



AB 32 Implementation Group

Working Toward Greenhouse Gas Emission Reductions
And Enhancing California's Competitiveness

To: The Honorable Mary Nichols, Chair
California Air Resources Board

FR: AB 32 Implementation Group

DATE: November 1, 2013

RE: 2013 Updated Scoping Plan Discussion Draft Comments

Submitted Electronically: <http://www.arb.ca.gov/cc/scopingplan/2013comments.htm>

The AB 32 Implementation Group is comprised of industry and taxpayer organizations advocating for policies to reach AB 32 emission reduction goals in a cost-effective manner to protect jobs and the economy. We are pleased to provide comments regarding the California Air Resources Board's (ARB) 2013 First Updated Scoping Plan Discussion Draft distributed October 1, 2013.

The current schedule is to present the Updated Scoping Plan to the Board in December 2013. At this time appendices are incomplete and another version of the Updated Scoping Plan will be issued during November. After the next version is released we will offer substantive comments related to the effort to reach our 2020 goals.

We have the following preliminary comments on the Scoping Plan Discussion Draft that can improve the overall Scoping Plan process:

1. Consider post-2020 climate change planning in an independent process through 2014.

Updating the Scoping Plan provides ARB and stakeholders the chance to make necessary modifications and to ensure the greenhouse gas reduction goal to

reach 1990 levels by 2020 is on track and will be achieved in a cost-effective and technologically feasible manner. Section II of the draft provides a status report on the progress to reach the 2020 goal, which is the information required to be included in the AB 32 Scoping Plan Update.

The balance of the draft is not required in the Scoping Plan Update but is rather a wide-ranging discussion about environmental, energy, transportation, waste management, and public health matters that directly or indirectly relate to GHG emission goals for the years post-2020. This section relies upon Governor executive orders, other environmental laws and climate change legislation, such as SB 375 and the Renewable Portfolio Standard, to suggest concepts that are not meaningful or timely without the appropriate level of analysis for stakeholders and decision-makers to evaluate.

As a result, in a period of a few short months the ARB Board will be asked to adopt, in a single vote, a Scoping Plan Update as required under AB 32 on progress toward 2020, as well as, a vast array of comments and non-specific recommendations relating to the post-2020 environment.

A more meaningful and useful process for the public and lawmakers would be to finalize the pre-2020 Scoping Plan Update this year, and separately continue the discussion about post-2020 plans into 2014 with a goal to deliver post-2020 recommendations to the Legislature, as required by AB 32, no later than December 2014.

This would lead to a better outcome in the following ways:

More stakeholder and Board focus on achieving 2020 goal between now and December 2013. The post-2020 sections of the draft can and should be set aside at this time and be considered a starting point for a deliberative process during 2014 with a goal to deliver recommendations to the Legislature by December 2014 for their deliberation in the 2015-2016 legislative session.

Better climate change policy decision-making throughout the state and in the courts. Going forward we should strengthen the decision-making process whenever possible. Separating the 2020 update from the post-2020 material will aid in clarifying policy goals and encourage a more deliberative process in the following ways:

- It will reduce the chances that other jurisdictions or the courts will mistakenly attribute legal significance to statements in the draft that are beyond the legal authority of AB 32 and the Scoping Plan Update and are meant only for consideration by policymakers.
- It will speed and simplify the development of the environmental impact report which will only apply to the 2020 Scoping Plan Update which will save resources and reduce the potential for litigation.

Opportunity during 2014 to engage in a dialogue with the Legislature and the public on post-2020 planning. The draft admits to many unknowns and challenges in determining appropriate statewide targets, funding levels, economic impacts and technological feasibility to reach post-2020 goals. The post-2020 reduction targets and strategies contemplated by the draft clearly require additional legislative authority. It is unknown at this time what information lawmakers may require to make those judgments. Oversight and informational hearings during 2014 will ensure the Board members are addressing the key policy issues important to both Legislators and stakeholders, as well as holding to the requirements of AB 32, resulting in a much better work-product that will provide the necessary guidance for state policy development.

2. ARB lacks the authority to regulate toward post-2020 targets, beyond maintaining the 1990 emissions goal of AB 32.

As noted above, we believe that 2014 should be devoted to considering post-2020 plans for all climate change measures, including cap-and-trade. We should not delay efforts to give clear market signals to cap-and-trade market participants before the beginning of the third compliance period in 2018.

However, ARB does not currently have authority to impose regulations to reduce GHG emissions below 1990 levels. The draft fails to note ARB's lack of authority, leaving it unclear whether ARB plans to seek additional authority from the Legislature to regulate toward a more stringent post-2020 goal.

ARB should officially clarify its position regarding its claim as to existing authority to address post-2020 issues in the current update. It is in the best interest of the program to avoid litigation and the market disruption and uncertainty that this would cause.

3. The draft should recognize that California is further ahead than most other jurisdictions and incorporate competitive and cost realities into discussions about post-2020 targets and goals.

During discussions in 2014 an important task will be to evaluate the cost-effectiveness and technological feasibility of targets for post-2020 regulations. The draft alludes to aspirational worldwide reduction goals suggesting that these could apply in California, but the draft fails to recognize the existing and improving efficiency of California's economy, real and significant costs to consumers, and California's limited contribution to global greenhouse gas emissions.

The following should be included in any post-2020 targets:

Post-2020 discussions should reflect that California already has a cleaner energy supply than our competitors. Unlike many other jurisdictions, over the last decades California has already significantly reduced the carbon-intensity of its economy by lowering greenhouse gas emissions. Adopting an aspirational world-wide reduction percentage for California, without adjustment, will impose a significant cost burden on Californians. Without the world participating this will also promote the relocation of emissions and jobs out-of-state, both undermining the environmental goals of AB 32 and failing to reduce global emissions.

Additionally, minimizing costs by evaluating targets that reflect what we have already accomplished will help maintain and grow manufacturing in the state to lower overall global emissions by taking market share from dirtier energy locations and keeping our economy strong. A strong economy is crucial to be able to afford investments necessary to adapt to climate change.

The draft should recognize that we are starting from a different place compared to other states and countries and this should be reflected in the evaluation of future reduction targets.

The evaluation of Post-2020 emission targets should sync with similarly stringent commitments by other states and countries. It goes without saying that California will not enjoy a solution to climate change without other states and countries undertaking GHG reduction strategies. Our leadership can encourage others to join the fight but “leadership” does not require that we excessively burden our own economy, threatening jobs and lowering our quality of life. Targets and goals to be adopted during 2014 should include triggers or other mechanisms to adjust in response to other jurisdictions’ climate change strategies.

Post-2020 targets should be evaluated to ensure they are achievable in a cost-effective manner. A robust analysis of the marginal costs and technological feasibility of complying with proposed post-2020 targets will provide important insights into the appropriate target levels, the best timing for achieving reductions, and what other incentive policies should be embraced to offset higher than acceptable costs.

Should you have any questions regarding our comments and suggestions, please feel free to contact Shelly Sullivan at (916) 858-8686.

cc: ARB Board
Virgil Welch
Richard Corey
Edie Chang
Steve Cliff