



May 7, 2021

Re: Comments on the Draft Model Rule, Transportation & Climate Initiative

Sierra Club has concerns regarding the Draft Model rule on the Transportation and Climate Initiative Program released on March 1, 2021.

Sierra Club was an early advocate for the concept of the Transportation and Climate Initiative. In 2020 we took several months to re-evaluate the policy, process, and Sierra Club's posture of engagement. In December 2020 we announced we would not be supporting the final MOU, [citing several concerns](#). But we will continue to offer feedback at times such as this, and expect to engage at the state level in several participating states in collaboration with impacted communities and environmental justice (EJ) partners.

While we see forward progress in addressing some of the issues with TCI, the final MOU that the Model Rule was based on has fallen short in ensuring strong climate reductions, guardrails for protection of funds, and offering strong and significant commitments to reduce pollution in environmental justice communities.

Our recommendations on the Draft Model Rule include:

Engagement

- We agree with many environmental justice groups that the process that led to the creation of the Final MOU released in December 2020 that informed the Draft Model Rule did not put equity and justice at the center at the beginning of the process. The consultation throughout, while it improved, was still insufficient. Further, many states did not conduct early or enough meaningful public outreach and consultation on the design of the policy with communities hardest hit by transportation pollution. These past deficiencies cannot be remedied but we urge TCI to redouble engagement efforts moving forward to address environmental justice concerns as much as is possible, including how feedback is solicited on this Draft Model rule. The vast majority of feedback sessions should be held during the evening or on the weekend, be accessible to people with differing

abilities and those with limited English proficiency, offer language services, have a live stream available and be promoted on multiple mediums in different languages well in advance of each meeting. Where possible, after the COVID-19 pandemic subsides, any in-person events should be accessible via public transit and offer childcare. Public input should also be solicited throughout the adoption and implementation process on an ongoing basis and as early as possible before decisions are made.

Emissions Reductions

- We feel the CO₂ emissions reduction target of 26% by 2032 is too weak and falls far behind President Biden's goal to cut the greenhouse gas emissions economy wide 50% by 2030. We appreciate that this is the strongest option that was modeled for. However, since the start of the TCI process, the landscape has changed. We believe the target should be in line with what current science by the IPCC recommends --a 45% reduction by 2030. That higher target reduction would be sufficient to ensure participating states reach their own adopted targets.

Investments

- The Model Rule should contain specific measures to protect and safeguard the funds to ensure that they are not allocated for unrelated purposes. Because this is a collaborative multi-state effort, with a shared marketplace, deciding on specific measures cannot be left for states to pursue on a case-by-case basis. Earlier TCI discussions identified a range of public programs that would constitute appropriate use of funds, but such provisions do not appear in the Draft Model Rule.
- The Draft Model Rule should contain assurances that investments create economic benefit for local communities in the creation and implementation of the program. There should be set requirements for Project Labor Agreements, prevailing wage requirements and benefits, an explicit neutrality policy on all collective bargaining issues, no mandatory arbitration, and a “ban the box” hiring policy to ensure people with criminal records can access employment opportunities.
- There should be targets for criteria air pollutants along with a reliable air monitoring systems to measure progress. The deficiencies of the current transportation air-conformity process for addressing air pollution are well-documented. While TCI is primarily focused on greenhouse gases, a program of this scale must be designed to ensure reductions on criteria pollutants in non-attainment areas.

Equity Advisory Body

- The Model Rule should include more details of the membership, responsibilities, and the timeline for states to establish the Equity Advisory Body (EAB). Environmental justice should be a deliberate focus of the advisory board and we recommend changing the advisory body title to reflect that.
- We are glad that the Draft Model Rule requires a majority of the Equity Advisory Board members to be from communities that are overburdened by transportation related pollution or underserved by affordable and accessible transportation options. We recommend that states establish this body by the summer of 2022. Members of the board should also be given the authority to provide investment recommendations, develop criteria to evaluate and score projects, review annual program reports that include details of allowance proceeds and status of projects funded, and offer guidance on program changes.
- The Equity Advisory Body's membership should be broadened. The states should consider adding an explicit requirement to seek stakeholders from organized labor and who live in Environmental Justice communities.

Prioritizing overburdened and underserved communities

We appreciate the Draft Model rule's emphasis on overburdened and underserved communities. However, more specific details and commitments are necessary to ensure that these values are realized, and to create accountability across all TCI states.

- There are no guarantees that there will be emissions reductions in communities that have the most pollution burdens. In addition to investment, TCI should require states to set measurable goals for pollution reduction in overburdened and underserved communities.
- Additionally, to ensure that reductions in GHG and criteria pollutants are achieved in overburdened and underserved communities, TCI must set minimum standards for data collection, which will require increased air monitoring in many places. We recommend that participating jurisdictions establish baseline air quality conditions in air pollution hotspots by installing air quality monitors to measure criteria pollutants like nitrogen oxides and ultrafine particulate matter. In addition, jurisdictions should set annual air pollution improvement targets by

2022 to ensure that these areas see significant air quality improvements by 2032.

- We are encouraged by the commitment that at least 35% of funds are to be invested in overburdened and underserved communities as determined by an equity board in each state. However, the Model Rule should require at least 70% of the investments to overburdened and underserved populations. There should be rigorous screening methods, assessments, research and studies to inform and prioritize specific investment strategies, including the overall spending amounts or percentage of total funds, to be targeted towards communities in vulnerable populations, populations overburdened by ambient air pollution exposure and those underserved by current transportation options. There needs to be particular focus on, Black, Indigenous and People of color (BIPOC) and low-income communities, and rural communities.
- The Model Rule should include the regular review of the program by environmental justice groups and other equity bodies to measure environmental justice, equity impacts, and make adjustments.

Sincerely,

Rebekah Whilden
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Sierra Club