CALIFORNIA AIR RESOURCES BOARD

NOTICE OF PUBLIC HEARING TO CONSIDER ADOPTION OF THE PROPOSED CALIFORNIA CAP ON GREENHOUSE GAS EMISSIONS AND MARKET-BASED COMPLIANCE MECHANISMS REGULATION, INCLUDING COMPLIANCE OFFSET PROTOCOLS

The Air Resources Board (ARB or Board) will conduct a public hearing at the time and place noted below to consider adoption of the California Cap on Greenhouse Gas Emissions and Market-Based Compliance Mechanisms Regulation, including Compliance Offset Protocols (cap-and-trade program).

DATE: October 20, 2011

TIME: 9:00 a.m.

PLACE: California Environmental Protection Agency
Air Resources Board
Byron Sher Auditorium
1001 I Street
Sacramento, California 95814

This item may be considered at a two-day meeting of the Board, which may commence at 9:00 a.m., October 20, 2011 and will continue at 8:30 a.m., on October 21, 2011. This item may not be considered until October 21, 2011. Please consult the agenda for the meeting, which will be available at least 10 days before October 20, 2011, to determine the day on which this item will be considered.

BACKGROUND:

The California Global Warming Solutions Act of 2006 (Assembly Bill 32; Stats. 2006, Chapter 488) (AB 32) authorizes ARB to implement a comprehensive, multi-year program to reduce greenhouse gas (GHG) emissions in California. On October 28, 2010, ARB released a Notice and Staff Report: Initial Statement of Reasons (ISOR) for a proposed regulation that would establish a California GHG cap-and-trade program (proposed sections 95800 to 96023, title 17, California Code of Regulations (CCR)). The ISOR, entitled *Initial Statement of Reasons: Proposed Regulation to Implement the California Cap-and-Trade Program,* and other rulemaking documents are available at ARB's rulemaking webpage at http://www.arb.ca.gov/regact/2010/capandtrade10/capandtrade10.htm.

The ISOR was circulated for public review from October 28, 2010 to December 16, 2010. The 45-day public comment period began on November 1, 2010, and ended on December 16, 2010. To meet the requirements of the California Environmental Quality Act (CEQA) under ARB's Certified Regulatory Program,

Appendix O to the ISOR included an environmental analysis of the proposed regulation (*Appendix O: Functional Equivalent Document*). The environmental analysis identified potentially significant adverse environmental impacts that may result from implementation of the proposed regulation, and identified potentially feasible mitigation measures and alternatives. The analysis concluded that there was potential for significant adverse impacts in the following areas: air quality, biological resources, cultural resources, geology and soils, hydrology and water quality, noise, transportation and traffic, and land use.

Following a public hearing held on December 16, 2010, the Board adopted Resolution 10-42, which directed staff to make a number of modifications to the proposed regulation. On July 25, 2011, the first Notice of Public Availability of Modified Text and Availability of Additional Documents (First 15-Day Change Notice) was issued. The public comment period for the First 15-Day Change Notice ended on August 11, 2011. On September 12, 2011, additional modifications to the regulatory text were proposed in a Second Notice of Public Availability of Modified Text and Additional Documents and Information (Second 15-Day Change Notice). The public comment period for the Second 15-Day Change Notice ended on September 27, 2011. The additional modifications address comments ARB staff received on the first 15-day Change Notice, and were the result of additional staff analysis and stakeholder engagement.

Staff will prepare written responses to all public comments received during the initial 45-day comment period, at the December 16, 2010 Board hearing, and during the two supplemental 15-day comment periods. Staff's written responses will be contained a Final Statement of Reasons (FSOR) which, upon its completion, will be available in electronic form on the ARB rulemaking webpage at http://www.arb.ca.gov/regact/2010/capandtrade10/capandtrade10.htm. The FSOR will not include written responses to comments submitted in connection with the October 20, 2011, Board hearing.

Prior to the Board hearing, ARB will make available a subset of these written responses that pertain to Appendix O to the ISOR. The responses pertaining to Appendix O will be contained in a document entitled *Response to Comments on the Functional Equivalent Document for the California Cap on GHG Emissions and Market-Based Compliance Mechanisms* (Response to FED Comments). For CEQA purposes, under ARB's Certified Regulatory Program, the Response to FED Comments will be considered by the Board prior to taking final action on the proposed regulation.

OCTOBER 20, 2011 BOARD HEARING:

At the hearing, ARB staff will make a presentation regarding the proposed cap-and-trade regulation, with the modifications identified in the First and Second 15-day change notices, and will recommend that the Board take final action to adopt the proposed regulation (including the four compliance protocols incorporated by reference in the proposed regulation: the Compliance Offset Protocols for Livestock Projects,

Ozone Depleting Substances Projects, Urban Forest Projects, and U.S. Forest Projects). As part of the recommended adoption of the proposed regulation, Staff will also recommend that the Board approve the Response to FED Comments and the *Adaptive Management Plan for the Cap-and-Trade Regulation* (Adaptive Management Plan).

At the hearing, the Board will decide either to adopt the proposed regulation, or decline to adopt the proposed regulation. The Board will not have the option of making changes to the regulation as part of this rulemaking action. This is because the deadline for submitting the cap-and-trade rulemaking action to the Office of Administrative Law is October 28, 2011. Because changes to the cap-and-trade regulation cannot be adopted unless they are first made available for a 15-day public comment period (see Government Code section 11346.8(c)), there is not enough time for a public comment period before the legal deadline for submitting the rulemaking package to the Office of Administrative Law. If the regulation is adopted by the Board, however, changes to the regulation can be made in the future as part of a separate regulatory action.

Copies of the text of the proposed regulation, the Response to FED Comments, and the Adaptive Management Plan will be available prior to the Board hearing on ARB's rulemaking webpage at:
http://www.arb.ca.gov/regact/2010/capandtrade10/capandtrade10.htm.

Copies may also be obtained at ARB's Public Information Office, 1001 I Street, First Floor, Environmental Services Center, Sacramento, California, 95814, (916) 322-2990.

SUBMITTAL OF COMMENTS

Interested members of the public may present comments orally or in writing at the meeting, and comments may be submitted by postal mail or by electronic submittal before the meeting. Written and oral comments will be considered by the Board and will be part of the administrative record for the cap-and-trade rulemaking action. However, ARB staff will not prepare written responses to these comments, and they will not be included in the Final Statement of Reasons.

To be considered by the Board, written comments, not physically submitted at the meeting, must be received **no later than 12:00 noon on October 19, 2011** and must be addressed to 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

You can sign up online in advance to speak at the Board meeting when you submit an electronic board item comment. For more information go to: http://www.arb.ca.gov/board/online-signup.htm.

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.

SPECIAL ACCOMMODATION REQUEST

Special accommodation or language needs can be provided for any of the following:

- An interpreter to be available at the hearing;
- 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 hearing. TTY/TDD/Speech to Speech users may dial 711 for the California Relay Service.

Comodidad especial o necesidad de otro idioma puede ser proveído para alguna de las 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 envíe 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

James N. Goldstene
Executive Officer

Date: October 7, 2011