

Joint Comments: TCI-P Framework for Public Engagement, Model Implementation Plan, and Strategies for Regional Collaboration

August 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

TCI Investment and Equity Workgroup: Garrett Eucalitto, Deputy Commissioner, Connecticut Department of Transportation, Kate Fichter, Assistant Secretary, Massachusetts Department of Transportation, and Kirsten Rigney, Legal Director, Connecticut Department of Energy and Environmental Protection

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, Maryland, Massachusetts, Pennsylvania, Rhode Island, Vermont, Virginia

Mayor and Other City Officials: District of Columbia

Dear Governors and Mayor:

Thank you for your continued commitment to reducing vehicle pollution and improving mobility options through the Transportation and Climate Initiative (TCI). We, the 28 undersigned transportation, health, environmental, business, and community groups write to provide feedback on three documents: the Draft Framework for Public Engagement; the Draft TCI-P Model Implementation Plan (MIP); and the Draft Strategies for Regional Collaboration.

We are pleased to see the time and attention that have been dedicated to these draft documents. We support the intentions described in these three documents and call on the TCI-P jurisdictions to proceed by including the details, binding timelines, and firm commitments necessary to ensure that these good intentions become meaningful action. Our comments focus on areas needing more specificity to ensure the program is implemented with inclusive

processes, delivers equitable impacts, and accelerates the transition to sustainable transportation.

The organizations signing on to these comments acknowledge that TCI-P will most effectively serve overburdened and underserved communities if the solutions proposed by those communities are embraced by the participating jurisdictions. To that end, throughout these comments we amplify existing recommendations and policies that environmental justice and community-based partners have supported.

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Section 1: [Draft Framework for Public Engagement](#)

We appreciate the six guiding principles for public engagement identified in this document and look forward to working with all of the TCI jurisdictions to foster improved communication with stakeholders. Beyond that list we stress that each jurisdiction must not only recognize community knowledge and expertise, but also incorporate their input.

One strategy that addresses elements of each of the first five guiding principles¹ is a partnership between state officials and leaders from environmental justice and other community-based organizations. The state-level legislation, promulgation, and implementation of TCI-P offer an opportunity for all jurisdictions to listen to frontline communities and incorporate their expertise into state and regional policy. We ask that each jurisdiction commit to go far beyond the constraints that the regional negotiation process imposes on ambition and equity for our transportation and environmental justice solutions. A conversation co-convened by state officials and grassroots leaders is a way to enable a broad set of stakeholders to build trust, advance the goals outlined in this letter, and ensure an improved transportation future across the region.

We commend the Massachusetts Department of Environmental Protection (DEP) and Department of Transportation (DOT) for their current work to co-convene public workshops across the Commonwealth with environmental justice and community-based organizations. The expertise and lived experience of those organizations' members are critical to crafting stakeholder events that meet the needs of local residents. The trust that those organizations have built through many years of working with community members will contribute to workshops that are better attended and more productive. We recommend that other TCI jurisdictions (not

¹ 1) Each TCI-P jurisdiction will work with their stakeholders to create, or adapt existing, public engagement plans; 2) Build trust through honest and open exchanges of information; 3) Encourage active community participation; 4) Recognize community knowledge and expertise; and 5) Make public engagement accessible for everyone.

just the TCI-P signatories) build on this collaborative model to foster improved public engagement.

We also appreciate the inclusion of guiding principle #6: “Build capacity for sustained, long-term community engagement that can exist beyond the TCI-P implementation process.” Capacity building within environmental justice communities is critical and we are pleased to see that this goal extends beyond the confines of TCI-P implementation. While the principle is laudable, greater detail is necessary to understand how TCI jurisdictions intend to support this capacity, with regard to funding, technical assistance, staff commitments, and timelines. For example, we recommend that near-term funding sources are identified for capacity building and investment in air quality monitoring programs prior to the availability of TCI-P proceeds. If TCI-P jurisdictions intend to use TCI-P proceeds for these purposes, that should be stated explicitly.

Section 2: [Draft TCI-P Model Implementation Plan \(MIP\)](#)

2) Establishing (or designating) Equity Advisory Body

We appreciate the intention to establish or designate Equity Advisory Bodies “early in the process, as jurisdictions begin rulemaking and other initial program development steps.” The input from these boards will prove crucial in establishing equitable policies and in preventing avoidable mistakes in the program’s implementation.

TCI-P MIP should identify what steps the participating jurisdictions plan to take in order to increase the independence of Equity Advisory Body appointment processes so that community members have a greater say over who sits on these bodies. This will help to ensure that the membership truly advances the needs of disproportionately impacted communities.

We also believe that the Equity Advisory Body must have real power in the decision-making process that extends beyond an advisory role. One example of how this principle can be implemented is reflected in the highlighted passage below, which represents language supported by Massachusetts environmental justice organizations as an addition to [H3264/S2138](#):

“The Equity Advisory Body shall make recommendations to the secretary of Energy and Environmental Affairs, secretary of Transportation, and commissioner of the Department of Environmental Protection on any regulations necessary to implement or update TCI-P so that the program benefits overburdened and underserved communities. The secretary shall consider the recommendations of the Equity Advisory Body. Proposed regulations regarding the definition of overburdened and underserved communities and distribution of funds that benefit overburdened and underserved communities shall be adopted only after the approval of the Equity Advisory Body by a majority vote in the affirmative of those members so voting.”

Finally, we are encouraged to see that the TCI-P jurisdictions have considered the importance of reimbursement/compensation for Equity Advisory Body members. The majority of Equity Advisory Board members will be representing overburdened and underserved communities and they are likely to be dedicating time to this work in addition to--or instead of--their job(s). The

option to receive compensation is necessary to ensure that Equity Advisory Body participation is not limited to those with the financial means and excess time to dedicate to this critical work.

We offer sample language for strengthening the MIP from Massachusetts [H3264/S2138](#), An Act Relative to Transportation and Environmental Justice, addressing compensation of Equity Advisory Body:

“The members of the Equity Advisory Body shall be eligible but not required to accept reimbursement to cover time and reasonable expenses incurred while serving on the Equity Advisory Body, not to exceed \$6,000 annually per member.”

3) Defining “Underserved and Overburdened Communities” for the purposes of this program

We recommend that the MIP better guide each jurisdiction in considering its unique conditions in creating its definition following stakeholder sessions to gather input. Each jurisdiction’s definition of underserved and overburdened communities should include demographics (at a minimum, race, language, income), access to mobility options, air quality, address rural, suburban and urbanized communities, and include other parameters as appropriate. Equity Advisory Bodies must be granted authority to establish or revise jurisdiction-specific language. In jurisdictions with existing definitions of overburdened communities, like New Jersey,² the Equity Advisory Body may choose to use or build on the existing definition.

5) Adopting jurisdiction-specific rules based on the Model Rule

We appreciate that each TCI-P jurisdiction must promulgate regulations consistent with Model Rule. In addition to that rulemaking process, each TCI jurisdiction must also establish rules that address location-specific pollution and health concerns. Key elements of two bills that have been filed in the Massachusetts legislature, supported by the Massachusetts Environmental Justice Table, are highlighted below as policy examples to protect environmental justice communities and deliver assurances that market-based programs will not exacerbate the already-inequitable exposure to transportation-related pollution.

- *Improving Outdoor and Indoor Air Quality for Communities Burdened by Transportation Pollution*, the “Air Quality Bill”, [H2230/S1447](#)
 - Expanding air monitoring of black carbon and ultrafine particulate matter;
 - Setting and achieving ambitious air pollution reduction targets by 2030 and 2035; and
 - Requiring installation of air filters in existing eligible buildings to filter out ultrafine particulate matter from nearby congested roadways.
- *Integrating Climate, Public Health, and Environmental Justice in Siting Decisions*, [H3336/S2135](#)
 - Addressing equity concerns over the siting of new electricity infrastructure that will be necessary to accommodate transportation electrification.

² New Jersey Department of Environmental Protection, Office of Environmental Justice, *Environmental Justice Overburdened Communities*: <https://www.nj.gov/dep/ej/communities.html>.

6) Ensuring transparency and accountability regarding TCI-P implementation and progress toward achieving program goals

Transparency and accountability will be critical to TCI-P's effectiveness in achieving program goals. We are eager to work with the TCI-P jurisdictions and Equity Advisory Bodies in defining and measuring progress towards those achievements. We recommend that milestone intervals be not more than three years. Consistency across jurisdictions will allow for improved tracking and transparency.

The MIP should also include processes to address potential shortcomings. For example, if investment-tracking metrics demonstrate that projects funded by TCI-P proceeds are delivering less-than-proportional benefits in overburdened and underserved communities, how will the TCI-P jurisdiction remedy that failure? Likewise, if the program's intended air quality benefits in environmental justice communities do not materialize, how will the TCI-P jurisdiction correct its course?

7) Investing proceeds and creating high-quality jobs through transparent processes

The MIP should require that each TCI-P jurisdiction take measures to ensure that TCI-P proceeds are dedicated to advancing the purposes of the program.³ Whether through the use of lockboxes, passage of new legislation, or other means, it is of utmost importance to the program's effectiveness and credibility that TCI-P proceeds are protected. Additionally, the MIP should outline in greater specificity which labor conditions TCI-P jurisdictions may consider using to help guide funding allocation decisions. TCI-P jurisdictions should also consider provisions to avoid using TCI-P proceeds to support projects that would undermine the program's goals, like highway widening and other projects that would increase vehicle-miles traveled.

9) Advancing additional policies to help achieve the goals of TCI-P

We appreciate the recognition "that achieving long-term reductions in pollution from transportation will require a combination of policy approaches" and that TCI-P jurisdictions will consider policies beyond TCI-P "to achieve additional emissions reductions, particularly in overburdened and underserved communities." These policies should not be considered merely as complementary to TCI-P, but rather should be acknowledged as critical in their own right.

³ The TCI-P Model Rule states the program is designed for the following purposes: **(a)** Reduce carbon dioxide (CO₂) emissions from the transportation sector; **(b)** Improve air quality and public health, increase resilience to the impacts of climate change, and provide more affordable access to clean transportation choices; **(c)** Promote local economic opportunity and create high quality jobs; **(d)** Maximize the efficiency of the multijurisdictional program to ensure greater benefits; and **(e)** Advance equity for communities overburdened by pollution and underserved by the transportation system, including expanding low-carbon and clean mobility options in urban, suburban, and rural communities, particularly for populations and communities that are disproportionately adversely affected by climate change and transportation pollution and currently underserved by the transportation system.

Clear plans and steps for adopting these policies should be detailed in each jurisdiction's own implementation plan.

TCI-P jurisdictions should work closely with Equity Advisory Bodies to identify additional policies to advance transportation and climate justice. TCI-P jurisdictions should schedule periodic public sessions to request input on additional policies from the general public.

Section 3: [Proposed Strategies for Regional Collaboration](#)

We are pleased to see the TCI jurisdictions collaborating on clean transportation and transportation justice issues beyond TCI-P. Multi-state coordination and action is necessary to combat the challenges of transportation pollution, especially in the Northeast and Mid-Atlantic where state economies and transportation systems are so thoroughly interconnected.

We support further regional collaboration on all five of the proposed strategies⁴ and call on the TCI jurisdictions to move forward by establishing firm timelines, commitments, and stakeholder processes around each strategy, both as it relates to regional collaboration and in-state processes (regulatory or legislative) to enact these strategies.

In addition to the five proposed strategies, we recommend that the TCI jurisdictions collaborate to support active mobility. Safe and connected networks of sidewalks, bike lanes, parks and trails will improve public health⁵, reduce transportation pollution and vehicle congestion, and provide first-mile/last-mile connectivity to help more people get where they need to go without relying on personal vehicles. Investment in active mobility infrastructure will create jobs and aid in economic recovery.

We look forward to working with you to advance these opportunities for regional collaboration.

Sincerely,

Acadia Center*
Alliance for Business Leadership*
The Alliance for Clean Energy New York
Central Maryland Transportation Alliance
Ceres*
Climate Law & Policy Project*
Connecticut League of Conservation Voters*
Environmental Defense Fund

⁴ 1. Air quality monitoring in communities overburdened by air pollution to ensure transparency regarding the effectiveness of emissions reduction policies; 2. Ensuring high-quality domestic jobs and workforce development; 3. Investing in transit to ensure safe, reliable and equitable service; 4. Coordinating public engagement and implementation plans to replace diesel trucks and buses with zero emissions vehicles; and 5. Multi-state electric vehicle corridor planning to enable equitable access to electric vehicle charging.

⁵ *TRECH Project Research Update*, February 2021, available at: <https://cdn1.sph.harvard.edu/wp-content/uploads/sites/2343/2021/02/TRECH-ResearchUpdateFeb2021.pdf>

Environmental League of Massachusetts*
Green Energy Consumers Alliance*
Groundwork RI
Health Care Without Harm*
Isles
The Mary & Eliza Freeman Center for History and Community
Metropolitan Area Planning Council*
Natural Resources Council of Maine*
The Nature Conservancy*
New Jersey Chapter of the American College of Physicians
New Jersey League of Conservation Voters*
New Jersey Sustainable Business Council*
Plug-In America*
Save the Sound*
Southern Environmental Law Center*
Transport Hartford at the Center for Latino Progress*
Transportation for Massachusetts*
Tri-State Transportation Campaign*
VEIC*
Vermont Climate and Health Alliance

* Indicates organizations that are members of [Our Transportation Future](#)