



Comments in Response to TCI-P Draft Model Rule

April 6, 2021

To:

**TCI Leadership Team:**

- Kathleen Theoharides, Secretary, Massachusetts Executive Office of Energy and Environmental Affairs and R. Earl Lewis, Jr., Deputy Secretary, Maryland Department of Transportation

**TCI Executive Policy Committee:**

- Marty Suuberg, Commissioner, Massachusetts Department of Environmental Protection and Roger Cohen, Senior Advisor to the Secretary, Pennsylvania Department of Transportation

**TCI Technical Analysis Workgroup:**

- Christine Kirby, Assistant Commissioner, Massachusetts Department of Environmental Protection and Chris Hoagland, Economist, Climate Change Division, Maryland Department of the Environment

**TCI Investment and Equity Workgroup:**

- Garrett Eucalitto, Deputy Commissioner, Connecticut Department of Transportation, Kate Fichter, Assistant Secretary, Massachusetts Department of Transportation, Kirsten Rigney, Legal Director, Connecticut Department of Energy and Environmental Protection and Dan Sieger, Undersecretary of Environmental Affairs, Massachusetts Executive Office of Energy and Environmental Affairs

**TCI Outreach and Communications Workgroup:**

- Chris Bast, Chief Deputy, Virginia Department of Environmental Quality and Elle O'Casey, Director of Communications and Outreach, Vermont Agency of Natural Resources

**Governors and other state officials:**

- Connecticut, Delaware, New Jersey, New York, North Carolina, Maine, Maryland, Massachusetts, Pennsylvania, Rhode Island, Vermont, Virginia

**Mayor and other city officials:**

- District of Columbia

Dear Transportation and Climate Initiative Leaders:

We write in response to the TCI-P Draft Model Rule document released on March 1, 2021. Out of the 153 page draft model rule, only 2 pages, Subpart 3, address the equity components of the Transportation and Climate Initiative Program (TCI-P). The details regarding how TCI jurisdictions will adopt these equity commitments matter and will determine whether the implementation of TCI-P leads to equitable outcomes. Therefore, it is crucial that the draft model rule offer clearer standards and more specific language on equity to ensure strong, consistent adoption of these provisions across the region.

Our groups, consisting of transit justice, racial justice, social justice, labor, and environmental voices, want to specifically uplift the importance of developing robust equity advisory body provisions as part of the regional model rule in addition to state enabling legislation and regulation. Determinations regarding the composition, accessibility, and responsibilities of these bodies all directly impact whether the implementation of TCI-P and associated investment decisions lead to greater equity for disproportionately impacted communities. Therefore, for newly formed equity advisory bodies, we have developed a set of **equity advisory body principles** that we encourage TCI decision-makers to incorporate into the regional draft model rule and state level policies. For jurisdictions that have designated existing advisory bodies that will perform this role, we urge jurisdictions to equip those bodies to follow these guidelines, to the full extent feasible, to ensure their effectiveness. Furthermore, we hope these principles will serve as a foundation for ongoing conversations led by TCI decision-makers in consultation with the Metropolitan Group and Georgetown Climate Center regarding effort #4 outlined in the "Update on Public Engagement Planning" regarding engaging equity and environmental justice leaders in shaping and participating in TCI-P equity advisory bodies. We thank you for your consideration.

**Equity Advisory Body Principles**

The degree to which states adopt the Transportation and Climate Initiative Program (TCI-P) equitably hinges significantly upon how they structure the equity advisory bodies. Since these bodies will help determine which communities are "overburdened and underserved," identify priorities for dedicated investments, and develop evaluation metrics, amongst other responsibilities, it is crucial that they meaningfully represent disproportionately impacted communities. To ensure participation on these bodies is accessible to these communities, key measures must be in place, such as capacity funding and technical assistance. In order to

promote the effectiveness of these bodies in shaping equitable adoption of TCI-P, members must have meaningful decision-making power and clear responsibilities. Without these key elements, the promise of the equity commitments in the TCI-P model rule risks going unfulfilled.

### Membership and representation

The equity advisory body in each participating TCI jurisdiction must include robust representation from residents who live directly in and/or represent the demographics of disproportionately impacted communities. Representatives who are not directly impacted community members themselves must be directly appointed by these communities. Equity advisory bodies should include at a minimum majority representation from communities experiencing disproportionate pollution burden from stationary and/or mobile sources and communities lacking access to safe, affordable, accessible, and reliable mobility options, including public transit. Although not limited to the following groups, TCI jurisdictions are strongly encouraged to include specific representation from these impacted communities:

- Low income communities
- Black, Indigenous, People of Color
- Workers and organized labor
- People with disabilities
- Transportation users in rural communities
- Older adults
- Queer and/or trans people who feel unsafe riding public transit
- Youth
- Communities for whom English is not their primary language
- Immigrant communities

In addition to ensuring representation across disproportionately impacted communities, the participating TCI jurisdiction should strive to include representation from diverse geographic areas across the relevant region.

### Objectives and scope

The equity advisory body must have significant agency to influence the TCI-P. In other words, processes should be in place to ensure that TCI leaders actively consider and incorporate suggestions from the advisory body into the program design. Additionally, each TCI-P jurisdiction must use a transparent investment allocation process, such as a request for proposal process, that includes opportunities for the public to provide input on investment proposals or evaluation criteria through comment periods. Furthermore, the equity advisory bodies should have the power and responsibility to at least:

- Develop criteria to define and identify “overburdened and underserved” communities.
  - One technique states can employ to identify “overburdened and underserved” communities is the triple overlay mapping technique. This involves overlaying a:
    - transit equity map, which may include indicators such as access to transportation, length of commute, and social vulnerability, etc.

- pollution map that indicates the areas with the highest concentrations of PM2.5, NOx, black carbon, and other pollutants that have a significant impact on public health
  - health condition map related to the impact of poor air quality on overburdened communities.<sup>1</sup>
- The equity advisory body will establish a process to increase the use of community produced reports and research. If the equity advisory body determines that the currently available research materials needed to carry out their responsibilities do not reflect the lived experiences of BIPOC and poor communities, then a substantial investment will be made into design tools that can collect and analyze qualitative and quantitative data curated through a participatory action research (PAR) model.<sup>2</sup> This PAR model will be used to at least help define and identify overburdened and underserved communities, shape the request for proposal process, develop evaluation metrics, and evaluate investment proposals and allocations.
- Shape the request for proposal or relevant investment allocation process by formulating proposal evaluation, prioritization, and scoring criteria for TCI-P investments. These criteria should reflect and prioritize the needs of communities defined and identified as “overburdened and underserved.”
- Review and rate investment proposals and make final recommendations regarding dedicated investments. The state must actively consider these recommendations and consult with the equity advisory body when making selections. Within 60 days of receiving the body’s final recommendations, the state must report in writing to the equity advisory body regarding how the state’s preferred selections, to the extent that they differ from the equity advisory body’s final recommendations, meet the proposal evaluation, prioritization, and scoring criteria before making final allocation decisions.
- Develop key indicators and metrics that measure whether TCI-P investments directly lead to equitable outcomes for “overburdened and underserved” communities.
- Advise agency officials on the development and implementation of a community outreach and stakeholder engagement plan to meaningfully engage communities who are identified as “overburdened and underserved” in TCI-P adoption.
- Monitor and inform state implementation of expanded air quality monitoring and make recommendations to relevant state agencies on additional enforcement measures if polluters are found frequently failing to comply with allowance obligations.
- During the annual review, make recommendations on program improvements to ensure jurisdictions are making significant progress as it relates to equity metrics and that “overburdened and underserved” communities receive “direct and meaningful benefits.”

#### Accountability and protecting the equity advisory body from political or other influence

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<sup>1</sup> This mapping approach to identify overburdened and underserved communities was developed and informed by research conducted by the Baltimore Transit Equity Coalition and the John Hopkins Bloomberg School of Public Health.

<sup>2</sup> The central theme to this add-on was accessed via: Curren R., Nelson, J., Marsh, D.S., Noor, S., Liu, N. “Racial Equity Action Plans, A How-to Manual.”: Haas Institute for a Fair and Inclusive Society, University of California, Berkeley, 2016.

The process to appoint equity advisory body members must be protected from political influence to ensure equity advisory bodies are truly reflective of and accountable to “overburdened and underserved” communities.

- Equity advisory body members must be selected through a process that centers the priorities of “overburdened and underserved” communities and significantly reduces the influence of elected officials over appointments.
- There should be a 2 year term limit for all equity advisory body members and members may be appointed to a maximum of 2 consecutive terms.
- Equity advisory body members must have clear rules of conduct including requirements to host meetings that are open to the public and publicly post notes from meetings to ensure transparency in their decision-making.
- Equity advisory body members must be required to disclose, through the completion of a standardized form, whether they have direct or indirect financial interest or potential interest that would be impacted by decisions of the body.

### Capacity building

Equity advisory body members must be given meaningful support via financial compensation and technical assistance to ensure they have both the capacity and information needed to shape TCI-P.

- To limit the likelihood of fatigue that manifests for members that represent BIPOC and poor communities serving on the equity advisory body, members should be eligible but not required to accept a system of compensation, such as a stipend, honorarium, or other means of support that will be at least equal to the compensation and support of traditional experts tasked to work on projects of this scale in the relevant jurisdiction.<sup>3</sup>
- Equity advisory body members should be provided with comprehensive information, data, tools, research, and assistance from agency staff as needed to help them effectively carry out their roles.
- Additional support also includes training that covers: an overview of TCI, its history, and its potential impacts on the ground; an introduction to environmental and transit justice; Anti-Racism and Anti-Bias training and its connection to TCI; and organizing fundamentals including how to conduct one on one conversations, how to capacity build, and how to speak with the community about this policy.

### Accessibility

TCI-P participating jurisdictions must take clear and deliberate steps to ensure that participation on equity advisory bodies and outreach and community engagement regarding TCI-P is accessible to and centers diverse, disproportionately impacted, and underrepresented communities, including people for whom English is not their primary language and people with disabilities.

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<sup>3</sup> The central theme to this add-on was accessed via: Curren R., Nelson, J., Marsh, D.S., Noor, S., Liu, N. “Racial Equity Action Plans, A How-to Manual.”: Haas Institute for a Fair and Inclusive Society, University of California, Berkeley, 2016.

- The equity advisory body must meet quarterly at a minimum. The exact frequency of meetings will be determined by the equity advisory body.
- All equity advisory body meetings must be open to the public, include opportunities for public comment, and be publicly noticed online at least 30 days in advance. Documents that come out of equity advisory body decisions, such as proposal evaluation criteria, final investment recommendations, and equity indicators and metrics, must also be posted online with opportunities for public comment.
- It is critical that documents and meetings be translated and interpreted to ensure participation on the equity advisory body is accessible. Outreach communications to recruit equity advisory body members, inform and engage the public around equity advisory body decision-making, including meeting notices, and educate the public about TCI-P implementation should be translated into the most commonly spoken non-English languages in each TCI-P jurisdiction. Additionally, live interpretation should be made available to assist any equity advisory body members upon request.
- All TCI-P communications, including equity advisory body meetings and community outreach, should avoid the use of academic rhetoric and should be accessible to people of different educational backgrounds.
- All TCI-P meetings including equity advisory body meetings and community engagement meetings should be accessible for people with disabilities.<sup>4</sup>
  - Meetings should be ADA compliant.
  - In-person meetings should be held at geographically diverse locations that are easily accessible via public transit.
  - Meetings held online should be closed captioned.
  - All materials should be readable on a screen reader.
  - Meetings in person should have microphones available.

Sincerely,

RACCE, Robbie Goodrich, Executive Director  
 Transit Forward Philadelphia, Yasha Zarrinkelk, Coalition Manager  
 BlueGreen Alliance, Rebecca Newberry, Northeast Regional Program Manager  
 Dream Corps Green For All, Nicole Wong, Campaign Manager  
 Pittsburghers for Public Transit, Laura Chu Wiens, Executive Director  
 Clean Air Council, Nick Zuwiala-Rogers, Transportation Program Director  
 NAACP New York State Conference, Dr. Hazel Dukes, President  
 Virginia State Conference NAACP, Karen Campblin, Environmental & Climate Justice Chair  
 Transport Hartford at the Center for Latino Progress, Thomas Regan-Lefebvre, Coordinator  
 Chispa Maryland, Ramon Palencia-Calvo, Program Director  
 Make the Road Connecticut, Barbara Lopez, Director

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<sup>4</sup> See additional resources regarding increasing the accessibility of equity advisory body and TCI outreach meetings: the [South West Transit Association Accessible Meetings Guide](#) and the American Bar Association's [Planning Accessible Meetings and Events Toolkit](#).