

Dear Governors and Mayor:

Thank you for your continued commitment to reducing vehicle pollution through the Transportation and Climate Initiative (TCI). I write to provide feedback on the Transportation and Climate Initiative Program (TCI-P) Draft Model Rule and the plan for public engagement. I appreciate that you are working to combat the climate crisis, protect public health, and address inequities in the transportation sector via the Draft Model Rule. My testimony below is drawn from the testimony submitted by the Acadia Center and 83 other organizations throughout the Northeast.

When a jurisdiction adopts the TCI-P Model Rule, it should convey unambiguous commitments to an inclusive process and equitable outcomes for the residents who suffer most from transportation pollution and benefit least from transportation investments made to date.

I strongly support including a minimum reserve price for CO₂ allowances under TCI-P, the Draft Model Rule's proposed minimum reserve price of \$2.50/ton in 2023, escalating by 2.5% per year, is far too low, and should be increased. **I recommend raising the minimum reserve price to at least \$15/ton in 2023, escalating by \$10/year to ensure the TCI-P's significant and desired benefits, including health and safety benefits, will materialize.** Without a more robust minimum reserve price, there is a risk that these investments and benefits will not fully materialize. Moreover, it is unacceptable for the proposed minimum reserve price for TCI-P in 2023 (\$2.50/metric ton) to be lower than the 2023 minimum reserve price for CO₂ allowances in the Regional Greenhouse Gas Initiative (equivalent \$2.76/metric ton).

Given that a TCI-P with CO₂ allowance prices starting at \$24/ton in 2023 is projected to produce substantial benefits across a wide array of indicators, it would be a mistake to restrict the TCI-P's allowance prices to levels below this threshold by adopting a CCR trigger price that would dampen higher prices by releasing additional allowances in the market at just \$12/ton in 2023. The TCI-P modeling suggests that CO₂ allowance prices will be substantially below \$24/ton in 2023 and future years under the emissions cap proposed. However, should this projection be wrong, the modeling also shows that there is much greater headroom in the TCI-P for larger household and societal benefits at allowance prices that are higher than the proposed CCR trigger prices would enable.

I therefore **urge TCI jurisdictions to increase the CCR trigger price to at least \$24/ton in 2023, escalating by 7.5% per year, consistent with the table below.**

CO₂ CCR Trigger Price

2023	2024	2025	2026	2027	2028	2029	2030	2031	2032
\$24.00	\$25.80	\$27.74	\$29.82	\$32.06	\$34.46	\$37.04	\$39.82	\$42.81	\$46.02

This **proposal should be the minimum level for CCR trigger prices considered** for the Final Model Rule. After all, TCI-P modeling to date not only projects that higher allowance prices than \$24/ton would produce still greater benefits, but other analyses have also shown that the damage from too little action on climate change will be severe. The Interagency Working Group on Social Cost of Greenhouse Gases, for example, estimates damages from CO₂ pollution in the range of \$51 to \$76/ton in 2020. This finding further shows that TCI-P allowance prices much higher than the currently proposed \$12/ton CCR trigger prices are warranted and needed.

Equity: While each Participating Jurisdiction should be encouraged to build on the language in the Model Rule to ensure equitable outcomes and inclusive processes, the Model Rule should be clear that the **subsections of**

this section are minimum requirements. Air pollution comes from various sources, with vehicle tailpipes being a dominant source creating higher concentrations of air pollutants near busy roadways, with most pollutants due to local traffic and associated with many complex public health impacts.

The Model Rule should state that each Participating Jurisdiction will convene a technical advisory committee comprised of members of the equity advisory board; residents of environmental justice populations living adjacent to major highways, ports, airports, bus and truck depots, and distribution centers; academics with expertise in air monitoring, environmental health, air toxics, and air pollution; and labor representatives, for the purpose of identifying communities with high cumulative exposure burdens from toxic air contaminants and criteria pollutants.

This **committee would then be responsible for identifying pollution hotspots and monitoring air quality in those areas, then establishing air pollution reduction targets between 2023 and 2032** to improve air quality. At least every three years, air monitoring data that has been collected, should be analyzed to measure progress toward achieving air quality pollutants reduction targets. Such data should be publicly available. The Model Rule should state that by December 31, 2032, the Participating Jurisdiction shall ensure that air pollution hotspots will have achieved air quality target pollutant concentrations consistent with recommendations from the equity advisory body and technical advisory committee, and certify as such by publicly reporting compliance. The Participating Jurisdiction shall also establish interim air quality target pollutants concentrations in each hotspots to be achieved no later than 2030.

Analysis of air pollution reduction should be integrated into the periodic regional program reviews. Some important factors to include in this review to **evaluate equity in pollution reductions** are: (1) change in aggregate co-pollutants; (2) results from air pollution transport models documenting the trajectories of the pollutants monitored and modeled (including secondary pollutants formed through transport); (3) air quality results at the most granular level feasible and accurate over time; and (4) demographic, environmental justice/overburdened or underserved status, and population size of each census tract or block group.

To address the history of disproportionate pollution exposure and lack of access to quality transportation options for “overburdened and underserved” communities in the region, it is **crucial that they receive greater-than-proportional investments from the program**. If the “overburdened and underserved” population is found to make up more than 35% of the jurisdiction’s population, then the percentage of dedicated investments must be at a minimum as large as and ideally significantly larger than their share of the population. The Draft Model Rule begins to address this concern by including the language, “in a manner that reflects the population of overburdened and underserved communities,” **but this language is not explicit enough** to give participating jurisdictions clear direction regarding the allocation of meaningful dedicated investments. I recommend revising § 3.1 to specify investments should not only be allocated at a percentage that is 35% or higher but also at a percentage that is at least as large as the share of the total state population qualifying as “overburdened and underserved.” Additionally, the Model Rule should explicitly mention that individual jurisdictions can and should implement a significantly higher minimum percentage of dedicated investments than the regional 35% floor.

Equity advisory body: To ensure newly formed equity advisory bodies are meaningfully representative of disproportionately impacted communities and have robust decision-making authority, section 3.2 must be significantly expanded to include more concrete detail about the body’s formation, responsibilities, and more. In addition to providing final recommendations for equitable investments and additional policies, **the advisory body should have the ability to develop investment proposal evaluation and scoring criteria**. To ensure that the recommendations of this body are seriously considered and incorporated into final investment decisions, **each jurisdiction should be required to report to the advisory body how their selected investments meet this set of evaluation and scoring criteria, if they differ from the advisory body’s final investment recommendations**. Equity advisory bodies should have the defined responsibility to advise agency officials on the development of community outreach and stakeholder engagement plans. Additionally, members

of this body should have the role of actively informing air quality monitoring expansion plans and recommending air pollution hotspots for monitoring. Lastly, this advisory body should actively provide guidance during program review by recommending concrete program changes needed to meaningfully ensure benefits are located in and directly benefit “overburdened and underserved” communities.

The equity advisory body **should be made up of at least a majority of members who are overburdened by exposure to transportation pollution or who lack access to quality, affordable, accessible transportation options.** This group of stakeholders should strive to include representation from the following communities: low-income communities, communities of color, workers, people with disabilities, transportation users in rural communities, older adults, youth, communities who speak a non-English language as their primary language, immigrant communities, and queer and/or trans people who feel unsafe riding public transit.

Members of new equity advisory bodies should follow a **common set of standards**, which include term limits and requirements to disclose the potential for financial gain because of decisions made by the body. Members should also be selected through a nomination and appointment process that centers the preferences of “overburdened and underserved” communities and reduces the influence of political bias that may occur with changing administrations.

To increase accessibility of participation on the equity advisory body for disproportionately impacted communities, jurisdictions should offer significant capacity support to these bodies. **Members of the equity advisory body should be offered some form of compensation or reimbursement for their time and expenses associated with participation on the body.** Also, participating jurisdictions should offer substantial technical assistance to members of the equity advisory body in the form of information, data, tools, training, consultant, and staff time to support the body in making recommendations.

All communications and proceedings of this body should be accessible to the public with robust opportunities for public comment. Additionally, documents and meetings of this body should be translated and interpreted in the most frequently spoken languages in each jurisdiction to increase accessibility for communities whose primary language is a non-English language. Equity advisory body meetings, both in-person and virtual, should be accessible for people with disabilities.

Equity Review and Reporting: The overall transparency that the annual reports will foster is critical to the success of all other goals of the TCI-P. Requiring each state to report on the level of TCI-P proceeds invested into specific projects and programs will allow the residents of each jurisdiction to know how their jurisdiction’s TCI-P proceeds are being spent, to better advocate for the investments they deem the most important, and to hold their decision-makers accountable if they stray too far from TCI-P’s purposes with those investments. Considering this provision’s importance, I recommend including the annual review and reporting requirement in the Model Rule in a manner that applies to all categories of a jurisdiction’s investment of TCI-P proceeds. This could be accomplished by including the annual review and reporting requirement as a new provision.

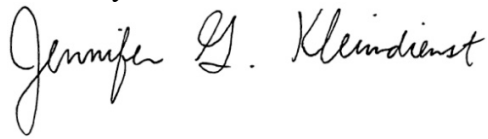
Plan for Public Engagement: TCI-P decision-makers must attribute the same weight and urgency to comments from overburdened and underserved communities discussing impacts of TCI-P on those communities as they do to comments regarding technical program design. TCI jurisdictions have not yet delivered firm commitments on additional policies to address pollution hotspots and transportation injustice intentionally and concurrently. Those additional commitments are necessary to meaningfully address the feedback of EJ communities and to build confidence in the TCI jurisdictions’ commitment to delivering health and transportation benefits to historically marginalized communities.

Participating Jurisdiction leadership should create two processes: (1) an equity advisory body with a manageable number of people to work through implementation details; and (2) a broader process open to the public that is co-convened by state officials and grassroots leaders. These two processes could support a broader multi-policy transportation and environmental justice framework, within which TCI-P could be included. For the equity advisory body, I recommend that TCI officials consider whether to address equity

questions regarding TCI-P through existing advisory bodies or to create a separate committee specifically focused on implementation of TCI. There are opportunities for each Participating Jurisdiction to form an equity advisory body based on the membership of one or more existing advisory councils focused on equity and environmental justice. Alternatively, if a Participating Jurisdiction establishes a new equity advisory body for TCI-P, officials should consult members of the aforementioned groups.

For the broader process open to the public, there should be a partnership between state officials and leaders from environmental justice organizations, transit justice organizations, and labor unions. Each Participating Jurisdiction should commit to go far beyond the constraints that the regional negotiation process imposes on ambition and equity for our transportation and EJ solutions. A conversation co-convened by state officials and grassroots leaders is a way to enable a broad set of stakeholders to build trust, advance the goals outlined in this letter, and ensure an improved transportation future across the Participating Jurisdiction.

Sincerely,

A handwritten signature in cursive script that reads "Jennifer G. Kleindienst". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Jennifer G. Kleindienst
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