

Western Connecticut COUNCIL OF GOVERNMENTS



September 9, 2022

CBD Tolling Program
2 Broadway, 23rd Floor
New York, NY 10004

FHWA - NY Division
RE: CBDTP
Leo W. O'Brien Federal Building
11A Clinton Ave, Suite 719
Albany, NY 12207

Via e-mail to:
CBDTP@mtabt.org

CBDTP@dot.gov

Dear Sir or Madam:

The Western Connecticut Council of Governments, which represents eighteen municipalities and hosts the South West Region and Housatonic Valley Metropolitan Planning Organizations (MPOs), has reviewed the draft *Environmental Assessment for the Central Business District (CBD) Tolling Program*.

WestCOG has identified several concerns, substantive and procedural, with the draft Environmental Assessment (EA). These concerns, which begin on page 2 of this letter, include the potential for significant impact to locations in the Western Connecticut Planning Region that were not considered during the development of the Environmental Assessment.

Given the probability of significant impacts, the potential regional implications of the project, and the apparent possibility of additional, viable alternatives, a full Environmental Impact Statement may be warranted.

WestCOG looks forward to resolution of the concerns identified and to full engagement of partners across the Study Area.

Should you have questions, please do not hesitate to contact me by e-mail at fpickering@westcog.org.

Sincerely,

A handwritten signature in black ink that reads "Francis R. Pickering". The signature is written in a cursive style with a horizontal line underneath the name.

Francis R. Pickering
Executive Director

Alternatives Screening Process

It appears that the screening of initial alternatives was not neutral but was preferentially biased to the CBD Tolling Alternative (Action Alternative). The draft EA notes that at least one other alternative would satisfy the Project purpose, need, and objectives. Specifically, alternative T-2, which would toll the East and Harlem River Bridges. Per Table ES-1, note 4 (pp. ES-8, 9):

“Earlier studies showed this alternative would reduce congestion and could raise toll revenues equivalent to project objectives. However, there is no law or agreement in place between the City of New York and MTA that would direct the revenue to MTA to support the Capital Program.”

The absence of an agreement in place for an alternative does not constitute sufficient grounds to exclude an alternative from consideration. Most transportation projects require agreements before they can be implemented. Given this, for maximum factual accuracy the statement in Table ES-1 that T-2 “Does not meet” the Project objectives should be revised to indicate that T-2 “Meets” the Project alternatives (possibly with a footnote indicating that an agreement is necessary).

The EA fails to note in this section that agreements that will be necessary with USDOT to implement congestion pricing under the VPPP. Should the lack of an in-place agreement be sufficient to exclude an alternative from further consideration, the Action Alternative should also be excluded or a similar footnote to the above should be added.

Criteria used to exclude alternatives should be applied impartially across alternatives and reflect whether they are bona fide environmental constraints, or whether they are matters of negotiation.

In addition, the EA does not consider hybrids of any of the preliminary alternatives. These include:

- Alternative O-1 to “Reduce government-issued parking permits” meets both objectives of the Project in reducing congestion but is excluded from further analysis for failing to generate the revenue MTA seeks for its capital projects. Incorporating this into the Action Alternative could deliver even greater congestion and air quality benefits than the current Action Alternative (at no additional cost to the private sector). As the EA documents, in the 11 census tracts with the highest percentages of car commuters, the largest fraction, 45%, work in “Public Administration”; the next highest fraction, 14.6%, work in “Educational, health and social services” – which likely also includes many public sector employees. Given the outsize contribution of public sector employees to car use and thus congestion, it is unclear why this proposal has not been incorporated into the Action Alternative.
- Alternative NTP-1 to reform parking pricing, such as by “increased rates for on-street parking and/or introduction of an overnight on-street parking fee”, is excluded for an estimated VMT reduction of less than 1%. It is not clear that VMT reduction corresponds directly to a reduction in congestion in this case. New York City is unusual among large cities in that much of its on-street parking, even in the CBD, is free. Underpricing of goods (which includes free parking) tends to produce scarcity, and scarce available parking leads to drivers to ‘hunt’ for a space and/or to double park, obstructing traffic. This is especially common among for-hire vehicles, as the EA notes but does not quantify (p. 6-35), and for delivery vans. Both hunting for parking and double-parking contribute to congestion.

Did the model used in the analysis account for these behaviors? A model that estimates trip and VMT reduction due to higher parking costs should not only measure the mileage between the origin and destination of trips that are no longer made by car. It should also consider the reduction in VMT from hunting for parking spaces – which applies both to trips that are no longer made by car or truck and to trips that are still made by car and truck but no longer involve hunting for parking at length, due to the presence of available spaces at the destination. Furthermore, a model that uses trips and VMT as a proxy for congestion fails to account for the reduction in double-parking that would result from increases in parking space availability created by appropriate pricing. Reduction of double-parking could significantly lessen congestion but would not necessarily reduce trips or VMT; as such, this would not be captured by a model that only estimates trips or VMT.

Without use of an appropriate model – i.e., one that measures congestion rather than proxies for it – parking reform alternatives cannot be reasonably excluded on the basis of not meeting congestion reduction goals. Such reforms may include setting rates to ensure that one or two spaces is available per block and/or creating spaces for vehicles that tend to double-park (e.g., delivery vans, for-hire vehicles). In addition, as with Alternative T-2, the absence of an agreement in place for an alternative does not constitute sufficient grounds to exclude an alternative from consideration. Most transportation projects require additional agreements before they can be implemented. Given this, for maximum factual accuracy the statement in Table ES-1 that NTP-1 “Does not meet” the Project objectives should be revised to indicate that NTP-1 “May meet” the Project alternatives (possibly with a footnote indicating that an agreement is necessary).

Given the role of free parking in incentivizing automobile use and contributing to congestion; and USDOT’s consistent promotion of parking pricing, notably through its Tolling and Pricing Program, excluding parking pricing as a standalone alternative from the Project and/or not integrating it as a component of the Action Alternative is a significant missed opportunity and a procedural defect.

Lastly, the EA does not include consideration of ‘soft’ rather than ‘hard’ infrastructure to realize congestion pricing. A disproportionate share of the vehicles driving and creating congestion in Manhattan are fleet or network vehicles: per the EA, by fall 2019, taxis and for-hire vehicles alone made up 48% of all vehicles circulating in the CBD (p. 6-35), and trucks made up 8-12% of all traffic in the City (p. 6-39). In other words, fleet and network vehicles account appear to account for majority of traffic in the CBD.

This is important is because such vehicles generally carry devices that record their routes, including the mileage, time, and time-of-day. One alternative that the EA did not consider but perhaps should is mobile tolls. With mobile tolls, congestion tolls on these vehicles would be assessed based on the reports of this on-board equipment (which could be as simple as an ‘app’). This charge could be a dynamic toll to enter or exit the CBD, or it could relate to the time the vehicle is in operation in the CBD – and thus be more proportional to the contribution of each vehicle to congestion. A vehicle that is in constant circulation in the CBD adds far more to congestion than one that is driven into the CBD and left parked there for the rest of the day; yet none of the Project alternatives differentiate between the vastly differing impacts of these vehicles

in the tolls proposed. Many toll systems are proposing or are augmenting existing toll transponders, toll tags, or license plate scanners with smart device-based tolls; the lack of inclusion of such a technologically forward-looking alternative is curious.

Congestion Pricing and Policy Implications

In any given calendar period, the dollar amount of tolls proposed under the Project would be fixed, varying only by vehicle type and by time of day (peak, off-peak, and overnight). It is not clear how this differs from existing toll systems across the nation, including those under the authority of the Port Authority, many of which vary tolls by time of day but are not considered congestion pricing. (Indeed, the Port Authority even uses the same time-of-day classifications as the EA proposes: peak, off-peak, and overnight.) Neither the tolls proposed under the EA nor those levied by agencies such as the Port Authority vary in response to actual congestion.

Implementation of this Project as proposed under the EA could set a precedent, with significant environmental, economic, and fiscal impacts across the nation. Namely, if a time-of-day toll is sufficient to allow a highway facility to receive both toll revenue and Federal aid, then why should not all toll facilities in the nation be allowed to collect Federal aid in addition to toll revenues?

Without an increase in Federal aid, allowing existing facilities that collect tolls and have been historically ineligible to receive Federal aid – from bridges and tunnels to statewide toll roads – to receive such aid could have major impacts on the National Highway System. Increases in the mileage of highways eligible for Federal aid could result in changes to the distribution of funds among states. States, such as Connecticut, which do not have toll facilities could see decreases in their aid; states with extensive toll facilities (e.g., New York) could see increases.

The 28-county Study Area includes many bridges, tunnels, and highways that potentially could gain additional revenue, as well as many more facilities that could stand to lose revenue – including many in Western Connecticut – should this fundamental premise of Federal aid come undone. Such a policy change may be inconsistent with the plans and policies adopted by entities at state and regional levels within the Study Area as well as beyond it and could be expected to have a range of impacts not only on transportation infrastructure across the country, but on the communities, economies, and environments they pass through and serve. The draft EA fails to recognize these risks and potentially significant impacts.

True congestion pricing, i.e., tolls that vary dynamically in response to congestion, have been deployed in numerous jurisdictions, both domestic and international. These systems have proven superior to static tolls at reducing congestion. Given the benefits of congestion pricing, it is unclear why an EA that is intended to reduce congestion through “congestion pricing” does not include congestion-driven dynamic pricing among any of the alternatives it considers. Indeed, the EA does not include a single reference to dynamic pricing. This is a concerning and unusual omission and suggests that either those who prepared the EA are unaware of the well-documented history of dynamic pricing in the United States, or that such an alternative was intentionally omitted – without being formally considered in the EA.

Both these considerations (potential for impacts on the Federal aid system and its recipients, potential for inclusion of dynamic pricing as alternative) may have been raised had the EA process included opportunity for meaningful participation by regional stakeholders.

Adverse Impacts

It is not apparent that the impacts described below were considered in the development of the EA; engagement of partners and stakeholders on these matters may have been inadequate or lacking. Without this, it is not possible adequately to evaluate impacts nor to plan for their mitigation.

Rail Station Parking

The EA determines that the Project would have “Only Beneficial or No Adverse Effects” on parking, neighborhood character, economic conditions, or regional transportation. These are not credible findings and reflect deficiencies in the preparation of the EA, including a failure to consider all relevant factors – including parking outside City limits, which the EA ignores – and meaningfully to involve regional stakeholders beyond New York City.

With respect to parking: the intent of congestion pricing is to make driving so expensive that a substantial number of persons who travel by car do something else. In this Project, the goal is to push a mode shift, so that drivers switch to public transit. (Under the Project, revenues collected from those who continue to drive would fund transit.)

While mode shift is a laudable goal, it is premised on current drivers having a viable option besides driving. In many places, this may not be the case, as the transit system and associated facilities lack the capacity needed to enable a mode shift. This is specifically not the case in Connecticut, where rail station parking already exceeds demand. The shortage is so extreme that wait lists for a parking permit at many stations on the Metro-North New Haven Line are years long.

The Project does not provide any remedy for this problem, as the New York State law providing for the Project does not contemplate toll revenues collected to be reinvested in transit facilities (and thus mitigating the impacts of the Project) in neighboring states. In other words: the Project would significantly increase the cost of driving into New York City for Connecticut residents without providing them a practical alternative.

Had the EA authors consulted with regional stakeholders, including reviewing publicly available information on rail station access, they may have found that the proposal could be expected in southwestern Connecticut to:

- Add to the length of the parking waitlists on Metro-North New Haven Line stations
- Potentially exhaust available day parking spaces and parking spaces during off-peak times
- Result in parking overflowing onto local streets, adversely impacting neighborhoods, creating local congestion in rail station areas (which are often city in town centers), and increased enforcement costs
- Increase economic and time costs for households who must drive because they are unable to find parking, including for those who drive to a train station, find no parking is available, and must either cancel their trip or proceed with a delay and a toll

These impacts may be significant in Western Connecticut as a region as well as at the neighborhood level; however, the EA fails to consider them.

Upgrades to transit service in New York City and State may benefit Connecticut residents whose trips include those services, but limiting the reinvestment of toll revenue in stations and the surrounding areas to locations in New York creates a two-tier system that disadvantages the residents of neighboring states. (The New Haven Line east of the New York State border, the Danbury and New Canaan branch lines, and Metro-North stations in Connecticut would not see any revenues from congestion pricing.) The EA does not address this inequity.

Economic Conditions

High costs in New York have resulted in relocations to other states. The Project would further increase the cost of doing business in New York and, as such, could be expected to factor into locational decisions. However, the EA does not evaluate the impact of congestion tolls on economic development (although it does note a significant share of trips to the Manhattan CBD may be suppressed, or “canceled”, as has been observed in other cities). (p. 4A-44)

While an increase business relocation out of New York City may be a positive result of the Project, at least for receiving states such as Connecticut, all significant impacts, negative and positive, should be addressed by the EA. Furthermore, even developments that are largely regarded as positive may have negative impacts. For instance, movement of businesses, jobs, and residents out of New York into Connecticut may create additional demand on highways, schools, hospitals, and other public services that are already at or above capacity.

Household Impacts and Equity

The EA states:

“To address the high and disproportionate adverse effects on low-income drivers who feel they must still drive...The Project will include a tax credit for CBD tolls paid by residents of the Manhattan CBD whose New York adjusted gross income for the taxable year is less than \$60,000. TBTA will coordinate with the New York State Department of Taxation and Finance (NYS DTF) to ensure availability of documentation needed for drivers eligible for the NYS tax credit.”

That is, to mitigate the impact of the Project, tax credits will be given to drivers who live in the best-served transit area in the United States but not to those who live in areas with areas with less access to quality transit, including “transit deserts”, where little to no transit is available. These are not areas where residents do not “feel” they have to drive: these are areas where residents often must drive because there are literally no other options.

It is well-documented that housing prices and transportation access are related: the closer homes are high-quality transit, the higher values tend to be; the farther they are from it, the lower they tend to be. (The ‘drive till you qualify’ phenomenon is called that for a reason – it involves driving beyond the range of transit service.)

While a broad base is desirable for a toll system, as it lowers the average toll, financial exceptions such as credits and deductions should be rational, nondiscriminatory, and equitable. It is not clear how the credit proposed is consistent with these principles.

Project revenues are intended to be used to improve transit service, but, as noted before, these funds may only be spent in New York State. Thus, the proposal could further inequity by creating three classes of lower- to middle-income drivers: those who live in a transit-rich, high economic opportunity area (who would be eligible for a credit), those who do not but live in New York (who would not be eligible for a credit but would see local transit investment), and those who do not live in New York (who neither would be credit-eligible nor would see local transit reinvestment).

The economic and equity implications of this arrangement merit further analysis.

Driving Costs

The estimates of current driving costs and increases in driving costs under the Project include only one location in southwestern Connecticut, viz. Fairfield. (Tables 4A-18 and 4A-19, pp. 4A-29, 30). Fairfield is at the fringe of the New York City commute-shed. Calculations using it will understate the percent impact of tolls on travel costs for most commuters from Connecticut. A location closer to New York City with a larger Manhattan CBD commuter population should be included to give a better estimate of the percent increase in travel costs. Stamford would be a good location for such an analysis.

Safety and Health

Much of the discussion in the EA revolves the Environmental Justice impacts of freight trucks moving from surface streets and onto limited access highways, even though the EA notes that this is a beneficial impact and no mitigation is needed. (p. 4A-52) Missing from this discussion are the safety benefits of moving thousands of large, dangerous vehicles off neighborhood streets and out of the path of pedestrians and cyclists (of all ages and abilities). Instead, the EA specifically proposes a toll structure (Scenario G) that is intended to minimize the “beneficial effects” of truck reversion to the highways and preserve the status quo to a great extent.

It is not clear how this is consistent with Transportation Performance Measures to reduce fatalities and serious injuries, including of vulnerable users, or with the City’s and federal government’s focus on Vision Zero/Toward Zero Deaths approaches.

If a goal of Scenario G is to reduce the environmental impacts of additional trucks on limited access highways on adjoining neighborhoods, a better approach than supporting the continuation of truck diversions onto surface streets would be to accelerate the transition to electric vehicles. As the vehicle fleet electrifies, the air and noise pollution created by a highway will significantly attenuate. One method to accelerate this transition, on for instance, the Trans-Manhattan and Cross-Bronx Expressways, could be adjusting tolls on the George Washington Bridge so that diesel trucks pay a higher toll, while electric trucks, at least during the transition, pay a lower or no toll.

Freight System Performance

The EA does not adequately evaluate impacts on regional freight movements. The most important highway on the eastern seaboard, Interstate 95, passes directly through New York City and would be affected by the Project, as would several other freeways of regional importance, through reversion of trucks from surface streets to a limited access highway. While this is a generally a desirable outcome, these facilities are operating far above capacity, and additional traffic can be expected to have a detrimental impact on use of these facilities, including by freight – which has impacts beyond New York City and the Study Area. The EA does not evaluate Project impacts on larger-scale freight movements.

The EA notes that the Project could have adverse impacts on highways of regional importance, including the Trans-Manhattan Expressway and the Cross-Bronx Expressway (p. 4B-78) yet does not propose (or even mention) any capital improvements to these facilities to improve capacity. The Project only contemplates monitoring and “Transportation Demand Management measures such as ramp metering, motorist information, signage and/or targeted toll policy modifications.” While such measures may be able to reduce congestion at the margins – and if effective, should be implemented, even without the Project – they are inadequate to address the severe and worsening congestion on these highways.

Before the COVID-19 pandemic, freight traffic was expected to increase significantly (25%) by 2030; with the move to ‘online everything’, growth likely will surge beyond this. With this growth, New York City freeways are becoming chokepoints in the freight network, impairing the supply chain and economic growth regionally if not nationally.

The EA should include measures to mitigate these impacts. Whether they are additional capacity on area bridges and roads, rail networks, and/or waterborne freight, the need is critical and must be addressed – even if New York State law does not currently provide for the Project’s toll revenues to be invested in freight infrastructure. A project that generates \$15 billion in additional revenue, with a significant fraction coming from trucks, but does not program any of that to relieving barriers to freight does not equitably serve all users.

Potential freight improvements include:

- Enhanced, expanded, and/or new river crossings and area freeways
- Restoration of freight rail connectivity across the Lower Hudson River
- Enhancements to ports in Connecticut and coastal freight barges
- Accommodation of smaller commercial vehicles (e.g., delivery vans) on parkways

While the New York City area has avoided large-scale surface transportation projects (aside from transit) such as these for many years, the failure of the transportation network capacity to keep up with demand is creating a bottleneck of national concern, choking flows of people and goods in and out of New England. This is an unacceptable situation and should be recognized and addressed in any major transportation initiative in the region, including the Project.

Public Involvement

The EA states that:

“The Project Sponsors have implemented a robust agency outreach plan to solicit input from residents, businesses, Federal/regional/state/local agencies, across the 28-county study area. Information about the Project and the process was conveyed via the Project website, a Project Fact Sheet, social media, direct email, and multiple print media outlets. During the early Outreach period, 10 virtual public outreach and 9 environmental justice webinar sessions were held, for a total of 19 sessions. Real-time answers were provided to those who submitted written factual, technical and logistical questions related to the Project and process. The webinars, which remain available for viewing, were streamed live on YouTube, and recordings were subsequently posted on YouTube for on-demand viewing.”

While meeting tallies may be numerically correct, WestCOG would not characterize the process as robust. Between the initial outreach period and release of the draft EA, WestCOG received no communications from the Project Sponsors regarding the project, despite having submitted a comment letter (for which WestCOG received no acknowledgement of receipt or response). WestCOG was never invited to participate following the initial period as a partner or consulted with in this capacity. As the host of Metropolitan Planning Organizations (MPOs) that will be affected by the Project, this lack of interagency consultation is inconsistent with both the federally-mandated 3C process (Comprehensive, Continuing, and Coordinated), as evinced in the strong working partnerships that MPOs in the New York City region have established through the Metropolitan Area Planning Forum to address matters of interregional significance. A process in which a project is announced, vanishes, and then reemerges as a draft EA, with no communication or opportunity for engagement in the interim, is a deficient process.

In addition, timing a public comment period to run in August and over the Labor Day weekend, while technically permissible, is not ideal and gives the impression that the Project Sponsors are seeking to avoid and minimize review and comment.