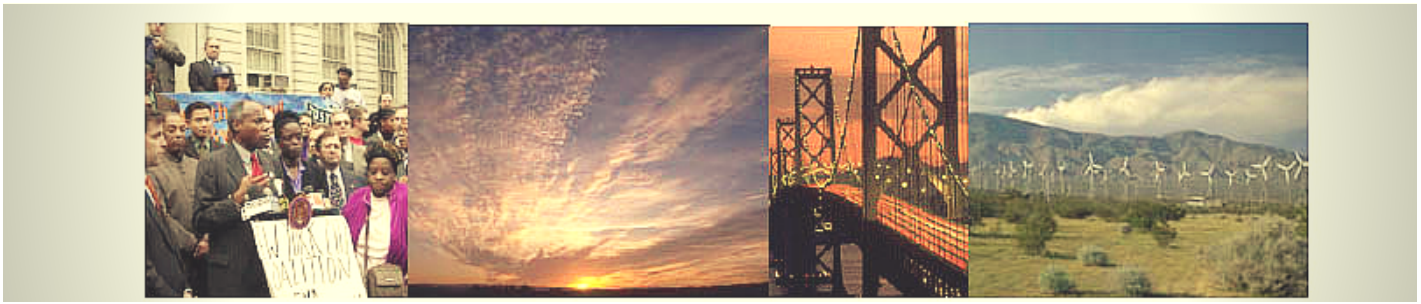
ATTACHMENT B

ENVIRONMENTAL JUSTICE STATE GUIDANCE

HOW TO INCORPORATE EQUITY & JUSTICE INTO YOUR STATE CLEAN POWER PLANNING APPROACH



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EXECUTIVE SUMMARY

ENVIRONMENTAL JUSTICE STATE GUIDANCE: HOW TO INCORPORATE EQUITY& JUSTICE INTO YOUR CLEAN POWER PLAN STATE PLANNING APPROACH

In the Unites States, there are a higher percentage of communities of color and low-income communities are living near power plants. In fact, there are many rural power plants that are located near small communities with high percentages of low-income populations; and, in urban areas, nearby communities tend to be both low-income communities and communities of color. **The Environmental Protection Agency's Clean Power Plan** – released in August 2015 – requires states to reduce their emissions of carbon dioxide (CO_2) from fossil- fueled fired power plants. For the first time, the EPA is requiring state regulators to not only meet the new CO_2 emissions levels, but to also (1) demonstrate how they are meaningfully engaging all stakeholders - workers and low-income communities, communities of color, and indigenous populations, people living near power plants and otherwise potentially affected by the state's plan, (2) describe their engagement with their stakeholders, including their most vulnerable communities, and (3) evaluate the effects of their plans on vulnerable communities and take the steps necessary to ensure that all communities benefit from the implementation of this rule.

The purpose of this "Guidance" is to be a resource for state agencies and other stakeholders as they work to meaningfully engage with communities in the planning and implementation of this rule.

This guidance is not to be prescriptive, but offer some definitions and context about Environmental Justice and how the concepts of equity, health and engagement are pivotal to the Clean Power Plan. However, we do offer the following key process and policy recommendations for all stakeholders – regulatory, community, and others – to consider as states move forward with their Clean Power Planning.

1. Creating Opportunities for High Impact Engagement

It is important that key decision makers – from the state and community - are involved and visible in the conversation. EJ Stakeholders are fully represented and help drive the engagement process. Decisions are being made while considering all sides of the issue. The results of high-impact engagement should result in definitive environmental improvements and tangible results (i.e. reductions in emissions, and improvement in health)and the development of a more protective, stronger implementation of the Clean Power Plan and other regulatory constructs.

2. Conducting an Environmental Justice analysis to minimize the unintentional, disparate impacts of certain policy decisions before they are made

The final Clean Power Plan Rule "encourages states to conduct their own analyses of community considerations when developing their plans." This is an extremely important part of the state implementation process and should be taken very seriously. This Guidance puts great effort in articulating what an EJ Analysis should be, the tools and resources that are available to states to conduct their own EJ Analysis, and also provides samples of EJ Analysis as a reference. There is also a list of key questions stakeholders should be asking throughout the process in key categories such as Engagement, Health, Jobs/Economic Development and Civil Rights that can help this process.

3.Considering other options to reduce emissions of CO_2 without employing a cap-and-trade program, or other allowances from the Clean Energy Incentive Program

While the use of a cap-and-trade program is definitely promoted by the final Clean Power Plan as the primary option for compliance, cap-and-trade is a big concern for many community stakeholders that live near polluting facilities. We support achieving emission reductions without the use of a cap-and-trade program. While data is still being gathered to quantify the potential localized increases in pollution in both California and the Northeastern states where current trading plans exist, it is our hope that states strongly consider (1) adopting other strategies for compliance (source reduction, carbon pricing), (2) building in the structure to prevent the deterioration of air quality, at the local/community level if a trading mechanism is employed, and (3) building in a continuous monitoring and evaluation process into the final state plan that specifically tracks the quality and health outcomes in low income, communities of color.

4. Committing resources to spur economic development and job growth opportunities in impacted communities

Opportunities for training and job growth in the clean energy sector, as well as deployment of energy efficiency and renewable energy is important for overly impacted communities. The guidance provides some key principles of creating a Just Transition, where the quality of life for people and communities affected by economic disruption, is enhanced through inclusion and processes that strengthen the local health, wealth and the environment for future generations.

This Guidance has been created with input from environmental justice organizations and from diverse stakeholders and partners. In addition to this reviewing this document, we encourage each state to reach out and solicit input from their local experts to address specific concerns, ideas and requests of the most impacted communities in their state.

OVERVIEW & BACKGROUND

The EPA released the final Clean Power Plan (CPP) in August 2015, the first-ever carbon pollution standards for existing power plants. As states begin their planning, it is important that states engage **early** and **meaningfully** with communities to ensure that the implementation of the Clean Power Plan takes everyone's needs into consideration.

The final CPP sets performance standards for two subcategories of affected fossil fuel-fired electric generating units(EGUs) : fossil fuel-fired electric utility steam-generating units and stationary combustion turbines. In this final rule, the EPA requires states to (1) demonstrate how they are meaningfully engaging all stakeholders - workers and low-income communities, communities of color, and indigenous populations, people living near power plants and otherwise potentially affected by the state's plan, (2) describe their engagement with their stakeholders, including their most vulnerable communities, and, (3) evaluate the effects of their plans on vulnerable communities and take the steps necessary to ensure that all communities benefit from the implementation of this rule. ***1***

The purpose of this "Guide" is to provide a resource to state regulators and other key stakeholders that will result in an equitable planning, implementation and evaluation process to meet the goals of the Clean Power Plan. It is our hope that a better understanding of Environmental Justice will result in **meaningful engagement, measurable reductions of air pollution in over burdened communities and lay the foundation for a more equitable planning process for future regulatory initiatives.**

Throughout the document, we will be consistent with the final CPP and use the terminology "vulnerable and/or overburdened," to denote those communities least resilient to the impacts of climate change and central to Environmental Justice considerations, which we typically refer to as **Environmental Justice (EJ) Communities.**

This guide will be useful to a diverse set of stakeholders. This guide has been created with input from Environmental Justice organizations and from diverse stakeholders and partners. The ideas presented are not to be prescriptive or comprehensive but a conversation starter for state regulators and community stakeholders. We encourage each state to reach out, solicit and listen first and foremost to specific concerns, ideas and requests of the most impacted communities in their state as to how they might proceed throughout the entire state planning process.

KEY TERMS

Key terms and definitions have been defined that will be used throughout this document. Use this as a reference not only for this document, but as you have conversations with various stakeholders.

Clean Power Plan (CPP): On August 3, 2015, President Obama and EPA announced the Clean Power Plan – a historic and important step in reducing carbon pollution from power plants that takes real action on climate change.

Co-pollutants: gaseous pollutants that are emitted from a source in addition to the primary pollutant of concern. Co-pollutants are a significant concern to overburdened communities because the cumulative impacts (i.e. the additive effect of all pollutants in a community) are not considered when standards and emission limits are determined.

Disparate impacts : The U.S. Supreme Court recognized in Texas Department of Community Affairs v. Inclusive Communities Project (2015) that the prohibition of disparate impact discrimination, regardless of intent, is necessary to help move our country beyond a legacy of segregation and discrimination and toward opportunity for all. While the case was decided under the Fair Housing Act, the disparate impact standard under other laws is also critical for achieving Environmental Justice. Low-income communities and communities of color are more likely to be exposed to environmental contamination and pollution from industry sources, and lack environmental benefits , like parks and other green spaces .

There are five steps for determining disparate impact:
(1) identifying the affected population
(2) determining the demographics of the affected population
(3) determining the universe of facilities and total affected population
(4) conducting a disparate impact analysis; and
(5) determining the significance of the disparity ***2***

Electrical Generating Unit (EGUs): A generating unit consists of the sum and of all equipment necessary for production of electricity. In a coal-fired power plant, a generating unit would normally consist of one or more boilers where coal is burned to create steam, plus one or more turbine generators which convert the steam's heat energy into electricity.

Environmental Equality: Equality-driven goals for environmental policy, law, and regulations and the valid reliable delivery of such services. ***3***

Environmental Equity: Development, implementation, and enforcement of environmental policies and laws to ensure that no group or community is made to bear a disproportionateshare of the harmful effects of pollution or environmental hazards because it lacks economic or political clout. 4

KEY TERMS

Environmental Justice (EJ): a social justice, grassroots movement that seeks to protect communities of color and low-income communities from being overburdened with pollution. Citizens of different races and classes experience disparate environmental quality, directly affecting their public health and quality of life. The movement uses policy advocacy, research, community capacity building and organizing to advance environmental justice. Environmental Justice refers to those cultural norms and values, rules, regulations, behaviors, policies, and decisions to support sustainable communities where people can interact with confidence that their environment is safe, nurturing, and productive. Environmental Justice is served when people realize their highest potential without experiencing the —isms. *5*

Environmental Justice Movement: the Environmental Justice movement was started by individuals, primarily people of color, Indigenous and Natives , who sought to address the inequity of environmental protection in their communities. Grounded in the struggles of the 1960's Civil Rights Movement, this movement sounded the alarm about the public health dangers for their families, their communities and themselves.

Environmental Self Determination : the ability to dictate the fate and use of your environment, as it is your rightful home. *6*

Executive Order 12898 (EO 12898): Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations - was issued by President William J. Clinton in 1994. Its purpose is to focus federal attention on the environmental and human health effects of federal actions on minority and low-income populations with the goal of achieving environmental protection for all communities.

Fair Treatment : a concept affirming that no group of people should bear a disproportionate burden of environmental harms and risks, including those resulting from the negative environmental consequences of industrial, governmental and commercial operations or programs and policies. *7*

Federal Implementation Plan (FIP): a federally implemented plan to achieve attainment of air quality standards and is used when a state is unable to develop an adequate plan.

Greenhouse gases (GHG): Any gas that absorbs infrared radiation and traps heat in the atmosphere. In large, artificially-created quantities (produced by human activities), GHG emissions can remain in the atmosphere for thousands of years at a time, and are increasingly toxic to human health when inhaled over long periods of time. Greenhouse gases include, carbon dioxide, methane, nitrous oxide, ozone, chlorofluorocarbons, hydrochlorofluorocarbons, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride.

KEY TERMS

Meaningful Engagement: Actions by which potentially affected populations have an appropriate opportunity to (1) participate in decisions that will affect their environment and/or health, (2) contribute concerns that will be considered and can influence the local or state regulatory agency's decision throughout the process, and (3) that the decision makers seek out and facilitate the involvement of those potentially affected.

Mitigation : A human intervention to reduce the human impact on Earth's climate system; it includes strategies to reduce greenhouse gas sources.

National Ambient Air Quality Standards (NAAQS) : National Ambient Air Quality Standards are identified by the Clean Air Act as standards that provide public health protection, including protecting the health of "sensitive" populations such as asthmatics, children, and the elderly. Secondary standards provide public welfare protection, including protection against decreased visibility and damage to animals, crops, vegetation, and buildings. EPA has set National Ambient Air Quality Standards for six principal pollutants, which are called "criteria" pollutants. These pollutants include : carbon monoxide (CO), lead (Pb), nitrogen dioxide (NO_2), ozone (O_3), particulate matter (PM), and sulfur dioxide (SO_2).

Overburdened communities - minority , low income, Tribal and Indigenous populations or communities in the United States that potentially experience disproportionate environmental harm and risks due to exposure or cumulative impacts or greater vulnerability to environmental hazards.

Particulate Matter (PM): Very small pieces of solid or liquid matter such as particles of soot, dust, fumes, mists or aerosols.

Resilience: the capability to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, the economy, and the environment.

State Implementation Plan (SIP): A plan for each State which identifies how that State will attain and/or maintain the primary and secondary National Ambient Air Quality Standards (NAAQS) set forth in section 109 of the Clean Air Act ("the Act") and 40 Code of Federal Regulations 50.4 through 50.12 and which includes federally-enforceable requirements. Each State is required to have a SIP which contains control measures and strategies which demonstrate how each area will attain and maintain the NAAQS. These plans are developed through a public process, formally adopted by the State, and submitted by the Governor's designee to EPA. The Clean Air Act requires EPA to review to ensure each plan is consistent with the Clean Air Act.

KEY TERMS

Title VI of the Civil Rights Act of 1964: Title VI and its regulations guarantee equal access to publicly funded resources, and prohibit both intentional discrimination and unjustified discriminatory impacts, regardless of intent, on the basis of race, color, or national origin, by recipients of federal funding. Recipients of federal funding sign contracts to comply with Title VI as a condition of receiving federal funds. California and other states have similar laws prohibiting intentional and disparate impact discrimination. The City Project's policy report, *Using Civil Rights Tools to Address Health Disparities*, is a valuable resource to address environmental and health concerns and comply with environmental justice and civil rights laws and principles. ***8***

U.S. Environmental Protection Agency (EPA or sometimes USEPA) : The United States Environmental Protection Agency is an agency of the U.S. Federal Government which was created for the purpose of protecting human health and the environment by writing and enforcing environmental regulations based on laws passed by Congress.

Vulnerability: The degree to which a system is susceptible to, or unable to cope with, adverse effects of climate change, including climate variability and extremes. Vulnerability is a function of the character, magnitude, and rate of climate variation to which a system is exposed; its sensitivity; and its adaptive capacity.

ENVIRONMENTAL JUSTICE PRINCIPLES

The Principles of Environmental Justice(EJ Principles) and **the Jemez Principles** for democratic organizing are foundational documents that guide the work of many Environmental Justice organizations. The EJ Principles were developed and adopted at a convening in Washington D.C. in 1991 where over 1,000 grassroots people of color from all 50 states gathered to understand the environmental challenges being faced by low income, communities of color. The Jemez Principles were created to jointly to help facilitate collaborations among diverse stakeholders to ensure that people of color had a voice.Understanding and respecting will help ensure mutual respect among diverse stakeholders when tackling controversial policy solutions.

Principles of Environmental Justice

WE, THE PEOPLE OF COLOR, gathered together at this multinational People of Color Environmental Leadership Summit, to begin to build a national and international movement of all peoples of color to fight the destruction and taking of our lands and communities, do hereby re-establish our spiritual interdependence to the sacredness of our Mother Earth; to respect and celebrate each of our cultures, languages and beliefs about the natural world and our roles in healing ourselves; to ensure environmental justice; to promote economic alternatives which would contribute to the development of environmentally safe livelihoods; and, to secure our political, economic and cultural liberation that has been denied for over 500 years of colonization and oppression, resulting in the poisoning of our communities and land and the genocide of our peoples, do affirm and adopt these Principles of Environmental Justice

1) Environmental Justice affirms the sacredness of Mother Earth, ecological unity and the interdependence of all species, and the right to be free from ecological destruction.

2) Environmental Justice demands that public policy be based on mutual respect and justice for all peoples, free from any form of discrimination or bias.

3) Environmental Justice mandates the right to ethical, balanced and responsible uses of land and renewable resources in the interest of a sustainable planet for humans and other living things.

4) Environmental Justice calls for universal protection from nuclear testing, extraction, production and disposal of toxic/hazardous wastes and poisons and nuclear testing that threaten the fundamental right to clean air, land, water, and food.

5) Environmental Justice affirms the fundamental right to political, economic, cultural and environmental self- determination of all peoples.

6) Environmental Justice demands the cessation of the production of all toxins, hazardous wastes, and radioactive materials, and that all past and current producers be held strictly accountable to the people for detoxification and the containment at the point of production.

7) Environmental Justice demands the right to participate as equal partners at every level of decision-making, including needs assessment, planning,implementation, enforcement and evaluation.

8) Environmental Justice affirms the right of all workers to a safe and healthy work environment without being forced to choose between an unsafe livelihood and unemployment. It also affirms the right of those who work at home to be free from environmental hazards.

9) Environmental Justice protects the right of victims of environmental injustice to receive full compensation and reparations for damages as well as quality health care.

10) Environmental Justice considers governmental acts of environmental injustice a violation of international law, the Universal Declaration On Human Rights, and the United Nations Convention on Genocide.

11) Environmental Justice must recognize a special legal and natural relationship of Native Peoples to the U.S. government through treaties, agreements, compacts, and covenants affirming sovereignty and self-determination.

12) Environmental Justice affirms the need for urban and rural ecological policies to clean up and rebuild our cities and rural areas in balance with nature, honoring the cultural integrity of all our communities, and provided fair access for all to the full range of resources.

13) Environmental Justice calls for the strict enforcement of principles of informed consent, and a halt to the testing of experimental reproductive and medical procedures and vaccinations on people of color.

14) Environmental Justice opposes the destructive operations of multi-national corporations.

15) Environmental Justice opposes military occupation, repression and exploitation of lands, peoples and cultures, and other life forms.

16) Environmental Justice calls for the education of present and future generations which emphasizes social and environmental issues, based on our experience and an appreciation of our diverse cultural perspectives.

17) Environmental Justice requires that we, as individuals, make personal and consumer choices to consume as little of Mother Earth's resources and to produce as little waste as possible; and make the conscious decision to challenge and re-prioritize our lifestyles to ensure the health of the natural world for present and future generations.

Jemez Principles for Democratic Organizing

On December 6-8, 1996, forty people of color and European-American representatives met in Jemez, New Mexico, for the "Working Group Meeting on Globalization and Trade." The Jemez meeting was hosted by the Southwest Network for Environmental and Economic Justice with the intention of hammering out common understandings between participants from different cultures, politics and organizations. The following "Jemez Principles" for democratic organizing were adopted by the participants.

#1 Be Inclusive

If we hope to achieve just societies that include all people in decision-making and assure that all people have an equitable share of the wealth and the work of this world, then we must work to build that kind of inclusiveness into our own movement in order to develop alternative policies and institutions to the treaties policies under neoliberalism. This requires more than tokenism, it cannot be achieved without diversity at the planning table, in staffing, and in coordination. It may delay achievement of other important goals, it will require discussion, hard work, patience, and advance planning. It may involve conflict, but through this conflict, we can learn better ways of working together. It's about building alternative institutions, movement building, and not compromising out in order to be accepted into the anti-globalization club.

#2 Emphasis on Bottom-Up Organizing

To succeed, it is important to reach out into new constituencies, and to reach within all levels of leadership and membership base of the organizations that are already involved in our networks. We must be continually building and strengthening a base which provides our credibility, our strategies, mobilizations, leadership development, and the energy for the work we must do daily.

#3 Let People Speak for Themselves

We must be sure that relevant voices of people directly affected are heard. Ways must be provided for spokespersons to represent and be responsible to the affected constituencies. It is important for organizations to clarify their roles, and who they represent, and to assure accountability within our structures.

#4 Work Together In Solidarity and Mutuality

Groups working on similar issues with compatible visions should consciously act in solidarity, mutuality and support each other's work. In the long run, a more significant step is to incorporate the goals and values of other groups with your own work, in order to build strong relationships. For instance, in the long run, it is more important that labor unions and community economic development projects include

the issue of environmental sustainability in their own strategies, rather than just lending support to the environmental organizations. So communications, strategies and resource sharing is critical, to help ussee our connections and build on these.

#5 Build Just Relationships Among Ourselves

We need to treat each other with justice and respect, both on an individual and an organizational level, in this country and across borders. Defining and developing "just relationships" will be a process that won't happen overnight. It must include clarity about decision-making, sharing strategies, and resource distribution. There are clearly many skills necessary to succeed, and we need to determine the ways for those with different skills to coordinate and be accountable to one another.

#6 Commitment to Self-Transformation

As we change societies, we must change from operating on the mode of individualism to community-centeredness. We must "walk our talk." We must be the values that we say we're struggling for and we must be justice, be peace, be community

BENEFITS OF INTEGRATING ENVIRONMENTAL JUSTICE INTO THE CLEAN POWER PLAN PROCESS

BENEFIT #1: PUBLIC HEALTH

The purpose of the Clean Power Plan is to protect human health and the environment by reducing carbon dioxide emissions from fossil fuel-fired power plants in the United States. The CPP is also encouraging states to shift more of their energy generation by expanding the use of natural gas through building and increasing the capacity of Natural Gas Combined Cycle (NGCC) plants. While we recognize the air emissions from NGCC are lower than the emissions from coal-fired power plants, they are a source of concern for communities. NGCC's have been shown to lead to more emissions of methane,and foster the expansion of hydraulic fracking that has been shown to contribute to public health concerns.

The pollutants from burning coal contribute to four of the five leading causes of death in the United States: heart disease, cancer, stroke, and chronic lower respiratory disease. Power plants are a major source of air toxins like sulfur dioxide and mercury. One admitted, Some pollutants are can combine to form "secondary pollutants" such as ozone and particulate matter, which are an added threat to public health. While CO_2 is considered to be a global pollutant, CO_2 emissions exacerbate the impacts of climate change at the local level, further endangering the health and welfare of communities less resilient to extreme weather .

Climate Impacts on Health

- African Americans continue to have higher rates of asthma than the national rates. About 1 in 9 (11%) non-Hispanic blacks of all ages and about 1 in 6 (17%) of non-Hispanic black children had asthma in 2009, the highest rate among racial/ethnic groups. ***9***

- The greatest rise in asthma rates (almost a 50% increase) was among black children from 2001 through 2009. ***10***

- Increased levels of ozone caused by climate change will exacerbate asthma attacks and other respiratory ailments that disproportionately harm African Americans, leading to increased hospitalizations. In 2013, approximately 75 million people lived in counties with air pollution levels higher than the health-based standards set by EPA. ***11***

- Hispanic children continue to have higher rates of asthma than the national rates, and increased levels of ozone caused by climate change will exacerbate asthma attacks and other respiratory ailments. ***12***

• According to the United States Department of Health and Human Services' Office of Minority Health, in 2012, nearly 2.15 million Hispanic Americans reported that they have asthma. Hispanics are 60% more likely to visit the hospital for asthma, compared to non-Hispanic whites. Puerto Rican children are almost three times as likely to have asthma, as compared to non-Hispanic Whites. Hispanic children are 40% more likely to die from asthma, as compared to non-Hispanic Whites. ***13***

• Extreme heat events can impact outdoor laborers and can cause heat exhaustion and heat stroke, and exacerbate existing cardiovascular and respiratory disorders. Hispanics account for 42% of construction laborers and as much as 75% of farm workers in the United States. These outdoor workers, and the communities that depend on them, could be particularly vulnerable to the impacts of climate change. ***14***

• There are not enough parks, especially for children of color, as President Barack Obama recognized when he dedicated the San Gabriel Mountains National Monument. Parks provide healthy places for people to engage in active recreation; improve neighborhoods; help cool the climate by reducing the carbon footprint and the urban heat island effect; clean the air, ground, and water; provide habitat protection; and generate economic benefits including local green jobs.

Existing health disparities and other inequities increase vulnerability of certain communities. **By ensuring that these communities' voices are heard, we can go beyond compliance and make public health a priority.**

BENEFIT #2: BUILDING RELATIONSHIPS WITH STATES

The Clean Power Plan provides a unique opportunity for silos among agencies, both at the federal and state level, and among external stakeholders to be broken down. In addition to improving public health, the best CPP process can encourage:

• Constructing a CPP implementation plan that is equitable and meets the needs and voices of communities that are most impacted by air pollution and climate change

• Enhancing and complimenting current air quality strategies to achieve more co-benefits beyond compliance

Building trust and relationships between state regulators and impacted communities, beyond this document is important

• Developing a common set of working principles and engagement practices that can be used in **meaningful engagement** for the CPP and beyond.

STRATEGIES TO INTEGRATE ENVIRONMENTAL JUSTICE INTO THE PLANNING PROCESS: MEANINGFUL ENGAGEMENT

Meaningful and continuous engagement with communities is **more than one a public meeting or hearing.** Building the capacity of the community to be **engaged in the conversations** is critical as well. For communities to be "in the conversation", they need, at the least:

An understanding of key components of the Clean Power Plan

- State planning process
- State Implementation timeline
- Key state contacts, roles and responsibilities
- Critical Partner Agencies
- Understanding the projected impact of the CPP
- Specific points where the community can engage throughout the process.

An understanding of the current air and energy landscape

- Profile of the Energy suppliers and distributors
- Major public health concerns
- Approved utility plans of future and existing power plants
- Current state and local policies that promote energy efficiency and renewable energy
- The level of outreach and engagement from industry to community
- How far the state is from achieving compliance
- Existence of current environmental laws that compliment the CPP

An understanding of the potential positive and negative impacts of compliance pathways

- see Section: *Clean Power Plan Issues of Great Concern to Environmental Justice Communities*

In order to gain these understandings, **it is critical that technical resource assistance is available to the entire group of public participants**. Without additional support, it is difficult for most low income, communities of color to meaningfully participate the entire policy making process. Consequently, states should consider providing support by:

- Funding an analysis to answer specific questions about the impacts of the different compliance strategies on LI-COC
- Hosting community trainings and convenings throughout the entire planning and implementation process
- Creation of methodologies to determine overburdened areas and how resources might be deployed

BEFORE YOU BEGIN ENGAGEMENT

While the outcomes of meaningful engagement can be extremely revitalizing, meaningful engagement requires some preparatory work. For example, in the environmental regulatory world, **scoping** can be defined as an early, interactive process of determining key issues that can impact a decision-making process. ***15***

Scoping is typically a part of the National Environmental Policy Act (NEPA) process for federal agencies that are proposing environmental federal actions. As a part of the National Environmental Policy Act (NEPA) requirements, federal agencies might have to prepare an Environmental Impact Statement (EIS) if a proposed major federal action is determined to significantly affect the quality of the human environment. Some of the elements of the **scoping process** that are involved in an EIS could also be used to enhance **meaningful engagement** in the CPP process

- Identifying the main stakeholders concerns and values of the affected community
- Undertanding the concerns and values of the impacted communites
- Informing and keeping the public engaged throughtout the entire process
- Identifying and providing information on existing pollution sources, acknowledging data gaps or any constraints on the process

The Scoping process is not a discrete event or activity. Scoping can also be used at the begining and the end of the process to define reasonable alternatives

Questions to Ask When Scoping a Community

Scoping should be the first step in the engagement process. Scoping, accompanied by a preliminary EJ screening, *(See Section Environmental Protection Agency Tools)* to Support EJ Analysis allows you to answer some key questions:

- What areas in the state have a disproportionate number (i.e. more than average) of polluting industries?
- What communities in the state have consistently bad air quality?
- Are there any communities that are experiencing more negative health outcomes than others?
- Are these areas considered low income, or majority communities of color?
- Are there weekly/monthly community meetings that are open to the public?
- Are there people to talk to – trusted community members and leaders – that could share some of the needs and concerns of the community?
- Are there weekly, monthly community meetings that are open to the public that I should attend?

All of these- and many more- are questions that can be answered during the scoping process.

WHAT IS IMPACTFUL ENGAGEMENT ?

There are many ways that states can choose to meet the required engagement written in to the final Clean Power Plan. It is our hope that with the ideas and examples provided, states will consider more 'high impact' efforts, than 'low impact' efforts.

High Impact: Key decision makers are involved and visible in the conversation; EJ Stakeholders are represented and help drive the engagement process; decisions are being made while considering all sides of the issue; environmental improvements and tangible results (i.e. reductions in emissions, and improvement in health) are evident; new relationships and trust is being formed between state regulators and community stakeholders. Visible educational opportunities for impacted communities to understand the state planning, implementation and evaluation process.

Meetings should be conducted in the impacted community to educate, gather ideas and identify needs for engagement. Community leaders should be empowered to create the space and agenda.

Low impact: Unsatisfactory efforts for outreach to community stakeholders are one-way conversations and dialogues. While compliance is achieved, it is at the expense of the community. Standard public hearing are required but does not facilitate a conversation or any learning with the community context . Sporadic webinars for education purposeful can sometimes leave communities more confused.

Ultimately, The consequences of low impact engagement could be:

- Policies that unintentionally have a negative impact on communities
- Feelings of exclusion by community members
- High probability of community resentment
- Health disparities are exacerbated

EXAMPLE OF HIGH IMPACT ENGAGEMENT

When community organizations can come together with state agencies, it will encourage an implementation process that incorporates a vast diversity of needs and perspectives. The South Carolina Department of Health and Environmental Control, in collaboration with several state agencies and community members has laid-out a strategy for meaningful engagement, led by Environmental Justice advocates. Kingdom Living Temple Church in Florence, South Carolina is leading the way by organizing a statewide network called COREE (Communities Organized for Renewables and Energy Efficiency) to educate communities about equitable opportunities in partnership with WE ACT for Environmental Justice and the Environmental Justice Leadership Forum on Climate Change.

Having diverse partners all seated at the table to make decisions is the best approach. The South Carolina Department of Health and Environmental Control, South Carolina State Energy Coalition, Kingdom Living Temple, Communities Organized for Renewables and Energy Efficiency (COREE) and been engaged since early 2015 to work for the a strong implementation for the Clean Power Plan.

David White, left, an organic farmer, chats with Rev. Leo Woodberry on Nov. 12 at Francis Marion University after a forum discussing the future of South Carolina's energy plan. Photo Credit: Joe Perry of the Morning News

Specifically, a regional advisory committee was organized to coordinate four public regional meeting to be held three times from 2015 to 2016. Empowered community members are conducting an educational campaign with Solarize SC on the benefits of solar energy generation.

The State has organized an EJ Analysis Workgroup to develop a framework to understand the impacts of particular compliance decisions on overburdened communities.

- The state has also provided technical experts and consultants to support the community process and learning. This is particularly helpful when drafting responses during the public comment period.
- Encouraged state plan writers to provide updates to community on the progress as well as give feedback on why certain decisions were made.
- Organize a forum/gathering to provide an overview of state/local opportunities to assist with key topics like: job transition, energy efficiency/weatherization, job training, solar and wind energy, energy costs.
- Form a Standing EJ Advisory Committee to work on CPP and future regulations.
- Develop metrics to track progress on air quality, health, jobs. Review these metric at various intervals throughout the entire process.

STAKEHOLDER INITIATED ENGAGEMENT

While there are some states that are continuing to determine what their engagement strategy will be, there are community and environmental justice stakeholders that are pushing for enhanced engagement and influencing the federal and state planning process.

Many groups have created webinars, tool kits, organized legislative hearings, and have worked to find alignment between existing community concerns and CPP topics.

VIRGINIA EJ COALITION

The Virginia Department of Environmental Quality has held a series of informal listening sessions to gather general input from the public to help inform the Commonwealth's review and implementation of EPA's final rules for existing power plant. Six public listening sessions were held across the state, as well as written comments were accepted from August 13 – October 13, 2015. DEQ has also assembled a diverse stakeholder group –composed of industry, energy efficiency, non-governmental organizations, and an Environmental Justice representative - to help develop recommendations for the Governors office around the CPP.

LITTLE VILLAGE ENVIRONMENTAL JUSTICE ORGANIZATION (LVEJO) CHICAGO, IL

LVEJO convened the meetings for the Chicago Environmental Justice Network (CEJN) during 3rd and 4th quarter of 2015. The purposes of these meetings were to bring Environmental Justice Stakeholders together to discuss the details of Illinois State Implementation Plan , related legislation, and identify opportunities to strengthen EJ provisions in the SIP.

ENVIRONMENTAL JUSTICE ANALYSIS

Understanding the environmental landscape is important before implementing any policy solutions. The 'landscape' not only includes current policies that are being implemented at the local and state level, but also areas, neighborhoods, and regions that have multiple environmental concerns – ranging from air pollution, toxic waste sites, or the prevalence of chronic diseases linked to pollution.

An important strategy that the final Clean Power Plan encourages states to consider is conducting an environmental justice analysis. The rule states specifically,

> ***The EPA encourages states to conduct their own analyses of community considerations when developing their plans. Each state is uniquely knowledgeable about its own communities and well-positioned to consider the possible impacts of plans on vulnerable communities within its state. Conducting state-specific analyses would not only help states assess possible impacts of plan options, but it would also enhance a state's understanding of the means to engage these communities that would most effectively reach them and lead to valuable exchanges of information and concerns. A state analysis, together with the proximity analysis conducted by the EPA, would provide a solid foundation for engagement between a state and its communities . 16***

The purpose of an **EJ Analysis** is to study how the development, implementation, and enforcement of environmental laws, regulations and policies will impact – positively or negatively – low income, communities of color, Native American and Indigenous Peoples. An **EJ Analysis** can help states and communities better understand where multiple negative and positive environmental impacts exist, and areas of opportunity.

Using an **EJ Analysis** will help with the scoping process, and ensure that EJ communities are identified early on and will potentially benefit from the CPP. An EJ Analysis can:

- Provide governmental agencies and other entities a systematic method of assessing data and policy decisions
- Provide standards to measure progress and equity and hold leadership accountable
- Give communities an additional tool for advocacy

Simple Steps for EJ Analysis

Step 1: Identifying vulnerable and/or overburdened communities

Step 2: Evaluating the potential impact of compliance options

Step 3: Understanding the Baseline, Collect Feedback & Frequent Evaluation

Here are some sample EJ Analyses that can be used to guide your work.

- Sample EJ Analysis for the State of Mississippi http://www.ejleadershipforum.org/wp-content/uploads/2015/07/mississippi_mock-up.pdf
- Sierra Club's Comments on the CPP http://www.ejleadershipforum.org/wp-content/uploads/2015/07/Sierra-Club-Environmental-Law-Program-on-behalf-of-Sierra-Club-and-Earthjustice.pdf

ENVIRONMENTAL PROTECTION AGENCY TOOLS TO SUPPORT EJ ANALYSIS

The EPA provides a set of tools to begin to understand what underlying environmental concerns exist, and how these concerns are geographically situated in relation to proximity to existing electricity generating units (EGUs). It is critical to gather data from multiple sources to provide a clear picture of the current challenges. There are legal standards to assess compliance with civil rights and environmental laws that provide an analytic framework for an EJ Analysis, including Title VI and its regulations. An EJ Analysis can provide direction for how policies and regulations can be implemented to unities that are vulnerable and/or overburdened with pollution and other socioeconomic and health challenges.

EJSCREEN is an environmental justice mapping and screening tool that provides a national dataset with environmental and demographic indicators for geographic areas. This type of data is useful to understand the potential connections and disproportionate impacts that could exist for low-income communities and communities of color. The indicators are publicly available data from various environmental factors, including Air, Waste, and Water media, as well as demographic information. It is important to note that data on race, color, and national origin is provided in **EJSCREEN**, but not currently part of California's CalEnviroScreen. CalEnviroScreen should be revised to include data on race, color, and national origin, and comply with civil rights laws including Title VI.
While EPA's **EJSCREEN** is not perfect, it is a starting point. It is our hope that states will add local and state information – in addition to national data in EJSCREEN – to tell a complete story. Local and state data that could be added to EJSCREEN include the following :

- Health data (prevalence on chronic diseases, respiratory concerns, etc.)
- Concentrated areas of pollution sites, etc.
- # of facilities in non-compliance
- # of local health centers
- Locations of community, or environmental stakeholder monitoring
- Where the most energy is being used (by MWh)
- Where black-outs have occurred
- Park access and green space

CalEnviroScreen

CalEnviroScreen is a screening methodology that can be used to help identify California communities that are disproportionately burdened by multiple sources of pollution – does not include the necessary data for a proper environmental justice analysis. Race and ethnicity were taken out of the most recent version of the tool which results in an inadequate and incomplete picture of underserved communities. No relevant agencies are restricted from considering race/ethnicity. Federal law, in fact, requires recipients of federal funding to gather, analyze, and publish data based on race, color, or national origin where there is evidence of disparities based on those characteristics. Civil rights and environmental justice organizations like The City Project in Los Angeles, California (http://www.cityprojectca.org) are working to get data on race, color, and national origin reinstated in CalEnviroScreen. Data on race, color, and national origin is needed to properly identify potential environmental justice communities in California and other states across this nation.

EPA's PROXIMITY ANALYSIS

One of the major requests from EJ Stakeholders during the Clean Power Plan rule finalization was for the EPA to conduct an EJ Analysis. The Agency conducted a **proximity analysis** for the final rulemaking that summarizes demographic data on the communities located near polluting power plants. The screening report used data from 2008-2012 Census and other key databases to understand the construct of communities within a 3-mile radius of power plants, collecting data on factors such as percentage of areas of minority population, those who qualify as low-income, the percentage of children and elderly in an area, and several other indicators. Again, this proximity analysis can be a useful starting tool for states.

Most importantly, the EPAs analysis underscores the need for separate, state EJ analysis' to occur. The findings show:

- **A higher percentage of communities of color and low-income communities are living near power plants than the national average**
- **There are many rural power plants that are located near small communities with high percentages of low-income populations**
- **In urban areas, nearby communities tend to be both low-income communities and communities of color** ***17***

Every state has it's own unique story to tell. Pulling data sets together, to better understand the environmental baseline, is critical before writing and implementing any state plan for CPP and other regulations and policies that come down the line.

On the Ground Expertise

To compliment EJ Screen and other data sources, community stakeholders should be a part of the data collection process. Community stakeholders – who offer on-the-ground knowledge and expertise, should be involved. Often, there are factors and concerns that the data might not illuminate, or pertinent information that is more qualitative than quantitative. This is where having meaningful engagement with a diverse set of stakeholders, who can help add value and guidance to the process, is critical.

CLEAN POWER PLAN ISSUES OF GREAT CONCERN TO ENVIRONMENTAL JUSTICE COMMUNITIES

The final Clean Power Plan provides states the option to employ 3 distinct building blocks to achieve reductions of CO2, as well as the opportunity to earn credit or allowances to achieve compliance through carbon trading programs, and the clean energy incentive program, or CEIP. While both carbon trading and the CEIP are well-intentioned, there are specific concerns that should be taken into consideration.

Carbon Trading Allows Power Plants to Avoid On-Site Pollution Reductions.

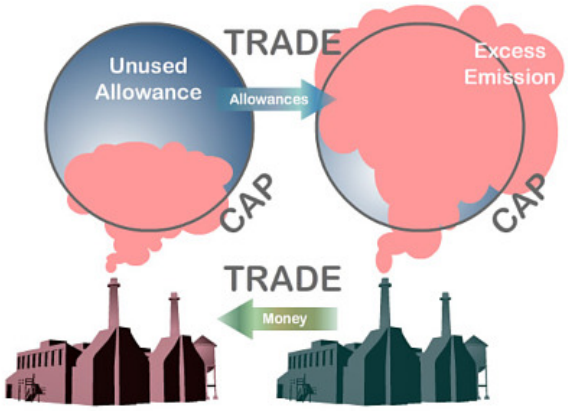
Carbon trading programs, which the Clean Power Plan allows states to include in their state plans, allow power plants to deny nearby communities important health benefits, or in the worst case scenario, increase emissions. Where carbon reductions actually occur matters: power plants emit co-pollutants, so when a power plant relies on trading, then nearby communities do not enjoy ozone, particulate matter, and air toxics reductions. ***18***

The EJ leadership Forum does not support pollution trading, and encourages states to promote equity and justice by requiring on-site reductions rather than pollution trading. States may even combine on-site reduction policies with a carbon tax to place a firm price on carbon, encourage additional reductions above and beyond mandatory regulations, and provide funding for climate resiliency.

We suggest states:

- Concentrate on source reductions – i.e. the "cap" without the trading
- Consider a carbon tax. There are several studies and a current piece of federal legislation (Climate Protection and Justice Act) that could be a useful model for states to consider. ***19***
- Work directly with EPA to assess whether and where emission increases may result from plan implementation and mitigate adverse impacts, if any, in overburdened communities. Even though there has been no quantitative assessment of data to prove or disprove increased emissions in certain communities as a result of cap and trade, states must ask these questions "up front" in the planning process.
- Create a monitoring system to document baseline levels of carbon dioxide emissions and toxic co-pollutants, specifically in neighborhoods with multiple regulated sources, Title V or other major and minor permitted sources, or areas that are identified in the highest percentile from the EPA EJ Proximity Analysis.
- Work directly with EPA to determine whether the implementation of the federal plans and other air quality rules are, in fact, reducing emissions and improving air quality in all areas and, or whether there are localized air quality impacts that need to be addressed under other Clean Air Act authorities.
- Any type of trading, allowances or credits should be prohibited from being exchanged in any areas where the air is already compromised.

• include federally enforceable provisions must be in state plans to assure monitoring, reporting, and enforcement happens in all communities for all compliance strategies, including cap and trade, and
• Provisions that assure no disparate impacts from trading to comply with states' obligations under Title VI of the Civil Rights Act.



The Climate Protection and Justice Act

In December 2014 the *Climate Protection and Justice Act* was introduced with the goal of reducing total carbon emissions 80% below 1990 levels by 2050 The Act has the following elements that could be considered as a pathway to reduce carbon and increase the state's financial capacity to build more resilient communities and enhance energy efficiency for low income households.
• Carbon Pollution Fee: Establishes an upstream carbon pollution fee for coal, petroleum, and natural gas, produced in or imported into the United States, based on the amount of carbon dioxide that would be released upon the combustion of that particular fossil fuel.
• Carbon Fee Rebate Program: Proceeds from the carbon pollution fee are rebated equally to all eligible U.S. residents, with the exception of those individuals who are members of high-income households.
o Who receives proceeds? States can decide on Environmental Justice Census Areas calle "climate adaptation hotspot communities". These communities could be identified areas based on geographic proximity on socioeconomic, public health, and environmental hazard criteria, including:
• Areas disproportionately affected by climate impacts, environmental pollution and other hazards that can lead to negative public health effects or environmental degradation.
• Areas with concentrations of people that are of low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment.
Eligible entities then submit a five-year plan prioritizing climate justice-based resiliency projects prioritized by the study findings.

CLEAN ENERGY INCENTIVE PROGRAM

States have the option to participate in the Clean Energy Incentive Program (CEIP). The CEIP is designed to:

- Incentivize investments in renewable energy and energy efficiency projects
- improve the liquidity of the emissions reduction credits and allowance markets in the early years of the program
- provide EGUs with additional emission reduction resources.

Any clean energy incentive program should not allow industrial sources to earn allowances that, again, support trading. For communities that live near power plants, CEIP is another source for allowances/ERCs and gives power plants double credits for EE projects which they will use to avoid onsite reductions. One pound of CO_2 reduced by EE, equals to two pounds of credit at the power plant. **That is a major public health concern for nearby communities that are in need of source reductions.**

Instead, it would be helpful to consider building out a CEIP program that addresses the following issues:

- How will EE and RE be more accessible to LI-COC?
- How should "Low income" be defined in the CEIP?
- How can we help communities to become EE-ready?
- How do we provide economic stimulus: job training
- How do we protect energy costs for low income energy users

How to define "low income" in the CEIP

The term "low income" is used throughout the CEIP without clear definition.

We believe that defining a low income community will be different based on the state or region.

There are existing definitions of eligibility that have been crafted by Federal agencies to implement different programs – particularly housing, community development, and weatherization – across the country. Definitions should not conflict with ones used by existing federal programs, and should be carefully crafted to ensure that both urban and rural communities can benefit from the program. For example, some already defined populations that might fit into that definition are:

- Stakeholders that already receive Supplemental Security Income or Aid to Families with Dependent Children
- Children and families that have been diagnosed with severe respiratory concerns
- Children and families that reside in multi-family units or public housing
- Children and families living in rural areas that experience high energy costs or low energy reliability, or any other criteria the state – working with environmental justice organizations in that state – seems as reasonable criteria.

  - This % should be determined by the % of people that are defined as overly-burdened by the environmental justice analysis

Help communities to become EE-ready

Equity needs to be a part of energy efficiency programs and deployment. Priority needs to be placed on making communities energy efficiency ready. At this time, some communities are not energy efficiency ready – states must be required to make a commitment to fund projects that will create the infrastructure (i.e. homes, multi-family dwellings) that can be retrofitted to meet baseline standards for weatherization, as well as the financial support to own and operate clean energy sources, like solar power.
Energy efficiency benefits and economic justice must be prioritized for vulnerable and overly-burdened communities. The deployment of energy audits, subsidies, installation, utility scale programs, improving transmission system efficiency, and even updating building codes, should be targeted to help build stability.
Insuring that communities are kept 'in the loop' for grants, and other funding opportunities that could provide these types of end user services should be delineated in a State's Implementation Plants. States should conduct an evidence based analysis of the costs to ratepayers should be used to create safeguards, discounts and other measures
to reduce the burden of any increases to consumer bills that are predicted, as to maintain affordable electricity to low income consumers

Provide economic stimulus: job training

We also need to insure that clean energy training and job opportunities are made available to communities heavily dependent on fossil fueled fired power plants as their economic stimulus. A portion of this set-aside should be targeted to RE projects that benefit low income communities.

CASE STUDY: WORKING FOR JUST TRANSITION IN KENTUCKY

Central Appalachian mining communities have long been among the nation's poorest. And in recent years coal production and employment has plunged, with mining jobs in the region dropping by more than half in just the last six years. The sharp decline in Appalachia's coal jobs is due to many factors, including competition from natural gas and cheaper western coal, along with utility investments in pollution control systems that reduced demand for more expensive low-sulfur coal.

Yet despite the region's persistent and immediate economic distress, the coal industry has all but drowned out consideration of economic and energy alternatives by investing heavily in a polarized and hostile political climate.

In the absence of elected leadership on these issues, grassroots efforts led by organizations like Kentuckians For The Commonwealth (KFTC) and the Mountain Association for Community Economic Development (MACED) have worked to promote a conversation about a just transition in the region.

In April 2013, KFTC hosted Appalachia's Bright Future, a 3-day conference attended by over 200 people in Harlan County, KY, the epicenter job losses in the coal industry. The event explored strategies and lessons from Appalachian communities and other places that have experienced economic disruption and transition. Panelists included a member of parliament from Wales, a fisherman from Newfoundland, a tobacco farmer from Kentucky, an indigenous community leader from the Black Mesa Reservation, a forester from the Pacific Northwest, an organic farmer from Southwestern Virginia, and founder of a community foundation in eastern Kentucky, and a displaced coal worker.

Today the results of those and other grassroots efforts can be seen in ways large and small. In late 2013 Republican Congressman Hal Rogers (KY-5) and former Democratic Governor Steve Beshear announced a bi-partisan initiative called Shaping our Appalachian Region (SOAR) focused on building a more diverse and prosperous economy

In 2015 President Obama proposed a package of investments worth more than $1 billion aimed at supporting worker training and transition for displaced miners, shoring up mine worker pensions and health plans, creating jobs, and reclaiming abandoned mine lands. And people throughout the region – led in many cases by young people - are striving to create vibrant local economies through worker cooperatives, food and fiber production, local music and food, clean energy projects and more.

None of these efforts is sufficient. But together they represent important steps towards a just transition where affected workers, unions, communities and government are partners in improving the quality of life for people and places most affected by our shift from fossil fuels to cleaner sources of energy.

Principles of a Just Transition

- **Improve the quality of life for people and communities affected by economic disruption, environmental damage, and inequality.**
- **Foster inclusion, participation and collaboration.**
- **Generate good, stable, meaningful jobs and broad access to opportunities and benefits.**
- **Promote innovation, self-reliance and broadly held local wealth.**
- **Protect and restore public health and our environment.**
- **Respect the past while also strengthening communities and culture.**
- **Consider the effects of decisions on future generations.**

KEY QUESTIONS FOR ENGAGEMENT

This document is not meant to be prescriptive but to only offer starter questions in some substantive areas that seek to engage with vulnerable and overburdened communities.

ENGAGEMENT PROCESS

• How can we layout a planning process early so community members are aware of the specific points of engagement?
• How can we facilitate communication with external stakeholders throughout the process using monthly check-in calls, meetings, webinars, a regulation hotline etc.?
• How often should we provide feedback on the process to stakeholders – monthly, quarterly basis?
• Have we properly scoped out areas vulnerable to climate change impacts and overly burdened communities in our state?
• Has the SIP planning team formed a community advisory board to work with throughout the planning process?
• Have you conducted intentional outreach to all groups that need to be a part of the public hearing process?
• Are there communities of concern identified in EJ Screen and EPAs proximity analysis that should be looked at more closely?
• Is there a 'checks and balance' process to assess how funds/revenues will be used in the Clean Energy Incentive Program, or other revenue generating programs to support building out an infrastructure to support climate resilient planning efforts in local communities?

HEALTH AND EMISSIONS REDUCTIONS

• Has baseline health data – specifically for respiratory diseases, cancers, etc. - been collected for impacted communities to understand the current state of health?
• Can we collect data to prove or disprove impacts?
• Using the experiences of current trading programs, what are the backstops that need to be put in place to ensure that certain areas do not see increased criteria pollutant? Emissions in overly burdened communities (i.e. "hot spots")?
• Is there a system in place to ensure that emissions reductions are happening? Are there CO2 monitors in place already, or do the current monitoring systems need to be expanded to quantify CO2 and CO2 co-pollutant reductions?
• Will the current classification of how waste is burned for energy cause an increase in harmful emissions? Or is there an opportunity to put in place Sustainable Materials Management practices that look to create closed loop industrial and chemical manufacturing processes and significantly reduce the amount of waste needing to be burned or landfilled?

JOBS AND ECONOMIC DEVELOPMENT

• Will you create incentives for the entities responsible for increasing energy efficiency, and that incentives are being re-distributed to targeted communities?

• For job creation, how can/will we track where related new jobs are being created and how EJ communities can directly benefit?

• Will the plan result in any displacement of communities (due to job loss, or demolition of older Power Plants, etc...) and how will that be addressed?

• How do we ensure that funds earmarked for communities of action are used appropriately and to greatest effect in these communities?

• How will states work to ensure that training, job creation is distributed fairly to impacted communities? How do we make sure that labor contracts are explicit and benefit the residents of the impacted communities?

CIVIL RIGHTS

• Does the current path to state CPP implementation comply with Title VI of the Civil Rights Act of 1964 and its regulations? Voluntary compliance with civil rights laws is the preferred means to achieve equal justice goals.
The following planning process applies to federal agencies and recipients of federal funding, including state and local agencies and private recipients, to help ensure compliance under Title VI and environmental justice laws and principles.

1. Describe the program or activity.
2. Analyze the benefits and burdens on all people, including people of color and low-income people. Who benefits and who gets left behind? The analysis can include numerical disparities, statistical studies, and anecdotal evidence; impacts based on race, color, or national origin; inequities based on income and wealth; and the use of GIS (geographic information systems) mapping and census data.
3. Analyze the alternatives.
4. Include people of color and low-income people in the decision-making process.
5. Implement a plan to distribute the benefits and burdens fairly, avoid unjustified discriminatory impacts and intentional discrimination, and comply with civil rights and environmental justice laws and principles.

• There are various tools to ensure equal access and compliance with civil rights and environmental justice laws and principles – aside from litigation by private parties, which requires evidence of intentional discrimination. Federal agencies can guard against intentional discrimination, and unjustified discriminatory impacts, through planning, regulations, data collection and analyses, review of federal funding applications, contractual assurances of compliance by recipients, compulsory self-evaluations by recipients, compliance reviews after funding, investigation of administrative complaints, full and fair public participation in the compliance and enforcement process, and termination and deferral of funding. The US Department of Justice can enforce the statute and regulations in court.

NEXT STEPS

This goal of this guidance is to set a framework for a path for meaningful engagement between environmental justice advocates, regulators and other interested stakeholders. While the focus of this document is related to the process around the implementation of EPAs Clean Power Plan, it is our hope that the suggested practices will be used beyond the Clean Power Plan, at all levels, on issues of permitting, compliance and potentially other environmental, energy, transportation and public health policy making processes. Most importantly, we hope that other issues or concerns for environmental justice communities can be concurrently addressed as well.

RESOURCES & TOOLS

California Communities Environmental Health Screening Tool, Version 1 (CalEnviroScreen 1.0). http://www.oehha.ca.gov/ej/ces042313.html

Title VI Civil Rights News
http://www.justice.gov/crt/about/cor/Pubs/newsletter/news@fcs/spring2015/Spring_2015_Newsletter.pdf

Guidance on Considering Environmental Justice During the Development of Regulatory Actions,
http://www.epa.gov/environmentaljustice/resources/policy/considering-ej-in-rulemaking-guide-final.pdf

Model Guidelines for Public Participation
http://www3.epa.gov/environmentaljustice/resources/publications/nejac/recommendations-model-guide-pp-2013.pdf

Potential Adverse Impacts Under the Definition of Solid Waste Exclusions (Including Potential Disproportionate Adverse Impacts to Minority and Low-Income Populations), http://www.regulations.gov/#!documentDetail;D=EPA-HQ-RCRA-2010-0742-0371

Environmental Justice Leadership Forum on Climate Change: Clean Power Plan Tool Kit including:
Sample EJ Analysis, comments from Environmental Justice Advocates:
http://www.ejleadershipforum.org/clean-power-plan-tool-kit/

Urban Air Toxics report
http://www2.epa.gov/sites/production/files/2014-08/documents/082114-urban-air-toxics-report-congress.pdf

Union of Concerned Scientists Coastal Impacts Analysis
http://www.ucsusa.org/sites/default/files/attach/2014/10/encroaching-tides-full-report.pdf

The Environmental Public Health Tracking Network from the Centers for Disease Control, http://ephtracking.cdc.gov/showHome.action

EJSCREEN Tool, http://www.epa.gov/ejscreen

Facility Level Information on Greenhouse Gases Tool (FLIGHT),
http://ghgdata.epa.gov/ghgp/main.do

The Contested Terrain of Environmental Justice Research: Community as Unit of Analysis
http://naulibrary.org/dglibrary/admin/book_directory/Environmental_management/5963.pdf

National Environmental Justice Advisory Council Reports:
Ensuring risk reduction in communities with multiple stressors: Environmental justice and cumulative risks/impacts
http://www3.epa.gov/environmentaljustice/resources/publications/nejac/nejac-cum-risk-rpt-122104.pdf

BACKGROUND ON THE ENVIRONMENTAL JUSTICE LEADERSHIP FORUM ON CLIMATE CHANGE(EJ FORUM)

The EJ Forum and our partners represent 43 community based environmental justice organizations across 19 states that live and work in environmental justice communities where residents are less likely to recover from extreme weather events, and where industrial facilities and transportation routes release pollution that continues to heat up our planet and harm our health. Because low income communities, and/or communities of color experience the most negative impacts of pollution and climate change, we have purposefully engaged in all elements of the President's Climate Action Plan since 2013, with our most significant efforts and advocacy around the Clean Power Plan.

Members of the Environmental Justice Leadership Forum on Climate Change

Advocates for Environmental Human Rights (New Orleans, Louisiana)
Alaska Community Action on Toxics (Anchorage, Alaska)
Arbor Hill Environmental Justice (Albany, New York)
Arctic Village (Fairbanks, Alaska)
Asian Pacific Environmental Network (Oakland, California)
CATA -The Farmworkers Support Committee (Glassboro, New Jersey)
Center for Earth, Energy & Democracy Minneapolis, Minnesota
CIDA, Inc. (Houston, Texas)
The City Project (Los Angeles, California)
Communities for a Better Environment (Oakland, California)
Connecticut Coalition for Environmental Justice (Hartford, Connecticut)
Deep South Environmental Justice Center (New Orleans, Louisiana)
Detroiters Working for Environmental Justice (Detroit, Michigan)
East Michigan Environmental Action Council (Detroit, Michigan)
Energy Justice Network (Philadelphia, Pennsylvania)
Environmental Health Coalition (National City, California)
Environmental Justice Action Group of Western New York (Buffalo, New York)

Environmental Justice Advocates of Minnesota (Minneapolis, Minnesota)
Environmental Justice Health Alliance for Chemical Policy Reform (Brattleboro, Vermont)
Got Green (Seattle, Washington)
Green Door Initiative, Inc., (Detroit, Michigan)
Harambee House (Savannah, Georgia)
Indigenous Environmental Network (Bemidji, Minnesota)
Jesus Peoples Against Pollution (Columbia, Mississippi)
Kentuckians for the Commonwealth (London, Kentucky)
Kingdom Living Temple (Florence, South Carolina)
Kingsley Association (Pittsburgh, Pennsylvania)
Land Loss Prevention Center(Durham, North Carolina)
Little Village Environmental Justice Organization (Chicago, Illinois)
Los Jardines Institute (The Gardens Institute) (Albuquerque, New Mexico)
New Jersey Environmental Justice Alliance (Trenton, New Jersey)
OPAL Environmental Justice Oregon (Portland, Oregon)
People Organized in Defense of Earth and Her Resources (Austin, Texas)
People Organizing to Demand Environmental and Economic Rights (San Francisco, California)
Physicians for Social Responsibility – Los Angeles (Los Angeles, California)
Southeast Care Coalition (Newport News, Virginia)
Sustainable Community Development Group (Washington, DC)
TEJAS (Houston, Texas)
Texas Southern University (Houston, Texas)
The Labor/Community Strategy Center (Los Angeles, California)
WE ACT for Environmental Justice (New York, New York/Washington D.C)

ALLIES

Alaska Wild (Fairbanks, Alaska)
Center for Energy and Environmental Justice (Biloxi, Mississippi)
Metro St. Louis Coalition for Inclusion and Equity (St. Louis, Missouri)

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The views and opinions expressed in this document are those of the members of the Environmental Justice Leadership Forum on Climate Change. Please do no attribute these views to the members and the organizations that are represented on the External Advisory Team.

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2. **Angelita C., et al v. California Department of Pesticide Regulation**

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5. **Dr. Bunyan Bryant, Environmental Justice Advocate: Working for Economic and Environmental Justice**

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http://www3.epa.gov/airquality/cppcommunity/hispanic-climate-change.pdf

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