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October 6, 2017

Dear Mr. McKeon and Members of the RGGI Board:

Thank you for conducting an open, transparent and responsive process over the past two years to evaluate the success of the Regional Greenhouse Gas Initiative and plot its future course.

We strongly support the states' proposal to strengthen the program and cut pollution by an additional 30 percent over the coming decade. This action will help prevent the worst impacts of climate change and accelerate our progress toward a clean energy future. And importantly, it will set a strong example for the rest of the nation by showing that we all can work together across party lines to cut pollution, clean our air and protect our climate.

However, there remains more work to be done. Scientists agree that to avoid the worst impacts of climate change, we need to stop burning virtually all fossil fuels and transition to clean, renewable energy by 2050.¹ The faster we move, the better. Every additional ton of pollution we prevent can help slow the warming of our planet and protect our communities from harm. We also must ensure that the benefits from the transition to a clean energy economy are shared broadly and fairly. The communities most overburdened by pollution and vulnerable to the negative effects of climate change should be first in line to benefit from the RGGI program.

We believe that we can and should take a deeper bite out of pollution from power plants, and we encourage the RGGI states to continue to strengthen the RGGI program and individual states' clean energy laws in the coming years. We also must do more to tackle pollution from other sources, including transportation, buildings, and industry. As experience with RGGI has shown, more ambitious climate action will deliver even greater benefits – including cleaner air,² less pollution,³ more energy bill savings,⁴ and more clean energy development.⁵

¹ Christiana Figueres, Hans Joachim Schellnhuber, Gail Whiteman, Johan Rockström, Anthony Hobley and Stefan Rahmstorf (2017). Three years to safeguard our climate. *Nature* 546: 593-95, available at <https://www.nature.com/news/three-years-to-safeguard-our-climate-1.22201>.

² Acadia Center (2017), *Strengthening RGGI to Improve Public Health*, available at http://acadiacenter.org/wp-content/uploads/2017/05/Acadia-Center-Strengthening_RGGI_to_Improve_Health_2017_05_09.pdf; see also Abt Associates (2017), *Analysis of the Public Health Impacts of the Regional Greenhouse Gas Initiative, 2009–2014*, available at <http://www.abtassociates.com/AbtAssociates/files/7e/7e38e795-aba2-4756-ab72-ba7ae7f53f16.pdf>.

³ Environment America (2017), *Doubling Down on Climate Progress; The Benefits of a Stronger Regional Greenhouse Gas Initiative*, available at http://www.environmentamerica.org/sites/environment/files/reports/Nat_Doublingdown_scrn.pdf.

⁴ Synapse Energy Economics (2016), *The RGGI Opportunity 2.*, available at http://www.synapse-energy.com/sites/default/files/RGGI_Opportunity_2.0.pdf; see also RGGI (2017), *The Investment of RGGI Proceeds in 2015*, available at https://www.rggi.org/docs/ProceedsReport/RGGI_Proceeds_Report_2015.pdf.

⁵ NRDC, Tighter Pollution Cap Could Get RGGI States \$3.2B Extra (July 31, 2017), available at <https://www.nrdc.org/experts/jackson-morris/tighter-pollution-cap-could-get-rggi-states-32b-extra>.

In light of these imperatives, the undersigned organizations respectfully submit the following comments in response to the September 25 stakeholder meeting and accompanying materials. We look forward to working with you and with local and state leaders across the region to continue setting the standard for leadership on climate change.

I. We Strongly Support the States' Commitment to Continued Climate Leadership and Further Emissions Reductions in the Region

A. The post-2020 cap trajectory will continue RGGI's emissions reductions, though even more can and should be achieved in future years

We commend the RGGI states for extending and strengthening the emissions cap. RGGI's experience has shown that the region can rapidly reduce electric sector emissions while driving economic growth, and we greatly appreciate the states' continued commitment to those goals. Compared to the reference case, the proposed policy package will result in 152 million fewer tons of CO₂ emitted by the region's power plants through 2031,⁶ and those CO₂ reductions will be accompanied by substantial health benefits.⁷

While the proposed cap will certainly deliver emissions reductions, ICF's modeling for the RGGI states shows that a much more ambitious cap level could be achieved at a marginally higher price.⁸ That finding is augmented by additional analysis showing that a stronger cap level would produce far more jobs and economic growth for the region.⁹ In addition, bioenergy carbon emissions may generate increases in carbon flux under the RGGI program.¹⁰ Not accounting for bioenergy's carbon emissions could lead to a discrepancy between reported emissions under RGGI and actual emissions. The urgency of climate change demands that we act boldly, and we hope that the RGGI states will use the next Program Review to take a larger step towards state and regional climate goals, if not sooner.

We applaud seven of the nine RGGI states for agreeing to a larger step-down in the cap from 2020 to 2021. This decision effectively addresses the difference between a fixed cap decline and an annually diminishing cap decline from 2014 to 2020. We hope that New Hampshire and Maine will take similar measures to address this issue in the future.

⁶ ICF International, "DRAFT 2017 Model Rule Policy Scenario Overview" (Sep. 25, 2017), *available at* https://www.rggi.org/docs/ProgramReview/2017/09-25-17/Draft_IPM_Model_Rule_Results_Overview_09_25_17.pdf.

⁷ Acadia Center (2017), *Outpacing the Nation: RGGI's Environmental and Economic Success*, *available at* http://acadiacenter.org/wp-content/uploads/2017/09/Acadia-Center_RGGI-Report_Outpacing-the-Nation.pdf

⁸ ICF International, "DRAFT 2016 RGGI Program Review: CPP Reference Cases & Modeling Scenarios" (June 17, 2016), *available at* https://www.rggi.org/docs/ProgramReview/2016/06-17-16/2016_PR_IPM_Modeling_Draft_Results_Overview.pdf

⁹ Synapse Energy Economics (2016), *The RGGI Opportunity 2.*, *available at* http://www.synapse-energy.com/sites/default/files/RGGI_Opportunity_2.0.pdf.

¹⁰ IPCC AR5 WG III 11.13.4 GHG emission estimates of bioenergy production systems, 2014, *available at* https://www.ipcc.ch/pdf/assessment-report/ar5/wg3/ipcc_wg3_ar5_chapter11.pdf.

B. We strongly support the decision to fully adjust for excess banked allowances accumulated through 2020, as the states did in the last program review

The RGGI states have demonstrated an admirable willingness to innovate in order to improve the program. During the 2012 Program Review, the RGGI states devised and implemented the novel practice of adjustments for banked allowances as a solution to the program's allowance oversupply problem. This solution elegantly addresses the undesirable impacts of an oversupplied market (e.g. decreased incentive to pursue additional emissions reductions, potential to undermine the program's future environmental performance), while preserving the value of investments for parties that had already purchased RGGI allowances.

A new allowance surplus has accumulated since the previous rounds of allowance adjustments, and we are pleased to see that the RGGI states will conduct another adjustment in 2021. These adjustments, which are carried out over a number of years (five in this case), are sufficiently gradual to avoid shocking the market.

C. The new Emissions Containment Reserve (ECR) is an innovative mechanism to share the benefits of lower than expected costs between the economy and the environment; we also encourage the states to raise RGGI's floor price

We strongly support the states' inclusion of an ECR that will automatically capture additional low-cost emissions reduction opportunities when they are available. Throughout RGGI's history, reducing emissions has consistently been cheaper than anticipated. While this has helped reduce compliance costs, it has also represented a missed opportunity to increase RGGI's ambition. Leaving low-cost reductions on the table is problematic given the urgent need to cut greenhouse gas emissions further and faster to avoid the worst effects of climate change. As noted by Resources for the Future, the ECR will, for the first time, provide a mechanism in RGGI to share the benefits of cheaper reductions between the economy and the environment.¹¹

We commend the states for developing this innovative new mechanism, and, as it is implemented, look forward to further discussions and analyses to ensure the ECR works as intended. We support the decision to retire allowances withheld under the ECR, and agree that the ECR should be at least as large in size annually as the CCR. In future program reviews, we recommend also exploring larger ECR sizes to potentially capture additional benefits.

We also hope that Maine and New Hampshire, which have not yet joined the other seven RGGI states in committing to implement the ECR, will ultimately elect to adopt it.

Finally, while the ECR should help bolster allowance value, we continue to encourage the states to raise RGGI's floor price to a level that better reflects the costs of carbon pollution.

D. Reforms to the Cost Containment Reserve (CCR) are important steps in the right direction

¹¹ Resources for the Future, *Expanding the Toolkit: The Potential Role for an Emissions Containment Reserve in RGGI* (Aug. 2017), available at http://www.rff.org/files/document/file/RFF-Rpt-RGGI_ECR.pdf.

We appreciate the states' commitment to reform the CCR. The current CCR is broken and has undermined RGGI's cap by releasing excess allowances at modest price levels and under normal market conditions. We have urged reforms to better align the CCR with its intended purpose of addressing price spikes from truly unanticipated market conditions.

The updated Model Rule is a clear improvement that will make the CCR harder to trigger and less harmful to emissions goals when triggered by: (1) raising the CCR's trigger price to \$13 in 2021; (2) increasing the trigger price more quickly in future years, by 7 percent per year instead of 2.5 percent currently; and (3) reducing the number of allowances released in years the CCR is triggered, from 10 million tons currently to no more than 10 percent of the cap, resulting in a CCR of 7.5 million tons in 2021, decreasing to 5.5 million tons in 2030.

While we would prefer to see even higher CCR trigger prices (e.g., three to four times anticipated allowance prices, given the modest allowance prices modeled by ICF), and potentially a smaller CCR size, the proposed changes are important steps in the right direction.

In the future, we hope the states will also elect, as we have urged, to bring the CCR underneath RGGI's cap, by borrowing any released CCR allowances from future years, to ensure that the CCR provides price containment without undermining RGGI's overall emissions goals.

II. In Implementing the Agreement and in Future Reviews, We Urge the States to Ensure That RGGI's Benefits Are Broadly and Fairly Distributed

A. As the RGGI states move forward, they should ensure inclusive stakeholder processes and should conduct state-level environmental justice analyses

We appreciate the efforts that states made during the 2016 program review to engage and listen to feedback from environmental justice communities regarding the RGGI program. In particular, we recognize and appreciate that a number of states (e.g., Delaware, Maryland, Massachusetts, and New York) hosted state-specific meetings during the program review and made efforts to make those meetings more accessible and inclusive. We urge the RGGI states to continue to build on these efforts both as the proceedings move to the individual states to update their RGGI rules and statutes and to update allocations of RGGI proceeds, as well as in future program reviews. It is critical to work closely with the communities that are most adversely impacted by electric sector pollution, conducting outreach using linguistically and culturally appropriate materials, hosting stakeholder meetings in these communities at locations and times that accommodate working people's schedules, and listening and responding to concerns raised by members of these communities.

While we are disappointed that the RGGI states did not heed the call from many stakeholders—including a number of environmental justice organizations—to conduct an environmental justice analysis as part of the 2016 program review, states can work to address this shortcoming during their model rule adoption. For example, as discussed below, states can analyze the environmental justice implications of the present exclusion of aggregations of small units with a total nameplate capacity greater than 25 MW. In addition, states can use the RGGI

modeling and other resource to evaluate which areas are most heavily impacted by electric sector pollution and target RGGI proceeds toward benefiting these communities.

B. The RGGI states can continue to drive greater program equity through their RGGI revenue spending plans and decisions

Although this regional phase of the current program review is nearing its completion, an important area where the RGGI states can continue to drive greater equity is in the allocation of RGGI proceeds. In incorporating the changes from the 2016 program review into state regulations and statutes, we urge states to consider updates to allocation of proceeds through an equity lens, with particular consideration to frontline communities that have borne the brunt of adverse health impacts from fossil fuel, waste, and biomass power generation. As noted above, in evaluating revenue allocation formulas, we encourage states to listen to feedback from members of these communities and to ensure substantial investment in these communities. This investment could include promoting access to energy efficiency and weatherization services for both low-income homeowners and renters, providing transition assistance for workers who will be displaced by reduced investment in polluting power plants, and offering access to community solar projects that allow more households to participate in the clean energy economy.

C. The RGGI states need to address facilities consisting of aggregations of small units with total capacity greater than 25 MW

A final issue that implicates the equity of the RGGI program is the continued exclusion from the program of facilities comprising multiple small units that have an aggregate capacity greater than 25 MW. Presently these facilities are not required to internalize any of the costs of their climate emissions, which may equal or exceed those of other (sometimes smaller) facilities subject to RGGI compliance requirements.

While we recognize the need to establish a minimum capacity threshold for RGGI compliance, by considering units in isolation rather than aggregate capacity at the facility level, the model rule's current applicability requirements are not equitable. Currently, a new 44 MW combustion turbine would need to obtain allowances for its climate pollution, yet two 22 MW combustion turbines—such as those recently proposed by the Massachusetts Institute of Technology¹²—would have no obligation to internalize the costs of their emissions and would not fall under the regional cap. There is little justification, based on climate impact, economics, or otherwise, for exempting such aggregated facilities from RGGI requirements.

As highlighted in prior comments, the failure to determine RGGI applicability based on total facility capacity has environmental justice implications. There are existing facilities like the 710 MW Gowanus Gas Turbines Station and 360 MW Narrows Generating Station in Brooklyn that are composed of many small fossil fuel units and are located adjacent to environmental justice communities. Pulling these latter facilities under the RGGI cap would ensure that they internalize the costs of their climate pollution, which gives the facilities an incentive to reduce

¹² Draft Prevention of Significant Deterioration Permit Application No. NE-15-018 Transmittal No.: X262144, available at <http://www.mass.gov/eea/docs/dep/air/approvals/final2017/mit-dpsd.pdf>; Air Quality Plan Approval, Application No. NE-15-018, Transmittal No.: X262144 (June 21, 2017), available at <https://powering.mit.edu/sites/default/files/images/CUP%20MassDEP%20approval%20cover%20letter.pdf>

emissions or run less frequently, benefiting local air quality. In addition, bringing more facilities under the RGGI cap enables the RGGI program to do more to help states achieve their broader climate goals.

We urge the RGGI states to close the unit aggregation loophole in the final model rule. If these changes are not incorporated into the final model rule then we encourage individual states to implement these safeguards in their own state RGGI implementing regulations. In addition, we urge all states to evaluate the facilities within the state that presently benefit from this exemption to more fully understand the environmental justice implications of the unit aggregation loophole.

III. Next Steps

Consistent with our comments above, we encourage the RGGI states to move expeditiously to finalize the proposed Model Rule and adopt it within each of the states. The post-2020 emissions trajectory and other program reforms will help ensure the continued success of the RGGI program. Expanded and continued efforts in the states to provide inclusive public processes, close remaining program loopholes, and invest RGGI's proceeds in energy efficiency and other programs that benefit consumers, including in low-income and disadvantaged communities, can further strengthen RGGI's outcomes and benefits and support for the program.

Moving forward, we encourage the states to continue to explore opportunities to expand the RGGI region in ways that will increase its benefits and effects, including the possibilities of incorporating or linking with New Jersey and Virginia in the near term.

We also urge the states to build on the lessons and successes of RGGI to address emissions in other sectors, including transportation – the largest source of climate pollution in this region – as will be needed to achieve our collective climate goals and avoid the worst impacts of climate change.

Finally, we appreciate the states' longstanding and continuing commitment to stakeholder outreach and participation as exemplified in the 2016 program review. We congratulate the states on reaching a consensus agreement that will continue RGGI's climate leadership, and we look forward to continuing to work with you to strengthen and implement this innovative and highly successful climate program, which is a model for the nation.

Respectfully submitted,

Acadia Center
Appalachian Mountain Club
Audubon New York
Chesapeake Climate Action Network
Chesapeake Physicians for Social Responsibility
Climate XChange
Conservation Law Foundation

Environment America
Environment Connecticut
Environment Maine
Environment Maryland
Environment Massachusetts
Environment New Hampshire
Environment New York
Environment Rhode Island
Environmental Advocates of New York
Environmental Entrepreneurs (E2)
Greater Boston Physicians for Social Responsibility
League of Conservation Voters
Maine Audubon
Maine Center for Economic Policy
Maine Conservation Voters
Maine Council of Churches
Maine People's Alliance
Natural Resources Council of Maine
Natural Resources Defense Council
Partnership for Policy Integrity
Pace Energy and Climate Center
Physicians for Social Responsibility
Sierra Club
Sierra Club Maine
Toxics Action Center
Union of Concerned Scientists
Vermont Energy Investment Corporation
Vermont Natural Resources Council