

COMMENTS
OF THE
INDEPENDENT FUEL TERMINAL OPERATORS ASSOCIATION
ON THE PROPOSED
TRANSPORTATION AND CLIMATE INITIATIVE (“TCI”)

MAY 7, 2021

The Independent Fuel Terminal Operators Association (“IFTOA”) hereby submits these general comments on the Transportation and Climate Initiative (“TCI”), with a focus on the proposed Model Rule and the auction system in particular. IFTOA is an association of terminal operators, petroleum marketers, refiners, importers, and pipeline operators -- all of which would be directly affected by the TCI program.

As currently drafted, TCI would be an inefficient, complex, and bureaucratic system. It would result in only very modest reductions in greenhouse gas emissions. Nevertheless, the significant cost of the program would be borne by consumers and businesses in the TCI participating jurisdictions in the form of increased prices at the pump. The petroleum industry operates on very narrow margins. Therefore, the industry would be forced to pass the high cost of TCI through to customers. TCI would make the industries, businesses, and the economy in general located in participating jurisdictions far less competitive.

Finally, because not all of the jurisdictions in the Northeast and Mid-Atlantic region intend to join TCI, the program would pose a serious risk of costly disruptions in the petroleum distribution system for many years to come – again adversely affecting consumers and local businesses.

I. Adverse Consequences of TCI

A. Significant Price Increases for Gasoline and Diesel Fuel

During the TCI webinar and from other public hearings, regulatory officials repeatedly stated that in 2023, the increased cost of transportation fuel due to TCI is estimated to be only about 5 cents per gallon. There has been little or no discussion about the possible maximum price increase estimated in the Model Rule to be in excess of 10 cents per gallon for the same year. Moreover, there has been an unfounded reliance in public TCI discussions on the cost containment reserve (“CCR”) as a means to mitigate such increases. As discussed in more detail below, there may be auctions in a given year when all of the CCR allowances have been already sold, and thus the CCR could not act as a “safety valve” against price increases.

In addition, there has been no real discussion in these public venues about increases in subsequent years. There appears to be an implication that throughout the program, the cost will remain around 5 cents per gallon. However, the Model Rule illustrates that the intent of the program is for prices to continue to increase year after year -- in year 5 of the TCI program prices are likely to range from 7 to 8 cents per gallon up to 16 to 17 cents per gallon, and in year 10, the price range is expected to be from 10 or 11 cents per gallon up to 26 or 27 cents per gallon.

These ranges raise serious concerns. If implemented, TCI would raise the cost of transportation fuel somewhere between 10 and 20 cents per gallon under a range of scenarios. The region consumes about 700 million barrels of these products each year

– resulting in a cost of between \$2.8 and \$5.6 billion annually. Such costs would contract the regional economy.

B. Price Variability

TCI suggests that the projected price increases for gasoline and on-road diesel should not be a concern because “these increases are well within the range of historical variability.” This assumption is incorrect. Petroleum prices certainly fluctuate for reasons such as a disruption or demand surge, but those increases are temporary. In contrast, increased prices due to TCI are permanent and would be a continuing burden on consumers. Moreover, the costs of the TCI would be in addition to these traditional price fluctuations that would continue to occur at times in the market.

C. Unintended Consequences

Marketers are also concerned about unintended consequences that could cause substantial financial and operational problems that will ultimately impact consumers. Many marketers that would be subject to TCI are “obligated parties” under the federal Environmental Protection Agency (“EPA”) Renewable Fuel Standard (“RFS”) program. When that program was established, it was anticipated that the price for credits (Renewable Identification Numbers or “RINs”) would be only a few cents per credit. Unfortunately, due to changes in government policy and other external factors, prices have gone up and down reaching over \$1.00 in 2021. These prices have caused financial problems for many obligated parties, making it difficult for them to continue to serve certain markets and resulting in artificial shortages and price swings.

TCI believes that it would be able to prevent dislocations or shortages by releasing additional allowances from the “cost containment reserve.” However, there is no guarantee that cost containment reserve allowances would be sufficient -- assuming such allowances are even available -- to reduce the price and calm the market. Further, the TCI program could also result in product dislocations if marketers located outside of the TCI region divert supply away from TCI participating jurisdictions. Such suppliers could elect to serve other regions of the country rather than potentially incurring a TCI allowance obligation.

D. Problems with Increased Blending with Biofuels

At a recent public hearing on TCI, it was said that the TCI program would encourage innovation in the fuel sector -- providing an incentive to add more low carbon components to the fuel. Accordingly, they believe consumers will not be impacted by TCI. These statements are incorrect and based on a misunderstanding of petroleum and biofuel blending operations and cost.

Petroleum marketers are not able to increase significantly the amount of biofuel they add to motor gasoline or on-road diesel fuel without incurring millions of dollars of expenses to accommodate the high cost of infrastructure needed to distribute higher petroleum/biofuel blends. There are also numerous operational hurdles and lack of

consumer preference for these fuels – primarily because, in general, higher blended fuels result in less fuel efficiency. Many older cars on the road cannot use E15 (85% gasoline/15% ethanol); only about 8% of the cars in operation today are flex fuel vehicles that can tolerate a higher blend (e.g. 15% gasoline and up to 85% ethanol); and the addition of substantial volumes of biodiesel fuel to on-road diesel can create cold-weather operational problems due to gelling. There are no reasonably-priced alternative means for petroleum marketers (middle-men) to decrease substantially the carbon content of transportation fuels.

E. Disproportionate Adverse Effect

TCI anticipates that due to increased petroleum prices, consumers and businesses will change their habits and drive less or purchase electric vehicles. However, this approach will have a disproportionate and discriminatory effect on individuals in rural areas with no access to public transportation and low-income consumers in all areas of the region.

F. Modest GHG Emission Reductions

TCI assumes that greenhouse gas emissions from the transportation sector will decrease as a result of existing factors such as improved vehicle efficiency, more stringent CAFE standards, and growth in the electric vehicle market. These factors will lead to a decrease of about 19 to 20 percent below the TCI's estimated emissions baseline. As a result, at best, these estimates show that TCI would only reduce greenhouse gas emissions by a few more percentage points (possibly 1 to 6 percent) below the already-anticipated reductions. Therefore, TCI would impose enormous costs on consumers and businesses in the region but would yield only minor emission reductions. If participating jurisdictions want to proceed with the TCI program, the regulatory system should be restructured to reduce unnecessary complexity and cost. (See discussion below on the Auction System).

G. Loss of Competitiveness for Participating Jurisdictions

Because the Northeast and Mid-Atlantic region is made up of many states, the TCI program is likely to consist of a patchwork of jurisdictions participating in the program. It is likely that the market would direct product to terminals in those jurisdictions not participating in the TCI program. Presumably the price of gasoline and on-road diesel fuel will be substantially less in those locations.

Sales at service stations along the border of jurisdictions participating in TCI and those jurisdictions not participating would be significantly impacted. Consumers and businesses would likely cross jurisdictional lines and purchase product in non-participating jurisdictions to avoid increased product costs due to TCI. Loss of sales in participating jurisdictions resulting from such "leakage" would exert additional upward pressure on prices in those states. Moreover, every business in participating

jurisdictions that relies on transportation fuels to get their products to market would become less competitive.

H. Economic Recovery

TCI states that the program will not begin until 2023. Implicit in this statement is the idea that by that time the economy will have recovered from COVID-19 and its attendant recession. Unemployment will be reduced, and consumers and businesses will be able to afford an increase in the price of gasoline and on-road diesel fuel. This assumption is incorrect.

Government data demonstrate that the burden of fuel taxes and green energy initiatives in general, falls on the lower income brackets. The Energy Information Administration concluded that households making at least \$95,000 per year spend no more than about 4% of their income on gasoline. However, those making under \$18,000 per year pay at least a 6.67% share of their income on gasoline. Therefore, any increase in the cost of fuel will increase the margin of income that the poor spend on gasoline. Raising the price of transportation fuels is essentially a tax on poor families that need to pay for other necessities such as housing, food, and education. The Congressional Research Service explains how changes in the price of gasoline will not change the volume of fuel these consumers purchase because they see gasoline as a necessity. It is something they use every day, and it is vital to them as they commute to work, take children to and from school, or generally engage in local travel. They cannot easily change the amount of gasoline they purchase. The cost of an electric vehicle is too high for them to afford even with some subsidy.

Finally, there are no low-cost and quickly adopted transitions as a substitute for the existing fleet of gasoline and diesel operated vehicles. Therefore, beginning in 2023, low income families would simply be forced to bear the expense of higher priced gasoline and suffer the consequences.

II. Model Rule – Need for Restructuring

The Model Rule should be modified as discussed below to make the program less complex and costly and to prevent unintended disruptions to transportation fuel distribution, causing problems for consumers and businesses within the Northeast and Mid-Atlantic.

A. Auction System

As proposed, TCI auction system is overly complex and inefficient. It could substantially disrupt the normal distribution of refined petroleum products, run the risk of losing supply for the region, and could result in possible product dislocations or shortages. Petroleum marketers believe that the goal of reducing greenhouse gas emissions can be accomplished in a simpler and more efficient manner. TCI could

preserve the requirement that obligated parties obtain allowances to cover the sales of their transportation fuels. However, instead of setting the price for those allowances by auction, the TCI participating jurisdictions could establish an annual price based on TCI modelling of the price needed to achieve the desired greenhouse gas emission reductions. This approach would result in a far more workable program. There is no benefit derived from using an auction system rather than a set price for allowances.

1. Overly Complex System

As currently proposed, the TCI participating jurisdictions would sell allowances, authorizing the sale of gasoline and on-road diesel fuel, through a quarterly auction system modeled after the one used by the Regional Greenhouse Gas Initiative or “RGGI” – a cooperative effort to reduce greenhouse gas emissions from the power sector. This system is very complicated. It would include a “cost containment reserve” (used when the price for allowances is too high), an “emission containment reserve” (used when the price for allowances is too low), and a private secondary market. Indeed, use of such a complex and costly system would essentially convert the petroleum business into a trading market for allowances not a distribution system for petroleum products.

The cost of additional compliance with the proposed TCI auction system would be several times the average margin received by a marketer on the sale of the gasoline or diesel fuel. Therefore, marketers would have no choice but to pass the TCI compliance costs on to consumers in the form of higher prices and explain to the public the reason for the increase.

2. Need for Price Certainty

a. Short-Term Operations

Petroleum marketers have to manage a large array of financial and logistical risks. Over the years, this segment of the petroleum industry has developed techniques to manage these risks to both minimize financial losses and to ensure that customers are provided fuel in a timely manner at a cost consistent with efficient operations.

Marketers are aware that they must manage risks from changes in the price of petroleum feedstock (crude oil), potential local supply disruption, weather interruptions, and a range of logistical concerns. These risks can be managed through redundancy in storage, alternative distribution networks, and financial instruments. When allowances are allocated through the TCI auction, it is not currently known whether the market will trigger the volume of allowances to be adjusted (upward or downward). Further, there is no certainty that there would be a sufficient quantity of allowances to allow for the efficient operation of a secondary market. As a result, no financial instruments are available to hedge against the risks associated with the TCI auction framework, leading to possible dislocations and a substantially higher cost of operations. In contrast, an annual set price for allowances would provide certainty on operating costs and would

eliminate the need for additional administrative efforts or financial instruments to address the acquisition price risk.

b. Longer-Term Sales

A critical issue in the petroleum business is knowing with certainty the cost of the commodity the marketer is purchasing. As stated, the petroleum business operates on very narrow margins. Marketers cannot set prices without knowing the cost of petroleum products, including the cost of an allowance associated with the product.

It is typical for petroleum marketers to sell their products not only to wholesale distributors at the terminal distribution platform or “rack” and to retailers, but under longer term contracts to the federal, state or local governments in their area or to wholesale purchaser-consumers (those who buy gasoline and diesel fuel in large volumes over a set period for a year or more).

When a marketer sells to these types of customers, it would have to include environmental compliance costs within its formula to establish the bid price. Under an auction system, marketers would not have sufficient cost information in a timely manner to know how to set the price for these customers. Therefore, they would need to include a substantial cushion in their bids to ensure the viability of the contract, imposing financial burdens on their customers.

It has been suggested that petroleum marketers should include a provision in their contracts with municipalities and other purchasers buying under long-term agreements that would periodically amend the price of fuel depending on the price of allowances set at auction. This proposal would pass the risk of price uncertainty onto the municipality purchasing the fuel and could create problems for their budgets and ability to meet their financial obligations to citizens and businesses in their jurisdiction.

c. Price Swings

The opaque nature of a quarterly auction system would make environmental compliance costs unclear at time of sale. The TCI jurisdictions should not require companies to speculate on what those costs would be in the future when applying those costs to current product sales. The lack of cost certainty could lead to unpredictable price fluctuations that would have adverse consequences for consumers and the region’s economy.

3. RECOMMENDATION: Alternate Method Governing Sales of Allowances

The goal of the auction is to raise petroleum prices so that consumers and businesses in the region would alter their behavior. They would drive less, purchase electric vehicles, or increase their use of public transportation, thereby reducing greenhouse gas emissions. While an auction system can raise prices, it is not necessary to accomplish this objective. Raising prices of gasoline and diesel fuel can

be achieved in a far less complicated manner – one that would allow petroleum marketers/distributors to continue to operate their businesses with cost certainty and without dislocations or major supply difficulties.

To minimize complexity and avoid cost uncertainty, the TCI participating jurisdictions should revise the TCI program in the following manner:

- a. Preserve the requirement that regulated parties must obtain allowances to cover sales of their transportation fuels;
- b. Establish an annual price for allowances based on the TCI modelling of the price needed to achieve the desired greenhouse gas emission reductions;
- c. Allow regulated parties to purchase allowances based on market demand; and
- d. Eliminate the use of an auction and its attendant reserves.

Under a program with these elements, a petroleum marketer would be able to purchase allowances at any time from the TCI Administrative Organization when market demand requires it. The price would be known in advance, and marketers could more accurately set the price for their products for all types of customers – those purchasing under short-term, spot, and long-term agreements.

This mechanism would allow the participating jurisdictions to set an allowance price that they believe would encourage consumers and businesses to change their behavior and drive less, thereby using less transportation fuel and emitting fewer greenhouse gas emissions.

The primary goal of the TCI program would be met, and the mechanism would be far more workable than an auction system, less complex and complicated, and would promote greater compliance.

B. Enforcement and Point of Allowance Obligation

TCI would impose an allowance obligation on position holders at terminals located outside the TCI jurisdictions. However, those obligations would be unenforceable and would further disrupt the region's petroleum distribution system, and undermine the TCI program.

For example, a position holder at a terminal in New Hampshire (a non-participating TCI jurisdiction) disburses motor gasoline to a distributor at its rack. The position holder has no financial interest in or relationship with the distributor other than as a seller/buyer. The sale by the position holder of motor gasoline is a final sale in the state of New Hampshire.

The distributor purchasing the product indicates to the position holder that the motor gasoline will be sold to a filling station in Massachusetts (a TCI jurisdiction), and this final destination is listed on the bill of lading.

The position holder does not acquire allowances to meet the TCI allowance obligation because the position holder did not make a sale into Massachusetts. His final sale was in New Hampshire. Massachusetts cannot enforce the TCI allowance obligation against a New Hampshire sale, and this lack of enforcement would likely result in greater sales being made in New Hampshire and other non-participating jurisdictions and fewer sales made in TCI jurisdictions.

RECOMMENDATION: The TCI program should be modified to change the point of allowance obligation in the circumstances described above. If a distributor purchases transportation fuel from a position holder at a terminal in a non-participating TCI jurisdiction, the distributor making the sale into a TCI participating jurisdiction should be obligated to acquire allowances to cover the emissions from that sale.

C. Two-Party Exchanges

In many instances, a marketer may wish to sell its product in an area in which it does not have a terminal facility. In those cases, the marketer would contract with a terminal in the desired location, and both parties would agree to exchange product. For example, a Connecticut-based marketer would like to sell product in Massachusetts but does not have a terminal in Massachusetts. Under a two-party exchange agreement, the Connecticut-based marketer would have its Massachusetts customers pick-up product from the Massachusetts terminal.

Under the general concept of the federal excise tax on gasoline or on-road diesel fuel, the Massachusetts terminal operator that owns the product at the terminal is the “position holder” and would be liable for the federal excise tax. However, pursuant to 26 USC Section 4105, a special rule for “two-party exchanges” is provided. Under that rule, the “delivering person” (the Massachusetts terminal) is not liable for the excise tax. Rather, under a two-party exchange, the party “receiving the product” (the Connecticut-based exchange partner) is considered the “position holder” and is liable for the tax when the product is removed from the Massachusetts terminal rack (the terminal loading platform). In turn, Connecticut customers of the Massachusetts terminal would receive product from the Connecticut terminal.

RECOMMENDATION: TCI participating jurisdictions should adopt the Two-Party Exchange rule and include it in the TCI Model Rule. The Internal Revenue Service regulations, definitions, and interpretative rules have been known to the petroleum industry for many years, and reliance on them would avoid confusion and promote accurate compliance.

D. Cost Containment Reserve

Regulators discussing TCI say that if prices for allowances at a quarterly auction become too high, the cost containment reserve (“CCR”) would serve as a safety valve. However, the Model Rule says that after all of the CO2 CCR allowances in the auction have been sold in a given calendar year, no additional CO2 CCR allowances would be sold at any auction for the remainder of that calendar year, even if the demand for allowances, above the CCR trigger price, exceeds the number of CO2 allowances available for purchase at the auction.

If no additional CCR allowances could be released under the circumstances described above, the CCR would not be able to prevent substantial increases in the cost of allowances during those quarters of the calendar year in which no additional CCR allowances are to be released. In this situation, there would no longer be a safety valve in place, and prices for allowances could increase dramatically, depending on market demand.

RECOMMENDATION: The Model Rule should be amended to make available, in every quarterly auction, CO2 CCR allowances when demand for allowances exceeds the CCR trigger price. The volume of CO2 CCR allowances made available should be at least 10 percent of the allowances available for purchase at the given auction. The current structure of the CCR under the Model Rule, which sets a limit on the number of CO2 CCR allowances available in each calendar year, could result in quarterly auctions where no CCR allowances remain available to control excessive price increases.

E. Reporting

The TCI program would impose substantial new reporting requirements on regulated parties regarding information not currently reported in a similar manner to states or the federal government. Moreover, these new reports would have to be submitted monthly. Once again, these requirements would increase compliance costs as well as the cost of verification.

Recently, the Environmental Protection Agency (“EPA”) streamlined its fuel regulations. The Agency recognized the cost and burden of monthly reports, and now, after a multi-year review, requires only annual reports for most information. In addition, to simplify compliance, it grouped all reporting obligations in a single regulatory provision.

RECOMMENDATION: Follow the example of the EPA and require only annual CO2 emission reports and fuel shipment data reports. In addition, include all reporting obligations in a single provision of the Model Rule to facilitate compliance.

F. Confidentiality

The Association strongly endorses the Model Rule’s provision to maintain fuel shipment data reports as confidential. A company’s sales/shipments and related

information is proprietary, and release of that data could place an entity at a severe competitive disadvantage. The Model Rule should also treat the CO₂ emissions data reports in the same manner. Release of emissions information could easily be converted into sales data by competitors and would have the same negative impact on a company as release of the fuel shipment data report. The same approach to confidentiality should also be taken with regard to reports from reporting-only entities.

If the TCI participating jurisdictions wish to release data, they should aggregate emissions data and release only the aggregated number to the public to demonstrate the volume of reductions in greenhouse gas emissions obtained through the program. There is no need to jeopardize a company's business by releasing the emissions data, sales data, or any other company- or site-specific data.

RECOMMENDATION: Treat the fuel shipment data report, the CO₂ emissions data reports, and any other company-specific or site-specific as confidential.

G. Excess Emissions Penalty

Section 6.5(d) of the Model Rule would impose an extremely harsh penalty for "excess emissions" that is not warranted and should be substantially modified.

The section provides that after making allowance deductions for compliance with a regulated party's CO₂ emissions for a control period or an interim control period, the regulated authority will deduct from a jurisdiction supplier's CO₂ account a number of CO₂ allowances, equal to three times the number of the supplier's CO₂ excess emissions. In the event that the supplier has insufficient allowances to cover three times the number of CO₂ excess emissions, the supplier will be required to immediately transfer sufficient allowances into its compliance account, and will remain potentially liable for any additional fine, penalty, or assessment ordered by the jurisdiction.

This approach could apply to a dispute over emission calculations or a reporting error that could be handled in a far less drastic manner. For example, assume that a jurisdiction fuel supplier has calculated its emissions for an interim control period and has determined that it sold transportation fuel representing 100,000 metric tons of CO₂. Based on that calculation, the supplier determines that it must have 100 CO₂ allowances in its CO₂ account to demonstrate compliance. However, the regulatory agency may disagree and believe that the fuel sold represented 102,000 metric tons of CO₂, and the supplier needs 102 CO₂ allowances to demonstrate compliance. Based on these facts, the regulatory agency should not have the authority to simply deduct three times the contested deficiency and compel the supplier to purchase additional allowances if the account does not have sufficient allowances to meet this penalty obligation.

Rather, under these circumstances, the regulatory agency should direct the jurisdiction fuel supplier to ensure that its allowance account has sufficient CO₂ allowances to compensate for the deficiency. If the jurisdiction fuel supplier disagrees

with the regulatory agency's calculations, it should be entitled to address the issue in an administrative proceeding, and no additional deductions should occur until the matter is resolved. Further, no additional fines or penalties should be imposed.

RECOMMENDATION: Modify the "excess emissions penalty" provision. Do not allow a Regulatory Agency to deduct penalty allowances unless a discrepancy has been resolved by settlement, administrative proceeding, or court order. Compliance with such a settlement, proceeding or order should be the final resolution of the matter, and no additional fine or penalty should be imposed by the applicable jurisdiction.

However, to minimize compliance difficulties, the Model Rule should also include a "deficit carry forward" provision similar to that contained in the EPA Renewable Fuel Standard Program. Under that provision, an obligated party may carry forward a deficit of credits for one control period. At the end of the second control period, the regulated entity must fully comply with its obligations in that current year and make-up for the deficit carried forward.

H. Offsets

The proposed TCI program would establish a comprehensive system for establishing, documenting and verifying eligible CO2 emissions offset projects. Obligated parties would need to spend a great deal of time and money to ensure they were in compliance with all of the requirements. However, under the proposal, after all of that effort, they would be able to reduce their allowance obligation by only 3.3 percent with such projects. The benefit of offsets appears to be far outweighed by the cost and effort required to establish and maintain them. Such a limited benefit would discourage the establishment of such projects. Moreover, other cap-and-trade programs allow an 8 percent reduction for similar offset projects.

RECOMMENDATION: Allow obligated parties to reduce their allowance obligations by at least 8 percent with allowances derived from eligible CO2 emissions offset projects.

III. Investments

The primary goal of the TCI program is to reduce greenhouse gas emissions from the transportation sector in the Northeast/Mid-Atlantic region.

RECOMMENDATION: To help achieve that objective, the program should include a policy that makes obligated parties (jurisdiction fuel suppliers) and reporting-only entities eligible to receive grants from the TCI revenues to purchase, install, and maintain equipment and other infrastructure that would facilitate reductions of greenhouse gas emissions from the transportation fuels sold.

IV. Conclusion/Recommendations

In sum, the proposed TCI program would increase substantially the price of gasoline and on-road diesel in each participating jurisdiction, but would not yield a

comparable benefit in reduced greenhouse gas emissions. The Model Rule's complexity would only further increase the costs associated with the program, which would be passed on to consumers/businesses in the region. Therefore, the Model Rule should be modified as follows:

1. Preserve the requirement that regulated parties must obtain allowances to cover sales of their transportation fuels, but instead of setting the price for such allowances through an auction system, establish an annual price based on TCI modeling of the price needed to achieve the desired greenhouse gas emission reductions;
2. If a distributor purchases transportation fuel from a position holder at a terminal located outside of a TCI participating jurisdiction, impose the allowance obligation on the distributor who makes the sale into the TCI participating jurisdiction;
3. If a Two-Party Exchange occurs, follow the IRS statutory requirement that the receiving party is deemed the "position holder" at the delivering terminal and require that party to incur the allowance obligation;
4. If an auction system is maintained, revise the CCR mechanism to ensure that CO₂ CCR allowances can be made available at every auction each year to provide protection against excessive prices for allowances – instead of establishing an annual limit on the number of CO₂ CCR allowances available each year;
5. Modify the reporting mandates and require CO₂ emissions reports and fuel shipment data reports be submitted annually, and place all reporting obligations in a single regulatory provision.
6. Treat the fuel shipment data reports, the CO₂ emissions data reports, and any other company-specific or site-specific data as confidential and do not release them to the public. All published data should be aggregated to protect the confidential business information of the regulated community.
7. Revise the "excess emissions" penalty and prohibit a Regulatory Agency from deducting allowances when a dispute occurs unless the matter has been resolved by a settlement, administrative proceeding, or a court order; impose no additional penalties or fines for excess emissions, and allow jurisdiction fuel suppliers to carry forward a deficit of credits for one control period without any deductions or penalties;
8. Permit eligible CO₂ emissions offset project allowances to be used by an obligated party to reduce at least 8 percent of its allowance obligation;

9. Establish a policy within the TCI program making jurisdiction fuel suppliers and reporting-only entities eligible to receive grants from TCI revenues for the purchase, installation, and maintenance of equipment and related infrastructure to reduce greenhouse gas emissions from the transportation sector.

The proposed TCI program would have a serious adverse impact on consumers and businesses in the Northeast and Mid-Atlantic region. However, to minimize cost increases and the risk of supply loss and distribution disruptions, the participating jurisdictions should restructure the Model Rule as discussed above, particularly with regard to the auction system. In this manner, the proposed program would reduce greenhouse gas emissions and become more workable and efficient.