

Memorandum

Date: January 21, 2018

From: New Jersey Environmental Justice Alliance

Re: Mandatory Emissions Reductions Policy for Environmental Justice Communities

(Note: a slightly different version of this memorandum was sent to New Jersey State Government in September)

Environmental justice (EJ) communities, i.e. communities Of Color and low-income communities, frequently suffer from a disproportionate amount of pollution and the New Jersey Department of Environmental Protection's (NJDEP) nascent cumulative impacts screening tool provides evidence this is true in New Jersey.¹ The New Jersey Environmental Justice Alliance (NJEJA), the EJ community nationally and their allies advocate using climate change mitigation policy as one tool to address this recalcitrant problem. NJEJA and its allies want to implement a policy that requires polluting facilities subject to a climate change mitigation policy to reduce emissions if they are located in, or significantly impact, an EJ community.² This seems reasonable to NJEJA because achieving emissions reductions is at the heart of any climate change mitigation policy and it appears the state is determined to implement such a policy. Reducing greenhouse gas (GHG) emissions in EJ neighborhoods should also reduce locally harmful GHG co-pollutants and therefore decrease the amount of disproportionate pollution in these communities and improve the health of residents. Since New Jersey is dedicated to implementing a climate change mitigation policy it should not forego the opportunity to help EJ communities at the same time. This is an important opportunity for NJDEP to address key EJ concerns. Implementing a mandatory emissions reductions policy for EJ communities would make climate change mitigation policy immediately relevant to these communities and bring a segment of the state's population into the climate change discussion that thus far has largely been left out. It would almost certainly increase their support for climate change mitigation policy also.

From an EJ perspective, one of the primary problems with the climate change mitigation policy that New Jersey intends to implement, the Regional Greenhouse Gas Initiative (RGGI), is that it does not guarantee emissions reductions in EJ, or for that matter any particular, communities. NJEJA does not support New Jersey re-entering RGGI but requests that, if it is going to occur over the objections of the EJ community, the mandatory emissions reductions recommendation be incorporated into the RGGI program in New Jersey. This would at least make the New Jersey

¹ A report and power point on the screening tool can be accessed at http://www.state.nj.us/dep/ej/docs/ejc_screeningmethods20091222.pdf and http://www.state.nj.us/dep/ej/docs/ejc_screeningmethods_pp20091222.pdf, respectively.

² For a more detailed treatment of this recommendation *see* Sheats, N., Achieving Emissions Reductions For Environmental Justice Communities Through Climate Change Mitigation Policy, 41(2) William and Mary Environmental Law and Policy Review 377 (winter 2017).

RGGI program more EJ friendly. We believe the emissions reductions recommendation should be incorporated directly into the RGGI rule New Jersey will adopt and that this is a viable legal action. Not only is it legally viable, but it would also seem to be the best political path to implementing the emissions reductions recommendation since it would just be altering a rule that is already set for adoption as opposed to creating a new rule or legislation.

NJEJA hopes the upcoming meeting with New Jersey State Government will be the first of a series in which the details of implementing the emissions reductions recommendation are developed. We understand this will most likely involve legal, policy, technical and political discussions. However, the Governor has made it clear that EJ is an important focus of his administration and therefore incorporating this recommendation into RGGI, and taking the time required to do so, would seem to be an important part of following this publicly stated priority. Implementing this recommendation would also make New Jersey a leader in incorporating equity and EJ into climate change mitigation policy.

It should also be noted that there are other EJ policies that need to be integrated into New Jersey's climate change mitigation policy. For example, the State should take action to ensure that EJ communities have access to energy efficiency and renewable energy. And New Jersey must also make sure that EJ communities have the ability to meaningfully participate in the process that results in a climate change mitigation policy for the state including re-entering RGGI. This would entail going beyond the normal hearing and comment process that is held for most rule promulgation. At some point, there should be discussion on these issues as well as the mandatory emissions reductions recommendation.