

**To:** Environmental Protection Agency  
EPA Docket Center (EPA/DC)  
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Docket ID No. EPA-HQ-OAR-2016-0033  
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**From:** Emmett Pepper, Executive Director  
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**Re: Docket ID No. EPA-HQ-OAR-2016-0033**

If implemented in a just and equitable manner, the Clean Power Plan (CPP) and the Clean Energy Incentive Program (CEIP) could be a historic chance to create thriving, sustainable communities in Appalachia and help broaden the economic base of West Virginia. As drafted, the CPP and the CEIP fail to adequately center the needs of Appalachians to broaden our economic base and address the need for equity within our energy policy.

We must invest first in the communities who bear the heaviest burden of carbon pollution, as well as the greatest economic burdens. We believe it is critical that our energy policy centers on the needs of the hardest hit communities. Jump starting investments in energy efficiency and renewable energy in low-income communities, communities of color, tribal nations, coal-impacted communities, and other hard-hit communities must be a critical priority for the EPA in the implementation of the CPP and the CEIP. There are serious flaws in the CEIP that must be resolved in order to ensure the CEIP truly serves the communities who are hardest hit by the climate crisis and does not undermine the carbon reductions of the CPP overall.

### **Defining Eligibility for the CEIP**

#### *Defining "Low-Income"*

Creating an accurate definition of low-income community for set-asides and for the Clean Energy Incentive Program (CEIP) is critical. There are two critical factors in defining environmental justice communities: defining "low-income" in an inclusive and effective manner; and, establishing criteria that go beyond income for recognizing environmental justice communities. While we support allowing states some flexibility to choose the definitions that work for their local context, the EPA must impose a minimum quality standard on the definitions to ensure that funds are targeted to low-income communities and ensure that definitions are applied equally to all projects. The EPA must require states to adopt both a geographic definition that captures areas of concentrated poverty and a demographic qualification, such as participation in existing federal affordable housing programs, in order to reach low-income households located in less distressed areas. For a geographic definition, we support as presumptively-approved definitions, geographic areas such as the Housing and Urban Development (HUD) Qualified Census Tracts, the Community Block Development Grant programs, At-Risk or Distressed Counties in Appalachia, and Coal-Impacted Communities, as identified by the Partnerships for Opportunity and Workforce and Economic Revitalization (POWER) Initiative.

According to a Census Bureau report on concentrated poverty, nearly half (46.5 percent) of people in poverty in 2010 lived in census tracts where less than 20% of the population lived below the official poverty line.<sup>1</sup> There is no policy justification for denying support to low-income people who live outside of defined low-income geography. For a household-level definition, we support definitions including households earning below 80% Area Median Income (AMI) or under 200% of the federal poverty line. Families receiving Supplemental Security Income, Aid to Families with Dependent Children, Supplemental Nutrition Assistance Program (SNAP), or assistance from the Weatherization Assistance Program (WAP) should also be considered presumptively eligible. The definition should align with existing programs to ease the burden on community projects, but it also must be targeted enough that the funds serve the communities most in need. We would support an additional prioritization of funds to the lowest-income households and the most distressed communities.

#### *Allow a Pollution Burden Analysis*

Building in a pollution burden analysis into the definition of eligible communities will help ensure that the worst hit communities are given priority under the plan. The EPA should allow states to include geographic areas defined as “environmental justice communities” or “pollution burdened communities.” These are communities that have been disproportionately burdened by environmental toxins and pollution. They should be defined based on a variety of factors including pollution-burden, levels of toxic substances present, rates of key diseases such as asthma and cancer, rates of infant mortality and other indicators of community distress. We endorse Dr. Nicky Sheats’ proposal that EPA create a federal stakeholder group to provide all states guidance on how to define such areas.

#### *Prioritize CEIP Credits to Low-Income Housing, Community-Owned Projects and Non-Profit Controlled Projects*

Because the value of CEIP credits is relatively small compared to the cost of the EE projects that generate eligible savings, the most significant contribution of the CEIP is to help focus sustained attention on hard-to-reach market segments and projects that need the most support. CEIP credits should be prioritized toward projects that serve low-income affordable housing, community-owned and operated projects, projects operated by non-profit organizations and projects serving public hospitals and schools. In addition, all CEIP projects receiving credits from the Low-Income Community Reserve should demonstrate a benefit for low-income communities. Large, for-profit corporations, private universities, private hospitals and other large for-profit ventures should be expressly denied access to CEIP credits and allowances unless they show a benefit for low-income communities. If for-profit utilities and affected EGUs are to participate in the CEIP and receive CEIP credits, they should include a significant partnership with a community non-profit organization on the project receiving CEIP matching credits. The EPA should also work with utilities and affected EGUs to ensure that projects serving low-income customers do not create a debt burden for customers or exclude non-homeowners. Instead, the EPA should encourage utility-owned projects to use inclusive financing models such as Pay As You Save.

#### **Increase the Reserve for Low-Income Communities**

The CEIP program is the only portion of the Clean Power Plan targeted to low-income communities and it is far from large enough to meet the need. Given its limited size and scope, CEIP credits must be targeted to the communities who need them most. The EPA should increase the low-income community reserve to at least 75% of the total matching pool and distribute to states considering the number and prevalence of low-income communities.

These same communities are left out of the green energy economy. One study found that 20 percent of housing occupied by low-income people is structurally inadequate and more than half of this housing is lacking the most basic energy efficiency measures: storm windows, storm doors and attic insulation.<sup>2</sup> Federal programs providing assistance with weatherization and energy efficiency can meet only an

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<sup>1</sup> U.S. Census, 2010 American Community Survey, U.S. Census Bureau, <https://www.census.gov/programs-surveys/acs/>

<sup>2</sup> Bradshaw, Jonathan, “Cost-Effectiveness of Weatherization in Low-Income Urban Housing Stock, Princeton University, 2010. Available at: [http://efm.princeton.edu/pubs/Bradshaw\\_Thesis%20FINAL.pdf](http://efm.princeton.edu/pubs/Bradshaw_Thesis%20FINAL.pdf)

estimated 1% of the need. In addition, they leave out many families, especially renters, undocumented families and families living in multi-family housing. For solar energy, the picture is no less grim. While the solar industry overall is booming, it is leaving low-income communities behind. More than 95% of solar installations are owned by middle and upper-income families.<sup>3</sup> The EPA must ensure that at least 75% of CEIP credits are reserved for low-income and pollution burdened communities.

### **Include Energy Efficiency in the Renewable Energy Reserve**

Energy efficiency is a zero-emission and least-cost option for states to use in complying with the CPP while supplying affordable, reliable electricity to their residents and businesses. To ensure that early action is rewarded and that the momentum of efforts in states is not stymied, we recommend that early investments in energy efficiency receive at least the same incentive as early investments in renewable energy. This can be achieved by expanding the scope of the RER so that, like all renewables, all early investment in energy efficiency can receive allowances or emission rate credits (ERCs) with a federal match at a ratio of 1:1.

Although EPA's cost-benefit analysis shows that energy efficiency is the cheaper path for compliance, by incentivizing renewable energy over energy efficiency EPA will in effect be making the CEIP more expensive for states to implement.<sup>4</sup> By excluding energy efficiency in this early action program, EPA runs the risk of undermining energy efficiency as a compliance approach for states throughout the compliance period. As we have seen with past air regulations, administrative uncertainty surrounding compliance approaches is highly discouraging to states. Even though every state implements utility-run energy efficiency programs, only a handful of states have taken credit for energy efficiency in their past state implementation plans (SIPs). Providing a clear path for energy efficiency to receive credit as an early action compliance approach will offer certainty to states considering energy efficiency as a compliance strategy. Allowing energy efficiency to receive a federal match of 1:1 in the CEIP will help to pave the way for states to implement the lowest-cost approach throughout compliance.

EPA outlines four criteria that renewable energy technologies must meet to qualify for 1:1 credit. Energy efficiency meets all of these criteria. Like renewable energy, energy efficiency is a zero-emitting resource that contributes to long-term climate change strategies, and it can be implemented on the time-scales needed under the CEIP. Given that energy efficiency is on par with renewable energy under EPA's criteria, it should be treated as an additional resource eligible to receive 1:1 credit under the RER. Energy efficiency is a cost-effective resource; however, it will not automatically be deployed due to several existing barriers to implementation.<sup>5</sup> To help offset the upfront cost associated with energy efficiency, we request that EPA offer the same incentive to energy efficiency that renewable energy receives under the CEIP.

### **Ensure that CEIP Jobs are Quality, Local Jobs**

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<sup>3</sup> Mueller, James and Amit Ronen, "Bridging the Solar Income Gap," GW Solar Institute Working Paper, 2015. Available at: <http://solar.gwu.edu/research/bridging-solar-income-gap>

<sup>4</sup> EPA. Regulatory Impact Analysis for the Clean Power Plan Final Rule(2015). <https://www.epa.gov/cleanpowerplan/clean-power-plan-final-rule-regulatory-impact-analysis>.

<sup>5</sup> S. Vaidyanathan et al., Overcoming Market Barriers and Using Market Forces to Advance Energy Efficiency (ACEEE, 2013). [aceee.org/research-report/e136](http://aceee.org/research-report/e136). Existing market barriers to energy efficiency include upfront cost, imperfect information, and split incentives, among others

The EPA must design the CEIP to maximize its ripple effect within these communities. One way to ensure that CEIP projects benefit hard-hit communities even beyond the households they directly serve is to require that CEIP-eligible projects create good quality jobs. The EPA should require CEIP-eligible programs hire at least 50 percent local workers especially displaced coal workers and coal-related affiliate workers. In addition, the EPA should give preference to programs that include community-control and community ownership. We have a chance to build a new kind of energy economy. In order to succeed, the CEIP should preference community-led programs, not just programs funded by the large, out-of-state energy corporations. In Appalachia, we have a history of absentee landlords and land owners, so it is important that the economic boost stays as local as possible.

## **Conclusion**

Coal-impacted communities, low-income communities, communities of color, and Tribal Nations have borne the brunt of pollution, as well as economic challenges, for decades. The EPA must strengthen the CEIP to ensure that it benefits the communities who need it most. Distressed and coal-impacted communities in Appalachia badly need investment in energy efficiency in order to address the disproportionate economic impact that the CPP will have on those communities. Programs designed to meet the carbon-reduction goals of the CPP that will also help diversify the economy will have the greatest positive impact on these struggling communities.