



# THE OUR POWER PLAN: CHARTING A PATH TO CLIMATE JUSTICE

Climate Justice Alliance

**OUR POWER CAMPAIGN**

Communities United for Just Transition

# ENDORSEMENTS

**Center for Community Change**  
**Center for Popular Democracy**  
**Center for Social Inclusion**  
**Encouraging Development of a Green Economy**  
**Environmental Justice Leadership Forum on Climate Change**  
**Fossil Fuel Divestment Student Network**  
**Greenfaith**  
**Greenpeace**  
**Jobs with Justice Rhode Island**  
**Move to Amend Coalition**  
**NAACP Illinois State Conference**  
**NAACP Indiana State Conference**  
**National Domestic Workers Alliance**  
**National Peoples' Action**  
**Peoples' Climate Movement New York**

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# INTRODUCTION

**Two hundred years of growing a global economy powered on fossil fuels has taken its toll.**

## BACKGROUND

On August 3, 2015 President Obama and the Environmental Protection Agency (EPA) announced the Clean Power Plan (CPP) - billing it as “an historic step in reducing carbon pollution from power plants that takes real action on climate change.” The administration acknowledges that climate change is one of the greatest environmental and public health challenges we face and the United States has historically been the largest emitter of greenhouse gases (GHGs) that contribute to climate change. The CPP provides the first-ever national standards to address carbon pollution from power plants, the source of more than 31% of total greenhouse gas emissions from the United States. The CPP is a core policy piece for the U.S. to comply with the recent agreement reached in Paris at the United Nations Framework Convention on Climate Change. So clearly the CPP is viewed as fundamentally important to the U.S. strategy to address climate change. The new policy will also have important health, economic and environmental implications for low-income communities of color in the U.S.

## WHO IS CJA?

**The Climate Justice Alliance (CJA)** is a new alliance of 41 community organizations, movement networks and support organizations on the frontlines of the climate crisis. CJA’s constituencies are rooted in Indigenous, African American, Latino, Asian, Pacific Islander, and poor white communities. A recent report by the National Association for the Advancement of Colored People (NAACP), Indigenous Environmental Network (IEN) and the Little Village Environmental Justice Organization (LVEJO) added to the extensive body of data demonstrating that



on fossil fuels, extraction and dirty industries to a new economy that will reduce greenhouse gas emissions at the source, restore equity, and put decision-making in the hands of communities. CJA believes that in order to effectively confront the climate crisis we must also shift our economic priorities from global systems of production and consumption that are energy intensive and fossil fuel dependent to more localized systems that are sustainable, resilient and regenerative. This will require a long-term **transition**, but we believe it to be a necessary and meaningful project that can create jobs and promote healthier livelihoods while healing the planet. ***The transition itself, however, must also be just.***

It must protect communities and workers that are the most vulnerable to pollution, climate disasters and economic disruptions. And it must create meaningful work and dignified, good-paying jobs. For this reason, frontline communities and workers must be in the forefront of shaping the new economy.



(left) Photo by Rae Breaux, (right) Photo by Megan Zapanta, Asian Pacific Environmental Network

## WHY THIS REPORT?

The CPP represents an important first step by the United States government in confronting climate change - but it does not go far enough. It is important to understand that the Clean Power Plan addresses only one part of the equation to address climate change - fossil fueled power plants. So in line with our vision of the Our Power Campaign, we are offering the **Our Power Plan** as a document to locate the CPP within the broader context of what is needed to achieve real solutions to the climate crisis. We believe that the solutions to the climate crisis are present in the creativity, innovation, resourcefulness and determination that can be found in frontline, environmental justice communities. So we urge federal and state decision-makers to assure that frontline environmental justice communities and workers be primary stakeholders in the implementation process of the CPP.

## GOALS OF THE OUR POWER PLAN

The goal of CJA's Our Power Plan is to empower communities working for a Just Transition to a clean energy future by organizing to protect the integrity of the CPP and ensuring Federal and State Implementation Plans adhere to principles of environmental justice. Specifically we seek to:

- Strengthen organizing efforts of frontline, environmental justice communities for building grassroots power and promoting Just Transition strategies.
- Assure that EJ provisions are in Federal and State Implementation Plans and multi-state processes;
- Assure that carbon emissions are reduced and regulated at the source of pollution to protect frontline communities.
- Urge reduction of co-pollutant emissions as well as greenhouse gases;
- Eliminate loopholes that incentivize other extractive, dirty energy options such as natural gas, biomass, waste incineration, nuclear, etc.
- Assure that energy conservation, efficiency, solar, wind and energy storage, zero waste, public transportation, ecosystem restoration, and regenerative plant-based organic agriculture are prioritized as carbon reduction strategies.
- Assure that the CPP maximizes creation of quality, good-paying jobs and that communities of color and poverty have access to the jobs created through CPP implementation.



Photo by Rae Breaux



# OUR VISION

**We must reduce  
greenhouse gas  
emissions by 80%  
by 2050.**

## THE MOMENT

The world is confronting two fundamental, if not existential, crises today: the crisis of the economy and the climate crisis. Despite a recent measure of stability in the financial markets, economists across the political spectrum recognize that global capitalism is in crisis and that the current recovery from the Great Recession of 2007 remains a jobless recovery. Jobs are increasingly contingent, part-time, temporary and low-paying. Worldwide tens of millions of economic refugees have been displaced and forced to migrate to industrialized nations.

Meanwhile the earth's climate systems have already arrived at critical tipping points. Two hundred years of growing a global economy powered on fossil fuels has taken its toll. 2014 was the hottest year in recorded history and 14 of the warmest years on record have occurred in the past 15 years. Storms are becoming more intense, droughts more prolonged, and floods more severe.

Man-made disasters and environmental destruction are also more commonplace as the light, sweet crude oil and coal that was once more easily extracted and processed is more hazardous and difficult to exploit.<sup>3</sup> The cheap half of these peaked resources is already used, and the remainder will soon be too expensive to extract, even if the climate and environment could afford it. As a result, corporations are going to extreme lengths to extract fuel sources, resulting in devastating man-made disasters as we saw with the BP/Deepwater Horizon oil gush in the Gulf Coast in 2005. The development of expensive new infrastructure to transport and refine bitumen from the tar sands is another indicator of the

extremes needed to continue to fuel a global economy. We know that burning these newer forms of fuels would also cause irreversible impacts to the earth's climate systems. So for many reasons, we must keep them in the ground.

**Extractive energy** includes nuclear, coal, oil and gas, waste incinerators, biomass energy and other forms of energy and fuels that pose extreme risk to human and ecosystem health, community resilience, economic certainty, and climate stability. The **United Nations Intergovernmental Panel on Climate Change (IPCC)** projects that in order to reverse the trend towards abrupt and catastrophic change, deep cuts in carbon emissions by the most industrialized nations are essential - specifically that we must reduce **greenhouse gas emissions (ghgs)** by 80% of 1990 levels by 2050. We believe that meeting this challenge is possible – and we believe that we can only do it by addressing the crisis of economy and creating meaningful work and livelihoods for the millions of unemployed and underemployed people. This will require a radical transformation of the economy. But the solutions can be implemented today.



*Photo by Our Power*



# OUR PLAN

**We can create millions of new jobs by building up sustainable sectors of the economy.**

## **A JUST TRANSITION FROM EXTRACTIVE ENERGY TO STRONG LOCAL, LIVING ECONOMIES**

In June of 2013 CJA launched the **Our Power Campaign (OPC)** - a national effort uniting communities to demand a **Just Transition** from an economy dependent on fossil fuels, extraction and dirty industries to a new economy that will reduce greenhouse gas emissions at the source, restore equity, and put decision-making in the hands of communities. CJA believes that in order to effectively confront the climate crisis we must also shift our economic priorities from global systems of production and consumption that are energy intensive and fossil fuel dependent to more localized systems that are sustainable, resilient and regenerative.

We believe that we can create millions of new jobs and livelihoods by building up sustainable sectors of the economy: ***Clean Community Energy, Local Agriculture, Zero Waste, Public Transportation, Efficient, Affordable, and Durable Housing, Ecosystem Restoration and Stewardship***. We seek to create and amplify living examples of how such pathways can put people to work transforming their communities, while reducing both cost and pollution burdens for present and future generations.

We know that low-carbon industries cost less to build and maintain when subsidies and true impacts are added up. By transitioning from pollution-intensive and capital-intensive industries to local, labor-intensive systems, we can vastly increase the number of jobs that exist today. A recent report by the [Labor Network for Sustainability](#), 350.org and Synapse Energy Economics demonstrates that it is possible for the U.S. to exceed the IPCC target of cutting GHGs by 80% by 2050 and

in the process create a net gain of 550,000 jobs in the sectors of electricity generation, cars and light trucks, space and water heating, fossil fuel supply and waste management.<sup>4</sup> According to the 2011 study on the waste sector, **More Jobs, Less Pollution**, between 10 to 20 times the number of jobs are created through local recycling practices than by burying and burning the same materials in landfills and incinerators.<sup>5</sup> Similarly, in the food sector, shifting from a globalized industrial food system to regional food systems will lead to replacing fossil fuel use with labor. Here is a snapshot of what is possible in the transition to a new economy:

**ZERO WASTE** Building comprehensive recycling and composting programs that end the use of incinerators and landfills and achieve a national recycling rate of 75% would serve to create 1.5 million new jobs, while reducing GHG emissions equivalent to taking half the cars off US roads (515 million metric tons – eMtCO<sub>2</sub>). Cities such as San Francisco have proven this can be done, creating thousands of local, union jobs.

**REGIONAL FOOD SYSTEMS** Similarly, strengthening local, organic food production based on small-scale plant-based, regenerative farming will drastically reduce carbon emissions from reduced pesticide and chemical fertilizer use; reducing food miles and reducing industrial-scale technologies required by export-based production. Such *Food Sovereignty and Food Justice* goals could also create millions of jobs in the farming sector.

**PUBLIC TRANSPORTATION** Building clean public transportation infrastructure that is adaptive to local, cleaner energy sources, and making it accessible to everyone, will create millions of new manufacturing, operations and maintenance jobs to meet community transportation and travel priorities.

**CLEAN COMMUNITY ENERGY** Developing solar, wind and energy storage capacity on a decentralized grid could create twice the number of jobs maintained by combustion-based and nuclear utilities. We envision community-scale distributed energy programs for both residential and local economy needs, similar to what is being introduced in California.

### **BUILDING EFFICIENT, AFFORDABLE AND DURABLE HOUSING**

Making homes and industries more energy efficient and long-lasting through better design and the highest end use of a finite forest and land-base would spur a new economic growth that creates many more skilled, localized trades in building, construction and community maintenance.

**ECOSYSTEM RESTORATION AND STEWARDSHIP**, with the aim of restoring healthy terrestrial and aquatic ecosystems while developing the knowledge-base needed to survive within local resource limits. Programs that employ millions to restore a century of industrial depletion, will serve to build the diminished carbon storage capacity of the earth, while saving trillions of dollars in future adaptation funding.

A Just Transition pathway is well worth the investment now. To bring it about, strong popular movements must push governments to shift resources towards intentional economic transition that benefits people and the planet.



Photo by Marjorie Childress



# OUR ASSESSMENT

**The CPP is an important step, but does not go far enough to address climate change, equity, and justice.**

## **THE CLEAN POWER PLAN: AN HISTORIC OPPORTUNITY BUT FALLING SHORT ON EQUITY AND JUSTICE**

The Clean Power Plan is the first ever rule to regulate emissions of carbon dioxide from coal-fired power plants, the largest source of carbon emissions in the United States.

According to the Center for Earth, Energy and Democracy:

*As one of the most significant environmental rules in history, the CPP will be an instrumental factor in the transition of the electricity system in the coming decades. But, as with most federal policy on climate change, a critical challenge of the CPP is how it addresses equity and justice in its implementation and enforcement.*

*Most environmentalists have applauded the CPP as a climate game changer. The electricity sector accounts for 31 percent of total greenhouse gas emissions in the U.S. and according to the EPA, the CPP will result in a 32% reduction in these emissions, from 2005 levels, by 2030. However, in the initial proposed rule, which EPA released for public comment in June 2014, equity or environmental justice were largely absent. In response, Environmental Justice advocates expressed their objections about the Administration's lack of attention and concern for our most overburdened communities. In response, in the final rule the EPA included that:*

- *States are encouraged to conduct equity analyses*
- *States must include how they have conducted community engagement*
- *A voluntary Clean Energy Incentive program that provides EPA matches for efficiency in low-income communities.*

*While these insertions are improvements, they fall far short of what is truly required for equity and justice to have a meaningful and effective place in national climate and environmental policy.<sup>6</sup>*

Environmental justice and social justice organizations have been pushing the Agency to include several mandates in the final rule that protect the health and welfare of low income communities, communities of color, and communities in a transition to a low carbon economy.

Advocates have asked the Agency to make equity a priority in the rule requiring:

- Absolute CO2 emissions reductions in overly burdened communities;
- State-level equity analyses – in partnership with impacted communities - that will provide an understanding as to how costs and benefits will be distributed;
- Prioritization of energy conservation, energy efficiency, wind, solar and energy storage opportunities; removing incentives for the combustion of waste, biomass or any other fuels for energy generation; and,
- Workforce training and economic development funding mechanisms in place to support workers and communities to transition towards a clean energy economy, especially in regions where the coal industry has been a significant economic driver.

Over the next one-three years states will develop **State Implementation Plans (SIPs)**, outlining their strategies to comply with the CPP. Those states that do not develop their own SIP will default to being regulated by the EPA through a **Federal Implementation Plan (FIP)**. The public must be actively engaged in the public process of the SIPs and FIP to make sure the plans are bolder and more effective. Our comments below are a means to ensure that the SIPs and FIP go above and beyond the final rule in addressing environmental justice and the goals for carbon reduction sought by the EPA.

## HOW THE CPP WILL WORK

The CPP was established to reduce carbon pollution from existing power plants. The administration expects that “Fossil fuels will continue to be a critical component of America’s energy future. The Clean Power Plan simply makes sure that fossil fuel-fired power plants will operate more cleanly and efficiently, while expanding the capacity for zero- and low-emitting power sources.”

The EPA established new Carbon Pollution Standards for new, modified and reconstructed plants. Having set the vision of cleaner, more efficiently-operated fossil fleet and expanded clean electricity generation, administration gave the states the opportunity to develop their own plans to implement the CPP and comply with the new standards. EPA provides two tools to assist states: a model rule that states can adapt for their own **State Implementation Plan (SIP)**, and a **Federal Implementation Plan (FIP)**. If a state does not develop its own SIP, it will operate according to the federal version. States must submit a plan by September 6, 2016 or apply for an extension through September 6, 2018.

EPA established two basic types of goals for the states:

1. A **rate-based** goal that measures the amount of pollution generated per hour, - or -
2. A **mass-based** goal that measures the total amount of pollution generated by 2030.

States can decide which method they will use to measure their pollution reductions. EPA also offers 3 “building blocks” to meet, or comply with, the goals: 1) reducing pollution from coal-fired power plants, 2) substituting energy from natural gas plants for energy from coal-fired plants and 3) substituting energy from zero-emitting renewable energy sources (like wind and solar) for energy from coal-fired plants.

The CPP will also relies on a market-based approach known as **carbon-trading** or **cap and trade**. EPA will create new currencies known as **Emission Rate Credits** (ERCs) under the rate-based approach, and **Allowances** under the mass-based approach. An initial set of ERCs and Allowances will be created based on how much pollution existing sources have been emitting. They will be given or sold to existing sources. In theory, at all times an existing source must have enough ERCs or Allowances to account for the pollution it emits. ERCs or Allowances that a source does not need (whether because it has reduced its carbon pollution or because it has purchased extra, as market speculation) can be sold and traded. They can then sell these to other sources that are in jeopardy of violating pollution limits. The additional credits allow sources to pollute at higher levels. For this and other reasons, carbon trading has been extremely controversial and environmental justice organizations have historically opposed such schemes (see more below).

After assessing the state’s target, but before issuing Allowances or ERCs, a certain number are reserved as “set-asides”. There are three types of set-aside:

1. for the proposed Clean Energy Incentive Program (these are only for the first compliance period.)
2. for covered units based on an “updating output-based” approach (these are only for later compliance periods.)
3. Five percent of allowances in each state, *in all compliance periods*, for renewable energy projects.

EPA also established the **Clean Energy Incentive Program (CEIP)** as part of the CPP. The CEIP aims to “reward early investments in wind and solar generation, as well as demand-side energy efficiency programs implemented in low-income communities...” The “reward” for early investment is a portion of the state’s allowances. It is the only aspect of the CPP that directly addresses potential benefits to low-income communities.

## OUR MAIN CONCERNS

Our organizations embrace the EPA’s Clean Power Plan as a critical opportunity to limit carbon emissions and transform our energy system. At the same time, we believe the rule itself is deeply flawed. It runs the risk of incentivizing a massive shift, already underway, from coal to natural gas in America’s power sector rather than contributing to a clean energy transformation. It opens the door for a range of harmful energy sources, from nuclear to waste incineration. It dramatically under-invests in energy efficiency and conservation. And it relies heavily on problematic cap-and trade programs as a primary system of compliance and enforcement.

### **A CAP-AND-TRADE APPROACH IS NOT PROTECTIVE ENOUGH OF OUR HEALTH AND WELL-BEING**

The Climate Justice Alliance and many frontline communities have grave and long-standing concerns about cap-and-trade programs<sup>7</sup> – whether rate-based or mass-based – which allow big polluters to continue shifting the burden to nearby communities that are primarily low-income and people of color. These schemes are vulnerable to corruption, fraud, and leakage. They can incentivize false and deeply problematic approaches to emission reduction, by awarding credits for types of energy generation and pollution offsets that are far from clean. In addition, cap and trade programs can result in an unjust distribution of costs and benefits. When they operate as intended, they are a way of transferring wealth from rate-payers in heavily polluted places to investors who create new clean energy jobs and better health conditions elsewhere.

## **THE PROPOSED FIP AND MODEL PLANS DO NOT ADEQUATELY PRIORITIZE ENVIRONMENTAL JUSTICE**

In addition, we believe the EPA did not do an adequate environmental justice analysis to understand the impact of the proposed **Federal Implementation Plan (FIP)** and model plans on low-income and people of color communities. In its proposal, the agency minimizes concerns about disproportionate health impacts that could occur under a cap-and-trade system, saying that CO<sub>2</sub> is well mixed in the atmosphere and does not have acute health impacts due to inhalation at ambient levels. We point out that the EPA counts reductions in other non-CO<sub>2</sub> emissions as important co-benefits of the Clean Power Plan, yet fails to recognize the harm to health caused by those same emissions from dirty plants that are allowed, and sometimes perversely incentivized, to keep operating under this proposal.

## **THE CLEAN POWER PLAN INCENTIVIZES DIRTY ENERGY OPTIONS**

EPA supports a number of extractive energy options as acceptable alternatives under the Clean Power Plan. Incentivizing any form of combustion energy, whether it be coal, gas, trash, or biomass, raises serious concerns about increased public health impacts, especially for communities already overburdened by such industrial pollution. We are gravely concerned that the Clean Power Plan will result in an increase of health consequences and related economic burdens for frontline communities of color and low income communities across the United States.

No climate plan should aim to replace one fossil fuel with another, when studies show that we can move to conservation, efficiency, solar, wind and energy storage in the same time frame, meeting our energy needs with 99.9% reliability and at no increased cost.<sup>8</sup> Here are the primary dirty energy sources sanctioned by the EPA in the CPP.

### **NATURAL GAS**

Natural gas is worse than coal for the climate, when methane gas leakage is accounted for.<sup>9</sup> By ignoring methane, the rule encourages the current major shift from coal to gas, as hundreds of new gas-fired units are proposed, replacing coal units across the U.S.

If gas leakage exceeds 2.8%, natural gas becomes worse than coal for the climate. Leakage rates have been found to be far higher at hydraulic fracturing (fracking) sites alone, not to mention substantial leakage in pipelines, compressor stations and distribution systems. EPA has vastly underestimated gas leakage, and industry researchers know that the leakage rate cannot be brought low enough to have less climate impact than coal.

EPA has also vastly underestimated the potency of methane. In 2013, EPA updated its global warming potential for methane from being 21 times as potent

as CO<sub>2</sub> to 25 times. The same year, the IPCC adopted the latest science showing that methane is 34 times as potent as CO<sub>2</sub> over 100 years, and 86 times as potent over a 20-year time frame.

## BIOMASS AND WASTE INCINERATION

Burning waste and biomass has long term climate consequences. A 2014 study of U.S. biomass energy emissions found that burning biomass is worse for the climate than burning coal.<sup>10</sup> This adds to the many studies that have found that biomass energy is more carbon-intensive than coal, and that the life-cycle emissions associated with various sources of biomass and waste fuels are much greater than those of fossil fuels.<sup>11</sup> According to EPA's own database,<sup>12</sup> burning municipal waste is the most carbon intensive form of energy generation, producing over twice the amount of CO<sub>2</sub> per unit of energy than coal plants. This has been corroborated by recent studies comparing the emissions of waste ("WTE") incinerators and coal plants in Maryland<sup>13</sup> and New York.<sup>14</sup> In addition to greenhouse gas emissions, incineration is also a source of toxic pollution. Incineration emits higher levels of mercury, dioxin, lead, nitrogen oxide, sulfur dioxide and carbon monoxide than coal-fired power plants, which are harmful to public health.

The EPA is also pushing forward with a radical redefinition of waste, which allows unregulated waste burning in hundreds of thousands of boilers around the country, by redefining many wastes as fuels, avoiding incinerator regulations. This misguided pro-incineration approach must stop, and accurately accounting for CO<sub>2</sub> emissions from waste burning is one good place to start, lest we turn the nation's coal power plants into unregulated waste incinerators, worsening climate and community health impacts.<sup>15</sup>

## NUCLEAR POWER

Nuclear power should not be promoted by the Clean Power Plan, for several reasons. It's uneconomical, is monstrously expensive, and cannot exist without tremendous government subsidies and liability insurance caps. Licensing and building new nuclear reactors takes at least a decade and typically involves cost-overruns. Conservation, efficiency, wind and solar can be implemented much faster for much less money. The inflexible baseload power from reactors is incompatible with future electric grids run on decentralized and flexible intermittent sources.

The plan would have states subsidize the five new reactors currently under construction. Four of the five are in majority black communities, which is a Title VI violation. Routine radioactive releases from operating reactors contribute to increases in thyroid and breast cancer, leukemia and infant mortality in reactor communities. There is still no solution for containing the radioactive waste. Pollution throughout the fuel chain, from uranium mining to milling to conversion to enrichment to fuel fabrication is unaccounted for in the "Clean" Power Plan, as

are the greenhouse gases from all the fossil fuels used to make the fuel, build/operate the power plants, then cool and isolate the waste for centuries. Uranium mining and waste disposal are disproportionately in Indigenous communities, another Title VI violation.

Nuclear reactors also use huge amounts of water and due to cooling water needs, they are a terrible answer to global warming, as they increasingly have to shut down or cut back power on the hottest summer days when their power is needed for high air conditioning demand. Accident risk from increasingly dangerous aging reactors is also a matter to be taken quite seriously. For all of these reasons, states should not be permitted to subsidize existing or new nuclear reactors for Clean Power Plan compliance.<sup>16</sup>



*Photo by Rae Breaux*

## **THE FIP PROPOSALS AND MODEL RULES ARE SHOCKINGLY WEAK ON ENERGY EFFICIENCY.**

Energy efficiency programs are a least cost strategy to reduce power plant emissions and create important community and economic benefits. Hundreds of thousands of jobs can be immediately created by expanding energy efficiency programs.<sup>17</sup> Energy efficiency investments can help both rate-payers and utilities save money now and minimize harm from rising energy costs in the future. Residential efficiency programs can significantly improve families' economic and housing security, especially in low and moderate-income households. Commercial and industrial energy efficiency programs can help businesses and industries preserve or expand existing jobs by slashing their energy costs and risks. Finally, investments in energy efficiency are a powerful driver of new, good, local jobs, including jobs in construction, installation, and the manufacture of energy efficiency products.

It is troubling to see the many barriers, hurdles and exclusions for energy efficiency in the proposed FIP and model rules. For example:

- The proposed rate-based FIP does not - but should - allow energy efficiency measures (including ground- and air-source heat pumps, home weatherization, and other demand-side management approaches) to generate Emission Rate Credits, outside of the Clean Energy Incentive Program. This is troubling, especially since the very states requiring a federal plan are also likely to have weak energy efficiency policies of their own. By disqualifying energy efficiency as a compliance option under a rate-based FIP, the EPA is greatly increasing the harm to rate-payers in non-complying states.
- In contrast, the EPA's model rate-based rule does allow energy efficiency measures to generate ERCs if the state's method for measurement and verification is "credible, rigorous, transparent and complete." The EPA should hold itself to the same standard when implementing a federal plan.
- Energy efficiency also plays a minimal role under the EPA's mass-based FIP and mass-based model rule, outside of the CEIP. There is no mechanism in the EPA's mass-based approach for distribution of allowances for carbon reductions achieved through energy efficiency. It is encouraging to see that the agency is requesting comments about whether some portion of allowances currently set-aside for in-state renewable energy should be made available for energy efficiency. We strongly support revising the mass-based FIP and model rule to more directly promote energy efficiency.



# OUR PROPOSALS

**The EPA must work  
in collaboration  
with states and  
communities**

## **HOW TO MAKE THE CPP A MORE EFFECTIVE POLICY TO REDUCE CARBON EMISSIONS AND ACHIEVE ENVIRONMENTAL JUSTICE**

The following are some overarching policy strategies that EPA can adopt in the FIP and model trading rule, and that states can adopt in their SIPs in an effort to address the concerns of the environmental justice community:

### **ENSURE INCLUSION AT THE PLANNING TABLE AND THROUGHOUT IMPLEMENTATION**

Where the EPA imposes a Federal Plan on a state, the agency must provide guidance on how it will ensure a meaningful public engagement process and what specific roles it plans to play in the public engagement process. EPA must provide communities with clarity on the agency's authority to lead or administer the federal plan in all states where a federal plan is implemented. We support and encourage the use of Environmental Justice State Guidance<sup>18</sup> developed by the Environmental Justice Leadership Forum on Climate Change for state officials and stakeholders throughout the SIP process.

In the setup of an administration to track trade compliance instruments under both rate and mass-based plans, ensure representation and significant decision-making power for communities overburdened by climate impacts and the EPA's Clean Power Plan including communities of color and low-income communities.

The EPA must work in collaboration with states and communities to ensure that the burdens and costs of compliance with the FIP and the SIPs do not fall on

those that can least afford it. This must include, among other concerns, consideration of the potential for windfall profits and companies shifting the cost of trade-compliance instruments (i.e., allowances) onto overburdened communities.

## **INCLUDE DATA, DEFINITIONS, AND ANALYSIS TO ADDRESS ENVIRONMENTAL JUSTICE**

EPA should create a monitoring system to understand baseline levels of carbon dioxide emissions and co-pollutants you can measure for, especially in (i) low-income neighborhoods, (ii) neighborhoods with multiple regulated sources and/or approved permit types, (iii) and neighborhoods that are otherwise identified as overburdened or vulnerable by EPA and community-developed environmental justice screening tools.

The EPA's definitions and criteria for 'set asides' should be created in concert with local/state environmental justice organizations. The 'set asides', for the Clean Energy Incentive Program, the output based allocation set aside, renewable energy set aside, gas-shift set-aside and the reliability set-aside should be created in a way that – at the least that:

- Uses criteria that identifies communities that could be negatively impacted by the CPP
- Creates a set of indicators (i.e. health, energy use, cost of energy, climate vulnerability, cumulative risk, etc.) that can be used to measure and verify the impact on communities
- Provides and creates a system to respond if the intended reductions are not occurring.

## **DO NOT INCENTIVIZE DIRTY, EXTRACTIVE ENERGY**

### **Do Not Allow Biomass and Waste Incineration to Qualify as Non-Emitting Sources**

The EPA's rate-based model plan allows a wide range of biomass and waste incineration projects to qualify for Emission Rate Credits. The agency leaves it up to states to define and determine what types of technologies and waste streams will be eligible, leaving the door open for states to incentivize many forms of energy generation that are harmful to our health and climate. The EPA should follow its own science and not allow biomass and waste incineration to qualify as non-emitting sources.

The EPA's rate-based FIP appropriately excludes most forms of biomass and waste incineration, but asks for comments on whether to approve a limited number of specific feedstocks of waste ag/forestry products for which there is no market. We point out that there is a big difference between energy genera-

tion that some consider to be “sustainable” and energy generation that should qualify as a “zero-emitting” source under the CPP Clean Power Plan. The EPA should not allow biomass to qualify as a non-emitting, or even low-emitting, form of renewable energy.

The EPA asks for comments about whether and how co-fired biomass (limited perhaps to the feedstocks described above) might qualify for allowances under mass-based FIP and model rule. We believe co-fired biomass should not be allowed to count as CO<sub>2</sub> reductions under a rate-based or a mass-based approach.

### **Factor in Life-Cycle Emissions for Natural Gas**

For natural gas, EPA ought to factor in the life-cycle emissions, including endemic methane leaks, and use the 20-year time horizon, as it fits within the 2030 goal of this policy and this shorter-term time horizon is appropriate to use to avoid global warming tipping points by appropriately prioritizing methane. In recognizing that natural gas is unavoidably worse than coal due to methane leaks, EPA should close all loopholes in the Clean Power Plan that directly and indirectly incentivize the ongoing conversion from coal to natural gas.

### **STRENGTHEN WORKER PROTECTIONS AND DO MORE TO SUPPORT A JUST TRANSITION.**

Under both versions of a FIP, the EPA includes a provision to ensure that the jobs created by investments in energy efficiency and renewable energy are good jobs. It requires renewable energy and energy conservation and efficiency projects to demonstrate that their workers received some form of third party certification, including an apprentice-based program or other training programs, to qualify for credits or allowances. The EPA’s model rules encourage, but do not require, states to adopt similar policies. We believe all states should be directed to meet the same standard.

We call on the EPA to design the FIP and model rules in ways that more directly support worker transition for those affected by the shift away from coal. For example, a portion of allowances from retired coal plants could be auctioned or sold and the proceeds directed to a fund for dislocated workers in that state. Unused allowances in the three set-aside pools could be treated in the same way.

### **ENSURE THAT LOW-INCOME COMMUNITIES BENEFIT FROM ENERGY EFFICIENCY AND RENEWABLE ENERGY.**

The EPA’s proposals acknowledge and begin to address the critical importance of expanding access to energy efficiency within low-income communities. However, there are many ways the FIP and model rules should be strengthened to ensure that all people, especially those living in low-income and people of color communities, benefit from and have access to the benefits of energy efficiency and renewable energy.

The CEIP represents a critically important piece of the EPA's CPP proposals. It will direct significant new resources (several billion dollars, depending on many factors) towards low-income energy efficiency projects (and renewable energy investments) over a two-year period. There are important ways the design of the CEIP should be strengthened.

### **Decouple CEIP from Trading-based Compliance**

The inclusion of incentives for targeted investment in low-income energy efficiency was a welcome addition to the Clean Power Plan final rule. While this presents an opportunity to redress the unequal access to public and private energy efficiency investments, and to reduce carbon emissions through demand side efficiency, it is of great concern that EPA has linked this incentive to participation in a carbon trading market. As EPA is fully aware, EJ advocates strongly oppose trading schemes. Nonetheless, EPA has selected to incentivize energy efficiency in low-income communities solely through the matching allocations of either Emission Rate Credits (ERCs) or Allowances. We call on the EPA and **Department of Energy (DOE)** to develop alternative incentive mechanisms that allow EJ communities and households to directly participate and access efficiency incentives outside a carbon trading process.

### **The CEIP should be designed to prioritize and maximize early investments in low-income energy efficiency.**

As currently designed, to qualify for CEIP, projects must begin after a state plan is submitted or a federal plan is imposed (for most states that will be September 6, 2018), and must be operational in early 2020 in order to receive credits for energy saved or generated between 2020 and 2021. That is too tight a timeframe; especially since many places that need this investment the most are not yet well positioned to maximize use of this incentive program. To maximize participation in the CEIP, the EPA should: (i) Define "commence operations" at the earliest possible moment when a project is announced or begins to raise funds, in order to allow as many community projects to qualify as possible. (ii) Start the clock for the CEIP for all states on September 6, 2016, the date when states must submit their preliminary plans, rather than after states submit their final plans. This approach addresses two problems with the current proposal: It will allow more time to ramp up qualifying projects and programs. And it avoids a perverse incentive created by the CEIP for developers to pause clean energy projects in 2016 and 2017 in order to qualify for the CEIP in 2018. (iii) Issue credits or allowances to qualifying energy efficiency projects early, based on their projected savings for 2020 and 2021. This is important to give energy efficiency project developers earlier revenue and improve their access to capital.

## Definition of Low-Income

We suggest that the EPA develop its definition of low-income community with the following criteria in mind: (i) Simplicity and ease of administration; (ii) Alignment with existing definitions already in use by state and federal agencies, utilities and affordable housing providers; (iii) Be flexible enough to allow every last drop of the CEIP to be put to good use despite a very short time window; and (iv) Be stringent enough to ensure that the benefits of the CEIP flow to the communities and households that need energy efficiency investments the most. Below are some specific suggestions:

- Any energy savings achieved through a low-income energy efficiency program approved by a state Public Service Commission should qualify, regardless of the definition.
- Likewise, energy savings achieved through existing affordable housing or community development programs should qualify as long as the project meets an existing federal criteria for low-income community, regardless of the definition.
- In addition, the EPA should establish a broad geographic definition for low-income community that is carefully crafted to ensure that both urban and rural communities can benefit.
- In addition, the EPA should establish a household income definition that may be used to qualify energy savings that take place in homes outside the boundaries of geographically defined low-income communities.

## Include Race As Well As Income In Adherence To EO 12898.

EPA has limited CEIP incentives to income-based criteria, i.e. “low income”. However, the premier federal document guiding environmental justice action is Executive Order 12898, which specifically “directs federal agencies to identify and address the disproportionately high and adverse human health or environmental effects of their actions on minority and low-income populations, to the greatest extent practicable and permitted by law.” EO 12899 was written, and supported by substantial research that has found the overriding variable in unequal environmental conditions can be attributed to race. By solely utilizing income as the basis for energy efficiency incentives, EPA has violated both the intent and spirit of EO 12898 in addressing the disproportionate environmental harms racial inequality and energy efficiency to incorporate into the CEIP.

## Allow for Some Non-Residential Energy Efficiency Projects

The EPA asks whether non-residential energy efficiency projects in low-income communities should count. We believe the primary purpose of the CEIP is and should be to rapidly and dramatically expand weatherization and efficiency

upgrades in homes and multi-unit apartments that directly benefit low-income residents. However, we also recognize that other energy efficiency investments in low-income communities can produce important, if less direct benefits, for low-income residents.

For example, energy efficiency investments in small businesses, non-profits and public buildings can generate or help stabilize local jobs, keep money circulating in the local economy, and reduce energy costs that are paid for by local taxpayers, parishioners, students, customers, care-givers and families. We therefore support a flexible definition to permit some commercial scale energy efficiency investments in low-income communities, including for small businesses, non-profits, and publicly owned buildings. However, energy upgrades undertaken by large commercial customers, national chains, and big industries should not qualify for incentives under the CEIP.

The EPA seeks comments about what share of the CEIP should be used for low-income energy efficiency. We strongly urge the agency to prioritize and maximize early investments in low-income energy efficiency within this program.

The EPA also seeks comments about whether energy efficiency should be allowed to qualify for allowances from the 5% set-aside that is currently available only for renewable energy. Our answer is a strong, “yes,” to all combustion-free efficiency measures.

### **Require All States to Participate in CEIP**

All states should also be required to participate in the CEIP as part of their compliance with the Clean Power Plan.

## **STRENGTHEN RENEWABLE ENERGY PROVISIONS**

There are a number of ways the EPA's treatment of renewable energy should be strengthened:

### **Increase the Renewable Energy Set-Aside**

We urge the agency to significantly increase the size of the renewable energy set-aside (currently established at 5% plus allowances from retired coal plants), especially after the inclusion of energy conservation and efficiency. The set-aside for a combined efficiency and renewable energy pool should start at 20% or higher, with the pool still growing as fossil plants retire.

### **Support Renewable Energy Projects in Low-Income Communities**

EPA should also allocate a significant portion of the renewable energy set-aside for low-income communities. But it is important for these projects to be more than just physically located in low-income communities. There should be a significant number of allowances set aside for renewable energy projects

that directly benefit low-income communities because they i) directly provide energy to low-income households and lower home energy costs to those residents, ii) are owned or leased by residents, non-profits, or small businesses in the geographically defined low-income community, iii) are owned or leased by a local government, school or public agency in a geographically defined low-income community.

### **Remove Barriers to Community-Based Ownership and Generation**

We urge the EPA to remove administrative and financial barriers to small-scale distributed wind and solar renewable energy generation in all versions of the FIP and model plans by allowing estimates of carbon reductions - rather than a revenue quality meter - for renewable energy systems below 10 kW in size.

EPA must also conduct an analysis of existing federal and state laws that create barriers for community-based ownership and generation of renewable energy. In places where such barriers may exist, EPA must provide states and community organizations with guidance on how these barriers could be removed in a manner that will allow for timely community-driven participation in all appropriate aspects of the trade compliance instrument market. In its guidance, EPA must provide clarity on whether the authority to remove such barriers lies with the EPA or with the appropriate state. EPA must meaningfully account for the limitations to community-driven participation in the trade compliance instrument market administration including in the distribution of trade compliance instruments. Barriers to community participation in the trade compliance instrument market EPA must investigate include, but are not limited to:

- State laws preventing third party-ownership
- State laws preventing community solar projects
- State laws preventing net-metering or that place limits on net-metering

Additionally, EPA must adopt strategies to ensure that community-owned projects, especially those developed by and benefiting overburdened communities, have equitable opportunities to grow to scale and “compete” in the trade compliance instrument market where appropriate. The EPA can do so through programmatic investments in such projects as well as ensuring environmental justice tools including racial equity analysis are meaningfully considered throughout the administration of trade compliance instruments.

We urge the EPA to keep the existing provision in the FIP and model rules which state that renewable energy allowances can only be generated by in-state renewable projects. as a way of ensuring access to health and economic benefits under the Clean Power Plan for residents in all states. We also urge that renewable energy allowances not be limited to renewable energy projects whose owner/operators are affected fossil fuel generators.

## Use Unclaimed Allowances to Support Just Transition for Workers and Communities

Under the EPA proposals, unclaimed allowances in the renewable energy pool will be re-distributed to the state's affected fossil-fuel generators. It would be far better, we believe, for any remaining allowances from that pool to be auctioned, generating revenue that could be used to directly support a just transition for affected workers and communities, as well as low-income energy conservation, efficiency, wind, solar and renewable energy storage projects.

## Support Voluntary Renewable Energy

We are concerned that the Clean Power Plan may harm the voluntary renewable energy market, which represents 26% of all non-hydro renewable generation nationally. This is a complicated issue, but our core concern is that renewable energy that is voluntarily purchased by businesses and households nationwide should contribute to emissions reductions over and above actions taken by power plants and utilities to comply with the Clean Power Plan. To address this concern, the EPA's rate-based federal plan and model rule should include a mechanism to retire Emission Rate Credits on behalf of the voluntary renewable energy market, rather than allowing them to be used for compliance by affected power plants. And the EPA's mass-based federal plan and model rule should include a set-aside of allowances for voluntary renewable energy.



Photo by Rae Breaux



# CONCLUSION

**Address global climate and economic crises; advance equity and justice for communities of color and poverty.**

## **THE CPP IS AN IMPORTANT STEP**

We applaud the Obama administration and the Environmental Protection Agency for taking this important first step in addressing carbon pollution and climate change. We look forward to more environmental and economic policies that seek to address the global climate and economic crises, and that will further advance equity and justice for communities of color and poverty. The CPP will potentially be an important legacy of this administration, yet much remains to be done. We call on the EPA and the states to go above and beyond the CPP in its current form and be bolder in addressing equity and climate change in the planning and implementation process.

## **THE CPP DOES NOT GO FAR ENOUGH TO ADDRESS CLIMATE CHANGE**

If the CPP is a core policy of the Obama administration to address climate change it should be part of a more comprehensive Just Transition strategy to a new, clean energy and sustainable economy. The CPP should also be more ambitious in shutting down carbon emitting sources including coal-fired and natural gas power plants and it should not incentivize other dirty energy sources like biomass, waste incineration and nuclear. The CPP should also prioritize a transition to greater energy efficiency and renewable, clean energies like wind and solar.

### **THE CPP DOES NOT GO FAR ENOUGH TO ADDRESS EQUITY AND JUSTICE**

Environmental justice communities stand to continue to bear the burden of pollution from power plants and from the impacts of climate change. EPA and the states must require meaningful engagement by low-income, indigenous and communities of color in the implementation process of the CPP. The FIP and SIPs should also require an environmental justice analysis to determine how EJ communities will be impacted by implementation of the CPP and assure that EJ communities also have access to the job creation and economic development opportunities through the CEIP.

### **THE CPP SHOULD NOT RELY ON THE MARKET AND CARBON +TRADING SCHEMES**

EJ communities are the most vulnerable to potential abuses and systemic failures of the carbon markets. EPA should provide alternative incentives to promote a transition to greater energy efficiency and cleaner forms of energy.

## APPENDIX: CJA MEMBERSHIP

CJA members include the following organizations, networks, alliances and movement support organizations that collectively represent hundreds of groups and thousands of members in frontline communities, including:

Alliance for Appalachia (WV)  
Alternatives for Community and Environment (Boston, MA)  
Asian Pacific Environmental Network (Oakland, CA)  
Black Mesa Water Coalition (Black Mesa, AZ)  
Center for Earth, Energy and Democracy (Minneapolis, MN)  
Center for Story-based Strategy (Oakland, CA)  
Communities for a Better Environment (Oakland and Huntington Park, CA)  
Community to Community Development (Bellingham, WA)  
Cooperation Jackson (Jackson, MS)  
Cornell Global Labor Institute (Ithaca, NY)  
East Michigan Environmental Action Council (Detroit, MI)  
Energy Justice Network (Philadelphia, PA)  
Environmental Justice League of Rhode Island, (Providence, RI)  
Global Alliance for Incinerator Alternatives (Berkeley, CA)  
Global Justice Ecology Project (Buffalo, NY)  
Grassroots Global Justice Alliance (Miami, FL)  
Grassroots International (Boston, MA)  
Gulf Coast Center for Law and Policy (Slidell, LA)  
Indigenous Environmental Network (Bemidji, MN)  
Institute for Policy Studies (Washington, DC)  
Ironbound Community Corporation (Newark, NJ)  
Just Transition Alliance (San Diego, CA)  
Jobs With Justice (Washington, DC)  
Kentuckians for the Commonwealth (London, KY)  
Labor Community Strategy Center (Los Angeles, CA)  
Labor Network for Sustainability (Washington, DC)  
Little Village Environmental Justice Organization (Chicago, IL)  
Missourians Organizing for Reform and Empowerment (MORE)  
Movement Generation Justice and Ecology Project (Oakland, CA)  
Movement Strategy Center (Oakland, CA)  
NAACP Environmental and Climate Justice Program (Washington, DC)  
New York City Environmental Justice Alliance (New York, NY)  
Rising Tide North America (San Francisco, CA)  
People Organizing to Demand Environmental & Economic Rights (San Francisco, CA)  
Right to the City Alliance (New York, NY)  
Ruckus Society (Oakland, CA)  
Southwest Organizing Project (Albuquerque, NM)  
Southwest Workers Union (San Antonio, TX)  
UPROSE (Brooklyn, NY)  
US Food Sovereignty Alliance (New York, NY)  
Vermont Workers Center (Burlington, VT)

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