



November 1, 2016

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Docket No. EPA-HQ-OAR-2016-0033
Clean Energy Incentive Program Design Details; Proposed Rule

Dear Administrator McCarthy,

GreenLatinos and Sierra Club strongly support EPA's intention to encourage clean energy projects in low-income communities, many of which are Latino communities, through the Clean Energy Incentive Program (CEIP). Latinos often bear a disproportionate share of the negative health effects caused by fossil fuel-fired power plants. Latinos are on the frontlines of climate change--in the line of fire of extreme heat in the Southwest, extreme drought in California, and sea level rise in Florida. Often, Latinos also work the highest-risk jobs, in sectors including construction, agriculture, and landscaping, where they are directly confronted by the impacts of extreme heat. Almost forty percent of Latinos live within 30 miles of power plants, which are responsible for a large share of climate pollution. The warmer temperatures caused by the buildup of carbon pollution also increases ozone levels, and nearly half of Latinos live in counties where the air is unsafe to breathe because it exceeds ozone standards. Latinos are also less likely to carry health insurance than any other minority group, which makes it very difficult for them to cope with pollution-related health problems.

During the comment period on the Clean Power Plan proposal, EPA received numerous comments emphasizing the disproportionate burdens of pollution on low-income communities and communities of color. These comments asked the agency to ensure that those communities have access clean, affordable energy, in furtherance of the agency's approach to implementing Executive Order 12898, which involves not only preventing or mitigating adverse impacts but also distributing the benefits from the agency's actions to these communities. EPA created the CEIP partially to provide incentives for investments in energy efficiency in low-income communities, where incentives are greatly needed. The agency also intended to provide incentives for general renewable projects, which EPA had expected would need a subsidy for deployment after the scheduled decline and expiration of renewables tax credits.

GreenLatinos and Sierra Club strongly support incentives for the development of clean energy in our communities. However, because the CEIP incentive is in the form of pollution allowances, including allowances that were not accounted for in the Clean Power Plan state

targets, the program carries significant environmental risk and could result in a weaker Clean Power Plan overall if not properly targeted. If provided to projects that do not need the incentive, the expected carbon emission reductions and co-pollutant reductions will not be realized. We thus urge EPA to keep the program narrowly focused on low-income projects, which we believe can most benefit from the incentive and are most likely to offset the additional pollution credits being allocated.

Within this framework, we offer the following suggestions as EPA finalizes the CEIP design details:

1. Low-income definition. We support EPA’s proposal to allow a definition of “low-income” that builds on existing state definitions, subject to certain safeguards to ensure that these definitions are as inclusive of low-income individuals, households, and communities as possible, but also narrow enough so that covered projects benefit truly low-income communities rather than other entities located in these neighborhoods that do not need incentives. We recommend that EPA establish minimum requirements for inclusiveness in state definitions based on either of the following two criteria: (a) low-income limits equal to 80 percent or less of the area median income defined by the Department of Housing and Urban Development, which would allow coverage for low-income families that reside in higher income neighborhoods, yet are in need of federal assistance; or (b) incomes at or below 200 percent of the poverty guidelines issued by the Department of Health and Human Services, which would ensure that CEIP coverage is focused on the poorest households.

We also urge EPA to allow states to include geographic areas as “environmental justice communities” where projects would be eligible for CEIP incentives, either based on prior state determinations (unless community stakeholders object to those determinations when agencies made them without their involvement) or a robust stakeholder process specific to the CEIP. These communities overburdened by air pollution from power plants and other industrial sources tend to be primarily composed of people of color, indigenous people, and low-income families. Some states have already identified environmental justice areas or disadvantaged communities based on pollution burden and various demographic factors.

Using its EJSCREEN environmental justice screening tool and air pollution modeling, EPA should identify, with input from community members, the communities most overburdened by conventional pollution from existing power plants, in order to target concrete actions to reduce conventional air pollution through implementation of the Clean Power Plan and the CEIP. This information would help community members at self-identifying. States may follow other methodologies to identify these areas with community input, but if they do not wish to establish such a process, state definitions would have to meet at least the criteria utilized by EPA to identify those areas.

2. Types of low-income projects covered under the CEIP. EPA proposes to give states flexibility to determine the types of energy efficiency projects eligible for CEIP credit, so long as they are implemented in communities that meet the approved low-income definitions. We ask EPA to not give states complete discretion to define which types of projects will qualify under the CEIP. Instead, the agency should describe which type of projects are eligible for early action

credit, and require states to clearly identify in their plans the type of projects that they expect to cover under the definitions they will use.

3. Low-income energy efficiency projects. EPA should strongly encourage states to prioritize programs to reduce inefficient consumption of electricity in low-income households, in particular affordable housing and weatherization projects, including efficiency projects in multifamily rental housing. Certain commercial projects may also be eligible for CEIP credits, so long as they directly benefit low-income communities. For example, it may be appropriate to make energy efficiency and solar projects in public schools and public hospitals eligible, but not in private universities and private hospitals that happen to be located in low-income communities but do not provide services predominantly to members of those communities. If states select a geographic definition, large, for-profit commercial entities included in those census tracts should not be allowed to qualify for assistance if they do not meet this test.

4. Low-income solar projects. We strongly support EPA's proposal to include solar projects in the Low-Income Community Reserve. Proposed 40 C.F.R. § 60.5373 (e)(8). In the final CEIP, EPA must clarify that the definition of a low-income solar project includes two types of projects; first, solar projects installed on-site at a residence (single family or multifamily housing) where one or more low-income individuals or households reside; and second, community shared solar projects or similar programs that provide electricity savings, credits or other benefits to low-income individuals or households.

5. Exclusions. EPA should not allow certain generating technologies that the agency has allowed states to use for compliance, but which are not zero-emitting or essential to tackle climate change, to qualify under the CEIP. We fully support EPA's proposal to exclude from the CEIP technologies that are not zero-emitting and essential to longer-term climate strategies, specifically biomass, waste-to-energy, and nuclear energy.

Biomass and waste-to-energy are not zero-emitting and require significant capital investments over a long period of time. Waste-to-energy also exposes low-income communities and communities of color to toxic air pollution and removes incentives for waste reduction. Nuclear energy entails extraordinary capital costs and also carries significant health and environmental risks such as air pollution, waste disposal, upstream impacts of mining and processing, and potential for disasters.

6. Meaningful engagement requirements. In the proposal, EPA notes the requirement that, "if a final state plan includes CEIP provisions, the entire plan, including the CEIP, is subject to the requirements for meaningful engagement and public comment." 80 Fed. Reg. at 42,956. We ask EPA to reiterate these requirements in detail in the final CEIP. The agency also must provide guidance to states on what meaningful engagement of vulnerable communities would entail in the context of the CEIP and how the agency will assess this requirement in the final plan submission. The CEIP opens the opportunity for communities to benefit from the development of clean energy but, as we noted, it also raises an environmental risk insofar as EPA's matching allowances could result in increased conventional air pollution in already overburdened communities if adequate safeguards are not taken when developing state plans. It is thus critical to ensure meaningful community engagement as states articulate the CEIP and develop their plans more generally.

7. Environmental justice analysis. As part of its CEIP proposal, the agency performed an illustrative analysis of the potential overlap between low-income populations and people of color, to assess whether eligible CEIP projects in low-income communities could benefit communities of color. In this analysis EPA concluded that communities of color may also benefit from CEIP projects implemented in low-income communities.

We appreciate EPA's analysis, and ask EPA to further refine it so that community members have more detailed information on the levels of pollution and the demographic composition of their neighborhoods. EPA should provide a list, and a map, of the specific block groups with a majority of low-income people and people of color, as well as pollution burden. EPA should then encourage state agencies to target for direct pollution reductions and clean energy investments under the CEIP those areas with predominantly low-income populations or/and people of color, with particular attention to such areas that also have high levels of air pollution, which are likely to be materially reduced by reduced utilization of power plants and clean energy investment in those areas.

8. Work quality, training, and workforce certification. In the proposal, EPA encourages states to consider using a number of guidances on work quality, training, and workforce certification developed by the Department of Energy and the EPA. 80 Fed. Reg. at 42,966. We urge the agency to encourage participating states to require workers' certification for clean energy projects developed under the CEIP. Skill certifications will help substantiate the authenticity of emissions reductions from clean energy measures. This requirement would also help members of low-income communities to gain access to good quality jobs in the clean energy projects built to get early action credits.

In addition, EPA should partner with community organizations to provide guidance to states on how to create high quality jobs in clean energy. Community-based workers organizations work closely with workers, labor unions, and state and local workforce standards and development agencies, and have played an important role in achieving workforce policies and in helping structure development projects that result in high-quality jobs and career pathways for members of low-income communities and communities of color.

9. Financing challenges for low-income projects. Lack of upfront capital is a significant challenge for the deployment of clean energy projects in low-income communities. The federal government is taking significant steps to help low-income communities gain access to renewable energy and demand-side energy efficiency. In the Clean Power Plan, EPA committed to work with its federal partners to ensure that communities have access to information on programs to help low-income communities gain access to renewable energy and energy efficiency. EPA listed several programs in the final rule and its Community Page.

We ask the agency to work with the relevant agencies to provide comprehensive guidance and training (i.e., beyond providing links to websites in its Community Page) on how communities can take advantage of these programs specifically in the context of the CEIP, provided that they meet the low-income definition that EPA finalizes. EPA needs to coordinate with the relevant agencies and conduct community workshops that are focused entirely on this issue, so community members understand their options (i.e., which of these programs offer

grants, loans, tax subsidies, and their size, etc.). EPA should also encourage states with successful programs to share their experiences, so that the agency can offer this information to other state agencies looking for guidance on these programs.

Conclusion

The CEIP has the potential to hasten our transition to a clean energy economy and to benefit the communities most at risk from the impacts of climate change and conventional pollutants. We urge EPA to focus the CEIP on clean energy projects that will benefit low-income communities and communities of color without risking greater carbon emissions and without subjecting these communities to higher levels of co-pollutants. The CEIP must be carefully tailored rule to meet these objectives.

Respectfully submitted,

Mark Magaña
President & CEO
GreenLatinos
markmagana@greenlatinos.org

Alejandra Núñez
Staff Attorney
Sierra Club
alejandra.nunez@sierraclub.org