

192 Smith Drive  
Farmville, Virginia 23901

April 1, 2020

Transportation and Climate Initiative

**Re: Comments on Transportation and Climate Initiative Program Model Rule**

To Whom It May Concern:

I respectfully submit these comments on the Draft Transportation and Climate Initiative Program Model Rule (hereafter referred to as Model Rule). It is exciting and encouraging to see a framework such as this start to take shape. I am optimistic about a future that addresses climate change in a meaningful and substantive way while also serving to usher in a cleaner and more sustainable economy. I appreciate the time and effort it has taken to develop this draft Model Rule, particularly one that encompasses multiple diverse jurisdictions.

I am an educator and researcher with years of experience in environmental and climate change science. I have recently started studying and engaging more in climate and environmental policy, environmental economics, and climate and environmental justice issues. With that expertise and interest, I offer the following comments related to **equity investment commitments** and **carbon offsets**.

**1. The Model Rule's provisions regarding equity commitments should be strengthened to provide a stronger and more effective mechanism for addressing inequities.**

I commend the TCI-P for its inclusion of equity in the draft Model Rule. In its inclusion, the TCI-P recognizes and acknowledges the disproportionate environmental and economic burdens faced by communities of color, lower socioeconomic status communities, and communities lacking political power. However, the draft Model Rule lacks specific, actionable commitments to equity, instead requiring participating jurisdictions to "codify the equity commitments...through legislation, regulation, or other legal directives". However, it may be overly optimistic to assume that each jurisdiction will move swiftly to pass strong, meaningful, and beneficial legislation to address equity issues. To reduce this risk, the Model Rule (subpart XX-3.1) should lay out specific actions that each jurisdiction must take to establish a base level or minimum commitment level. Jurisdictions could still go beyond the minimum, but by setting a baseline, the Model Rule would prevent jurisdictions from defining that minimum for themselves in ways that do not address the issue at hand. In essence, the vague directive may lead to a race to the bottom to save money, an all-too-common experience for these communities that often lack political power.

I also commend the Model Rule's directive for the creation of an advisory board within each jurisdiction and ensure that the board's makeup includes representation from the "overburdened and underserved communities or populations" that the equity commitments intend to address. To ensure that the advisory boards play a meaningful role, it is important for the Model Rule to address the following:

- (1) What is the authority of an advisory board to challenge decision-making that it deems inconsistent with a jurisdiction's equity commitments? For example, while the Model Rule provides that the board can advise on these issues, is there any absolute requirement that other stakeholders follow the board's recommendations? In other words, how will the jurisdictions ensure that these boards are not merely for show but are legitimate tools in the effort to address inequities?
- (2) Will criteria for defining overburdened and underserved communities and metrics for investment evaluation be subject to approval, and if so, who will approve the criteria? It is possible that without additional information and processes that these criteria will miss key communities that the Model Rule intends to assist or poorly assess how resources are being spent. Third-party experts should develop or review these criteria and metrics before being operationalized.

Finally, I applaud the notion to require equity reporting to take place. However, consistent with the comments above, the Model Rule should specify additional details on what is needed in the reports and how the reports will be evaluated. In particular,

- (1) How is 'effectiveness' being defined in the reports if one of the objectives is to "ensure the effectiveness of policies and investments"? It seems that there is no measure(s) of success or failure. Third-party experts can assist in developing a baseline for comparing pre-and post-Model Rule implementation. Baseline determination provides jurisdictions and regulatory agencies with data that would either support current actions and investments or suggest ways where improvement is required. Either way, the reporting would become a part of a cycle of continuous improvement.
- (2) To which jurisdiction or regulatory agency are the reports submitted? Are there consequences for not submitting a report? If there are no consequences, are there incentives?

## **2. The TCI-P should be cautious with its use of carbon offsets and ensure adequate oversight of these projects.**

While there may be a viable role for carbon offsets in the TCI Program, the program should proceed with caution as studies have documented a poor success rate for carbon offset programs<sup>1,2</sup>. It is encouraging to see the TCI-P promote carbon offset projects that are "real, verifiable, enforceable, and permanent." The studies mentioned above suggest that these qualities can be challenging to achieve in carbon offset projects. In addition to these criteria, the Model Rule should require use of an "independent verifier" as part of the process; this should include using independent or third-party experts whenever possible.

While it is understood that reforestation projects are for the expressed purpose of offsetting carbon emissions, the TCI-P should also be mindful of the impacts such projects have on local

<sup>1</sup> Cames, M., et al. (2016) How additional is the clean development mechanism? Analysis of the application of current tools and proposed alternatives. Institute for Applied Ecology. Reference: CLIMA.B.3/SERI2013/0026r

<sup>2</sup> Kollmuss, A., Schneider, L., and Zhezherin, V. (2015) Has Joint Implementation reduced GHG emissions? Lessons learned for the design of carbon market mechanisms. Stockholm Environment Institute, Working Paper 2015-07.

communities, economies, biodiversity, and ecosystem functioning. The Model Rule does not appear to address how these other aspects of carbon offset programs would be monitored and evaluated, but there should be an effort to capture these in any oversight program. While perhaps tangential to specifically addressing carbon emissions, the projects' overall success in the general public's eyes will still be viewed through the lens of all of these aspects.

In summary, the TCI-P represents a giant step forward in addressing climate change while establishing the future economy. Thank you all for your genuine efforts to make this a reality. I strongly encourage the TCI-P to consider carefully the specifics of addressing equity issues as the draft Model Rule moves ahead. Additionally, the TCI-P should proceed with caution and significant oversight of its carbon offset programs. Thank you in advance for your prompt attention to these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "C. F. Labosier". The signature is fluid and cursive, with a prominent initial "C" and a long, sweeping underline.

Christopher F. Labosier, Ph.D.

CC: TCI Jurisdiction Points of Contact