

January 21, 2016

The Honorable Gina McCarthy
Administrator
Environmental Protection Agency
U.S. EPA Headquarters – William J. Clinton Building
1200 Pennsylvania Avenue, NW
Washington, DC 20460

Docket No. EPA-HQ-OAR-2015-0199
RIN 2060-AS47

Re: Federal Plan Requirements for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to framework Regulations

Dear Administrator McCarthy,

The undersigned members of the Clean Power Plan Working Group of the Green Affordable Housing Coalition (GAHC) appreciate the opportunity to comment in response to Environmental Protection Agency's (EPA's) October 23, 2015, notice of proposed rulemaking, "Federal Plan Requirements for Greenhouse Gas (GHG) Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014; Model Trading Rules; Amendments to Framework Regulations." We are pleased to see EPA focusing on the needs of low-income households and communities and on the central role of housing in achieving the overall goals of the Clean Power Plan.

Our recommendations for improving the rule, with additional detail below, center on:

1. The Definition of Low-Income Communities and Households
2. Direct Energy Efficiency Benefits to Low-Income Households
3. Include Housing in the Federal Implementation Plan
4. Widen the Qualification Timeline for CEIP

I. About the Green Affordable Housing Coalition

The Green Affordable Housing Coalition (GAHC) is a national action network that fosters collaboration and advocates for the development and preservation of green affordable housing. GAHC provides members with an opportunity to share best practices and the latest research, discuss potential policy solutions, coordinate outreach and advocacy efforts, and network with organizations with a shared mission. The Clean Power Plan Working Group (CPP Working Group) was developed as a subgroup of the GAHC in response to the Clean Power Plan (CPP). The CPP Working Group is uniquely positioned to provide expertise and comments on housing, especially low income housing, as it relates to the CPP.

II. The role of housing in the Clean Power Plan

The undersigned believe that housing should be a primary area of focus for the CPP. Residential energy use is an under-explored area for achieving efficiency gains. This is especially true for low-income

households in multifamily rental housing, as illustrated by a recent study that found multifamily rentals have far fewer energy efficiency measures than any other type of housing and spending by renters on home energy has increased by 53 percent from 2000 to 2010, more than twice the rate of growth in spending on all other types of goods and services.¹

Energy efficiency in homes has benefits beyond the energy savings. Lower energy costs allow households to spend more on essentials like food and health care or to save for the future. Lower and more predictable energy costs also improve the affordability of housing for low-income households. More efficient homes also reduce residents' risk of exposure to several environmental health threats that produce conditions such as respiratory symptoms, asthma, cancer, and cardiovascular disease.²

The CPP should ensure that other opportunities for carbon reduction do not overshadow housing, which sometimes receives inadequate attention because of its perception, ownership structure and complexity. Alternative energy projects often involve cutting-edge technology and attract disproportionate attention even when less-exciting but quite practical energy efficiency investments are available. Energy costs fall differentially on renters and owners, complicating investments in efficiency. Smaller scale rental owners and individual homeowners require more guidance and assistance to make efficiency investments than do large-scale property owners in non-residential sectors. For example, it can be easier to retrofit a single large hospital or manufacturing plant than to retrofit 100 individual units in multi-family housing.

The CPP, however, is uniquely placed to overcome past challenges to achieving energy efficiency in housing. Both through the CEIP and the overall CPP, EPA can encourage essential investments that reduce carbon emissions cost-effectively while producing health benefits and cost savings for low-income households. Our recommendations below aim make the CPP more effective by ensuring it includes housing.

III. Comments on the proposed rule

1. Definition of Low-Income Communities and Households

The definition of low-income communities should use existing household-level definitions to determine eligibility. Household-level definition is essential for the CPP to reach all low-income households, although some members of the group see a complementary role for community-level eligibility for some projects. Although some communities have concentrations of poverty, households in poverty are also scattered throughout wealthier communities in ways that make a purely geographic definition ineffective. Poverty is both absolute in terms of inability to afford basic necessities, but also relative, because the cost of necessities like housing varies greatly around the country. A household-level

¹ Gary Pivo, *Unequal access to energy efficiency in US multifamily rental housing: opportunities to improve* (Building Research and Information, 2014), 42:5, pp. 551-573.

² Hilary Thomson, Sian Thomas, Eva Sellström, and Mark Petticrew, "Housing Improvements for Health and Associated Socio-Economic Outcomes: Cochrane Database of Systematic Reviews (2010) DOI: 10.1002/14651858.CD008657.pub2

definition tied to area median income (AMI) best captures the absolute and relative components of poverty while ensuring that CPP reaches all intended households. Traditionally, 80% of AMI is low-income for purposes of federal housing assistance, and we recommend EPA rely on this existing standard. For purposes of building eligibility, we recommend that properties where more than 50% of residents are at 80% of AMI or below should qualify.

Existing determinations of household income level offer an efficient means for determining eligibility. We recommend that residents in any of the programs below be deemed eligible without a separate determination of income:

- Supplemental Nutrition Assistance Program (SNAP)
- Supplemental Security Income (SSI)/ Social Security Disability Insurance (SSDI)
- Temporary Assistance for Needy Families (TANF)
- Any resident in regulated affordable housing including:
 - Tax credit eligible units in Low Income Housing Tax Credit (LIHTC) buildings
 - Federal or state public housing
 - Federal property-based rental assistance such as Section 8, project-based Housing Choice Vouchers, Rent Supplement, or USDA Rental Assistance
 - FHA-insured multifamily residential properties under Section 236, Section 221d(3) BMIR, or Section 223(f)
 - HUD Section 202 Housing for the Elderly
 - HUD Section 811 Housing for the Disabled
 - Housing Opportunities for People with AIDS
 - Section 515 Rural Rental Housing
 - Properties financed by the National Housing Trust Fund
 - Any property with HOME Investment Partnerships Program funding
 - Properties funded by the Affordable Housing Program of any of the Federal Home Loan Banks
 - Households using Housing Choice Vouchers
 - State or local programs that EPA deems comparable to federal subsidy programs

Additionally, we suggest that EPA grant states the flexibility to designate additional criteria that are more or equally stringent to the aforementioned household income level determinations. We recommend that states submit their criteria to EPA for approval.

The undersigned also recognize that despite our best attempt to capture everyone who is low income, there will be those who live below the poverty line and are not connected to one of the aforementioned support systems and would therefore be ineligible for the clean energy incentive program based on this proposed definition. Every attempt should be made to reach those who are low income but not receiving any assistance. We suggest that the EPA partner with agencies administering the programs to reach those who are not connected to assistance but meet eligibility requirements.

2. Direct Energy Efficiency Benefits to Low-Income Households

EPA has requested comment on whether a portion of the allowances set aside for renewable energy (RE) projects should be reserved for projects that benefit low-income communities. The undersigned

organizations encourage EPA to reserve a certain portion of the allowances for projects that benefit low-income communities, and, in particular, projects that benefit residents of affordable housing. In defining a low-income community for the purposes of the RE set-aside, we recommend that EPA adopt the same definition that we are proposing for use in the CEIP, as explained above.

Similarly, EPA has asked how the 300 million short ton matching pool should be split between RE and energy efficiency. We recommend that a minimum of 50% of the pool go to energy efficiency, but also that EPA allow states the flexibility to direct more than 50% of their CEIP allocation to energy efficiency projects for low-income households.

3. Include Housing in the Federal Implementation Plan

If a state fails to adopt and implement an adequate plan, EPA is required to issue and enforce a federal implementation plan (FIP). States may also choose to adopt the federal plan as an alternative to developing their own plan. However, if a federal plan is implemented in a state, the state may still, at a later date submit a plan to replace the federal plan either in whole or in part. States may also take over the administrative and enforcement aspects of a federal plan rather than leaving it to EPA.

As it prepares the final FIP, EPA should ensure that the plan provides a good model for state-developed SIPs, and further that it does not provide a too-attractive path of least resistance for states unable or unwilling to craft an effective state implementation plan. For the reasons articulated above, we recommend that EPA ensure that the FIP includes ways to achieve carbon reduction in the housing sector.

The FIP should emphasize and include measures that encourage energy efficiency and renewable energy options in housing, especially in affordable housing for low income households. A FIP that allowed states to satisfy their obligations without significant investment in energy efficiency in the housing sector would not serve EPA's overall goals and would miss cost-effective means to realize public benefit.

EPA should protect low-income consumers by maximizing utilities' incentives to invest in energy efficiency, which lowers all household energy bills, and especially to invest heavily in free efficiency measures applied to low-income households. The FIP should work with state housing agencies, municipal public housing authorities and local nonprofits to implement and provide administrative support for the Clean Energy Incentive Program.

4. Widen the Qualification Timeline for CEIP

EPA should allow increased time to support adequate ramp-up of programs by allowing projects that commence as of October 2015 to be eligible for credit under the CEIP, regardless of whether a state has submitted a final plan by that date. This change would be specifically aimed at communities with historic barriers to energy efficiency projects, which typically have long lead times.

As currently written, projects eligible for generating credit under the CEIP must commence operation after the submittal of a final state compliance plan, or September 6, 2018 if states choose to take the maximum amount of time available to craft their final plan. This timeline is overly restrictive, allowing only a 15-month window for program ramp-up, and should be expanded to allow states the time needed to generate robust savings in 2020 and 2021. As EPA acknowledges, there have been "historic economic, logistical, and information barriers" to implementing demand-side EE programs in low-income

communities.” It is unreasonable to expect states to develop and implement projects that overcome these barriers and generate meaningful energy savings in 2020 and/or 2021 in as little as 15-months. Given that EPA formally proposed the CEIP in the October 23, 2015, Federal Register notice, EPA should also make clear that EE projects in low-income communities that commence after that date should be eligible for credit under the CEIP so long as they generate savings in 2020 and/or 2021 and are connected to a state plan incorporating the CEIP.

IV. Conclusion

We appreciate EPA’s leadership on carbon reduction and we commend you for including energy efficiency in housing as part of the Clean Power Plan. The recommendations offered here aim to ensure that cost-effective carbon reductions from energy efficiency in housing play a central role in implementing the plan, and that the benefits of doing so reach all households in America. We would be happy to work with EPA staff further in the implementation process, so we ask that you direct questions on these comments to Ethan Handelman, Vice President for Policy and Advocacy, at the National Housing Conference (ehandelman@nhc.org).

Sincerely,

American Council for an Energy-Efficient Economy

Enterprise Community Partners

Green & Healthy Homes Initiative

National Housing Conference

National Housing Trust

Natural Resources Defense Council

Stewards of Affordable Housing for the Future

U.S. Green Building Council