

**Appendix K to California's Compliance Plan for  
the Federal Clean Power Plan:  
Public Comment Documentation**

Pursuant to 40 C.F.R. § 60.23(d) and (f) and to 40 C.F.R. § 60.5745(a)(12), ARB is required to provide a certification that a hearing was held as required, provide a list of witnesses and organizational affiliations, and a brief written summary of each presentation or written submission. These summaries are provided below for all comments received during the formal comment period and at the Board's hearing of September 22, 2016.

The full versions of the comments may be found on ARB's CPP Compliance Page, and meeting transcripts are available as well.

### **Comments Received into the Record from August 5, 2016 to September 19, 2016**

**Comment 1 – Environmental Justice Advisory Committee:**

(Martha Dina Argüello - Physicians for Social Responsibility, Colin Bailey - The Environmental Justice Coalition for Water, Gisele Fong - End Oil, Tom Frantz - Association of Irrigated Residents, Sekita Grant - The Greenlining Institute, Kevin Hamilton - Central California Asthma Collaborative, Rey León - Valley LEAP, Luis Olmedo - Comité Civico Del Valle, Kemba Shakur - Urban Releaf, Mari Rose Taruc \* - Asian Pacific Environmental Network, Eleanor Torres - The Incredible Edible Community Garden, Monica Wilson - Global Alliance for Incinerator Alternatives, \*  
Note: EJAC Leadership Team Member Katie Valenzuela Garcia from Oak Park Neighborhood Association in Sacramento served on the Committee)

*Note: This commenter submitted a broad slate of recommendations to several ARB dockets. This summary addresses only comments regarding the CPP.*

Comments:

- 1) Do not use Cap-and-Trade (or carbon trading, offsets) for the Clean Power Plan.
- 2) The Clean Power Plan must ensure power is generated from sustainable, renewable sources.

### **Comment 2 - Alcantar & Kahl LLP - Energy Producers and Users Coalition**

Comment:

- 1) The proposed amendments should be modified to provide for an annual assessment of whether a CHP resource meets the criteria for exemption.

### **Comment 3: Jennifer Keifer - Alliance for Industrial Efficiency**

Comments:

- 1) We want to alert you to a new report that we just released on the potential role of industrial energy efficiency (including combined heat and power) as a compliance option.
- 2) We are pleased to see that industrial efficiency is recognized in the state's draft compliance plan and we urge you to make the industrial sector a cornerstone of the State's long-term climate strategy.

### **Comment 4: Andrew Ulmer - California Independent System Operator Corp.**

Comments:

- 1) ARB's proposal accurately captures the cooperative relationship we have with ARB and other state agencies in connection with infrastructure planning to ensure electric grid reliability.
- 2) ISO believes the state measures identified in ARB's proposed plan will allow California to achieve mission reduction targets specified in the Clean Power Plan and likely beyond those goals.

**Comment 5: Jennifer Keifer - Alliance for Industrial Efficiency** – With attachments.  
*(This is a duplicate of Comment 3 with relevant studies; please see summary of comment 3)*

**Comment 6 - Jerry Schwartz - American Forest & Paper Association and American Wood Council**

Comments:

- 1) CPP Compliance Plan should seek to develop the least-costly approach to ratepayers possible to minimize the costs of reaching the CO2 reduction goals.
- 2) AF&PA and AWC support the approach that specified biomass-derived fuels are excluded from compliance obligations, although they are included for reporting purposes.

**Comment 7: Kevin P. Bundy - Center for Biological Diversity**

Comments:

- 1) CPP Compliance Plan fails to satisfy CPP requirements for biomass energy generation.
- 2) CPP Compliance Plan lacks a sound basis for its assumptions regarding future carbon prices used in compliance modeling.
- 3) CPP Compliance Plan rests entirely on continuation of existing cap-and-trade regulations that may lack a sound statutory basis.

**Comment 8: Barbara McBride – Calpine Corporation**

Comments:

- 1) Transfer of unsold state allowances to the allowance price containment reserve should help limit prolonged undersubscription and drive participation in near future auctions.
- 2) ARB should carefully consider its proposal to collapse the APCR Tiers into a single tier.
- 3) The Proposed CPP Compliance Plan is legally adequate.
- 4) Technical amendments will improve clarity and maintain program.

**Comment 9: Mark Krausse - Pacific Gas and Electric Company**

Comments:

- 1) CPP Compliance Plan is strong, but could be improved by being made trading ready.

- 2) To provide additional flexibility to affected EGUs in complying with a backstop program, affected EGUs should be allowed to purchase CPP compliance instruments from other mass-based states.
- 3) ARB should consider alternative allowance allocation approaches for the backstop program that would use any value associated with backstop allowances for ratepayer, rather than EGU-owner, benefit.
- 4) If additional analysis is conducted in the future:
  - a. Modeling should use auction reserve prices for California in all years for both stress and reference case.
  - b. The modeling should use lower GHG prices outside of California that are tied to possible CPP compliance programs rather than California's (higher) auction reserve price.
  - c. The agencies should extend the modeling horizon to 2030, or supplement the PLEXOS analysis with other existing state agency modeling (such as E3 Pathways) that extends through 2030.

**Comment 10: Danny Cullenward JD, Ph. D. - Near Zero/Carnegie Institution for Science; Michael Wara JD, Ph. D., Stanford Law School**

Comments:

- 1) We strongly support California's goal of reducing greenhouse gas emissions in line with applicable statutory targets and executive orders, and believe that market-based climate policies, such as cap-and-trade, will be critical to achieving the deeper emission reductions required after 2020.
- 2) CARB should explain its statutory authority under AB 32, as amended, to extend the cap-and-trade program beyond 2020.
- 3) CARB should explain why extension of the cap-and-trade under SB32 does not trigger the provisions of Proposition 26.
- 4) CARB has not identified a firm basis in state law for pursuing a state measures approach to CPP compliance.
- 5) Unless CARB can articulate a clear and compelling legal basis for extending cap-and-trade beyond 2020, it should withdraw or suspend the proposed regulation and urge the Legislature to act.

**Comment 11: Clare Breidenich - Western Power Trading Forum**

Comments:

- 1) CPP Compliance Plan should include a Statement of Intention to be trading-ready.
- 2) CPP Compliance Plan should strike "These requirements only apply if California's plan is linked to other state and federal CPP plans, which is not being proposed at this time and include CITSS has the functionality to address such linkages if this becomes necessary in the future;" and include an explanation of how CITSS would handle CPP linkages if and when approved by the Governor pursuant to SB1018.
- 3) For CPP Compliance Plan to allow for linkage with other states, it should include:
  - a. A demonstration that the state's mass-based goal will still be achieved.

- b. A consideration of the net allowance export/import adjustment in state reports to EPA and the backstop trigger.
- c. A modification of the backstop.

**Comment 12: Elena Saxonhouse, Alejandra Núñez - Sierra Club**

Comments:

- 1) CARB should consider extending the comment deadline to allow time for evaluating experts' preliminary environmental equity assessment of the Cap-and-Trade program.
- 2) The CPP Compliance Plan should explain the full scope of its environmental justice outreach and respond to input it has received from that process.
- 3) ARB should conduct an EJ analysis of the plan or at least incorporate the results of Its Adaptive Management Process under AB32
- 4) The CPP Compliance Plan should maintain the federal enforceability of the Cap-and-Trade program and Mandatory Reporting regulation with respect to the affected EGUs.
- 5) The CPP Compliance Plan should maintain and strengthen the elements of the backstop requirement that ensure that the State will quickly meet the mandated carbon reduction goals and make up for any shortfall in emission reductions.
- 6) The CPP Compliance Plan should clarify that any trading linkage with other states would be to link California's state-level Cap and Trade program to other similar and equally stringent programs, not to allow for interstate trade of CPP allowances.
- 7) The CPP Compliance Plan should clarify that all legal authority to implement the state measures must be in place in order for the plan submission to EPA to be considered complete.
- 8) The CPP Compliance Plan should clarify how its leakage analysis relates to the CPP's definition of "leakage" and to EPA's options for demonstrating that leakage is not projected to occur.
- 9) ARB should further explain and seek comment on how the CEIP would function in California and consider whether it would be an effective way to encourage clean energy investments in low-income communities and reduce emissions.

**Comment 13: Shana Lazerow, Brent Newell, Monica Wilson, Environmental Justice Advocates**

Comments:

- 1) CPP Compliance Plan must eliminate any exemption from compliance with GHG regulation for waste to energy facilities.
- 2) CARB must undertake a new process with truly meaningful participation, one that candidly acknowledges disproportionate impacts and that is able to change the outcome to address those impacts.
- 3) The existing Cap and Trade Program has environmental justice Impacts.
- 4) To comply with the federal public participation requirements, CARB should not adopt the Trading Plan for CPP Compliance Plan proposal and instead engage with California's most impacted communities to develop a program of direct

emissions reductions that will benefit the health and welfare of California communities.

- 5) CARB has no authority to extend Cap and Trade after 2020, and may not rely on Cap and Trade for compliance with the CPP.
- 6) The DEA fails to meet the most basic CEQA mandates.

**Comment 14: Monica Wilson, Global Alliance for Incinerator Alternatives**

Comments: (See Comment 13, as this comment was duplicative)

**Comment 15: Dylan Sullivan, Natural Resources Defense Council**

Comments:

- 1) The backstop should apply to both new and existing fossil fueled-fired Plants.
- 2) ARB's backstop target should include EPA's New Source Compliment.
- 3) ARB does not address whether EGU's could purchase out-of-state offsets if the Backstop is triggered. It is recommended that this be added with a provision that the other states plans must include new and existing plants.
- 4) NRDC supports aligning the Cap and Trade program with the CPP.
- 5) NRDC supports a requirement that all EGUs participate in Cap and Trade, not just those above the current emission threshold.

## Public Comments from September 22, 2016 Hearing:

### Comment 1: Julia May – Communities for a Better Environment (CBE)

#### Comments:

- 1) Please instruct staff, to propose for your action, a non-cap-and-trade compliance strategy for the Clean Power Plan developed through public participation that ensures co-pollutant benefits of the greenhouse gas reductions and co-pollutant benefits that go to communities where the power plants are located.
- 2) CBE believes that if you propose to EPA Cap and Trade as the way to comply, then you will have to say to EPA you did not take into account the participation of EJ communities in your final decision.
- 3) California's three incinerators are in EJ communities generating electricity and emitting huge amounts of GHGs and toxics and criteria pollutants. We would ask you to bring forward a proposal to regulate them.

### Comment 2: Mr. Nathan Bengtsson - PG&E

#### Comments:

- 1) PG&E supports staff's proposal to use State measures cap-and-trade backed plan.
- 2) Please make the backstop trading ready.

### Comment 3: Mari Rose Taruc - Environmental Justice Advisory Committee

#### Comments

- 1) Opposed to using cap and trade to comply with the Clean Power Plan.
- 2) The offsets program within cap and trade that are mostly out of state are actually forcing larger dirty generation from peaker plants into environmental justice communities.
- 3) We think that one hour of consultation with the environmental justice community and not mentioning that we oppose using cap and trade to comply with the Clean Power Plan is disingenuous and inadequate.
- 4) In future versions of the report, state what the Environmental Justice Advisory Committee is saying about the CAP and Trade program.
- 5) ARB should do an environmental justice analysis of environmental justice impacts of using cap and trade to comply with the Clean Power Plan.