



## RGGI's New Relative, TCI: A Cap-and-Invest Initiative for Emissions from Transportation Fuel

A new regional program under consideration in 12 Northeast and Mid-Atlantic states and the District of Columbia would create a cap-and-invest program for GHG emissions from fossil fuels used in transportation. The initiative proposed by the [Transportation and Climate Initiative \(TCI\)](#) – a regional collaboration of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia that seeks to improve transportation, develop the clean energy economy and reduce carbon emissions from the transportation sector – would be similar to the Regional Greenhouse Gas Initiative (RGGI), which administers a cap and trade program for power plant GHG emissions.

TCI released a [draft memorandum of understanding](#) (TCI MOU) on December 17, 2019, which anticipates that each participating jurisdiction will follow its legal process to adopt a program consistent with a jointly developed Model Rule to implement the final TCI MOU. TCI plans to finalize the Model Rule by the end of 2020 after a 60-day comment period and expects that the TCI cap-and-invest program could be implemented in 2022.

The cap and invest program would begin with an initial GHG emissions allowance cap assigned to each participating jurisdiction, which would then decline each subsequent year to bring about a reduction of emissions from the transportation sources. These emission allowances would be distributed at auctions, and funds generated from these auctions are anticipated to fund low-carbon and clean mobility options in urban, suburban, and rural communities. The contemplated program will cover all gasoline and on-road diesel fuel dispensed at the terminal rack and require fuel suppliers to hold emissions allowances equal to the GHG emissions from the fuel they distribute in the participating jurisdictions.

The proposed TCI MOU defines two types of regulated “*State Fuel Suppliers*,” “*Position Holders*” and “*Enterers*.” *Position Holders* are defined as owners of the fossil fuel component of motor vehicle gasoline and on-road diesel fuel at terminals delivering across a terminal rack upon removal from a storage facility. *Enterers* are defined as owners of the fossil fuel component of motor vehicle gasoline and on-road diesel fuel that is delivered into a participating state from a facility in another jurisdiction for final sale or consumption in the participating state. While not entirely clear from the definitions, potential regulated entities could include refining companies and large convenience store and fuel station operators with operations in the TCI member states. The TCI MOU also anticipates that other owners and operators of the fuel supply infrastructure, such as pipelines, terminals or distributors, may also be subject to reporting or recordkeeping obligations under the program.

Many key points remain unresolved in the draft MOU, including: the initial cap for covered fuels, allocation of emission allowances, schedule for future emission reductions, initial compliance period, stability mechanisms such as a reserve of allowances, whether to allow the use of carbon offsets, auction mechanisms and a minimum reserve price, investment of proceeds, and governance of the group.

January 9, 2020

### CONTACT

**JULIE R. DOMIKE**  
[jdomike@babstcalland.com](mailto:jdomike@babstcalland.com)  
202.853.3453

**GINA N. FALASCHI**  
[gfasalchi@babstcalland.com](mailto:gfasalchi@babstcalland.com)  
202.853.3483

**Washington, DC**  
Suite 700  
505 9th Street NW  
Washington, DC 20004  
202.853.3455

**BABSTCALLAND.COM**

TCI is seeking public comment on these and any other issues; comments must be submitted by Friday, February 28, 2020. The comment period presents the opportunity to share views and raise questions about the initiative, and to have an impact on the final program. Potentially regulated parties may want to comment on such issues as the anticipated impact of the program, administration of the program, reporting obligations, or interaction of the TCI cap-and-trade program with other regulatory schemes (such as the EPA Renewable Fuels Standard Program).

For a more detailed assessment of this proposed initiative or assistance in drafting and submitting a comment before February 28, 2020, please contact Julie Domike at 202-853-3453 or [jdomike@babstcalland.com](mailto:jdomike@babstcalland.com) or Gina Falaschi at 202-853-3483 or [gfaschi@babstcalland.com](mailto:gfaschi@babstcalland.com).

---

PITTSBURGH, PA | CHARLESTON, WV | HOUSTON, TX | SEWELL, NJ | STATE COLLEGE, PA | WASHINGTON, DC

*Babst Calland was founded in 1986 and has represented environmental, energy and corporate clients since its inception. The Firm has grown to 150 attorneys who concentrate on the current and emerging needs of clients in a variety of industry sectors. Our attorneys have focused legal practices in construction, corporate and commercial, creditors' rights and insolvency, emerging technologies, employment and labor, energy and natural resources, environmental, land use, litigation, public sector, real estate and transportation safety. For more information about Babst Calland and our practices, locations or attorneys, visit [babstcalland.com](http://babstcalland.com).*

This communication was sent by Babst Calland, headquartered at Two Gateway Center, Pittsburgh, PA 15222.

This communication is privately distributed by Babst, Calland, Clements and Zomnir, P.C., for the general information of its clients, friends and readers and may be considered a commercial electronic mail message under applicable regulations. It is not designed to be, nor should it be considered or used as, the sole source of analyzing and resolving legal problems. If you have, or think you may have, a legal problem or issue relating to any of the matters discussed, consult legal counsel.

This communication may be considered advertising in some jurisdictions. To update your subscription preferences and contact information, please [click here](#). If you no longer wish to receive this communication, please [reply here](#). To unsubscribe from all future Babst Calland marketing communications, please [reply here](#).

©2020 Babst, Calland, Clements and Zomnir, P.C. All Rights Reserved.