The Nature Conservancy
Protecting nature. Preserving life.™

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September 22, 2008

Attn: Ms. Valerie Gray
Air Quality Management Section
Division of Air & Waste Management
156 S. State Street
Dover, DE 19901

Re: Comments related to: Regulation 1147 *CO2 Budget Trading Program*

Dear Ms. Gray:

The Nature Conservancy of Delaware appreciates the opportunity to submit the following public comments in response to Delaware's Proposed Regulations 1147, "CO_2 Budget Trading Program" referred to throughout these comments as the DE RGGI Rules.

I commend Governor Minner, Secretary Hughes and his staff and the General Assembly for their efforts to address climate change threats. The Nature Conservancy is confident that the Regional Greenhouse Gas Initiative (RGGI) Program will prove to be an important first step in protecting precious places and natural resources in the Northeast and globally. Through participation in the RGGI, the State of Delaware continues to fulfill its long-standing commitment to solve one of our era's most important challenges.

The Nature Conservancy is an international nonprofit organization dedicated to the conservation of biodiversity. Our mission is to preserve the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. Founded over sixty years ago, our on-the-ground conservation work is now carried out in all 50 states and in 30 countries with the support of over one million people around the world. The Conservancy owns and manages approximately 1,400 preserves throughout the United States—the world's largest private system of nature sanctuaries. In Delaware, the Conservancy has worked with partners to protect almost 30,000 acres of important natural habitats.

We recognize, however, that our local and global mission cannot be achieved by preserving land alone. Increasingly, our projects seek to accommodate compatible human uses, especially in the developing world, to address sustained human well-being.

Climate change is already affecting the landscapes and waters that support the diversity of plants, animals and natural communities in Delaware, and responsible scientific evidence predicts this pattern will accelerate. Along the Delaware Bay, sea-level rise, flooding, beach erosion and saltwater intrusion will cause increasing damage to this estuarine habitat which is a major stopover for the second-largest group of migratory shorebirds in North America. Delaware possesses some of the most important wildlife habitat on America's East Coast accommodating over 100 different species of migratory and nesting birds, many rare plants and critical estuary habitat that is a vital link in the oceanic ecosystem of the Atlantic. The impacts of climate change, however, pose a great challenge to our continuing effort in protecting Delaware's natural assets.

Sea-level rise associated with climate change is projected to destroy 20-70% of the intertidal shorebird habitat in Delaware Bay.[1] Habitat loss from sea-level rise will be compounded by temperature increases, likely to disrupt seasonal patterns affecting important migratory shorebirds and the bay beach spawning areas that Horseshoe Crab lay their eggs in; eggs that serve as a major food source for many of the shorebird. Bird species that are particularly vulnerable include the red knot and many species of neotropical song birds like orioles, goldfinches, scarlet tanagers and many others.[2]

The Conservancy strongly supports the adoption of the DE RGGI Rules, as they set an important precedent for establishing a market-based system to cap CO_2 emissions from the energy sector at little or no cost to the consumer. We view the success of the RGGI cap-and-trade program as an imperative, since it will act as a model and catalyst for further regional and national action, which will be critical to reducing heat-trapping emissions and minimizing climate change impacts to people and nature.

Auction

The Conservancy supports the auction of Delaware's CO_2 allowances. While we hoped that the DE RGGI program would start with auctioning of 100% of the CO2 allowances, we recognize that these draft rules propose starting at 60% auction and achieving a 100% by 2014.

Auctioning the majority of the allowances will enable Delaware to raise significant revenue for climate related public purposes, while providing an additional incentive for CO_2 emissions reductions. Such revenue will allow Delaware to further invest in actions to mitigate climate change, enabling the RGGI program to further support greenhouse gas emission reductions in addition to the 10% reduction by 2019 mandated by the declining cap.

Use of Auction Proceeds

The Nature Conservancy supports the use of the funds for Public Benefit Purpose as referenced in these draft rules and detailed in Title 7, Chapter 60.

The Conservancy strongly supports the use of the majority of allowance auction proceeds to provide funding for energy efficiency and expenditures to reduce end use energy consumption. Allocating the majority of consumer allowance proceeds to energy efficiency provides the greatest net benefits to customers. Efficiency provides many more benefits than electricity bill rebates alone. The RGGI modeling process projects that wholesale power prices in the policy package scenario would go up by no more than 1%; simply rebating this amount would save customers less than 1% of their total bills, because the total savings would be diluted by the non-generation parts of the retail bill.

Modeling of a doubled-efficiency scenario in the RGGI program, however, shows two effects:

1. Doubled efficiency negates most of the wholesale price increase. The need to rebate customers for higher prices would thus be unnecessary.
2. In addition, *retail* consumer energy bills would fall by 3% to 12%[3]. Efficiency thus provides ***up to 12 times the total benefits*** of using allowance revenues just to credit customer bills.

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[1] Galbraith, H., et al. (2002) Global Climate Change and Sea Level Rise: Potential Losses of Intertidal Habitat for Shorebirds, *Waterbirds:* Vol. 25, No. 2, pp. 173–183

[2] National Wildlife Federation & American Bird Conservancy, Global Warming and Song Birds, http://www.abcbirds.org/climatechange

[3] ACEEE, 2006. *Energy Efficiency's Role in a Carbon Cap-and-Trade System: Modeling Results from the Regional Greenhouse Gas Initiative*

These modeling results make a compelling case that the majority of allowance sale proceeds from the consumer allocation should go to energy efficiency.

We are also in strong agreement with 10% of allowance auction proceeds being directed to "Greenhouse Gas Reduction Projects" as specified in Title 7, Chapter 60. Also as specified in the law, "projects must result in quantifiable and verifiable reductions in Greenhouse gas emissions in Delaware not otherwise required by federal or state law and not receiving funding from any other state sources." We would specifically support land use based efforts that result in emission avoidance (forest and marsh conservation projects) and/or sequestration projects such as forest restoration and tree planting, as eligible projects for funding.

Climate change impacts are already occurring, are expected to get worse in the near term, and will continue to escalate whether emissions are reduced or not. Provisions to support stewardship and restoration of Delaware's forests and marshes will provide important measures to help these natural systems adapt to the impacts of climate change as well as provide ways to further sequester and prevent emissions of greenhouse gases. The Nature Conservancy looks forward to working with the Department to advance projects that we feel will best achieve this goal.

Offsets

For more than a decade, the Conservancy has been working to reduce heat-trapping emissions by implementing offsets projects that protect and restore forests and grasslands. Today, through offsets projects covering more than two million acres in Belize, Bolivia, Brazil and the U.S., the Conservancy estimates that over 40 years, the protection and restoration of these largely forested areas will provide a climate benefit, having reduced 17.5 million tons of CO_2.

The Conservancy strongly supports the creation of a credible, market-driven offsets program to offer regulated entities the option to purchase allowance credits from sources not covered by the program's emission cap. To that end, we support and concur that all offsets must meet high standards, the "five part test," and be, "real, additional, verifiable, enforceable, and permanent," as specified in section 10.1.

The Conservancy supports the inclusion of greenhouse gas emission offsets for the following reasons:

1. Offsets offer real emission reductions.
2. Offsets both increase the flexibility and lower the cost of emission reduction programs. By expanding the allowance market to include low cost emission reductions from sources outside of the cap, offsets allow covered entities to take on tighter emissions limits without increasing compliance costs and, thus, increase the overall environmental benefit of the program.
3. Offsets help to protect the market against price volatility and, thus, lessen the need for price control instruments such as a price cap safety valve.

Throughout the process of creating the RGGI program, The Nature Conservancy, drawing on our on-the-ground experience, provided extensive input and guidance on the specific rules related to the allowance of, measuring of, and accounting for forest carbon offsets. In general, we are pleased with the rules governing the use of afforestation offsets.

Additional Offset Project Types

The Conservancy also supports the inclusion of additional offset types in the RGGI program in keeping with the provision in the RGGI Memorandum of Understanding (MOU) dated 12/20/05, which states the RGGI participating states will consider including other types of forestry projects and grassland re-vegetation as eligible project activities in the future, given their potential to yield real emission reductions

and substantial benefits for people and the diversity of plants and animals. We support this consideration and urge Delaware to consider the adoption of these other offset project types as soon as a viable protocol, which is under development, is fully prepared. We are working with the State of Maine and other stakeholders to provide our input stressing the need to create a high quality standard that adheres to the five part test as stipulated in the regulations.

Auction Design and Implementation

The design and implementation of the auction is a critical component of the DE RGGI program. The following are comments related to the structure and administration of an auction in RGGI. None of these details appear to be included in the draft rules, and we would recommend that these provisions are included so as to ensure consistency with the other RGGI states and to make clear provisions that have been agreed by the RGGI staff working group.

Timing of the Auction

We urge Delaware to participate in the December 2008 planned RGGI regional auction and all regional auctions planned subsequent to that. One critical element of ensuring a smooth start up to the RGGI program and in mitigating market volatility will be to begin to auction the allowances as soon as possible. Doing so will provide market transparency that the generators will need to plan into the future. For the same reasons, we support quarterly auctions.

Reserve Price

We agree with the recommendations of the RGGI Auction Design Team put forth in their report to RGGI on the auction design that the setting of a reserve price is extremely important in carrying out the auction. As experts in auction design and execution, the Auction Design Team cites experience with auctions that illuminates the setting of a reserve price as one critical element in ensuring market liquidity and preventing collusion. Importantly, it also ensures a market signal to developers of green technology, without which investments might not be made. Finally, it ensures a societal value is placed on the allowance commodity, and requires that allowances aren't given away in a capricious manner. Thus we recommend a reserve price of $1.86 per CO2 allowance in 2008 and 2009, and as adjusted by the Consumer Price Index thereafter as agreed to by RGGI states and specified in the 3/17/08 document titled, "Design Elements for Regional Allowance Auctions under the Regional Greenhouse Gas Initiative".

Recent reporting indicates that the RGGI program cap may have been set too high. If this is the case, allowances at the outset of the program could be valued very low or at zero. There needs to be some value placed on these allowances to ensure that the program achieves its stated goal of emission reduction. This is of particular concern in Delaware, given the size of our allowance budget.

Contingency Account

We recommend, especially if it is determined that RGGI is significantly over-allocated, that any allowances falling below the reserve price are retired, and we commend Delaware for including this option in the proposed regulations. At a minimum, any allowances that fall below the reserve price should be placed in a contingency reserve account as is stipulated.

On behalf of The Nature Conservancy's Delaware Chapter, thank you for the opportunity to comment.

Sincerely,

Roger L. Jones, Jr.
State Director