

Chairman Mary D. Nichols
California Air Resources Board
1001 I Street
Sacramento, CA 95814

**Re: Comments Concerning AB 32 Scoping Plan**

Dear Ms. Nichols:

The National Federation of Independent Business Small Business Legal Center (NFIB Legal Center) submits these comments on behalf of California’s small business community, and on behalf of small business owners nationwide who may be impacted by regulations promulgated by the Air Resources Board (ARB). We write specifically to express concern over speculation that ARB is laying the groundwork—through adoption of the proposed scoping plan—for regulation of greenhouse gas emissions (GHGs) in a manner that exceeds the agency’s authority. Specifically, the proposed Climate Change Scoping Plan First Update refers to “California’s 2020 and 2050 climate goals.” But, the Legislature has not yet authorized ARB to take any action to regulate emissions beyond 2020, and has never set climate goals for 2050.

ARB’s authority to regulate GHGs derives from AB 32’s mandate to reduce California’s GHGs to 1990 levels by the year 2020. This may confer broad authority upon the agency to tailor its regulatory program to achieve that end, but it cannot serve as a predicate for regulating beyond 2020. Nor can this grant of authority be understood to authorize ARB to take steps to reduce emissions below 1990 levels. As such, NFIB Legal Center files here to make the point that it is inappropriate for ARB to include plans for emission reductions beyond 2020, or below 1990 levels, in its scoping plans.

California is already imposing draconian burdens on the regulated community under AB 32 and NFIB would object to any further effort to exacerbate those burdens beyond what is plainly authorized by the Act. To the extent ARB is contemplating regulatory changes, we encourage the agency to specifically contemplate the effects such changes will have on small business. Moreover, we encourage the agency to consider economic feasibility of contemplated regulatory changes before committing to them in adopting the proposed scoping plan.

For the foregoing reasons, NFIB Legal Center respectfully objects to the inclusion of scoping plans proposed for the years 2021-2050.

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