

May 21, 2018

VIA ELECTRONIC MAIL

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**RE: Joint Comments Regarding Delaware's Proposed Regulations Implementing
the Updated Regional Greenhouse Gas Initiative Model Rule**

Dear Secretary Garvin:

On behalf of the Sierra Club, Acadia Center, Conservation Law Foundation, Environment America, and Natural Resources Defense Council, we are pleased to submit the following comments regarding Delaware's proposed regulations incorporating updates to the model rule of the Regional Greenhouse Gas Initiative (RGGI). Having participated extensively throughout the 2015-17 RGGI program review, we appreciate the considerable effort that went into crafting a model rule that can carry the program through the next decade with such broad-based state and stakeholder support. As discussed below, we urge Delaware to expeditiously incorporate all of the changes included in the updated model rule in order to maximize the impact of the RGGI program and the benefits to Delawareans.

RGGI continues to provide significant climate, public health and economic benefits to Delaware and the broader region. Compared to a 2008 pre-RGGI baseline, power plant carbon dioxide emissions have fallen by more than 50 percent, and most recently 2017 emissions in the RGGI region declined by 18 percent from 2016 levels. Reducing power plant greenhouse gas emissions provides important attendant environmental and public health benefits. Emissions of harmful sulfur dioxide, nitrogen oxides, and particulate matter in the RGGI region have decreased dramatically as a result of RGGI. Abt Associates found that between 2009 and 2014, emissions of sulfur dioxide and nitrogen oxides in the RGGI region declined by 109,000 tons and 46,000 tons respectively.¹ These declines in criteria pollutants have resulted in improvements in a wide range of public health outcomes including reductions in asthma ER visits, respiratory hospital admissions, lost work days, and premature mortality. Based on Abt's analysis, avoided health effects in Delaware due to RGGI in its first six years were between \$115 million and \$274 million.²

¹¹ Abt Associates, Analysis of the Public Health Impacts of the Regional Greenhouse Gas Initiative, 2009-2014 (Jan. 2017), at 24, Fig.7.

² *Id.* Appendix E: State Level Results, at 5, Tbl. 4.

Recent analyses by both the Analysis Group and ICF further confirm the continuing economic benefits of Delaware's participation in RGGI. Last month, the Analysis Group released the results of its economic analysis of the most recent three-year compliance period for the RGGI program.³ The Analysis Group found that for the 2015-2017 compliance period, the RGGI program led to \$1.4 billion of net positive economic activity in the RGGI region, including 14,500 new job-years.⁴ During this period Delaware received \$43.4 million in auction revenue,⁵ and increased the economic benefits to the state by investing most of these auction proceeds in energy efficiency and clean renewable energy.⁶ Looking forward at the proposed amendments to the RGGI model rule that would strengthen and extend the RGGI program through 2030, ICF's Integrated Planning Model found an increase in job years by 35,000, gross state product by \$2.79 billion, and disposable personal income by \$1.45 billion for the years 2017 to 2031.⁷

In order to reap the benefits of a strengthened and extended RGGI program, we urge Delaware to expeditiously move forward with adopting all elements of the updated model rule. One of the important new features of the updated model rule is the establishment of an Emissions Containment Reserve (ECR). The ECR provides an important complement to the existing Cost Containment Reserve (CCR). Whereas the CCR triggers the release of additional allowances for auction if the auction clearing price rises above prescribed trigger levels, the ECR functions by removing allowances from the program if the auction clearing price falls below prescribed trigger levels.

Incorporation of the ECR is critical to maintaining the integrity of the regional emissions cap and the robustness of the program moving forward. Actual emission levels in the region have persistently remained below annual RGGI caps while allowance prices have, with rare exceptions, also remained very low. For example, 2017 emissions were 23 percent below the 2017 RGGI cap, while auction prices in 2017 ranged between approximately \$2/ton and \$4/ton. The ECR helps stabilize the market by preventing the release of excess emissions allowances when prices are low. This prevents the buildup of a large bank of excess allowances that could be used to substantially dilute the impact of the program and thwart the achievement of its goals in future years. Removing allowances from the market when lackluster demand results in low prices can also provide greater certainty in the allowance markets. Both of the two previous program reviews have had to address how to handle large banks of excess allowances. While the RGGI states have wisely elected both times to fully correct for these large banks in future years, the ECR can help prevent the creation of excessive allowance banks in the first place, while countering allowance price suppression in the years between program reviews.

In addition to incorporating all of the changes in the updated model rule, we urge Delaware to follow the lead of states like New York and take additional steps to protect

³ <http://www.analysisgroup.com/news-and-events/news/latest-study-from-analysis-group-confirms-that-rggi-program-continues-to-boost-the-economy-and-create-jobs/>.

⁴ Analysis Group, *The Economic Impacts of the Regional Greenhouse Gas Initiative on Nine Northeast and Mid-Atlantic States: Review of RGGI's Third Three-Year Compliance Period (2015-2017)* (Apr. 2018), at 4, 45.

⁵ *Id.* at 42.

⁶ RGGI.org, *The Investment of RGGI Proceeds in 2015* (Oct. 2017), at 19-20.

⁷ ICF, *RGGI Program Review: REMI Modeling Results* (Dec. 2017), at Slide 15.

environmental justice communities and communities most directly impacted by power plant pollution within the state. In updating its RGGI implementing regulations this year, New York has committed to expanding the coverage of the program to include groups of electric generating units that collectively exceed RGGI's capacity threshold of 25 MW, but do not individually exceed that threshold.⁸ These collections of units are frequently located in proximity to environmental justice communities, and requiring them to internalize a portion of their pollution costs sends a price signal that can help alleviate air quality burdens in nearby communities. In addition, New York has committed to having state agencies engage with the state's Environmental Justice & Just Transition Working Group to ensure that environmental justice communities benefit equitably from investment of RGGI auction proceeds.⁹ We urge Delaware to take similar steps as it updates its RGGI regulations.

In sum, as repeatedly shown by analyses of independent economic and health experts, and as documented by the states themselves, Delaware and the other states in the RGGI region have benefited greatly from their participation in the RGGI program over the past decade. The updated model rule promises to continue providing such benefits over the next decade, while continuing to cut dangerous emissions from polluting power plants and to show much-needed state and regional leadership in the fight against climate change. Accordingly, we urge Delaware to expeditiously adopt all elements of the updated model rule, including the ECR, as well as additional modifications to benefit environmental justice communities, in order to continue to benefit from a robust and thriving RGGI program in the future.

Respectfully submitted,

Sierra Club
Acadia Center
Conservation Law Foundation
Environment America
Natural Resources Defense Council

⁸ New York 2018 State of the State Book (Jan. 2018), at 295.

⁹ *Id.* at 295-96.