

Joint Comments: Framework for a Draft Regional Policy Proposal**November 5th, 2019****To:****TCI Leadership Team:**

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Governors and other state officials: Connecticut, Delaware, New Jersey, New York, Maine, Maryland, Massachusetts, Pennsylvania, Rhode Island, Vermont, Virginia

Mayor and other city officials: District of Columbia

Thank you for your leadership in addressing pollution, inequity, and outdated infrastructure in the transportation sector. The 44 undersigned members of Our Transportation Future and additional partners respectfully submit the following comments in response to the “Framework for a Draft Regional Policy Proposal” released on October 1st.

Our Transportation Future is a coalition of local, regional, and national organizations committed to modernizing transportation across the Northeast and Mid-Atlantic region. We envision a 21st-Century regional transportation system that is cleaner; offers more varied, accessible, and affordable transportation options; and serves the needs of everyone. We believe a program developed through the Transportation and Climate Initiative (TCI) can be an important component of this vision, and we advocate for the states participating in TCI to develop a policy that is robust and equitable. The “Framework for a Draft Regional Policy Proposal” offers an encouraging path forward for a policy that can help us achieve our shared transportation goals.

Our comments address the following issues included in the framework document:

- Equity
- Applicability
- Compliance and Enforcement
- Flexibility, Allowance Allocation, and Stringency
- Regional Program Administration
- Additional Program Design Elements

Equity

We support the TCI jurisdictions expressing their clear intent to incorporate equity into the regional program. A commitment to environmental justice, non-discrimination, and meaningful public participation is a fundamental first step in ensuring the program design leads to equitable outcomes. We commend TCI decisionmakers for clarifying that the goals of the program include not only greenhouse gas emissions reductions, but also the simultaneous and equally important goals of investing in measures to reduce locally harmful tailpipe emissions and improving access and mobility. Acknowledging the historic and existing disparities in our transportation system and housing, and the role that policymaking played in creating those systems, is key to understanding how current policy design and implementation can serve to reconcile these disparities, rather than unknowingly perpetuate them. We commend this commitment to equity and urge TCI jurisdictions to move from a commitment to fundamental principles to specific next steps to ensure this commitment is fulfilled in practice.

This commitment to equity must be reflected in every aspect of the policy design as well as the process. More specificity is needed at the regional level to ensure that TCI does not exacerbate existing disparities in communities throughout the region. The commitment to work with communities on five elements of the program, listed in bullets as part of the draft framework should next be accompanied by specific steps for how to ensure equitable outcomes in each of those areas. Those commitments included: 1) expanding access to clean mobility solutions in disadvantaged areas; 2) developing complementary policies; 3) providing transparency; 4) reviewing and modifying the program; and 5) conducting outreach to communities.

Recommendations for next steps are discussed below:

1. **“Expanding low-carbon and clean mobility options in urban, suburban, and rural communities, particularly for populations and communities that are currently underserved by the transportation system or disproportionately adversely affected by climate change and transportation pollution:”** This commitment should be further developed to include processes for determining what communities qualify as underserved and disproportionately impacted by pollution.¹ Further, TCI states should commit to a dedicated, minimum percentage of investments towards underserved and overburdened communities, and create a transparent process for prioritizing those investments in a way that is responsive to community needs.² This process should transparently use meaningful criteria to help define communities that are underserved and disproportionately impacted, such as consideration of: local pollution burdens and the ability of clean transportation investments and options to reduce these burdens; providing accessible, clean transportation options for vulnerable populations (e.g., seniors, children, and people with disabilities); fostering local services, food shopping, and retail; ensuring access to economic mobility, such as training, school, and jobs; and

¹ New York’s Climate Leadership and Community Protection Act (CLCPA) establishes a specific process for the state’s Climate Action Council to identify disadvantaged communities in New York based on input and guidance from the state’s Climate Justice Working Group.

² The percent of investments that are needed to prioritize redressing inequities in underserved and overburdened communities will vary in each state. We support a thoughtful process that develops a minimum percent implemented by all TCI jurisdictions.

enabling other options, such as broadband access, that reduce the need to use personal vehicles.

2. **“Developing complementary policies and priorities for carbon-reduction investments and continually improving the program:”** The regional framework must include a commitment to adopt and implement complementary policies to ensure direct harmful air emission reductions in historically and currently overburdened communities, fenceline communities, and other hotspot areas. These policies should also foster resilient and safer communities by providing walkable and bikeable options and reducing risks from heat and flooding. These policies should be developed with community members most affected at the table and include or incorporate air quality monitoring.
3. **“Providing transparency and information to the public by tracking and reporting on changes in transportation-related emissions over time:”** The regional framework should require a comprehensive environmental, health, economic, and transit equity access analysis alongside reporting on greenhouse gas emission reductions. The cap should act as an enforcing mechanism for reducing carbon emissions from transportation over time, but other equally vital metrics for equity outcomes should also be measured, tracked, and reported to the public to ensure equitable outcomes. This is critical to ensure no communities are left behind in the transition to a clean, equitable, and modern transportation system for all.
4. **“Making modifications and adjustments to the program design, as warranted by feedback from communities and data related to outcomes and impacts:”** We support the states’ commitment to constantly strive for improvement in future years of program implementation. Such improvements should be developed with input from stakeholders through an open and accessible process of regular program reviews. It is important that TCI jurisdictions also incorporate guardrails, guarantees, and prerequisites, with input from stakeholders, into the regional design at the start of the program to be implemented by the states and DC. We recommend addressing equitable assurances now and not waiting for a later time to address equity concerns after the regional design is finalized.³
5. **“Encouraging individual jurisdictions to conduct their own outreach that is tailored to meet the needs of their own communities:”** Outreach and engagement needs to be proactive and broadly representative. To enable broad community participation, at a minimum, TCI jurisdictions should schedule meetings at flexible times and provide childcare and interpretation into multiple languages reflecting the needs of local communities with English isolation. TCI jurisdictions should commit across the region to engage communities meaningfully on program design, implementation, investment decisions, and program reviews and modifications. While each community is unique, communities should have clear roles and space at the decision-making table to ensure their voices are heard. Community residents know best the issues affecting them and the solutions they wish to see, and their capacity to engage should be supported.

³ We have learned from over a decade of Regional Greenhouse Gas Initiative implementation experience that it is necessary to address equity concerns as early as possible in the policy development process.

In addition to the equity principles in the framework, we urge TCI jurisdictions to ensure equitable outcomes in the policy design in terms of worker protection, workforce diversity, and a just transition for workers impacted by the transition to a clean transportation system. Protections for workers should include ensuring that jobs created through investment are good jobs that are strong enough to lift people out of poverty, that the workforce represents the diversity of the communities they work in, and that underrepresented groups are included in the economic opportunities of a new clean transportation sector.

Applicability

Affected Fuels and Emissions

We support the TCI states' proposal to cap CO₂ emissions from the combustion of motor gasoline and on-road diesel fuel in the region. Nationally, combustion of motor gasoline and diesel fuel is responsible for over 80 percent of CO₂ emissions from the transportation sector and 30 percent of US energy-related CO₂ emissions across all sectors.⁴ While this includes some emissions from diesel fuels associated with off-road uses, according to a 2018 report by Georgetown Climate Center prepared for the TCI states, the vast majority—89 percent—of diesel used in the US is on-road.⁵ That same report found that within the TCI region, motor gasoline alone is responsible for over 60 percent of transportation sector CO₂ emissions.⁶

Capturing CO₂ emissions from motor gasoline and on-road diesel fuels under the policy's regional emissions cap is thus critical to addressing climate pollution and meeting TCI states' emissions targets. Because combustion of gasoline and diesel in transportation also results in significant levels of other health-harming pollutants, capping and reducing CO₂ emissions and providing cleaner transportation options that do not rely on combustion of dirty fuels will also improve air quality and make our region healthier and more livable.

We understand that the states are still considering whether and how to include emissions from other transportation fuels under a regional emissions cap. While combustion of motor gasoline and on-road diesel accounts for the lion's share of transportation emissions, combustion of other transportation fuels also contributes to climate change, both at the point of combustion and through earlier lifecycle impacts. Such fuels include, for example, biofuels, aviation fuels, marine fuels, and methane and propane used as transportation fuels.⁷ To address

⁴ US Energy Information Administration, "How much carbon dioxide is produced from U.S. gasoline and diesel fuel consumption?" (May 15, 2019), <https://www.eia.gov/tools/faqs/faq.php?id=307&t=11>.

⁵ Georgetown Climate Center (2018), *Reducing Transportation Emissions in the Northeast and Mid-Atlantic: Fuel System Considerations*, https://www.georgetownclimate.org/files/report/GCC_TransportationFuelSystemConsiderations_July2018.pdf, at 13.

⁶ *Id.* at 15.

⁷ Electricity is also used as a transportation fuel, though in most of the TCI region, CO₂ emissions from electricity generation used to charge electric vehicles are already captured and subject to declining limits under the Regional Greenhouse Gas Initiative (RGGI). With New Jersey and Virginia having adopted rules to join RGGI in 2020 and 2021, respectively, and Pennsylvania Governor Wolf's recent commitment to join RGGI, all 12 TCI states are expected to participate in RGGI's regional power sector CO₂ cap in the coming years.

transportation's climate impacts fully, it will also be necessary to address emissions from these other fuels, whether through TCI or other programs. We urge the TCI states to do so, whether through inclusion under the TCI policy cap or via other complementary measures at the state or regional levels. One such complementary measure could be state or regional low carbon fuel standards (LCFS). California, for example, has adopted an LCFS that operates alongside its cap-and-invest program.

We further support the states' proposal to include as affected fuels subject to the CO₂ emissions cap "fuel destined for final sale or consumption in a TCI jurisdiction, upon removal from a storage facility (i.e., a 'terminal rack') in the TCI jurisdiction, or, for fuel removed from a facility in another jurisdiction, upon delivery into the TCI jurisdiction."

Regulated Entities

We support the TCI states' proposal to enforce the CO₂ emissions cap upstream, focusing on "Prime Suppliers" of transportation fuels as defined by the US Energy Information Administration (EIA). We acknowledge that the framework includes additional entities beyond Prime Suppliers, which could include a point of regulation that differs in each TCI jurisdiction. Georgetown Climate Center's 2018 report, prepared on behalf of the TCI states, on *Reducing Transportation Emissions in the Northeast and Mid-Atlantic: Fuel System Considerations* evaluated three potential points of regulation for a regional transportation cap-and-invest program: existing state points of taxation, refiners and importers, and Prime Suppliers.⁸ While each of these options is potentially viable, we support selecting EIA's Prime Supplier categorization, with additional specificity, or a similar point of regulation that would provide the most efficient program implementation. We question what additional entities beyond Prime Suppliers would be regulated entities in each jurisdiction.

As detailed in the 2018 report, Prime Suppliers must already report to EIA most of the data that would be needed to track transportation fuels covered under a regional emissions cap.⁹ Because Prime Supplier reporting is based on sales of fuels into individual states for end use, this reporting already includes mechanisms to avoid double-counting of fuels and for exempting pass-through sales of fuel for use in other states (e.g., states outside the TCI region).¹⁰ Furthermore, selecting Prime Suppliers as the point of regulation would help ensure efficient policy administration, as Prime Suppliers tend to be "large, sophisticated entities" and the number of such suppliers per state in the region is relatively small at an average of 30 per state, with many of these entities likely operating in multiple states in the TCI region.¹¹

Given these characteristics and advantages, we agree with the states that the Prime Supplier designation is the most effective point of regulation. We further agree with the states' proposal

⁸ Georgetown Climate Center (2018), *Reducing Transportation Emissions in the Northeast and Mid-Atlantic: Fuel System Considerations*, https://www.georgetownclimate.org/files/report/GCC_TransportationFuelSystemConsiderations_July2018.pdf

⁹ *Id.* at 31.

¹⁰ *Id.* at 32-33.

¹¹ *Id.* at 36.

to include additional specificity in the regional program's definition(s) as needed to ensure efficient program implementation, including by drawing on existing state and federal regulatory language to ensure clarity and enforceability.

We disagree with comments submitted by the American Petroleum Institute (API) that using states' points of taxation for gasoline and diesel fuels as the point of regulation would be a better alternative to Prime Suppliers. The proposed TCI cap-and-invest policy is a pollution reduction program, not a fuel tax, and there is no reason to believe using states' points of regulation for fuel taxes would improve the efficiency of the cap-and-invest program. In fact, there are reasons to believe the opposite: that API's recommendation would reduce efficiency. As discussed in the Georgetown report, there are "hundreds or thousands" of entities subject to fuel tax obligations per state compared to "an average of 30" Prime Suppliers per state, with many of these Prime Suppliers likely operating across multiple TCI jurisdictions.¹² Placing the TCI policy's compliance obligation—that fuel suppliers hold carbon allowances in proportion to the pollution caused by the fuels they sell, and reduce this pollution over time—on dozens of Prime Suppliers is more administratively efficient than creating new obligations on thousands of parties in the region. API argues that entities subject to state fuel taxes must already report fuel sales, but the same is true of Prime Suppliers, which must report these data to EIA.

The Georgetown report also provides other information that suggests using state points of fuel taxation in a regional cap-and-invest program would be more complicated and confusing than using Prime Suppliers. This includes the fact that points of fuel taxation vary between TCI states¹³—a complicating factor that would be avoided by using a single Prime Supplier definition as the point of regulation for the regional policy. Addressing pollution from transportation fuels other than motor gasoline and on-road diesel—either at the beginning of the TCI policy or in a subsequent phase—would also be challenging if the policy's point of regulation were points of state fuel taxation since many of these other fuels are not subject to state fuel taxes.¹⁴

In sum, we support the states' proposal to use EIA's Prime Suppliers definition, with additional specificity as needed, or a similar point of regulation for the proposed regional transportation cap-and-invest policy. Using Prime Suppliers as the point of regulation would provide numerous efficiency benefits as discussed above. Further, we believe it is entirely appropriate to hold large Prime Suppliers of polluting transportation fuels responsible for the pollution their products cause; to require these Prime Suppliers to purchase and hold carbon allowances in proportion to this pollution and reduce pollution over time; and for TCI states to invest proceeds from the sale of carbon allowances in clean, equitable, and modern transportation solutions benefiting communities throughout the region. In addition to supporting the states' proposal, we urge any Prime Suppliers represented by API to accept responsibility for the pollution they cause and contribute to rather than stand in the way of progress in addressing the region's transportation challenges and needs.

¹² *Id.* at 35.

¹³ *Id.* at 38.

¹⁴ *Id.*

Compliance and Enforcement

Emissions Reporting Requirements

We support the TCI jurisdictions drawing from the experience of existing reporting requirements, such as those used by the US Environmental Protection Agency (EPA), EIA, and California when developing the emissions factors and emissions reporting requirements under the TCI program. In particular, we support a reporting structure that makes all reasonable efforts to promote consistency and streamlined reporting requirements across international, federal, and state greenhouse gas emission reporting programs.

Monitoring and Verification

We support the TCI jurisdictions establishing an electronic reporting system with third-party verification,¹⁵ agency verification,¹⁶ or self-certification. We further support requiring emissions reporting on a monthly or quarterly basis and encourage the states to leverage existing electronic allowance tracking systems such as the RGGI CO₂ Allowance Tracking System (COATS) or the Western Climate Initiative (WCI) Compliance Instrument Tracking System Service (CITSS).

Flexibility, Allowance Allocation, and Stringency

The regional TCI policy should build on lessons learned from existing cap-and-invest programs, particularly on issues of flexibility, cost containment, price controls, allowance allocation, and cap setting. By drawing on best practices from RGGI and WCI, a TCI policy can be designed to effectively reduce transportation pollution while maximizing public benefits.

Flexibility

We support the use of allowance banking and three-year compliance periods. We also support an interim control period compliance obligation, as implemented in RGGI,¹⁷ requiring compliance entities to hold enough allowances at the end of each of the first two years of a control period to meet at least 50 percent of their compliance obligation. These measures will provide market participants with the flexibility necessary to manage costs while ensuring that covered emissions are both accounted for and reduced.

Cost Containment and Price Controls

We strongly support the inclusion of an emissions containment reserve (ECR). This policy mechanism designed by the RGGI states provides an innovative means to secure additional emission reductions when those reductions can be achieved at low cost to consumers.¹⁸ Throughout RGGI's history, reducing emissions has consistently been cheaper than anticipated. If that trend is repeated under a TCI program—as it has been in most cap-and-invest

¹⁵ As required by California's Mandatory Reporting Regulation, title 17, California Code of Regulations, sections 95100-95163.

¹⁶ As used by U.S. EPA to verify greenhouse gas emissions reported pursuant to 40 CFR Part 98.

¹⁷ https://www.rggi.org/sites/default/files/Uploads/Compliance-Materials/RGGI_2019_Interim_Compliance_Fact_Sheet.pdf

¹⁸ <https://www.rggi.org/program-overview-and-design/elements>

programs¹⁹—an ECR will prove crucial to the region’s efforts to meaningfully reduce transportation emissions while minimizing costs. The ECR should be in place in the program’s first year (e.g., 2022). To be consistent with RGGI’s ECR design, allowances that are not sold due to the triggering of the ECR should be retired.

We also strongly support the inclusion of a robust minimum reserve price, or price floor. The minimum reserve price will ensure that the TCI region maintains a reasonable price signal to incentivize the reduction of transportation emissions while preserving funds for investment to advance the transportation goals of the participating jurisdictions.

If the TCI jurisdictions decide that a Cost Containment Reserve (CCR) is necessary, it must avoid the failures of RGGI’s CCR. RGGI’s CCR undermines the program’s environmental integrity by making additional allowances available for purchase without a corresponding reduction in future years’ caps. This issue is exacerbated by the fact that those additional allowances can be purchased at unreasonably low prices, which happened in both 2014 and 2015.²⁰ If the TCI program includes a CCR, the trigger price must be set sufficiently high so that additional allowances are only made available under exceptional circumstances.²¹ If CCR allowances are purchased, the cap should further be reduced over the following five years by a quantity equal to or greater than the amount of CCR allowances purchased.

Auctions and Allocation

We strongly support auctions as the primary mechanism for distributing allowances. Auctioning allowances ensures that the public receives the value of allowances through the investment of auction proceeds, rather than delivering that value to the fossil fuel industry through free allocation.²² Certain conditions may justify auctioning fewer than 100 percent of allowances, such as set asides to advance clean, equitable transportation priorities or regulatory frameworks that are better suited to direct allowance allocation and consignment auctions.

Regional Caps and Allowance Budgets for Each Jurisdiction

One of the most important policy design decisions being made by participating states is the initial baseline limit to set on climate pollution from covered motor fuels and the required pollution reduction trajectory under the TCI policy in future years.

Given the Intergovernmental Panel on Climate Change (IPCC)’s conclusion that we have only a decade to substantially reduce emissions if we are to avoid the worst impacts of climate

¹⁹ <https://www.resourcesmag.org/archives/the-next-big-thing-in-carbon-markets-rggi-to-implement-an-emissions-containment-reserve/>

²⁰ RGGI CCR allowances were purchased at prices of \$4.00 and \$6.02 in 2014 and 2015, respectively. <https://www.rrgi.org/Auctions/Auction-Results/Prices-Volumes>

²¹ Beginning in 2021, California’s cap-and-trade program sets a price ceiling at \$65 per allowance, increasing by 5 percent plus inflation per year. https://ww3.arb.ca.gov/regact/2018/capandtrade18/ct18fro.pdf?_ga=2.11982256.58125205.1571668712-1250238162.1522189175

²² M. J. Bradley & Associates (2017), A Pioneering Approach to Carbon Markets: How the Northeast States Redefined Cap and Trade for the Benefit of Consumers, <https://static1.squarespace.com/static/5ab0544a9d5abb6d42468691/t/5b2841d670a6ad07780f8b03/1529364967119/rggimarkets02-15-2017.pdf>

disruption,²³ it is critical that states set a regional emissions cap at the outset of the program that is sufficiently ambitious to align with both states' climate targets and scientific imperatives. While the regional TCI policy is not the only policy necessary to reach the states' goals, the cap should define the necessary future emissions trajectory in the region's transportation sector. The initial cap level must be no higher than—and should ideally be lower than—projected business-as-usual emissions, while cap levels in future years should require significant emissions reductions beyond those projected to be achieved under already existing, planned, and reasonably foreseeable complementary policies and trends.²⁴

While the cap decision should be further informed by the ongoing modeling being conducted but not yet released by the states, it is critical that this cap achieve the emissions reductions we need from the transportation sector to meet economy-wide climate targets. Toward this end, many of our groups have previously called for a reduction in transportation GHG emissions of 40 to 45 percent below 1990 levels by 2030²⁵, consistent with economy-wide climate goals that have been established by the participating states²⁶, the 2015 modeling conducted by Cambridge Systematics for the TCI states²⁷, and the recommendations of the IPCC²⁸. Data provided by the TCI states thus far on their modeling reference case, covering emissions and fuel use in the 12 TCI states and DC, appears to show current levels of covered pollution from motor fuels at around 275 million metric tons (MMT), declining to approximately 250 MMT by 2022 (the projected start year of the TCI policy) and 200 MMT by 2032²⁹:

²³ <https://www.ipcc.ch/2018/10/08/summary-for-policymakers-of-ipcc-special-report-on-global-warming-of-1-5c-approved-by-governments/>

²⁴ As many of our groups have previously commented, these existing, planned, and reasonably foreseeable complementary policies and economic and technological trends should be incorporated into the states' reference case; the policy cap should then require emissions reductions beyond the reference case. See "Joint Comments on 8/8 TCI Reference Case Results Webinar and Next Steps" (Aug. 27, 2019),

https://www.transportationandclimate.org/sites/default/files/webform/tci_2019_input_form/Joint%20Comments%20on%208_8%20TCI%20Webinar.pdf.

²⁵

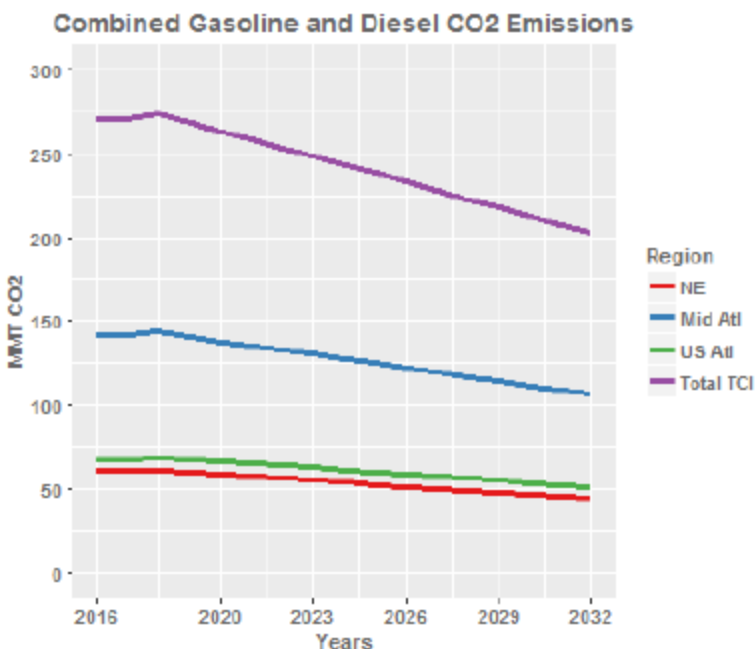
https://www.transportationandclimate.org/sites/default/files/webform/tci_2019_input_form/Advocate%20Group%20Comments%20on%204_30%20TCI%20Workshop.pdf

²⁶ <http://www.usclimatealliance.org/state-climate-energy-policies>

²⁷ <https://www.georgetownclimate.org/reports/reducing-greenhouse-gas-emissions-from-transportation-opportunities-in-the-northeast-and-mid-atlantic.html>

²⁸ <https://www.ipcc.ch/2018/10/08/summary-for-policymakers-of-ipcc-special-report-on-global-warming-of-1-5c-approved-by-governments/>

²⁹ <https://www.transportationandclimate.org/sites/default/files/20190808%20-%20TCI%20Webinar%20-%20Reference%20Case%20Results.pdf>



Assuming roughly similar proportions of pollution from covered fuels versus all transportation fuels (approximately 80 percent), covered pollution in 1990 in these states was approximately 250 MMT as well.³⁰ In other words, by 2022, emissions from the region's transportation sector are projected to have roughly returned to 1990 levels. Accordingly, a 40 percent decline from 1990 emissions levels in the transportation sector is roughly the same as a 40 percent decline from projected 2022 emissions levels (or 45 percent from current levels).

Achieving the reductions necessary for the states to comply with their climate goals from 2022 to 2032 would thus equate to a cap level starting at 250 MMT in 2022 and declining by 40 percent to just over 150 MMT by 2032. Because transportation emissions are already projected to decline somewhat in the reference case between 2022 and 2032, achieving a 150 MMT by 2032 cap trajectory would require a reduction of only 25 percent from the reference case. This level of potential reduction is comparable to that envisioned by other recent analysis³¹.

If we assume states' covered transportation pollution is again roughly proportional to total transportation pollution, and the modeled decline is shared across the states on a pro rata basis from 2016 levels, states' allocations of covered climate pollution in MMT in 2032 would be as follows: CT (7), DE (2), DC (1), ME (4), MD (12), MA (14), NH (3), NJ (26), NY (33), PA (27), RI (2), VT (1), VA (21).

In evaluating this and potentially other cap trajectories, it is critical that the states' modeling further include explicit modeling assumptions that participating states will simultaneously implement additional complementary policies (which may be partially funded by reinvestment of allowance revenues) in the transportation sector alongside the cap. Such complementary

³⁰ https://www.eia.gov/environment/emissions/state/excel/transportation_CO2_by_state_2016.xlsx

³¹ <https://www.synapse-energy.com/sites/default/files/Transforming-Transportation-in-NewYork-19-017.pdf>

policies will further facilitate the cost-effective achievement of states' economy-wide pollution reduction requirements and ensure a wide-range of other co-benefits.

Regional Program Administration

Market Monitoring and Auction Administration

We support the proposal for a regional organization to undertake certain administrative, market monitoring, and allowance tracking functions on behalf of the participating jurisdictions. These services have proven integral to the efficiency, transparency and integrity of the RGGI program.

Additional Program Design Elements

Investment of Proceeds

TCI states should invest allowance auction proceeds to spur improved transportation systems that reduce greenhouse gas emissions, improve air quality, particularly in historically overburdened communities, help adapt our transportation system to a changing climate, and eliminate transportation inequities.³² TCI funds should not be used for basic road maintenance or other programs with no connection to climate protection and greenhouse gas emissions reduction.

We acknowledge the states' proposal that each jurisdiction will independently decide how proceeds are invested to achieve greenhouse gas emission reductions and other policy goals. Each TCI jurisdiction has unique transportation needs, assets, vulnerabilities, and opportunities. Notwithstanding those differences, all TCI jurisdictions have persistent transportation inequities. Asian American residents of the Northeast and Mid-Atlantic are exposed to PM_{2.5} concentrations from on-road transportation that are, on average, 73 percent higher than they are for white residents. African American residents are exposed to 61 percent more vehicle pollution than are white residents, and Latino residents 75 percent more.³³ Furthermore, black riders of Greater Boston's public bus system spend an extra 64 hours per year on the bus compared to white bus riders.³⁴ Low income families spend a disproportionate amount of their household income, up to 30 percent, on transportation-related costs, including fuel and maintenance of older combustion vehicles.³⁵ This economic burden is also greater for rural drivers, who travel further distances and often rely on a personal vehicle as their only mode of transit.

We recommend that the TCI states develop a shared set of principles that can be incorporated into the regional TCI policy Memorandum of Understanding (MOU) and implemented through policy frameworks in each state:

1. States should declare in the MOU that in implementing the regional framework, their intent is that all proceeds raised will be used to invest in clean, equitable, and modern

³² See, e.g., NRDC (2018), Transportation Reimagined: A Roadmap for Clean and Modern Transportation in the Northeast and Mid-Atlantic Region, <https://www.nrdc.org/sites/default/files/transportation-reimagined-roadmap-ne-midatlantic-report.pdf>.

³³ Id.

³⁴ Metropolitan Area Planning Council Regional Indicators (2014), http://www.regionalindicators.org/topic_areas/2.

³⁵ <https://aceee.org/blog/2016/07/america-s-transportation-energy>

transportation solutions. States should further commit that in implementing the final MOU and eventual Model Rule, they will endeavor to adopt all necessary legal protections to ensure TCI policy funds are used for these intended purposes.

2. The regional framework and model rule should specify that proceeds must not be redirected to a state's general fund, but instead should be targeted for transportation purposes that reduce GHG emissions and contribute to improved air quality or transportation options.
3. Investment of proceeds should be prioritized to benefit populations that are overburdened by tailpipe emissions and underserved by transportation systems. A dedicated, minimum percent of investments under a TCI policy should be targeted to benefit these communities, including by redressing historic inequities as opposed to merely avoid disproportionately high and adverse effects in future programs, policies, and activities. According to federal guidelines to address environmental justice in minority populations and low-income populations, transportation policies, programs, and activities that have the potential to have a disproportionately high and adverse effect on human health or the environment should include explicit consideration of the effects on minority populations and low-income populations.³⁶ The TCI policy provides an opportunity for states to shift from not exacerbating inequities to redressing them through accelerated investments aimed at increasing transportation options for communities of color, low- and moderate-income communities, rural regions, and other vulnerable communities.
4. Since the populations, transportation characteristics, and emissions in each state vary, we recommend each TCI jurisdiction convene an advisory group of diverse stakeholders who will work to use existing analytical tools³⁷ to identify overburdened and underserved populations and investment priorities.³⁸ These multiple jurisdiction-specific advisory groups should be convened by cross-department agency officials well in advance of

³⁶ United States Department of Transportation Order 5610.2(a), § 5(b), <https://www.transportation.gov/transportation-policy/environmental-justice/departments-transportation-order-56102a>.

³⁷ To the extent individual TCI jurisdictions do not have existing protections or where such protections are insufficient, potential existing tools and metrics that could be used, in consultation with environmental justice and other community organizations to identify overburdened and underserved communities and help prioritize equity-enhancing investments including, but not limited to: EPA EJ Screen available at <https://ejscreen.epa.gov/mapper/>; Massachusetts EJ Viewer available at http://maps.massgis.state.ma.us/map_ol/ej.php; and Transit Screen available at <https://transitscreen.com/>. These are not the only existing tools and we are not endorsing them as the best tools.

³⁸ To the extent that individual TCI jurisdictions have established legal requirements to address these issues, those requirements should be implemented. For example, New York's Climate Leadership and Community Protection Act (CLCPA) requires the establishment of a Climate Action Council as well as a Climate Justice Working Group and other working groups to inform the Climate Action Council. This includes, in the case of the Climate Justice Working Group, advising the Climate Action Council on the criteria for identifying disadvantaged communities in the state based on considerations related to public health, environmental hazards, and socioeconomic factors. Our recommendations in these comments are not intended to supplant any protections established under the CLCPA or other laws, policies, or practices in TCI jurisdictions.

(ideally a year or longer before) investment decisions. In addition (and possibly with the help of a third party), the state agencies could ensure cross-state coordination with their respective advisory groups to share best-practices, outcomes, and ideas. Potential roles for state stakeholder advisory groups could include:

- a. identifying and maximizing co-benefits of the program, as recommended by stakeholders, and establishing metrics for evaluating investment proposals and programs along those criteria, including ways to weigh the criteria;
- b. helping their respective states draft processes that include transparency, stakeholder engagement, and public input on investment decisions; and
- c. providing input into state analyses of socioeconomic, environmental, health, and transit access equity to ensure that there are not undue burdens placed on communities with existing disparate impacts and quantitatively evaluate progress in reducing historic and existing disparities.

Complementary Policies

TCI is one of many measures desperately needed across the region to deliver the clean, equitable, and modern transportation system that we need. As such, we urge the states to ensure that the TCI policy MOU, Model Rule, and subsequent state regulations and legislation are crafted in a manner that will allow for states across the region to actively adopt and implement a number of other complementary policies that will further accelerate a transformation of the transportation sector and the related emissions reduction that transformation will deliver. We are confident this outcome can be achieved with sufficient careful consideration of the TCI platform elements.

Complementary policies will be a critical component of achieving equitable outcomes, especially in cases where a market-based mechanism is not the most effective tool at our disposal. TCI jurisdictions must ensure that we defend frontline communities first. In certain communities, simply targeting investments does not adequately address historic and existing disparities in air quality and pollution. In such cases, jurisdictions should direct agencies to develop complementary policies with disproportionately impacted community groups at the table. This may include air quality monitoring, reporting, and additional policy prescriptions to ensure that reductions in harmful air emissions occur within a designated community. Such complementary policies could include, but are not limited to:

- Increasing access to affordable housing near transit, such as through zoning reforms, inclusionary zoning, and incentives for municipalities to encourage greater production of affordable housing;
- Enforcing strict anti-idling laws around vulnerable populations such as hospitals, schools, and elderly-care housing and encouraging anti-idling technology to prevent unnecessary emissions and pollution;
- Establishing low- or no-emission zones in congested urban centers where transit is available;
- Increasing the accessibility, affordability, frequency, reliability, and resiliency of public transit infrastructure;
- Dedicating state and municipal agency resources and staff who will be responsible for enforcing complementary policies so that they produce co-benefits;

- Implementing ground transportation practices at airports to reduce emissions and pollution associated with the aviation industry;
- Requiring older medium- and heavy-duty vehicles to adopt the best available retrofit technology, such as those that reduce drag resistance for long-haul trucks;
- Requiring freight and local delivery trucks to meet stricter emission standards by adopting California's heavy-duty vehicle policy under section 177 of the Clean Air Act; and
- Requiring ports to electrify drayage equipment, limit the daily number of diesel truck deliveries, and enforce anti-idling laws at ports.

Additionally, we urge each TCI jurisdiction to make every effort to build comprehensive policy roadmaps to achieve their 2030 and 2050 climate targets, in which TCI's cumulative and distributed impacts are projected, measured, or otherwise fully examined. These outcomes include, but are not limited to:

- Contributions to state greenhouse gas emission reduction targets;
- Air quality improvements, particularly in communities already bearing disproportionate pollution burdens;
- Reduced cost of living and job creation; and
- Transportation access, affordability, frequency, and reliability.

Complementary policies should consider the nexus between climate mitigation and adaptation goals and ensure approaches do not work at cross purposes, such as by:

- Ensuring resilient transportation infrastructure, such as right-sized culverts and bridges that enhance safety, avoid risks, and reduce travel time due to washed out roads.

Complementary policies should also consider options that reduce the need for travel such as:

- Providing broadband Internet to help people access services from home such as working, shopping, medical visits, and service providers;
- Fostering village centers and walkable mixed-use transit-oriented development around high-frequency transit stations that enhance community and provide local options for retail and services; and
- Offering Complete Streets to increase bikeability and walkability.

Thank you for the opportunity to provide input. We look forward to working with you to help design and implement a robust and equitable regional program to deliver urgent improvements in the transportation sector.

Sincerely,

Our Transportation Future members:

Acadia Center
 Appalachian Mountain Club
 Center for Sustainable Energy
 Central Maryland Transportation Alliance
 Chesapeake Climate Action Network
 Clean Air Council
 Climate Law & Policy Project
 Climate XChange
 Connecticut Fund for the Environment/Save
 the Sound
 Connecticut League of Conservation Voters
 Connecticut Roundtable on Climate and
 Jobs
 Conservation Law Foundation
 E2 (Environmental Entrepreneurs)
 Environmental League of Massachusetts
 Green Energy Consumers Alliance
 Green For All
 Health Care Without Harm
 Maine Conservation Voters
 Maryland League of Conservation Voters
 Massachusetts Climate Action Network
 Natural Resources Council of Maine
 Natural Resources Defense Council
 New Jersey League of Conservation Voters
 New Jersey Sustainable Business Council
 New York League of Conservation Voters
 Philadelphia Solar Energy Association
 Rails-to-Trails Conservancy
 Sierra Club
 Transport Hartford Academy at the Center
 for Latino Progress
 Transportation for Massachusetts
 Transportation Working Group of 350MA
 Tri-State Transportation Campaign
 Union of Concerned Scientists
 VEIC
 Vermont Natural Resources Council

Other Organizations:

Baltimore County Pedestrian and Bicycle
 Advisory Committee
 Baltimore Transit Equity Coalition
 Conservation Voters of Pennsylvania
 Friends of Casco Bay
 League of Women Voters of Massachusetts
 Maryland Conservation Council
 Massachusetts Bicycle Coalition
 Rhode Island Citizens' Climate Lobby
 Southern Environmental Law Center