

**FACT SHEET**  
**PROPOSED RULE ABOUT DESIGN DETAILS**  
**OF THE CLEAN ENERGY INCENTIVE PROGRAM (CEIP) UNDER THE CLEAN POWER PLAN**

**OVERVIEW**

- On June 16, 2016, the Environmental Protection Agency (EPA) proposed certain design details for the optional Clean Energy Incentive Program (CEIP). Once finalized, the design elements in this proposal will help guide states and tribes that choose to participate in the CEIP when the Clean Power Plan (CPP) becomes effective.
- The final CPP included the CEIP, which was designed to help states and tribes with affected sources meet their goals under the plan by removing barriers to investment in energy efficiency and solar measures in low-income communities and by encouraging early investments in zero-emitting renewable energy generation.
- States may, but are not required to, participate in this incentive program for early action. If tribes with affected sources develop plans, they may also elect to participate in the CEIP.
- Following through on commitments EPA made when we established the CEIP framework in the final CPP<sup>1</sup>, this action is informed by an extensive pre-proposal outreach and engagement process to gather input from stakeholders and the public on how best to design the details of the CEIP. In addition to dozens of stakeholder meetings, trainings and Q&A sessions on the CEIP, EPA held four listening sessions attended by more than 750 participants and established a non-regulatory docket that received more than 5,000 public comments.
- This proposal is an opportunity for stakeholders and the public to provide further feedback on several key design elements. Key proposed provisions include:
  - criteria for eligible CEIP low-income community projects (demand-side energy-efficiency (EE) and solar projects implemented to serve low-income communities) and zero-emitting renewable energy projects (wind, solar, geothermal and hydropower in all communities);
  - a flexible approach for states and tribes to use definitions of the term “low-income community” under current programs aimed at benefitting those communities; and
  - how the EPA matching pool of allowances and emission rate credits (ERCs) equivalent to 300 million short tons of CO<sub>2</sub> emissions will be made available to states and tribes that choose to participate in the CEIP.
- In this action, EPA is also re-proposing optional example regulatory text specific to the CEIP that a state or tribe may choose to incorporate into its plan.
- EPA will accept public comment on this proposal for 60 days after publication in the Federal Register and will hold a public hearing in Chicago on August 3, 2016.

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<sup>1</sup> On February 9, 2016, the Supreme Court stayed the CPP pending judicial review before the U.S. Court of Appeals for the D.C. Circuit and any subsequent proceedings in the Supreme Court. The stay means that no one has to comply with the Clean Power Plan while the stay is in effect.

## PROPOSED CLARIFICATIONS ABOUT PROJECT ELIGIBILITY

- EPA is proposing a limited expansion of the types of projects that are eligible for the CEIP.
  - For low-income community projects, EPA is proposing that **both demand-side energy efficiency and solar renewable energy projects implemented to serve low-income communities** be eligible.
  - For renewable energy projects, EPA is proposing **a limited expansion of the list of CEIP-eligible technologies beyond solar and wind to include geothermal and hydropower**, two other zero-emitting renewable technologies that meet the criteria established in the Clean Power Plan for CEIP-eligible projects.
- During the pre-proposal outreach process, we heard several comments requesting that we clarify when the period of CEIP eligibility begins for low-income community projects and renewable energy projects, so that project developers may plan their investments. EPA is proposing the following clarifications:
  - Renewable energy projects in all communities would be eligible based on when they **commence commercial operation**, which is defined as when a project begins selling “useable” electricity or, in the case of some low-income community solar projects, when a project begins providing direct electricity bill benefits to low-income community ratepayers. The term “commence commercial operation” replaces the term “commence construction” included in the final CPP. We are also proposing to revise the date for renewable energy project eligibility to those projects that commence commercial operation on or after January 1, 2020.
  - As finalized in the CPP, energy efficiency projects in low-income communities would be eligible based on when they **commence operation**. We propose to define this as the date on which an eligible CEIP project in a low-income community is delivering quantifiable and verifiable electricity savings. We are proposing that such projects would be eligible if they commence operation on or after September 6, 2018.
- It is currently unclear what adjustments, if any, will need to be made to implementation timing. The EPA recognizes that the timing elements of the CEIP may need to be adjusted in concert with other timing elements of the Clean Power Plan. We address this issue in the proposal.

## PROPOSED APPROACH FOR STATES AND TRIBES TO ESTABLISH DEFINITIONS OF LOW-INCOME COMMUNITY

- During the pre-proposal outreach process, we heard comments about the value of building on successful existing local, state and federal programs that serve low-income communities, as well as the importance of affording states and tribes that choose to participate in CEIP the flexibility to address their specific economic and demographic conditions rather than EPA establishing a single definition of “low-income community.”

- In this action, EPA is proposing to **enable states and tribes to use one or more existing definitions for “low-income community,”** including local, state or federal definitions from programs that provide benefits to low-income households and populations.
  - Any definition used must have been established prior to the publication of the final CPP on October 23, 2015.
  - Selected definition(s) may be based on a geographic area that includes low-income households, and/or may be based on a household-level income determination.
- States and tribes would then consistently apply their selected definition(s) to determine eligibility of energy efficiency and solar projects that are implemented to serve low-income communities.

### **PROPOSED DISTRIBUTION OF THE EPA MATCHING POOL TO STATES AND TRIBES**

- In the final CPP, EPA committed to providing more details on how the EPA matching pool of 300 million short tons of CO<sub>2</sub> emissions would be expressed in terms of both allowances (for mass-based plans) and ERCs (for rate-based plans).
- The number of allowances and ERCs is different because the two compliance instruments are measured in different units.
  - Allowances, measured in tons, and ERCs, measured in MWh, are distinct compliance instruments that are not interchangeable.
- EPA is proposing to define the matching pool, in terms of allowances and ERCs, as follows:
  - For mass-based programs, EPA is proposing that the matching pool is 300 million allowances.
  - For rate-based programs, EPA is proposing that the matching pool is 375 million ERCs.
- In the final CPP, we also committed to provide more detail on what portion of the matching pool would be reserved for low-income community projects, and what portion would be reserved for renewable energy projects.
- EPA is proposing that **the matching pool be divided evenly** between the two reserves, with 50 percent of the matching pool (150 million allowances, or 187.5 million ERCs) made available in a reserve for low-income community projects (i.e., EE and solar implemented to serve low-income communities), and 50 percent of the matching pool (150 million allowances, or 187.5 million ERCs) made available in a reserve for renewable energy projects.
- EPA is proposing **an approach to determining each state’s and tribe’s pro rata share** of the match.
  - As finalized in the CPP, the share of the matching pool for each state and tribe with affected sources is calculated in a proportional manner. The proportional share is based on CO<sub>2</sub> reductions from 2012 levels that affected power plants in each state or tribe are required to achieve relative to those in other states or tribes.
  - The proposal lists the number of matching allowances or ERCs each state or tribe with affected sources is eligible to receive under the CEIP. The tables are available in Section III.A

of the preamble and on the website at <http://www.epa.gov/cleanpowerplan/clean-energy-incentive-program>.

## BACKGROUND: HOW DOES THE CEIP WORK?

- As provided in the CPP, a state or tribe that chooses to opt-in to the CEIP may allocate allowances (under a mass-based plan) or issue ERCs (under a rate-based plan) to eligible CEIP projects for energy generation or energy savings that occurs during 2020-2021.
  - Note that tribes generally have the opportunity, but not the obligation, to submit a plan to implement the elements of the Clean Air Act for their respective areas of Indian country, as discussed in the Tribal Authority Rule. Similarly, if a tribe with affected sources chooses to establish its own plan to implement the CEIP, it must seek and be approved by the EPA for “treatment in the same manner as a state” (TAS) status.
- Following an award of early action allowances or ERCs by a state or tribe with affected sources, EPA will provide *matching* awards (of allowances or ERCs) up to a national limit equal to 300 million shorts tons of CO<sub>2</sub> emissions.
- The size of the matching CEIP award is different depending on the project type. For example, under a rate-based plan,
  - **Eligible CEIP renewable energy projects** may receive an award of two ERCs for every two MWh of renewable energy generated. This is based on the issuance of one early action ERC by the state or tribe and the award of one matching ERC by EPA.
  - **Eligible CEIP low-income community projects** may receive a “double” award of four ERCs for every two MWh of demand-side energy-efficiency savings or solar generation. This is based on the issuance of two early action ERCs by the state or tribe and the award of two matching ERCs by EPA.
- The CEIP eligible project that obtains the awards may then sell or otherwise transfer the allowances or ERCs to affected power plants, who may use them for compliance with an emission standard under the CPP.

## HOW TO COMMENT

- To ensure that EPA considers and responds to your comments on the CEIP topics addressed in today’s proposal, you must submit your comments to the docket for this rulemaking. If you previously submitted comments on the CEIP during the outreach period preceding this rulemaking, and you would like for them to be considered with regard to this proposal, you must re-submit them to the docket for this rulemaking.
- EPA will accept comment on the proposal for 60 days after publication in the *Federal Register*. Comments, identified by Docket ID No. EPA-HQ-OAR-2016-0033, may be submitted by one of the following methods:
  - [www.regulations.gov](http://www.regulations.gov): follow the on-line instructions for submitting comments.

- Email: Comments may be sent by electronic mail (email) to [a-and-r-Docket@epa.gov](mailto:a-and-r-Docket@epa.gov). Include Docket ID No. EPA-HQ-OAR-2016-0033 in the subject line of the message.
- Fax: Fax your comments to: (202) 566-9744. Attention Docket ID No. EPA-HQ-OAR-2016-0033.
- Mail: Environmental Protection Agency, EPA Docket Center (EPA/DC), Mail Code 28221T, Attention Docket ID No. EPA-HQ-OAR-2016-0033, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.
- Hand/Courier Delivery: EPA Docket Center, Room 3334, EPA WJC West Building, 1301 Constitution Avenue, NW, Washington, DC 20004, Attention Docket ID No. E EPA-HQ-OAR-2016-0033. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

#### **FOR MORE INFORMATION**

- The proposed rule is posted at <http://www.epa.gov/cleanpowerplan/clean-energy-incentive-program>.
- For further information about the notice, contact Dr. Tina Ndoh of EPA's Office of Air Quality Planning and Standards, Sector Policies and Programs Division, at (919) 541-2750 or by email at [ndoh.tina@epa.gov](mailto:ndoh.tina@epa.gov).