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TESTIMONY OF SHAWN M. GARVIN BEFORE THE
SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON CLEAN AIR AND NUCLEAR SAFETY
ON COOPERATIVE FEDERALISM UNDER THE
CLEAN AIR ACT: STATE PERSPECTIVES
APRIL 10, 2018

Chairperson Capito, Ranking Member Whitehouse, and Members of the Subcommittee, my name is Shawn Garvin and I serve as Delaware's Secretary of the Department of Natural Resources and Environmental Control. I would like to thank you for the opportunity to testify on "Cooperative Federalism Under the Clean Air Act: State Perspectives."

In May of 2017, I had the opportunity to testify in front of this subcommittee on the importance and effectiveness of the Clean Air Act in protecting public health and welfare, preventing premature deaths, and protecting the environment. I am pleased to be here today to once again address you on my state's perspective of the Clean Air Act and some of the serious challenges downwind states face in meeting attainment standards for air quality.

Ozone-forming pollutants are well controlled in Delaware due to the State proactively requiring cost effective controls on a wide range of sources, including power plants, refineries, manufacturing plants, on-road vehicles, consumer products, paints and coatings, gas stations, and open burning activities to name a few. Despite these efforts, Delaware continues to be challenged in ensuring healthy air to our citizens because we are a downwind state and subject to air pollution transport from facilities in other parts of the country. In fact, over 90% of the pollution that contributes to ozone in Delaware is transported from out-of-state sources. The answer to solving our ozone problem lies outside of our borders and we need the federal government to recognize the inequity that exists between upwind and downwind states.

EPA has maintained that cooperative federalism is key to maintaining clean air. I would agree that cooperative federalism is invaluable, when it works well, by empowering states to act under federal law and allowing communities to enjoy the benefits of state innovation. Positive outcomes can occur when the federal government works alongside states to determine best methods to continue progress toward clean air, provides the resources that the states need to enforce their regulations, and steps in when a state fails to meet its obligations.

Progress in downwind states, such as Delaware, require that the federal government continue to provide the states with the tools and resources needed to enforce the Clean Air Act. Yet, there have been massive cuts in the past two EPA budgets. Progress also requires that the EPA maintain oversight and step in to ensure that upwind states continue to comply with the good neighbor provision. However, the EPA seems to be pulling back and turning decisions over to the states. We are also seeing the attempt to reduce regulations at the federal level, such as the

repeal and replace of the Clean Power Plan, weakening of fuel efficiency standards, revocation of the California waiver, and the rollback of the glider truck rule. In addition, the EPA has also failed to act on Section 126 Petitions, which is one of the ways a state can address problems that lie outside of its borders and seek reductions in emissions contributing to its nonattainment. All of these actions, or non-actions, will have serious consequences for downwind states such as Delaware.

The inequity that Delaware faces is compounded by the fact that we are both a downwind and the lowest lying coastal state. We are disproportionately economically affected by both the healthcare cost borne by the State due to the health effects of poor air quality, and by industry locating elsewhere due to more lax controls and regulations in upwind locations. As the lowest lying state, we will be further impacted by the pollution of inland states that are contributing to sea level rise and the increased frequency of storms and coastal erosion.

My concern with the way the EPA is approaching cooperative federalism under the Clean Air Act is they are only focused on providing flexibility to the decisions we make inside our states. The problem is that air pollution knows no boundaries, and I have no authority to ensure other states are addressing pollution that impacts my citizens. I count on the EPA to use their authority to hold all of us accountable to the law, regulations, and science to ensure we are all being good neighbors.

Thank you for the opportunity to testify. I am happy to answer any of your questions.