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Submitted electronically via the [TCI Public Input Portal](#)

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Governors and Other State Officials: Connecticut, Delaware, New Hampshire, New Jersey, New York, North Carolina, Maryland, Massachusetts, Pennsylvania, Rhode Island, Vermont, Virginia

Mayor and Other City Officials: District of Columbia

Subject: Conservation Law Foundation Comments on TCI-P Framework for Public Engagement, Model Implementation Plan, and Strategies for Regional Collaboration

Dear Governors, Mayor, and Transportation and Climate Initiative Leaders:

Thank you for drafting and seeking comment on the Transportation and Climate Initiative Program (“TCI-P”) Framework for Public Engagement, TCI-P Model Implementation Plan, and Proposed Strategies for Regional Collaboration Framework for Public Engagement.

Conservation Law Foundation (“CLF”)¹ is pleased to submit these comments with recommendations to improve the three draft public engagement documents to include greater accountability, establish commitments to address air pollution hotspots, and to strengthen public engagement. CLF advocates that all people should have a transportation system that is accessible, reliable, affordable, and free of air pollution and greenhouse gas emissions. To achieve these systems, all people should be able to participate in and influence transportation planning, funding, and decision-making that impact their communities.

I. Introduction

The memorandum of understanding establishing TCI-P signed by leaders in Connecticut, Massachusetts, Rhode Island, and Washington D.C. (“Participating Jurisdictions”) falls well short of its potential. This is because the process for developing it failed to meaningfully engage the communities that suffer most from air pollution and desperately need new investments in clean transportation. The final memorandum of understanding and final Model Rule include explicit references to equity in how the program will be implemented and the creation of equity advisory bodies in each jurisdiction. But these earnest and belated pledges do not compensate for lack of community input and a deficient memorandum of understanding.

In addressing transportation inequities, Participating Jurisdictions must commit to addressing public feedback through implementation of the transportation justice agenda, overcoming the historical exclusion of environmental justice populations from decision tables, and working transparently to repair and build relationships with communities at the frontlines of the climate crisis and transportation injustice. CLF appreciates the TCI-P jurisdictions issuing three documents for public comment. Below we offer recommendations to strengthen the three public engagement documents.

II. The Draft Framework for Public Engagement with [Guiding Principles](#) Provide an Important Structure for TCI-P Implementation and Should Be Strengthened.

Strong community engagement and leadership is a cornerstone of any successful climate action, particularly so when it comes to achieving a just transition towards a clean energy economy. Therefore, CLF asserts the importance of partnering with, not simply listening to, residents impacted first and worst by climate impacts and community-based organizations, to create and implement a broad transportation justice agenda, reduce air pollution in hotspots, and ensure that all public engagement opportunities are accessible.

¹ CLF is a non-profit, member-supported, regional environmental organization that protects New England’s environment for the benefit of all people and future generations. We use the law, science, and markets to create solutions that preserve and restore our natural resources, build healthy and resilient communities, and sustain a vibrant economy. CLF works to combat climate change and improve access to healthy and safe multimodal transportation, while eliminating greenhouse gas emissions and air pollution, overcoming historic disinvestment and structural inequality, and improving public health and social mobility. CLF has been a participant in TCI regional and state discussions since April 2017.

To ensure that equity, environmental, climate, and transportation justice considerations are at the center of TCI-P implementation, we recommend:

- partnerships between state and municipal TCI-P leaders and environmental justice and community-based organizations to co-create and implement a meaningful public engagement plan;
- empowering equity advisory bodies to influence regulatory processes, investments, and program implementation in each Participating Jurisdiction;
- implementing a broad transportation justice agenda developed through a process led by community-based organizations; and
- providing technical assistance to environmental justice and community-based organizations to ensure that they can meaningfully contribute ideas for TCI-P investments and program review.

Below we reply to questions from the draft Framework for Public Engagement.

(1) Is anything missing from this proposed public engagement approach that is important?

Yes, the Guiding Principles are missing language about partnerships between the TCI-P jurisdiction and community-based organizations, a commitment to work on transportation matters beyond the structure of TCI-P, and an assurance to address air pollution hotspots. In Guiding Principle numbers 2 and 4, include a commitment to partner with community-based organizations to plan public meetings and stakeholder conversations. A partnership between the TCI-P leaders and community-based organizations will expand the range of people who engage with TCI-P, build trust, and acknowledge community expertise. In Guiding Principle number 6, commit to working on other transportation initiatives beyond TCI-P, including affordable transit fares, expanding transportation options in rural communities, and addressing the disproportionate siting of energy and transportation infrastructure in overburdened communities.

Now that there is a final memorandum of understanding and final Model Rule, the Participating Jurisdictions know the regulated entities. The Participating Jurisdictions should create a list of regulated entities and map the location of each regulated entity and overlay environmental justice populations and overburdened and underserved communities once those locations are identified. The average resident is not likely to know which companies are fuel suppliers or terminal operators so there is a need for transparent and clear materials, available in multiple languages, to explain which entities are required to participate in the program and reduce emissions.

(2) Are there aspects of the proposed approach that are particularly relevant or important to you?

In Guiding Principle 1, CLF appreciates the recognition of the following stakeholders with whom TCI-P jurisdictions will work to create meaningful and effective engagement: environmental, climate, and transportation justice communities, tribal communities, and other equity stakeholders.

In Guiding Principle 2, CLF supports the plan to build trust with stakeholders through honest and open exchanges of information and maintaining a public funding dashboard detailing how program proceeds are spent.

In Guiding Principle 3, CLF favors recognizing community expertise.

In Guiding Principle 4, CLF agrees with prioritizing language and disability access.

In Guiding Principle 5, CLF asserts the importance of providing plain language resources, technical assistance, and accessible materials to a broad cross-section of stakeholders. TCI-P is a complex program that requires people to read long and technical documents to learn program details. We recommend that Participating Jurisdictions invest time in working with community-based organizations and residents of environmental justice populations to offer technical assistance. Such assistance could include explaining the program details, hearing concerns and ideas, and ensuring that such stakeholders have enough information to provide meaningful and sustained input.

(3) How could TCI-P jurisdictions provide additional opportunities and entry points for environmental justice, equity, and other stakeholders to meaningfully engage in TCI-P implementation?

The Participating Jurisdictions made a commitment to center equity in its decision-making processes. To do so, TCI-P leaders must ensure that community-based organizations and their members have significant input — not only regarding the technical program design but also on community impacts. Ideas of equity and justice cannot be translated into policy and action unless there is strong community partnership and transparency in decision-making. Environmental justice populations, organizations that prioritize transportation and labor justice, as well as academic institutions and most importantly community members themselves must have a place not only in the process but in the application. We encourage TCI-P decision-makers to build and strengthen those relationships at the outset.

To build trust between the various stakeholders that are involved in this equity process, there must be a move towards partnership between state government officials, environmental justice organizers and leaders, as well as representatives from transit justice and labor organizations. TCI-P decision-makers must demonstrate not only an understanding of the community concerns over technical design and impact but must identify concrete and transparent steps that will be taken to address those concerns.

To that end, we recommend that TCI-P leaders work with one or more community-based organizations to co-convene public meetings and stakeholder sessions to get input on how to determine what constitutes an investment in or benefit to overburdened and underserved communities, planning for investments, and developing metrics for TCI-P evaluation. Representation of people of color led community-based organizations on the various equity advisory bodies is not enough — instead, community partners should be driving the conversations around impacts, which means that they must be at the forefront of developing the definitions and metrics that form the foundation of any impact analysis.

(4) Does anything need to be added to these principles?

Yes, additions are needed to Guiding Principles 1, 2, and 5. In Guiding Principle 1, CLF recommends adding people without access to public transportation or affordable transportation options and people living with disabilities or mobility challenges to the list of stakeholders with whom TCI-P jurisdictions will work to create meaningful and effective engagement. Guiding Principle 2 should specify that the public funding dashboard will be available in real-time. In Guiding Principle 5, more detail is needed to determine how language and disability access will be implemented.

The framework for public engagement should include details about language access and accessibility. TCI-P decision-makers must ensure that public meetings are accessible to the communities and populations with which they seek to work. This means making sure that any advertisements and education materials for public meetings are translated into multiple languages as well as ensuring the availability of language interpreters either on-site or virtually for online meetings. Accessibility also means scheduling public meetings outside of typical work hours so that the audience captured reflects those community members whose interests are most at stake. It also means that public, in-person meetings should have childcare available for those who require it as access to childcare is an obstacle to public participation for many community members. Finally, accessibility means that people with disabilities are able to access both online and in-person engagement opportunities — this can be accomplished both by adhering to state and federal regulations but also by building relationships within communities and understanding their particular needs to fully participate.

III. The [Draft TCI-P Model Implementation Plan](#) Provides an Important Framework and Should Be Strengthened.

(1) Introduction and Program Goals

We support the stated goals of the Model Implementation Plan, specifically the aim to improve air quality and public health, increase resilience to the impacts of climate change, and provide more affordable access to clean transportation choices; promote local economic opportunity and create high quality jobs; and advance equity for communities overburdened by pollution and underserved by the transportation system. We recommend adding the intent to maintain quality jobs so that the goal states: “promoting local economic opportunity and creating and sustaining high quality jobs.”

(2) Establish or Designate Equity Advisory Bodies

To ensure that equity advisory bodies can influence TCI-P design and implementation, Participating Jurisdictions should work quickly to establish equity advisory bodies. The update on public engagement planning released on March 1, 2021, indicates Participating Jurisdictions’ intent to facilitate the collaborative engagement of environmental justice stakeholders in

designing, implementing, and participating in equity advisory bodies.² CLF is pleased that each Participating Jurisdiction will create an equity advisory body where “a majority of members” will be “representatives of overburdened and underserved communities or populations.”³ We recommend specifying in the final Model Implementation Plan, under the heading of “EAB Membership and Representation,” this commitment that a majority of members will be representatives of overburdened and underserved communities or populations.

Each Participating Jurisdiction will commence rulemaking proceedings to implement the Model Rule and plan for investments. It is through these rulemaking proceedings that Participating Jurisdictions will establish binding legal requirements. As such, the equity advisory bodies should be established and convened prior to the Participating Jurisdiction commencing one or more rulemaking proceedings to influence the final regulations.

There are several key tasks for the equity advisory bodies to pursue including identifying overburdened and underserved communities, helping to determine what constitutes an investment in or benefit to overburdened and underserved communities, developing a model framework for public engagement in the Participating Jurisdiction, planning for investments, and developing metrics for TCI-P evaluation. All of these tasks require a meaningful composition of equity advisory bodies that reflect racial and ethnic diversity, geographic diversity, varying lived experiences with different modes of transportation and mobility needs. CLF recommends that Participating Jurisdictions seek out community-based organization recommendations for appointments to the equity advisory bodies. The Model Implementation Plan should specifically state, under the heading “EAB Membership and Representation,” that each Jurisdiction will seek out community-based organization recommendations as part of the process of determining EAB membership and representation.

(3) Defining Underserved and Overburdened Communities

We recommend that equity advisory bodies be tasked with helping to define these underserved and overburdened communities, which should include both demographic factors (e.g., race, class, limited English proficiency) and geographic factors (e.g., access to transportation infrastructure and options, transportation-related air pollution, risk of excessive heat and heat island effects, and risks from flooding or storm surge). The Model Implementation Plan should include a specific reference to the value of the EAB’s input in this identification process.

(4) Working with Stakeholders to Develop Public Engagement Plan

² Transportation and Climate Initiative, Update on Public Engagement Planning, page 2, March 1, 2021, available at <https://www.transportationandclimate.org/sites/default/files/TCI-P-Update-On-Public-Engagement-March-2021.pdf>.

³ Transportation and Climate Initiative, Update on Public Engagement Planning, March 1, 2021, available at <https://www.transportationandclimate.org/sites/default/files/TCI-P-Update-On-Public-Engagement-March-2021.pdf>.

We support public processes that will result in meaningful participation by residents historically excluded from state transportation and climate decisions, including communities of color, Indigenous, Immigrant, limited English proficient, low-income, and rural communities and individuals living with disabilities. We recommend that state agencies commit to partnering with community-based grassroots organizations to jointly plan and co-host stakeholder events, and that this commitment be referenced in the Model Implementation Plan. That will increase trust and collaboration between the state officials and communities who have not adequately participated in TCI decisions earlier in the TCI process.

(5) Adopting Jurisdiction-Specific Rules Based on the Model Rule

Air Pollution Reduction Targets

The final Model Implementation Plan should include a commitment that by June 30, 2022, each Participating Jurisdiction install and operate air monitors in communities designated as overburdened and underserved that measure for at least one of the following pollutants: black carbon, nitrogen oxides, ultrafine particulate matter. By December 31, 2022, each jurisdiction should determine baseline air quality in air pollution hotspots. Data from the air monitors should be publicly accessible and provide near-time information. Each jurisdiction should further commit under the Model Rule to work with residents of environmental justice populations to conduct participatory action research where residents can use mobile air sensors to expand the number of locations where residents can track air quality.

Each Participating Jurisdiction should establish air pollution reduction targets. Once hotspots are determined and baseline data are established, the final Model Rule should require the jurisdiction's environmental regulator to set annual targets to decrease air quality target pollutants between 2023 and 2032 to improve the air quality in that location. At least every three years, air monitoring data that has been collected should be analyzed to measure progress toward achieving air quality pollutants reduction targets. Such data should be publicly available. The final Model Implementation Plan should state that by December 31, 2032, the Participating Jurisdiction shall ensure that air pollution hotspots will have achieved air quality target pollutant concentrations, consistent with recommendations from the equity advisory body and technical advisory committee and certify as such by publicly reporting compliance. The Participating Jurisdiction should also establish interim air quality target pollutants concentrations in each hotspot to be achieved no later than 2030.

Offsets

CLF strongly urges each Participating Jurisdiction to exclude offsets from its program and to reject offsets for compliance. The final Model Rule undermines the TCI-P's very purposes by including offset provisions and should therefore be excluded from the final Model Implementation Plans and regulations. First, the proposed offsets will directly impede TCI-P's efforts to "advance equity for communities overburdened by pollution and underserved by the transportation system"⁴ because the proposed offsets allow communities in parts of the country

⁴ Model Rule, § 1.1(e) (emphasis added), at 5.

outside TCI-P jurisdictions to reap all the benefits associated with emissions reductions from those offsets, while continuing to expose disproportionately burdened communities within the TCI-P jurisdictions to high levels of pollution. Second, the proposed offsets will hinder the TCI-P's efforts to "reduce carbon dioxide (CO₂) emissions from the transportation sector"⁵ by expressly allowing the very types of emissions covered under the program to exceed the cap. In light of these problems, the proposed offsets should be eliminated.⁶

(6) Ensuring Transparency and Accountability Regarding Implementation

CLF supports public reporting of air quality monitoring data and annual reporting on investments and equity. Metrics regarding investments and equity should be determined by the equity advisory body.

(7) Investing Proceeds and Creating High-Quality Jobs

TCI-P investments should be tied to prevailing wage requirements to support a strong economic recovery for underemployed workers and their families. Each Participating Jurisdiction should invest resources in workforce training programs. CLF recommends integrating into the final Model Implementation Plan the demographics of workers who should benefit from TCI-P and transportation workforce training programs. We suggest that by prioritizing programs for people who are underrepresented in the workforce or who face employment barriers (such as women, people of color, people formerly incarcerated, people without formal education, veterans, and people living with disabilities), TCI-P can expand access to workforce opportunities and quality jobs.

(8) Collaborating with TCI-P Jurisdictions

CLF supports regional collaboration among the jurisdictions to conduct allowance auctions and market monitoring, regularly review programs, and issue progress reports.

(9) Advancing Additional Policies

The TCI-P decision-makers must understand and work towards solving, in partnership, the problems that are plaguing overburdened and underserved communities. Our transportation systems are in crisis. Before the pandemic, service cuts, safety failures, delayed infrastructure upgrades, and chronic delays have denied riders the service we need, while reliance on fossil fuel vehicles degrades our health and the health of our climate. During the pandemic, riders face crowded conditions on transit routes serving EJ populations even as many depend on transit to make essential trips. Race determines which neighborhoods are safe and healthy places to live,

⁵ Model Rule, § 1.1(a) (emphasis added), at 5.

⁶ Notably, two TCI-P jurisdictions — Massachusetts and Rhode Island — no longer accept applications for any offset project types under their respective regulations governing the Regional Greenhouse Gas Emissions (RGGI), a similar cap-and-invest program aimed at reducing emissions from the electric sector. *See* 310 C.M.R. 7.70 ("CO₂ Budget Trading Regulations"); *see also* Regional Greenhouse Gas Initiative, Inc., "Offsets" (2021), available at: <https://www.rggi.org/allowance-tracking/offsets> (last accessed March 23, 2021).

learn, work, commute, and play⁷ and the COVID-19 pandemic has exacerbated these long-standing inequities in health outcomes between white people and people of color.⁸ Yet, our systems are overwhelmed, underfunded, and utterly unprepared for changing conditions.

To meet the needs of the communities at the center of the climate crisis and those hardest hit by COVID-19, Participating Jurisdictions and other states must pursue a suite of policies to address disproportionate burdens of pollution, reduce greenhouse gas emissions, and improve our transportation systems. A coalition of Massachusetts organizations, led by community-based organizations, authored a letter and outlined in it a broad transportation justice agenda, which includes: addressing inequities in transit fares; expanding public transit access; electrifying transit; improving pedestrian and bicycle safety, especially in communities of color and low-income neighborhoods; and creating more mobility options in rural communities.

CLF is working with partners to develop a comprehensive transportation justice platform for each New England state to recommend additional transportation policies, including, but not limited to, low-income transit fares, air pollution reduction targets, and energy infrastructure siting reform to integrate cumulative impacts analysis. It is imperative that Participating Jurisdictions learn about the transportation justice agendas that are important to constituents, especially representatives of overburdened and underserved communities, and to work with stakeholders to implement that agenda regardless of whether funds for that agenda are generated by TCI-P. TCI-P must be paired with a broad transportation justice agenda in each Participating Jurisdiction.

IV. The Proposed Strategies for Regional Collaboration are Necessary to Make Progress Toward Equitable Decarbonization of Our Transportation Systems.

TCI-P jurisdictions who signed the memorandum of understanding committed to consider a range of complementary policies to achieve emissions reductions, particularly in underserved and overburdened communities. Such policies must not be considered complementary to the TCI-P, but rather, essential to make our transportation system and infrastructure more accessible

⁷ Faber and Kreig, “Unequal Exposure to Ecological Hazards 2005: Environmental Injustices in the Commonwealth of Massachusetts,” October 2005, <https://web.northeastern.edu/ejresearchnetwork/wp-content/uploads/2014/10/Final-Unequal-Exposure-Report-2005-10-12-05.pdf>.

⁸ Data released by the Massachusetts Department of Public Health regarding COVID-19 shows that 19 of the 20 municipalities with the highest total average daily cases in the Commonwealth contain EJ populations. *See page 46, <https://www.mass.gov/doc/weekly-covid-19-public-health-report-december-24-2020/download>; See also “City_Town” and “Race and Ethnicity” Tabs, <https://www.mass.gov/doc/weekly-public-health-report-raw-data-december-24-2020/download> compared to <https://www.mass.gov/doc/ej2010communitystatisticspdf/download>.* Many of these communities also have poor air quality and are home to essential workers who do not have the luxury of being able to work remotely. *See Conservation Law Foundation, COVID-19 and Health Neighborhoods Study Communities, March 23, 2020. <https://www.clf.org/covid-19-and-healthy-neighborhoods-study-communities/>; see also Data Show COVID-19 is Hitting Essential Workers and Communities of Color Hardest, ACLU MASSACHUSETTS (2020), <https://www.aclum.org/en/publications/data-show-covid-19-hitting-essential-workers-and-people-color-hardest>; and see Lisa Friedman, *New Research Links Air Pollution to Higher Coronavirus Death Rates*, NEW YORK TIMES (April 7, 2020), available at: <https://www.nytimes.com/2020/04/07/climate/air-pollution-coronavirus-covid.html>.*

and equitable. We recommend that TCI-P leaders work with stakeholders to begin implementing a broad agenda that makes progress toward transportation justice. It will be crucial for TCI-P leaders to meaningfully consider and implement such an agenda, recognizing that TCI-P auction proceeds may not be sufficient to cover the capital cost of items that are part of the transportation justice agenda.

(1) Air Quality Monitoring in Communities Overburdened by Air Pollution

CLF fully supports the TCI-P jurisdictions conducting air quality monitoring. In addition to public engagement, we recommend consulting with Equity Advisory Bodies to influence the location of the air quality monitors.

(2) Ensuring High-Quality Domestic Jobs and Workforce Development

CLF supports work on low-carbon transportation investments funded by TCI-P program proceeds, where applicable, to provide for workforce development that creates economic opportunities for people of color and low-income communities. In addition to these demographic groups, we recommend targeting workforce development programs to people without formal education, people living with disabilities, Indigenous, veterans, and formerly incarcerated people. We further support prioritizing employers with “Ban the Box” or “Fair Chance” hiring policies in place, to help enable previously incarcerated job applicants to make it past the first screen of hiring processes.

(3) Investing in Transit to Ensure Safe, Reliable, and Equitable Service

It is imperative that TCI-P jurisdictions invest in new and expanded transit projects and ensure affordable fare options to expand accessibility for overburdened and underserved communities. COVID-19 has burdened transportation systems that have long been in a state of emergency. The pandemic has only illuminated what we already knew to be true — that the most vulnerable of our communities, those that rely on our public transportation system to go to school, do their jobs and feed their families, are the first to feel the effects of decreasing conditions. In addition to being on the frontlines of facing a pandemic, riders depend daily on a system that is riddled with safety issues, service delays and cuts, deferred upgrades, overcrowding, and a lack of funding.

(4) Coordinating Public Engagement and Implementation Plans to Replace Diesel Trucks and Buses with Zero-Emission Vehicles

We support coordination between the TCI-P jurisdictions and within each jurisdiction to gather stakeholder input on the Multi-State Medium- and Heavy-Duty Zero-Emission Vehicle Memorandum of Understanding implementation and other efforts to spur widespread electrification of medium- and heavy-duty vehicles and vehicles that will benefit overburdened and underserved communities.

(5) Equitable Electric Vehicle Corridor Planning

An equitable electric vehicle corridor for fast-charging stations along major roadways is an important strategy to support the transition to transportation electrification. We recommend including in this strategy a commitment to public electric vehicle charging stations that allow for interoperability.

Thank you for your consideration of these comments. If you have any questions, please contact Staci Rubin at SRubin@clf.org.

Sincerely,

A handwritten signature in black ink that reads "Staci K." with a long horizontal flourish extending to the right.

Staci Rubin
Vice President, Environmental Justice