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# **Clean Power Plan And Related Legal Developments**

**Tribal Renewable Energy Workshop  
September 7, 2016  
Golden, CO**

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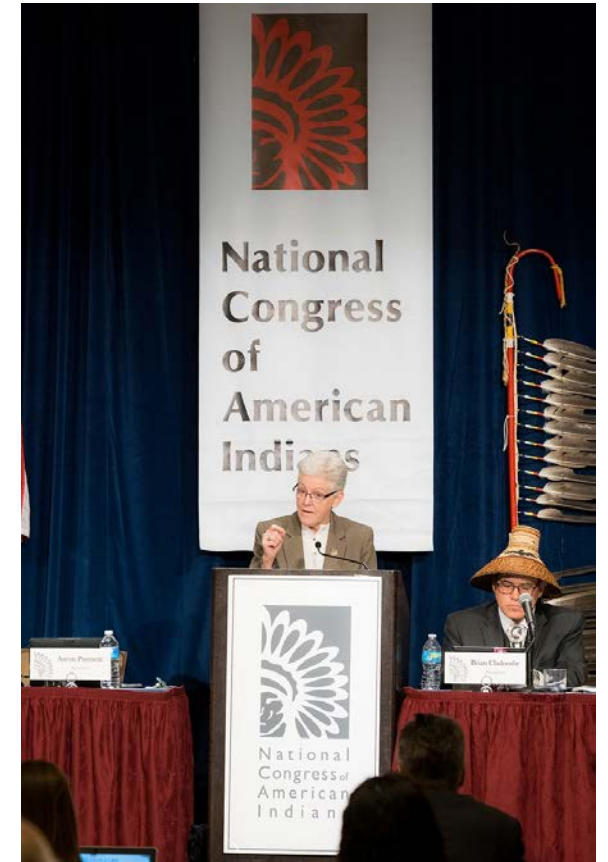
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Deputy General Counsel  
U.S. Environmental Protection Agency**



# EPA & Tribes: A Government to Government Relationship

EPA's National Indian Policy – Principles Include:

- Government-to-government relationship
- Indian self-government consistent with Agency standards and regulations
- Encourage and assist tribes to assume regulatory responsibilities (and run programs until tribes do so)
- Encourage cooperation between tribal, state, local governments
- Ensure compliance with environmental laws & regulations
- Incorporate principles into planning, management, policy, and regulations





# Tribes and the Clean Air Act

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- The Tribal Authority Rule provides that tribes will be treated in the same manner as states for virtually all CAA programs.
- The rule authorizes but does not require tribes to submit CAA programs.
- All tribal CAA programs submitted to EPA for approval must meet the applicable CAA requirements for that program.
  - Tribes will have the same authority as states do under the CAA to impose more stringent requirements.
  - Tribes can take on programs in whole or in part as long as the partial elements are “Reasonably Severable” and consistent with statutory & regulatory requirements.
- The rule also lays out a strategy for federal implementation of the CAA in Indian country when tribes choose not to implement their own CAA programs.



# Tribes and Climate Change

“We’re the first generation to feel the impact of climate change; we’re the last generation that can do something about it.”

-- President Barack Obama at August 3, 2015 Announcement of EPA’s Clean Power Plan



“We’re ... going to be paying a lot of attention to how we can work together and tap into the wisdom and knowledge of tribal communities in managing and conserving land in the face of what is a profound global challenge.”

-- Remarks by the President After Roundtable with Alaska Native Leaders, Aug. 31, 2015



# Tribes and Climate Change

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- Tribes Are Uniquely Vulnerable to Climate Change

- Many Tribes' health, economic well-being, cultural traditions depend upon the natural environment
- Degradation of natural and cultural resources threaten traditional subsistence lifestyles
- Many native cultures especially vulnerable to water quality and availability impacts

- Tribes Also Have Opportunities To Be Part of the Solution



Alaska Native communities among those already affected (e.g., coastal erosion; melting sea ice; sea level rise; loss of permafrost; shifts in the range or abundance of wild species)





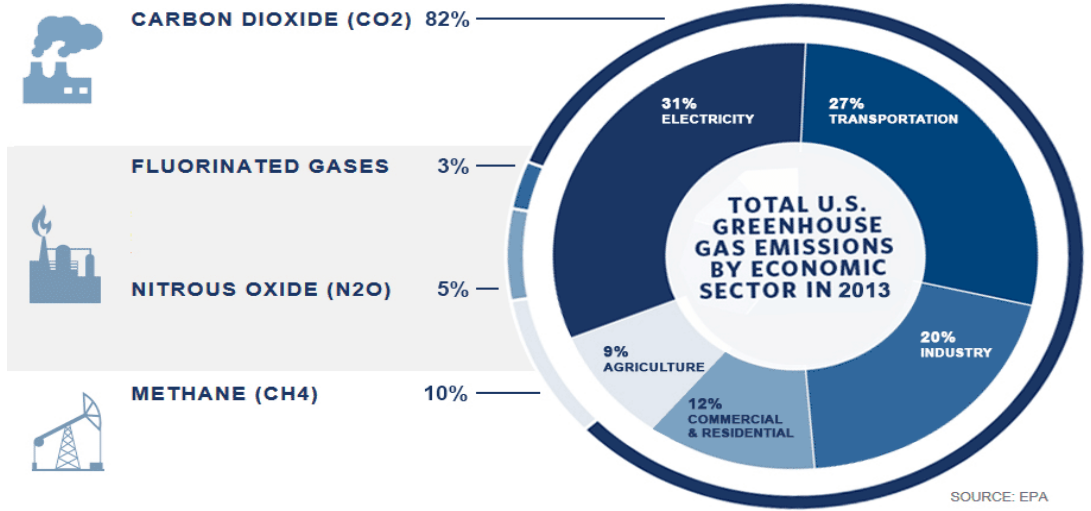
# The Clean Power Plan:

A key component of President's Climate Action Plan

- Under CAA, EPA set CO2 emission performance rates that reflect the “best system of emission reduction” (BSER).
- Final Rule also sets equivalent state goals.
- States/tribes with EGUs can choose to develop plans that use rate- or mass-based approaches.

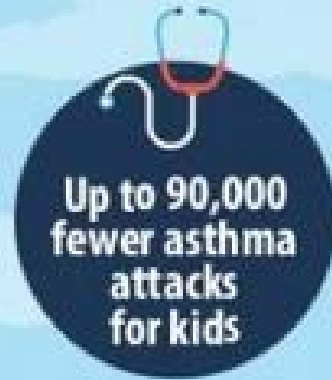
By 2030, the Plan will reduce carbon emissions from power plants by 32% below 2005 levels, or ~870 million short tons.\*

## POWER PLANTS ARE THE SINGLE LARGEST SOURCE OF CARBON POLLUTION



- Status: On February 9, 2016, the Supreme Court stayed the CPP pending judicial review.
  - No one has to comply with the CPP while the stay is in effect.
  - Many states and stakeholders have urged EPA to provide support to their voluntary efforts.

## Cleaner air means:



*All estimates are for the year 2030.*

The Plan will reduce common air pollutants that cause smog and soot, in addition to CO<sub>2</sub>.

Tons reduced in 2030:

282,000

NITROGEN OXIDE

318,000

SULFUR DIOXIDE

TOTAL REDUCTIONS:  
Down 20% by 2030

The public health and climate **benefits** of **acting on climate** add up to as much as **\$54 billion** in 2030 alone.



# Best System of Emission Reduction: Three Building Blocks

<b>Building Block</b>	<b>Strategy EPA Used to Calculate the State Goal</b>
<b>1. Improved efficiency at power plants</b>	<b>Increasing the operational efficiency of existing coal-fired steam EGUs on average by a specified percentage</b>
<b>2. Shifting generation from higher-emitting steam EGUS to lower-emitting natural gas power plants</b>	<b>Substituting increased generation from existing natural gas units for reduced generation at existing steam EGUs</b>
<b>3. Shifting generation to clean energy renewables</b>	<b>Substituting increased generation from new zero-emitting generating technologies for reduced generation at existing fossil fuel-fired EGUs</b>

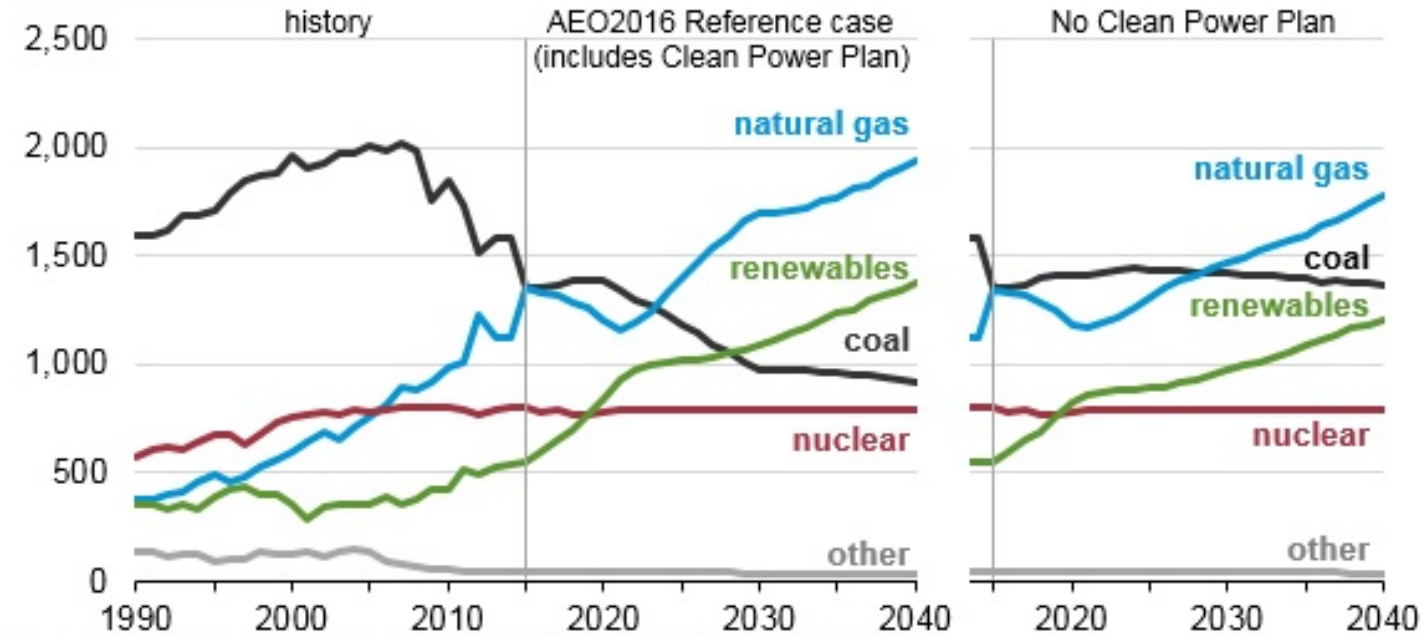




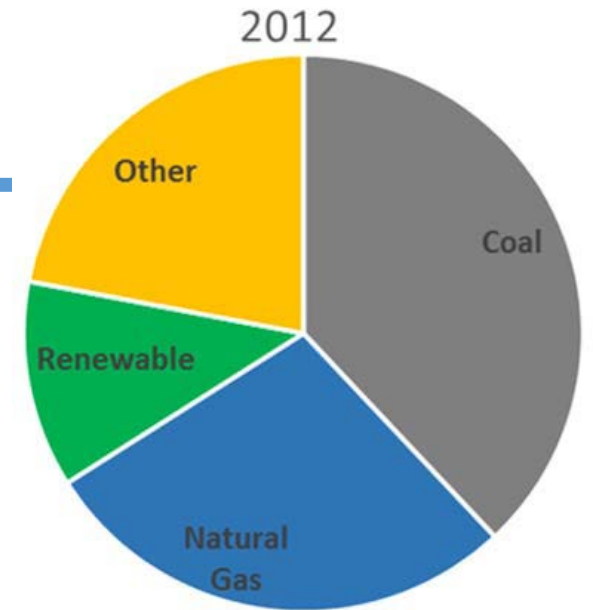
# Clean Power Plan Builds On Existing Trends

U.S. net electricity generation by fuel (1990-2040)

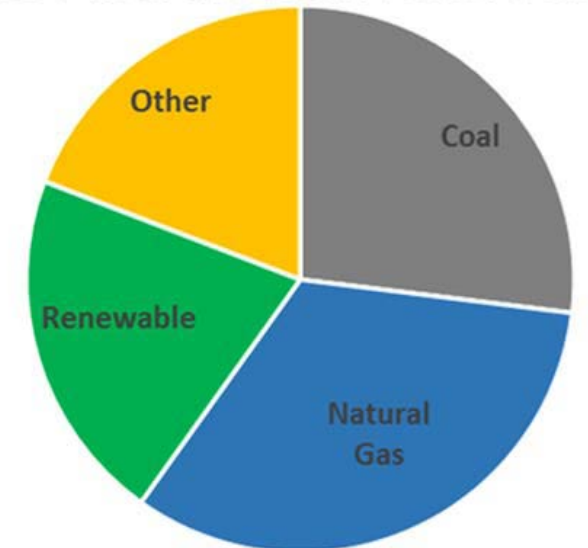
billion kilowatthours



Source: U.S. Energy Information Administration, *Annual Energy Outlook 2016*



2030 with the Clean Power Plan





# Tribes and the Clean Power Plan

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- **Tribes with EGUs:**
  - EPA finalized goals for three areas of Indian country.
    - These tribes have the opportunity, but not the obligation, to develop and implement a **tribal plan** under the Clean Power Plan for these sources.
    - The tribal plan or federal plan can create an allowance trading market, or provide emission rate credits for renewable energy and other eligible measures.
- **Tribes without EGUs:**
  - All tribes can participate in the renewable energy marketplace.
  - RE owners & operators are inherently incentivized by revenue from selling generated power and can be further explicitly incentivized through state or federal allowances or emission rate credit marketplaces.



# What is the Clean Energy Incentive Program (CEIP)?

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- **The CEIP is an optional early-action program for states and tribes participating in the Clean Power plan that:**
  - Helps states, tribes, and affected sources meet their emission goals under the CPP;
  - Provides incentives for investment in demand-side energy efficiency measures and solar power generation in low-income communities; and
  - Encourages early investment in renewable energy generation from wind, solar, geothermal, and hydropower.
- **On June 16, 2016, the EPA provided CEIP design details in a proposed rule.**
  - **Comment period extended to Nov. 1.**





# How Does the CEIP Work?

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- **Tribes with EGUs have the same opportunities as states with EGUs to participate in the CEIP.**
  - **As proposed, a state or tribe that chooses and is approved to participate in the CEIP may make “early action” awards -- either allowances or ERCs -- to eligible CEIP projects, which may then receive a “matching” award from the EPA.**
- **Projects in Indian country (with or without EGUs) may be eligible for “early action” awards.**



# Opportunities for Tribes Under the CEIP

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- **EPA is committed to helping communities benefit from eligible energy efficiency (EE) and renewable energy (RE) projects.**
- **EPA expects EE and RE to be part of key compliance strategies and includes incentives to stimulate early investment in these technologies.**
- **As proposed, states participating in the CEIP would be required to treat projects in Indian country the same as any other project applying for an early action award.**



# Information and Resources

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- For more information on the Clean Energy Incentive Program, see the CEIP page: <http://www2.epa.gov/cleanpowerplan/clean-energy-incentive-program>
- For more information and to access a copy of the rule, visit the **Clean Power Plan website**: <http://www2.epa.gov/cleanpowerplan/clean-power-plan-existing-power-plants>
- Through graphics and interactive maps, the **Story Map** presents key information about the final Clean Power Plan. See: <http://www2.epa.gov/cleanpowerplan>
- For community-specific information and engagement opportunities, see the **Clean Power Plan Community Page**: <http://www2.epa.gov/cleanpowerplan/clean-power-plan-community-page>
- EPA provides **webinars** and **training** on CPP related topics at the air pollution control learning website. See: <http://www.apti-learn.net/lms/cpp/plan/>
- Federal programs and activities to support renewable energy and energy efficiency in low- and moderate-income communities: [https://www.whitehouse.gov/sites/default/files/low-income\\_and\\_energy\\_efficiency\\_programs.pdf](https://www.whitehouse.gov/sites/default/files/low-income_and_energy_efficiency_programs.pdf)
- Federal initiative to increase solar access for all Americans: <https://www.whitehouse.gov/the-press-office/2015/07/07/fact-sheet-administration-announces-new-initiative-increase-solar-access>





# Whom Do I Contact With Questions?

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We welcome your feedback and questions!

Feel free to contact me:

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**Questions?**

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**Thank you!**