

Summary and Response to Input by Topic

Presented by the current TCI-P Jurisdictions, in consultation with the other TCI collaborating states

June 10, 2021

Background on the Transportation and Climate Initiative Program (TCI-P)

The Transportation and Climate Initiative Program (TCI-P) is a first-of-its-kind multi-jurisdictional program to reduce carbon emissions from cars, trucks, and other on-road motor vehicles and increase investments in an equitable, less polluting, and more resilient transportation system. In December 2020, the governors of Connecticut, Massachusetts, Rhode Island, and the mayor of the District of Columbia (“TCI-P jurisdictions”) signed a [Memorandum of Understanding \(MOU\)](#) committing to work to implement TCI-P in their jurisdictions. Delaware, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Vermont, and Virginia (the “collaborating states”) have continued to collaborate through TCI, including working with the TCI-P Jurisdictions to help develop a model rule and other clean transportation and emission reduction program elements that could be implemented within each participating jurisdiction.

TCI-P will “cap” or limit carbon dioxide (CO₂) emissions from gasoline and on-road diesel fuel and require fuel suppliers to purchase “allowances” for the amount of carbon emissions produced by fuel covered under the cap. The cap will decline over time, guaranteeing emissions reductions. Each jurisdiction will invest the proceeds from allowance auctions into cleaner, more resilient transportation projects and programs to further reduce emissions and provide communities, workers, and businesses with equitable, clean, safe, and affordable low-carbon transportation choices. TCI-P also includes specific commitments and features designed to ensure that the program is implemented equitably, including that at least 35 percent of the program proceeds are invested for the benefit of communities that are overburdened by pollution and underserved by the current transportation system.

On March 1, 2021, TCI-P jurisdictions shared updates on the TCI-P development process, including a draft model rule and an Update on Public Engagement Planning. All interested people and organizations were invited to share input via the TCI public input portal, which has remained open for submissions throughout the TCI-P development process. The TCI-P jurisdictions indicated that input on the draft model rule would be most helpful if received by May 7, 2021. All input submitted through the public input portal is publicly available on the [TCI website at this link](#).

Responding to a Wide Range of Public Input

This document serves as an acknowledgement, summary, and response to input received through the TCI-P input portal since March 1, 2021. It was prepared on behalf of the four current TCI-P Jurisdictions in consultation with the TCI collaborating states.

Since March 1, more than 400 submissions were provided through the TCI-P portal, reflecting the views of over 100 different organizations. Much of this valuable input related directly to the content of the draft model rule, while other submissions focused on other aspects of TCI-P development and implementation.

Due to the far-reaching nature of the input received, this document describes a variety of different responses. In some cases, public input directly informed changes incorporated in the [Model Rule](#) being released with this summary document. In other cases, recommendations related to aspects of program implementation require different legal or procedural steps to appropriately address the specific needs and preferences of people and communities within each participating jurisdiction.

Therefore, in addition to a Model Rule, TCI-P jurisdictions are publishing additional draft materials that they developed in consultation with the collaborating states. These additional drafts are designed to propose clear models and frameworks for how the program will be implemented within each jurisdiction and how the public can meaningfully participate, influence decision-making, and understand how commitments will be fulfilled.

TCI-P materials published on June 10:

DRAFT Materials

Individuals and organizations are encouraged to provide input and feedback through the online TCI-P Public Input Portal by August 13 regarding the following draft materials.

- [Draft Framework for Public Engagement \(Guiding Principles\)](#) – This document includes proposed guiding principles for TCI-P jurisdictions to follow when conducting outreach and public engagement, with a particular focus on ensuring just and equitable outcomes, including emission reductions and access to low-carbon transportation for communities that are overburdened by pollution and underserved by the transportation system.
- [Draft TCI-P Model Implementation Plan for Low Carbon Transportation](#) – The draft model implementation plan, or draft MIP, provides a common framework for jurisdictions to follow in developing their own Implementation Plans. Each TCI-P jurisdiction will develop an Implementation Plan that describes the various steps and processes it will pursue – including regulations and other legal mechanisms – to achieve the goals of the program. Each jurisdiction’s Implementation Plan will include a timeline and address the topics outlined in the draft MIP, in a manner that reflects the specific laws, regulations, and other unique circumstances and priorities of that jurisdiction.
- [Draft Proposed Strategies for Regional Collaboration](#) – Recognizing that achieving long-term reductions in pollution from transportation will require a combination of policy approaches, the Draft Proposed Strategies for Regional Collaboration document summarizes a range of proposed policies and programs that current TCI-P Jurisdictions will be pursuing collaboratively. Implementing these proposed strategies would further reduce transportation emissions while

also advancing other TCI-P goals, including direct benefits for overburdened and underserved communities.

Materials revised after consideration of input received since March 1, 2021

- [Model Rule](#) – The Model Rule serves as a common framework that each participating jurisdiction will use to develop the regulations detailing program and compliance requirements for fuel suppliers within their respective jurisdictions. The Model Rule is designed to ensure that participating jurisdictions use consistent approaches to regulating and enforcing a declining cap on carbon dioxide emissions from transportation fuels covered under the multijurisdictional TCI Program. Public comment on individual rule-makings will be opened when jurisdiction-specific TCI-P rules are proposed.

Summaries of Public Input and TCI-P Jurisdiction Responses, by Topic

Topic: Equity

The connections between climate change, public health, equity, and justice are more urgent today than they have ever been. The [TCI-P MOU](#) released in December 2020 included several commitments, informed by extensive input and conversations with community members and other stakeholders, intended to advance equity for communities overburdened by air pollution and underserved by the transportation system. These commitments include:

- TCI-P Jurisdictions have committed to invest at least 35% of proceeds — projected to be nearly \$100 million in the first year of the program — to ensure that communities overburdened by pollution and underserved by the transportation system benefit equitably from clean transportation projects.
- Jurisdictions will each designate an equity advisory body with diverse representation to identify underserved and overburdened communities, provide guidance for investments, and define goals and metrics for measuring progress and effectiveness.
- Jurisdictions will ensure transparency by annually reviewing and reporting on program progress and will work with communities and the Equity Advisory Bodies to assess the distributional impacts of the program on an ongoing basis. This will include monitoring air quality in communities overburdened by air pollution to ensure the effectiveness of carbon reduction policies, strategies, and investments.
- Jurisdictions will also continue to work individually — and together — on the many policies needed to reduce pollution from transportation sources and advance shared goals of equity and environmental justice.

Public Input: Public Engagement

Public input included several recommendations regarding processes that TCI-P jurisdictions should put into place to ensure that the program is developed and implemented in ways that meaningfully involve direct participation and input from a broad cross section of stakeholders including grassroots/ community leaders, environmental justice organizations, transit justice organizations, and labor unions. Recommendations also included specific guidance and suggested practices to ensure that public meetings are held in venues and at times that prioritize accessibility, including for parents, working people and those with differing abilities or limited English proficiency. It was also recommended that TCI-P jurisdictions provide technical assistance to ensure that under-resourced community-based organizations can meaningfully contribute.

Response: TCI-P jurisdictions are committed to pursuing new and expanded processes for public engagement to ensure that equity, environmental, climate, and transportation justice considerations are at the center of TCI-P program development and implementation. The [December 2020 Memorandum of Understanding](#) indicated that one important mechanism for this will be for each participating jurisdiction to establish and support an Equity Advisory Body (see below). TCI-P jurisdictions also recognize the need to establish additional processes and opportunities for communities and other stakeholders to actively participate and meaningfully influence program development and implementation.

Actions Taken: TCI-P jurisdictions will work with individuals and organizations within our respective jurisdictions to develop jurisdiction-specific public engagement plans to guide TCI-P development and implementation through processes that are tailored to meet the specific needs and circumstances of our communities. TCI-P jurisdictions are also inviting [public input](#) on a [Draft Framework for Public Engagement](#), which outlines principles to guide TCI-P jurisdictions' engagement with stakeholders. This includes developing public engagement plans that proactively encourage community participation, making public engagement processes more accessible for everyone, and building capacity for, sustained, long-term community engagement that can exist beyond the TCI-P implementation process.

Public Input: Equity Advisory Body Membership and Representation

Public input included several recommendations regarding how participating jurisdictions should ensure that the membership of Equity Advisory Bodies (EAB) represent – and reflect the preferences of people in – overburdened and underserved communities. Some recommended that EAB membership include representation from specific “impacted” communities, including low-income communities, people of color, workers and organized labor, people with disabilities, and queer and/or trans people who feel unsafe riding public transit, for example. In addition, participating jurisdictions were encouraged to ensure that EAB membership includes representation from diverse geographic areas, including transportation users in rural communities.

Response: TCI-P jurisdictions agree that a majority of EAB members should be representatives of overburdened and underserved communities and recognize the importance of EAB membership reflecting the unique circumstances and diversity of communities, particularly the most vulnerable within our respective jurisdictions.

Actions taken: The [Draft Model Implementation Plan](#) includes a section for each participating jurisdiction to specify how EAB membership will be determined, to ensure that a majority represents overburdened and underserved communities. Furthermore, the [Draft Framework for Public Engagement](#) includes provisions and commitments for each participating jurisdiction to develop public engagement plans that will describe how equity and justice considerations will be centered and how input from overburdened and underserved communities will be incorporated into decision-making processes.

Public Input: Equity Advisory Body accessibility and transparency

Public input recommended that all proceedings of Equity Advisory Bodies (EAB) be open to the public and that meeting notes are posted to ensure transparency. Some recommended that Equity Advisory Body members be required to disclose financial interests that could affect decisions of the body. It was also recommended that any documents related to Equity Advisory Body decisions and recommendations regarding investments, and equity indicators and metrics, be posted online with opportunities for public comment.

Response: TCI-P jurisdictions agree that EAB meetings should be publicly accessible, and that proceedings and decision making should be transparent and open to public input. All TCI-P jurisdictions have existing laws related to public meetings, records and advisory bodies that also may be relevant to EAB meetings.

Actions Taken: The [Draft Model Implementation Plan](#) includes a section for each participating jurisdiction to specify how EAB meetings will be accessible and transparent to the public, consistent with existing laws. Additionally, the [Draft Framework for Public Engagement](#) includes guiding principles and commitments for each participating jurisdiction to develop public engagement plans that will describe how TCI-related meetings, processes, and information – not just those directly related to EABs – should be accessible, including through accommodations for language, disability and other needs.

Public Input: Equity Advisory Body roles, responsibilities, and capacity building

Public input included several recommendations regarding the roles and responsibilities of EABs as well as recommendations that jurisdictions provide support to enable active and substantive member participation. Some recommended expanded responsibilities for the EAB to help shape various details of TCI-P program implementation, including with regard to air quality monitoring, formulating scoring criteria for TCI-P investments, evaluating investment project proposals, and making recommendations for TCI-P improvements to ensure that overburdened and underserved communities receive direct and meaningful benefits. Another recommendation was for EAB members to be provided with compensation for their time spent participating in EAB-related meetings and activities.

Response: TCI-P jurisdictions agree that the EABs will be critical for helping to inform program implementation and performance evaluation. They also believe it is appropriate for each jurisdiction to work directly with its respective EAB to co-create any mission statements or other documents that define EAB's roles and responsibilities, including any that extend beyond those articulated in the [MOU](#) and the [Model Rule](#).

Actions Taken: While the specific roles and responsibilities for EABs are not necessarily limited to those listed in the [MOU](#) or the [Model Rule](#), the Equity subpart (XX-3) of the Model Rule was amended in response to public input to include two additional areas on which EABs to provide advice including:

- Make recommendations on program improvements to ensure jurisdictions are making significant progress with respect to equity metrics and that overburdened and underserved communities receive direct and meaningful benefits; and
- Make recommendations regarding the development and implementation of air quality monitoring to inform TCI-P.

Additionally, the [Draft Model Implementation Plan](#) includes a section for each participating jurisdiction to specify any additional roles and responsibilities for EABs as well as any support that may be provided for members, such as training, technical support, reimbursement or compensation.

Public Input: Equitable investment commitment, processes, and reporting

Public input included recommendations for TCI-P to increase the level of investment for the benefit of overburdened and underserved communities and for the Model Rule to explicitly mention that individual jurisdictions can and should implement a significantly higher minimum percentage of dedicated investments than the regional 35% floor. Some also recommended that TCI-P jurisdictions

clarify that the percentage of dedicated investments be at least as large as the share of the total state population qualifying as “overburdened and underserved.”

Response: TCI-P jurisdictions are committed to investing “no less than 35 percent of the proceeds from the auction of allowances to ensure that overburdened and underserved communities benefit equitably from clean transportation projects and programs.” The [MOU](#) and the [Model Rule](#) also include other commitments to work with EABs to develop criteria for defining overburdened and underserved communities, provide recommendations for equitable investments, develop metrics for evaluating how investments demonstrably provide direct and meaningful benefits, and make recommendations on program improvements. Finally, the [MOU](#) and the [Model Rule](#) indicate that each jurisdiction will work collaboratively within its respective jurisdiction to implement these minimum investment commitments.

Actions taken: To further clarify the intent of these commitments, the Equity subpart (XX-3) of the [Model Rule](#) was amended to include the following new language:

- Nothing in this rule should be interpreted as preventing a jurisdiction or agency from investing a percentage greater than the minimum percent of the proceeds for the benefit of overburdened and underserved communities.
- JURISDICTION and/or the REGULATORY AGENCY will work collaboratively with the Equity Advisory Body and other stakeholders within its jurisdiction to identify the investment opportunities that best meet the needs of underserved and overburdened communities.

Additionally, the [Draft Model Implementation Plan](#) includes a section for each participating jurisdiction to describe the specific legislative or other decision-making processes through which its TCI-P investment levels will be determined.

Public Input: Air quality monitoring

Public input included several recommendations for TCI-P to expand air quality monitoring and to advance new related policy commitments. This included recommendations that new air quality monitoring commitments be integrated into the Model Rule and that analysis of air pollution monitoring be integrated into TCI-P regional program reviews. Another recommendation called for each participating jurisdiction to convene a technical advisory committee to inform air quality monitoring. Others recommended that each participating jurisdiction establish air pollution reduction targets, particularly to track pollution levels in frontline communities.

Response: TCI-P jurisdictions agree that improving air quality for overburdened communities is a policy priority and one of the stated goals for TCI-P. The [MOU](#) and the [Model Rule](#) also include a commitment for each jurisdiction to work with communities and EABs “to assess the equity impacts of the program on an ongoing basis, including by monitoring air quality in communities overburdened by air pollution to ensure the effectiveness of policies and investments.” In some cases, jurisdictions have existing technical advisory bodies that are consulted on air quality programs including to inform ongoing air quality monitoring, and these individuals and groups will be consulted during TCI-P-related air quality monitoring efforts.

Actions taken: To further clarify the intent of these commitments, the Equity Subpart (XX-3) of the Model Rule was amended in the following ways:

- XX-3.3 was amended by adding the following sentence: “Results of air quality monitoring from participating jurisdictions will be considered during regional program reviews.”
- XX-3.3 was also amended to clarify that jurisdictions will work with relevant technical experts when assessing the equity impacts of the program through air quality monitoring.
- As noted earlier, XX-3.2 was amended by clarifying that EABs would be charged with making “recommendations regarding the development and implementation of air quality monitoring to inform TCI-P.”

Additionally, the [Draft Strategies for Regional Collaboration](#) document includes a section in which TCI-P jurisdictions propose to:

- *“...work collaboratively and with our respective Equity Advisory Bodies and communities on opportunities to integrate TCI-P implementation into existing air quality monitoring programs and address the need for community-scale monitoring.*
- *“work with communities and organizations in the region, particularly those communities overburdened by air pollution, to develop community-based air monitoring approaches. This will include sharing best practices, discussing new monitoring technologies and equipment, and reviewing data. Each jurisdiction will work with technical experts and communities to inform air quality monitoring.”*

Public Input: Workforce development and high-quality jobs

Public input included recommendations regarding how participating jurisdictions should ensure that TCI-P promotes local economic opportunity and creates high quality jobs. For example, several organizations recommended that investments made with TCI-P auction proceeds should prioritize projects that include domestic procurement and local contracting requirements, use project labor agreements, meet prevailing wage requirements, and prioritize employers that commit to union neutrality and use “Fair Chance” hiring policies. TCI-P jurisdictions were also encouraged to invest in workforce development, particularly for workers and communities displaced by the low-carbon transition.

Response: TCI-P jurisdictions are committed to promoting local economic opportunity and creating high quality jobs and agree that unionization is an important strategy for achieving more equitable economic outcomes for workers and communities. TCI-P will help to achieve this goal, including through investments in low-carbon transportation programs and infrastructure projects. Furthermore, new policies and programs will be needed to help protect disrupted workers and communities affected by the necessary shift to low-carbon transportation. TCI-P jurisdictions aim to help workers make the transition to a clean energy economy, including through efforts to identify new skills that are needed and by working with stakeholders and communities to create effective workforce development opportunities.

Actions Taken: The [Draft Model Implementation Plan](#), includes a section for each TCI-P jurisdiction to describe how it will work toward identifying new jobs and skills that will be required for TCI-P funded projects and developing programs to train workers for these jobs.

Additionally, the [Draft Strategies for Regional Collaboration](#) document outlines how TCI-P jurisdictions will work collaboratively toward workforce development. The document also states that TCI-P jurisdictions will, to the extent consistent with applicable laws, aim to prioritize TCI-P-funded projects that create economic opportunities for people of color and low-income communities, that also that requires prevailing wages for workers, include domestic content requirement. Jurisdiction will also, to the extent consistent with applicable laws, promote “Ban the Box” hiring practices to remove barriers to employment for qualified workers with previous arrest or conviction records.¹

Public Input: Additional Policies

Public input included recommendations for TCI-P jurisdictions to implement the program along with additional complementary policies and strategies that can collectively enable a low-carbon transition along with more equitable public health and economic outcomes for workers and communities. Some have expressed the concern that TCI-P jurisdictions may view “complementary policies” as ancillary or non-essential, relative to TCI-P, and recommended that participating jurisdictions work with stakeholders to implement a broader low-carbon transportation justice agenda.

Response: TCI-P jurisdictions intend for TCI-P to be an important catalyst and part of a broader suite of low-carbon transportation policies that are complementary to each other. Modeling conducted to inform TCI-P clearly shows that it will be necessary for TCI-P to be implemented in addition to other federal and state policies to enable participating jurisdictions to meet greenhouse gas emission reduction goals and further achieve the other stated policy objectives of the program.

Actions taken: The [Draft Model Implementation Plan](#) includes a section for each participating jurisdiction to describe the specific, additional complementary policies that it is intending to pursue to help achieve TCI-P goals.

Additionally, the [Draft Strategies for Regional Collaboration](#) document outlines policies that participating jurisdictions are proposing to collaboratively advance, including: 1) air quality monitoring in overburdened communities, 2) commitments to ensuring high-quality domestic jobs and workforce development, 3) investments in new or expanded public transit projects, 4) coordinated public engagement regarding implementation plans for zero emissions medium and heavy-duty vehicles, and 5) equitable multi-state electric vehicle corridor planning.

¹ “Ban the Box” is a campaign aimed at removing the check box from hiring applications that asks if applicants have a criminal record.

Topic: Managing Uncertainty

Future allowance prices depend on a range of uncertain factors that can be difficult to predict. The program design for TCI-P includes several mechanisms to help manage these uncertainties, to ensure that the program reduces emissions while keeping allowance prices within an acceptable range. These mechanisms include the **Emissions Containment Reserve (ECR)** and **Cost Containment Reserve (CCR)**, as well as recurring program reviews, during which program details can be revisited and adjusted, as needed.

The Emissions Containment Reserve (ECR) removes allowances for sale at auction if allowance prices are lower than expected, and this results in additional low-cost emissions reductions. The ECR removes allowances from auction when bids for allowances fall below a specific trigger price. The ECR presents an opportunity to achieve deeper reductions in circumstances when reductions are lower cost than expected.

As a consumer protection safeguard, TCI-P includes a cost containment reserve (CCR). The CCR adds allowances to the market if allowance prices are higher than expected, and this limits the potential impact on retail fuel prices. The CCR adds allowances to the market – up to 10 percent of the cap in any given year – when a specific trigger price is reached during the auction bidding process.

- Watch the [TCI webinar](#) of September 16, 2020 to learn more about how modeling was used to inform how TCI-P design features – including ECR and CCR – will help to manage a wide variety of future uncertainties.
- Watch the [TCI webinar](#) of March 26, 2021, to learn more about how allowance auctions are expected to interact with program design features to help ensure that allowance prices will remain within an acceptable range, based on experiences with similar existing and successful programs.

Emissions Containment Reserve (ECR) and minimum auction reserve price

Public Input: Public input included recommendations for TCI-P to increase the auction reserve price and the Emissions Containment Reserve (ECR) trigger price, to ensure the public health and safety benefits of TCI-P investments will be realized if CO₂ emissions from the transportation sector are lower than anticipated and if pollution reductions in future years are less expensive to achieve than the initial TCI-P modeling projected. These stakeholders cited preliminary modeling results that included allowance prices well above the level projected in the final modeling analysis that informed the final MOU.

Response: TCI-P jurisdictions agree on the importance of low-carbon transportation investments, particularly in communities overburdened by pollution and underserved by the transportation system, to reduce emissions, improve air quality and public health, and provide greater access to transportation. Prior to issuance of the draft model rule, the [Elements of Program Design](#) documentation that accompanied the December 2020 MOU specified that, during the first year of compliance in 2023, the ECR trigger price would be \$6.50 per metric ton CO₂ allowance, and then rise each year to account for inflation and a modest discount rate.

This ECR trigger price was informed by final modeling undertaken by the TCI jurisdictions in 2020, the results of which can be accessed on the [TCI website](#).

Action taken: The TCI-P jurisdictions have decided not to change the ECR trigger price or minimum auction reserve price at this time, because the jurisdictions have decided that the extensive and careful modeling analysis demonstrates that the selected prices are the best choice to balance a number of program objectives. The TCI-P jurisdictions will consider adjustments to the CCR and ECR trigger prices as part of recurring program reviews. The first program review will take place no later than 3 years after the start of the program.

Cost Containment Reserve (CCR)

Public Input: Public input included recommendations for TCI-P to increase the Cost Containment Reserve (CCR) trigger prices, with organizations remarking that restricting TCI-P allowance prices could result in fewer health benefit. Another recommendation was for any CCR allowances to be deducted from the cap in future years, recognizing the importance of emissions reductions in the early years of the program to avoid the worst impacts of climate change. Others raised concerns that the size of the cost containment reserve may not be adequate to control allowance prices.

Response: TCI-P jurisdictions are committed to reducing CO₂ emissions to mitigate the risks of climate change. Future TCI-P allowance prices depend on a range of uncertain factors that can be difficult to predict. The program design for TCI-P includes several mechanisms to help manage these uncertainties, to ensure that the program reduces emissions while keeping allowance prices within an acceptable range. These mechanisms include CCR and ECR, as well as recurring program reviews, during which program details can be revisited and adjusted, as needed.

Action taken: The TCI-P jurisdictions have decided not to change the CCR trigger price at this time, because extensive and careful modeling analysis demonstrates that the selected prices are the best choice to balance a number of program objectives. The TCI-P jurisdictions will consider adjustments to the CCR and ECR trigger prices – and the size of the allowance reserves – as part of recurring program reviews. The first program review will take place no later than 3 years after the start of the program.

Allowances and Auctions

Public Input: Public input included recommendations to include auction purchase limits, like those in RGGI, in the Model Rule.

Response: TCI-P jurisdictions agree that the TCI-P allowance market should be designed to ensure fair conduct on the part of market participants. [Model Rule](#) subdivision XX-11.5(e) states that the TCI-P jurisdictions may institute a purchasing limitation in each auction. The limitation will not be greater than 25% of the allowances available in an auction, and that such limitation will be included in the auction notice. This is the same approach taken in the Regional Greenhouse Gas Initiative (RGGI). Based on experience implementing the RGGI program, the jurisdictions intend to utilize bid limits in the regional auctions that will be conducted under the TCI-P.

Action taken: The TCI-P jurisdictions have decided not to change the existing provision in the [Model Rule](#) because the draft model rule already included auction purchase limits. The TCI-P jurisdictions will work with an independent market monitor to ensure that the auction purchase limits are effective in ensuring the competitiveness of the TCI-P auctions.

Public Input: Public input included recommendations for the Model Rule to include an allowance holding limit for secondary markets.

Response: The TCI-P jurisdictions are studying the topic of an allowance holding limit and may consider changes to the [Model Rule](#) at a later time based on the recommendation of an independent market monitor. The jurisdictions are confident that the regular schedule of allowance auctions with bid limits will be effective in maintaining the competitiveness of the secondary allowance market and have therefore concluded that holding limits are not necessary at this time.

Action Taken: The TCI-P jurisdictions have decided not to change the [Model Rule](#) to include allowance holding limits, but will continue to study the topic.

Public Input: Public input included recommendations for TCI-P to implement measures to ensure the competitiveness of the allowance market and prevent the manipulation of allowance prices through collusion and the use of market power.

Response: TCI-P jurisdictions agree on the importance of a well-functioning, competitive allowance market. As noted above, the regular schedule of allowance auctions will help maintain the competitiveness of the secondary allowance market. The [Model Rule](#) also provides for an independent market monitor to examine allowance data within the Transportation Registration, Emissions, and Allowance Tracking System (TREATS) in order to detect instances of collusion, market power, or price manipulation in the allowance market. If the market monitor detects anti-competitive behavior it can refer the matter for enforcement to the appropriate federal and state authorities. [Model Rule](#) section XX-11.9 describes the role of the market monitor in the allowance auction and the secondary market. Also, [Model Rule](#) section XX-11.10 bars deceptive practices. The [Model Rule](#) at section XX-11.10 also prohibits manipulative, misleading, and deceptive market practices.

Action Taken: The TCI-P jurisdictions have decided not to change the model rule to address this topic until after there is more data and input from the program market monitor when the program is up and running. The TCI-P jurisdictions will work with an independent market monitor to implement the existing Model Rule provisions in a manner that ensures that the allowance market is competitive and is not affected by collusion, market power, or price manipulation.

Offsets

Public Input: Public input included conflicting recommendations for TCI-P to expand the use of offsets and to narrow or eliminate the use of offsets in the program. Some organizations said that the use of offsets in TCI-P would hinder the reduction of transportation sector CO₂ emissions, while others recommended expanding the eligible use of offsets from 3.3% to 10% of a regulated entity's compliance requirement and allowing additional offset types to be considered. Organizations also recommended that if offsets are included in the model rule, individual participating jurisdictions not include offsets when implementing TCI-P.

Response: Each TCI-P jurisdiction has discretion regarding whether to allow regulated entities to meet compliance with offset allowances, whether to issue offsets for approved projects and, if so, what types of offset projects will be eligible. The [Model Rule](#) contains model regulatory text for offsets in subpart

XX-10. The offset provisions in the [TCI-P Model Rule](#) are similar to provisions of the RGGI and Western Climate Initiative programs. The number of CO₂ offset allowances that a fuel supplier is allowed to use for compliance is limited to 3.3 percent of that fuel supplier's CO₂ emissions for that compliance period. The Model Rule contains the following three categories of projects: (i) landfill methane capture and destruction; (ii) sequestration of carbon due to reforestation, improved forest management, or avoided conversion; and (iii) avoided methane emissions from agricultural manure management operations.

Action Taken: The TCI-P jurisdictions have decided not to increase the allowable use of offsets for compliance or expand the categories of permissible offsets in the [Model Rule](#). Comment will be taken in each individual jurisdictional rulemaking on whether to include offsets in each jurisdiction's regulations. Each jurisdiction will explain their approach to offsets in their implementation plans. The topic of offsets will be re-considered during the first program review.

Topic: Modeling and Level of Emissions Cap

Public Input: Public input included questions about the modeling used by the TCI-P jurisdictions to project emissions reductions expected as a result of the program, the level of the emissions cap, and its potential impact on fuel prices. Organizations also submitted questions about independent public health modeling that used TCI modeling results as a basis for analysis.

Response: TCI-P jurisdictions welcome questions and input on the emissions, transportation, public health, and economic analyses conducted to inform TCI-P program design. In 2019 and 2020, an extensive modeling effort was undertaken to help guide decision-making in the design of the TCI Program and Model Rule. Details of the inputs, outputs, methodologies, and summaries of the TCI modeling effort is publicly available, and can be accessed on the [TCI website](#).

The Transportation, Equity, Climate and Health (TRECH) Project is a multi-university research initiative conducting an independent analysis of TCI policy scenarios to address carbon pollution from the transportation sector. The project looks at changes in health outcomes from active mobility (e.g., biking and walking) and air quality improvements using published, peer-reviewed models commonly employed in regulatory analyses. The TRECH Project team has estimated health outcomes for five illustrative TCI policy scenarios representing a range of emissions reduction caps and investment strategies. More details on the TRECH project and their results can be found [on their website](#).

Action taken: The TCI-P jurisdictions have decided not to change the emissions cap or trajectory at this time, because these were informed by extensive and careful modeling and other analysis that was completed to set the emissions limits and trajectories so as to balance a number of competing program goals. The TCI-P jurisdictions will consider adjustments to the emissions cap as part of recurring program review. The first program review will take place no later than 3 years after the start of the program.

Topic: Investments

Public Input: Public input included recommendations for how TCI-P proceeds for investment should be spent, including a range of recommended investments to meet TCI-P program goals of reducing emissions, 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, creating high-quality jobs, and advancing equity for communities overburdened by pollution and underserved by the transportation system. Submissions included recommendations on what investments should be made as well as the processes TCI-P jurisdictions should use when deciding which investments to make. Appendix 2 of this document provides more detail on the recommended uses of TCI-P allowance auction proceeds.

Response: Each participating jurisdiction will independently decide how to invest program proceeds, working collaboratively within its jurisdiction and investing no less than 35 percent of the proceeds from the auction of allowances to ensure that overburdened and underserved communities benefit equitably from clean transportation projects and programs. This will allow each jurisdiction the flexibility to choose investments that most benefit their communities and unique needs. Some investments could include: expanded transit services; zero-emission buses, cars, and trucks; broadband services that allow for teleworking; and safer bike lanes and sidewalks. These potential investments will reduce greenhouse gas pollution, create jobs, spur economic activity, benefit communities, and reduce harmful air pollution.

Action Taken: Each TCI-P jurisdiction will develop an Implementation Plan that describes the various steps and processes it will pursue to put the necessary regulations and other legal mechanisms into place, and the other steps it will take to advance the goals of the program. Each implementation plan will outline how the jurisdiction will work with stakeholders to develop a public engagement plan, invest proceeds through transparent processes, and advance additional and complementary policies to help achieve the goals of TCI-P.

The [Model Rule](#) also includes the [TCI-P MOU](#) commitments to advance equity for communities overburdened by pollution and underserved by the transportation system, including the commitment that each jurisdiction will work to invest no less than 35 percent of auction proceeds to ensure that overburdened and underserved communities benefit equitably from clean transportation projects and programs.

Topic: Affected Fuels and Biofuels

Public Input: Some public input suggested expanding coverage and reporting of other fuels, such as expanding coverage to uses of distillate fuels outside of transportation, expanding coverage to natural gas for transportation and other sectors, expanding coverage to include biofuels, and expanding coverage to include aviation fuel.

Response: The TCI-P jurisdictions agree on the importance of reducing GHG emissions and recognize that the transportation sector accounts for over 40 percent of GHG emissions in the TCI-P jurisdictions. Gasoline and on-road diesel make up by far the largest portion of transportation related carbon dioxide emissions in the TCI region. [Model Rule](#) subdivision XX-8.3(c) has been clarified on the topic of “non-

fossil derived fuel,” and over the first compliance period the TCI-P jurisdictions will monitor the fuels market for change in the use of non-fossil derived fuel.

Action Taken: No change has been made to the program coverage at this time. TCI-P will cover the vast majority of transportation fuel emissions without the inclusion of fuels additional to gasoline and on-road diesel. Since addition of other fuels can be considered at the program review, the jurisdictions have decided not to expand the program at this time. The TCI-P jurisdictions commit to monitoring the use of other fuels in the transportation sector and will re-examine the issue during first program review.

Topic: CO₂ Emissions Reporting and Fuel Shipment Reporting

Public Input: Public input included recommendations for the Model Rule to change carbon dioxide emissions reporting requirements to a quarterly or annual basis instead of monthly, suggesting that additional time may be needed for quality control of emissions data and citing concerns regarding business confidential information.

Response: Emissions and fuel system reporting are necessary to help ensure that all emissions and fuels covered by TCI-P are accounted for. Therefore, “jurisdiction fuel suppliers” will be required to register with the Transportation Registration, Emissions, and Allowance Tracking System (TREATS) and report fuel shipments for delivery to filling stations in participating jurisdictions. Jurisdiction fuel suppliers are also required to report emissions for the transportation fuels they disbursed to – or delivered to – the jurisdiction.

Action Taken: Several edits to Subpart XX-8 of the [Model Rule](#) were made to revise the reporting schedule in response to requests for additional time to enable quality control of emissions data and to address confidentiality concerns. In the [Model Rule](#), the frequency of carbon dioxide emissions reporting has been changed to quarterly, as requested by submitters. The period for reporting emissions has also been extended from 30 to 60 days. The draft model rule proposed monthly fuel shipment reporting, and this was not changed so as to remain consistent with existing state and federal fuel shipment reporting requirements.

The TCI-P jurisdictions intend that fuel shipment data will be confidential to the extent allowable by law, and we anticipate that the extended emissions reporting schedule may help to alleviate confidentiality concerns about the release of emissions information.

Public Input: Organizations recommended that in cases where fuel shipments are diverted, TCI-P jurisdictions allow for corrected bills of lading to be substituted, thus allowing position holders to maintain the compliance obligation (as opposed to the distributor having the compliance obligation for a diverted fuel shipment).

Response: This input is consistent with the jurisdictions’ intent to place compliance obligations on position holders wherever feasible. This is appropriate because position holders tend to be larger companies that are best able to participate in the allowance market.

Action Taken: Subpart XX-8 of the [Model Rule](#) has been changed given the consistency of the submitters’ requests with the intent of the program, and the Model Rule now allows for the substitution of corrected bills of lading when both the position holder and distributor agree to the substitution.

Public Input: Avoid duplicative fuel company registrations.

Response: TCI-P jurisdictions agree that the multi-jurisdictional program can drive efficiencies and make compliance easier for entities that operate in more than one TCI-P jurisdiction. The TCI-P jurisdictions through the [Model Rule](#) intend that the fuel shipment reporting system will streamline registration and reporting to multiple jurisdictions for jurisdiction fuel suppliers as well as terminal operators and other reporting entities.

Action Taken: No change has been made to the program at this time. The TCI-P jurisdictions are setting up a software system for fuel suppliers and terminal operators to use for reporting and compliance – the Transportation Registration, Emissions, and Allowance Tracking System (TREATS). TCI-P jurisdictions welcome ongoing input to inform this effort and reduce duplicative fuel company registrations.

Topic: Regulatory Definitions in the Model Rule

Public Input: Organizations requested that TCI-P jurisdictions clarify who the regulated party would be in the case of a two-party exchange at the terminal rack.

Response: Federal regulations already require terminal operators to report the position holder for each disbursement. References to the records of the terminal operator in the Model Rule are included to clarify that the same position holder that is referenced in these records is the position holder that is the jurisdiction fuel supplier under TCI-P. In the case of exchange agreements, this means that the position holder for the disbursement is the receiving party. The definition of “terminal” and “rack” in the [Model Rule](#) are aligned with existing regulations with which the fuel industry is familiar.

Action Taken: No change in the wording of the [Model Rule](#) has been made in regard to two-party exchanges because the [Model Rule](#) already reflects the recommended approach.

Public Input: Organizations requested clarification in the draft model rule on the definition of on-road diesel fuel.

Response: The treatment of on-road diesel fuel and accounting for its non-fossil derived content is addressed in [Model Rule](#) subpart XX-8: CO₂ Emissions Reporting.

Action Taken: No change has been made to the definition of on-road diesel fuel at this time because the model rule already includes clarifying language regarding treatment of on-road diesel fuel.

Public Input: Organizations recommended that TCI-P jurisdictions include “compliance deduction” in the list of defined terms in Model Rule section XX-1.2.

Response: At the end of each compliance period, the TCI-P jurisdictions deduct allowances equivalent to each jurisdiction fuel supplier’s emissions during that compliance period from each jurisdiction fuel supplier’s compliance account.

Action taken: A definition for “compliance deduction” has been added to [Model Rule](#) section XX-1.2 for clarity.

Topic: Other Topics

Public Input: Submitters mentioned the risk of residents and businesses in TCI-P jurisdictions choosing to refuel their vehicles outside the jurisdictions due to the TCI program, thus resulting in emissions “leakage.”

Response: The TCI-P jurisdictions are aware of the potential issue. The TCI-P jurisdictions and the TCI-P administrative organization will use data from the fuel shipment reporting system to monitor for any signs of emissions “leakage,” and the potential issue will be a topic included in the first program review. As more jurisdictions join the TCI program, there is expected to be less of a risk of emissions “leakage.”

Public Input: Submitters to the TCI input portal requested additional explanation of the possibility of linking TCI-P to other jurisdictions or multi-jurisdictional cap-and-invest programs.

Response: TCI-P jurisdictions recognize that climate change poses a clear and increasing threat to the health, safety, and welfare of our communities, and that bold action to reduce emissions is necessary. As the four TCI-P jurisdictions prepare to launch the program, eight additional TCI jurisdictions [continue to collaborate](#) through TCI on clean transportation and emission reduction program elements that could be implemented within each jurisdiction. The TCI jurisdictions also continue to collaborate on other state and regional strategies, including additional equitable emission reduction policies to advance our shared climate and transportation goals. The TCI-P jurisdictions have also considered whether and how to link (or make the allowance market “linking-ready”) with other programs.

Public Input: Organizations have requested additional clarification of the consequences for a jurisdiction fuel supplier if the jurisdiction fuel supplier fails to procure sufficient allowances to cover their emissions by the end of a compliance period.

Response: TCI-P provides considerable flexibility for regulated entities while also ensuring overall program integrity and effectiveness. Regulated entities will be able to obtain allowances at quarterly allowance auctions as well as from other entities on the secondary market. Each compliance period will be three years, meaning regulated entities have at least three years to obtain allowances to meet their compliance obligations. Compliance levels in these types of flexible cap-and-invest programs has historically been quite high. Should any regulated entity fail to surrender enough allowances to “cover” that entity’s emissions for the previous 3-year compliance period, the entity must surrender three allowances for every allowance that is not submitted on time, as described in [Model Rule](#) subdivision XX-6.5(d). In addition to this 3-to-1 penalty, each TCI-P jurisdiction has discretion to impose fines, other penalties, or other remedies pursuant to that jurisdiction’s current law.

Appendix 1: List of Organizations that Provided Input

(Includes organizations that individually submitted input as well as those that co-signed joint letters)

350 Rutland County

Acadia Center (84 signatories)

Acadia Center

Alliance for Business Leadership

Alliance for Clean Energy New York

Appalachian Mountain Club

Bedford 2030

CALSTART

Central Maryland Transportation Alliance

Ceres

Chesapeake Climate Action Network

Citizens Campaign for the Environment

Citizens for Regional Transit

Citizens' Climate Lobby, Lower Delaware

Citizens' Climate Lobby, New York

Clean Air Council

Climate & Clean Energy Working Group,

Virginia Grassroots Coalition

The Climate Group

Climate Law & Policy Project

Climate XChange

Coalition for Smarter Growth

Connecticut League of Conservation Voters

ConnPIRG

Delaware Electric Vehicle Association

Drive Electric Long Island Coalition

E2 (Environmental Entrepreneurs)

East Coast Greenway Alliance

Elders Climate Action of DC-Maryland-Virginia
Elected Officials to Protect America
Environment America
Environment Connecticut
Environment Maine
Environment Maryland
Environment Massachusetts
Environment New Hampshire
Environment New Jersey
Environment New York
Environment Rhode Island
Environment Virginia
Environmental Defense Fund
Environmental League of Massachusetts
Faith Alliance for Climate Solutions
Generation180
Green Energy Consumers Alliance
League of Women Voters of Delaware
League of Women Voters of Massachusetts
Lewinsville Faith in Action
Maine Conservation Voters
Maryland League of Conservation Voters
Maryland Legislative Coalition
Maryland PIRG
MassBike
MassPIRG
Natural Resources Council of Maine
Natural Resources Defense Council
New Jersey League of Conservation Voters
New Jersey Sustainable Business Council

New York Communities for Change
New York League of Conservation Voters
New Yorkers for Clean Power
NHPIRG
NJPIRG
PennEnvironment
PennPIRG
Philadelphia Solar Energy Association
Plug in America
Rails-to-Trails Conservancy
Renewable Energy Long Island
RIPIRG
RUPCO
Save the Sound
Southern Alliance for Clean Energy
Southern Environmental Law Center
Sustainable Hudson Valley
Transit Choices
Transport Hartford Academy at the Center for Latino Progress
Transportation for Massachusetts
Tri-State Transportation Campaign
U.S. PIRG
Union of Concerned Scientists
VEIC
Vermont Businesses for Social
Responsibility
Vermont Natural Resources Council
Vermont PIRG
Virginia Conservation Network
YSG Solar

ACT Commodities

Advanced Biofuels US

Alliance for Automotive Innovation

Alliance for Clean Energy New York

Alternatives for Community & Environment (ACE) on behalf of Climate Justice Alliance (7 signatories)

Alternatives for Community & Environment (ACE)

Connecticut Coalition for Environmental Justice

GreenRoots

Institute for Policy Studies

Ironbound Community Corporation

New York City Environmental Justice Alliance

UPROSE

American Petroleum Institute

Benchmark Renewable Energy

BlueGreen Alliance on behalf of themselves and the New Jersey Work Environment Council

Brownstein Hyatt Farber Schreck, LLP on behalf of Nacero Inc.

Caesar Rodney Institute

Central Maryland Transportation Alliance (on behalf of 14 signatories)

ArchPlan Inc.

Brandywine TB Southern Region Neighborhood Coalition

Central Maryland Transportation Alliance

Coalition for Smarter Growth

Downtown Residents Advocacy Network (Baltimore)

Elders Climate Action DMV

Environmental Justice Ministry Cedar Lane Unitarian Universalist Church

Howard County Climate Action

Labor Network for Sustainability

Maryland Legislative Coalition

Maryland Sierra Club

NARAL Pro-Choice Maryland

Transit Choices
Voices Maryland
Chesapeake Climate Action Network
Clean Energy (CA)
Climate Economy Action Center of Addison County
Coalition for Renewable Natural Gas
Connecticut Green Bank
Conservation Law Foundation
Dream Corps Green For All (11 signatories)
 Radical Advocates for Cross Cultural Education
 Transit Forward Philadelphia
 BlueGreen Alliance
 Dream Corps Green For All
 Pittsburghers for Public Transit
 Clean Air Council
 NAACP New York State Conference
 Virginia State Conference NAACP
 Transport Hartford at the Center for Latino Progress
 Chispa Maryland
 Make the Road Connecticut
Drive Electric RVA
Energy Marketers of America
Environmental Defense Fund
Exelon Corporation
Faith Alliance for Climate Solutions
Flynn's Truck Plaza (MA)
Generation180
GRID Alternatives
Independent Fuel Terminal Operators Association
International Emissions Trading Association

Lewinsville Faith in Action
Mid-Atlantic Petroleum Distributors Association (MAPDA)
National Association of Convenience Stores (NACS)
National Association of Truck Stop Operators (NATSO)
Natural Gas Vehicles for America (NGVAmerica)
NC Conservation Network
New England Convenience Store & Energy Marketers Association
Partnership for Smarter Growth
Petroleum Tax Tools
RAIL Solution
Shell Oil Products US
Shenandoah Valley Bicycle Coalition
Sierra Club
Society of Independent Gasoline Marketers of America (SIGMA)
Southern Environmental Law Center
The Nature Conservancy
Trucking Association of Massachusetts
Unitarian Universalist Congregation of Fairfax (VA)
Virginia Interfaith Power & Light
Virginia League of Conservation Voters
Virginia Manufacturers Association
Virginia Petroleum & Convenience Marketers Association
WMDA/CAR Service Station and Automotive Repair Association
...and at least 344 individuals

Appendix 2: More Detail on the Recommended Uses of TCI-P Allowance Auction Proceeds

Public input included several recommendations for TCI-P jurisdictions to use allowance auction proceeds to provide funding for a range of new low-carbon transportation investments. For example, participating jurisdictions were encouraged to invest in:

- Grant programs to help enable regulated entities to reduce emissions;
- Incentives for zero-emission vehicles, low-emission vehicles, and more efficient vehicles;
- Vehicle electrification, including for medium- and heavy-duty vehicles and freight, publicly available charging infrastructure, and the development of environmental justice-based incentive and infrastructure programs;
- Public transit agency capital projects and debt service related to capital projects;
- Public transit agency operations, including maintenance;
- Transportation agency programs that provide transit vouchers to low-income individuals;
- Projects that improve accessibility including road infrastructure, transit shelters and stops and capital costs accessible vehicles such as taxis and companies that prioritize vehicle use for persons with disabilities;
- Transportation programs funded by local governments that provide transit services to low-income individuals, employed individuals and persons with disabilities;
- Improvement in safe, accessible, and connected pedestrian and bicycle infrastructure;
- Special grants and funds for local governments to provide low-income residents with housing with accessibility to public transit;
- Air quality monitoring to be used in evaluation of investments;
- Funding for studies to analyze strategies and investments in overburdened and underserved communities; and
- Expanding access to rural broadband service.