



DELIVERED BY EMAIL

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Re: Ontario's Approach to Climate Change Adaptation
EBR Registry Number: 013-1520

Please accept this joint submission of the Canadian Environmental Law Association and the Low-Income Energy Network in response to Ontario's proposed approach to climate change adaptation, EBR number 013-1520.

We welcome the opportunity to comment on the Government of Ontario's climate change adaptation proposal, and look forward to commenting on future, more detailed proposals. We urge the government to emphasize the disproportionate impact of climate change on low-income and vulnerable communities in all of its climate change adaptation policies and proposals.

A. Background on Canadian Environmental Law Association and Low-Income Energy Network

The Canadian Environmental Law Association ("CELA") is a non-profit, public interest organization established in 1970 for the purpose of using and improving existing laws to protect public health and the environment. As an Ontario legal aid clinic, CELA's top priority is to represent low-income individuals and communities. CELA is a founding member of the Low-Income Energy Network ("LIEN").

LIEN was formed in March 2004 to raise awareness about the impact of rising energy prices on low-income consumers and to work with policy-makers and the utility sector to address energy poverty. LIEN's province-wide energy poverty strategy emphasizes long-term, environmentally sustainable measures to reduce energy consumption and costs for low-income households.

B. Ontario's Climate Change Adaptation Policies Must Emphasize Environmental Justice

(a) Province-wide Climate Change Risk Assessment

The impacts of climate change are manifestly inequitable. Low-income communities contribute significantly less to overall greenhouse gas emissions than other Canadians, but will be disproportionately impacted by the effects of climate change.¹ Policymakers must address the ethical dimensions of climate justice and ensure protection for the most vulnerable people in society.² The Intergovernmental Panel on Climate Change has recognized that the effects of climate change exacerbate the risk of, and further entrench, poverty in developed and developing countries.³

We support the Government of Ontario's commitment to undertake a province-wide risk assessment of the effects of climate change. The risk assessment should emphasize environmental justice and equity to account for the unique and disproportionate impacts of climate change on low-income and vulnerable communities.

In conducting the assessment, we urge the government to be mindful of regional differences throughout the province, which will affect how communities will be impacted by climate change and how they can adapt to those impacts. The assessment should determine how the costs of likely adaptation responses will be distributed across various socio-economic populations and regions of Ontario.

The following analyses should be included in the risk assessment:

- 1- Building on the analysis in the Ontario Climate Change and Health Toolkit⁴, the Government of Ontario should identify low-income and vulnerable communities that will be disproportionately impacted by the effects of climate change.

There is currently a lack of evidence about how much funding is required to meet the climate change adaptation needs of low-income and vulnerable communities in Ontario.

¹ Marc Lee, *Fair and Effective Carbon Pricing: Lessons from BC* (Vancouver: Canadian Centre for Policy Alternatives, February 2011) [*Fair and Effective Carbon Pricing*] at 4, 16. Online: CCPA <https://www.policyalternatives.ca/sites/default/files/uploads/publications/BC%20Office/2011/02/CCPA-BC_Fair_Effective_Carbon_FULL_2.pdf>.

² Hurlbert, Margot, "Climate Justice: A Call for Leadership" (2015) 8:2 *Environmental Justice* at 51–55. <<https://doi.org/10.1089/env.2014.0035>>.

³ Lennart Olsson, Maggie Opondo and Petra Tschakert et al, "Livelihoods and Poverty", *Climate Change 2014: Impacts, Adaptation, and Vulnerability. Part A: Global and Sectoral Aspects. Contribution of Working Group II to the Fifth Assessment Report of the Intergovernmental Panel on Climate Change* (Cambridge University Press, 2014) at 810. Online: Intergovernmental Panel on Climate Change <https://www.ipcc.ch/pdf/assessment-report/ar5/wg2/WGIIAR5-Chap13_FINAL.pdf>

⁴ Ontario Ministry of Health and Long Term Care, *Ontario Climate Change and Health Toolkit*, by Kristie Ebi et al, (Toronto: Government of Ontario, 2016) [*Health Toolkit*], Online: <http://www.health.gov.on.ca/en/common/ministry/publications/reports/climate_change_toolkit/climate_change_toolkit.pdf>

The Government of Ontario should evaluate that need as part of the province-wide risk assessment. We expect at least 25% of the budget for climate change adaptation in Ontario to be spent on programs and measures that directly benefit low-income and vulnerable communities. For comparison, in its 2016 Climate Change Adaptation Strategy, the California Natural Resources Agency supported a similar 25% target for the demonstration and deployment of energy-efficient renewable technologies in disadvantaged communities.⁵ The Canadian Centre for Policy Alternatives suggested that half of the revenues raised by British Columbia's carbon tax be directed toward low-income and middle-income communities, in part because it is more challenging for people from those communities to make the capital investments required to adapt to climate change.⁶

- 2- The Government of Ontario's risk assessment should include a Low-Income Barrier Study to identify the economic, social, psychological, technological and political challenges faced by low-income and vulnerable communities in adapting to climate change.

California Senate Bill 350 provides a model for Ontario to emulate in designing a Low-Income Barrier Study. Bill 350 provides that Low-Income Barrier Studies should be conducted to better understand the barriers faced by low-income communities in establishing solar photovoltaic energy generation and in accessing renewable energy, energy-efficient investments, and zero or near-zero emission transportation options.⁷ In 2016, California completed its Low-Income Barrier Study regarding access to renewable energy, weatherization, and energy efficient technologies.⁸ The final version of the Low-Income Barrier Study on access to zero-emission and near zero-emission transportation options has not yet been released.⁹ The reports were informed by literature reviews, community meetings, and technical workshops.¹⁰

Recommendation 1: The province-wide risk assessment should identify low-income and vulnerable communities that will be disproportionately impacted by climate change and evaluate how much funding is required to address the needs of those communities.

⁵ California Natural Resources Agency, *Draft Report, Safeguarding California Plan: 2017 Update – California's Climate Adaptation Strategy*, (California: Government of California, May 2017) at 33. Online: <<http://resources.ca.gov/wp-content/uploads/2017/05/DRAFT-Safeguarding-California-Plan-2017-Update.pdf>>

⁶ *Fair and Effective Carbon Pricing*, *supra* note 1 at 7.

⁷ US, SB 350, *Clean Energy and Pollution Reduction Act of 2015*, 2015-2016, Reg Sess, Cal, 2015, s 25327 (1)-(4)

⁸ California Energy Commission, *SB 350 Low-Income Barriers Study, Part A – Commission Final Report*, (California: December 2016) [*Low-Income Barrier Study*]. Online: <http://www.energy.ca.gov/sb350/barriers_report/>.

⁹ California Air Resources Board, *Draft Guidance Document, Low-Income Barriers Study, Part B: Overcoming Barriers to Clean Transportation Access for Low-Income Residents*, (California: April 12, 2017). Online: <https://www.arb.ca.gov/msprog/transoptions/draft_sb350_clean_transportation_access_guidance_document.pdf>

¹⁰ *Low-Income Barrier Study*, *supra* note 8, Part A at 2; *Low-Income Barrier Study*, *supra* note 8, Part B at 11.

Recommendation 2: The Government of Ontario should conduct a Low-Income Barrier Study to identify the economic, social, psychological, technological and political factors that will affect the ability of low-income and vulnerable communities to adapt to climate change.

(b) Ontario's Climate Change Adaptation Policies Must Include a Detailed Action Plan and Progress and Monitoring Reports

We support the Federal Commissioner of the Environment and Sustainable Development's recommendation that climate change adaptation policies should include three interconnected phases: (1) climate change risk assessment, (2) detailed action plans, and (3) progress and monitoring reports. Ontario plans to conduct a province-wide risk assessment on the effects of climate change, but does not commit to action plans or progress and monitoring reports to ensure that Ontario meets its climate change adaptation goals.¹¹ We urge the Government of Ontario to include detailed actions plans and progress and monitoring reports in this proposal.

The Federal climate change adaptation policy was criticized by the Federal Commissioner of the Environment and Sustainable Development for not providing sufficiently clear direction to departments and agencies on how to integrate climate change considerations into their programs, policies and operations, and because it did not properly monitor progress on climate change adaptation.¹² Ontario's proposal suffers from the same defects.

Recommendation 3: The Government of Ontario's climate change adaptation policy should consist of three interconnected phases: (1) climate change risk assessment, (2) detailed action plans, and (3) progress and monitoring reports.

(c) Funding for Climate Change Adaptation

Funding for climate change adaptation must be adequate and permanent. The Ontario government should include climate change adaptation funds in its 2018 budget and all future budgets.

The government must clearly explain how much money will be spent on climate change adaptation in Ontario and how it calculated an appropriate amount for this purpose.

We support carbon pricing and the cap and trade program in Ontario. However, carbon pricing is regressive in nature because low-income people are less able to afford any increases in energy and transportation costs than high-income people. The Ontario government has taken the position that Greenhouse Gas Reduction Account funds cannot be used to mitigate any impacts of the cap and trade program on low-income and vulnerable communities if the programs would

¹¹ Office of the Auditor General of Canada, *2017 Fall Reports of the Commissioner of the Environment and Sustainable Development, Report 2 – Adapting to the Impacts of Climate Change*, (Canada: Government of Canada, 2017) at s 2.9. Online: <http://www.oag-bvg.gc.ca/internet/English/parl_cesd_201710_02_e_42490.html#hd2a>.

¹² *Ibid* at ss 2.18-2.19, 2.78-2.79.

not also reduce greenhouse gas emissions. We therefore urge the Government of Ontario to ensure that any impacts of the cap and trade program that are not being addressed by Greenhouse Gas Reduction Act fund measures be targeted by climate change adaptation policies.

Recommendation 4: The Government of Ontario should include funding for climate change adaptation in its 2018 budget and all future budgets.

Recommendation 5: The Government of Ontario should clearly explain its budget for climate change adaptation.

Recommendation 6: Climate change adaptation funds should address the impacts of the cap and trade program on low-income and vulnerable communities.

(d) Public Engagement in Climate Change Adaptation Policy

The Government of Ontario must partner with low-income and vulnerable communities to develop appropriate climate change adaptation policies. The public should be given the opportunity to comment on more detailed climate change adaptation plans. A robust engagement process will result in better government decision-making, more responsive decisions, and increased support for program implementation.

Recommendation 7: Ontario should actively engage with the public, particularly low-income and vulnerable communities, about all of its climate change adaptation proposals.

(e) The New Climate Change Organization

The Government of Ontario has proposed that a new climate change organization will facilitate education and initiatives on climate change adaptation across Ontario. It should include a committee dedicated to education and program delivery in low-income and vulnerable communities.

Recommendation 8: The new climate change organization should include a committee devoted to education and service delivery in low-income and vulnerable communities.

(f) Building Retrofits

The Ontario government has announced significant funding for social housing retrofits. We encourage the government to also consider how to design free retrofit programs for privately owned low-income housing and for low-income homeowners.

Retrofit programs should address both climate change mitigation and climate change adaptation, including the ability of low-income housing to withstand extreme weather events.

Extreme heat, exacerbated by climate change, is a health risk for low-income and vulnerable communities.¹³ Along with the harmonized heat warning and information system, Ontario should create a province-wide strategy to ensure that an indoor maximum temperature of 26 °C is established throughout the province and that vulnerable people have access to cooling on very hot days.

Retrofit programs should also be carefully designed to ensure that they do not exacerbate other environmental issues. For instance, residential retrofits that improve energy efficiency must also consider exposure to indoor contaminants such as radon, lead, asbestos and mould in low-income housing.¹⁴ Industrial building retrofits should address bird strikes and the need for bird-friendly design.¹⁵

Recommendation 9: Retrofit programs should address both climate change mitigation and climate change adaptation, and be mindful of other environmental concerns.

(g) Environmental Assessment Act Reform

Ontario's must also commit to using environmental assessments as a tool for reducing greenhouse gas emissions and implementing climate change adaptation measures. The *Environmental Assessment Act*, RSO 1990, c E18 must be amended to include an enforceable climate change test to ensure that development in Ontario properly accounts for climate change mitigation and adaptation.¹⁶

Recommendation 10: The *Environmental Assessment Act* should be amended to include an enforceable climate change test.

(h) Conclusion

Ontario's climate change adaptation proposal must address the inequities of the impacts of climate change and emphasize the needs of low-income and vulnerable communities. We look forward to reviewing further detailed proposals on climate change adaptation in Ontario.

¹³ *Health Toolkit*, *supra* note 4 at A5, A31.

¹⁴ Canadian Environmental Law Association, *Healthy Retrofits: The Case for Better Integration of Children's Environmental Health Protection into Energy Efficiency Programs*, (Toronto: CELA, March 2011). Online: <<http://www.cela.ca/sites/cela.ca/files/CELA773-Healthy-Retrofits-report.pdf>>

¹⁵ Canadian Environmental Law Association, *Consultation on proposed Changes to Ontario's Building Code - impacts on migratory birds*, (Toronto: CELA, September 29, 2017). Online: <http://www.cela.ca/1138_proposed_changes_to_buildingcode>

¹⁶ Canadian Environmental Law Association, *Consideration of Climate Change in Environmental Assessment in Ontario (August 2016 draft) - Registry Notice #012-5806*, (Toronto: CELA, August 2016). Online: <<http://www.cela.ca/sites/cela.ca/files/1077%20-%20CELA%20ltr%20to%20MOECC%20re%20climate%20change%20guide%20%28Oct%202016%20FINAL%209.pdf>>

Yours truly,

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