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**SUBMITTED VIA TCI-P PUBLIC INPUT PORTAL**

RE: Comments on Transportation & Climate Initiative Program Draft Model Rule

To Whom it May Concern:

On behalf of Nacero Inc., (“Nacero” or “we”) we appreciate the opportunity to submit public comments on the March 1, 2021 Draft Model Rule implementing the Transportation and Climate Initiative Program (“TCI-P”). Nacero commends development of the Draft Model Rule and the TCI-P’s innovative use of a state market-based cap-and-invest program to reduce carbon dioxide (“CO<sub>2</sub>”) emissions from the transportation sector. While the program is an excellent first step in lowering emissions, expanding the rule would bring significant environmental, public health, and environmental justice benefits and would better achieve the policy goals of the TCI-P.

Specifically, Nacero recommends expanding the TCI-P to consider full lifecycle emissions calculations comparable to those used by the internationally recognized Greenhouse Gas Protocol Scope 1-3 program, and emissions of non-CO<sub>2</sub> pollutants like other greenhouse gases, criteria pollutants, and ozone precursors. Nacero suggests expanding the offset allowance program to grant allowance credits to entities that utilize fuels derived from CO<sub>2</sub> offset projects. Nacero also suggests expanding investments in overburdened and underserved communities, including by making allowance credits available for private investment projects in these communities. Finally, Nacero sees a need for further guidance to implementing jurisdictions regarding the TCI-P’s environmental justice commitments. Nacero’s comments and suggested revisions for the Draft Model Rule are set forth below.

**I. Background**

Nacero is an innovative fuel company developing a portfolio of facilities that will make affordable zero-sulfur Blue<sup>TM</sup> and Green<sup>TM</sup> gasoline from natural gas, renewable natural gas,<sup>1</sup> and captured flare gas for use in today’s cars and trucks. Construction on Nacero’s first facility located in Texas will begin before the end of the year, with additional facilities planned for development in

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<sup>1</sup> Renewable natural gas is captured methane from farms, landfills, feedlots, sewage treatment plants, and leaking pipelines.

Pennsylvania and Arizona. With less than half the lifecycle carbon footprint of traditional gasoline, fuel from Nacero's first facility is forecast to avoid the introduction of over 30 million tons per year of CO<sub>2</sub> into the atmosphere, the equivalent of taking 6.5 million cars off the road, and a material portion of America's obligations under the Paris Climate Agreement.

While use of Nacero's Blue and Green gasolines over traditional gasoline will have a marked reduction in the tailpipe emission of sulfur, NO<sub>x</sub>, SO<sub>x</sub>, CO, and VOCs (the precursors of ground-level ozone), CO<sub>2</sub> emission reductions come from Nacero's cleaner production process that yields none of the carbon-heavy byproducts of crude oil refining. Rather than using crude oil as a feedstock, Nacero's innovative process utilizes cleaner natural gas, renewable natural gas, and captured methane emissions to produce gasoline. This innovative process, in combination with lower tailpipe emissions from the combustion of our fuel, leads to a gasoline with substantially lower lifecycle CO<sub>2</sub> emissions than traditional refinery-made gasoline. Although Nacero's first facility will be in a non-TCI jurisdiction, the greenhouse effect resulting from CO<sub>2</sub> emissions is global, and reductions anywhere help combat global climate change.

Nacero will co-produce Blue™ and Green™ hydrogen as a replacement for diesel and auxiliary power generation. Production will shift between gasoline and hydrogen as demand dictates. Nacero intends to build its second plant in Pennsylvania, bringing the environmental benefits of its gasoline and production process directly into the TCI region. Nacero plans to supply its fuels in many parts of the nation, including to TCI and TCI-P jurisdictions.

## **II. Draft Model Rule Applicability to Nacero**

Under the Draft Model Rule, Nacero would operate as a Jurisdiction Fuel Supplier.

### **A. Subparts XX-5-XX-9**

Once Nacero begins distributing gasoline, it will be a Jurisdiction Fuel Supplier as defined at XX-1.2 of the Draft Model Rule. As such, Nacero will comply with Emissions and Allowance Tracking System requirements in participating jurisdictions, and in the emissions reporting and verification requirements listed in subparts XX-8-9. As a Jurisdiction Fuel Supplier under the Draft Model Rule, Nacero will be bound by emissions caps implemented by TCI-P and will participate in CO<sub>2</sub> allowance auctions if necessary, to acquire emissions allowances.

## **III. Recommendations**

### **A. TCI-P should expand in scope**

To better realize the climate change and environmental justice benefits of TCI-P, the framework should expand to cover additional emissions. As currently drafted, the Draft Model Rule caps emissions of CO<sub>2</sub> emitted from the combustion of transportation fuels. One purpose of TCI-P's

cap-and-invest program is to allocate costs of pollution on those responsible for emissions. As a result of bearing the costs of emissions generated, the program is designed to encourage producers to innovate in order to lower emissions. This goal is better realized by a regime that accounts for the costs of all harmful emissions associated with transportation fuel, rather than solely tailpipe CO<sub>2</sub> emissions. Focusing solely on tailpipe CO<sub>2</sub> emissions misses a substantial scope of process and byproduct related CO<sub>2</sub> emissions associated with the transportation mobility sector, and leaves little to no opportunity for companies, such as Nacero, to introduce drop-in transport fuels made from highly innovative, lower-emission clean manufacturing facilities. Further, incentivizing the reduction of other harmful air pollutants will yield substantial environmental justice benefits.

1. Limit lifecycle fuel emissions rather than solely combustion emissions

TCI-P's current focus on tailpipe emissions does not fully capture the environmental impacts of transportation emissions. Under the Draft Model Rule, "CO<sub>2</sub> emissions" is defined as the "[m]etric tons of CO<sub>2</sub> released to the atmosphere from the combustion of transportation fuel as calculated pursuant to Subparts XX-8 and XX-9 based on the quantity of transportation fuel disbursed or delivered for final sale or consumption in the jurisdiction." Draft Model Rule ("DMR") § XX-1.2. This approach, however, does not fully capture the environmental and societal costs associated with transportation fuel because it does not limit emissions in the production and transportation of fuel feedstock and ultimately transportation fuel.

Several portions of the fuel production process are heavy emitters and should be accounted for under TCI-P. For example, to create transportation fuel, feedstock must first be extracted and transported to fuel production and distribution facilities, emitting CO<sub>2</sub> and other pollutants in the process. Then, the feedstock is refined into usable transportation fuel, which is further distributed to end users.<sup>2</sup> To encourage innovation at all stages of the fuel production process, TCI-P should limit emissions for the lifecycle of the fuel rather than only its end use. Moreover, the TCI-P should recognize that singular products, such as gasoline, cannot be made without inexorably yielding low value non-fuel refinery byproducts such as petroleum coke or high-sulfur fuel oil which subsequently are required to be exported. These collateral CO<sub>2</sub> emissions associated with the traditional refinery gasoline supply chain account for up to four and a half times more global CO<sub>2</sub> emissions than the combustion of gasoline in a vehicle's engine.

2. Establish limits and allowances for other greenhouse gas emissions, criteria pollutants, and ozone precursors

Under the Draft Model Rule, CO<sub>2</sub> is the only pollutant considered for the purposes of emissions caps and allowance trading. However, the focus on CO<sub>2</sub> ignores the significant environmental harms caused by other greenhouse gasses, criteria pollutants, and ozone precursors. For example,

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<sup>2</sup> See U.S. ENVTL. PROTECTION AGENCY, LIFE CYCLE ANALYSIS OF GREENHOUSE GAS EMISSIONS UNDER THE RENEWABLE FUEL STANDARD, <https://www.epa.gov/renewable-fuel-standard-program/lifecycle-analysis-greenhouse-gas-emissions-under-renewable-fuel> (last visited Apr. 30, 2021).



methane has more than eighty times<sup>3</sup> the warming effect of CO<sub>2</sub> in the first two decades after its release. Similarly, criteria pollutants like SO<sub>2</sub> can cause deleterious health effects, contribute to haze, and harm trees and foliage by limiting growth.<sup>4</sup> Many areas in the TCI states are non-attainment for ozone. Expanding the program to track and limit ozone precursors could result in significant progress towards meeting Federal ozone standards. Additionally, allowing offsets generation for fuels that directly reduce proliferation of ozone precursors (CO, NO<sub>x</sub>, SO<sub>x</sub>, VOCs) will have an *immediate* positive impact by improving air quality in lower income and minority communities while progress is being made on long term climate change mitigation.

TCI-P does consider the harmful effects of methane emissions elsewhere in the Draft Model Rule. For example, offset projects may be eligible for offset allowances based on the capture and destruction of methane from landfills or agricultural operations. However, absent meaningful limits on these emissions under TCI-P's cap-and-invest framework, producers are less likely to innovate in ways that decrease emissions of these harmful pollutants. This means that TCI-P's efficacy in curbing global climate change will be limited absent creating meaningful incentives to decrease emissions of other harmful compounds.

### 3. Environmental justice benefits

In addition to the environmental benefits discussed above, there are substantial environmental justice benefits to an expanded TCI-P.

#### a. Lower fenceline impacts

Expanding the scope of TCI-P to include lifecycle emissions would incentivize generation facilities with lower impacts on their local communities. Currently, fenceline communities bear the bulk of the health hazards associated with fuel production. These fenceline communities are disproportionately comprised of environmental justice populations. An expanded TCI-P would align the interests of fuel producers with the communities near their operations. Producers would have to bear the costs of their facilities in the form of either limiting emissions to comply with the TCI-P caps or, alternatively, purchasing allowances and ultimately funding environmental justice projects benefitting these communities. Ultimately, analyzing the lifecycle emissions of transportation fuel would result in a more effective and more just program that specifically addresses the health concerns of environmental justice communities.

#### b. Lower impact on communities in population centers and heavily traveled roadways

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<sup>3</sup> ENVTL. DEF. FUND, METHANE: THE OTHER IMPORTANT GREENHOUSE GAS, <https://www.edf.org/climate/methane-other-important-greenhouse-gas> (last visited Apr. 30, 2021).

<sup>4</sup> U.S. ENVTL. PROTECTION AGENCY, SULFUR DIOXIDE BASICS, <https://www.epa.gov/so2-pollution/sulfur-dioxide-basics> (last visited Apr. 30, 2021).

Expanding the scope of TCI-P to include limits and allowances for other emissions types beyond CO<sub>2</sub> would provide significant benefits to communities near congested population centers and roadways. The health impacts of ground level transportation emissions like ozone and other particulates are largely felt by populations that live near heavily trafficked and congested roadways. These communities are disproportionately comprised of traditionally disadvantaged groups. An expanded TCI-P would force fuel producers to bear the costs of *all harmful* emissions associated with the combustion of their fuel, rather than only CO<sub>2</sub>. As a result, producers would be incentivized to invest in technologies that would reduce emissions of not just CO<sub>2</sub>, but other harmful pollutants as well, thus benefitting these communities.

C. Offset Allowance Program

Nacero encourages TCI-P to broaden the emission offset allowance program criteria to enhance emissions benefits and incentivize projects in disproportionately impacted communities. Subpart XX-10 provides CO<sub>2</sub> offset allowances to CO<sub>2</sub> emissions offset projects that have reduced or avoided atmospheric loading of CO<sub>2</sub> equivalent or sequestered carbon. The Draft Model Rule lists three types of offset projects eligible for the award of CO<sub>2</sub> offset allowances: (i) landfill methane capture and destruction; (ii) sequestration of carbon due to reforestation, improved forest management, or avoided conversion; and (iii) avoided methane emissions from agricultural manure management operations. While worthy projects, we believe this universe is too narrow.

Nacero encourages TCI-P to consider expanding the offset allowance program to award offset allowances for entities that utilize feedstock derived from a qualified offset project, in addition to the offset project itself. Expanding the offset program in this way would further reduce program emissions by both crediting projects that avoid emissions (as the program currently contemplates) and incentivizing the use of alternative feedstocks like those used in Nacero's facilities that generate additional emissions benefits. In addition, Nacero encourages using the offset allowance credit portion of the TCI-P to incentivize private investment in projects in overburdened and underserved communities. Nacero believes these changes are consistent with the mission and goals of the TCI-P, and would improve the program and result in greater emissions reductions, particularly in disproportionately impacted communities.

D. Increase Investments in Overburdened and Underserved Communities

To better achieve the equity goals of the TCI-P, Nacero supports increasing equity investment commitments and developing further model rules to ensure equitable implementation of TCI-P across all participating jurisdictions. Subpart XX-3 of the Draft Model Rule includes a brief description of possible jurisdiction rule provisions pertaining to equity. DMR XX-3. Specifically, the Draft Model Rule directs TCI-P jurisdictions to invest no less than 35% of auction proceeds to ensure that communities benefit equitably from clean transportation projects and programs. *Id.* at § 3.1. The Draft Model Rule further creates guidelines for creation of equity advisory bodies

within TCI-P jurisdictions as well as review and reporting requirements for equitable administration of investments. *Id.* at §§ 3.2-3.3.

Nacero applauds TCI-P's focus on equity concerns and believes that the provisions included in the Draft Model Rule serve as an important starting point. However, given the centrality and importance of environmental justice concerns, more in-depth guidance and increased investment minimums in the Draft Model Rule would help ensure a more just and effective program. First, increasing investment minimums would ensure that communities underserved and overburdened by the current transportation system receive critical investment dollars. Additionally, more thorough guidance on equity advisory committees and review and reporting requirements would strengthen key mechanisms holding jurisdictions accountable to these communities. Strengthened provisions on advisory bodies and review and reporting requirements would further encourage participating jurisdictions to place equity concerns at the forefront in administering TCI-P.

Nacero also feels that the TCI-P should integrate participation by the private sector to stimulate and drive investment into these communities to a) incentivize the use of lower emission fuels in areas that can have the greatest benefit on local air quality and health concerns, and b) provide proactive participation opportunities for drivers living in these communities to purchase cost-competitive cleaner goods. Specifically, as noted above, Nacero would like TCI-P to consider expansion of the offset program to include offset generation opportunities for companies that install new, modern lower emission retail fueling infrastructure in underserved communities and offer lower emission transportation fuels at prices competitive with the prevailing average market prices in such jurisdictions.

One mechanism for the TCI-P to consider as a driver for broad participation would be for market participants to retire offsets in return for a state-level gasoline excise tax credit. This would create a highly efficient marketplace with trackable and broad participation across both large fuel entities and small businesses, such as convenience store owners.

Finally, more thorough guidance and increased investment targets may make TCI states more likely to join TCI-P, thus expanding the benefits of the program. Many of the comments raised during the TCI Memorandum of Understanding development process centered around equity concerns, and this issue has been a focal point for environmental justice groups both locally and nationally. As discussed above, TCI-P will bring significant environmental benefits, benefits which will be compounded by adding jurisdictions into the program. By strengthening the Draft Model Rule's equity provisions, TCI can create a framework for a more just and effective program, ultimately benefitting communities and the environment.

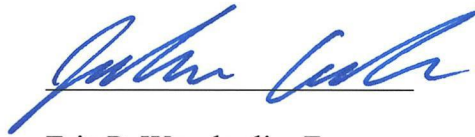
#### **IV. Conclusion**

Nacero appreciates the opportunity to comment on the TCI-P Draft Model Rule. While the draft is an excellent first step to lowering emissions associated with the transportation sector, the TCI-P

should be expanded to more effectively reduce emissions associated with the transportation sector, while providing greater benefits to environmental justice communities. The Draft Model Rule should increase its baseline for equity investments and provide more thorough rules for creation of equity advisory bodies and review and reporting requirements.

Thank you in advance for considering Nacero's comments on the Draft Model Rule. We look forward to supplementing or modifying our comments as the TCI-P process moves forward, and additional information is made available about the Draft Model Rule and state implementing regulations. If you have any questions or would like to discuss these comments further, please feel free to contact me at [ewaeckerlin@bhfs.com](mailto:ewaeckerlin@bhfs.com).

Sincerely,

A handwritten signature in blue ink, appearing to be "Eric P. Waeckerlin" followed by "Jordan P. Cohen", written over a horizontal line.

Eric P. Waeckerlin, Esq.  
Jordan P. Cohen, Esq.

cc: Nacero, Inc.