



Comments on the Proposed  
Design Details for the Clean Energy Incentive Program (CEIP)

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The American Council On Renewable Energy (ACORE) is pleased to submit the following comments in response to the United States Environmental Protection Agency's: *Proposed Design Details for the Clean Energy Incentive Program*, as part of the Agency's Clean Power Plan to regulate emissions from existing stationary sources.<sup>1</sup>

ACORE, is a 501(c)(3) non-profit membership organization that unites business, policy and finance to accelerate the transition to a renewable energy economy.

### **I. Executive Summary**

ACORE appreciates the opportunity to submit comments on the proposed design details of the Clean Energy Incentive Program (CEIP). ACORE previously filed written comments on the proposed Clean Power Plan (CPP) and has been active throughout the stakeholder process.<sup>2</sup> ACORE commends EPA for recognizing the importance of renewable energy generation in the CPP and its intent to incentivize early action and investment through the CEIP. The proposed CEIP design, with a few improvements, can help accelerate carbon emissions reductions from existing power plants by enabling the continued growth of clean, cost-effective, and reliable renewable energy generation.

Continued support of renewable energy is important to diversify our nation's power generation resources, sustain economic growth, maintain America's leadership and competitiveness in one of the world's fastest growing economic sectors, and reduce carbon and other emissions. With more than \$380 billion in private sector investment since 2004, including over \$44 billion in 2015 alone, renewable energy is an important source of American energy infrastructure investment, economic growth, and job

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<sup>1</sup> Proposed Rule About CEIP Design Details (issued June 16, 2016).

<sup>2</sup> See ACORE Comments on the Proposed Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units (filed December 1, 2014).

creation.<sup>3</sup> Since 2008, renewables have made up more than half of all new power generation capacity in the U.S., outcompeting all other sources of electricity and delivering tangible economic benefits throughout the country.<sup>4</sup> Furthermore, average electric power prices are rising most slowly in the states with the most renewable energy and most rapidly in the states with the least renewable power.<sup>5</sup> Reduced and less variable utility costs are particularly important for low and moderate income (LMI) households that spend a greater percentage of household income on energy. With little to no fuel costs, renewable sources allow for long-term predictable pricing where electric power rates can be locked in for 20-30 years and are not subject to the unpredictable price variability that can plague conventional fuels subject to swings in international energy markets.

With this in mind, ACORE agrees that the CEIP has the potential to provide a necessary market signal to help encourage private sector investments in renewable energy resources during the period between the scheduled ramp down of the Production Tax Credit (PTC) and Investment Tax Credit (ITC) and the CPP compliance start date of January 1, 2022.<sup>6</sup> ACORE commends EPA's decision to expand CEIP eligibility for qualifying renewable energy projects to include hydropower and geothermal technologies, as well as expanding eligibility to distributed solar projects that benefit LMI communities. Additionally, ACORE appreciates that EPA has provided further guidance to help clarify the definitions pertaining to renewable energy project eligibility for the CEIP.

However, the proposed design does raise several issues that require further attention and revision in order to increase the overall effectiveness of renewable energy within the CEIP. ACORE

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<sup>3</sup> Frankfurt School-UNEP Centre & Bloomberg New Energy Finance, *Global Trends in Renewable Energy Investment 2016*, available at [http://fs-unep-centre.org/sites/default/files/publications/globaltrendsinrenewableenergyinvestment2016lowres\\_0.pdf](http://fs-unep-centre.org/sites/default/files/publications/globaltrendsinrenewableenergyinvestment2016lowres_0.pdf).

<sup>4</sup> Bloomberg New Energy Finance & Business Council for Sustainable Energy, *Sustainable Energy in America Factbook*, (2016) available at <http://www.bcse.org/wp-content/uploads/BCSE-2016-Sustainable-Energy-in-America-Factbook.pdf>.

<sup>5</sup> DBL Investors, *Renewables Are Driving Up Electricity Prices, Wait, What?*, March 2015, available at <http://eec.ucdavis.edu/files/04-08-2015-Pfund-Chhabra-Renewables-Are-Driving-Up-Electricity-Prices-Wait-What.pdf>.

<sup>6</sup> Consolidated Appropriations Act, 2016, Public Law No. 114-113, 129 Stat. 2242 (2015).

understands that the extensions of the PTC and ITC in December of 2015 have led EPA to reconsider several aspects of the program. EPA has outlined that the intended purpose of CEIP is to incentivize early investment and deployment of renewable energy, provide a market signal “bridge” to the compliance start date of January 1, 2022, and avoid leakage that may hamper future emissions reductions post-2030. Going forward, it will be important to ensure that the program does not have the opposite effect by causing renewable energy developers, Effected Generating Units (EGUs), and other stakeholders to delay action or avoid taking advantage of the CEIP. ACORE appreciates EPA’s request for comment on effective implementation of the CEIP, specifically in furtherance of the EPA’s objective to accelerate the deployment of additional renewable energy generation.

ACORE raises the following issues and suggests improvements to the proposed CEIP design, each of which is explained in more detail in the following comments:

- 1. Renewable energy projects that qualify for Federal tax credits should be eligible for full participation in the CEIP and to receive Emission Rate Credits (ERCs) or matching allowances (collectively, CEIP credits)**
- 2. EPA should bring forward or provide greater flexibility in the start date for credit generation eligibility in order to optimize the value of the CEIP credits and maximize program participation and renewable energy generation**
- 3. EPA should create a national pool of matching credits or reapportion unused credits to states participating in the CEIP**
- 4. EPA should encourage voluntary renewable energy procurement, purchaser control over the generation, emissions reductions, and other attributes resulting from this procurement, and effectively avoid greater emissions from Effected Generating Units (EGUs)**

## II. Discussion

### 1. Renewable energy projects that qualify for Federal tax credits should be eligible for participation in the CEIP and to receive CEIP credits

Renewable energy is a proven and cost-effective option for reducing carbon emissions from the power sector. EPA seeks comment, “on whether it is appropriate, in light of the tax credit extensions, to include in the CEIP a mechanism that would limit the number of early action and matching allowances or ERCs on the assumption that those projects may not require additional incentives for deployment.”<sup>7</sup> ACORE disagrees that the tax credit extensions are cause to “apportion less than 50 percent (e.g., 30 percent or 25 percent) of the 300 million short ton matching pool to the reserve for eligible RE projects.”<sup>8</sup> Excluding projects from CEIP eligibility that are benefitting from the ITC or PTC is counterproductive to the CEIP’s intended purpose of accelerating early action to reduce carbon emissions and mitigating leakage from new fossil fuel sources.

As EPA acknowledges in the proposed CEIP, early action is critical to achieving the goals of the CPP. Moreover, with the CPP program start date of 2022, the program runs the risk of incentivizing delay of project development to 2022 and after because developers would be encouraged to wait until that time frame when CPP incentives become available. The long-term success of the CPP depends on continued and increased private sector investment in and deployment of renewable energy generation infrastructure, which also requires significant lead time for development, planning, construction, and installation. Rather than limit the contribution of the PTC and ITC incentives, the CEIP should be designed to fully optimize the availability of these incentives to help drive early investment and development. The increasing scale of deployment will also serve to lower costs of renewable energy

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<sup>7</sup> 81 FR at 42952.

<sup>8</sup> Ibid.

generation in the future through the economic impact of volume, likely lowering the overall cost of achieving CPP goals. The finite number of CEIP credits and time frame of the CEIP will serve to limit the scale and cost of early action, ensuring a measured approach to this phase of the program.

While the PTC and ITC will provide additional near-term incentives for wind and solar deployment, the tax credits actually begin to phase down – or in some cases phase out – before the matching period begins under current time frames. For example, wind energy projects that commence construction this year will receive full credit; however, even with favorable IRS guidance, projects that commence construction after December 31, 2016 are currently unable to capture the full value provided by the PTC.<sup>9</sup> Other PTC eligible technologies, such as hydro and geothermal, do not have any tax incentives beyond 2016. In both cases these technologies would greatly benefit from the additional incentive provided by the CEIP. The ITC is also scheduled to ramp down as the CEIP takes effect under the existing plan.<sup>10</sup>

**2. EPA should bring forward or provide greater flexibility in the start date for credit generation eligibility in order to optimize the value of the credits and maximize program participation and renewable energy generation**

To optimize the availability of the tax credits and accelerate investment and deployment to achieve CEIP near-term and CPP long-term goals, EPA should bring forward or provide greater flexibility in the start date for credit generation availability. Current program design and the start date of January 1, 2020 is likely to have the unintended consequence of delaying project development and clean energy generation as developers are encouraged to wait until that date to commence operation and ensure they qualify for available credits. This is obviously the opposite of the desired effect and could

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<sup>9</sup> Internal Revenue Bulletin No. 2016-23, 1025-27 (July 6, 2016).

<sup>10</sup>Consolidated Appropriations Act, 2016, Public Law No. 114-113, 129 Stat. 2242 (2015).

undermine the very purpose of the CEIP, which is to encourage early action. To more effectively drive early action, it would be better to move up the start date for eligibility to when the overall CPP takes effect and after state plans have been submitted. This approach would encourage developers to generate renewable energy as soon as possible after the CPP comes into force. It would also align better with the availability of the PTC and ITC incentives as they ramp down, optimizing the incentive to developers to invest and deploy.

The EPA's decision to change the project eligibility start date from a "commence construction" to "commence commercial operation" definition is helpful and should minimize incentives to delay the deployment of renewable energy and allow for important preliminary activities to occur before the crediting period (2020-22).

If EPA adopts ACORE's suggestion to bring forward or provide greater flexibility in the start date for credit generation eligibility, ACORE strongly urges that EPA adopt limited banking of Emission Rate Credits (ERCs) or matching allowances to increase market flexibility and liquidity. ACORE believes that this change is necessary to help increase the overall effectiveness of the program and will help drive additional investment before January 1, 2022.

Furthermore, ACORE urges EPA to incorporate these suggested project eligibility considerations within the final Federal Implementation Plan (FIP) to further advance the objectives of the CEIP.

### **3. EPA should create a national pool of matching credits or reappportion unused credits to states participating in the CEIP**

For the CEIP to achieve its intended purpose of accelerating additional renewable energy generation and optimizing the value of these incentives, ACORE suggests removing the 50 percent renewable energy reserve matching pool and creating a national pool of matching credits or allowances on a first-come, first-serve basis. This switch would ensure that a greater percentage of the CEIP credits are

actually used regardless of geographic location. A limit on the amount of credits or allowances reserved by a state could stall momentum in the most active markets. State-level apportionment of CEIP credits could result in a large percentage of unused credits, thwarting the purpose of the CEIP to drive as much early renewable energy generation as possible.

To the extent that EPA retains an optional state-by-state approach to the CEIP, ACORE suggests reappportioning unused credits to participating states. For those unused allowances or credits, EPA should retain the flexibility to reappportion them to states participating in the CEIP on a pro-rata basis. It is possible some states will opt out of the CEIP program. Rather than retire these credits or allowances, they ought to be reappportioned to participating states in order to maximize early renewable energy generation. States that do decide to participate in the CEIP would benefit from having a greater share of CEIP credits or allowances.

EPA should leave in place the 2:1 incentive for LMI projects. This seems the most effective approach to encourage investment and deployment of renewable energy generation and energy efficiency in LMI communities. Additionally, the ability of EPA to manage the allocation of CEIP credits is important. By EPA's own estimation, LMI projects will only use approximately 38 million matching allowances, or 47 million matching ERCs, leaving over 100 million matching allowances and corresponding ERCs unused.<sup>11</sup> Retiring over 100 million CEIP credits, or a significant amount of allowances would undermine the program's intended purpose. ACORE urges EPA to avoid retiring unused credits and reappportion both credits from states that opt out or credits that go unused to ensure the CEIP accomplishes its goal of creating additional carbon reductions.

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<sup>11</sup> 81 FR at 42952.



**4. EPA should encourage voluntary renewable energy procurement, purchaser control over the generation, emissions reductions, and other attributes resulting from this procurement, and effectively avoid greater emissions from Effected Generating Units (EGUs)**

Corporate offtakers of renewable energy are rapidly increasing their procurement of renewable energy and reducing their carbon footprints. Leading corporations have voluntarily adopted renewable energy procurement goals, many with the objective of accelerating development of new renewable generating facilities. To date, over 60 Fortune 100 companies and nearly half of the Fortune 500 have adopted a renewable energy target.<sup>12</sup> Last year, over 3.2 GW of new utility-scale renewable capacity was contracted by non-EGU offtakers – a dramatic increase from the 1.2 GW in 2014.<sup>13</sup> In 2015, 52% of new wind power capacity contracted through PPAs was signed by non-utility buyers.<sup>14</sup>

ACORE, in collaboration with PricewaterhouseCoopers, recently conducted a survey of leading corporate buyers of new renewable capacity, and two of the primary concerns for future procurement were: (1) “understanding the rights to environmental claims;” and (2) “telling the additionality story.”<sup>15</sup> These companies are rightly concerned that their investments in renewable energy will effectively support and enable additional emissions from EGUs, especially because it seems their investments — comprising almost 2 GW of renewable energy capacity — were factored into in EPA’s BSER Building Block 3.<sup>16</sup>

EPA has not addressed these concerns in the proposed design of the CEIP, or the CPP more broadly. In order to avoid effectively underwriting compliance obligations for and additional emissions

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<sup>12</sup> American Council On Renewable Energy, *Corporate Renewable Energy Procurement Industry Insights*, June 2016, available at [http://acore.org/images/2016\\_Corporate\\_Renewable\\_Energy\\_Procurement-Industry\\_Insights.pdf](http://acore.org/images/2016_Corporate_Renewable_Energy_Procurement-Industry_Insights.pdf).

<sup>13</sup> Ibid.

<sup>14</sup> American Wind Energy Association, *AWEA U.S. Wind Industry Annual Market Report Year Ending 2015*, April 12, 2015, available at <http://www.awea.org/amr2015>.

<sup>15</sup> PricewaterhouseCoopers, *Corporate Renewable Energy Procurement Survey Insights*, June 2016, available at <http://www.acore.org/images/documents/CorporateRenewableEnergySurvey.pdf>.

<sup>16</sup> U.S. EPA, *Greenhouse Gas Mitigation Measures Technical Support Document*, August 3, 2015, at section 3.2.1.

by EGUs, EPA should provide further guidance for corporate buyers and allow these third-party purchasers to control and retire, should they chose, all environmental and other attributes associated with a renewable energy project in which they have invested. Additionally, ACORE suggests EPA provide, via its Green Power Partnership or other programs, further guidance for best practices among corporate purchasers regarding CPP compliance.

### **III. Conclusion**

ACORE commends EPA for recognizing renewable energy's potential as a cost-effective compliance option for achieving power sector emissions reductions and supports the CEIP's objective to incentivize early investment and avoid long-term leakage. However, ACORE urges EPA to address the concerns expressed in these comments, and requests that EPA provide further guidance or initiate a separate stakeholder process to better understand and consider the impact of voluntary company procurement of renewable energy within the CEIP and CPP more broadly. An effective CEIP can be successful in driving significant new, near-term, cost-effective renewable energy investment, deployment, and generation that can help pave the way for achieving the broader objectives of the CPP.

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