

**Docket ID Number EPA-HQ-OAR-2015-0734:  
Comments on the Clean Energy Incentive Program (CEIP)  
By the Southwest Energy Efficiency Project (SWEEP)**

**December 15, 2015**

**A. Summary**

The following comments are provided by the Southwest Energy Efficiency Project (SWEEP). They draw heavily from comments prepared by the Midwest Energy Efficiency Alliance (MEEA)<sup>1</sup>. SWEEP is a non-profit organization with a 14-year track record working on utility, building efficiency, transportation and industrial policy and programs in Arizona, Colorado, New Mexico, Nevada, Utah, and Wyoming. We work closely with state and local governments, energy efficiency businesses, utility companies, and other clean energy advocates.

Specifically, we are offering input on the following questions: 1) How should EPA define key terms and eligibility requirements under the CEIP; 2) What should EPA consider when designing the mechanics of the CEIP; and 3) What should EPA consider regarding the timing and distribution of allowances under the CEIP.

With respect to the first question, we recommend generally that EPA incorporate significant flexibility into its eligibility requirements, in order to ensure that the CEIP optimally achieves the objectives of assisting low-income communities (defined herein) while incentivizing the early implementation of proven, low-cost energy efficiency measures. The CEIP should be designed to provide incentives for energy efficiency measures that benefit low-income communities in urban and rural areas, as well as for residents that are homeowners or renters living in single-family homes and multifamily buildings alike.

With respect to the second question, we recommend generally that EPA provide early guidance on the evaluation, measurement and verification (EM&V) of energy efficiency projects as well as the translation of megawatt-hours (MWh) of energy savings to carbon reductions (denominated in tons of CO<sub>2</sub>) in order to give program implementers greater certainty. This, in turn, should induce increased participation in the CEIP.

Finally, with respect to the third question, we recommend generally that EPA distribute all matching incentives<sup>2</sup> to CEIP-eligible projects, with at least 50% of all matching incentives awarded to low-income energy efficiency projects. This recommendation will ensure that the CEIP program addresses the concerns of "...community leaders, environmental justice advocates, faith based organizations and others that the benefits of this rule [are] shared broadly

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<sup>1</sup> MEEA is a membership organization working to advance energy efficiency in North Dakota, South Dakota, Kansas, Nebraska, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, Ohio, and Kentucky. For

<sup>2</sup> For purposes of these comments, the term "incentives" refers both to allowances under a state mass-based program and Emission Rate Credits under a rate-based program.

across society and that undue burdens [will] not be imposed on low-income ratepayers.”<sup>3</sup> In addition, this recommendation provides support for EPA’s stated goal to ensure “that bill-lowering measures such as demand-side EE continue to be a major compliance option” of the CPP.<sup>4</sup> The comments below provide greater detail with respect to these recommendations.

## **B. Detailed Recommendations**

We offer the recommendations below to guide EPA’s final determination of eligibility requirements for low-income energy efficiency projects under the CEIP. We encourage the EPA to establish definitions and eligibility criteria that support existing efforts (i) to increase energy efficiency in low-income households and communities, (ii) to avoid creating additional administrative burdens, (iii) that are inclusive of all forms of demand-side energy efficiency, and (iv) that anticipate future programmatic and technological innovation in energy efficiency delivery.

**Recommendation 1: EPA should clarify that energy efficiency measures, projects, and programs are eligible to receive credit under the CEIP, provided that these measures, projects or programs meet all other eligibility requirements.**

EPA has on certain occasions stated that the CEIP will incentivize demand-side energy efficiency *measures*, while stating on other occasions that the CEIP will incentivize energy efficiency *projects*.<sup>5</sup>

In general, an energy efficiency measure is defined as a piece of equipment or system that is installed at an end-use energy consumer facility; a strategy that is aimed at changing consumer energy use behaviors; or the “modification of equipment, systems, or operations that reduces the amount of energy that would otherwise have been used to deliver an equivalent or improved level of end-use service.”<sup>6</sup> An energy efficiency project is generally defined as “an activity or course of action involving one or multiple energy efficiency measures at a single facility or site.”<sup>7</sup> Examples of energy efficiency measures include lighting or HVAC retrofits, while an example of an energy efficiency project is a commercial new construction project or a single whole-home retrofit involving one or more energy efficiency measures. Energy efficiency

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<sup>3</sup> Environmental Protection Agency, Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Final Rule, 80 Federal Register 205 (23 October, 2015), pp. 64676- 64677.

<sup>4</sup> Id.

<sup>5</sup> See EPA, Clean Energy Incentive Program Factsheet, August 2015, <http://www2.epa.gov/sites/production/files/2015-08/documents/fs-cpp-ceip.pdf> (“The Clean Energy Incentive Program is a voluntary “matching fund” program that states can use to incentivize...demand-side energy efficiency projects that are implemented in low-income communities.”); EPA, Clean Energy Incentive Program Next Steps, October 21, 2015, [http://www2.epa.gov/sites/production/files/2015-10/documents/ceip\\_next\\_steps\\_10\\_21\\_15.pdf](http://www2.epa.gov/sites/production/files/2015-10/documents/ceip_next_steps_10_21_15.pdf) (“...a program that states may use...to incentivize early investments in...energy efficiency measures in low-income communities.”).

<sup>6</sup> State and Local Energy Efficiency Action Network, *Energy Efficiency Program Impact Evaluation Guide*, 2-2. December 2012.

<sup>7</sup> Id.

*programs* generally consist of a group of energy efficiency projects with similar characteristics installed in similar applications, undertaken by a single program implementer or administrator. Examples of energy efficiency programs include low-income home weatherization, or coordinated efforts to improve compliance with building energy codes.<sup>8</sup>

Energy and demand savings in low-income communities occur as a result of the installation or implementation of energy efficiency measures, projects and programs (among other strategies; *see* Recommendation 2 below). For example, adding wall or attic insulation would constitute an energy efficiency measure, while a refrigerator replacement program would constitute an energy efficiency program. EPA should clarify that energy savings achieved from measures, projects, and programs will all be eligible to receive credit under the CEIP. In the alternative, EPA should consistently use the term “energy efficiency measures”, as both projects and programs are composed of energy efficiency measures.

**Recommendation 2: EPA should clarify that the “energy efficiency measures” eligible for incentives under the CEIP in mass- and rate-based states are consistent with all demand-side energy efficiency that is eligible to receive ERCs under the final Emission Guidelines.**

Under EPA’s final Carbon Pollution Emission Guidelines for Existing Stationary Sources (“Emission Guidelines”), a wide range of demand-side energy efficiency measures are included as eligible resources for adjusting the CO<sub>2</sub> emission rate of affected units (and are thereby deemed eligible to receive Emission Rate Credits (ERCs)). These include: energy efficiency measures that reduce electricity use in residential and commercial buildings, industrial facilities, and other grid-connected equipment; water efficiency programs that improve energy efficiency at water and wastewater treatment facilities; measures installed by energy service companies; measures installed as a result of programs administered by electric utilities, state entities, and other private and non-profit entities; building energy codes; and state appliance and equipment standards, *inter alia*.<sup>9</sup>

Each of these energy efficiency measures has the potential to deliver energy savings and lower bills, while providing a range of non-energy benefits to low-income households and communities – in the same manner as each measure would in households or communities that are not considered low-income. There is, therefore, no compelling reason to distinguish between the types of energy efficiency measures that are eligible to receive incentives under the CEIP, and those that are eligible to receive ERCs under the Emission Guidelines. Each of these measures has a relatively short deployment period, and can produce energy savings by 2020. EPA should clarify that the range of energy efficiency measures eligible for incentives under the CEIP is the same as the range of energy efficiency measures eligible to receive ERCs under the Emission Guidelines. Critically, opening CEIP-eligibility to a broad range of energy efficiency measures will help account for continuing evolution and innovation in the delivery of energy efficiency in

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<sup>8</sup> Id.

<sup>9</sup> 80 Fed. Reg. 64901 (Oct. 23, 2015).

low-income communities between now and 2021, and thereby ensure that quantifiable, verifiable energy savings occurring in low-income communities in the years 2020 and 2021 are not arbitrarily excluded from the benefits of the CEIP.

**Recommendation 3: EPA should employ flexible, differentiated eligibility requirements for the CEIP in order to capture and reward all energy-efficiency installed in low-income households *and* communities.**

Before addressing the issue of how the EPA should define low-income communities and eligibility requirements, we want to note that SWEEP supports the requirement that energy efficiency credits during the CEIP only go to energy efficiency projects and measures in low-income communities. We do not support broadening the CEIP to allow all energy efficiency projects and measures to qualify. Doing so would greatly dilute the focus and do very little to advance energy efficiency in low-income households and communities as this is a challenging and often higher cost energy efficiency market.<sup>10</sup> If the CEIP is opened up to all energy efficiency projects and measures, program implementers undoubtedly would focus their efforts on easier and lower cost markets (such as commercial buildings broadly or residential lighting broadly), to the detriment of energy efficiency targeted to low-income households and communities.

**Recommendation 3.1: Where existing ratepayer-funded energy efficiency programs explicitly target “low-income” households or communities, and where these programs have established eligibility or qualification requirements, the measures constituting such programs should be considered eligible for credit under the CEIP (provided that all other eligibility requirements are met).**

Ratepayer-funded energy-efficiency programs targeting low-income customers define “low-income” in a number of different ways, typically due to local conditions. Some programs use a threshold that is some fraction of the federal level, such as households earning up to 200% of the federal poverty level. Other programs use a definition tied to the area median income, such as households earning up to 80% of the area median income. In a nutshell, we recommend that EPA accept any of these definitions.

Requiring administrators of existing<sup>11</sup> low-income programs to identify participants falling under a new, CEIP-specific definition of “low-income” would create unnecessary costs, confusion and administrative burdens, and would likely dampen participation in the CEIP. Conversely, by allowing existing programs to maintain their definition of qualifying “low-income” households, and by granting eligibility to measures installed through these programs, EPA will help ensure

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<sup>10</sup> For example, see *The \$20 billion Bonanza: Best Practice Electric Utility Energy Efficiency Programs and Their Benefits for the Southwest*. Boulder, CO: Southwest Energy Efficiency Project. Oct. 2012, p. 8.

<http://www.swenergy.org/programs/utility/20-billion-bonanza>

<sup>11</sup> For the purposes of this recommendation, we consider “existing programs” as those ratepayer-funded programs that have undergone some level of regulatory review and/or approval.

that mature low-income programs benefit from – and expand as a result of – the CEIP. For these reasons, notwithstanding any definition of “low-income communities” established by the EPA for the purposes of the CEIP, the EPA should allow savings occurring through existing low-income energy efficiency programs to count towards credit under the CEIP, provided these programs meet all other eligibility requirements.

**Recommendation 3.2: EPA should borrow the definitions of “low-income communities” used by other federal incentive programs.**

In addition to extending eligibility to energy efficiency measures implemented through existing low-income programs, EPA should look to other federal incentive programs for guidance on defining “low-income communities.” In order to define the parameters for “low-income communities”, EPA might borrow from the following federal programs that deliver incentives to low-income communities.

1. The federal New Markets Tax Credits (NMTC) program is an example of an existing federal program that identifies “low-income communities” as the beneficiaries of a federal incentive. The NMTC program defines “low income communities” as any population census tract where the poverty rate is at least 20%, or in the case of a tract not located within a metropolitan area, median family income for such tract does not exceed 80% of statewide median family income, or in the case of a tract located within a metropolitan area, the median family income for such tract does not exceed 80% of the greater of statewide median family income or the metropolitan area median family income.
2. Similarly, the Department of Housing and Urban Development (HUD) designates Empowerment Zones (EZs), Enterprise Communities (ECs) and Renewal Communities (RCs), with the objective of directing tax incentives and grants to distressed communities. Communities are designated pursuant to 26 U.S.C. §§ 1391-1393, 1400E, and are based on population size, geographic size, poverty rate, unemployment rate, and household income, among other factors.
3. The Community Reinvestment Act (CRA), 12 U.S.C. § 2901 (implemented by 12 C.F.R. parts 25, 228, 345 and 195) provides another useful model for directing benefits towards low-income communities. The CRA encourages banks to help meet the credit needs of low-income (and moderate-income) individuals *and* communities, and incorporates both geographic and individual definitions of low-income.<sup>12</sup> The CRA defines “low-income” as those persons who have an individual income that is less than 50 percent of the area median income, or those census tracts where the median family income is less than 50 percent of the area median income.<sup>13</sup>

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<sup>12</sup> See 12 C.F.R. §228.12.

<sup>13</sup> 12 C.F.R. § 228.12(m)(1).

It would be reasonable for the EPA to apply these definitions of low-income communities, and allow energy efficiency measures implemented within these communities to receive incentives under the CEIP, so long as states identify which definition or definitions they are utilizing. In conjunction with allowing states to employ a reasonable geographic parameter defining low-income communities, we recommend that EPA allow any sort of energy efficiency measure that is implemented within the geographic boundary to qualify for the CEIP, including efficiency measures installed in the residential, commercial or industrial sectors. All of these efficiency measures provide important energy and economic benefits to low-income communities. Reducing energy costs for businesses in low-income communities can enhance competitiveness, profitability, productivity<sup>14</sup> and product quality for these businesses, while improving the working environment and promoting job growth.<sup>15</sup> By borrowing an existing definition of “low-income communities,”<sup>16</sup> EPA might leverage prior efforts to identify and map low-income communities, thereby potentially reducing costs for states and efficiency providers.

Although any definition of low-income community used in the CEIP program may risk rewarding residential energy efficiency measures installed in households that are not considered low-income households, even though part of a low-income community, this risk is offset by the long-term value of attracting energy efficiency providers to low-income communities. This step, once achieved, may ease the path to increased participation in efficiency programs from low-income households going forward. In addition, the community benefits overall from any such upgrades to its housing stock.

**Recommendation 3.3: Where residential energy efficiency measures are implemented outside of “low-income communities” as defined in Recommendation 3.2, and outside of existing “low-income programs” as discussed in Recommendation 3.1, these measures should receive incentives under the CEIP if the households in which these measures are implemented fall below 200% of the federal poverty level or meet some other state criterion that is more inclusive.**

In order to capture and appropriately reward *all* energy efficiency measures installed in low-income households, beyond those installed through existing low-income programs, EPA should not circumscribe project eligibility based solely on geographic boundaries. This is because it is likely that a non-negligible proportion of low-income households are located outside of “low-income communities” as defined in Recommendation 3.2. Excluding these households from the

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<sup>14</sup> The value of the productivity and operational benefits derived from industrial energy efficiency measures, for example, can be up to 250% of the value of the energy savings delivered by these measures. See International Energy Agency, *Capturing the Multiple Benefits of Energy Efficiency*, 2014. PDF File, <https://www.iea.org/Textbase/npsum/MultipleBenefits2014SUM.pdf>.

<sup>15</sup> International Energy Agency, *Capturing the Multiple Benefits of Energy Efficiency*, 2014. PDF File, <https://www.iea.org/Textbase/npsum/MultipleBenefits2014SUM.pdf>.

<sup>16</sup> The New Markets Tax Credit program, for example, has been operational for over 15 years, and was established as a part of the Community Renewal Tax Relief Act of 2000.

benefits of the CEIP would be arbitrary, and would not comport with EPA’s stated objective of “leveling the playing field” for the implementation of energy efficiency.<sup>17</sup>

We recommend that EPA allow residential energy efficiency measures to receive incentives under the CEIP if the households in which the measures are implemented fall below 200% of the Federal Poverty Level.<sup>18</sup> Several existing low-income efficiency programs tie program eligibility to the federal poverty level. The federal Weatherization Assistance Program awards eligibility to households falling below 200% of the Federal Poverty Level. Tying eligibility to a threshold that is familiar to low-income households and program administrators will likely reduce costs associated with the CEIP and increase participation in the program.

We recognize that several other viable eligibility thresholds have been used by low-income efficiency program administrators in states across the country – one of the more common thresholds is: “households with an income at or below 80% of the area median income (AMI).”<sup>19</sup> Therefore, we recommend that EPA allow states the flexibility to choose an alternate threshold for low-income household eligibility, provided that the state’s chosen threshold is **more inclusive** than a threshold set at 200% of the Federal Poverty Level. Any alternate eligibility threshold chosen by a state must however be consistent with a definition of “low-income households” used by existing or new state-administered or state-approved programs in the state.

#### **Recommendation 4: Definition of “Commence Operations”**

The EPA has solicited comments on the definition of “commence operations” for purposes of the CEIP. We believe that measures should be considered to have “commenced operations” in the year in which installation was completed, regardless of the month of installation. We recommend that a state be able to claim a full year of savings in 2020 for measures installed in 2020, independent of the month the measures are installed. The same would be true for measures installed in 2021. Obviously eligible measures installed prior to 2020 would get full credit for the energy savings they provide during the CEIP period (2020-21). This is consistent with current EM&V practices, as well as EPA’s draft EM&V Guidance for State Measures plans. And for consistency, the effective useful lifetime for a measure would start on January 1 of the year in which the measures are installed.

In addition, SWEEP supports the current proposal to provide ERCs or emissions allowances starting in 2020 for energy efficiency measures implemented in low-income communities (as well as certain renewable energy projects) after a state submits its final plan to the EPA. This provides some incentive for states to complete their plan as soon as possible. Moving up the

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<sup>17</sup> See EPA, Clean Energy Incentive Program Factsheet, August 2015, <http://www2.epa.gov/sites/production/files/2015-08/documents/fs-cpp-ceip.pdf>.

<sup>18</sup> See *supra* fn. 1.

<sup>19</sup> See, e.g. Illinois Department of Commerce and Economic Opportunity’s definition of low-income households, 220 ILCS 5/8-103 (f)(4).

eligibility date, which we do not support, would increase the likelihood that CEIP credits are provided to projects or measures that are already planned and will go ahead in any event, rather than providing credits for incremental efforts that occur at least in part because of the CEIP.

### **C. Mechanics of the CEIP**

#### **Recommendation 5: EPA should apply the same EM&V requirements to CEIP-eligible projects as it does to a project seeking ERCs during the compliance period.**

In the interest of reducing uncertainty for efficiency providers and minimizing the costs associated with developing robust evaluation, measurement, and verification (EM&V) methodologies, we recommend that the EPA make it a priority to finalize its EM&V Guidelines, and apply the same requirements to projects applying for incentives under the CEIP as it would to projects applying for ERCs during the compliance period.

#### **Recommendation 6: EPA should provide guidance on the translation of MWh saved through demand-side energy efficiency to tons of CO<sub>2</sub>.**

The EPA has not provided guidance so far on how to translate MWh saved through demand-side energy efficiency to carbon reductions in terms of tons of CO<sub>2</sub>. Doing so is important for two reasons: 1) states electing a mass-based goal under the CPP need a method for determining the number of state allowances to award energy efficiency projects eligible for incentives under the CEIP, and 2) states electing a rate-based goal under the CPP must understand how federal credits (from the total pool of 300 million short tons of CO<sub>2</sub>) will be converted into ERCs and awarded to energy efficiency projects eligible for incentives under the CEIP.

Balancing concerns for accuracy and practicality, we recommend using the state average emissions rate for affected EGUs to convert from MWh to CO<sub>2</sub> emissions reductions. In particular, we recommend that the 2019 state average emission rates be used for the 2020-2021 time period covered by the CEIP. This value should become available and known in 2020, and can be provided by the state environmental agency to CEIP program implementers based on data the environment agency collects from owners of EGUs in the state. For planning purposes, low-income energy efficiency program administrators (and others) could estimate this value based on historical or projected state average emissions rates. But we recommend that the CO<sub>2</sub> allowances granted for CEIP activities be based on a state's actual average emissions rate in 2019 in order to maximize accuracy in this conversion from MWh saved (or generated by renewable energy technologies) to avoided CO<sub>2</sub> emissions.

### **D. Allocation of Allowances or ERCs to States and Distribution to Eligible Projects**

**Recommendation 7: The allocation of federal credits to states should be based on their respective required emission reductions.**

In the final Emission Guidelines, EPA states that the agency “will create an account of matching allowances or ERCs for the state that reflects the *pro rata* share – based on the amount of the reductions from 2012 levels the affected EGUs in the state are required to achieve relative to those in the other participating states – of the 300 million short tons CO<sub>2</sub> emissions-equivalent matching pool.”<sup>20</sup> We support allocating the pool of matching federal credits among participating states in this manner. Doing so acknowledges the relative burden faced by each state, and proportionally incentivizes each state to adopt early carbon reduction strategies. We recommend that EPA finalize state allocations as early as possible after each state has indicated whether or not it will participate in the CEIP (September 2016), in order to allow states to incorporate the available matching credits into their compliance planning efforts.

**Recommendation 8: EPA should allow states flexibility in dividing their allocation of matching federal incentives between renewable energy and low-income energy efficiency projects, provided that each state distributes at least 50% of its allocated incentives to low-income energy efficiency.**

Once incentives are allocated among states, determining the optimal division of incentives between renewable energy and low-income energy efficiency projects requires a balancing of competing considerations: resource potential on one hand, and compelling environmental justice objectives on the other. Here, we present what we believe is a reasonable resolution of these competing considerations.<sup>21</sup>

EPA should allow states a measure of flexibility in deciding how their respective incentives should be divided between renewable energy projects and energy efficiency projects in low-income communities. Each state has a very different resource potential mix, and failing to account for these differences could result in inefficiencies; including large quantities of unused matching incentives. Redistribution of these unused incentives (discussed in Recommendation 9, below) mitigates, but does not eliminate, these inefficiencies, as incentives delivered through redistribution would be far too uncertain to inform project planning.

We recommend, however, that states be required to reserve a minimum of 50% of their state allocation of CEIP allowances or ERCs eligible for matching federal incentives for energy efficiency projects in low-income communities. A reservation of 50% of the allowances or ERCs eligible for federal matching incentives for energy efficiency projects in low-income communities is an administratively simple allocation method, providing greater certainty than

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<sup>20</sup> 80 Fed. Reg. 64830 (Oct. 23, 2015).

<sup>21</sup> While our recommendation is applicable to states implementing the CEIP, it may be tailored to those states under a Federal Plan as well. EPA should distribute a minimum of 50% of matching credits to low-income energy efficiency projects in each state under the Federal Plan. A state would maintain the flexibility to choose to go beyond 50% where resource potential (or other reasonable justification) exists .

other, more complex divisions. This simplicity and certainty should encourage state participation in the CEIP, consistent with the EPA's goal of incenting early investment in both renewable energy and energy efficiency in low-income communities.

In addition, an allocation of 50% of the CEIP incentives to energy efficiency projects in low-income communities provides the necessary support and certainty for such projects in light of the barriers often faced in low-income communities. As EPA has acknowledged, low-income energy efficiency projects have historically faced significant real and perceived barriers to market entry, despite the health, environmental and community economic development benefits they promise. These barriers (and, in most cases, these direct benefits to low-income households and communities) are not shared by large-scale wind and solar renewable energy projects. As such, it is critical that EPA support energy efficiency projects for low-income households and communities with an allocation of at least half of the CEIP incentives.

Low-income EE may not compare favorably with utility-scale wind and solar on a levelized cost basis (although it may compare favorably with distributed wind and solar). Given this reality, without the certainty of at least 50% of CEIP credits allocated to energy efficiency in low-income communities, such projects may not be favored in comparison to renewable energy projects. Energy efficiency projects installed in low-income communities, however, provide benefits of price suppression, bill savings, employment, and community development that may not result from utility-scale renewable energy. Moreover, low-income populations spend a disproportionate amount of their income on energy needs, enhancing the positive impact of energy efficiency on this particular population.

As the EPA final rule indicates, the CEIP program was established to address the concerns, shared by the EPA, of "...community leaders, environmental justice advocates, faith based organizations and others that the benefits of this rule [are] shared broadly across society and that undue burdens [will] not be imposed on low-income ratepayers."<sup>22</sup> A clear division of the CEIP incentives to energy efficiency projects in low-income communities will provide the certainty and support for addressing these concerns that the benefits of the CPP are shared by low-income communities. The CEIP is the single most important element of EPA's effort to ensure that low-income, historically marginalized communities benefit directly from the transformation of our electricity sector, and as such, EPA should ensure that this policy objective is not diluted. In addition, this recommendation provides support for EPA's stated goal to ensure "that bill-lowering measures such as demand-side EE continue to be a major compliance option" of the Clean Power Plan.<sup>23</sup>

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<sup>22</sup> Environmental Protection Agency, Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units; Final Rule, 80 Federal Register 205 (23 October, 2015), pp. 64676- 64677.

<sup>23</sup> Id.

**Recommendation 9: EPA should redistribute all unused matching federal incentives to renewable energy and low-income energy efficiency projects, and allow states to extend the time-period for eligibility**

EPA should retain the authority and right to redistribute matching federal incentives where such incentives have not been distributed to eligible projects by the end of 2021. EPA should not distribute these incentives to affected electrical generating units (EGUs), as this may compromise the integrity of the CPPs environmental goals (particularly in states choosing a rate-based goal). We recommend that where a state does not use its entire allocation of matching federal incentives by the end of 2021, but has demonstrated significant progress towards utilizing the allocation by 2021, the EPA allow that state to extend eligibility until 2024 for programs operational in 2021—this would align with the end of the first compliance period.<sup>24</sup> If states have made significant progress during the 2020-2021 time period, but have not been able to realize all of the state’s allocation under the CEIP by the end of 2021, they should be allowed to extend CEIP programs in place by 2021 through 2024. Significant progress could be defined as using at least half of the state’s initial CEIP allocation. If a state has not gained traction to this degree by 2021, no extension would be granted. Also, we suggest that if there is an extension, CEIP credits in 2022 and beyond can only come from programs that were in place and operating before 2022. States would not be allowed get credits from entirely new programs started after 2021, the end of the CEIP period. These limitations would incentivize states to “move early” while allowing continued credits beyond 2021 if a state’s full allocation has not been used up during 2020-21.

Should a state elect to extend CEIP-eligibility until 2024, then savings occurring between 2022-2024 through renewable energy or low-income energy efficiency projects would be eligible to receive matching federal incentives. Should a state elect not to extend CEIP-eligibility until 2024 despite having unused federal incentives in its allocation, EPA should redistribute these incentives among participating states that do not have any unused incentives, on the same *pro rata* basis on which it bases initial allocations. In this manner, EPA would ensure that the majority of the 300 million tons of CO<sub>2</sub> emissions-equivalent incentives would be used to incentivize renewable energy and low-income energy efficiency projects occurring relatively early within the context of compliance with the CPP.

**Recommendation 10:**

The EPA has solicited comments regarding maintaining stringency in rate-based states during the compliance periods while accounting for the issuance of ERCs during the CEIP period.

Our recommendation is that CEIP-period ERCs should be tracked by states and offset in later compliance years. This is consistent with the approach suggested for allowances in mass-based states. The matching federal credits do not need to be offset (i.e., only the actual ERCs that are

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<sup>24</sup> Similarly, in states where a Federal Plan is imposed, EPA should extend eligibility until 2024, allowing eligible projects in that state to receive credit for savings occurring in 2022-2024.

obtained through CEIP programs would need to be offset). And it should be up to the state as to how they are offset (i.e., a state could achieve the offset using a pool of ERCs from their own activities during the compliance period, a state could require low-income programs to come with the offsets, or a state could come up with some other approach as long as the offset occurs). The same requirement applies in mass-based states with respect to emissions allowances obtained during the CEIP period. Note that this requirement only applies to ERCs or allowances granted to CEIP activities for energy savings (and renewable energy generation) in 2020 and 2021. It would not apply to ERCs or allowances granted to CEIP activities in 2022 or beyond, assuming the EPA accepts Recommendation 9 in these comments and allows for a time extension for the CEIP for states that request this.

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