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Using New York Law to Advance Equity in the Transportation & Climate Initiative Program

Hillary Aidun

Columbia Law School, Sabin Center for Climate Change Law, hwa2108@columbia.edu

Ama Francis

Columbia Law School, Sabin Center for Climate Change Law, afrancis@refugeerights.org

Michael B. Gerrard

Columbia Law School, michael.gerrard@law.columbia.edu

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Recommended Citation

Hillary Aidun, Ama Francis & Michael B. Gerrard, *Using New York Law to Advance Equity in the Transportation & Climate Initiative Program*, SABIN CENTER FOR CLIMATE CHANGE LAW, COLUMBIA LAW SCHOOL, AUGUST 2021 (2021).

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**USING NEW YORK LAW TO ADVANCE
EQUITY IN THE TRANSPORTATION &
CLIMATE INITIATIVE PROGRAM**

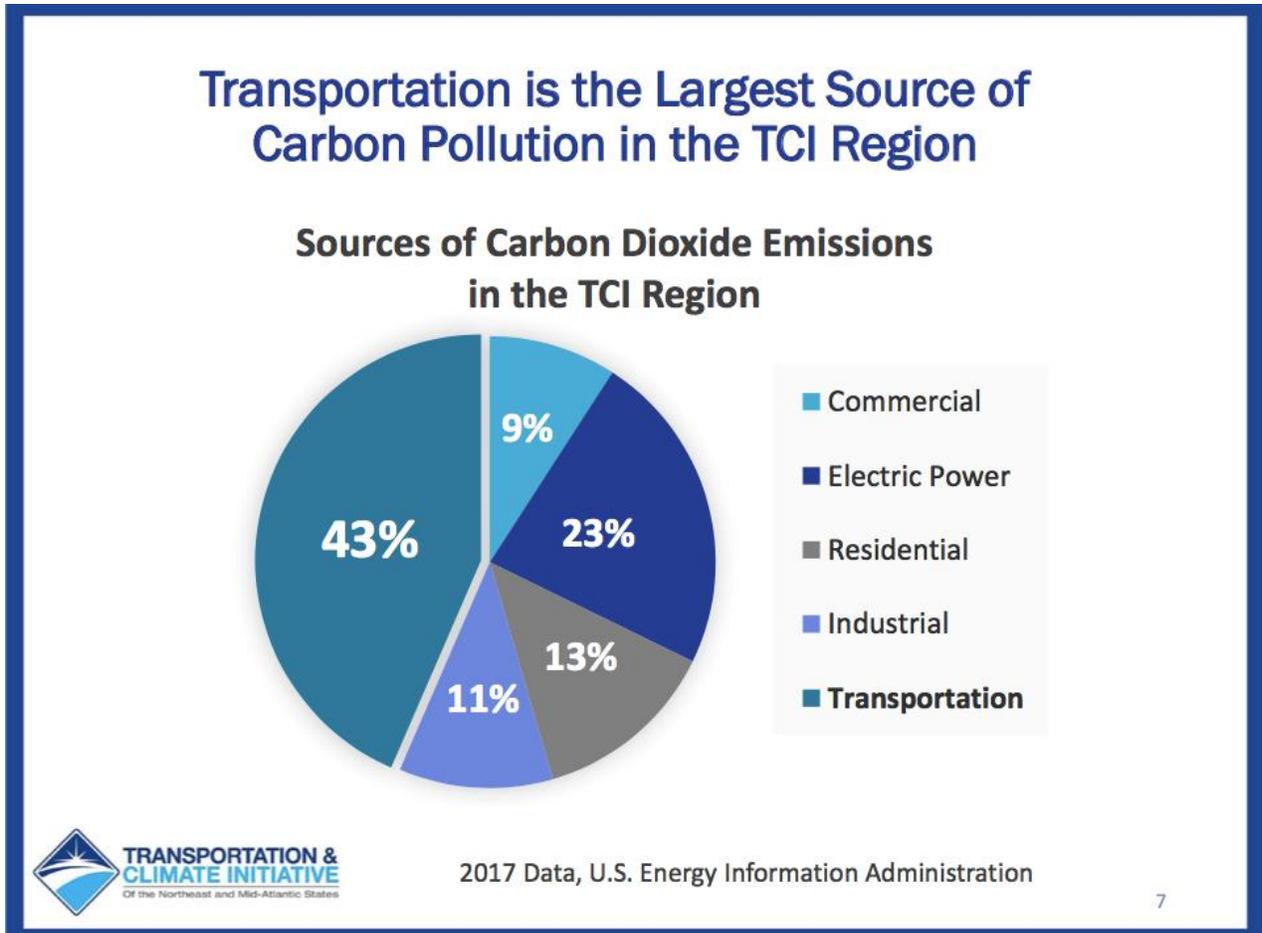
PREPARED BY:

**Hillary Aidun, Ama Francis & Michael Gerrard
Sabin Center for Climate Change Law**

August 2021

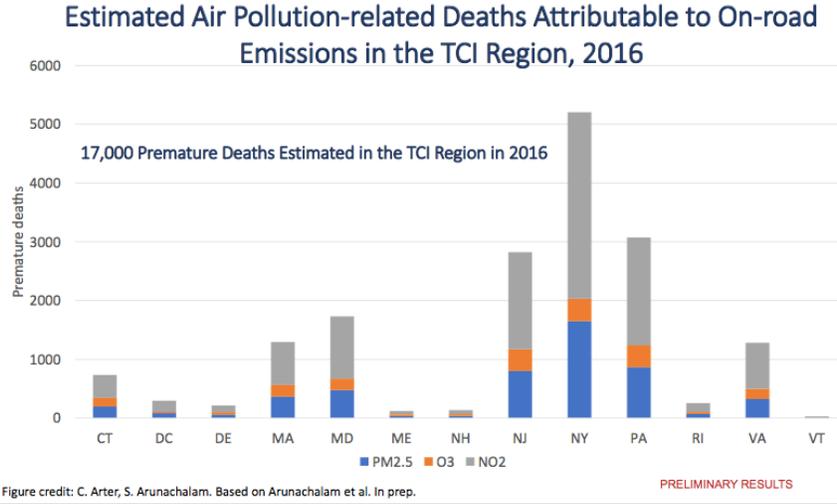
INTRODUCTION

Reducing pollution from the transportation sector is one of the most important steps to sustaining a livable climate. The transportation sector is the leading source of greenhouse gas (GHG) emissions in both the United States and New York.ⁱ Cars, trucks and buses also emit other harmful air pollutants that more immediately contribute to public health threats such as asthma, heart disease, and premature death.



Source: TCI Webinar (Dec. 17, 2019)

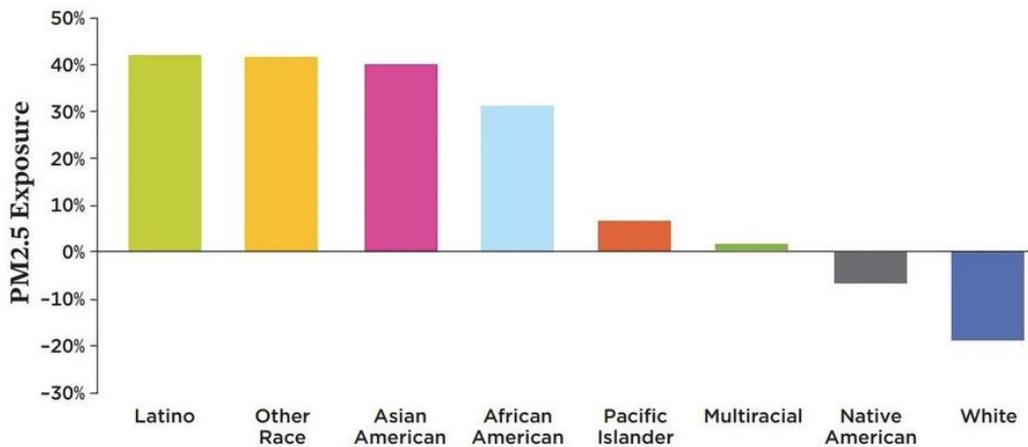




Source: TRANSPORTATION, EQUITY, CLIMATE AND HEALTH PROJECT (TRECH) TRECH Project Research Update (Oct. 6, 2020).

These negative impacts are concentrated in low-income communities and communities of color, which are often located near highways, transportation depots, and freight hubs.ⁱⁱ In addition to being disproportionately exposed to air pollution and affected by related health problems, these communities often have inadequate access to public transportation options, which limits access to health care, services, and jobs.ⁱⁱⁱ

Disproportionately High Exposure for People of Color in the Northeast and Mid-Atlantic



Source: Maria C. Pinto De Moura & David Reichmuth, Inequitable Exposure to Air Pollution From Vehicles In the Northeast and Mid-Atlantic, UNION OF CONCERNED SCIENTISTS (Jun. 21, 2019).

In response to these climate and equity challenges, the Transportation and Climate Initiative (TCI) seeks to reduce GHG emissions from the transportation sector while investing in communities that are overburdened by transportation pollution and underserved by transit. A regional collaboration that so far includes 13 states and the District of Columbia, the initiative seeks to reduce GHGs through a cap-and-invest model that taxes fuel providers and reinvests the proceeds in clean transportation. In December 2020, four jurisdictions – Rhode Island, Massachusetts, Connecticut, and the District of Columbia – signed a Memorandum of Understanding (MOU) committing to the TCI Program (TCI-P). Several others, including New York State, are considering joining the program.

The TCI-P includes four elements that aim to address disparities in exposure to transportation pollution and access to transportation.

- 1) Participating jurisdictions must invest at least **35% of the proceeds** “to ensure that **overburdened and underserved communities benefit equitably** from clean transportation projects and programs.”^{iv}
- 2) Each participating jurisdiction must establish an **Equity Advisory Body** (with majority representation from overburdened and underserved communities) to establish **criteria** for identifying communities; **advise** the state on how to invest program proceeds; **recommend** complementary policies; and set up **metrics** to track the program success.^v
- 3) Participating jurisdictions must consider **complementary policies** that will reduce emissions at the local level.^{vi}
- 4) TCI-P requires **annual reporting** on investments, and project and program progress; reports must assess equity impacts, including by monitoring **air quality** in communities that are overburdened by pollution.^{vii}

This report examines how New York law could further advance equity in TCI-P implementation, if New York joins the TCI-P. After providing further background on TCI-P, the report focuses on two recently enacted statutes, and another that has been proposed in the New York Legislature:

- **The Climate Leadership and Community Protection Act (CLCPA)**, enacted July 2019, sets ambitious mandates for New York to reduce GHGs and scale up renewable energy capacity. The CLCPA also contains a number of provisions designed to advance equity, including a **community air monitoring program** and a requirement that “disadvantaged communities shall receive no less **than thirty-five percent** of the overall benefits of spending on clean energy and energy efficiency programs, projects or investments.”^{viii}
- **Article 48** of the Environmental Conservation Law (signed December 2019) assures that all people have a right to **fair treatment and meaningful involvement** in the development and implementation of environmental policies. Article 48 may provide opportunities to ensure that environmental justice communities have a seat at the table when TCI-P is implemented, and safeguards that result in more equitable implementation.^{ix}



- If enacted, the proposed **Climate and Community Investment Act (CCIA)** would create additional opportunities to funnel investments towards communities that have been overburdened by transportation pollution.

THE TRANSPORTATION AND CLIMATE INITIATIVE PROGRAM

TCI-P uses a market-based “cap-and-invest” model to reduce emissions from the transportation sector, generate revenue to build a cleaner, more affordable transportation system, and invest in overburdened and underserved communities. Starting in 2023, TCI-P will set a binding cap on carbon dioxide emissions from on-road diesel and gasoline sold in participating jurisdictions.^x Under the program, regulated entities (i.e., suppliers of gasoline and diesel) will be required to buy allowances to account for the carbon pollution produced by the fuel they sell, and the amount of allowances that are available for purchase will decline each year.^{xi}

TCI-P jurisdictions will sell allowances at regular auctions to generate proceeds that will be invested to advance program goals, which include:

- reducing GHG emissions from the transportation sector;
- improving air quality and public health;
- increasing resilience to the impacts of climate change;
- providing more affordable access to clean transportation choices;
- promoting local economic opportunity and creating high-quality jobs;
- maximizing efficiencies of the multijurisdictional program to ensure greater benefits; and
- advancing equity for communities overburdened by pollution and underserved by the transportation system.^{xii}

Each jurisdiction will decide how to invest TCI-P proceeds in programs such as enhancing access to affordable, clean transportation options, expanding electric vehicle infrastructure, or increasing bicycle lanes and sidewalks.^{xiii}

On June 10, 2021, TCI issued a Model Rule that is intended to serve as a common framework, but each participating jurisdiction will need to develop its own TCI-P regulations.^{xiv} TCI has also proposed that each participating jurisdiction be required to develop an implementation plan and public engagement plan and has issued draft guidelines for each.^{xv}

If all jurisdictions participate in the program, by 2032, annual benefits could amount to \$3.6 billion in health and safety improvements, thousands of avoided childhood asthma cases, and 350 avoided deaths.^{xvi} Up to \$700 million also would be directed annually to investments in overburdened and underserved communities.^{xvii}

However, the cap-and-invest strategy poses some equity challenges. The TCI-P approach could increase gasoline and diesel prices, raising concerns among some advocates that it will act as a regressive tax that disproportionately burdens low-income communities.^{xviii} Additionally, environmental justice advocates have been critical of market-based schemes that include



offsets because they allow polluters to purchase carbon reductions achieved by non-regulated entities as a substitute for reducing their own emissions. Under the Model Rule, regulated entities can meet up to 3.3% of their compliance obligation by purchasing offsets.^{xx} Finally, experience with cap-and-trade programs suggests that a market-based model does not necessarily ensure direct emission reductions in communities that experience the highest levels of pollution.^{xx}

Thus, it is important to note that TCI-P is not a cap-and-trade system, because there is no trading mechanism that allows regulated entities to buy allowances from each other, i.e., a regulated entity cannot meet its obligations by purchasing allowances from other regulated entities. And as discussed below, New York law provides other mechanisms to ensure that TCI-P is equitably implemented, which may further address equity concerns.

THE CLIMATE LEADERSHIP AND COMMUNITY PROTECTION ACT

This section outlines CLCPA provisions that can strengthen TCI-P equity measures, and vice versa.

A. “Disadvantaged Communities”

The CLCPA has several provisions designed to ensure that “disadvantaged communities,” or DACs, benefit from the transition to a renewable energy economy.^{xxi} The CLCPA created a Climate Justice Working Group (CJWG), comprised of state officials and community representatives, that is working to develop criteria to identify DACs.^{xxii}

The TCI-P similarly prioritizes investments in “overburdened and underserved communities,” meaning those communities that are “overburdened by air pollution, vulnerable to the impacts of a changing climate, underserved by the existing transportation system, and disproportionately impacted by the COVID-19 pandemic.”^{xxiii} TCI-P instructs each participating jurisdiction to create an Equity Advisory Body that will develop criteria for defining overburdened and underserved communities, and build on existing definitions where applicable.^{xxiv}

If New York joins TCI-P, the Equity Advisory Body could consider relying on or drawing from the DAC criteria to identify overburdened and underserved communities. Harmonizing those definitions would position DACs to benefit from TCI-P, while integrating overburdened and underserved communities into the New York climate justice investment framework (discussed below) and allowing those communities to reap the fruits of CLCPA investments outside the transportation sector. Therefore, the DAC criteria should account for the impacts of transportation pollution and communities’ access to transportation, and the New York Equity Advisory Body should draw on those criteria when identifying “overburdened and underserved communities.”



B. Investment Mandate

The CLCPA requires that DACs receive at least 35% of the benefits of clean energy and energy efficiency program spending in seven areas, including transportation.^{xxv} The statute provides a goal that 40% of such benefits flow to DACs.^{xxvi}

Environmental justice advocates such as NY Renews – a coalition that pushed for the CLCPA passage – have urged the state to direct a certain percentage of *funding* towards DACs, rather than a certain percentage of the *benefits* of funding.^{xxvii} However, given the statutory language and approach, NY Renews has produced a non-exhaustive list of benefits that should qualify and put forth an investment rubric that would “ensure high and consistent standards for what qualifies as beneficial spending so that benefits will actually accrue” to DACs.^{xxviii} Examples include health benefits, reductions in localized pollution, and economic gains related to job creation.^{xxix}

Environmental justice advocates on the CJWG have raised concerns – such as ensuring that benefits are truly additive – that will likely be ongoing topics of discussion.^{xxx} CJWG member Chris Coll, of the New York State Energy Research and Development Authority (NYSERDA), recently presented the state’s proposal for operationalizing the CLCPA investment mandate, which included identifying and quantifying “benefits.” During Phase 1 (through 2021), the state would start to track, and report identified benefits metrics (ex. jobs and training, participant bill savings, and energy savings) and establish a public-facing dashboard to track progress, beginning with the agencies and portfolios that have the most relevance according to the state, such as NYSERDA. During Phase 2 (2022 and beyond), the benefits framework would incorporate additional agencies and portfolios, and concentrate on meeting the 40% goal related to DACs by establishing a process for incorporating their feedback and priorities.

As discussed, the TCI-P requires that participating jurisdictions invest at least 35% of their proceeds “to ensure that overburdened and underserved communities benefit equitably from clean transportation projects and programs.” Harmonizing this TCI-P requirement with the CLCPA investment mandate could strengthen both.

- Because the TCI-P language refers to 35% of *funding*, it is more straightforward than the CLCPA investment mandate that focuses on the *benefits* of funding. Therefore, at least with respect to transportation funding, the TCI-P required investment for overburdened and underserved communities could present an opportunity to create a funding stream that is more straightforward and easier to track than the CLCPA benefits framework that is currently under development.
- If the Equity Advisory Body were to rely on the DAC criteria to identify underserved and overburdened communities (as recommended above), the resulting overlap could more easily guarantee that clean transportation benefits actually accrue to DACs than would be the case under the benefits framework. If the two investment requirements were then coordinated, the result would be that at least 35% of state spending on clean transportation would be invested to ensure that the benefits are equitably enjoyed by DACs. Moreover, if the two funding streams were harmonized, underserved, and



overburdened communities would receive CLCPA investment mandate benefits in programs other than transportation.

Of course, the state could spend more than 35% of relevant funding to ensure equity – under both TCI-P and the CLCPA, this figure is a floor, not a ceiling.^{xxxix}

Further, the TCI-P requires the Equity Advisory Body to develop metrics to evaluate how investment proceeds benefit overburdened and underserved communities, and provides that each participating jurisdiction must annually review and report the impacts of its program, including with respect to equity.^{xxxix} The draft public engagement guidelines would also require the state to maintain a public funding dashboard or report detailing where program proceeds are being spent.^{xxxix} The CLCPA does not impose the same type of tracking and reporting requirements, although, as mentioned above, the state has proposed creating a dashboard that would achieve this purpose.

Coordinating the CLCPA investment mandate with TCI-P dedicated funds for underserved and overburdened communities could provide additional accountability for the CLCPA investment mandate (at least as it relates to transportation). The Rhode Island 2021 Act on Climate requires the state to create a dashboard to track emissions reductions, which could act as a model for New York in tracking its equity-oriented investments.^{xxxix} New York also could look for guidance from a Washington State climate program proposal that by 2035 would require a program evaluation, and any adjustments needed to reduce greenhouse gas emissions and criteria pollutants^{xxxix}; similarly, if the investment requirements are not being met, New York could require adjustments by a certain deadline, such as 2025.

It bears noting that accountability and community input are critical to ensuring the success of *funding* allocations, and California is instructive. California law requires that 25% of the California Greenhouse Gas Reduction Fund – the auction proceeds from its cap-and-trade program – be invested in projects that benefit DACs.^{xxxix} At a recent CJWG meeting, advocates from California warned that without proper community input and tracking, that funding has flowed to large corporations rather than community-based initiatives, and often has not resulted in meaningful benefits to DACs.^{xxxix} Indeed, NY Renews has argued that the New York CLCPA benefits framework should include “[b]enefits related to democratic participation, such as access to community-determined climate and clean energy planning and decision-making processes and accountability frameworks,”^{xxxix} underscoring the need to involve DACs in the decision-making process.

The TCI-P MOU recognizes the importance of representation, requiring that the Equity Advisory Body of each participating jurisdiction be comprised of diverse stakeholder groups, with a majority of its members representing overburdened and underserved communities.^{xxxix} The draft model implementation plan also indicates that each participating jurisdiction will develop its own policy and programmatic decision-making processes to select projects for funding as well as identify and provide training for newly created jobs.^{xl} New York could ensure that community participation is meaningful and accessible by compensating community representatives for their time, and by providing the Equity Advisory Body with funding to hire its own technical staff and consultants. New York could also consider creating subcommittees representing individual overburdened and underserved communities to contribute to decision-making processes –



these communities and their advocates have a critical role to play in ensuring that money allocated for DACs under the CLCPA, and for overburdened and underserved communities under the TCI-P, realizes its purpose.

C. Community Air Monitoring

The CLCPA aims to reduce both GHG emissions and co-pollutants in DACs, and accordingly, establishes a community air-monitoring program.^{xii} The CLCPA requires that before October 2022, the Department of Environmental Conservation (DEC), in consultation with the CJWG, must create community air monitoring systems in at least four communities with potentially high exposure to toxic air contaminants and air pollutants.^{xiii} By June 2024, DEC must also develop a strategy to reduce emissions of toxic air contaminants and air pollutants in DACs that experience a high cumulative exposure burden.^{xiii}

The TCI-P Model Rule provides much less detail than the CLCPA on air quality monitoring, simply stating that the impacts of TCI-P must be reviewed annually including with respect to equity and the results of air quality monitoring.^{xiv} The MOU similarly requires participating jurisdictions to work with communities and the Equity Advisory Body to “assess the equity impacts of the program on an ongoing basis, including by monitoring air quality in communities overburdened by air pollution.”^{xiv} If New York joins TCI-P, the state could rely on the CLCPA framework to obviate the need to develop a new air quality monitoring program. However, environmental justice advocates might leverage the opportunity provided by TCI-P rulemaking to push the state to take a more stringent approach than that required by the CLCPA, for example, requiring that the air quality in all overburdened and underserved communities be monitored rather than just the four stipulated by the CLCPA.

ARTICLE 48

Article 48 of the Environmental Conservation Law is another legal avenue to advance environmental justice in New York.

Article 48 declares that all people have a right to fair treatment and meaningful involvement in the development and implementation of environmental policies.^{xvi} Article 48 defines environmental justice for all people regardless of race, color, religion, national origin or income, pointing to “the development, implementation and enforcement of” environmental laws, regulations and policies according to two key principles: fair treatment and meaningful involvement.^{xvii} If New York joins the TCI-P, these provisions could be harnessed to ensure that overburdened and underserved communities have a meaningful chance to provide input related to program implementation, including its rulemaking processes, and the development and implementation of its public engagement plan.

Additionally, Article 48 establishes a new body called the Environmental Justice Advisory Group (EJAG)^{xviii} that is primarily responsible for developing a model environmental justice policy for state agencies, but also has the power to comment on relevant rulemakings and hold hearings on issues related to its jurisdiction.^{xlix} EJAG could harness that authority to advocate for measures that prevent TCI-P from acting as a regressive tax¹ – Article 48 provides that it is New



York State policy “that no group of people, including racial, ethnic or socioeconomic group, should suffer from inequitable allocation of public resources or financial assistance for . . . pollution prevention,”^{li} and it could be argued that low-income New Yorkers who rely on their cars will suffer if TCI-P proceeds are not equitably allocated, through rebates or cash assistance, for example.

EJAG could also use its authority to advocate for equity safeguards when New York develops rules to implement TCI-P. For example, the Model Rule would allow regulated entities to bank unused allowances from year to year and meet up to 3.3% of their compliance obligation through offsets.^{lii} EJAG could advocate for prohibiting or further limiting the use of banking and offsets to ensure that emissions reductions are truly achieved in overburdened communities.^{liii}

Finally, EJAG could use its platform to advance complementary policies to achieve additional emissions reductions in overburdened and underserved communities. The state has still not named the EJAG members, and because the EJAG is not yet constituted, advocates can provide input from these early stages.

THE CLIMATE AND COMMUNITY INVESTMENT ACT

If enacted, the CCIA would create additional mechanisms to further incorporate equity into TCI-P.^{liv} CCIA would create a fee for GHGs and other air pollutants and require the state to invest the proceeds to meet CLCPA greenhouse gas reduction mandates.^{lv} The CCIA would provide additional opportunities to funnel clean transportation funds to overburdened communities.

For example, the CCIA would require DEC to develop a scoping plan to accelerate the reduction of air pollution from transportation, and mandate that 40% of any proceeds generated from efforts to address transportation emissions be invested in a manner that will benefit DACs (as defined under the CLCPA).^{lvi} If New York were to harmonize its TCI-P program with this investment mandate, it would allow advocates to push for at least 40% of proceeds from TCI-P to flow to DACs; as discussed prior, if the Equity Advisory Group relies on DAC criteria to identify those communities, the overlap also would benefit overburdened and underserved communities.

The CCIA also would establish a Climate Jobs and Infrastructure Program to promote school bus electrification and the development of associated charging infrastructure, with priority given to schools located in and serving DACs; subsidize transit fare reductions; and electrify port facilities, which tend to disproportionately impact communities of color.^{lvii} The CCIA would therefore provide additional opportunities to funnel investments to the communities that the TCI-P equity provisions seek to serve.

CONCLUSION

Should New York choose to join TCI-P, state law provides a number of ways to ensure that the program is implemented equitably, above and beyond the safeguards incorporated into the TCI-P itself.



- The CLCPA and TCI-P could strengthen each other's equity provisions in these ways:
 - Using the **DAC criteria** to identify overburdened and underserved communities would ensure that those communities receive benefits under the CLCPA.
 - Coordinating the CLCPA **investment mandate** and TCI-P equity investments would result in greater accountability for CLCPA funds.
 - Supporting **community air monitoring** in overburdened and underserved communities throughout the state.
- Article 48 provides additional avenues for ensuring equity by:
 - Requiring that all New Yorkers—which would include members of overburdened and underserved communities—have a **meaningful opportunity to provide input** on environmental policy.
 - Allowing the EJAG to use its authority to ensure that TCI-P does not result in a regressive tax and achieves real **emissions reductions** in overburdened communities.
 - Positioning the EJAG to advocate for **complementary measures** that further advance environmental justice.
- If enacted, the CCIA would create additional pathways for directing and funneling investments into overburdened communities.

In sum, advocates have several opportunities to push the state to ensure that New York's environmental justice goals are realized.



ENDNOTES

ⁱ Environmental Protection Agency, Greenhouse Gas Emissions, <https://bit.ly/3b4jkar> (Visited May 4, 2021); New York Dep't Of Env. Conservation, Reducing Greenhouse Gas Emissions, <https://on.ny.gov/3nl3bsy> (Visited May 4, 2021).

ⁱⁱ TRANSPORTATION, EQUITY, CLIMATE AND HEALTH PROJECT (TRECH) TRECH Project Research Update At 1 (Oct. 6, 2020), Available At <https://bit.ly/3xbn39f>; Maria C. Pinto De Moura & David Reichmuth, Inequitable Exposure To Air Pollution From Vehicles In The Northeast And Mid-Atlantic, UNION OF CONCERNED SCIENTISTS (Jun. 21, 2019). See Also The Safer Affordable Fuel-Efficient (SAFE) Vehicles Rules, 85 Fed. Reg. 24174, 25259 (2020) (Discussing The Disproportionate Prevalence Of Low-Income Communities And Communities Of Color Near Mobile Sources Of Pollutants).

ⁱⁱⁱ Letter To The Honorable Andrew M. Cuomo, NY FOR TCI (Nov. 23, 2020).

^{iv} TCI-P Memorandum Of Understanding § 3(A) (Dec. 2020) [Hereinafter MOU] (Emphasis Added).

^v MOU § 3(B) (Emphasis Added).

^{vi} MOU § 3(D).

^{vii} MOU § 3(C).

^{viii} N.Y. ENVTL. CONSERV. § 75-0117.

^{ix} N.Y. Env'tl. Conserv. Law § 48-0101.

^x TCI, ESTIMATING THE REGIONAL ENVIRONMENTAL, HEALTH, AND ECONOMIC BENEFITS AND COSTS OF THE TRANSPORTATION AND CLIMATE INITIATIVE PROGRAM 1-2 (March 2021), Available At https://www.transportationandclimate.org/sites/default/files/TCI-P_Modeling-Summary_12-21-2020.Pdf.

^{xi} An Allowance Refers To The Authorization To Emit One Metric Ton Of Carbon Dioxide Pollution From Transportation Fuel. TCI, WEBINAR ON PUBLIC PARTICIPATION, EQUITY COMMITMENTS, AND THE DRAFT MODEL RULE 35 (March 1, 2021), <https://www.transportationandclimate.org/sites/default/files/TCI-P-Updates-Webinar-March-2021.Pdf> [Hereinafter Webinar].

^{xii} MOU Preamble, § 3(A).

^{xiii} Webinar At 36.

^{xiv} TCI Draft Model Rule (Mar. 1, 2021), Available At <https://bit.ly/3xsvqmr>; TCI Final Model Rule (June 10, 2021), Available At <https://bit.ly/3go2tb6> [Hereinafter Model Rule].

^{xv} See TCI, Transportation & Climate Initiative Jurisdictions Release Finished Model Rule And Seek Additional Public Feedback On Plan To Cut Transportation Pollution (June 10, 2021), <https://www.transportationandclimate.org/tci-p-updates-june-2021>. The Public Can Comment On The Drafts Through August 13.

^{xvi} TCI, *Supra* Note 10 At 1.

^{xvii} Model Rule At 60.

^{xviii} TCI, ESTIMATING THE REGIONAL ENVIRONMENTAL, HEALTH, AND ECONOMIC BENEFITS AND COSTS OF THE TRANSPORTATION AND CLIMATE INITIATIVE PROGRAM 5 (March 2021). The Program Is Designed To Ensure That The Costs Of Allowances Do Not Fall Too Low Or Rise Too High, And As A Result Gas Prices Are Not Expected To Increase Above \$0.09 Per Gallon In 2023, Which Falls Within The Range Of Historical Gas Price Variability. *Id.* However, Some Environmental Justice Groups Have Opposed TCI-P On The Ground That It Would Act As A Regressive Tax. See Major Environmental Group Urges NJ NOT To Join Weak Climate Pact, INSIDER NJ (Oct. 28, 2020).

^{xix} Model Rule At 115.

^{xx} See, E.G., Lara Cushing Et Al., Carbon Trading, Co-Pollutants, And Environmental Equity: Evidence From California's Cap-And-Trade Program, PLOS MED. (2018).

^{xxi} Under The CLCPA, "[D]isadvantaged 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. CONSERV. LAW § 75-0111(1)(C).

^{xxii} N.Y. ENVTL. CONSERV. LAW § 75-0111(1)(B); Power Point Of Climate Justice Working Group Meeting, July 27, Available At <https://On.Ny.Gov/3sdpzk8>.

^{xxiii} MOU § 3(A).

^{xxiv} MOU § 3(B)(1).

^{xxv} N.Y. ENVTL. CONSERV. § 75-0117.

^{xxvi} Id. Some Advocates Have Argued That The Mandate Should Be Interpreted To Apply To Programs Outside The Energy Sector, And The State Has Agreed To Consider This View. See Video Of Climate Justice Working Group Meeting, May 12, 2021, Available At <https://Bit.Ly/2revcvj>.

^{xxvii} See Hillary Aidun, Julia Li & Antonia Pereira, THE CLIMATE LEADERSHIP AND COMMUNITY PROTECTION ACT’S ENVIRONMENTAL JUSTICE PROMISE 3-4 (Apr. 2 2021), Available At <https://Bit.Ly/3nxyqjt>.

^{xxviii} See Letter To Governor Cuomo From The NY Renews Coalition, Recommendations On Compliance With The Disadvantaged Community Investment Mandate (Feb. 2020) At 3-4, Available At <https://Bit.Ly/3tigu3g> [Hereinafter “NY Renews Letter”].

^{xxix} Id. In Commenting On New York’s Effort To Incorporate The Investment Mandate Into Its Clean Energy Standard, NY Renews Also Highlighted The Need To Ensure That Dacs Reap The Benefits Of Job Creation. Final Comments Of NY Renews, Proceeding On Motion Of The Commission To Implement A Large-Scale Renewable Program And A Clean Energy Standard, Case No. 15-E-0302 At 2-3 (Aug. 31, 2020).

^{xxx} See Video Of Climate Justice Working Group Meeting, May 12, 2021, Available At <https://Bit.Ly/2revcvj>.

^{xxxi} Representatives From TCI-P Emphasized During A June 10, 2021 Webinar That Participating Jurisdictions May Exceed The 35% Floor. The Recording Is Available At <https://www.Transportationandclimate.Org/Tci-P-Updates-June-2021>.

^{xxxii} MOU § 3(B)(3), C.

^{xxxiii} TCI Draft Framework For Public Engagement (June 10, 2021) At 1, Available At <https://Bit.Ly/3grrqhg>.

^{xxxiv} RI ST§ 42-6.2-3.

^{xxxv} See Sen. 5126 § 4 (WA Reg. Sess. 2021).

^{xxxvi} S.B. 535, 2011-2012 Leg., Reg. Sess. (Cal. 2012).

^{xxxvii} See Video Of Climate Justice Working Group Meeting, March 12, 2021, Available At <https://Bit.Ly/3u6zeur>.

^{xxxviii} NY Renews Letter At 4.

^{xxxix} MOU § 3(B).

^{xl} Draft TCI-P Model Implementation Plan (June 10, 2021) At 4, Available At <https://Bit.Ly/2RGWM9u> [Hereinafter Draft Model Implementation Plan].

^{xli} See N.Y. Envntl. Conserv. Law §§ 75-0111(1)(B), 75-0103(14)(D).

^{xlii} Id. § 75-0115(2)(B) & (C).

^{xliii} Id. § 75-0115(3). A Proposed Bill Would Build On The CLCPA By Requiring DEC To Set Air Quality Standards For Seven Toxic Air Pollutants. See Sen. 4371B, Reg. Sess. (NY 2021).

^{xliv} Model Rule At 45.

^{xlv} MOU § 3(C).

^{xlvi} N.Y. Envntl. Conserv. Law § 48-0101.



^{xlvi} Id. § 48-0103.

^{xlvi} Id.

^{xlvi} Id. §§ 48-105, 48-0107.

ⁱ Id. § 48-0107.

ⁱⁱ Id. § 48-0101.

ⁱⁱⁱ Model Rule At 60, 65.

ⁱⁱⁱ The Draft Model Implementation Plan Clarifies That Each Jurisdiction Will Decide Whether To Permit The Use Of Offsets. See Draft Model Implementation Plan At 3.

^{iv} See Sen. 4264A, Reg. Sess. (N.Y. 2021).

^v Id. §§ 3, 9.

^{vi} Id. § 3.

^{vii} Id. § 7; See Also Environmental Protection Agency, Environmental Justice Primer For Ports: Impacts Of Port Operations And Goods Movement, <https://www.epa.gov/community-port-collaboration/environmental-justice-primer-ports-impacts-port-operations-and-goods#distribution> (Visited May 4, 2021).

