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OVERVIEW & BACKGROUND

The purpose of this document (“the Guide”) is to provide guidance to those involved in the state regulatory procedures on a process that will result in measurable, meaningful engagement and state plans that reflect an equitable process through planning, implementation and evaluation process required to implement the Clean Power Plan (CPP), as well as future regulatory initiatives. The final CPP sets performance standards for two subcategories of affected fossil fuel-fired EGUs – fossil fuel-fired electric utility steam-generating units and stationary combustion turbines. Further, in this final rule, the EPA is requiring 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, and (2) describe their engagement with their stakeholders, including their most vulnerable communities, and, (3) evaluate the effects of their plans on vulnerable communities and to take the steps necessary to ensure that all communities benefit from the implementation of this rule.

In this Guide, we will be consistent with the EPAs 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.

Disclaimer: This guide has been created with input from environmental justice organizations and input 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.
THE BENEFITS OF INTEGRATING ENVIRONMENTAL JUSTICE INTO THE CPP PROCESS

PUBLIC HEALTH

The purpose of the CPP is to protect human health and the environment by reducing CO2 emissions from fossil fuel-fired power plants in the U.S. Coal pollutants contribute to four of the five leading causes of death in the U.S.: heart disease cancer, stroke, and chronic lower respiratory disease and a major source of sulfur dioxide, mercury, air toxic emissions and nitrogen oxide pollution. Moreover, once emitted, these pollutants combine to form “secondary pollutants” such as ozone and particulate matter – additional and equally significant threats to public health. Finally, coal combustion contributes greatly to climate change, further endangering the health, particularly for communities of color. In fact,

- 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.

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- 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.

- 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.
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 percent 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 percent more likely to die from asthma, as compared to non-Hispanic Whites.

Extreme heat events will impact outdoor laborers and can cause heat exhaustion and heat stroke, and exacerbate existing cardiovascular and respiratory disorders. Hispanics account for 42 percent of construction laborers and as much as 75 percent of agricultural field 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.

Existing health disparities and other inequities increase vulnerability to climate health impacts. Heat waves, air quality, and extreme weather are all climate change related issues that disproportionately affect minority and low income communities. By ensuring that the voices of the most impacted communities are heard, health benefits can reach those that are the most hurt by pollution.

BUILDING RELATIONSHIP BUILDING WITH STATES

The primary purpose of the CPP is benefit human health and the environment but there could be some additional benefits to the states intentionally integrating EJ into the process.

• Building (re-building) trust and relationships between state regulators and communities and going ‘beyond the documents’ is important

• Developing a common set of working principles and engagement practices that can be used in meaningful engagement for other regulations

• Co-benefits – complimenting current air quality strategies at the state level

• Constructing a CPP implementation plan that is equitable and meets the needs and reflects the voices of communities that are most impacted by air pollution and climate change
In order to facilitate a useful document, key definitions for key terminology are presented up front and we hope will be used to navigate the various sections and conversations with environmental justice and community advocates on the ground.

**Executive Order 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.

**Environmental Justice:** – (EJ) is a social justice, grassroots movement that seeks to protect communities of color and low-income communities from being over-burdened 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.

**Disparate impacts** : While, the outcome of the case, Texas Department of Community Affairs v. Inclusive Communities Project, only directly addresses enforcement of the Fair Housing Act, the use of the disparate impact standard under other laws is also critical for achieving environmental justice. Low-income communities of color are more likely to be exposed to environmental contamination and pollution from industry sources.

**Meaningful Engagement** -potentially affected populations have an appropriate opportunity to participate in decisions that will affect their environment and/or health, that this public contribution and concerns will be considered and can influence the local or state regulatory agency’s decision throughout the process, and that the decision makers seek out and facilitate the involvement of those potentially affected.
KEY TERMS & PRINCIPLES

Over-burned communities- minority, low-income, tribal and indigenous populations or communities in the United States that potentially experience disproportionate environmental harms and risks due to exposures or cumulative impacts or greater vulnerability to environmental hazards.

Title VI of the Civil Rights Act of 1964-This was enacted as part of the landmark Civil Rights Act of 1964. It prohibits discrimination on the basis of race, color, and national origin in programs and activities receiving federal financial assistance. This is important for EJ communities because if a State Governmental Agency or any other entity is receiving federal funds and the programs do not reduce potential negative disproportionate impacts, communities can initiate a Title VI lawsuit.
DEFINING ENVIRONMENTAL JUSTICE (EJ) & THE PRINCIPLES OF ENVIRONMENTAL JUSTICE FOR COMMUNITY BASED ORGANIZATIONS

The Final CPP explicitly states the need for this document with two statements. The final CPP affirms that Climate change is an environmental justice issue, and Low-income communities and communities of color already overburdened by pollution are disproportionately affected by climate change and are less resilient than others to adapt to or recover from climate-change impacts. Vulnerable and over-burdened communities are areas that are disproportionately and negatively impacted by environmental pollution and as result, in some cases of insufficiently protective policies and practices.

The air pollution load inflicted on communities is a result of both large and small sources, and decades of exposure from various types of air pollutants. As it relates to the CPP, the burden of the impacts of climate change that is driven by carbon dioxide, but also other conventional pollutants that are also emitted by powerplants – like particulate matter (PM), SO2, hazardous air pollutants (HAP), and nitrogen oxides (NOx) – contribute significantly adverse local and regional health impacts. de, but also other co-pollutants that will ultimately reduce the adverse health impacts of air pollution on these low-income communities and communities of color. So it is important to provide context and define what environmental justice means.

The Environmental Protection Agency (EPA) defines Environmental Justice (EJ) as the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Fair treatment means that no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies Dr. Bunyan Bryant, retired director of the Environmental Advocacy program of the School of Natural Resources and the Environment at the University of Michigan in his book Environmental Justice Advocacy: Working for Economic and Environmental Justice- wrote that "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. Environmental Justice is supported by decent paying and safe jobs; these are communities where both cultural and biological diversity are respected and highly revered, and where distributive justice prevails. This latter definition is the one that groups working within the environmental justice and equity frame adhere most closely to.

In fact, the EPA conducted a proximity analysis around all power plants and found that they include a higher percentage of communities of color and low-income communities nationally. Consequently, an important co-benefit of this rule is to not only reduce carbon dioxide, but also other co-pollutants that will ultimately reduce the adverse health impacts of air pollution on these low-income communities and communities of color. So it is important to provide context and define what environmental justice means.

Pictured Here:
Members of the EJ Forum met in Washington, DC to discuss how to effectively engage with state and local municipalities.
Principles for Environmental Justice

The Principles Of Environmental Justice were developed during a convening in Washington DC, sponsored by the United Church of Christ Commission for Racial Justice. Over 1,000 grassroots People of Color from all 50 states, Puerto Rico, Mexico and the Marshall Islands attended the Summit to share and understand that many of the environmental challenges being faced by low income, People of Color, Indigenous Populations and Native Peoples were very common across the United States. Together, the attendees adopted a set of seventeen Principles of Environmental Justice that were created to ground the environmental justice organizations in common working principles. Below is the preamble to this document that can be found in the appendix.

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.
CHOICE POINTS TO INTEGRATE EJ INTO THE PROCESS

MEANINGFUL ENGAGEMENT

Meaningful, continuous, deep engagement with communities is more than a public meeting. A major aspect of working to achieve environmental justice is meaningful public involvement/engagement. This means that people have an opportunity to participate in decisions about activities that may affect their environment and/or health; the public’s contribution can influence the regulatory agency’s decisions; their concerns will be considered in the decision making process; and, the decision makers seek out and facilitate the involvement of those potentially affected. What meaningful engagement also means in the policy making process is a combination of creating a process to receive public input (public commenting process, and/or public hearings), being a part of planning, implementation, and evaluation. The current process for developing State Implementation Plans for compliance with the Clean Power Plan is an opportunity to promote fair treatment and the meaningful involvement of over-burdened communities in this federal and state policy making process. Of equal importance is building the capacity of the community where communities are able to engage and prepared to be in the conversation. For communities to be “in the conversation”, they need, at the least: (1) an understanding of the Clean Power Plan, (2) an understanding of the state of play in the state – i.e. energy generation, the co-location of other regulated entities, state of health disparities, etc., (3) how the Clean Power Plan affects the things they care about, (4) understanding the various compliance pathways and potential negative impacts, (4) technical and resource assistance to support a deeper level of analysis, and (5) a thorough understanding of the entire state implementation process and the points where they can engage. There are a limited number of resources that communities have – both technical and human capacity – to support full integration of the community into major regulations. To meet the intent of the EPAs requirement of meaningful engagement, we suggest a couple of ideas related to engagement, listed by level of impact.

Pictured here: left to right, Dr. Charlotte L. Keys, CEO, Jesus People Against Pollution (JPAP); Dr. Johnny DuPree, Mayor of Hattiesburg, MS; Brett Benson, Office of the Mayor of Hattiesburg, and (not pictured) Dr. Nigel H. Cuffie, CEO, New Life Ministry, Inc.

The meeting covered the following topics: Recent EPA regulation for power plants in Mississippi and other states; Convening an Advocacy group for Mississippi to address the Clean Power Plan for the state; Strengthening our leadership representation for Community Involvement-Public Engagement and; Training for community advocates.
HIGH IMPACT

- Education and capacity building: (Example: coordinating a Community Clean Power Plan 101 -104 learning series before the public comment period begins. This educational series could be a series of short trainings the state creates, in partnership with community leaders. The series could include a host of topics, similar to how the EPA has coordinating their community stakeholder trainings, but specific to the particular state. [ADD LINK SHOWING CURRENT POSTING OF EPA TRAINING AGENDA ]

- Technical Assistance (Example: Once communities are informed, often times the resources – both technical and human capacity – are missing from the communities. States could work to provide technical support through Retired state personnel or similar programs where experts – either on-loan from the state department, or volunteers – could help community members identify specific questions and assess the environmental justice implications of the particular policy. This assistance could range from research and data collection, to legal assistance, to crafting comments, etc. This engagement should span the entire implementation period, not just a “one and done”. Also partnerships with academic institutions to help translate the complexities of the CPP and support community driven comments and solutions is another potential partnership.

- Tracking and Evaluation: States should consider co-developing metrics that track progress throughout the entire CPP process, from engagement, planning through the implementation phase. For example, it would be important for community understand the baseline level of emissions, energy efficiency prevalence in an area, opportunities for weatherization, and then measure – post implementation, how states have benefited from implementation. A level of transparency builds trust.

MID IMPACT

- Establishing an effective community advisory or stakeholder group to work alongside state entities as the state engagement strategy is planned.

- Low Impact

- Standard public hearing (Required but does not facilitate a conversation or any learning with the community)

Meaningful engagement does not happen magically. It is important that each state goes through a scoping process to determine the best way to outreach to communities. Is it hosting a meeting at eth local community centers, partnering with an existing organization, etc. Learning the tactics that work, the timing is critical. We hope that beyond the CPP, as new rules and regulations are making it’s way to the state process, that a parallel process of creating an outreach plan should be formed as well. Planning for meaningful impact is important.

Environmental Justice Efforts in Virginia

The Virginia Department of Environmental Quality (DEQ) 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.

A diverse stakeholder group – made up of industry, utilities, non-governmental organizations and an environmental justice organization - has been convened and have been meeting.

A list of the stakeholders can be found here: http://www.deq.virginia.gov/Portals/0/DEQ/Air/GHG/mbr1st.pdf
CASE STUDY: MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY (MS DEQ)

The MS DEQ has provided a number of resources on its website (https://www.deq.state.ms.us) for its residents to use during the permitting process. Of these, the most impressive is enSearch Online, a comprehensive database for containing thorough records of past and current permits. enSearch houses information from many agencies including The Office of Pollution Control's Air Division, Environmental Permits Division and Environmental Compliance and Enforcement Division, and the Office of Geology's Mining and Reclamation Division. With so many agencies within the state updating permitting information to enSearch, a community member would have access to a wealth of information that can be used to bolster an individual’s comments or complaints to the state agencies.

Another great resource made available to residents of Mississippi is a complaint hotline (1-888-786-0661). Among the many topics covered when filing a complaint is whether the issue is one that concerns an Environmental Justice community. After a complaint has been made via phone, a complainant can also check the status of their complaint online or call back in to get the status as well.

The Mississippi DEQ has chronicled their outreach to communities in their annual reports from 2010 and 2012, highlighting the many training and workshops it has conducted across the state.
CASE STUDY: ENGAGEMENT EFFORTS IN SOUTH CAROLINA

David White, left, an organic farmer, chats with the Rev. Leo Woodberry on Nov. 12 at Francis Marion University after a forum discussing the future of South Carolina’s energy plan.

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.

Participants: South Carolina Department of Health and Environmental Control, South Carolina State Energy Coalition, Kingdom Living Temple, Communities Organized for Renewables and Energy Efficiency (COREE).

Activities: A regional advisory committee was organized to coordinate four public regional meeting to be held three times from 2015 to 2016. Community members are conducting an educational campaign with Solarize SC on the benefits of solar energy generation.

Kingdom Living Temple Church in Florence, South Carolina is 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 a national coalition of environmental justice leaders called, the Environmental Justice Leadership Forum on Climate Change. The State is subsequently setting up an EJ Analysis Workgroup to set up a framework to understand the impacts of particular compliance decisions on overly burdened communities.
Other Considerations for Engagement

Public Hearings & Public Meetings

- Community members should be engaged to help plan the engagement process and all aspects of the engagement period.
- Hearings and Meetings should be held that appeal to a diverse set of stakeholders, and general members of the public that cover the different geographic regions within a state.
- Held in communities that are located or in the vicinity of major pollution and emissions sources.
- Should be held at times that allow the most community access (i.e. after work, child care provided, near major public transportation routes, etc.).
- Language translation should be provided if needed for non-English speaking residents.
- Meetings could be held in a series. For example, if states decide to conduct a series of public meetings/trainings, the first meeting could focus on education about the CPP rule; the second meeting could serve as ‘check-in’ midway through the process to focus on specific state based implementation strategies, and the third meeting would be a report back during the final process to discuss how state strategies and EPA requirements for addressing community concerns have been aligned, or not.
- One of the purposes for the community meetings should be to have a dialogue with community members and groups in an effort to ascertain what they want from the CPP besides GHG emissions reductions.

Create a state EJ Advisory Committee

Standing committee of community members and other relevant stakeholders to advise, work with state leaders who are crafting the plan and other EJ issues as they arise.

Outreach & education targeted to impacted communities

- Provide educational opportunities for impacted communities to understand the process and potential compliance strategies; conduct specific community education meetings to encourage submission of comments.
- Consulting reports and the experts who wrote the plan options and planning documents which are generated during the process before the plan is complete should be shared with engaged community members at each stage of the planning process. Impacted communities should review comments, provide responses. Whether a response is rejected or accepted, feedback should be given directly to the community. Milestones in the process of plan development should be shared as well.

Education fair (meeting) with other key state Agencies

Forum or gathering to provide an overview of state/local options that community members could take advantage of to assist with such key topics as (1) job transition, (2) energy efficiency/weatherization, (3) job training, (4) Solar and wind energy, (5) energy costs.
ENVIRONMENTAL JUSTICE ANALYSIS (EJ ANALYSIS)

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. Additionally, it can:
- Help hold leadership accountable to make better decisions that protect everyone equally
- Give communities an additional tool for advocacy
- Provide governmental agencies and other entities a systematic method of assessing data and policy decisions

An EJ Analysis needs to be performed that will provide a better of understanding of the vulnerable overly-burdened communities in the state, but also ensure that state plans:
- A reduction of carbon dioxide emissions and the additional benefit of potentially reducing other toxic air pollutants
- Up front consideration of the possible indirect/negative impacts of compliance options
- An equitable distribution of potential benefits and access to clean energy, and related job opportunities

As a supplement to the final CPP, the EPA conducted an EJ proximity analysis. This analysis summarized all of the affected electricity generating units while collecting socio demographic characteristics and other environmental data at a distance of 1 and 3 miles around each regulated source. This type of analysis is a starting point, as a possible foundation for states to identify potential areas, communities and regions of concern and expand the analysis process accordingly.

There are analytical tools that states can use to begin the screening process that can support a more thorough environmental justice or impact analysis. A list of these tools and resources can be found at the end of this document. We suggest three steps to begin the process:

California's Strong Approach to Environmental Justice.

California was one of the first states in the nation to codify Environmental Justice into statute. In 2001, the California Air Resource Board drafted its Policies and Actions for Environmental Justice which definitively articulated that California “shall "integrate environmental justice into all of our programs, policies and regulations."

Within the final Clean Power plan the EPA themselves has recognized that California’s Air Resources Board’s (CARB’s) approach to incorporating EJ into its process is one that others states should reference when creating its on state implementation pan.

The state of California has also used technology to empower its residents to be aware of the levels of pollution in their communities. In 2013, California released CalEnviroScreen, which is the states screening tool that can be used to help identify California communities that are disproportionately burdened by multiple sources of pollution. CalEnviroScreen is considered to be the model in which the EPA based its EJSCREEN tool.
Step by Step Approach to an EJ Analysis

Step 1: Identification of vulnerable and/or overly burdened communities

Use existing data sets to identify the following communities that might have one or some of the following characteristics: Communities that are low income, communities of color, communities with large populations over 65 years of age, communities that have high rates of cancer areas identified from the EPAs proximity analysis as overly sensitive, areas with high energy prices, prevalence of chronic disease, high hospitalization rates, areas in non-attainment for criteria pollutants, areas with multiple regulated sources, communities with high renewable energy potential, areas at risk for sea-level rise.

Step 2: Evaluate the potential impact of compliance options

There can be unexpected or unintended adverse impacts from policy implementation. Quantitative analysis and modeling, community and public input, and developing partnership with academic institutions that support community/university collaborations can be avenues to explore ways to begin an evaluation.

It is critical to also address the inherent barriers to achieving better protection and equal access to resources to expand clean energy options and job benefits. Current barriers that might exist include: lack of capital for minority businesses to invest in clean energy options, inadequate housing and infrastructure for clients that need energy efficiency services. Evaluating how the state can facilitate creative use of existing resources to spur capital investments for minority business owners in vulnerable and overburdened communities, could be an example of a potential barrier that should be a part of the analysis.

Step 3: Baseline, Feedback & Evaluation

Baseline: Using or collecting data is critical to determine a state’s starting point. A sample of the key indicators that should be a part of this initial scoping process are as follows:
- Health status of communities surrounding the EGUs, clean energy job opportunities, job transition programming, energy efficiency prevalence, CO2 emissions,
- Number of engaged communities and public participation, outreach and engagement strategies
- CO2 emissions levels, and other key pollutants where available

Feedback: Ongoing conversation about the results of the scoping in Step 1 and “check-ins” about the planning process, what is discovered from the scoping from the state level as well as “on the ground scoping” is critical to informing the planning process. States can coordinate monthly check-in calls, meetings, webinars, etc. to keep interested community members in the loop.

Evaluation: Make a plan to revisit the key indicators that were developed during the scoping process in Step 1. Provide transparent data and feedback (both quantitative and qualitative) to community partners about how the selected compliance efforts are working or not working.
CLEAN ENERGY INCENTIVE PROGRAM (CEIP)

States have the option to participate in the CEIP program to insure that all communities should have equal access to the benefits of clean and affordable energy. The CEIP is designed to incentivize investment in certain renewable energy (RE) and demand-side energy efficiency (EE) projects that commence construction in the case of RE, or commence operation in the case of EE, following the submission of a final state plan to the EPA, or after September 6, 2018, for states that choose not to submit a final state plan by that date, and that generate MWh (RE) or reduce end-use energy demand (EE) during 2020 and/or 2021. The CEIP program can facilitate achievement of the CO2 emission reductions required by this final rule, fostering reductions to happen before 2022 in wind, solar and low income EE.

Communities will be disproportionately impacted by climate change, so we need to invest more in mitigating the effects of climate change. Despite recent industry claims, low income households and households headed by persons of color use far less energy than median income households or Caucasian households. The costs have little to do with usage, but more with fixed charges that add to the energy burden for low income households.

Benefits of the CEIP Program

The CEIP will provide a number of benefits. First, the program will provide incentives designed to reduce energy bills early in the implementation of the guidelines through earlier and broader application of energy saving technologies, and help ensure that these benefits are fully shared by low-income communities. Second, the EPA believes that stimulating or supporting early investment in RE generation technologies could accelerate the rate at which the costs of these technologies. Third, the CEIP will provide affected EGUs and states with additional emission reduction resources to help them achieve their state plan obligations. Finally, the program will improve the liquidity, in the early years of the program, of the ERC and allowance markets we expect to emerge for compliance with the requirements of these guidelines.
States might want to consider the following:

1. 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 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.

2. 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. And as communities that have been heavily dependent on fossil-fuel fired power plants to provide the majority of economic stimulus for local economies, we need to insure that clean energy training and job opportunities, and

3. A portion of this set-aside should be targeted to RE projects that benefit low income communities.

4. 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:
   i. Stakeholders that already receive Supplemental Security Income or Aid to Families with Dependent Children
   ii. Children and families that have been diagnosed with severe respiratory concerns
   iii. Children and families that reside in multi-family units or public housing
   iv. 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.

b. This % should be determined by the % of people that are defined as overly-burdened by the environmental justice analysis
CARBON TRADING PROGRAMS

The majority of the CPP compliance pathways offered include some type of trading. In the state of California, there is evidence and concern that trading could perpetuate increased emissions in communities that are already overly-burdened by pollution. In order to mitigate the potential negative impacts of trading on communities, we suggest that states it should be required that States:

a. 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.

b. 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.

c. 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.

d. Disallow any type of trading, allowances or credits should be prohibited from being exchanged in any areas where the air is already compromised.

Pictured here: Members of the EJ Forum during the September 14, 2015 Congressional Briefing on Environmental Justice.
KEY QUESTIONS TO CONSIDER THROUGHOUT THE PROCESS

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. Please use these questions to begin conversation at the state level.

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 or violate Title VI of the Civil Rights Act of 1964?

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.
CASE STUDY: WORKING FOR JUST TRANSITION IN KENTUCKY

In spite of the rhetoric and popular opinion in regards to the security of coal mining jobs, eastern Kentucky has seen coal production fall within the last 6 years. The decrease in production has been even more drastic in over the last 30 years. The conversation around a just transition for Kentucky has been nonexistent. In a fair and just transition, affected workers, their unions, and communities are equal partners in a well-planned, carefully negotiated and managed transition from fossil fuels to clean energy. A just transition brings job opportunities to those traditionally left behind and job security and livelihood guarantees to affected workers.

Grassroots efforts in Appalachian Kentucky have been organizing to promote a just transition for coal workers and communities. The political environment created by the coal industry made it impossible for any conversation or policy on just transition to occur. In an attempt to combat “anti-coal” sentiments, organizations like Kentuckians for the Commonwealth (KFTC) and the Mountain Association for Community Economic Power (MACED) have been working to promote clean energy policies in Kentucky with a very strong economic lens.

In 2013, KFTC hosted the Appalachia’s Bright Future Conference with over 200 involved Kentuckians who had in-depth conversations. The 3 day conference held in the epicenter of the coal mining communities experiencing the most job loss touched on important issues including building a local food economy, expanding broadband internet access, and workers’ perspectives on Appalachian transition. In response to this successful event, Kentucky Governor Steve Beshear and U.S. Congressman Hal Rodgers hosted a larger summit called Shaping Our Appalachian Region (SOAR) with over 1000 Kentuckians in attendance. Grassroots efforts by organizations like KFTC worked diligently to change the dialogue in the state by taking the lead and creating their own platform. By working with other organizations with overlapping interests and diverse skills, they were able to get the attention of the state of Kentucky, who then followed suit by delving deeper into the discussion.
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 of concerns for environmental justice communities can be concurrently addressed as well.
TOOLS TO HELP WITH PLANNING

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

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

Union of Concerned Scientists Coastal Impacts Analysis
The Environmental Public Health Tracking Network from the Centers for Disease Control, http://epitracking.cdc.gov/showHome.action

EJSCREEN Tool, http://www2.epa.gov/ejscreen

Facility Level Information on Greenhouse Gases Tool (FLIGHT), www.ghgdata.epa.gov

The Contested Terrain of Environmental Justice Research: Community as Unit of Analysis

National Environmental Justice Advisory Council Reports: Ensuring risk reduction in communities with multiple stressors:
Environmental justice and cumulative risks/impacts

Model Guidelines for Public Participation
BACKGROUND ON THE ENVIRONMENTAL JUSTICE LEADERSHIP FORUM ON CLIMATE CHANGE

The EJ Forum and our partners represents 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.