CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC BOARD MEETING AND PUBLIC COMMENT PERIOD ON CALIFORNIA'S PROPOSED COMPLIANCE PLAN FOR THE FEDERAL CLEAN POWER PLAN AND THE DRAFT ENVIRONMENTAL ANALYSIS PREPARED FOR THE PROPOSED PLAN

This notice announces the availability of the Proposed California Compliance Plan for the Federal Clean Power Plan (Proposed Plan) and the Draft Environmental Analysis (Draft EA) prepared for the Proposed Plan, as well as a public Board meeting on the Proposed Plan and Draft EA.

Public Board Meeting:

The Air Resources Board (ARB or Board) will conduct a public Board meeting at the time and place noted below to consider the Proposed Plan.

DATE:	September 22, 2016
TIME:	9:00 a.m.
LOCATION:	California Environmental Protection Agency Byron Sher Auditorium 1001 I Street, Second Floor Sacramento, California 95814
DIRECTIONS:	http://www.calepa.ca.gov/epabldg/location.htm

This item may be considered anytime during a meeting of the Board that will commence at 9:00 a.m. September 22, 2016 and may continue at 8:30 a.m. September 23, 2016. This item may not be considered until September 23, 2016. Please consult the agenda for the meeting, which will be available at least 10 days before September 22, 2016, to determine the day on which this item will be considered.

Background on the Proposed Compliance Plan:

Power plants are the largest stationary source of greenhouse gases (GHGs) nationally, and among the largest sources in California. To address these emissions, which contribute to climate change, U.S. EPA has issued federal Clean Air Act regulations directing the states to reduce greenhouse gas emissions from existing covered electrical generating units (EGUs). These regulations, known as the Clean Power Plan (CPP), will reduce GHG emissions from affected sources by nearly one-third from 2005 levels when fully implemented. In addition to supporting a cleaner, more efficient power sector, the CPP will also yield significant co-benefit pollutant reductions of criteria pollutants with corresponding public health benefits.

U.S. EPA established the CPP based upon its authority under Section 111(d) of the federal Clean Air Act (CAA) (42 U.S.C. § 7411(d)). Section 111 of the CAA charges U.S. EPA with establishing standards of performance for sources in industry categories whose pollution may reasonably be anticipated to endanger public health or welfare.

Each standard is to reflect the degree of emission limitation achievable through the application of the best system of emission reduction (BSER) that has been adequately demonstrated.

U.S. EPA has determined that GHGs are among the dangerous pollutants for which Section 111 standards must be set (*see* 74 Fed. Reg. 66,496 (Dec. 15, 2009)). Accordingly, in fall 2015, U.S. EPA issued BSER-based standards for new and modified EGUs (*see* 80 Fed. Reg. 64,510 (Oct. 23, 2015)). That action also triggered a legal duty for U.S. EPA to issue guidelines to the states requiring the submission of plans to achieve BSER-based reductions of GHGs from existing EGUs (those which commenced construction on or before January 8, 2014) under Section 111(d) (*see* 42 U.S.C. § 7411(d)(1) and 40 C.F.R. Part 60, Subparts B and C). U.S. EPA issued the guidelines simultaneously with the EGU standards (*see* 80 Fed. Reg. 64,662 (Oct, 23, 2015)). These emission guidelines are contained in the CPP, which is codified as Subpart UUUU of 40 C.F.R. Part 60.

To comply with the CPP, affected states are required to submit state compliance plans for review and approval by U.S. EPA. ARB is charged with preparing California's CPP compliance plan. ARB staff has prepared this Proposed Compliance Plan with the assistance of an interagency working group including important contributions from the staff of the California Energy Commission and California Public Utilities Commission.

The Proposed Plan is designed to comply with this important federal rule, while ensuring smooth operation of California's existing suite of climate programs, including California's Cap-and-Trade Program. These programs, many adopted pursuant to the Global Warming Solutions Act of 2006, AB 32 (Nunez, Chapter 488, Statutes of 2006), have put the State on a firm course towards deep GHG reductions, supporting California's ability to comply with CPP requirements. The Cap-and-Trade Program works with complementary GHG reductions measures by limiting the emissions of covered sources under an economy-wide cap.

This Proposed Plan is based upon the continued operation of the Cap-and-Trade Program. Amendments to the Cap-and-Trade Regulation and the related Mandatory Reporting Regulation are being considered in part to support the CPP, as well as to support the operation of these State programs from 2020 forward. These proposed amendments will have their own public notices and rulemaking processes. This connected regulatory and planning package is designed to present an integrated path forward for California climate policy in the decades to come.

Many complementary energy sector programs, including California's energy efficiency standards and Renewable Portfolio Standard, further support these reductions; their effects are reflected in the design of the Cap-and-Trade Program. As California continues to seek GHG reductions from the electric power sector, these complementary programs will help ensure that the State meets and exceeds CPP targets.

For these reasons, ARB is proposing to comply with CPP requirements via what U.S. EPA refers to as a "state measures" approach, with Cap-and-Trade as the state measure used. Under this approach, EGUs participating in the Cap-and-Trade Program would have a federally-enforceable obligation to comply with key program requirements, while other participants in the market program will continue to have only state-

enforceable obligations. Cap-and-Trade Program compliance (along with compliance with the supporting requirements of ARB's Mandatory Reporting Regulation) would also ensure CPP compliance. A federally-enforceable backstop measure, included within the Cap-and-Trade Program for CPP-affected EGUs, would further ensure that federal emission targets are met, if triggered.

The Proposed Plan identifies the elements of California's Proposed Plan and includes a modeling demonstration showing that California will be able to comply with CPP requirements.

This Proposed Plan will undergo extensive public comment and review, in accordance with state and federal law. As the Board considers the overall shape of California's post-2020 climate programs, this Proposed Plan demonstrates that those programs can also assure compliance with federal requirements, capitalizing on the progress California has already made, and streamlining regulatory requirements. Staff anticipates that the Board will consider the Plan as part of its overall evaluation of climate programs going forward, and will present the Plan for final approval in Spring 2017, in coordination with other proposed measures.

Initial compliance plans were originally due in September 2016, with possible extensions up to September 2018. These deadlines have been temporarily stayed by the United States Supreme Court pending resolution of litigation on the CPP. The federal compliance periods begin January 1, 2022, and the full reductions required by the CPP must be achieved by December 31, 2031 and maintained thereafter. ARB anticipates submitting this Proposed Plan, if approved by the Board, to U.S. EPA once the stay has been lifted.

The Proposed Plan and its appendices are available on ARB's website at: http://www.arb.ca.gov/cc/powerplants/powerplants.htm.

Environmental Analysis:

ARB, as the lead agency for the Proposed Plan, prepared a Draft EA in accordance with the requirements of its regulatory program certified by the Secretary of Natural Resources, California Code of Regulation, title 17, sections 60006-60008; California Code of Regulation, title 14, section 15251, subdivision (d). The Draft EA provides a single coordinated programmatic environmental analysis of an illustrative, reasonably foreseeable compliance scenario that could result from implementation of the Proposed Plan as well as of proposed amendments to the Cap-and-Trade Regulation, including aspects of the Regulation that implement aspects of the Proposed Plan. The Proposed Plan and Cap-and-Trade amendments have two separate public notices and staff reports and will be considered by the Board in separate proceedings, but are connected actions. This approach is consistent with the California Environmental Quality Act's (CEQA) requirement that an agency consider the whole of an action when it assesses a project's environmental effects, even if the project consists of separate approvals (Cal. Code Regs., tit. 14, § 15378(a)).

The resource areas from the CEQA Guidelines Environmental Checklist were used as a framework for a programmatic environmental analysis of the direct and reasonably

foreseeable indirect environmental impacts resulting from implementation of the proposed amendments to the Cap-and-Trade Regulation, including those related to the CPP. The Draft EA provides an analysis of both the beneficial and adverse impacts and feasible mitigation measures for the reasonably foreseeable compliance responses associated with the recommended amendments. The impacts described below are more closely associated with the Cap-and-Trade amendments generally, rather than with the CPP's specific implementation as part of that program.

The Draft EA states that implementation of the Proposed Plan (and Cap-and-Trade Regulation) could result in the following short-term and long-term beneficial and adverse impacts: beneficial short-term and long-term impacts to energy demand and greenhouse gases; less-than-significant impacts to aesthetics, agriculture and forest resources, geology, soils, and mineral resources, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, population employment, and housing, public services, recreation, transportation and traffic and utilities and service systems; and potentially significant and unavoidable adverse impacts to aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology and soils, hazards and hazardous materials, hydrology and water quality, land use and planning, noise, recreation, and transportation/traffic.

The potentially significant and unavoidable adverse impacts are primarily related to short-term, construction-related activities and implementation of offset projects that are reasonably foreseeable as a result of the proposed amendments to the Cap-and-Trade Regulation. This explains why some resource areas are identified above as having both less-than-significant impacts and potentially significant impacts. Please refer to the Draft EA for further details.

On August 2, 2016, copies of the Draft EA will be available at ARB's Public Information Office,
1001 I Street, First Floor, Environmental Services Center, Sacramento, California, 95814.

The Draft EA is included as **Appendix J** to the Proposed Plan and can also be obtained from ARB's website at: http://www.arb.ca.gov/cc/powerplants/powerplants.htm.

Submittal of Comments:

ARB invites comments on the Proposed Plan and Draft EA during the public comment period that begins on **August 5, 2016,** and ends on **September 19, 2016, at 5:00 p.m**. Comments should be submitted using the address or web page listed below. Interested members of the public may also present comments orally or in writing at the September 22, 2016 public meeting.

After the close of the 45-day public comment period, ARB staff will prepare written responses to comments received on the Draft EA as provided in California Code of Regulations, title 17, section 60007(a). Although all comments received on the Proposed Plan and the Draft EA will be considered by ARB, only those comments relating to the Draft EA will be responded to in writing in the supplemental response document. The supplemental response document containing staff's written responses to comments on the Draft EA will be posted on ARB's website before the second public

meeting scheduled for the Board to consider approving the Proposed Plan.

To be responded to in writing and considered by the Board at a subsequent public meeting on the Proposed Plan, written comments on the Draft EA must be received **no later than 5 p.m. on September 19, 2016**. As previously noted, written or oral comments may also be submitted at the public meeting. Comments on the Draft EA and the Proposed Plan submitted on or before September 19 must be submitted to one of the following:

Postal mail: Clerk of the Board, Air Resources Board
1001 I Street, Sacramento, California 95814

Electronic submittal: http://www.arb.ca.gov/lispub/comm/bclist.php

Please note that under the California Public Records Act (Government Code section 6250 et seq.), your written and oral comments, attachments, and associated contact information (e.g., your address, phone, email, etc.) become part of the public record and can be released to the public upon request.

Consistent with 40 C.F.R. § 60.5745(a)(12) and 40 C.F.R. § 60.23, public comments submitted to ARB, or offered at the hearing (and at any subsequent hearing), will be summarized and presented to U.S. EPA, along with a list of commenters.

Further inquiries regarding this item should be directed to Craig Holt Segall, Senior Attorney, at 916-323-9609.

SPECIAL ACCOMMODATION REQUEST

Consistent with California Government Code Section 7296.2, special accommodation or language needs may be provided for any of the following:

- An interpreter to be available at the meeting;
- Documents made available in an alternate format or another language;
- A disability-related reasonable accommodation.

To request these special accommodations or language needs, please contact the Clerk of the Board at (916) 322-5594 or by facsimile at (916) 322-3928 as soon as possible, but no later than 10 business days before the scheduled Board meeting. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Consecuente con la sección 7296.2 del Código de Gobierno de California, una acomodación especial o necesidades lingüísticas pueden ser suministradas para cualquiera de los siguientes:

- Un intérprete que esté disponible en la audiencia;
- Documentos disponibles en un formato alterno u otro idioma;
- Una acomodación razonable relacionados con una incapacidad.

Para solicitar estas comodidades especiales o necesidades de otro idioma, por favor llame a la oficina del Consejo al (916) 322-5594 o envié un fax a (916) 322-3928 lo más pronto posible, pero no menos de 10 días de trabajo antes del día programado para la audiencia del Consejo. TTY/TDD/Personas que necesiten este servicio pueden marcar el 711 para el Servicio de Retransmisión de Mensajes de California.

CALIFORNIA AIR RESOURCES BOARD

Richard W. Corey
Executive Officer

Date: August 2, 2016