concerns of Members of the House.

I am especially troubled by one provision, Section 115 of Division B of the bill, which provides a tax credit for carbon dioxide sequestration. This provision is objectionable both because it has the Secretary of Treasury setting environmental policy and because it provides taxpayer dollars to the oil and gas industry, with no measurable public benefit.

Specifically, Section 115 provides that the Secretary of the Treasury, in consultation with the Administrator of the Environmental Protection Agency (EPA), shall establish regulations for determining adequate security measures for the geological storage of carbon dioxide to qualify for the \$20 per ton credit, such that the carbon dioxide does not escape into the atmosphere. This section is a new tax provision, not part of the tax extenders package. According to the Joint Committee on Taxation, this credit is valued at \$1.119 billion over ten years.

I am concerned that this section provides the Secretary of the Treasury with the obligation to establish regulations that are environmental regulations, squarely within the jurisdiction of EPA and the Committee on Energy and Commerce. Given the economic crisis facing the country, I am puzzled that the Senate believes that the Treasury Department should also be spending time promulgating environmental regulations. EPA has the statutory authority to regulate all carbon dioxide sequestration projects under the Safe Drinking Water Act. Last summer, EPA issued a proposed rule for long-term geologic sequestration of carbon dioxide.

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I am concerned that the Secretary of the Treasury could issue requirements for carbon dioxide sequestration that conflict with EPA's regulation of this process under the Safe Drinking Water Act. To avoid this result, EPA should establish the regulations governing carbon sequestration.

I am also concerned that the tax credit provides a tax break to the oil and natural gas industry with no benefit to the public. Section 115 provides that taxpayers can take advantage of the credit if qualified facilities capture and dispose of, or use as a tertiary injectant, 75 million metric tons of carbon dioxide. I understand facilities that are currently sequestering for enhanced oil or natural gas recovery have the capability now to meet the 75 million metric ton threshold limit. Thus, the provision would reward existing facilities for simply continuing to capture carbon dioxide at pre-existing rates and not spur new carbon sequestration. I am further concerned that facilities that are built in the future will not be able to take advantage of this tax credit because there will be no funding left.

I understand the circumstances under which this bill is being considered are extraordinary and that there may not be an opportunity to correct this provision. Nonetheless, it has no place in this important legislation and I wanted to bring this matter to your attention.

Sincerely,



JOHN D. DINGELL
CHAIRMAN

cc: The Honorable Charles B. Rangel, Chairman
Committee on Ways and Means