

October 23, 2015

**Comments of the Independent Energy Producers Association
On CARB's Clean Power Plan Compliance Discussion Paper
(Released September 2015)**

The Independent Energy Producers Association (IEP) submits these comments on the California Air Resources Board (CARB) Clean Power Plan Compliance Discussion Paper (released September 2015). IEP represents independently-owned electric generators, including both renewable and natural gas-fired generation. IEP participated in the development of the existing cap-and-trade regulations and many of IEP's members are active in, and regulated under, the cap-and-trade program.

As CARB moves forward in developing a compliance strategy for the federal Clean Power Plan, IEP recommends that the CARB stay the course, to the extent possible, using the existing cap and trade program to achieve compliance with the Clean Power Plan. The cap-and-trade program has been up and running for the past few years and it has become a regulation that people with a compliance obligation understand for the most part. IEP's membership has become familiar with the cap-and-trade program, the means and rules for compliance, etc. The more California can achieve compliance with the Clean Power Plan through mechanisms that already exist, the better.

IEP offers the following comments on the questions posed in CARB's Clean Power Plan Compliance Discussion Paper. IEP does not respond to every question presented in the Discussion Paper.

Plan Design Options

- 1. Do stakeholders agree that a mass-based, state measures plan, based primarily on the continued operation of the Cap-and-Trade Regulation, and recognizing the emissions-reducing consequences of the State's complementary energy sector policies, is an appropriate compliance plan design for California?**

IEP's Response: IEP agrees that a mass-based, state measures plan, based primarily on the continued operation of the Cap-and-Trade program, is the most efficient and effective way to comply with the Clean Power Plan. A mass-based approach is used under the existing cap and trade program and regulated entities are familiar with this form of measurement. IEP supports the continuation of programs that are market-based, are already operational, and that have been effective in terms of reducing carbon emissions. This approach is preferable to creating a completely new greenhouse gas compliance paradigm. A compliance plan that uses existing programs may also prove to be the most cost-effective path for compliance with the Clean Power Plan given that much of the administrative costs to create these programs have already occurred. IEP envisions that few changes to the cap and trade program would need to be made for compatibility with the clean power plan program.

Enforcement and Permitting

- 3. How might ARB and air districts ensure that any permit terms developed for federal enforceability reasons are appropriately designed, and protect the confidentiality of market-sensitive data?**

IEP's Response: The program should be designed to grandfather the permit terms adopted by ARB and air districts to ensure the integrity of the permits already granted, including any terms protecting the confidentiality of market-sensitive data.

- 4. What lessons may be learned from permit terms enforcing other trading programs?**

IEP's Response: IEP has no comments on this matter at this time.

Backstop and Glide-path Design

- 5. Assuming that the Cap-and-Trade Regulation is used to support a state measures plan, what backstop designs might integrate best with the design of the Cap-and-Trade Regulation? If a market response is appropriate, what compliance instruments, or pools of compliance instruments, might be appropriate for use within the backstop?**

IEP's Response: In general, current market-based backstop mechanisms including reserve accounts are appropriate. At this point IEP does not see the need for additional mandatory compliance measures. Moreover, IEP agrees with CARB staff that it is unlikely that a backstop will be triggered given that California's emissions are expected to be below the federal targets [California Air Resources Board Clean Power Plan Compliance Discussion Paper, page 8]. However, IEP is less certain that planned GHG reductions will be achieved for the transportation sector given the complexities of this sector and the necessity for significant behavioral changes to impact transportation fuel consumption. Accordingly, California should plan for the possibility that ambitious goals for the electrification of the transportation sector are not achieved as quickly as forecasted. In this regard, CARB may want to consider updating its AB 32 Scoping Plan more frequently, for example every three years rather than every five years, so that the CARB can make appropriate adjustments in response to impacts with regards to the transportation sector.

6. What other backstop design options are available, inside or outside of the market?

IEP's Response: At this time, IEP has no comments on backstop design options except to note that, to the extent that carbon reductions are unattainable as planned from the transportation sector, additional mandatory measures not currently a part of the CARB AB 32 emission reduction program need not and should not be imposed on the electric sector to make up the difference.

7. Are there particular glide paths that might best integrate the backstop into the larger California carbon market and the economy-wide emissions reductions trajectory?

IEP's Response: The Air Resources Board should consider increasing the amount of allowances in the reserve and releasing reserve allowances earlier to stabilize the market. In certain circumstances, it may also be appropriate to borrow allowances from future compliance periods (*e.g.*, when new technologies or offset programs are likely to produce a significant change in a future compliance period). Future allowances may be more valuable in the near-term and less valuable in the long-term once new technologies emerge.

In addition, backstop mechanisms should be triggered only if there is clear evidence of market failure; and the CARB should determine market failure by evaluating the full three year compliance period. Looking at the entire three year compliance period to determine if a market failure has occurred will insulate CARB and the cap-and-trade program from rare and unique events. IEP notes that high prices for allowances in the cap-and-trade auctions and secondary markets are not a

symptom of market failure but may be an appropriate response to a circumstance when demand exceeds supply and other substitutes (*e.g.*, technical innovation, alternate fuels, and offsets) are not yet readily available in the market.

Analysis and Demonstrations

- 8. What data sources, analytic processes, and model types should ARB and its partners consider in developing the required demonstrations? How best might ARB and its partners integrate analysis processes and data used in the Greenhouse Gas Inventory, IEPR, and update to the Scoping Plan?**

IEP's Response: IEP has no comments on this matter at this time.

- 9. Are there particular scenarios that staff should investigate in the demonstrations? For instance, are there particular “stress” or “policy” cases—including those associated with various IEPR demand forecasts—that should be considered?**

IEP's Response: The Air Resources Board should consider fully valuing the fire-suppression and carbon-reducing benefits of biomass generation facilities by, *e.g.*, awarding appropriate allowances to biomass units. Wildfires make a significant contribution to the level of carbon in the atmosphere. Biomass-fueled electric generation units can productively use forest products that if left in place would increase the intensity and occurrence of wild files.

Integration Mechanics

- 10. Do stakeholders agree that ARB's Mandatory Reporting Regulation requirements, and incorporated Part 75 requirements, will enable existing reporting to comply with most of CPP's reporting and recordkeeping requirements? Are amendments to ARB's reporting regulations appropriate to more fully integrate the programs?**

IEP's Response: IEP agrees that the current reporting requirements are for the most part adequate for the Clean Power Plan's reporting and recordkeeping requirements. IEP recommends that the CARB harmonize the state and federal reporting requirements to the extent possible.

11. What steps might be appropriate to ensure that Cap-and-Trade Regulation compliance processes, periods, and reports sufficiently support compliance with CPP?

IEP's Response: The compliance periods between the two programs should be aligned to the extent possible. Also, it would be useful to streamline the state and federal plans and compliance requirements such that stakeholders do not have to participate in multiple forums, submit different reports, have duplicative regulatory burdens, etc.

Environmental Justice Issues

12. What options should ARB consider for best involving members of affected communities in the CPP compliance planning process?

IEP's Response: IEP has no comments on this matter at this time.

13. How can existing tools, including the Adaptive Management program, best be used to support California's CPP compliance plan? What other tools might be considered?

IEP's Response: IEP has no comments on this matter at this time.

Electric Grid Reliability

14. How can ARB and its coordinating agencies best use existing processes to ensure reliability during CPP implementation? Are any additional analyses warranted?

IEP's Response: The Air Resources Board should avoid a situation in which needed power plants are unable to operate due to a lack of available allowances. These reliability events are usually limited in time and the three-year compliance periods are effective in ensuring that limited allowances do not prohibit a needed plant from running. Nevertheless, there may be times when releasing allowances from the reserve may be necessary to maintain the reliability of the electric grid.

Clean Energy Incentive Program

15. Should California submit a nonbinding statement of interest in participating in the Clean Energy Incentive Program? What advantages and disadvantages do stakeholders see for such participation?

IEP's Response: If IEP understands the premise of the Clean Energy Incentive Program, California may be in a position to get credit or potentially expand efforts that we have already put in motion, including a 50% RPS, energy efficiency standards, etc. for compliance under the Clean Power Plan. It makes sense for CARB to indicate an interest in the Clean Energy Incentive Program and explore those options.

16. If so, what mechanisms might be necessary to integrate the program with California's Cap-and-Trade Regulation? How should compliance instruments associated with the federal program be treated? Are there other options for participating in the Clean Energy Incentive Program that would not require such integration?

IEP's Response: To the extent possible, federal compliance instruments should be integrated into the California cap-and-trade program so that federal incentives will have the maximum impact in California.

Regional Interactions

17. What analytic tools and venues are appropriate for assessing the emissions and *compliance cost opportunities and concerns, including any emissions leakage or accounting concerns, associated with various regional compliance options?*

IEP's Response: IEP continues to be concerned about potential emissions leakage. The Air Resources Board needs to reassess whether the current methodology for imputing the default emissions factor to unspecified out-of-state resources is accurately imputing emissions to unspecified resources. In addition, the Air Resources Board needs to ensure that "double-counting" is not occurring. Double counting can occur when local regions outside of California assume that electricity produced by lower-emitting resources is delivered to the local area, yet the methodology assumes that electricity from the same resource is delivered to California.

18. What regional compliance options should ARB staff evaluate? Which of these options are more or less consistent with the state measures plan design ARB staff have identified as a strong compliance option?

IEP's Response: IEP has no comments on this matter at this time.

Federal Plan and Model Plans

19. Are there features of the proposed model state and federal plans that California should highlight as particularly important to retain, or to modify, in the finalized version of these proposals?

IEP's Response: IEP recommends that the ARB make note of the effect of the renewable portfolio standard (RPS) in inciting the financing and development of clean, non-fossil electric generation in a timely and cost-effective manner. As a complementary measure to the cap and trade program, the RPS has proven successful in developing the technologies today that will be needed to transform the electric sector over the next 10-15 years or more.

20. What potential interactions between these proposed plans and California's compliance strategy should ARB staff consider in the planning process?

IEP's Response: See response to Question 19 above.

Processing Tools

U.S. EPA has proposed adding several state plan review tools to its general 111(d) regulations. These include making clear that U.S. EPA has the authority to partially approve or deny or conditionally approve state compliance plans. The proposed amendments also allow for "parallel processing" of compliance plans, a procedure under which U.S. EPA and state processes move forward in tandem to allow for more expeditious plan review decisions. ARB staff believes that these and related tools in the proposal provide useful additional flexibilities, but welcome stakeholder feedback on these proposed tools and other tools that might be helpful.

IEP's Response: Additional flexibility in planning will be helpful. On the other hand, redundant and/or inconsistent plan measures to achieve the Clean Power Plan goals and objectives likely will foster a measure of regulatory inconsistency and litigation that would not be helpful to industry and commercial interests. IEP recommends that the Clean Power Plan advocate for and pursue strategies and tactics that ensure a high level of consistency and regulatory certainty in implementation.

Timing

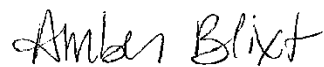
21. What issues and processes do stakeholders believe to be most important for coordination?

IEP's Response: One issue that IEP believes is critically important for the success and coordination of the cap-and-trade program is accurate emissions reporting, both within California and across the Western region.

Respectfully submitted,



Steven Kelly
Policy Director
steven@iepa.com



Amber Blixt
Policy Analyst
amber@iepa.com