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Comments of the Clean Air Council of Pennsylvania on Proposed Carbon Pollution Standards
for Existing Sources of Carbon Pollution

Thank you for accepting these comments from the Clean Air Council (“the Council”) on DEP’s development of proposed carbon pollution standards for new power plants. The Council is a non-profit organization in Philadelphia that has been working since 1967 to carry out our mission of protecting everyone’s right to breathe clean air.

The National Oceanic and Atmospheric Administration measured average daily levels of carbon dioxide of 400 ppm in the atmosphere for the first time this May, a concentration not seen on Earth for millions of years.¹ The need for meaningful action to reduce carbon emissions is increasingly apparent and increasingly urgent. As the Council has outlined in written comments to the United States Environmental Protection Agency (EPA), it is the Council’s position that there is a firm legal basis for EPA’s authority to promulgate a rule addressing carbon emissions from existing sources under § 111(d) of the Clean Air Act (CAA). In the absence of U.S. Congressional action, EPA’s authority under § 111(d) is the best, most immediately available mechanism for reducing carbon emissions from existing power plants.

Section 111(d) gives states an important role in designing how they are going to meet EPA’s requirements to reduce carbon emissions. The Council urges DEP to seize this opportunity to implement serious long-term and cost-effective programs to reduce the state’s contribution to climate change. The Council specifically urges DEP to consider the following:

First, in order for Pennsylvania’s program to be as effective as possible at reducing carbon pollution over the longer term, Pennsylvania should adopt a plan that will keep pace with

¹ See Justin Gillis, *Heat-Trapping Gas Passes Milestone, Raising Fears*, N.Y. TIMES, May 10, 2013, available at: <http://www.nytimes.com/2013/05/11/science/earth/carbon-dioxide-level-passes-long-feared-milestone.html>.

improvements in technology. The “best system of emissions reduction” that the CAA calls for² has been interpreted as being technology-forcing – as “look[ing] toward what may fairly be projected for the regulated future” rather than being based on the present state of technology. The Council believes that § 111(d) allows Pennsylvania to establish pre-planned changes in the stringency of standards over time, and urges DEP to adopt a program that does so.

Second, in order for the Pennsylvania’s plan to be effective in reducing carbon pollution, it also needs to avoid the problem of simply replacing one fossil fuel – coal – with another – natural gas. To this end, the Council urges DEP to include in its plan ambitious goals for Pennsylvania to revise its alternative energy portfolio standard into a true renewable portfolio standard. DEP’s proposed plan should also include proposals to work with the Pennsylvania Public Utilities Commission (PUC) to substantially increase energy efficiency. Act 129³ is a modest start. This has already been done in the context of SIPs and § 110, to which § 111(d) refers back.

Third, Pennsylvania should consider joining RGGI, or implementing a parallel RGGI-like program. Had Pennsylvania done so earlier it would be in a better position to ask for credit for reductions already achieved. There is no explicit statutory bar to joint plans and, in terms of reducing carbon pollution, the larger a geographic area a plan can encompass the better.

Finally, regulation of CO₂ does not necessarily pose the serious threat to jobs that industry argues it does. Coal plant retirements are happening largely because of the MATS requirements, which are already in place and not at issue here. In addition, any discussion of greenhouse gas regulation and jobs must take into account the fact that climate change itself wreaks havoc, eliminates jobs, and damages the economy. Finally, the renewable energy and energy efficient sector can be a significant source of jobs. Pennsylvania would greatly benefit by immediately investing in job training programs for coal workers that are being increasingly displaced.

Until the United States starts to meaningfully reduce its own carbon emissions, we will not be able to effectively work with the rest of the world’s countries to effectively address the global problem of climate change.

² 42 U.S.C. § 7411(a)(1).

³ 66 Pa. C.S. §2806.1.