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**To: Andrew Wheeler, Acting Administrator, U.S. Environmental Protection Agency**

**From: Honorable John C. Carney, Jr., Governor of the State of Delaware**

**Subject: Official Comments to Docket ID: EPA-HQ-OAR-2017-0355**

**Repeal of Carbon Dioxide Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Emission Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units; Revisions to Emission Guideline Implementing Regulations; Revisions to New Source Review Program**

**Date: Thursday, October 11<sup>th</sup>, 2018**

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Dear Acting Administrator Wheeler:

I am writing to submit Delaware's official comments on EPA's proposed replacement of the Clean Power Plan with the Affordable Clean Energy Rule (ACE).

Our state environmental regulators are charged with protecting Delawareans' health and our environment. They do this in collaboration with the Federal government. About a third of the greenhouse gas emissions in the U.S. result from burning fossil fuels to generate electricity for our homes and for our businesses. Greenhouse gases (GHGs) are air pollutants that endanger the health of everyone on the planet. The U.S. emits more carbon dioxide per person than any other nation in the world. These pollutants are directly responsible for global climate change, which is increasing global temperatures, melting glaciers, increasing sea levels, acidifying our oceans and contributing to billion-dollar disasters in the U.S. and around the globe.

Climate change is proven by science, and its negative impacts can be seen and felt everywhere, especially here in Delaware, the lowest-lying state in the country. Sea levels, as measured in Lewes, Delaware, have risen more than 13 inches since 1919. This has contributed to an increase of 300 percent in flooding since the 1950's. Without significant reductions in greenhouse gas emissions, Delaware's tidal water could rise by an additional five feet permanently inundating 17,000 homes and 500 miles of roadway.

The proposed replacement of the Clean Power Plan (CPP) with the ACE Rule will remove a strong incentive for states and the Federal government to work together to protect and improve air quality.

EPA is required under the Clean Air Act to take action to regulate greenhouse gases. The Act divides that responsibility between EPA and states. EPA establishes a federal framework for regulation and identifies the emission reductions that are needed. The states determine the best way to achieve those targets based on the cost-effective emission reduction opportunities in their states. However, EPA's own analysis shows that the proposed approach has the potential to increase CO<sub>2</sub> and other pollutant emissions, further reducing air quality, causing and exacerbating illnesses, and even contributing to deaths. A statutory requirement for a regulatory framework to reduce emissions cannot be satisfied with one that has the potential to increase emissions.

EPA's proposed rule also fails to identify the Best System of Emission Reduction (BSER) in that it only lists candidate technologies and does not identify the emission reductions that could be achieved by deploying the best system. EPA's regulations must be more than an "informational pamphlet" for states.

Furthermore, the proposed changes EPA has signaled for weakening the New Source Review (NSR) regulations are problematic for Delaware as a downwind state of dirty coal-fired power plants. By proposing that modified sources would not trigger NSR unless the modifications cause both an increase in annual emissions and an increase in the hourly emissions rate, EPA would allow a unit to increase its annual capacity, which has a potential to increase their actual emissions without being subject to New Source Review and not have to control their emissions resulting from implementing the heat rate improvements the ACE Rule requires for BSER. These proposed NSR regulations would have the potential to not only exacerbate this risk of increased emissions, and at the very least overwhelm any potential emission rate improvements given the long-lived nature of GHGs.

The citizens and economy of Delaware will be negatively affected if the Affordable Clean Energy Rule is adopted. Rising average temperatures and prolonged heat waves pose critical health risks to Delaware farmers, outdoor workers, children, and the elderly. Changing climate conditions will increase local levels of particulate matter and ground-level ozone, which increase the risk our residents face of premature death and chronic heart and lung problems, and many of these pollutants are transported from states to the west of us. These threats will only increase if we do not take a stance as a nation and a global community to reduce the human emissions of greenhouse gases that feed rapid climate change.

Delaware has become a national leader in taking that stance and going to great lengths to reduce greenhouse gas emissions. Delaware joined the Regional Greenhouse Gas Initiative (RGGI) in 2005 and has worked with our regional partners since then to reduce CO<sub>2</sub> emissions from

power plants in the region. Emissions across the RGGI region have gone down by over 50 percent since 2005 compared to an average national reduction of just 24% over a similar period.

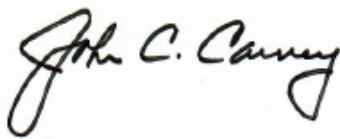
Given the demonstrated effectiveness of RGGI's GHG emission reduction measures, the implementation of the RGGI program requirements is interpreted by Delaware to meet the compliance criteria of the ACE Rule. We seek EPA's confirmation of this point; however, Delaware, and a handful of other willing states, cannot and should not be expected to be the only states to tackle carbon pollution.

The rest of the country must follow Delaware's lead and be part of the solution, rather than making the problem worse. The CPP is a very good plan in response to the risk climate change impacts imposed for our country and fulfills EPA's legal obligation to regulate emissions of carbon dioxide. The CPP maintains the longstanding practice of sharing regulatory responsibility between EPA and the states. The CPP builds on experiences of the states who have already begun enacting clean energy policies, Delaware, again, being chief among them.

I am convinced that the nation needs viable environmental action, such as the Clean Power Plan. We must reduce greenhouse gas emissions to address climate change and the perils it poses to all of us here in the United States and around the world. Delaware stands ready to implement the Clean Power Plan as originally proposed, and I strongly encourage the EPA to reconsider their proposal to replace it with the Affordable Clean Energy Rule.

If you have any questions, please contact Shawn M. Garvin, Cabinet Secretary, Department of Natural Resources, and Environmental Control, at 302-739-9000.

Thank you,

A handwritten signature in black ink, reading "John C. Carney". The signature is fluid and cursive, with the first letters of each word being capitalized and prominent.

John C. Carney  
Governor, State of Delaware

cc: Shawn M. Garvin