

# Joint Comments on Equity: Draft Transportation and Climate Initiative Memorandum of Understanding

March 20, 2020

To:

## **TCI Leadership Team:**

- Kathleen Theoharides, Secretary, Massachusetts Executive Office of Energy and Environmental Affairs
- R. Earl Lewis, Jr., Deputy Secretary, Maryland Department of Transportation

## **TCI Executive Policy Committee:**

- Marty Suuberg, Commissioner, Massachusetts Department of Environmental Protection
- Roger Cohen, Senior Advisor to the Secretary, Pennsylvania Department of Transportation

## **TCI Technical Analysis Workgroup:**

- Christine Kirby, Assistant Commissioner, Massachusetts Department of Environmental Protection
- Chris Hoagland, Economist, Climate Change Division, Maryland Department of the Environment

## **TCI Investment and Equity Workgroup:**

- James Flynn, Staff Attorney, Office of Legal Counsel, Connecticut Department of Energy and Environmental Protection,
- Kate Fichter, Assistant Secretary, Massachusetts Department of Transportation

## **TCI Outreach and Communications Workgroup:**

- Chris Bast, Chief Deputy, Virginia Department of Environmental Quality
- Elle O'Casey, Director of Communications and Outreach, Vermont Agency of Natural Resources

## **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

Dear Governors and Transportation and Climate Initiative (TCI) Leaders:

Thank you for your leadership in planning to address transportation sector pollution, inequity, and outdated transportation infrastructure. The 44 signatories, including members of the Our Transportation Future coalition and additional organizations and individuals, respectfully submit these comments focused on equitable program implementation in response to the draft Memorandum of Understanding (MOU) released on December 17, 2019.

Existing cap-and-invest programs have contributed to substantial reductions in greenhouse gas (GHG) emissions, macroeconomic savings, and certain public health gains. While those benefits are important, cumulative GHG emissions reductions, economic savings, and health benefits do not reveal the distributional impacts that cap-and-invest programs can have on air quality and public health at the community level. Climate mitigation policies measured only on a scale that

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ignores “hot spots” of air pollution impacts have potential to exacerbate inequities.<sup>1</sup> Residents living near power plants or highways, for example, often continue to experience poor air quality and negative public health burdens even after an overall reduction of air pollution. Moreover, acknowledging the historic and existing inequities in our transportation systems and housing, and the role that policymaking played in creating those systems, are key to understanding how current policy design and implementation can reconcile these inequities, rather than unknowingly perpetuate them.

There is an opportunity to design the TCI cap-and-invest program so that it reduces GHG emissions while improving air quality, increasing access and mobility, creating quality jobs<sup>2</sup> at living wages, alleviating economic burdens, and improving resilient infrastructure while targeting the program’s benefits to underserved and overburdened communities. Those underserved and overburdened communities include priority populations that are disproportionately burdened by vehicular pollution, the costs of using the current transportation system, the lack of access to clean transportation options, the lack of access to safe opportunities for walking and biking, displacement resulting from the transition away from fossil fuels,<sup>3</sup> and that are vulnerable to the impacts of a changing climate.

In these comments, we recommend specific language concerning equity for inclusion in the final MOU and draft Model Rule and describe processes that the participating jurisdictions should lead to achieve equitable program design and implementation. Briefly summarized, we recommend that the final MOU:

- Include an explicit commitment to public participation, non-discrimination, and ensuring the program design and implementation leads to equitable outcomes: Non-discrimination and meaningful public participation are fundamental first steps in ensuring the TCI program leads to equitable outcomes.
- Commit to investing in priority populations using consistent language when referring to equity: We urge the participating jurisdictions to include an explicit commitment in the final MOU regarding plans to invest in priority populations, which may include communities of color, low-income communities, communities with limited English language proficiency, immigrants, New Americans, indigenous people, older adults, people with disabilities, displaced workers, and others.
- Clarify that TCI goals are multifaceted: TCI program goals should include both reducing GHG emissions and investing in actions that will improve air quality, access, mobility, and safety; create quality jobs; alleviate economic burdens related to decarbonization of

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<sup>1</sup> Lara Cushing, et al., Carbon trading, co-pollutants, and environmental equity: Evidence from California’s cap-and-trade program (2011–2015), PLOS Medicine (July 10, 2018), <https://journals.plos.org/plosmedicine/article/file?id=10.1371/journal.pmed.1002604&type=printable>.

<sup>2</sup> Quality jobs are jobs that provide family-supporting wages and benefits, the opportunity to freely and fairly join a union and engage in collective bargaining without fear of reprisal, training and advancement opportunities, and programs to recruit and hire from priority populations.

<sup>3</sup> An example of workers who may be displaced by the transition away from fossil fuels is gas station attendants.

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the transportation sector; protect workers who have been displaced by the transition to clean transportation; and improve resiliency.

- Direct each participating jurisdiction to establish a community advisory committee: Community advisory committees representing a diverse set of stakeholders in each participating jurisdiction should advise participating jurisdictions on equitable program implementation and drive decision making.
- Include language indicating that the Model Rule will commit a minimum percentage of dedicated investments to priority populations: We urge the TCI participating jurisdictions to set a minimum percent of proceed investments that is higher than the minimum percent in California (35 percent) and New York (35 percent) and that is greater than the proportion of priority populations in participating jurisdictions.
- Direct each participating jurisdiction to lead a process to comprehensively define priority populations: The participating jurisdictions will need to work with stakeholders to identify who are the priority populations based on geographic and individual factors. We acknowledge that such populations may vary in each participating jurisdiction.
- Direct each participating jurisdiction to evaluate and measure direct, meaningful, and assured benefits: Evaluating benefit criteria and allocation of investments will facilitate participating jurisdictions' ability to revise equitable investment dispersal, as needed, to ensure that dedicated investments are serving priority populations.

### **I. The Final MOU Should Include an Explicit Commitment to Public Participation, Non-Discrimination, and Ensuring the Program Design and Implementation Leads to Equitable Outcomes.**

We urge the participating jurisdictions to include an explicit commitment in the final MOU to public participation and ensuring that the program design and implementation leads to equitable outcomes especially for priority populations, which may include communities of color, low-income communities, communities with limited English language proficiency, immigrants, New Americans, indigenous people, older adults, people with disabilities, displaced workers, and others. TCI presents an opportunity to help tackle the climate crisis, and redress some of the long-standing pollution inequities and associated public health issues, while ensuring that the program is affordable for priority populations and protects those who have been harmed by the transition to clean transportation.

### **II. The Final MOU Should Include a Commitment to Invest in Priority Populations Using Consistent Language When Referring to Equity.**

We applaud the participating jurisdictions for including language in the draft MOU that addresses equity, including the following sections:

*“WHEREAS, Signatory Jurisdictions recognize and are committed to investing in and mitigating the impacts on low-income and disadvantaged communities that are disproportionately burdened by vehicular pollution, the costs of the current*

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*transportation system, the lack of access to clean transportation options, and vulnerable to the impacts of a changing climate”<sup>4</sup>...*

*“**BE IT FURTHER RESOLVED**, that Signatory Jurisdictions will work with communities to ensure that the benefits of a cap-and-invest program flow equitably to communities that are underserved by clean transportation alternatives, disproportionately bear the costs of the current transportation system, or suffer disproportionate impacts of vehicular pollution and climate change...”<sup>5</sup>*

The final MOU must include a commitment to invest proceeds in priority populations and consistent equity language. The paragraph on page 1, in the ninth “Whereas” clause and the third paragraph on page 2, the third “Be it further resolved” clause should be revised to ensure consistency by stating that benefits of a cap-and-invest program will flow equitably to underserved and overburdened communities, including priority populations that are disproportionately burdened by vehicular pollution, the costs of the current transportation system, the lack of access to clean transportation options, the lack of access to safe opportunities for walking and biking, displacement resulting from the transition away from fossil fuels, and that are vulnerable to the impacts of a changing climate.

There are inconsistencies in the draft MOU regarding equity. For example, on page 8 in the “investments and equity” section, section B, the language should be revised to ensure consistency with pages 1 and 2. The language should state that participating jurisdictions have a shared priority to expand clean mobility options in urban, suburban, and rural communities, particularly for underserved and overburdened communities, including low-income and other communities that are disproportionately burdened by vehicular pollution, the costs of the current transportation system, the lack of access to clean transportation options, the lack of access to safe opportunities for walking and biking, and that are vulnerable to the impacts of a changing climate. Additional clarity is needed at the end of this section to explain the process that each participating jurisdiction will use to assess the equity impacts of the program on an ongoing basis.

The language in the draft MOU signals a commitment to equity yet provides little detail as to *how* this program will achieve equitable outcomes. Language that states that the program will “prioritize” these constituencies, or that agencies “will work with communities” lacks the clear directive that state agencies require to ensure clear program implementation guidelines are included in the Model Rule. We recommend that the final MOU include TCI program goals beyond reducing GHG emissions such as investing in actions that will improve air quality, improve access and mobility, create quality jobs, alleviate economic burdens associated with decarbonization of the transportation sector, and improve resilience.

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<sup>4</sup> Draft MOU at page 2, [https://www.transportationandclimate.org/sites/default/files/FINAL%20TCI\\_draft-MOU\\_20191217.pdf](https://www.transportationandclimate.org/sites/default/files/FINAL%20TCI_draft-MOU_20191217.pdf).

<sup>5</sup> Draft MOU at page 3, [https://www.transportationandclimate.org/sites/default/files/FINAL%20TCI\\_draft-MOU\\_20191217.pdf](https://www.transportationandclimate.org/sites/default/files/FINAL%20TCI_draft-MOU_20191217.pdf).

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The charge to develop a Model Rule addresses one half of the program implementation, i.e., the “cap,” including details of the mechanics to limit emissions and raise proceeds. We recommend that the same charge be given to develop a Model Rule that offers guidance and clear, transparent, and detailed processes for the other critical element of the program’s implementation, i.e. the ‘invest’. Doing one without the other amounts to designing half of a program. The final MOU should include language that the Model Rule will commit participating jurisdictions to leading a process to identify which constituents are underserved and overburdened communities. We discuss below our recommendations for that process.

### **III. We Recommend That the Final MOU Direct Each Participating Jurisdiction to Establish a Community Advisory Committee to Oversee Equitable Program Implementation and Ensure Broader Public Participation.**

Priority populations face many barriers that can prevent them from engaging in government processes. Some of these barriers include long and irregular hours at low-wage jobs, lack of access to reliable and affordable transportation and child care, a dearth of safe places to walk and bike, poor accessibility for people who use wheelchairs, language barriers, insufficient access to information about government and government meetings, and the distrust of decision makers engendered by decades of disinvestment, state violence, and structural oppression in their communities. We urge the participating jurisdictions to consider these barriers in soliciting input on equitable program design and investments.

#### **A. We Recommend Creating a Community Advisory Committee in Each Participating Jurisdiction.**

A final MOU should direct state agencies to establish a Community Advisory Committee to advise on equitable program implementation, including evaluating whether dedicated investments in priority populations are achieving TCI policy goals. A Community Advisory Committee should be established in each participating jurisdiction. This Community Advisory Committee should be composed of representatives from diverse stakeholder groups, including worker representatives and members of priority populations. It should also include agency officials and legislators from relevant agencies and legislative committees. The majority of seats on the Community Advisory Committee should be held by residents from priority populations.

The Community Advisory Committee should be tasked with:

- A. Recommending ways to mitigate the potential cost impacts of the TCI program to low-income drivers;
- B. Considering how to minimize gentrification and displacement related to direct TCI investments in or changes to transportation systems;
- C. Overseeing that jobs created through direct TCI investments and state procurements are quality jobs and enhance workforce diversity;
- D. Establishing a transparent process for overseeing requests, review, and allocation of project investment decisions; and
- E. Developing, within the program’s first year, a screening and evaluation tool to routinely monitor the policy’s investment of proceeds, to include localized air monitoring data and

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evaluation of benefits accrued to and cumulative and disparate impacts felt by priority populations.

The Community Advisory Committee should consider how to mitigate potential cost impacts to low-income drivers. It is not clear whether regulated entities will pass on allowance costs to consumers. If so, participating jurisdictions must work with stakeholders to evaluate potential rebates and rebates for low-income drivers as well as other mitigation options to minimize burdens for low-income drivers while concurrently investing resources that improve and expand clean transportation options for low-income drivers. The Community Advisory Committee should also consider a just transition for workers who have been harmed by the move away from fossil fuels to clean transportation options.

The Community Advisory Committee should consider how to mitigate against gentrification and displacement related to direct TCI investments. As previously underinvested and underserved neighborhoods receive new economic revitalization projects and expanded public transit infrastructure and services, those neighborhoods become more attractive to those in higher-income brackets.<sup>6</sup> Development can lead to displacement if not informed by community needs and without corresponding resident protections or investment in housing stabilization. When urban renters get pushed out due to rising costs, they often end up moving further away from jobs to a suburban ring of gateway communities. While housing costs may be less expensive, this increases transportation costs. Protecting families from displacement and housing insecurity is key to ensuring equitable access to mobility.

The Community Advisory Committee should oversee job creation — both the number of jobs created and the quality of those jobs. The jobs created through procurement, infrastructure projects, and direct investments of proceeds should create a pathway out of poverty, with family-sustaining wages and benefits. Participating jurisdictions should track the number and the quality of jobs created, disaggregated by jobs created directly and indirectly through cost savings that are reinvested. The contract opportunities should advance women-, minority-, and veteran-owned businesses and incentivize domestic and local job creation. States should consider funding for projects and programs with strong fair labor standards, diversifying the workforce, and supporting women, minority, and veteran-owned businesses. States should consider funding projects and programs that directly recruit, train, and retain those underrepresented in the workforce, including women, people of color, veterans, formerly incarcerated people, and people living with disabilities. There should be full funding for pre-apprenticeship and apprenticeship training programs to teach the skills of the new jobs that will be created. Training should also be provided for workers who need to learn new skills to perform the work they currently do.<sup>7</sup>

The Community Advisory Committee should establish a transparent process for overseeing

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<sup>6</sup> University of California at Berkeley (Chapple et al.) and University of California at Los Angeles (Loukaita Sideris et al.), *Developing a New Methodology for Analyzing Potential Displacement* (2017);

[http://www.urbandisplacement.org/sites/default/files/images/arb\\_tod\\_report\\_13-310.pdf](http://www.urbandisplacement.org/sites/default/files/images/arb_tod_report_13-310.pdf).

<sup>7</sup> For example, there should be training on operating and maintaining new technologies for bus operators and mechanics who transition to working on electric buses.

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requests, review, and allocation of project investment decisions. Further the Community Advisory Committee should make recommendations to the participating jurisdiction about developing one or more evaluation tools to routinely monitor the policy's investment of proceeds, as discussed below in Section VI.

Community Advisory Committee members should be eligible to receive a stipend to cover their expenses to cover their outreach and education within their own communities, if reimbursement is permitted by law and regulation in each participating jurisdiction. Community Advisory Committee meetings should be hosted at a time and place that is accessible, permit the ability to join virtually, include childcare services, translated documents, and simultaneous interpretation services, as requested.

### B. We Recommend Broad Public Participation in Each Participating Jurisdiction.

In addition to establishing a Community Advisory Committee, there should continue to be broader public input into the program implementation so that people have a say in decisions about actions which affect their lives. We have learned from over a decade of Regional Greenhouse Gas Initiative implementation that there is a need to address equity concerns prior to the commencement of program implementation. The final MOU and Model Rule should direct state agencies 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 and meaningfully considered. Community residents know best the issues affecting them and the solutions they wish to see, and their capacity to engage should be supported.

In the final MOU and subsequent Model Rule, participating jurisdictions should commit to proactive steps beyond simply publicizing state meetings to ensure that all communities can participate. Concrete steps that can encourage broad and diverse public participation include, but are not limited to:

- Facilitating substantive outcomes by:
  - Committing that the public's input will influence the final decision;
  - Involving participants in defining how they participate and communicating how their input was or was not utilized;
  - Providing participants with the information they need to participate in a meaningful way; and
  - Explicitly recognizing the value of community knowledge.

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- Ensuring meaningful public participation by:<sup>8</sup>
  - Using cross-cultural methods of communication;<sup>9</sup>
  - Institutionalizing meaningful public participation by acknowledging and formalizing the process;
  - Developing measurements to evaluate the effectiveness of public participation and learn lessons to improve the effectiveness in the future;
  - Proactively contacting community leaders, community-based and worker organizations and community institutions such as schools, community centers, churches, temples and mosques to facilitate the involvement of people potentially affected early and often;<sup>10</sup>
  - Choosing locations for public hearings that are accessible by public transportation and located within impacted neighborhoods;
  - Offering hearings and information sessions at different times of the day to accommodate multiple types of schedules;
  - Advertising hearings and meetings in multiple languages, offering translation and interpretation services, and publishing key elements of the initial and final plan in multiple languages;
  - Providing childcare or holding hearings and meetings in locations that are friendly to children;
  - Responding to community-based organizations and holding special meetings or hearings for their bases of members when requested; and
  - Creating direct positions for community representatives such as community representative slots on any planning committees, review boards or other decision-making bodies.<sup>11</sup>

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<sup>8</sup> There are existing federal resources with guidance for conducting meaningful participation: Environmental Justice Policy Guidance for Federal Transportation Administration, FTA C 4703.1 (August 15, 2012), [https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA\\_EJ\\_Circular\\_7.14-12\\_FINAL.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_EJ_Circular_7.14-12_FINAL.pdf); Guidance on Considering Environmental Justice During the Development of an Action, (May 2015), <https://www.epa.gov/sites/production/files/2015-06/documents/considering-ej-in-rulemaking-guide-final.pdf>.

<sup>9</sup> Environmental Justice Policy Guidance for Federal Transportation Administration, FTA C 4703.1, pages 30-31 (August 15, 2012), [https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA\\_EJ\\_Circular\\_7.14-12\\_FINAL.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/FTA_EJ_Circular_7.14-12_FINAL.pdf).

<sup>10</sup> Meaningful Community Engagement in the Clean Power Plan, November 2019, [https://www.thedreamcorps.org/wp-content/uploads/2019/11/TOOLKIT\\_2\\_-\\_Meaningful\\_Engagement.pdf](https://www.thedreamcorps.org/wp-content/uploads/2019/11/TOOLKIT_2_-_Meaningful_Engagement.pdf). The Advocates seeking to influence state environmental policy implementation developed a [Toolkit for Meaningful Community Engagement](#). The Toolkit is authored by US Climate Action Network, People’s Action Institute, and Kentuckians for the Commonwealth as part of the Clean Power For All Collaborative, convened by Green For All, and includes specific recommendations about meaningful public participation. The toolkit guidance says, “[s]tates must take proactive steps beyond simply publicizing state meetings to ensure that all communities can participate.”

<sup>11</sup> *Id.*



In describing the goals of meaningful engagement, we encourage states to consult the [EPA Guidance on Considering Environmental Justice During the Development of Regulatory Actions](#), in particular the definition of meaningful involvement.<sup>12</sup> For a detailed checklist of how to prepare for a meeting, ensure broad participation, and provide where-when-how logistics, please consult the detailed explanation of the National Environmental Justice Advisory Council's (NEJAC's) [Model Guidelines for Public Participation](#).<sup>13</sup> It is the responsibility of a state agency to ensure that public participation is both effective and transparent.

#### **IV. The Participating Jurisdictions Can Learn From Other State Efforts to Develop an Equitable Cap-and-Invest Program.**

Below are examples of policies and programs that address both the problem of air pollution and attempt to address the burdens on priority populations. These policies can serve as guidance for the participating jurisdictions as they continue to design an equitable cap-and-invest program.

##### **A. California Has A Cap-And-Invest Program That Dedicates a Minimum Percent of Proceeds in Disadvantaged Communities.**

In California, the legislature passed [AB 1550](#) in 2015, which requires that the state's cap-and-invest program dedicate a minimum of 35 percent of its proceeds to benefit the state's most disadvantaged communities and create net positive environmental and economic benefits for low-income communities and communities of color.<sup>14</sup> There are also provisions that require 25 percent of funds be dedicated to projects that are *located in* disadvantaged communities, and an additional 10 percent dedicated to go to low-income households or communities.<sup>15</sup> California uses [CalEPA EnviroScreen 3.0](#) to comprehensively define its disadvantaged communities according to over 20 socioeconomic and environmental factors. Agencies are required to demonstrate how their investment project meaningfully addresses an important community or household need in the identified community.

Funds have provided free bus passes for seniors and students, electric vehicle rebates for low-income consumers, and supported electric vanpools in rural communities. They have funded urban forestry projects in pollution-burdened neighborhoods, energy efficiency and home weatherization programs for low income homeowners and renters, and transit-oriented affordable

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<sup>12</sup> United States Environmental Protection Agency, [EPA Guidance on Considering Environmental Justice During the Development of Regulatory Actions](#) (May 2015), <https://www.epa.gov/environmentaljustice/guidance-considering-environmental-justice-during-development-action>

<sup>13</sup> National Environmental Justice Advisory Council's (NEJAC's) [Model Guidelines for Public Participation](#) (January 2013), <https://www.epa.gov/sites/production/files/2015-02/documents/recommendations-model-guide-pp-2013.pdf>.

<sup>14</sup> 2016 Cal. Stat. c. 368, § 5 (Sept. 14, 2016.)

<sup>15</sup> "Disadvantaged community" means a community identified pursuant to Section 39711 of the Health and Safety Code or pursuant to Section 75005 of the Public Resources Code. 2016 Cal. Stat. c. 368, § 5.

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housing development, among others. The program has invested more than \$1 billion in local projects that respond to community needs. The State’s Active Transportation Program provides that at least 25 percent of its funds must go to projects that benefit disadvantaged communities, and state transportation officials estimate that over half of the revenue in this program has gone to benefit those communities.

### **B. New York Has A Climate Program That Dedicates a Minimum Percent of Proceeds in Disadvantaged Communities.**

Similarly, New York recently passed the Climate Leadership and Community Protection Act ([A.8429](#)) in 2019, which will dedicate at least 35 percent of its climate investment dollars in projects that serve disadvantaged communities.<sup>16</sup> This requirement applies to any funds raised through carbon pricing programs, including proceeds from the Regional Greenhouse Gas Initiative (RGGI), any future TCI proceeds, or an economy-wide state carbon tax.

The New York legislation also establishes a Climate Justice Working Group, consisting of representatives from environmental justice communities, Department of Environmental Conservation and the Departments of Health and Labor. The working group has one year to identify “disadvantaged communities” for the purposes of reducing co-pollutant and GHG emissions and the allocation of certain investments.

### **V. We Recommend That the Model Rule Commit a Minimum Percent of Dedicated Investments in Priority Populations and Determine What It Means to Provide Dedicated Investments.**

We urge the TCI participating jurisdictions to set a minimum percent of proceed investments that is higher than the minimum percent in California (35 percent) and New York (35 percent) and that is greater than the population that is underserved and overburdened in priority populations. We recommend that the final MOU direct participating jurisdictions to engage in a process that results in setting the minimum percent of proceed investments in priority populations in the forthcoming Model Rule. Participating jurisdictions may go above and beyond this minimum percentage.

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<sup>16</sup> “‘Disadvantaged communities’ means communities that bear burdens of negative public health effects, environmental pollution, impacts of climate change, and possess certain socioeconomic criteria, or comprise high-concentrations of low- and moderate- income households, as identified pursuant to section 75-0111 of this article.” N.Y. ENVTL. CNSERV. LAW §75-0101 (McKinney 2019). Under §75-0111, “Disadvantaged communities shall be identified based on geographic, public health, environmental hazard, and socioeconomic criteria, which shall include but are not limited to: i. areas burdened by cumulative environmental pollution and other hazards that can lead to negative public health effects; ii. areas with concentrations of people that are of low income, high unemployment, high rent burden, low levels of home ownership, low levels of educational attainment, or members of groups that have historically experienced discrimination on the basis of race or ethnicity; and iii. areas vulnerable to the impacts of climate change such as flooding, storm surges, and urban heat island effects.” N.Y. ENVTL. CNSERV. LAW §75-0111 (McKinney 2019).

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Priority populations could include geographic concentrations of people such as low-income residents, people of color, transit-dependent residents, English-isolated residents, immigrants, New Americans, people without cars who are also low-income, and older adults. Other priority populations, which are not confined to a geographic boundary, include low-income households, people with disabilities or who are otherwise mobility-limited, displaced workers, and individuals particularly sensitive to air pollution, such as children and older adults.

### A. Each Participating Jurisdiction Must First Define Priority Populations.

Participating jurisdictions should establish these priority populations definitions based on unique demographics and geographies determined through a community advisory committee and public input process and consider existing definitions of priority populations.<sup>17</sup> Participating jurisdictions should define priority populations by analyzing existing data, such as those available from the United States Environmental Protection Agency and the American Community Survey. This analysis may involve exploring existing models and mapping tools for identifying priority definitions and tailoring the tools and maps to meet the state's unique demographics, pollution-related health impacts, and transportation infrastructure. The data used should be as localized as possible, preferably at the smallest geographic level for which data is available.

We acknowledge the challenges of developing a uniform regional definition of these priority populations due to the geographic and demographic diversity of the TCI region. States that do not have existing definitions for priority populations will need to develop definitions and can look to other participating jurisdictions for guidance. We recommend that each TCI jurisdiction engage in jurisdiction-specific data analysis and stakeholder meetings to define these priority populations.

### B. Each Participating Jurisdiction Must Define What It Means to Serve Priority Populations.

After identifying priority populations, we recommend that each participating jurisdiction determine what it means to provide a direct benefit. If a participating jurisdiction plans to target investments in priority populations, it must determine whether investments must directly benefit those communities and/or be spent in those communities or both. If, for example, a participating jurisdiction plans to invest funds into procuring an electric bus fleet that would serve express bus commuter routes that travel through, but do not stop in, low-income communities and such commuter routes are mostly benefiting middle-income workers, would the participating jurisdiction determine that the investment benefits underserved communities?

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<sup>17</sup> Participating jurisdictions will need to identify underserved and overburdened communities for the purpose of implementing an equitable TCI program and targeting investment proceeds. Each participating jurisdiction should consider existing definitions of target populations for guidance about populations of concern. See a list of existing definitions in Conservation Law Foundation's comments, Pages 7-19, February 28, 2020 at [https://www.transportationandclimate.org/sites/default/files/webform/tci\\_2019\\_input\\_form/CLF%20Comments%20on%20TCI%20Regional%20DRAFT%20MOU%202.28.20.pdf](https://www.transportationandclimate.org/sites/default/files/webform/tci_2019_input_form/CLF%20Comments%20on%20TCI%20Regional%20DRAFT%20MOU%202.28.20.pdf).

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The final MOU must address these commitments in clear actionable language to direct state agencies within each state to develop a Model Rule that sets clear guidance and limits for how program proceeds will be allocated. Every participating jurisdiction may choose to tailor this process by enacting or amending legislation or promulgating regulations.

### **VI. Each Participating Jurisdiction Must Evaluate and Measure Benefit Criteria and Adjust Investment Dispersal to Ensure That Dedicated Investments are Serving Priority Populations.**

Evaluating benefit criteria and allocation of investments will facilitate participating jurisdictions' ability to revise equitable investment dispersal, as needed, to ensure that dedicated investments are serving priority populations. Equitable investments will need to be developed with community participation and in response community needs. Approved proposals should allocate a portion of funds to the community groups engaged in the proposal for whom the project serves. We recommend that participating jurisdictions evaluate the investments, with input from the Community Advisory Committee and the public. The evaluations should be publicly accessible so that the Community Advisory Committee and interested stakeholders can recommend legislation, regulatory, or policy revisions to ensure that investments are, indeed, equitable and helping to redress priority populations' lack of adequate transportation options.

Participating jurisdictions have a responsibility to develop, prior to commencement of the program, an evaluation framework to collect and report data on TCI investment. The evaluation framework should include the direct, indirect, and cumulative emissions impacts from the program, including localized impacts to priority populations. Prior to commencement of the program, each participating jurisdiction should develop an online reporting tool that will allow for routine reporting of investment decisions. We recommend that participating jurisdictions report information such as GHG emissions reductions, local air quality impacts, access and mobility expansion, good job creation, infrastructure resilience, and affordability for low-income families. This information should be used to assess whether improvements are needed to the program. Additional measures of success include annual survey results demonstrating whether urban and rural residents report an increased number of transportation options that meet their needs and whether people are shifting out of cars to other modes of transportation. Participating jurisdictions should offer multilingual surveys, as needed, to measure stakeholder perspectives and transportation patterns.

In conclusion, the final MOU should contain explicit commitments to equitable program design and implementation to guide participating jurisdictions in their work to draft a Model Rule. A Model Rule must include a specific percentage of dedicated investments in priority populations and a process for defining those communities and populations.

We look forward to working with you to ensure that the program achieves equitable outcomes.

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Sincerely,

Acadia Center  
Alliance for Business Leadership  
Appalachian Mountain Club  
Audubon Naturalist Society  
Citizens' Climate Lobby Rhode Island  
Clean Air Council  
Clean Water Action  
Climate XChange  
Conservation Law Foundation  
CT Fund for the Environment/Save the Sound  
CT League of Conservation Voters  
East Coast Greenway Alliance  
Environmental League of Massachusetts  
Greater Hartford Environmental Coalition  
Green Energy Consumers Alliance  
Green For All  
GreenRoots  
Grow Smart RI  
Health Care Without Harm  
Interfaith Power & Light (DC.MD.NoVA)  
Karen Campblin  
League of Women Voters of Massachusetts  
LivableStreets Alliance  
Maine Conservation Voters  
Maryland Conservation Council  
Maryland League of Conservation Voters  
Middletown Clean Energy Task Force  
Natural Resources Council of Maine  
New Haven Leon Sister City Project  
Pittsburghers for Public transit  
Plug In America  
Providence Streets Coalition  
Rails-to-Trails Conservancy  
Sierra Club  
Southern Environmental Law Center  
The Connecticut Roundtable on Climate and Jobs  
Toxics Action Center  
Transport Hartford Academy at the Center for Latino Progress  
Transportation for America  
Transportation for Massachusetts  
Transportation Working Group of 350 Mass  
Tri-State Transportation Campaign  
Union of Concerned Scientists  
WalkBoston