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Commissioner David Littell
Department of Environmental Protection
17 State House Station
Augusta, ME 04333-0017

RE: Proposed rules to implement the Regional Greenhouse Gas Initiative, chapters 156 and 157

Dear Commissioner Littell,

On behalf of Environment Maine Research & Policy Center's more than 4,000 volunteers and activists, I would like to submit testimony in support of Maine implementing the Regional Greenhouse Gas Initiative (RGGI) through the draft rules proposed by the Department of Environmental Protection (DEP), chapters 156 and 157.

The Environment Maine Research & Policy Center researches problems, crafts policy solutions and educates and engages the public on issues that affect Maine's environment. We have worked extensively on the issue of global warming, highlighting the policies necessary to reduce Maine's global warming pollution in numerous reports and mobilizing public support for these policies.

Now more than ever, scientists agree that we must take swift action to make significant cuts in global warming pollution so that we can avert the worst effects of global warming pollution. Maine has already begun to experience global warming, from rainy winters to northward-spreading diseases to beach erosion and coastal flooding. If Maine and our country fail to act, global warming will completely change the face of the state we love.

The historic agreement between the Northeast states embodied in the Regional Greenhouse Gas Initiative (RGGI) is important for many reasons, not the least of which is the reductions in global warming pollution from power plants. Although global warming is a problem of global scale, by banding together, the Northeast states will be able to address a significant contribution of the United States' total global warming emissions.

According to Environment Maine Research & Policy Center's recent report, *The Carbon Boom*, the states of Maryland, Delaware, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire and Maine released 625.4 million metric tons of CO₂

equivalent in the year 2004, an increase from 577.3 in 1990. This ranks our ten-state region seventh in the world for total global warming emissions, beating out Canada and the United Kingdom. The increased global warming pollution from power plants over this period of time accounted for about 37 percent of the total global warming pollution increase. This clearly debunks the arguments of some detractors of RGGI who claim that Maine contributes little to the problem of global warming, or how little this agreement will deal with the emissions of the United States. The RGGI region is a significant contributor of global warming emissions, and by joining with other states, Maine is helping put more pressure on other states to join, cut emissions or join other alliances in their region.

The Northeast RGGI agreement has also set the tone for other regional efforts, and stimulated other governors to band together to tackle emissions of global warming pollution. Governors of both the West Coast, and the Rocky Mountain West are developing collaborations inspired by and pressured by the action of the Northeast under RGGI. Meanwhile, the Northeast states' agreement is also helping drive Congress to act. Implementing RGGI here in Maine will have positive repercussions beyond our state and beyond our region.

Overall, it is important that the rules promulgated in Maine follow the model rule development by the Northeast states in order for the regional cap and trading mechanism to work properly. We would like to offer the following suggestions for the draft rules that will improve the program and ensure its best implementation.

On the issue of combined heat and power (CHP) units and integrated manufacturing facilities (IMF), the law passed by the legislature indicates that the incentives be given to existing facilities and plants. Using heat from the generation of electricity, that might otherwise be wasted, for industrial processes improves the energy efficiency of these facilities and the state as a whole. Providing an incentive to those existing CHP and IMF facilities so that they do not have to purchase credits for power that is used behind the grid goes against the principle of requiring polluters to pay for the global warming pollution they emit, but these facilities have already invested in reducing their pollution, so the exception was granted to them.

The legislature set the deadline for CHP and IMF plants to qualify for the "behind-the-meter" allocation exemption to be prior to the effective date of the RGGI legislation. The rule does not reflect this effective date. Allowing new CHP and IMF plants to qualify for the behind-the-meter exemption could seriously compromise the integrity of the carbon cap in Maine, and might cause instability among the RGGI states. Environment Maine Research & Policy Center is particularly concerned with this oversight, considering the proposal of the new coal gasification and diesel manufacturing facility in Wiscasset. In the worst case scenario, this change from the law to the rule might allow this proposed plant to operate with a behind-the-meter exemption; it might allow millions of tons of carbon credits to be handed out at no cost to the plant operator.

A more central concern is the wide powers given to the Commissioner to waive the requirements of the program. Because this is a market-based program, it will only work to reduce emissions over time if emission credits increase in worth and become scarcer. Otherwise, power plant owners will have no financial incentives to decrease emissions. If the program can be waived at the first sign of "financial hardship," which might be connected to an increase in carbon credit

prices, then the program itself will not function and the state's emissions from power plants will not decrease. We would suggest that the program not be allowed to be waived, or if you maintain the power to waive the requirements, that the test for waiving the program have a much higher standard. In addition, any such proceedings must include proper public input and oversight, with full administrative proceedings and judicial review.

Another area deserving attention is the retirement of carbon credits for the voluntary purchase of renewable energy credits of entities within Maine. By retiring carbon credits from the voluntary purchase of renewable energy, the rules would ensure the purchaser that the renewable energy was in fact carbon-neutral. So long as the allocations retired were verified as being bought by purchasers within the RGGI region and that the renewable energy was produced within the RGGI region, then that would reduce the budget for the next allocation year of the state of the purchasers. Although the market for voluntary renewable energy purchases is small, it would help with the integrity of the carbon cap and provide further incentives for potential purchasers of renewable energy and potential renewable energy developers.

I appreciate the opportunity to submit these comments, and I hope that you are able to amend the proposed rules chapters 156 and 157 appropriately to strengthen the RGGI program and ensure that Maine reduce emissions from power plants.

Sincerely,

Matthew Davis
Organizational Development Director