

## Joint Comments Regarding Regional TCI Equity Commitments

October 16, 2020

Thank you for the chance to comment on potential equity-related strategies to include in the final TCI MOU. The 11 undersigned organizations respectfully submit the following comments in response to the September 29, 2020, public webinar and draft regional equity commitments.

Given the overlapping climate, racial, and public health crises of our time, it is critical that TCI, especially its equity provisions, not only reduce pollution overall, but also remedy environmental inequities with an aggressive timeline and a progressive framework. To that end, TCI's proposed four equity-related strategies (dedicated investments, equitable policies, transparency, and complementary policies) are a step in the right direction, but must be stronger, more binding and detailed, and reframed. The regional framework of a minimum 35 percent investment to the benefit of underserved and overburdened communities\* should be considered as an entry into a broader conversation on ensuring equity, and there should be stronger commitments to ensuring the investments have impactful environmental pay-offs for the affected communities.

TCI's core equity provisions must be centered as follows:

1. **Significant mandatory reductions in emissions in overburdened communities.** This is not only an equity provision but also an accountability mechanism to ensure the success of the program. Undoubtedly, the highest level of air and climate pollutants occur in overburdened and underserved communities -- we need to reduce those pollutants both for the immediate health benefit of residents, but also to achieve the program's aggressive mandates. If investments aren't leading to the necessary reductions in air and climate pollutants in these communities, there needs to be a reallocation of funds to ensure reduction goals are met. This will force the program to be dynamic and ensure that transparency on the annual investments and reductions have an annual metric yardstick to be evaluated on, and held accountable to, to ensure emission reductions. We acknowledge that there are state and local policies and practices unrelated to TCI that are currently working to reduce emissions in overburdened communities. TCI driven policies, practices, revenue generation, or investment decisions should not undermine these in-place and effective policies and practices, but rather support and enhance them.
2. **No raids on TCI funds.** An overarching concern of the TCI process is that it is promising to generate a relatively huge windfall for states. Despite extensive recommendations made by states on the best uses of the funds, it is undeniable that without protections these funds will be siphoned off. This is not an idle concern -- states have an atrocious record on the spending of tobacco settlement funds and there has been a history of budget raids of the RGGI program in the Northeast. This is a recurring issue in multiple states raiding these funds to balance budget deficits beyond New Jersey,

\* "Underserved and overburdened communities" as used in these comments is the same as "overburdened community" as defined in [NJ P.L.2020, c.92](#).

including but not limited to New York and Connecticut. The concern with TCI is that the raids could even exist under the transportation umbrella; Departments of Transportation could simply reallocate funds to road repair or even road expansion. This allocation of TCI funds would not only be diametrically opposed to carbon and air pollution reductions but could even increase pollutants in overburdened and underserved communities. TCI's core equity provisions should ensure a commitment to dedicate funds to their intended purposes and push for legally binding language that would revoke the funding if it's misallocated, including pursuing legislative solutions to this problem.

With New Jersey's particular history of budget raids and unkept promises to overburdened and underserved communities also in mind, each state must identify and create a policy lever to securely lockbox all proceeds from TCI and ensure that all investment commitments are actualized. Previous raids by current and former administrations of the NJBPU's Clean Energy Fund and NJDEP's RGGI program create deep concern about pledges of funding allocations. In New Jersey, that lockbox can only be secured if TCI funding is written into the state constitution to ensure that budget raids by state decision-makers are removed as an option. TCI brings the opportunity to invest in a holistic approach and reduce greenhouse gas emissions from the transportation sector, but only if the funds are wisely and strategically invested. With the right investment strategies and proactive coordination between utilities, state agencies, and communities, all TCI states must see emissions reductions statewide, and critically, reductions in communities that suffer the most.

- 3. Regular significant interactive public input and a real seat at the table through the development, decision-making, and implementing processes.** The current recommendations on process and transparency set a good framework of the end goal, but need more specificity and must be expanded to include efforts before TCI is established; especially considering the process to date has fallen quite short in terms of timely notice and material distribution; convenient dates, times and locations; interactive communication; and timely, meaningful transparency. There needs to be clear prescriptive language: on the percentage of representation from residents of underserved and overburdened communities on the Equity Advisory Board; the type of constituencies that will be represented; the actual decision-making process; and more clear metrics on the definitions of community outreach to ensure that there is a broad set of direct communications with community members in their neighborhoods to reflect their work and family schedules and not those of conveners. The end goal should be more outreach in more ways that bring in people in impacted neighborhoods, and that the Equity Advisory Board represents the communities with the largest stake in the program in a manner that accurately reflects the demographic makeup of those communities, in a non-tokenized fashion. The transparency goals focus on the annual reporting function for each state of their TCI spending and the program allocation, which is necessary

accounting and should be distributed widely. However, there needs to be much clearer metrics to report on the equity provisions, including the reductions of air pollution in impacted neighborhoods and for each Equity Advisory Board to provide an independent analysis of the annual allocation.

4. **The burden of fees implemented through TCI should not disproportionately fall to lower-income residents and overburdened communities.** While it is understood that fee generation is a primary motivator of the TCI program to generate funds to invest in cleaning our transportation sector, the program will not be equitable if those with the least means are forced to pay a disproportionate share of their income compared to others in the state to fund the program. If a regressive fee structure is implemented, then complementary subsidy or relief programs must be created to correct this inequity and remove this additional financial burden.

In addition to these four key issues, our organizations would like to address the health, air quality, and other complementary policy areas that the region and New Jersey should take into account. [Complementary policies](#) to further reduce emissions should move forward regardless of the ongoing TCI process. The states need to do more than what existing law, regulation, administrative or executive order, or policy requires if we are going to accomplish our climate goals over the next decade.

**Investment minimums, not maximums.** We understand that any regional commitment must consider the individual needs of states and their capacities to invest in clean transportation. The 35 percent minimum investment required to ensure that underserved and overburdened communities benefit equitably from clean transportation projects must be considered a floor, not a ceiling. New Jersey, and all the states, must use the 35 percent allocation commitment as a starting point for their state-specific investment plans. By seeing this percentage as the starting point, rather than the goal, states will be in a better place to make meaningful investments in projects that ensure equity. Further, states should ensure that there is a *greater* percentage of TCI investment flowing to overburdened and underserved communities than the portion of the population that each state defines as overburdened and underserved. Equity of investments needs to take into account the inequity of current pollution levels and the disparate health impacts.

**Air Quality Monitoring.** Our organizations recognize that these strategies must also be data-oriented to allow for real transparency and program adjustments. We appreciate the regional commitment to annually review and report the impacts of each state's individual program, including with respect to equity. Ongoing community air quality monitoring for underserved and overburdened communities with severe air pollution is needed -- this would create transparency and allow for real-time feedback on emissions reductions efforts. For this to be effective, tripling the amount of local air monitoring in New Jersey (including monitoring in all counties), ensuring ground-level monitoring in overburdened and underserved communities and not limited just to PM 2.5 or ozone, and providing 24-hour downloadable, publicly accessible data in identical

formats in each state is a starting point for true transparency and solid analysis. As emissions reduce over time, we suggest monitoring around bulk oil terminals and other fossil fuel facilities to ensure emissions don't spike. Concurrently, as the states consider complementary policies, our organizations recommend pursuing mandatory emission reductions at ports, like the Port of New York and New Jersey, and other high-emitting transportation hubs, like bus depots.

**Strong Emissions Cap.** The October 2020 Harvard TRECH study regarding the health benefits of TCI reinforced that the health benefits of these emissions reductions exceed the costs and could reach as much as \$11.1 billion per year by 2032. Not included in that model was the colossal societal cost of greenhouse gas emissions. New Jersey is poised to see some of the most drastic and consistent reductions in emissions from the TCI regional program. As previous Georgetown Climate Center modeling has shown, the preliminary results from the TRECH study emphasize that a stronger cap means a more successful program. This is particularly essential, as the October 15, 2020, Global Warming Response Act 80x50 Report specifically states that New Jersey's current efforts will not be sufficient to meet our climate goals. It is essential that states establish the strongest cap possible so we can see the highest rate of return for our region, and a faster reduction in dangerous air and climate pollutants.

\*\*\*

We want to emphasize that equity considerations should be foundational for the final MOU both to ensure improved public health for residents of overburdened and underserved communities and to ensure the success of the program to reduce toxic air and climate pollutants. Our organizations look forward to the ongoing discussions and decisions the states will make as the January 2022 program start date quickly approaches.

Sincerely,

Doug O'Malley, Director, Environment New Jersey  
Richard Lawton, Executive Director, New Jersey Sustainable Business Council  
Debra Coyle, Executive Director, New Jersey Work Environment Council  
Nicole Rodriguez, Research Director, New Jersey Policy Perspective  
Berenice Tompkins, Jersey Renews Campaign Organizer, New Jersey Policy Perspective  
John Carlson, Manager, State Policy, Ceres  
Nick Sifuentes, Executive Director, Tri-State Transportation Campaign  
Peter Kasabach, Executive Director, New Jersey Future  
Katharina Miguel, Clean Energy Advocate, Isles  
Robert Freudenberg, VP, Energy & Environment, Regional Plan Association  
Ed Potosnak, Executive Director, New Jersey League of Conservation Voters