



LEGISLATOR  
TOOLKIT

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CARBON  
PRICING &  
EQUITY



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INTRODUCTION

With the change in presidential administrations, the EPA’s Clean Power Plan is in jeopardy, but a number of states have promoted and will continue to promote clean energy adoption. Federal regulations may change, but it is clear that with the price of solar and wind dropping, clean energy generation is the future of electricity. Carbon pricing is one major set of market mechanisms that states can use to promote the advancement of clean energy adoption. Whether a state or region chooses to implement a cap-and-trade, carbon tax, or some other mechanism, it is critical that issues of equity and justice for the communities most impacted by poverty and pollution are addressed in the policy design and implementation. This legislator toolkit provides guidance on how to support disadvantaged communities and displaced workers should a state choose to use carbon pricing as part of its plan to transition to a clean energy economy.

This legislator toolkit is an adaptation of a series of seven toolkits on the Clean Power Plan and environmental justice that can be found online at: [www.thecleanpowerplan.com](http://www.thecleanpowerplan.com). It is in many ways a distilled version of those seven toolkits, with a focus on carbon pricing. It also includes additional policy language and messaging guidance that we hope will be useful to state legislators and legislative staff. If you are interested in learning more on any of the topics here, we encourage you to visit [www.thecleanpowerplan.com](http://www.thecleanpowerplan.com) and/or contact the groups that helped create the seven online toolkits:



Disclaimer: The views and opinions expressed in each of the seven online toolkits (and this legislator toolkit) are those of the authors of that particular toolkit, and they do not reflect the endorsement of every member of the Clean Power for All Collaborative.

## ISSUE BACKGROUND

### Climate change undermines the health of minority communities

Climate change is one of the greatest public health challenges of our time. Dirty, carbon-polluted air causes climate change and contributes to thousands of asthma attacks, hospital visits, and premature deaths every year. Meanwhile, with 2016 likely to be the [hottest year on record](#) (breaking the record temperatures set in 2015), the negative impacts are only growing. And climate change is affecting some communities more than others, as minority and lower-income communities are often hit the hardest by climate change in the United States.

### Low-income, minority communities face a disproportionate burden of pollution

- The EPA's own proximity analysis for the Clean Power Plan (CPP) shows that more people of color and low-income people live near power plants than the national average.
- One study found that [68% of African Americans live within 30 miles of a polluting coal-fired power plant](#).
- Increased exposure to carbon pollution and other pollution from these power plants is particularly hazardous to children of color, who already have [increased rates of asthma](#) on average and are therefore more susceptible to air pollution.
- African American children are [4.4 times](#) more likely to be hospitalized for asthma, and 7.1 times more likely to die from asthma than white children.
- African Americans make emergency room visits for asthma-related issues approximately [350 percent more](#) than the average rate among whites, according to the Joint Center for Political and Economic Studies.
- Eighty percent of Latinos live in areas that do not meet federal EPA air quality standards. Hispanic children are [twice as likely to die from asthma](#), as compared to non-Hispanic whites.

### Evidence shows that people with lower incomes [face higher risks](#) from air pollution and extreme heat

- According to the American Lung Association, more than 20 million people with incomes at or near the federal poverty line live in counties that received a failing grade for at least one pollutant.
- [Almost 3.5 million people](#) in poverty live in counties that fail all three pollutant tests for ozone and other



particles, as reported by the American Lung Association.

- African Americans [have a higher rate of heat-related deaths than any other race](#), putting them at increased risk from heat intensified by climate change.

### Minority communities understand the risk of climate change and support climate action

With so many risks at hand, **three in five African Americans** recognize that air pollution and global warming are a serious threat to their community, and they believe that an increase in the use of clean and renewable energy will help combat these problems.

[In a joint survey](#), the **Natural Resources Defense Council and Green For All** found that 60 percent of African Americans express extreme concern about air pollution and global warming, with the majority wanting at least some action to take place to address global warming.

- Sixty-six percent of those surveyed believe that using more clean energy will create new jobs – six times the portion who believe that it would result in job loss.
- Fifty-seven percent of African Americans surveyed believe that a shift to using sources such as wind and solar power could help to reduce their monthly energy bills.
- Nearly two-thirds of African Americans expressed that they would pay more in order to ensure that their electricity comes from clean and renewable energy sources.

[In a recent report](#), the **Natural Resources Defense Council** found that:

- Nine in 10 Latinos want climate action, and 86 percent support carbon pollution limits on power plants- a key driver of climate change.
- A majority of Latinos, 59 percent, do not believe there's a trade-off between environmental reforms and economic growth.

### Frontline communities face higher energy costs and little ownership of clean energy

- Home energy is a significant and growing component of low-income household budgets. Households that earn less than the national median income spend 17 percent of their budget on household energy costs.
- Nominal spending by renters on home energy increased by 53 percent from 2000 to 2010, compared to a 22 percent increase in spending on all other types of goods and services.
- In the case of renewable energy, more than 95 percent of solar installations are owned by middle- and upper-income households.

**F**rontline Communities: Communities such as communities of color, indigenous communities, low-income communities, and immigrants who tend to experience disproportionate proximity and exposure to pollution burdens and also experience disproportionate barriers to income, employment, education, and language access due to structural and institutional discrimination.

### Addressing the needs of frontline communities in climate policy can build a bigger tent of political support

- Frontline communities are hit first and worst by pollution and climate change. Yet, frontline communities face many barriers to political participation that can silence their voices. These barriers can prevent them from easily engaging in government processes and include: long



and irregular hours at low-wage jobs, lack of access to transportation and child care, language barriers, lack of access to information about government and government meetings, and the distrust engendered by decades of disinvestment, state violence, and structural oppression in their communities. As a result, environmental policies too often fail to meet the unique needs of these communities. By beginning to prioritize emissions reductions and green economy investments for frontline communities, legislators can help build a bigger tent of support for climate policy. This begins with a meaningful community input process that engages frontline communities during policy design and implementation.

### Key elements for an equitable carbon pricing plan

- **Ensure direct emissions reductions for communities hit first and worst by pollution.** For example, if the state sets a goal to reduce pollution by 20 percent, frontline communities should see at least that level of reduction in their local community. States that pursue a cap-and-trade program should design their plan to minimize the destructive potential of maintaining or increasing pollution “hot spots” in communities already overburdened by pollution.
- **Make polluters pay for the costs of their pollution, not families.** Families have been subsidizing polluters through increased health care costs, shortened lifespans, increased disease, decreased property values, and more. To reverse the trend, polluters must pay, which allows states to recover this value for public benefit. No free allowances.
- **Set a strong cap and/or price signal to drive down greenhouse gas emissions quickly.** Given recent and anticipated actions by the federal government to roll back progress on climate change, states must act boldly. A weak carbon pricing system will help no one; it must lead to real, quantifiable reductions.
- **Prioritize proceeds for helping frontline communities, creating access to good jobs, and supporting workers impacted by the transition.** Proceeds should be used for preventing additional price burdens on struggling families and for investing in community-based projects and programs that accelerate toward a 100% clean energy future.
- **Remain accountable to frontline communities in policy design and implementation.** Create meaningful engagement opportunities that ensure that affected communities can speak for themselves, that major needs are addressed by the policy, and that they can help inform investment priorities.



## POLICY OPTIONS

Before delving into specific carbon pricing models, it is important for states to consider two primary legislative intents: (1) reduce carbon pollution and (2) support frontline communities.

### POLICY OPTION #1 – What forms of energy to include?

Proponents of nuclear energy argue that they do not have carbon emissions and therefore are a clean energy source. And proponents of biofuels contend that they are a renewable source and focus should be on that technology.

### RECOMMENDATION #1 – Focus on clean, renewable energy

States should focus as much as possible on wind, solar, and demand-side energy efficiency. Renewable energy that doesn't rely on fossil fuel or systems that jeopardize the environment or public health should take top priority. Whether a state is implementing a carbon tax, a cap-and-trade system, or some other form of carbon pricing, the focus should be on incentivizing the development of clean, renewable energy.

#### No nuclear

States should not include nuclear energy as an eligible resource and should conduct robust compliance analyses to confirm that this approach would not provide incentives for nuclear generation. If states do not tailor such programs to benefit wind, solar, and demand-side energy efficiency providers specifically, and instead create openings for “carbon-free” or “zero-emitting” generators in general, these programs could provide incentives for nuclear power plants (which do not emit carbon but present other large environmental and public health risks). States should be advised that, given the extraordinary capital costs of new nuclear development, preferences given to nuclear sources are likely to simply represent a windfall profit rather than drive new projects. In addition, nuclear energy development entails other major problems, including waste disposal, upstream impacts of mining and processing, and potential for disasters. Therefore, states should define “clean energy” so that nuclear energy is not included as an eligible resource for any carbon pricing mechanism.

#### Limit biomass and waste incineration

States should not allow biomass and waste incineration as compliance measures under state carbon pricing plans by default. Parties that wish to demonstrate that their biomass process helps to avoid the emissions of greenhouse gases or other pollution should therefore bear the burden of providing rigorous evidence of these claims. In all cases, forest biomass consumption should be excluded by carbon pricing plans due to the significant global warming pollution it creates and the other damaging environmental effects of burning whole trees in power plants.

If a state plan treats these resources as low-carbon or carbon-free, there is a risk of increasing a state's reliance on fossil fuel infrastructure and slowing the transition to clean energy resources.



**B** iogenic Emissions: CO<sub>2</sub> emissions related to the natural carbon cycle, as well as those resulting from the combustion, harvest, digestion, fermentation, decomposition, or processing of biologically based materials.

Because both biomass and municipal waste combustion are often combined with fossil fuel combustion for power generation, incentivizing the adoption of these fuels may prolong the life of some heavy-polluting fossil fuel plants. Incentivizing any form of fossil fuel-based combustion, whether from coal, gas, trash, or biomass, raises serious concerns about increased public health impacts, especially in communities that are already overburdened by industrial pollution.

States can focus on reducing “carbon-based” fuel emissions instead of simply “fossil fuel” emissions.

One example of this is from a recent Massachusetts carbon tax bill.

### 2015 Massachusetts Senate Bill 1747

*SECTION 1. Section 3 of chapter 25A of the Massachusetts General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting the following definitions:*

*“Carbon-based fuel”, coal, natural gas, **renewable biomass** as defined in section one of chapter 64A, petroleum product, and any other product that contains methane or contains carbon and emits carbon dioxide when combusted, that are used for fuel, heating, cooling, or industrial processes, which processes shall include electricity generation . . .*

**S** tationary Sources: Any fixed emitter of air pollutants, such as fossil fuel burning power plants, petroleum refineries, petrochemical plants, food processing plants, and other heavy industrial sources.

### CHAPTER 64A TAXATION OF SALES OF GASOLINE

*Section 1. As used in this chapter, the following words shall, unless the context otherwise requires, have the following meanings:*

*“**Renewable biomass**”, non-fossil fuel based material, including: planted crops; crop residues; planted trees and tree residues from sustainably managed forests; waste materials including animal waste, animal by-products, organic portions of municipal solid waste, grease trap waste, construction and demolition debris; and algae, or as otherwise determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs.*

### POLICY OPTION #2 – What should be done about hot spots?

While climate change is a global issue and state policies to reduce carbon pollution will impact the health of people outside of state borders, there are a number of disadvantaged communities within each state that in many cases have borne the brunt of the environmental hazards posed by fossil fuel production.

### RECOMMENDATION #2 – Make cleaning up hot spots a priority

It is critical that states make cleaning up environmental hot spots and supporting frontline communities a critical component to any carbon pricing plan. This can be done in a number of ways, all of which should



be developed in coordination with these disadvantaged communities. The following are some examples of how to make this issue a priority in state statutes.

### 2006 California Assembly Bill 32 / Chapter 488

38562. (b) In adopting regulations pursuant to this section . . . to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions limit, the state board shall do all of the following:

. . . (2) Ensure that activities undertaken to comply with the regulations **do not disproportionately impact low-income communities.**

38565. The state board shall ensure that the greenhouse gas emission reduction rules, regulations, programs, mechanisms, and incentives under its jurisdiction, where applicable and to the extent feasible, **direct public and private investment toward the most disadvantaged communities** in California and provide an opportunity for small businesses, schools, affordable housing associations, and other community institutions to participate in and benefit from statewide efforts to reduce greenhouse gas emissions.

38570. (b) Prior to the inclusion of any market-based compliance mechanism in the regulations, to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions limit, the state board shall do all of the following:

(1) Consider the potential for direct, indirect, and cumulative emission impacts from these mechanisms, including **localized impacts in communities that are already adversely impacted by air pollution.**

38591. (a) The state board, by July 1, 2007, shall convene an **environmental justice advisory committee**, of at least three members, to advise it in developing the scoping plan pursuant to Section 38561 and any other pertinent matter in implementing this division. The advisory committee shall be comprised of representatives from **communities in the state with the most significant exposure to air pollution**, including, but not limited to, communities with minority populations or low-income populations, or both.

**A**ir Pollution Hot Spot: A location where emissions from specific sources may expose individuals and population groups to elevated risks of adverse health effects – including but not limited to cancer – and contribute to the cumulative health risks of emissions from other sources in the area.

Beyond investing in these communities, environmental justice advocates have also been calling for states to directly reduce pollution in hot spots. A recent law in California provides a relevant example.

### 2016 California Assembly Bill 197 / Chapter 250

SEC. 5. Section 38562.5 is added to the Health and Safety Code, to read:

38562.5. When adopting rules and regulations pursuant to this division to achieve emissions reductions beyond the statewide greenhouse gas emissions limit and to **protect the state's most impacted and disadvantaged communities**, the state board shall follow the requirements in subdivision (b) of Section 38562, consider the social costs of the emissions of greenhouse gases, and prioritize both of the following:

(a) Emission reduction rules and regulations that result in **direct emission reductions** at large stationary





*sources of greenhouse gas emissions sources and direct emission reductions from mobile sources.*

*(b) Emission reduction rules and regulations that result in **direct emission reductions** from sources other than those specified in subdivision (a).*

### POLICY OPTION #3 – What type of carbon pricing model?

Two of the most popular carbon pricing systems are carbon taxes and cap-and-trade (or cap-and-dividend). While a carbon tax has been implemented within Canada and other countries, we have yet to see a statewide model adopted in the U.S. That isn't the case for cap-and-trade, as it is in effect within a nine-state northeastern and mid-Atlantic network called the Regional Greenhouse Gas Initiative or RGGI and in California. RGGI began with an official memorandum of understanding (MOU) in 2005. California followed suit and created its own cap-and-trade system in 2006 and has seen a number of benefits, including \$2.2 billion in new revenue to the state by June 30, 2015.

### RECOMMENDATION #3 – Develop the carbon pricing model with frontline communities

Some environmental justice advocates argue that the best hope for a carbon pricing plan to reflect equity and justice for environmental justice communities is to adopt a carbon revenue model that avoids trading and the [risks associated with allowing emissions “offset” credits](#). One alternative model is a carbon tax. Below are some examples of recent bill language related to creating a carbon tax; they are ordered by the most aggressive to the least, with “carbon-based fuel” more inclusive than “fossil fuels.” Also, the New York bill clearly has the strongest tax rate, starting at \$35 per ton of carbon dioxide equivalency (CO<sub>2</sub>e) and increasing by \$15 per ton of CO<sub>2</sub>e per year. And even though there are additional design elements not displayed below, such as how to collect and disburse the carbon tax revenue, this is clearly a more straightforward, simpler system than one that relies on auctions and trading.

**A**llowance: An authorization to emit a specific amount of a pollutant under a mass-based program. Allowances are used for compliance, and in a cap-and-trade system, they can be traded among sources participating in the program.

#### 2015 New York Assembly Bill 8372

*§ 289-i. Carbon dioxide emissions tax. 1. The department and the department of environmental conservation shall establish a carbon dioxide emissions tax on the distribution or sale of **carbon-based fuels** which shall be no less than **thirty-five dollars per ton of carbon dioxide equivalency** and shall **increase by fifteen dollars per ton of carbon dioxide equivalency annually** to a maximum of one hundred eighty-five dollars per ton of carbon dioxide equivalency.*

#### 2015 Massachusetts Senate Bill 1747

*25A:13A Carbon dioxide emissions charges*

*Section 13A. (a) The commissioner of energy resources shall collect carbon dioxide emissions charges on the distribution or sale of **carbon-based fuels**, including but not limited to products that contain **methane**.*

*(b) The charge in the first year of operation shall be **\$10 per ton of CO<sub>2</sub>e**. Said charges shall **increase by \$5 every year until the rate is \$40 per ton of CO<sub>2</sub>e**. In the sixth year of implementation, and every two years*





thereafter, the commissioner of energy resources, in consultation with the commissioner of environmental protection, shall report to the house and senate committees on ways and means, the joint committee on telecommunications, utilities and energy, and the house and senate committees on global warming and climate change. Said reports shall consider whether any increases or decreases in carbon dioxide emissions charges are recommended to account for inflation, to ensure progress towards reaching emissions limits for 2030, 2040, and 2050 included in or authorized by chapter 21N, the Climate Protection & Green Economy Act, or, pursuant to section 13B(d)(3) of this chapter, to mitigate serious negative impacts on economic sectors, economic sub-sectors or individual employers of the commonwealth caused by collection of carbon dioxide emissions charges.

### 2016 Rhode Island House Bill 7325

23-82.1-5. Carbon pricing. -- (a) A fee shall be collected on all **fossil fuels** within the state for purposes of distribution or use within the state, at the rate specified in subsection (b) of this section, in the manner specified in subsections (e) through (l) of this section.

(b) Commencing January 1, 2017 through December 31, 2018, a fee shall be charged at a rate of **fifteen dollars (\$15.00) per ton of CO<sub>2</sub>e** that would be released by burning the fuel sold. Commencing January 1, 2019 and thereafter, the fee shall **increase in accordance with inflation**, as measured by the United States Bureau of Labor Statistics Consumer Price Index or, if that index is not available, another index adopted by the director of revenue.

**A**uction: Allowance allocation methodology whereby sources must bid for the number of allowances they would like to purchase. The government captures the value of the allowances, and depending on how this value is distributed, these revenues will generate economy-wide and equity benefits.

### But the details of the carbon pricing plan are what really matters . . .

As with all public policy, the details of how a law, rule, or program is designed are what really matters. A carbon tax is not inherently better for low-income communities than a cap-and-trade model, and the development of any carbon pricing model should be worked through a robust stakeholder process. For example, a recent Washington state ballot initiative (I-732) to create a revenue-neutral (perhaps even revenue-negative) carbon tax that did nothing to address the needs of frontline communities failed to garner the full support of the environmental community and subsequently failed. Any carbon pricing policy that unjustly favors tax cuts for corporations over investments in clean energy and green job creation for struggling families and displaced workers is a false solution. If a trading plan is chosen, then a state needs to consider how best to deal with auction allowances and revenue.

### POLICY OPTION #4 – How best to distribute proceeds?

In order to make polluters pay for the pollution they are creating and maximize public benefits, an auction program is the best form of allowance allocation when implementing a cap-and-trade model. States will need to define their allocation methodologies, including the methods to distribute allowances, the parties to which allowances are distributed, and incentives for cer-



tain resources (such as renewable energy and energy efficiency) and communities (for example, low-income communities). The table below is an example of how total annual allowances can be budgeted by year (as done in California).

**RECOMMENDATION #4a – No free allowances based on historical information**

In a cap-and-trade model, states should not allocate free allowances based on historical information (“backward-looking” allocation) – whether historical emission or historical electricity generation levels. Although this is not the preferred approach, to the extent that states must pursue free allocation mechanisms, especially for the regulated power plants, such allocations should be “forward-looking,” on the basis of recent (instead of historical) generation, for example, according to plants’ share of total electricity generation in the prior year, updated on an annual basis. RGGI states do not provide free allowances directly to utility companies, with the reasoning explained as such:

**Why not just give allowances directly to sources?**

*Allowances are given (or “allocated”) freely to regulated sources in the SO2 and NOx programs, and such direct allocations were considered for RGGI. However, they were rejected for three reasons. First, economic analysis has shown, perhaps surprisingly, that even when allowances are given to power plants for free, they charge consumers for the cost of allowances that they use and therefore cannot sell. Free allocations therefore allow power plants to profit at the expense of ratepayers. Second, experience with markets for NOx and SO2 allowances has convinced policymakers that direct allocations to power plants are not necessary to ensure that power plants can obtain the allowances that they need to operate. Third, selling allowances at auctions generates revenue that can be used to further complementary greenhouse gas reduction strategies*

	Budget Year	Annual Allowance Budget (Millions of CA GHG Allowances)
First Compliance Period	2013	162.8
	2014	159.7
Second Compliance Period	2015	394.5
	2016	382.4
	2017	370.4
Third Compliance Period	2018	358.3
	2019	346.3
	2020	334.2

**R**egulated Utility: Vertically integrated utility that owns or controls the entire flow of electricity, from generation to distribution. Regulated utilities are only allowed to recover the costs of service actually incurred, plus a reasonable rate of return.

...  
<http://www.mass.gov/eea/agencies/massdep/climate-energy/climate/ghg/rqgi-frequently-asked-questions.html#Whynotjustgiveallowancesdirectlytosources>)

**RECOMMENDATION #4b – Keep some allowances in reserves**

Allowance reserves can provide a more dynamic control over price ceilings, expand political-economic flexibility, and help to address concerns over ability to achieve long-term targets. (See: <http://www.nber.org/papers/w14258.pdf> for more detail.) The following is an example of how California uses reserves in its cap-and-trade system.



### California Code of Regulations § 95870. Disposition of Allowances.

(a) *Allowance Price Containment Reserve.* Upon creation of the Allowance Price Containment Reserve Account, the Executive Officer shall transfer allowances to the Allowance Price Containment Reserve, as follows:

- (1) One percent of the allowances from budget years 2013-2014;
- (2) Four percent of the allowances from budget years 2015-2017; and
- (3) Seven percent of the allowances from budget years 2018-2020.

(b) *Advance Auction.* Upon creation of the Auction Holding Account, the Executive Officer shall transfer 10 percent of the allowances from budget years 2015-2020 to the Auction Holding Account.

### POLICY OPTION #5 – Set-asides or output allocation?

Although not mutually exclusive, there are differences between these clean energy incentivizing mechanisms worth noting. For example, a “set-aside” is a pool of allowances not distributed through the primary allocation approach but instead allocated to incentivize a defined activity or set of activities. ([https://nicholasinstitute.duke.edu/sites/default/files/publications/clean\\_power\\_plan\\_understanding\\_and\\_evaluating\\_the\\_proposed\\_federal\\_plan\\_and\\_model\\_rules\\_elr\\_0.pdf](https://nicholasinstitute.duke.edu/sites/default/files/publications/clean_power_plan_understanding_and_evaluating_the_proposed_federal_plan_and_model_rules_elr_0.pdf))

And an output-based allocation method is one in which the state distributes allowances to non-emitting generators only, based on each generator’s recent output.

### RECOMMENDATION #5a – Create allowance set-asides as the preferred clean energy incentive

The output allocation method would be less advantageous than a set-aside for clean energy generators because developers would access the allowances for free, without having to commit to constructing new projects and generating additional clean energy. States should keep in mind that, at least in the near term, many renewable energy projects will be built due to other incentives such as the Production Tax Credit (for wind projects) and the Investment Tax Credit (for solar projects). Instead, states should prioritize creating allowance set-asides in order to provide incentives for the development of clean energy or, if set-asides are not feasible, distribute free allowances to clean energy providers.

### RECOMMENDATION #5b – Do not redistribute unused allowances to fossil fuel generators

If a state sets aside allowances for clean energy generators, but does not receive applications to distribute the entire pool, it should either permanently retire the unused allowances or hold them in reserve for future years. In other words, allowances should not be re-distributed to fossil generators if unused. Clean energy generators can sell the set-aside allowances to earn additional revenue to invest in new projects. For example, Connecticut (a member of RGGI) has a process to retire unused allowances.

### Connecticut Statute Section 22a-174-31. Regulations of Connecticut State Agencies – Environmental Protection – Control of Carbon Dioxide Emissions/Carbon Dioxide Budget Trading



## Program

*(a) Definitions and Abbreviations. Except as otherwise provided, for the purposes of this section and section 22a-174-31a of the Regulations of Connecticut State Agencies:*

*(85) "Undistributed CO2 allowances" means CO2 allowances originally allocated to a set-aside account pursuant to subsection (f) of this section that were not utilized for the purpose of such set aside account.*

*(f) CO2 Allowance Allocations.*

*(7) Retirement of Allowances. Any retirement of allowances shall be determined as follows: (G) The Commissioner may retire any undistributed CO2 allowances at the end of each control period;*

## POLICY OPTION #6 – How best to use auction revenue?

If designed well, states that auction allowances will have access to a substantial stream of revenue from polluters. States may be tempted to direct all revenues to the state's general fund. Or a state may choose to distribute all of the revenue back to ratepayers. As with any budget item, allocation of auction revenue is a moral decision.

## RECOMMENDATION #6 – Provide restorative justice; support clean energy and energy efficiency; and provide financial assistance to displaced workers

This stream of revenue should, to the maximum extent possible, be directed towards providing restorative justice to communities that have historically borne disproportionate economic and health impacts from the operation of fossil fuel power plants. This may include investment in clean energy, weatherization, energy efficiency projects, and other efforts in these communities, but the process for determining precise expenditures should be decided by a community-driven process.

Auction revenues should be used to expand clean energy and energy efficiency to further reduce CO2 emissions, reduce energy bills, and pay the costs of administering the trading program. They should also be used to fund investments in climate adaptation. In addition, a percentage of revenues, determined through a stakeholder process that includes meaningful participation from communities, should be used to finance targeted investments in frontline communities affected by the pollution from dirty plants. Participation by residents of low-income communities and communities of color in the decision of which activities to fund is essential.

States should also use a percentage of the revenues to provide financial assistance to workers affected by the transition away from coal, and for new economy job training or clean energy investments in communities where coal represents a significant part of their economy. The level of funding devoted to this transition fund should be determined through a stakeholder process that includes representatives from labor unions, potentially affected communities, state and local economic development agencies, and experts that could assess potential job impacts. Existing state carbon trading programs such as RGGI and Cali-



**R**estorative justice: Process to involve, to the extent possible, those who have a stake in an offense and to collectively identify and address harms, needs, and obligations, in order to heal and put things as right as possible.

California AB32 have generated sizable revenues that have been invested in clean energy expansion and the pursuit of equity and environmental justice ends.

### CALIFORNIA HEALTH AND SAFETY CODE SECTION 39710-39723

39711. (a) The California Environmental Protection Agency shall identify disadvantaged communities for investment opportunities related to this chapter. These communities shall be identified based on geographic, socioeconomic, public health, and environmental hazard criteria, and may include, but are not limited to, either of the following:

(1) **Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation.**

(2) **Areas with concentrations of people that are of low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment.**

(b) The California Environmental Protection Agency shall hold at least one public workshop prior to the identification of disadvantaged communities pursuant to this section.

39712. (b) Moneys shall be used to facilitate the achievement of reductions of greenhouse gas emissions in this state consistent with Division 25.5 (commencing with Section 38500) and, where applicable and to the extent feasible:

(1) **Maximize economic, environmental, and public health benefits** to the state.

(2) **Foster job creation** by promoting in-state greenhouse gas emissions reduction projects carried out by California workers and businesses.

(3) Complement efforts to **improve air quality.**

(4) **Direct investment toward the most disadvantaged communities** and households in the state.

(5) Provide **opportunities for businesses, public agencies, Native American tribes in the state, nonprofits, and other community institutions** to participate in and benefit from statewide efforts to reduce greenhouse gas emissions.

(6) **Lessen the impacts and effects of climate change** on the state's communities, economy, and environment.

39713. (a) The investment plan developed and submitted to the Legislature, pursuant to Section 39716, shall allocate a **minimum of 25 percent of the available moneys in the fund to projects that provide benefits to communities described in Section 39711.**

(b) The investment plan shall allocate a **minimum of 5 percent** of the available moneys in the fund to projects that benefit low-income households or to projects located within the boundaries of, and benefiting individuals living in, **low-income communities located anywhere in the state.**

(c) The investment plan shall allocate a **minimum of 5 percent** of the available moneys in the fund either to projects that benefit low-income households that are outside of, but **within a 1/2 mile of, communities described in Section 39711**, or to projects located within the boundaries of, and benefiting individuals living in, low-income communities that are outside of, but **within a 1/2 mile of, communities described in Section 39711.**

**C**limate adaptation: Adjustments that societies or ecosystems make to limit the negative effects of climate change or to take advantage of opportunities provided by a changing climate.



## CARBON PRICING PLAN BEST PRACTICES ON EQUITY

### Community Engagement

For community engagement to be truly meaningful, it must include proactive, sustained outreach, create opportunities for communities to comment that remove barriers faced by many communities to participation in government processes, and be characterized by two-way engagement that truly listens and responds to community concerns. It must include outreach to community groups, churches, mosques, temples, community centers, advocacy groups, and other organizations that are made up of members of frontline communities.

State carbon pricing planning should give frontline communities wide latitude to direct set-aside funding or give communities a voice in prioritizing programs within a set “menu” of items. This could range from holding hearings on the proposed projects to a community board that recommends or approves projects in the community to direct participatory budgeting.

In developing these plans, states should also provide opportunities for meaningful participation through proactive engagement with potentially affected workers and their unions. Meaningful engagement from workers and union representatives in the electric utility and related sectors will be critical to ensure that energy system alternatives and workers’ transition is adequately addressed in a carbon pricing plan.

### Environmental Justice Analysis

Another important tool for states is an environmental justice analysis, which determines how development, implementation, and enforcement of environmental and energy policies will impact – positively or negatively – frontline communities. Examples include:

#### U.S. EPA’s EJSCREEN

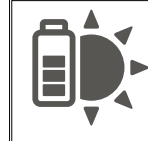
*EJSCREEN is an environmental justice screening and mapping tool that utilizes standard and nationally consistent data to highlight places that may have higher environmental burdens and vulnerable populations. The tool offers a variety of powerful data and mapping capabilities that enable users to access environmental and demographic information, at high geographic resolution, across the entire country, displayed in color-coded maps and standard data reports. These maps and reports show how a selected location compares to the rest of the nation, EPA region, or state. The tool also combines environmental and demographic indicators to create EJ indexes. An EJ Index is a way of combining demographic information with a single environmental indicator – such as proximity to traffic – that can help identify communities that may have a high combination of environmental burdens and vulnerable populations.*

<https://www.epa.gov/sites/production/files/2016-04/documents/ejscreencpp.pdf>

#### CalEnviroScreen

*The model:*





- Uses a suite of statewide indicators to characterize both pollution burden and population characteristics.
- Uses a limited set of indicators in order to keep the model simple.
- Assigns scores for each of the indicators in a given geographic area.
- Uses a scoring system to weight and sum each set of indicators within pollution burden and population characteristics components.
- Derives a CalEnviroScreen score for a given place relative to other places in the state, using the formula:  $\text{Pollution Burden (Exposures \& Environmental Effects)} \times \text{Population Characteristics (Sensitive Populations \& Socioeconomic Factors)} = \text{CalEnviroScreen Score}$   
<http://oehha.ca.gov/media/downloads/report/ces20finalreportupdateoct2014.pdf>

## Job Quality Standards

States can structure the bidding process to require contractors and subcontractors to meet specific job quality standards in order to bid on a project including wage, benefit, safety, and training requirements. States can also establish targeted hiring requirements to ensure disadvantaged workers have access to the jobs created. Short of establishing requirements, states can also create grant programs that are designed to incentivize the use of job quality and job access standards by, for example, promoting best value contracting and contractor pre-qualification approaches that incorporate these standards or providing financial or other incentives to localities that adopt these and other approaches discussed in greater detail below.

**Best Value Contracting: A contracting approach in which bidder commitments to job access and job quality standards, and potentially other community benefits, are incentivized through points assigned in the bidding process. Key stakeholders must first come together to agree on the language or terms under which bids and projects will be scored, evaluated, and monitored to improve job quality and access in awarding a contract.**

## Targeted and Local Hiring

States can require that local governments utilize targeted hiring programs in order to receive funding from carbon pricing revenue. Local and state governments and community organizations have made effective use of targeted and local hiring measures on major economic development and construction projects to deliver good jobs for those who need them most. These measures typically require employers to set aside a portion of jobs for local and/or disadvantaged residents, and sometimes include requirements to obtain job applicants from a particular source, such as a workforce agency. For example, a targeted worker can be a worker who meets the definition for the Work Opportunity Tax Credit (WOTC), a low-income person who lives in a county, census tract, or zip code with high levels of poverty and unemployment, or a person with an arrest or conviction history. The ample experience of targeted hiring programs across the country suggests employing the following approaches when requiring employers to include job seekers from low-income communities and communities of color:

- Clearly define the categories and percentage of beneficiaries to be hired;
- Create a well-supported pipeline of high-quality pre-apprenticeship and apprenticeship programs;





- Ensure that a certain percentage and/or total of first-year apprentices include job seekers from disadvantaged communities;
- Monitor and track specified goals and requirements with processes for problem solving and compliance.

### **Los Angeles Metropolitan Transit Authority Construction Careers Policy**

In 2012, the Los Angeles Metropolitan Transit Authority (METRO) became the first transit agency in the country to adopt a project labor agreement policy for all major construction projects, including the \$2.4 billion Crenshaw/LAX Transit Project, an 8.5-mile light-rail line that runs through the heart of LA's Black community. The policy requires 40% of construction hours be performed by construction workers residing in economically disadvantaged areas, 10% participation of disadvantaged workers, and a 20% participation of apprentices.

<http://www.laane.org/what-we-do/projects/past-projects-2/construction-careers/construction-careers-policies/>

### **Pre-Apprenticeship and Apprenticeship Programs**

Creating access to good jobs and high-road careers starts with ensuring workers have the skills they need, especially in fields like construction, manufacturing, and engineering. Particularly in the construction sector, high-quality pre-apprenticeship and apprenticeship training programs have proven to be an essential element of an effective jobs access strategy. Apprenticeship programs provide workers with paid, on-the-job training experience and related instruction to learn the skills and knowledge required for an occupation and career. Joint labor-management apprenticeship programs are run by unions and contractors and are funded by contractors and workers who pay into an apprenticeship and training fund that is used to cover the costs of the program. These kinds of apprenticeship programs have proven to be the most effective at both enrolling women and people of color and graduating participants into journey-level status. Pre-apprenticeship programs recruit and prepare participants for apprenticeship programs. These programs provide orientation to an industry, job readiness training, and financial support to address needs such as related tools and equipment, transportation, and child care. The strongest pre-apprenticeship programs partner closely with high-road apprenticeship programs and employers to ensure their training prepares participants for the next level.

#### **BIG STEP Pre-Apprenticeship Program**

*BIG STEP is an example of a pre-apprenticeship program started by the Milwaukee Building and Construction Trades Council and Milwaukee Public Schools. The program later merged with the Wisconsin Regional Training Partnership (WRTP) with the mission of improving employers' and unions' ability to recruit, train, and develop qualified community residents for skilled trades and industries. BIG STEP/WRTP focuses on serving communities of color and other marginalized populations. The majority of participants are African American or have an arrest or conviction history. The program provides hands-on pre-employment training certificates, individual tutoring, and job*



*readiness training with 50% to 75% of graduates being placed in apprenticeship programs.*

### State Integrated Resource Planning

Through state integrated resource planning, or state energy or related legislation, stakeholders have the opportunity to push for formal utility workforce planning that involves communities, labor, industry, and workforce and economic development entities. Such planning can lead to investments in training and retraining, pre-apprenticeship programs and apprenticeships, and recruitment and retention of workers from low-income communities and communities of color over the long term. Partnerships with major utilities or unions could also include commitments to targeted hiring and career paths.

### Transition Assistance Programs

States should take the employment impacts of transitioning to clean energy seriously as part of developing a carbon pricing plan and to ensure that workers and their communities benefit from the job and economic growth opportunities expected from the shift to clean energy. To lay the groundwork for a just transition, states should encourage the meaningful participation of workers and frontline communities in decision-making; mitigate the effects of coal plant and mine closure on workers, their families, and communities; invest in workers to increase their long-term employment opportunities; provide income and other supports to those unlikely to find comparable jobs; and promote sustainable economic redevelopment.

**Integrated Resource Planning (IRP):** An IRP is a utility plan to meet forecasted annual peak and energy demand with some established reserve margin using both demand-side and supply-side resources over a set future period. Many state laws or public utility commissions require IRP from regulated utilities. For an IRP to be successful, it must include meaningful engagement with stakeholders and oversight.

### Worker Transition Funds

States, unions, and community groups should work with utilities and coal companies to prepare workforce transition plans, distribute the cost of transition, and invest in new economic sectors, including clean energy. For example, as part of the deregulation of public utilities in the 1990s, several states approved measures to allow utilities to collect public benefits charges to cover dislocated worker costs, including training, outplacement, severance pay, or early retirement benefits. In Connecticut, this program was expanded to include workers in power plants that closed due to statewide regulation on criteria air pollutants. Public benefits charges are one strategy to finance or implement worker protections.

**Public benefits charges:** State programs, typically developed during the deregulation of the electric sector, to ensure support for renewable energy, energy efficiency, and low-income energy programs through a surcharge on consumer bills.

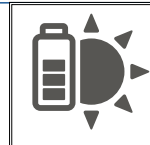
#### Connecticut Statutory Section 16-245I.

**Sec. 16-245I. Systems benefits charge. Determination by authority of amount and how applied to customers.** (a) *The Public Utilities Regulatory Authority shall establish and each electric distribution company shall collect a systems benefits charge to be imposed against all end use customers of each electric distribution company . . . The systems benefits charge shall also be used to fund . . . (6) displaced worker*

*protection costs . . .*



*As used in this subsection, “displaced worker protection costs” means the reasonable costs incurred, . . . (B) by an electric distribution company or an exempt wholesale generator arising from the retraining of a former employee of an unaffiliated exempt wholesale generator, which employee was involuntarily dislocated on or after January 1, 2004, from such wholesale generator, except for cause. **“Displaced worker protection costs” includes costs incurred or projected for severance, retraining, early retirement, outplacement, coverage for surviving spouse insurance benefits and related expenses.***



## ABOUT SiX ACTION

[SiX Action](#) is an independent, nonpartisan 501(c)4 strategy and advocacy organization that is committed to achieving progressive change at the state level, while defending against efforts to move our country backward. Through issue advocacy, support around messaging and political strategy, and engagement with state legislators, progressive leaders, and state and national advocates, we seek to aid in the development and advancement of a progressive agenda in states across the country. SiX Action is working to secure real, lasting reforms that support working families, protect the environment, defend civil rights and liberties, and strengthen our democracy. Contact us at [info@sixaction.org](mailto:info@sixaction.org) or 608-440-8255.

SiX Action works with our sister 501(c)3 organization, the [State Innovation Exchange \(SiX\)](#), to advance and defend progressive policies in the states. SiX is a national resource and strategy center that supports state legislative offices through training and research, leadership development opportunities, amplification of legislators' voices, and the forging of strategic alliances between our legislative network and grassroots movements. For more information on SiX, please visit the SiX website at [www.stateinnovation.org](http://www.stateinnovation.org).