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Georgetown Climate Center
Georgetown Climate Center Hall of States
Suite 422
444 N. Capitol Street
Washington DC 20001

Submitted electronically to the Transportation & Climate Initiative at
<https://www.transportationandclimate.org>.

RE: Comments on the Draft Model Rule of the Transportation and Climate Initiative (TCI)

The Virginia Manufacturers Association (“VMA”) respectfully submits the following comments in response to the draft model rule of the Transportation & Climate Initiative (“TCI”), as proposed by the Georgetown Climate Center (“GCC”).

VMA believes that climate change regulations must be exclusively addressed at the Federal level. There is an inextricable linkage between environmental management and the making and moving of energy, products, and people. As such, economic prosperity, environmental protection, business consumption and human health are interdependent necessities of the U.S. economy. Federal and state administered EPA programs and policies to regulate the economy to slow or stop global warming should carefully balance these competing necessities through rigorous scientific and economic standards. Any regulation that would impair the U.S. economy or lacks empirical and transparent measurement leading to broad scientifically validated reductions in global temperatures as well as effective adaptation strategies should be opposed.

Since 1922 the VMA has served as *Industry’s Advocate*TM. Our mission is to create the best business environment in the United States for world-class advanced technology

businesses to manufacture and headquarter their companies for maximum productivity and profitability. The VMA represents Virginia's 6,000+ manufacturers that employ over 230,000 individuals, contribute \$47 billion to the gross state product, and account for over 80% of the state's exports to the global economy.

VMA has been an active participant in state and federal legislation and regulation pertaining to climate change for over a decade. The VMA and its members are committed to environmental excellence and protecting our air, water, and lands. In partnership with Region 3 EPA, the Virginia Department of Environmental Quality, and the Virginia General Assembly, every major metric of pollution has been reduced over the last 20 years while the population and economy have grown. It is our assertion that one can have environmental excellence and economic opportunity – these are not mutually exclusive concepts.

VMA has six primary concerns as it pertains to the draft model rule: Costs, Benefit-Cost Analysis, Revenue Restrictions, Fuel Selectivity, Alternatives, and Public Transparency.

I. COSTS

Consumers in the TCI region currently benefit from relatively low fuel prices, but already have [substantial state, regional, and local fuel taxes](#). TCI is an extraterritorial tax and multi-state compact administered by a non-government organization that has inadequate Federal government oversight and direct public involvement. The model rule's fundamental effect is to create scarcity, drive up the cost of transportation fuels, and, thereby, limit the use of said fuels to reduce mobile source carbon emissions (automobile emissions). The escalating costs cannot be effectively mitigated for low-profit or energy intensive trade exposed businesses, and all low-income families, individuals with high debt to income ratios, and the working poor. Further, these costs will fall on consumers, both individuals and businesses, in a geographic area that is already one of the most expensive places to live and operate a business in the U.S.

The chasmic disparity in business climate between the TCI targeted states is best illustrated in an excerpt from the Virginia Industry Foundation's *2020 Manufacturing Competitiveness Index* below:

BUSINESS CLIMATE	Manufacturing Scorecard Tax Climate (numeric conversion) 2020	Top Marginal Corporate Tax Rate 2020	Legal Climate Rankings (2019)	Air Quality PM 2.5 (2019)	Workers Comp Insurance Premium per \$100/ payroll 2018	Best States for Manufacturing Index (2019)	Manufacturing Operating Costs Index (2019)	Value of \$100 (2020)	Greenhouse Gas Emissions Per Capita (Metric Tons of CO2) 2017	AVERAGE RANKING	STATE RANK
North Carolina	1	7	16	22	32	5	1	19	13	12.9	2
Virginia	18	20	12	17	10	17	21	39	15	18.8	6T
New Hampshire	31	35	18	1	25	37	34	42	9	25.8	31
Maine	36	44	2	7	32	40	38	35	15	27.7	35
Delaware	14	42	1	40	46	27	31	33	21	28.3	36
Vermont	38	41	11	4	42	42	39	40	4	29.0	37
Massachusetts	38	38	28	9	13	47	42	46	4	29.4	38
Maryland	44	40	27	30	12	29	37	45	2	29.6	39
Connecticut	38	33	3	22	44	45	47	43	7	31.3	41
New York	47	24	36	11	50	44	36	49	1	33.1	43T
Rhode Island	44	31	24	24	43	46	45	34	8	33.2	45
Pennsylvania	36	48	39	47	34	38	40	29	29	37.8	47
New Jersey	47	49	43	36	48	43	48	47	14	41.7	50

Simply put, Northeastern states do not have much to lose by imposing additional taxes on their consumers that may result in risking economic opportunities because they are among the least economically competitive states in the U.S. already – ranking #31-#50 in business climate. However, southern states like Virginia and North Carolina are risking a great deal to tie themselves to such a tax scheme – ranking #6 and #2 respectively. This is especially poignant when Virginia’s GHG [emissions per capita](#) already outperform many TCI targeted states even before the Virginia Clean Economy Act (2020) has been implemented.

VMA also has concerns about the proposal to purchase credits, which are among the most expensive carbon reduction methods.

II. ENVIRONMENTAL BENEFIT-COST ANALYSIS

Emissions in the transportation sector have substantially declined due to CAFE standards and commuter behavior changes. TCI does not account for the real reduction in vehicle miles traveled over the last 15 months due to COVID-19 restrictions or the permanent commuter travel changes due to new permanent remote employment for millions of workers in the TCI target region. Carbon emissions from mobile sources and stationary sources will continue to decline over the next 20 years without TCI’s tax scheme.

It has been estimated that the most stringent version of the TCI program analyzed would accomplish an incremental reduction of 14 million tons per year over the “no TCI”

case, at a cost of \$6.9 billion. This equals \$492 per ton of avoided GHG emissions – more than ten times the Obama-era “Social Cost of Carbon” value and the Biden mandated “Social Cost of Carbon” update which are both highly debatable and unsupported by the broader [community of consumers](#).

VMA also recommends TCI reexamine its approach to “co-benefits”. It should begin by recognizing that, by using the term “co-benefits”, it must fully encapsulate the universe of both costs and benefits ancillary to the regulatory action. Thus, we recommend TCI use the term “ancillary impacts” and address both secondary costs and secondary benefits. Three principles apply to consideration of these secondary impacts: (i) ancillary impact assessment can identify more efficient regulatory options; (ii) ancillary impacts can identify effects on populations and industries most sensitive to the regulatory proposal and often not the target of the proposed regulation; and (iii) ancillary impacts are real and should be incorporated into benefit-cost analysis. Once TCI has appropriately examined ancillary impacts, determining that their regulatory analysis identifies all cost-efficient regulatory alternatives (including regulating through alternative authorities), TCI must include in its benefit-cost analyses the ancillary costs and benefits, as they are real impacts of the proposed tax scheme.

It is also recommended that the evaluation of externalities of the TCI tax scheme adoption should be included in the draft rule. For example, if TCI in Virginia resulted in 7.5 million vehicles being forced to electric-only sources of energy/fuel, this would have an impact on the electric grid that would require new transmission, generation, and support systems. For example, 7.5 million electric cars would generate over 4 billion pounds of toxic materials destined for Virginia landfills. This would also have a direct effect on the production of lithium and cobalt which would increase the need for mining and refining operations. If these materials are not sourced in the U.S., [environmental hazards and child labor exploitation](#) will likely be exacerbated in the countries of origin of these rare earth conflict minerals - the Democratic Republic of the Congo and China.

VMA further notes that the lack of judicial review of TCI benefit-cost analyses means consistency and transparency mandates can be ignored. Therefore, we recommend that TCI incorporate rules that require its analyses meet specific, explicit requirements or be deemed arbitrary and capricious. TCI should also comply with the Information Quality Act (IQA), and fully assess and explain the quality, objectivity, utility, and integrity of the information it uses when it assesses benefits and costs.

Essentially, the benefit-cost justification for TCI’s draft model rule lies primarily in the anticipated government revenue to fund constituent programs at the state level and the case for achieving greenhouse gas emission reductions cost-effectively is inadequate.

III. REVENUE RESTRICTIONS

The model rule should require tighter restrictions on the use of any revenues. Transportation taxes in Virginia are exclusively used for transportation infrastructure maintenance and construction. Diverting transportation tax revenue to things like automobile subsidies could result in the diversion of infrastructure funds to pay for expensive electric vehicles for people and corporations that may have the funds to buy them without the need for government subsidy. This is particularly acute when one considers government tax subsidy paying for the automobiles of competing companies where one is financially unable to purchase an expensive fleet of electric-only cars and a well-funded competitor can purchase the electric-only fleet but also gets the unnecessary government subsidy.

IV. FUEL SELECTIVITY

VMA has concerns about setting the point of compliance at the bulk fuel terminal level. This is particularly problematic in a region where fuel can move from a single terminal across multiple state lines.

The model rule also only covers a few states, not all sectors within those states, and only some transportation fuels.

Another key issue for the regulated entities is the differing targets among the participating states. Will allowance prices change at different rates over time, as some states pursue far more aggressive targets? Further, how will those allowances be sold to entities that sell fuel in multiple states, especially states that may not be part of the program? These are critical implementation questions that need to be answered as this program will dramatically affect the fuel supply chain for more millions of consumers.

Although the VMA has not taken a position on the 95 Research Octane Number (“RON”) octane standard, some organizations in this supply chain have recommended a transition from the Renewable Fuel Standard (“RFS”) to a 95 Research Octane Number (“RON”) octane standard. They argue that it would be a better policy for consumers, ethanol producers, refiners, automakers, and the environment, without the prohibitive costs of the TCI scheme. A 95 RON octane fuel, when paired with automobiles optimized for such fuel, can deliver a 3-4 percent efficiency gain at a lower cost than other technologies. 95 RON also apparently has the benefit of being available on a nationwide basis on day one, minimizing disruptive infrastructure requirements and other market barriers associated with higher RON levels. Moreover, a 95 RON can be produced within all the most stringent air quality standards in place today, including in California.

V. ALTERNATIVES

The TCI model rule does not effectively evaluate alternatives to its tax scheme. There should be dozens of alternatives to taxing and spending that could be regional in nature to lower mobile source emissions such as has been illustrated in these comments (e.g., remote work, RON octane standard, etc.). Another example could be improved public mass transit utilization throughout this transportation corridor utilizing shared and coordinated sources of Federal funds. There is also the need for high-speed train services to provide for lower emission alternatives to automobile and air travel within the transportation corridor. Alternatives to the TCI tax scheme that include robust benefit-cost analyses should be included and expansive in the TCI model rule.

VI. PUBLIC TRANSPARENCY

The TCI tax scheme has inadequate public transparency and consumer protections. Since this model rule is a tax in the form of a multi-state compact, the adoption by any state should require a 2/3 vote of any state legislature approving participation and cost transparency at the pump.

It is too easy to shield this tax from public participation and force it on consumers through simple majority votes which are often partisan. A tax of this nature should command the support of a 2/3 majority of any legislature, thus, ensuring that there is broad support and long-term commitments to results.

Further, the model rule should require that any tax imposed should be reflected as such on the sales receipt for every purchase of affected fuel. The benefits and costs to consumers must be equally transparent.

Finally, any tax revenues used for programs should subject the administering program's state government agency to an institutionalized process for retrospective review of the benefit-cost of adopted regulations. Those analyses should be made available centrally through TCI as a requirement of receiving funding. Further, TCI should prepare a simplified manual on how to meet IQA responsibilities to better guarantee the quality, objectivity, utility, and integrity of the information it uses.

Sincerely,

Brett A. Vassey

Brett A. Vassey, President & CEO