Northeast and Mid-Atlantic Low Carbon Fuel Standard

Memorandum of Understanding

WHEREAS, Commissioners and Secretaries of environmental and energy agencies in the Signatory States signed a letter of intent in December 2008 committing to examine the issues surrounding a regional low carbon fuel program and signaling their intent to forward a recommendation about how such a program might proceed to their Governors by December 2009; and

WHEREAS, the increase in anthropogenic emissions of greenhouse gases (GHGs) is exacerbating the natural greenhouse effect resulting in changes in the Earth's climate that pose serious risks to human health, terrestrial and aquatic ecosystems, and economies globally and in the Northeast and Mid-Atlantic region; and

WHEREAS, developing alternatives to our continued reliance on petroleum-based fuels will foster economic growth and enable increases in fuel security and reliability. And further, the development, commercialization and use of fuels that have low carbon intensity can support the growth of jobs, businesses, and services in a clean energy economy; and

WHEREAS, most Northeast and Mid-Atlantic states have either statutory obligations or other commitments to achieve an 80 percent reduction in GHG emissions, or are taking other steps to reduce such emissions, through energy efficiency, renewable energy, and transportation programs; and

WHEREAS, the Signatory States have been national and international leaders in designing and implementing programs to reduce GHG emissions, and recognize the need for further reductions to achieve state and regional climate goals; and

WHEREAS, the transportation sector contributes approximately 30 percent of the total GHG emissions in the region; and

WHEREAS, the amount of fuel oil used in this region for space heating is roughly equivalent to the amount of diesel fuel used for transportation in the region, and merits consideration for reductions in carbon intensity; and

WHEREAS, a Low Carbon Fuel Standard (LCFS) program is a market-based, fuel-neutral program to address the carbon content of fuels by requiring reductions in the average lifecycle greenhouse gas emissions per unit of useful energy; and

WHEREAS, a LCFS has the potential to provide economic and energy security benefits by promoting the manufacture of low carbon fuels from domestic resources, and it is prudent to further examine that potential; and

WHEREAS, the states have demonstrated the success of regional programs as an effective framework for collaboration and models for the design of national programs, and a regional program is prudent and efficient given the interconnected nature of the fuel distribution system in the Northeast/Mid-Atlantic region.

NOW THEREFORE, the Signatory States express their mutual understandings and commitments as follows:

1. OVERALL GOAL

The Signatory States commit to evaluating a regional low carbon fuel program that will reduce the average carbon intensity of transportation and potentially heating fuels in the Northeast and Mid-Atlantic Region. To this end, the Signatory States will work to evaluate and develop an agreed upon framework for the program, followed by a model rule based on that framework. The framework and model rule will include key program elements that could be adopted through state-specific administrative rulemaking or state legislative authority, if individual states choose to adopt and implement a LCFS.

2. TIMEFRAME AND PROGRAM ELEMENTS

The Signatory States commit to finalize a proposed program framework in early 2011 that addresses the following elements: 1) compliance goals expressed as a percent reduction in average carbon intensity from an agreed upon baseline, to be achieved over a specific timetable; 2) parties to be regulated under the program; 3) whether heating fuels are to be included in the program and, if so, options for including such fuels; 4) appropriate mechanisms for creating and trading credits for the sale of low carbon fuels; and 5) appropriate monitoring, compliance and enforcement mechanisms, and approaches to program review. To achieve this goal, the signatory states will examine, discuss, and develop preliminary recommendations on these program elements by December 31, 2010.

3. PROGRAM ANALYSIS AND ISSUES

A. The Signatory States commit to participate in and provide available data necessary to perform an economic analysis using widely accepted tools and models in 2010. This analysis will provide an assessment of existing and potential fuels that may be used to achieve the goals of the program (i.e., promoting fuels with lower carbon intensity), and the feasibility of achieving a range of compliance goals, including a 10 percent reduction in carbon intensity.

B. The Signatory States commit to determine the lifecycle carbon intensity of fuels based on the best available science and analyses, and to include *non-de minimis* direct and indirect emissions, such as those from land use changes attributable to fuel production. The Signatory States also commit to consider other relevant sustainability issues, such as air quality and water impacts.

4. STAKEHOLDER INVOLVEMENT
The Signatory States commit to provide opportunities for stakeholders to review progress and provide input towards establishing a regional LCFS program framework, including, but not limited to, review of the economic modeling inputs, the use of indirect land use in calculating fuel carbon intensities, and the program framework elements.

5. COLLABORATING WITH OTHER REGIONAL AND NATIONAL PROGRAMS
The Signatory States, in order to promote consistency and effectiveness, commit to monitor LCFS program developments in other states and regions and at the federal level. The Signatory States commit to work together to ensure the development of a strong federal program that recognizes local and regional needs. However, the Signatory States may adopt or continue a state or regional program if a national program fails to adequately address regional needs and goals, subject to applicable law.

6. AMENDMENT
This MOU may be amended in writing upon the collective agreement of the authorized representatives of the Signatory States.

This Memorandum of Understanding on the Northeast and Mid-Atlantic Low Carbon Fuel Standard was signed as of the 30th day of December, 2009.

THE STATE OF CONNECTICUT

By:
M. Jodi Rell
Governor

THE STATE OF DELAWARE

By:
Jack Markell
Governor

THE STATE OF MAINE

By:
John Baldacci
Governor

THE STATE OF MARYLAND

By:
Martin O'Malley
Governor

THE COMMONWEALTH OF MASSACHUSETTS

By:
Deval Patrick
Governor

THE STATE OF NEW HAMPSHIRE

By:
John H. Lynch
Governor

THE STATE OF NEW JERSEY

By:
Jon S. Corzine
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THE STATE OF NEW YORK

By:
David A. Paterson
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THE COMMONWEALTH OF PENNSYLVANIA

By:
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THE STATE OF RHODE ISLAND

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THE STATE OF VERMONT

By:
James H. Douglas
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