

Proposition 23:
An Analysis of Which Scoping Plan Measures
Could be Suspended and for How Long

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Table of Contents

1.	Introduction.....	1
1.1.	Key Findings	1
2.	Background.....	2
2.1.	What Provisions are Included in AB 32?.....	2
2.2.	What is the Status of the Requirements Included in AB 32?.....	3
2.3.	Proposition 23.....	5
3.	Which Scoping Plan Measures Could be Suspended?	6
3.1.	Which Greenhouse Gas Reduction Measures are Included in the Scoping Plan?.....	6
3.2.	Which Measures are Likely to be Suspended under Proposition 23?	8
4.	How Long Could AB 32 Be Suspended under Proposition 23?.....	14
4.1.	When Could California’s Unemployment Rate Fall to 5.5%?.....	14
4.2.	How Long Could it Take to Satisfy the Unemployment Condition in Proposition 23?.....	15
4.3.	When Could ARB Resume Implementation of AB 32 under Proposition 23?.....	17
5.	Conclusion	17
6.	Appendix.....	18
6.1.	Text of Proposition 23	18
6.2.	Scoping Plan Measures	19

List of Tables

Table 1 Status of ARB Discrete Early Actions.....	4
Table 2 Breakdown of Scoping Plan Measures by Emissions Category	7
Table 3 Status of Scoping Plan Measures	8
Table 4 Summary of Possible Effect of Proposition 23 on Scoping Plan Measures.....	9
Table 5 Scoping Plan Measures Likely to be Suspended Under Proposition 23.....	10
Table 6 Effect of 33% Renewable Portfolio Standard Legislation on Suspended Measures (percentage of 174 MMT CO ₂ E target).....	11
Table 7 Scoping Plan Measures Likely to Continue Under Proposition 23.....	12
Table 8 Scoping Plan Measures in the Undetermined Category.....	13
Table 9 Scenarios of Possible Scenarios of Suspended Scoping Plan Measure Outcomes.....	13
Table 10 Duration from Peak Unemployment to 5.5% for Three Periods since 1976	15
Table 11 Duration Between Reaching 5.5% and Satisfying the Proposition 23 Condition	16
Table 12 Duration from Peak Unemployment to Resumption of AB 32.....	17
Table 13 Scoping Plan Measures Likely to be Suspended with Authority Citations	19
Table 14 Scoping Plan Measures Likely to Continue with Authority Citations	20
Table 15 Scoping Plan Measures with Insufficient Information to Determine Possible Suspension .	21

List of Figures

Figure 1 Historical Trends in California’s Unemployment Rate.....	15
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1. INTRODUCTION

In November 2010, Californians will vote on Proposition 23, a ballot initiative to suspend the state's Global Warming Solutions Act (also known as AB 32) until statewide unemployment reaches a specified level. The text of the initiative is relatively short, with the substance constituting one paragraph; however, the language contained in Proposition 23 is like the tip of an iceberg of related information and context needed to fully understand the implications of its adoption. To help better understand the Proposition and its implications, the Energy Policy Initiatives Center (EPIC) has conducted an analysis of key questions raised by the initiative and possible effects if it is adopted. It is very likely that if of Proposition 23 is adopted, litigation will ultimately decide interpretation of the language; nonetheless, it is instructive to consider possible outcomes.

The purpose of this paper is to answer two important questions related to the initiative: which GHG reduction measures could be suspended under Proposition 23, and how long could these measures be suspended? In doing so, the paper also provides background information on both AB 32 and Proposition 23. To be sure there are other very important questions raised by the initiative, including those related to the economic impact – particularly jobs – of AB 32 and Proposition 23; however, these are beyond the scope of this paper. And while there are many attendant effects of reducing greenhouse gases, including levels of criteria pollutants and their potential health effects, the analysis presented here only considers the effect Proposition 23 might have on measures to reduce GHG emissions in California. Specifically, a significant part of the analysis focuses on measures listed in Air Resources Board's (ARB) Scoping Plan, the roadmap to reduce GHG emissions to levels specified in AB 32.

1.1. Key Findings

The following are key findings from the EPIC analysis.

- Of the GHG reduction activities included in the ARB Scoping Plan, measures representing about 50% of the emissions needed to meet the 2020 reduction target likely could be suspended under Proposition 23. (Section 3.2.4)
- Based on available economic forecasts and historical unemployment data, implementation of AB 32 could be suspended for 6 to 11 years under Proposition 23. It is not likely given recent economic forecasts that unemployment could return to 5.5% sooner than the low end of the estimate. Taking the high end of this estimated range, practical implementation of some parts of AB 32 could not start until 2021 – after the current target date to reduce emissions to 1990 levels. (Section 4.3)
- During the past 34 years, California's unemployment rate fell to or below 5.5% during three separate periods that lasted for about 30 consecutive months each. (Section 4.1)
- Of all the measures in the ARB Scoping Plan needed to reach statewide GHG emissions targets, 52% have been approved, 44% are in development, and 4% are either ongoing activities or net yet developed. (Section 3.1)
- The ARB Scoping Plan comprises measures to be implemented by ARB and other agencies, including California Energy Commission, California Public Utilities Commission, Department of Water Resources, CalRecycle, CalFire, Department of General Services,

among others. Further, authority to implement Scoping Plan measures derives from sources other than AB 32. (Section 3.1)

2. BACKGROUND

In September 2006, Governor Schwarzenegger signed into law the Global Warming Solutions Act of 2006 - most commonly known as Assembly Bill 32 (AB 32). The law added Division 25.5 (commencing with 38500) to the Health and Safety Code. With adoption of AB 32, California was the first state in the nation to adopt statutory greenhouse gas (GHG) targets with authority for enforcement. This section provides background information on AB 32 and its implementation, which serves as the basis to determine which greenhouse gas reductions measures could be suspended under Proposition 23 presented below.

2.1. What Provisions are Included in AB 32?

Broadly speaking, AB 32 adopts a statewide GHG emissions reduction target and grants the California Air Resources Board (ARB) the authority to develop and enforce rules and regulations to reach those targets. AB 32 seeks to reduce statewide GHG emissions to 1990 levels by the year 2020, about a 30% reduction below ARB's business-as-usual projections for 2020.¹ More specifically, AB 32 includes the following main provisions:

- Grants authority to ARB to monitor and regulate sources of GHG emissions. (Section 38510)
- Requires ARB to establish mandatory reporting of high-emitting sources. (Section 38530)
- Requires ARB to adopt a statewide GHG emissions limit equal to 1990 levels to be achieved by 2020. (Section 8550)
- Requires ARB to adopt rules and regulations to achieve greenhouse gas emissions reductions (Section 38560), including “discrete early actions” to reduce GHG Emissions prior to adoption of regulations required under Section 38562 (Section 38560.5).
- Requires ARB to develop and approve a Scoping Plan by 1-1-09, which outlines how to achieve 1990 emissions levels by 2020. (Section 38561(a))
- Requires ARB to conduct a cost-benefit analysis on the Scoping Plan. (Section 38561(d))
- Requires ARB by January 1, 2011 to adopt GHG emissions limits and measures to reduce those emissions. (Section 38562)
- Authorizes ARB to adopt market mechanisms (e.g., a cap-and-trade program) to achieve GHG emissions targets. (Section 38570)
- Requires ARB to develop an Environmental Justice Advisory Committee and an Economic and Technology Advancement Advisory Committee. (Section 38591)

¹ California Air Resources Board, Climate Change Scoping Plan: a framework for change, December 2008, p. 12.

- Authorizes ARB to adopt fees to be used to implement rules and regulations. (Section 38597)
- Ensures early voluntary reductions receive appropriate credit in the implementation of AB 32. (Section 38562(b)(3))

AB 32 did not establish long-term emissions targets beyond 2020; however, prior to passage of AB 32, Governor Schwarzenegger issued an Executive Order that included short-, medium-, and long-term targets. Executive Order S-3-05, among other things, established the following GHG emissions reduction targets for California: by 2010, reduce GHG emissions to 2000 levels; by 2020, reduce GHG emissions to 1990 levels; and, by 2050, reduce GHG emissions to 80 percent below 1990 levels.²

2.2. What is the Status of the Requirements Included in AB 32?

The ARB has completed several requirements set forth in AB 32 and is in the process of implementing others. Since adoption of the law, ARB has completed, among others, the following activities:

- Adopted Mandatory Reporting Regulation - In December 2007, the ARB Board adopted a regulation requiring the largest industrial sources to report and verify their GHG emissions. The reporting regulation will determine greenhouse gas emissions and track future changes in emission levels for those entities that are required to report.³
- Adopted a 2020 GHG Emissions Limit - In December 2007, the ARB Board approved the 2020 emission limit of 427 million metric tons of carbon dioxide equivalent (MMT CO₂E) of GHGs.⁴ This requires a reduction of 174 MMT CO₂E (30%) from the projected business-as-usual emissions levels for 2020.⁵
- Adopted Rules and Regulations Including Discrete Early Actions – Since passage of AB 32 in 2006, ARB has adopted numerous rules and regulations to reduce GHG emissions and meet the 2020 targets. In 2007, the ARB Board identified nine discrete early action measures, including regulations affecting motor vehicle fuels, landfills, refrigerants in cars, manufacture of semiconductors, tire pressure, port operations and other sources.⁶ ARB has adopted regulations for 9 of these early actions with one (Tire Pressure Program) awaiting final approval from the Office of Administrative Law. (Table 1)

² Executive Order S-3-05 is available from Governor Schwarzenegger's Website at <http://www.dot.ca.gov/hq/energy/ExecOrderS-3-05.htm>.

³ More information about the Mandatory Reporting is available from the ARB Website at <http://www.arb.ca.gov/cc/reporting/ghg-rep/ghg-rep.htm>.

⁴ Carbon dioxide equivalent includes the sum of all greenhouse gases converted to the global warming potential (GWP) of carbon dioxide. For example the GWP for methane is 21. This means that 1 million metric tons of methane is equivalent to emissions of 21 million metric tons of carbon dioxide.

⁵ More information on California's 1990 GHG emissions level and 2020 limit are available from the ARB Website at <http://www.arb.ca.gov/cc/inventory/1990level/1990level.htm>.

⁶ More information about Discrete Early Actions is available from the ARB Website at <http://www.arb.ca.gov/cc/ccea/ccea.htm>.

Table 1 Status of ARB Discrete Early Actions

Discrete Early Action Measure	Adopted by ARB Board	Approved by Office of Administrative Law	Regulation Effective Date
Low Carbon Fuel Standard	4/23/09	4/15/10	4/15/10
Landfill Methane Capture	6/25/09	6/17/10	6/17/10
Reductions from Mobile Air Conditioning	1/22/09	2/8/10	3/10/09
Semiconductor Reduction	2/26/09	12/14/09	1/1/10
SF6 Reductions	Feb-09	1/1/10	1/1/10
High GWP Consumer Products	6/26/08	6/18/09	6/18/09
Heavy-Duty Measure Part 1	12/11/08	12/3/09	12/3/09
Heavy Duty Measure Part 2		12/9/09	1/18/10
Tire Pressure Program	3/26/09	N/A	N/A
Shore Power	12/6/07	12/3/08	1/2/09

- Adopted a Scoping Plan - The ARB Board approved the Scoping Plan on December 12, 2008. It provides the outline for actions to reduce greenhouse gases in California, including 70 measures such as rules and regulations, market mechanisms, and programs.
- Conducted a Cost Benefit Analysis – ARB issued an updated economic analysis of the Scoping Plan in March 2010.⁷
- Developed Draft Market Mechanism – ARB released its Preliminary Draft Regulation for a Cap-and-Trade Program in November 2009 but has not yet begun the rulemaking process.⁸
- Convened an Environmental Justice Advisory Committee (EJAC) – ARB formed and convened the EJAC, which has met regularly since early 2007. EJAC has provided comments on the proposed early action measures and the development of the scoping plan. It also submitted comments and recommendations on the scoping plan in October 2008.
- Convened an Economic and Technical Advancement Advisory Committee (ETAAC) – ARB formed and convened the ETAAC, which has submitted its recommendations to the Board in February 2008 and commented on the scoping plan.
- Adopted an AB 32 Cost of Implementation Fee - In July 2010, the Office of Administrative Law approved the Cost of Implementation Fee to be used to carry out the requirements of AB 32.⁹
- Approved Policy Statement on Credit for Early Action - In February 2008, the ARB Board approved a policy statement encouraging voluntary early actions and establishing a

⁷ A copy of the updated economic analysis is available from the ARB Website at http://www.arb.ca.gov/cc/scopingplan/economics-sp/updated-analysis/updated_sp_analysis.pdf.

⁸ A copy of the Preliminary Draft Regulation is available from the ARB Website at <http://www.arb.ca.gov/cc/capandtrade/meetings/121409/pdr.pdf>.

⁹ A copy of the approved regulation is available from the ARB Website at <http://www.arb.ca.gov/regact/2009/feereg09/ab32finalfro.pdf>.

procedure for project proponents to submit quantification methods to be evaluated by ARB staff.¹⁰

2.3. Proposition 23

On January 15, 2009, California Assembly Member Dan Logue (R-Linda) introduced legislation (AB 118) that would have repealed AB 32. On January 4, 2010 amendments to the bill eliminated the language to repeal AB 32. In its place language was added to suspend AB 32 until statewide unemployment was equal to or lower than 5.5% for four consecutive calendar quarters and to re-suspend AB 32 every time unemployment was above 5.5%. On January 11, 2010, AB 118 failed to passage in the Committee on Natural Resources and did not advance further in the legislative session.¹¹

On December 22, 2009 Thomas W. Hiltachk submitted a request to the Office of the Attorney General for title and summary for a proposed initiative largely based on the amended version of AB 118.¹² Notably absent in Proposition 23 is a provision to suspend AB 32 every time unemployment increased above 5.5%. This paper assumes that AB 32 would be suspended only one time until unemployment drops to the specified level. On June 22, 2010, the proposed initiative qualified for the November 2010 ballot as Proposition 23.

Proposition 23 is excerpted in relevant part below:

SECTION 2. STATEMENT OF PURPOSE

A. The people desire to temporarily suspend the operation and implementation of AB 32 until the state's unemployment rate returns to the levels that existed at the time of its adoption.

SECTION 3. SUSPENSION OF AB 32

Division 25.6 (commencing with section 38600) of the Health and Safety Code is hereby added to read:

§38600 (a) From and after the effective date of this measure, Division 25.5 (commencing with section 38500) of the Health and Safety Code is suspended until such time as the unemployment rate in California is 5.5% or less for four consecutive calendar quarters. (b) While suspended, no state agency shall propose, promulgate, or adopt any regulation implementing Division 25.5 (commencing with section 38500) and any regulation adopted prior to the effective date of this measure shall be void and unenforceable until such time as the suspension is lifted.¹³

¹⁰ More information on AB 32 Voluntary Early Actions is available from the ARB Website at <http://www.arb.ca.gov/cc/scopingplan/voluntary/voluntary.htm>.

¹¹ Article IV, Section 10 (c) of the California Constitution requires that “Any bill introduced during the first year of the biennium of the legislative session that has not been passed by the house of origin by January 31 of the second calendar year of the biennium may no longer be acted on by the house.”

¹² A copy of Mr. Hiltachk’s letter is available from the California Secretary of State Website at http://ag.ca.gov/cms_attachments/initiatives/pdfs/i902_initiative_09-0104.pdf

¹³ The full text of Proposition 23 is provided in Appendix 6.1. It is also available from the California Secretary of State Website at http://ag.ca.gov/cms_attachments/initiatives/pdfs/i902_initiative_09-0104.pdf

3. WHICH SCOPING PLAN MEASURES COULD BE SUSPENDED?

In general, if Proposition 23 were adopted, all ARB activities related to the main provisions of AB 32 would be suspended, including ARB's overall authority to monitor and regulate sources of GHG emissions; the adopted mandatory reporting regulation; activity to monitor the adopted statewide GHG emissions limit; many of the rules, regulations, and programs contained in the Scoping Plan to achieve greenhouse gas emissions reductions, including "discrete early actions" and the Cap-and-Trade program; the cost-benefit analysis; activities related to the Environmental Justice Advisory and Economic and Technology Advancement Advisory Committees; and the fee regulation used to fund AB 32 implementation. While these are all necessary parts of California's efforts to reduce GHG emissions, suspension of the Scoping Plan arguably could be the most significant impact of Proposition 23. This section discusses which Scoping Plan measures have been implemented to date, which measures might be suspended under Proposition 23, and which measures are likely to continue.

3.1. Which Greenhouse Gas Reduction Measures are Included in the Scoping Plan?

To understand which activities will be suspended under Proposition 23, it is helpful to understand in some detail the Scoping Plan developed by ARB, including what measures comprise the plan, which measures are implemented by ARB, which are implemented by other California agencies, and how many measures have already been implemented. As mentioned briefly above, the Scoping Plan is an outline or roadmap of how California could reach the 2020 GHG emissions limit adopted by ARB. It includes 70 proposed or existing regulations and programs that represent a total of 216.5 MMT CO₂E (more than the target of 174 MMT CO₂E).¹⁴ The measures represent a combination of rules, regulations, and programs that were in development or being implemented at the time of AB 32 passage, which may not have been adopted solely to address GHG emissions, and those that were developed in response to AB 32 and specifically seek to reduce GHG emissions.

Not all of the Scoping Plan measures are relevant to our discussion here. Of the 70 measures included, 14 measures did not count toward the 174 MMT CO₂E reduction target established by ARB. This category generally includes measures for which an estimate was not completed at the time of the Scoping Plan release, it is difficult to estimate emissions reductions, or the potential emissions reduction might overlap with other measures already listed. For example, ARB did not count potential emissions reductions from Green Building Measures that could achieve 26 MMT CO₂E.¹⁵ A portion of these emissions may be captured in the Energy Efficiency Measures for electricity and natural gas. The 14 measures that don't count toward the ARB reduction target are not included in the analysis of Scoping Plan measures presented here. Five measures did not have any emissions reductions listed. These measures would not directly result in emissions reductions and include activities like research and informational assistance to local governments. ARB had not yet determined potential emissions reductions for another 5 measures. Finally, there are 46 measures that

¹⁴ All information about Scoping Plan measures was derived from the Scoping Plan Implementation Timeline dated July 1, 2010. A copy of the Timeline is available from the ARB Website at http://www.arb.ca.gov/cc/scopingplan/sp_measures_implementation_timeline.pdf. The Timeline includes 69 measures, including one that combined the Renewable Portfolio Standard for 2010 and the Renewable Electricity Standard for 2020. This combined measure was split into two for purposes of the analysis presented here.

¹⁵ California's Green Building Standard is promulgated by the California Building Standards and does not appear to be based on authority in AB 32. Proposition 23 likely would not suspend it.

comprise ARB’s statewide GHG emissions reduction target of 174 MMT CO₂E; these measures are analyzed in further detail below. Table 2 summarizes the categories of measures.

Table 2 Breakdown of Scoping Plan Measures by Emissions Category

Category	Number of Measures	Emissions Reduction (MMT CO₂E)	Percentage of Total Emissions Reduction
Included in ARB GHG Emissions Reduction Target	46	173.7	80.2%
Not Included in ARB GHG Emissions Reduction Target	14	42.8	19.8%
No Emissions Reductions Listed	5	0.0	0.0%
Emissions TBD	5	0.0	0.0%
Total	70	216.5	100%

ARB has authority to develop and implement certain measures while other measures will be – or are being – implemented by other state agencies, including the California Energy Commission, California Public Utilities Commission, Department of Water Resources, CalRecycle, CalFire, Department of General Services, among others. Table 3 provides an overview of the number of measures for which ARB is responsible to develop and implement, their status, and associated GHG reduction potential. Similar information is provided for measures that other agencies are responsible for implementing. This provides a snapshot of how much activity already has been completed by ARB and how much is yet to be completed. ARB measures that are currently in development, such as the Cap-and-Trade Program, comprise the largest category both in terms of number and potential emissions reductions.

The next largest includes ARB measures that have already been approved, such as emissions standards for cars and trucks (also known as the Pavley Standards) and the discrete early action measures described above. Another notable category contains measures already approved by other agencies, including the Renewable Portfolio Standard (20% by 2010), existing energy efficiency programs for electricity and natural gas, and the California Solar Initiative. Measures that have been approved by ARB or other agencies represent about 52% of the emissions target, measures in development represent 44%, those to be determined represent 4%, and none of the ongoing measures in this group have GHG emissions.

Table 3 Status of Scoping Plan Measures

Category	Number of Measures	Emissions Reduction (MMT CO₂E)	Percentage of Total Emissions Reduction
ARB Approved*	16	59.9	34.5%
ARB in Development	17	64.7	37.3%
ARB Ongoing	2	0.0	0.0%
ARB TBD	6	0.9	0.5%
Other Approved	8	29.6	17.0%
Other in Development	5	12.0	6.9%
Other Ongoing	6	0.0	0.0%
Other TBD	10	6.5	3.7%
Total	70	173.7	100%

* Emissions from Port Drayage Trucks Measure includes all emissions from T-6 measures. This will overstate slightly the amount of emissions listed under CARB Approved and understate emissions in both the CARB in Development and CARB TBD categories.

In the sections below, further analysis will be presented on how Proposition 23 may affect the measures included in the ARB Scoping Plan.

3.2. Which Measures are Likely to be Suspended under Proposition 23?

This section seeks to determine which Scoping Plan measures could be suspended if AB 32 were suspended. As mentioned above (Table 2) there are 70 measures in the Scoping Plan, of which 14 did not count toward the 174 MMT CO₂E emissions reduction total, 5 had no emissions reduction listed, and the emissions of 5 other measures were “to be determined.” The remaining 46 measures were evaluated to determine which were likely to be suspended and which were likely to continue under Proposition 23.

As mentioned in the Introduction, it is very likely that litigation will determine the interpretation of the language in Proposition 23 and which Scoping Plan measures would be suspended. Nonetheless, it is possible to assess each measure to determine its likelihood of suspension. EPIC conducted a preliminary review of the legislative or regulatory authority used to implement all 46 measures and divided them into three categories: likely to be suspended, likely to be continue, and undetermined. Those that are likely to be suspended generally rely on AB 32 for the regulation adopted or proposed by ARB. Those that are likely to continue are those that rely on statutory authority that is completely separate from – and in many cases predates – AB 32. This category includes some measures that have not yet been developed or implemented. Finally, those measures for which insufficient information is available to make a determination were labeled as “undetermined.” Table 4 provides a summary of how the measures in the Scoping Plan could fall into these categories. It includes the number of measures in each category and the amount of emission reduction they represent. A detailed listing of all 46 measures, including the statutory authority and implementing agency is available in Appendix 6.2.

Table 4 Summary of Possible Effect of Proposition 23 on Scoping Plan Measures

Category	Number of Measures	Estimated Emissions Reduction (MMT CO₂E)	Percentage of Total Emissions
Likely to Continue	14	84.9	49%
Likely to be Suspended	14	81.0	47%
Undetermined	18	7.7	4%
Total	46	173.7	100%

The sections below provide more detail on the measures included in Scoping Plan and whether or not they are likely to be suspended under Proposition 23.

3.2.1. Measures Likely to be Suspended under Proposition 23

Based on a preliminary review of the authority cited for adopted or proposed regulation and assuming that all discrete early actions would be suspended, fourteen measures that represent about 47% of ARB's GHG emissions target are likely to be suspended under Proposition 23. The largest measure in terms of GHG emissions reduction is the Cap-and-Trade program (34.4 MMT CO₂E or 20% of the total emissions target) proposed by ARB. The proposed draft regulation for California's Cap-and-Trade Program cites AB 32 as authority for the regulation. Further, AB 32 authorizes ARB to adopt market mechanisms to achieve GHG emissions targets.¹⁶

Of the 14 measures that are likely to be suspended, 9 are early action measures. Recall that AB 32 requires ARB to adopt rules and regulations to achieve greenhouse gas emissions reductions (Section 38560), including "discrete early actions" to reduce GHG emissions prior to adoption of regulations required under Section 38562 (Section 38560.5). Of the 9 discrete early action measures adopted by ARB, 8 are regulations that specifically reference AB 32 as implementing authority. One early action measure, Ship Electrification at Ports, which represents 0.1% of the ARB emissions reduction target, makes no reference to AB 32 in the final regulation order; however, because there is specific reference to "discrete early action measures" in AB 32, it is assumed here that this measure would be suspended. The early action measure with the most estimated emissions reduction is the low-carbon fuel standard, which accounts for 16 MMT CO₂E (9%) of the 174 MMT CO₂E target in the Scoping Plan. Table 5 provides a list of the measures likely to be suspended and their associated GHG emissions reduction.

¹⁶ California Health & Safety Code Section 38570.

Table 5 Scoping Plan Measures Likely to be Suspended Under Proposition 23

Measure	GHG Reduction Amount (MMT CO2e)	Percentage of Scoping Plan Reduction Target (174 MMT CO2e)
Cap-and-Trade	34.4	19.8%
Low Carbon Fuel Standard (<i>Discrete Early Action</i>)*	16.0	9.2%
Renewable Standard Electricity (33% by 2020)	13.4	7.7%
High-GWP Refrigerant Management Program for Stationary Sources	8.0	4.6%
Mitigation Fee on High GWP Gases	5.0	2.9%
Landfill Methane Control Measure (<i>Discrete Early Action</i>)	1.5	0.9%
Heavy-Duty Vehicle GHG Emissions Reduction - Aerodynamic Efficiency (<i>Discrete Early Action</i>)*	0.9	0.5%
Tire Pressure Program (<i>Discrete Early Action</i>)	0.7	0.4%
Motor Vehicle Air Conditioning Systems: Reduction of Refrigerant Emissions from Non-Professional Servicing (<i>Discrete Early Action</i>)	0.3	0.1%
Limit High GWP Use in Consumer Products Pressurized Gas Duster GWP Limit of 150 (<i>Discrete Early Action</i>)	0.2	0.1%
Ship Electrification at Ports (<i>Discrete Early Action</i>)**	0.2	0.1%
Reduction of Perfluorocarbons in Semiconductor Manufacturing (<i>Discrete Early Action</i>)	0.2	0.1%
SF6 Limits in Non-Utility and Non-Semiconductor Applications (<i>Discrete Early Action</i>)	0.1	0.1%
Sulfur Hexafluoride (SF6) Emission Reductions from the Electricity Sector and Particle Accelerators	0.1	0.1%
Total	81	47%

* Further research is necessary to determine if ARB could implement these or similar measures using authority other than that provided for in AB 32.

** Ship Electrification does not reference AB 32 but it is assumed that all discrete early action measures would be suspended.

Another measure that is likely to be suspended that has significant GHG reduction potential is the Renewable Electricity Standard (RES) that would increase the current standard (20% by 2010) to 33% by 2020. No specific statutory authority exists for any state agency to develop regulations relating to a 33% renewable standard. By contrast, SB 1078 (2002) and SB 107 (2006), codified as Public Utilities Code Section 399.11-399.20, provide the California Public Utilities Commission and the California Energy Commission authority to implement parts of the 20% by 2010 standard. Absent specific authority, ARB is authorized to implement the Renewable Electricity Standard under Executive Order S-21-09, which in relevant part states that "...ARB, under its AB 32 authority, shall adopt a regulation consistent with the 33 percent renewable energy target established in Executive Order S-14-08 by July 31, 2010." To the extent that ARB relies on AB 32 to implement the RES, it is likely that this measure would be suspended under Proposition 23. A related factor is whether legislation is passed to codify the 33% by 2020 standard.¹⁷ Even though such legislation is not connected directly to Proposition 23, it is an important factor in the analysis of which measures could continue if AB 32 is suspended. Table 6 shows the impact of legislation to increase the standard to 33% is adopted in coming years.

¹⁷ SB 722, which would have codified the 33% by 2020 standard, failed passage in the 2009-2010 legislative session.

Table 6 Effect of 33% Renewable Portfolio Standard Legislation on Suspended Measures (percentage of 174 MMT CO₂E target)

Category	33% RPS Law Not Adopted	33% RPS Law Adopted
Likely to Continue	49%	57%
Likely to be Suspended	47%	39%
Undetermined	4%	4%
Total	100%	100%

Two other measures with an emissions reduction above 1 MMT CO₂E and that are not discrete early action measures likely would be suspended. The proposed regulation for the High-GWP Refrigerant Management Program for Stationary Sources relies on AB 32 for its authority. And, while no significant activity is completed yet, the Mitigation Fee on High GWP Gases also is assumed to rely on similar authority and is considered suspended under Proposition 23.

At this point it is unclear whether sections of California law other than AB 32 could provide the authority needed to implement certain measures that are likely to be suspended under Proposition 23. For example, more research is necessary to determine whether the ARB could rely on separate statutory authority to develop a Low-Carbon Fuel Standard or similar regulation. Any attempt to develop such regulations under separate authority would almost certainly be the subject of litigation.

3.2.2. Measures Likely to Continue under Proposition 23

In general there are two groups of measures that are likely to continue to be developed or implemented under Proposition 23: those implemented by other agencies with separate statutory authority and those implemented by ARB with statutory authority other than AB 32. The combination of these measures represents about 49% of ARB’s 174 MMT CO₂E reduction target for 2020.

Many measures in the Scoping Plan do not rely on AB 32 for their implementation authority and are implemented by agencies other than ARB. For example, Energy Efficiency Measures for electricity and natural gas are overseen by the CPUC and authorized under AB 1890 (1996), the Renewable Portfolio Standards is implemented by the CPUC and CEC and authorized by AB 1078 (2002) and SB 107 (2006), Increasing Combined Heat and Power Use is also implemented by the CPUC and CEC and authorized in part by AB 970 (2000), Stationary Equipment Refrigerant Management Program-Specifications for Commercial and Industrial Refrigeration is being implemented by the CEC and relies on regulatory authority to promulgate building and appliance energy standards, Million Solar Roofs Initiative (now the California Solar Initiative) is overseen by the CPUC and authorized by SB 1 (2006), and the High Speed Rail measure is implemented by the High Speed Rail Authority and authorized by Proposition 1A (2008). Table 7 provides a list of measures that are likely to continue to be developed or implemented if AB 32 is suspended.

Among the measures to be implemented by ARB that don’t rely on authority from AB 32, the most significant measure that is likely to continue under Proposition 23 is the GHG Regulation for Passenger Vehicles (also referred to as Pavley Standards). This regulation stems from legislation (AB 1493) adopted in 2002. The original regulation based on this law was adopted in 2004. In 2010, after legal challenges, ARB amended and adopted the 2004 regulations in February 2010. The Office of Administrative Law approved the regulation on April 1, 2010 and it became effective that same day.

Neither the 2004 nor the 2010 regulation relies on AB 32 for its authority. The Advanced Clean Car measure is also likely to continue if AB 32 is suspended. In addition to GHG regulations for passenger vehicles described above, several other ARB measures relate to vehicle emissions, including the Zero Emissions Vehicle Program and the Low-Emissions Vehicle Program (LEV II), neither of which relies on AB 32 for regulatory authority.¹⁸ It is likely that given its history regulating passenger vehicles, ARB could implement measures to develop clean cars without relying on AB 32 to do so. Another strategy to reduce GHG emissions from vehicles is to reduce the total miles driven. In 2008, SB 375 was signed into law to encourage measures related to land use and vehicle miles traveled. Among many other things, it requires ARB to adopt regional GHG targets for emissions related to land use and transportation. Activities to fulfill AB 375 requirements do not rely on AB 32 and are likely to continue if Proposition 23 is adopted.

Table 7 Scoping Plan Measures Likely to Continue Under Proposition 23

Measure	GHG Reduction Amount (MMT CO₂E)	Percentage of Scoping Plan Reduction Target (174 MMT CO₂e)
Pavley Tailpipe Emissions Standards for Cars and Light Duty Trucks	27.7	15.9%
Energy Efficiency Measures (Electricity)	15.2	8.8%
Renewable Portfolio Standard (20% by 2010)	7.9	4.5%
Increasing Combined Heat and Power Use by 30,000 GWh	6.7	3.9%
Advanced Clean Cars	5.1	2.9%
Regional Transportation- Related Greenhouse Gas Targets	5.0	2.9%
Sustainable Forest Target	5.0	2.9%
Energy Efficiency (Natural Gas)	4.3	2.5%
Stationary Equipment Refrigerant Management Program- Specifications for Commercial and Industrial Refrigeration	4.0	2.3%
Million Solar Roofs: 3,000 MW by 2017 (CA Solar Initiative)	2.1	1.2%
High Speed Rail	1.0	0.6%
Medium- and Heavy-Duty Vehicle Hybridization	0.5	0.3%
Tire Tread Program	0.3	0.2%
Solar Water Heating: AB 1470	0.1	0.1%
Total	84.9	48.9%

3.2.3. Measures for Which the Effect of Proposition 23 is Undetermined

For 18 measures, representing about 4% of the total emissions reductions, sufficient information is not available to determine whether or not they could be suspended under Proposition 23 (Table 8). For example, measure T-6 of Scoping Plan includes 6 actions related to emissions from goods movement, including regulation on port drayage trucks, vessel speed reduction, and transport refrigeration; however, emissions (3.5 MMT CO₂E) are provided for the entire group and not broken down by measure. For this reason, all 6 measures are in the undetermined category. One of the T-6 measures – regulation for port drayage trucks – does not rely on AB 32 authority, but since there is

¹⁸ The Zero Emissions Vehicle Program and Low-Emissions Vehicle Program (LEV II) constitute the Advanced Clean Cars Measure listed under T-1 in the Scoping Plan.

no indication of what percentage of the 3.5 MMT CO₂E is attributed to this measure, no emissions could be assigned. For the remaining measures, no regulatory activity has begun and there are not draft documents available that discuss the authority under which ARB or other agencies would implement these actions.

Table 8 Scoping Plan Measures in the Undetermined Category

Measure	GHG Reduction Amount (MMT CO₂E)	Percentage of Scoping Plan Reduction Target (174 MMT CO₂e)
Port Drayage Trucks*	3.5	2.0%
State Government	1.5	0.9%
Natural Gas Transmission and Distribution GHG Emission Reduction	0.9	0.5%
Air Conditioner Refrigerant Leak Test During Vehicle Smog Check	0.5	0.3%
Refinery Flare Recovery System Improvement	0.3	0.2%
Foam Recovery and Destruction Program	0.3	0.2%
Oil and Gas Extraction GHG Emission Reduction	0.2	0.1%
Refrigerant Recovery from Decommissioned Refrigerated Shipping Containers	0.2	0.1%
Enforcement of Federal Ban on Refrigerant Release during Servicing or Dismantling of Motor Vehicle Air Conditioning Systems	0.1	0.1%
Alternative Suppressants in Fire Protection Systems	0.1	0.1%
Residential Refrigeration Early Retirement Program	0.1	0.1%
Removal of Methane Exemption from Existing Refinery Regulations	0.0	0.0%
Goods Movement System-Wide Efficiency Improvements*	0.0	0.0%
Cargo Handling Equipment- Anti-Idling, Hybrid, Electrification*	0.0	0.0%
Commercial Harbor Craft-Maintenance and Design Efficiency*	0.0	0.0%
Vessel Speed Reduction*	0.0	0.0%
Clean Ships*	0.0	0.0%
Transport Refrigeration Units Cold Storage Prohibition and Energy Efficiency*	0.0	0.0%
Total	7.7	4.5%

*T-6 measure. All emissions associated with T-6 are listed under the Port Drayage Trucks Measure. It is not clear how the emissions would be distributed among the T-6 measures.

3.2.4. Scenarios of Which Scoping Plan Measures Might be Suspended

Depending on whether or not a new Renewable Portfolio law (33% by 2020) is adopted and how the GHG emissions reductions associated with those measures in the “undetermined” category are distributed, scoping plan measures that represent 39% to 51% of the 174 MMT CO₂E target likely would be suspended under Proposition 23 (Table 9).

Table 9 Scenarios of Possible Scenarios of Suspended Scoping Plan Measure Outcomes

Category	Undetermined Measures Added to Suspended Category		Undetermined Measures Added to Continue Category	
	33% RPS Law Not Adopted	33% RPS Law Adopted	33% RPS Law Not Adopted	33% RPS Law Adopted
Likely to Continue	49%	57%	53%	61%
Likely to be Suspended	51%	43%	47%	39%
Total	100%	100%	100%	100%

4. HOW LONG COULD AB 32 BE SUSPENDED UNDER PROPOSITION 23?

It is impossible to predict how long AB 32 could be suspended if Proposition 23 were adopted. Nonetheless, existing economic forecasts and historical patterns of unemployment provide guidance on this question. This section will attempt to answer this question in two steps. First by using historical patterns to estimate when unemployment might drop to or below 5.5% in the coming years and then by estimating how long it will take to satisfy the condition of “four consecutive calendar quarters” once unemployment has fallen to required levels.

4.1. When Could California’s Unemployment Rate Fall to 5.5%?

Recent economic analysis provides some clues about when California’s unemployment rate might fall to 5.5%. A September 2010 UCLA Anderson Forecast predicts California’s unemployment rate will remain in double digits until 2012.¹⁹ In July 2010, the California Legislative Analyst’s Office released an analysis of Proposition 23 that states “[e]conomic forecasts for the next 5 years have the state’s unemployment rate remaining above 8%.”²⁰ Also, an April 2010 economic forecast prepared by the California Department of Finance suggests that by the end of 2012 average unemployment in California will be just under 9%.²¹ Based on these references, it appears that AB 32 could be suspended for at least 6 years under Proposition 23.

Historical unemployment trends also provide further guidance. Based on data from the California Economic Development Department, shown in Figure 1, California’s seasonally-adjusted unemployment rate²² has spiked significantly three times in the recent past. After each spike, the rate declined to or below 5.5% during the following three periods since 1976: period 1 included 32 consecutive months from November 1987 to June 1990, period 2 included 32 consecutive months from February 1999 to July 2001, and period 3 included 28 consecutive months from April 2005 to July 2007.

For purposes of understanding how long AB 32 could be suspended under Proposition 23, it is instructive to determine how long unemployment remained above 5.5% after it peaked during these periods. While the past does not predict the future, assessing historical trends provides clues about how unemployment might change in coming years. Looking at the decline from peak unemployment rates is particularly instructive because it is reasonable to assume that unemployment is currently at or

¹⁹ UCLA Anderson Forecast predicts ‘very sluggish growth’ accompanied by high unemployment, September 15, 2010. More information is available on the UCLA Website at <http://newsroom.ucla.edu/portal/ucla/ucla-anderson-forecast-predicts-171752.aspx>.

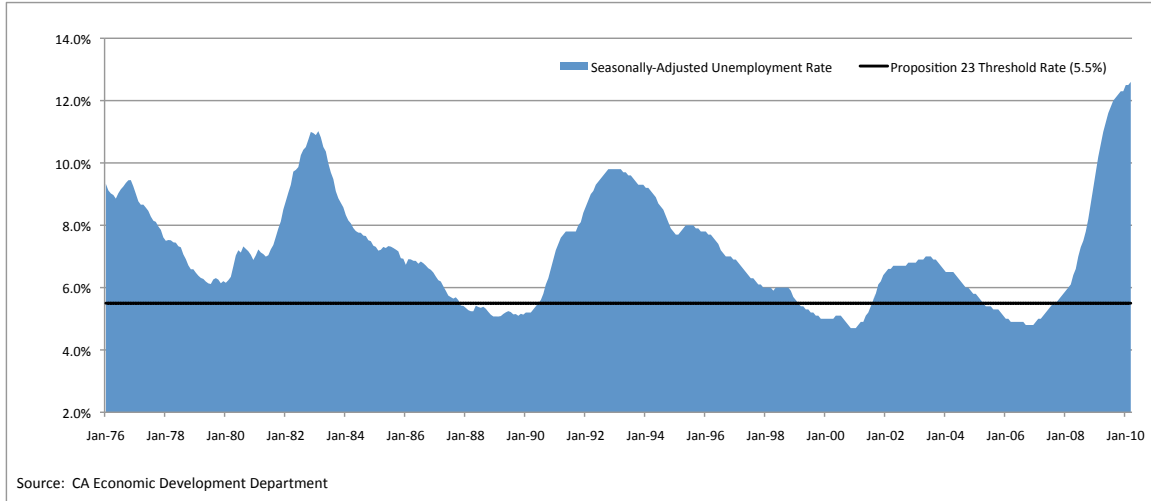
²⁰ Proposition 23: Suspends Air Pollution Control Laws Requiring Major Polluters to Report and Reduce Greenhouse Gas Emissions That Cause Global Warming Until Unemployment Drops Below Specified Level for Full Year. Initiative Statute. Legislative Analyst’s Office (LAO). July 2010. A copy of the analysis is available from the LAO Website at http://www.lao.ca.gov/ballot/2010/23_11_2010.aspx. No source is provided for the forecast cited in the LAO report.

²¹ The economic forecast is available from the Department of Finance Website at http://www.dof.ca.gov/HTML/FS_DATA/LatestEconData/documents/FRCAF0410.xls.

²² Proposition 23 does not specify which data format to use to determine the unemployment threshold for suspending AB 32; however, the statement of finding states that at the time AB 32 was signed into law “the unemployment rate in California was 4.8%.” This is the seasonally adjusted unemployment rate for September 2006, the month AB 32 was signed into law; therefore, it appears that as used in Proposition 23 “unemployment rate” refers to seasonally-adjusted unemployment.

near its peak for this current period of high unemployment and past patterns will give some indication of how the current unemployment rate might change in the coming years.

Figure 1 Historical Trends in California’s Unemployment Rate



In general, unemployment in California over the past several decades appears to have followed a saw-tooth pattern that rises relatively quickly and then declines more slowly over a longer period. For example, in February 1983, California’s unemployment rate was 11%, the peak level for that period, and remained above 5.5% for 57 months (4 years, 9 months) before dropping to 5.4% in November 1987. Similarly, in October 1992 unemployment peaked at 9.8% and remained above 5.5% for 76 months (6 years, 3 months) until February 1999. In the third period of historical unemployment rates that would have met the Proposition unemployment condition, unemployment peaked at 7% in May 2003 and dropped to or below 5.5% in April 2005, a period of 23 months. Table 10 provides a summary of how long it took the unemployment rate to fall from its peak to 5.5% during three periods since 1976 examined here. It also shows those durations scaled to the current unemployment rate (3-8 years) to show how long it would have taken if unemployment peaked around 12% during the three periods.

Table 10 Duration from Peak Unemployment to 5.5% for Three Periods since 1976

	Peak Unemployment Rate	Month of Peak	Month at or Below 5.5%	Duration From Peak to 5.5% (months)	Duration From Peak to 5.5% (years)	Scaled to Current Unemployment Rate* (years)
Period 1	11.0%	Feb-83	Nov-87	57	4.8	5.3
Period 2	9.8%	Oct-92	Feb-99	76	6.3	7.9
Period 3	7.0%	May-03	Apr-10	23	1.9	3.4

*Assumes current unemployment rate is 12.3%.

4.2. How Long Could it Take to Satisfy the Unemployment Condition in Proposition 23?

The above provides some understanding of how long it might take for statewide unemployment to drop to the required level but does not indicate when implementation of AB 32 would have resumed

during these three past periods of high unemployment once the 5.5% threshold was met. This is step two to answering the question of how long AB 32 would be suspended under Proposition 23.

Proposition 23 states that implementation of AB 32 would be suspended until “such time as the unemployment rate in California is 5.5% or less for four consecutive calendar quarters.” Determining how long unemployment would have to remain at or below 5.5% depends in part on the definition of “four consecutive quarters.” It could mean any 12-month period, any 12-month period beginning the month of a typical calendar quarter – or “quarter month” (January, April, July, or October), or four consecutive quarters starting with January. Each interpretation would affect when to begin counting the four consecutive calendar quarters to determine when AB 32 implementation could resume.

Blacks Law Dictionary (8th ed. 2004) does not include definition for “calendar quarter”, but defines “year” as: “Twelve calendar months beginning January 1 and ending December 31. — Also termed *calendar year*.” [emphasis added] This definition implies that “four consecutive calendar quarters” would be a one-year period starting January 1 and ending December 31. A limited review of California law reveals that Unemployment Code Section 129 defines “calendar quarter” as “the period of three consecutive calendar months ending on March 31st, June 30th, September 30th, or December 31st...” Based on this limited review, it is likely that “four consecutive calendar quarters” does not mean any 12-month period. As it is not clear which of the remaining two possibilities is the most likely interpretation, information will be provided below on the implications of each.

The interpretation of “four consecutive calendar quarters” would determine when to begin counting to determine if the Proposition 23 unemployment condition is met. For example, assuming calendar quarters begin on Jan, April, July, and September, counting would begin when the rate was at or below 5.5% in the first month of a calendar quarter. So if the rate condition were met in February and remained there, counting could not begin until April. Under the strictest interpretation, counting would begin when the rate was at or below 5.5% in January. So, for example, if the rate were at or below 5.5% in February, counting would not begin until the following January.

If “four consecutive calendar quarters” were interpreted to mean a 12-month period beginning on a quarter month (January, April, July, October), unemployment would have had to be at or below 5.5% for 14 months to satisfy the Proposition 23 condition in all three historical periods of high unemployment. If “four consecutive calendar quarters” were interpreted to mean 12 months beginning in January, the unemployment threshold condition would have been met after 14 month in Period 1, 23 months in Period 2, and 21 months in Period 2. Table 11 presents the month the unemployment rate was equal to or below 5.5%, the last month of the 4th quarter, and the total number of months at or below 5.5% to meet the Proposition 23 condition for all periods and both interpretations of “four consecutive calendar quarters.”

Table 11 Duration Between Reaching 5.5% and Satisfying the Proposition 23 Condition

	12-month Period Beginning on a Quarter Month				12-month Period Beginning January			
	Month Rate Was ≤ 5.5%	Last Month of 4th Quarter	Total Number of Months ≤ 5.5%	Years	Month Rate Was ≤ 5.5%	Last Month of 4th Quarter	Total Number of Months ≤ 5.5%	Years
Period 1	Nov-87	Dec-88	14	1.2	Nov-87	Dec-88	14	1.2
Period 2	Feb-99	Mar-00	14	1.2	Feb-99	Dec-00	23	1.9
Period 3	Apr-10	May-06	14	1.2	Apr-10	Dec-06	21	1.8

4.3. When Could ARB Resume Implementation of AB 32 under Proposition 23?

To get an estimate of how long it could take from the peak of unemployment to the resumption of AB 32, it is necessary to add the duration from the peak rate to 5.5% and the duration to meet the rate condition in Proposition 23. In addition, it is likely that ARB would require some time to ramp up their regulatory structure to resume implementation of AB 32 measures, including hiring staff. One year for this ramp up is assumed here. In addition, litigation is likely to affect how long AB 32 would be suspended under Proposition 23; however, there is no practical basis on which to estimate the magnitude of its effect. Based on the two interpretations of “four consecutive calendar quarters”, available economic forecasts, and historical unemployment data provided above, implementation of AB 32 likely would not resume for 6 to 11 years under Proposition 23 (Table 12). While uncertainty exists, it is not likely given recent economic forecasts that unemployment could return to 5.5% sooner than the low end of the estimate. Taking the high end of this estimated range, practical implementation of some parts of AB 32 would not start until 2021 – after the current target date to reduce emissions to 1990 levels.

Table 12 Duration from Peak Unemployment to Resumption of AB 32

	12-month Period Beginning on a Quarter Month				12-month Period Beginning January			
	Years from Peak to 5.5%*	Years to Reach 4 Consecutive Calendar Quarters	ARB Regulatory Ramp Up (Years)	Total	Years from Peak to 5.5%*	Years to Reach 4 Consecutive Calendar Quarters	ARB Regulatory Ramp Up (Years)	Total
Period 1	5.3	1.2	1.0	7.5	5.3	1.2	1.0	7.5
Period 2	7.9	1.2	1.0	10.1	7.9	1.9	1.0	10.9
Period 3	3.4	1.2	1.0	5.5	3.4	1.8	1.0	6.1

*This is the value scaled to the current unemployment rate.

5. CONCLUSION

In November 2010, California voters will decide whether or not to suspend AB 32 until statewide unemployment equals or falls below 5.5%. While Proposition 23 is a relatively short initiative, ambiguity in its language creates gray areas of interpretation that ultimately will be decided through litigation. Among the most important questions are which measures included in the ARB Scoping Plan will be suspended if Proposition 23 is adopted and for how long.

EPIC’s analysis indicates that depending on whether new legislation to increase the renewable portfolio standard to 33% is adopted and how a relatively small percentage of measures is distributed, 39%-51% of the measures included in the ARB Scoping Plan likely could be discontinued if AB 32 were suspended. Also, based on the two interpretations of “four consecutive calendar quarters”, available economic forecasts, and historical unemployment data provided above, implementation of AB 32 likely could be suspended for 6 to 11 years after passage of Proposition 23 (Table 13). While uncertainty exists, it is not likely given recent economic forecasts that unemployment could return to 5.5% sooner than the low end of the estimate. Taking the high end of this estimated range, practical implementation of some parts of AB 32 could not start until 2021 – after the current target date to reduce emissions to 1990 levels.

Given the percentage of Scoping Plan measures that could be suspended under Proposition 23 and the length of the suspension, it could be virtually impossible for California to reach its current GHG emissions reduction target by 2020.

6. APPENDIX

This Appendix includes the full text of Proposition 23 and details of the measures assessed in this paper.

6.1. Text of Proposition 23

A. In 2006, the Legislature and Governor enacted a sweeping environmental law, AB 32. While protecting the environment is of utmost importance, we must balance such regulation with the ability to maintain jobs and protect our economy.

B. At the time the bill was signed, the unemployment rate in California was 4.8%. California's unemployment rate has since skyrocketed to more than 12%.

C. Numerous economic studies predict that complying with AB 32 will cost Californians billions of dollars with massive increases in the price of gasoline, electricity, food and water, further punishing California consumers and households.

D. California businesses cannot drive our economic recovery and create the jobs we need when faced with billions of dollars in new regulations and added costs; and

E. California families being hit with job losses, pay cuts and furloughs cannot afford to pay the increased prices that will be passed onto them as a result of this legislation right now.

SECTION 2. STATEMENT OF PURPOSE

A. The people desire to temporarily suspend the operation and implementation of AB 32 until the state's unemployment rate returns to the levels that existed at the time of its adoption.

SECTION 3. SUSPENSION OF AB 32

Division 25.6 (commencing with section 38600) of the Health and Safety Code is hereby added to read:

§38600(a) From and after the effective date of this measure, Division 25.5(commencing with section 38500) of the Health and Safety Code is suspended until such time as the unemployment rate in California is 5.5% or less for four consecutive calendar quarters. (b) While suspended, no state agency shall propose, promulgate, or adopt any regulation implementing Division 25.5 (commencing with section 38500) and any regulation adopted prior to the effective date of this measure shall be void and unenforceable until such time as the suspension is lifted.

6.2. Scoping Plan Measures

The following sections provide more information about the three categories of measures: likely to be suspended, likely to continue, and undetermined. Tables 13-15 present information on what authority is cited to implement each measures and the source of that authority citation (e.g., regulation orders, enabling legislation or regulation, etc.).

6.2.1. Measures Likely to be Suspended

Table 13 Scoping Plan Measures Likely to be Suspended with Authority Citations

Implementing Agency	Measure	GHG Reduction Amount MMT CO2E	Percentage of Scoping Plan Reduction Target (174 MMT CO2e)	Authority Related to Scoping Plan Measure	Source of Authority Citation
ARB	Cap-and-Trade	34.4	20%	AB 32(2006); Health and Safety Code Sections 38510, 38530, 38580; also Sections 39600, 39601, and 41511	Proposed Draft Regulation
ARB	Low Carbon Fuel Standard (Discrete Early Action)*	16.0	9%	AB 32 (2006); Health and Safety Code Section Sections 38510, 38560, 38560.5, 38571, 38580; also Sections 39600, 39601, 41510, 41511	Final Regulation Order
ARB	Renewable Electricity Standard (33% by 2020)	13.4	8%	AB 32 (2006); Health and Safety Code Section 38560; Executive Order S-21-09 (2009)	Based on appropriate sections of AB 32 and Executive Order S-21-09.
ARB	High-GWP Refrigerant Management Program for Stationary Sources	8.0	5%	AB 32 (2006); Health and Safety Code Sections 38501, 38510, 38560, 38562, 38563, 38580, 3859; and Sections 39600, 39601, 41511	Based on Proposed 15-day Modifications document posted to ARB Website March 17, 2010
ARB	Mitigation Fee on High GWP Gases	5.0	3%	AB 32 (2006); Health and Safety Code Section 38560	No activity on this measure yet but assume that it would be done under the same authority as the High-GWP Refrigerant Management Program for Stationary Sources
ARB	Landfill Methane Control Measure (Discrete Early Action)	1.5	1%	AB 32 (2006); Health and Safety Code Section Sections 38501, 38510, 38560, 38560.5, 38580; also Sections 39600, 39601	Final Regulation Order
ARB	Heavy-Duty Vehicle GHG Emissions Reduction - Aerodynamic Efficiency (Discrete Early Action)*	0.93	1%	AB 32 (2006); Health and Safety Code Sections 38510, 38560, 38560.5; also 39600, 39601	Final Regulation Order
ARB	Tire Pressure Program (Discrete Early Action)	0.74	0.4%	AB 32 (2006); Health and Safety Code Section 38510, 38560; also, Sections 39600, 39601	Final Regulation Order
ARB	Motor Vehicle Air Conditioning Systems: Reduction of Refrigerant Emissions from Non-Professional Servicing (Discrete Early Action)	0.26	0.1%	AB 32 (2006); Health and Safety Code Section Section 38501, 38510, 38560, 38560.5, 38580; also, Sections 39600, 39601	Final Regulation Order
ARB	Limit High GWP Use in Consumer Products Pressurized Gas Duster GWP Limit of 150 (Discrete Early Action)	0.23	0.1%	AB 32 (2006); Health and Safety Code Section Section 38501, 38510, 38560, 38560.5, 38562, 38580; also, Sections 39600, 39601 39650, 39659, 39666, 41712	Final Regulation Order
ARB	Ship Electrification at Ports (Discrete Early Action)**	0.2	0.1%	Health and Safety Code Section Sections 39600, 39601, 39650, 39658, 39659, 3966, 41511; no reference to AB 32	Final Regulation Order
ARB, Local Air Districts	Reduction of Perfluorocarbons in Semiconductor Manufacturing (Discrete Early Action)	0.18	0.1%	AB 32 (2006); Health and Safety Code Section 38501, 38510, 38560, 38560.5, 38580, 39600, 39601	Final Regulation Order
ARB	SF6 Limits in Non-Utility and Non-Semiconductor Applications (Discrete Early Action)	0.1	0.1%	AB 32 (2006); Health and Safety Code Section Sections 38501, 38510, 38560, 38560.5, 38580; also Sections, 39600, 39610, 41510, 41511, 41513	Final Regulation Order
ARB	Sulfur Hexafluoride (SF6) Emission Reductions from the Electricity Sector and Particle Accelerators	0.1	0.1%	AB 32 (2006); Health and Safety Code Sections 38510, 38560, 38580; also Sections 39600, 39601, and 41511	Authorities cited reflect only those included in the Final Regulation Order for Gas Insulated Switchgear
Total		81.0	47%		

* Further research is necessary to determine if ARB could implement these or similar measures using authority other than that provided for in AB 32.

** Ship Electrification does not reference AB 32 but it is assumed that all discrete early action measures would be suspended.

6.2.2. Measures Likely to Continue

Table 14 Scoping Plan Measures Likely to Continue with Authority Citations

Implementing Agency	Measure	GHG Reduction Amount MMT CO2E	Percentage of Scoping Plan Reduction Target (174 MMT CO2e)	Authority Related to Scoping Plan Measure	Source of Authority Citation
ARB	Pavley Tailpipe Emissions Standards for Cars and Light Duty Trucks	27.7	16%	AB 1493 (2002); Health and Safety Code Sections 39500, 39600, 39601, 43013, 43018, 43101, 43104, and 43105, and 43106	Enabling legislation
CPUC	Energy Efficiency Measures (Electricity)	15.2	9%	AB 1890 (1996); Public Utilities Code Sections 399.8, 381	Enabling legislation
CPUC / CEC	Renewable Portfolio Standard (20% by 2010)	7.9	5%	SB 1078 (2002), SB 107 (2006); Public Utilities Code Section 399.11-399.20.	Enabling legislation
CPUC / CEC	Increasing Combined Heat and Power Use by 30,000 GWh	6.7	4%	AB 970 (2000); Public Utilities Code Section 379.5 (b) 6-7	Enabling legislation
ARB	Advanced Clean Cars	5.1	3%	Health and Safety Code Sections 39600, 39601, 43013, 43018, 43101, 43104	Authorizes cited for Low Emissions Vehicle II and CAP 2000 Amendments Final Regulation Order. We assume that ARB could use similar authority to further amend this regulation.
ARB, Local Governments	Regional Transportation- Related Greenhouse Gas Targets	5.0	3%	SB 375 (2008); Government Code Section 65080	Draft SB 375 report says 3 MMT CO2e
Board of Forestry and Fire Protection	Sustainable Forest Target	5.0	3%	CCR Title 4 Chapters 4, 4.5, and 10	California Forest Practice Rules
CPUC	Energy Efficiency (Natural Gas)	4.3	2%	AB 1890 (1996); Public Utilities Code Sections 399.8, 381	Enabling legislation
CEC	Stationary Equipment Refrigerant Management Program- Specifications for Commercial and Industrial Refrigeration	4.0	2%	CCR Title 24, Part 6; Public Resources Code Section 25402	California Energy Commission building energy standards authority
CPUC	Million Solar Roofs: 3,000 MW by 2017 (CA Solar Initiative)	2.1	1%	SB 1 (2006); Public Resources Code Sections 25780-25784, Public Utilities Code 2851	Enabling legislation
HSRA	High Speed Rail	1	1%	Proposition 1A (2008); Streets and Highways Code Sections 2704-270.421	Enabling legislation/Voter Initiative
ARB	Medium- and Heavy-Duty Vehicle Hybridization	0.5	0%	Not a rule or regulation	Not a rule or regulation
CEC	Tire Tread Program	0.3	0%	AB 844 (2003); Public Resource Code Section 25770-25773	Enabling legislation
CPUC	Solar Water Heating: AB 1470	0.1	0%	AB 1470 (2007); Public Utilities Code Section 2860-2867.4	Enabling legislation
Total		84.9	49%		

6.2.3. Undetermined if Measures Suspended or Continued

Table 15 Scoping Plan Measures with Insufficient Information to Determine Possible Suspension

Implementing Agency	Measure	GHG Reduction Amount MMT CO2e	Percentage of Scoping Plan Reduction Target (174 MMT CO2e)	Authority Related to Scoping Plan Measure	Source of Authority Citation
ARB	Port Drayage Trucks	3.5	2%	Numerous Sections of The Health and Safety Code	Port drayage truck regulation does not appear to be based on AB 32 authority; however, because the 3.5 MMT CO2e listed is the total for measures under T-6, it is not clear what value is associated with the port drayage truck regulation.
CAL/EPA, ARB, DGS	State Government	1.5	1%	Insufficient Information	N/A
ARB, Local Air Districts	Natural Gas Transmission and Distribution GHG Emission Reduction	0.9	1%	Insufficient Information	N/A
ARB, BAR	Air Conditioner Refrigerant Leak Test During Vehicle Smog Check	0.5	0%	Insufficient Information	N/A
ARB, Local Air Districts	Refinery Flare Recovery System Improvement	0.33	0%	Insufficient Information	N/A
ARB	Foam Recovery and Destruction Program	0.3	0%	Insufficient Information	N/A
ARB, Local Air Districts	Oil and Gas Extraction GHG Emission Reduction	0.2	0%	Insufficient Information	N/A
ARB	Refrigerant Recovery from Decommissioned Refrigerated Shipping Containers	0.2	0%	Insufficient Information	N/A
ARB	Enforcement of Federal Ban on Refrigerant Release during Servicing or Dismantling of Motor Vehicle Air Conditioning Systems	0.1	0%	Insufficient Information	N/A
ARB, CalFire	Alternative Suppressants in Fire Protection Systems	0.1	0%	Insufficient Information	N/A
ARB	Residential Refrigeration Early Retirement Program	0.1	0%	Insufficient Information	N/A
ARB, Local Air Districts	Removal of Methane Exemption from Existing Refinery Regulations	0.01	0%	Insufficient Information	N/A
ARB	Goods Movement System-Wide Efficiency Improvements	0.0	0%	Insufficient Information	Goods Movement System-Wide Efficiency Improvements is part of measure T-6; therefore, it is not clear what value is associated with this measure.
ARB	Cargo Handling Equipment- Anti-Idling, Hybrid, Electrification	0.0	0%	Insufficient Information	Cargo Handling Equipment- Anti-Idling, Hybrid, Electrification is listed as a voluntary; however, because the 3.5 MMT CO2e listed is the total for measures under T-6, it is not clear what value is associated with this measure.
ARB	Commercial Harbor Craft-Maintenance and Design Efficiency	0.0	0%	Insufficient Information	Commercial Harbor Craft-Maintenance and Design Efficiency is listed as a voluntary; however, because the 3.5 MMT CO2e listed is the total for measures under T-6, it is not clear what value is associated with this measure.
ARB	Vessel Speed Reduction	0.0	0%	Insufficient Information	Vessel Speed Reduction is part of measure T-6; therefore, it is not clear what value is associated with this measure.
ARB	Clean Ships	0.0	0%	Insufficient Information	Clean Ships is part of measure T-6; therefore, it is not clear what value is associated with this measure.
ARB	Transport Refrigeration Units Cold Storage Prohibition and Energy Efficiency	0.0	0%	Insufficient Information	Transport Refrigeration Units Cold Storage Prohibition and Energy Efficiency is part of measure T-6; therefore, it is not clear what value is associated with this measure.
Total		7.7	4%		