



Alameda Chamber & Economic Alliance
2215-A S Shore Center
Alameda, CA 94501
T: (510) 522-0414
madlen@alamedachamber.com

Liane Randolph, Chair
California Air Resources Board

Submitted electronically via:
<http://www.arb.ca.gov/lispub/comm/bclist.php>

Re: Comments from the Los Angeles County Business Federation and its Coalition Partners on the California Air Resources Board's Draft 2022 Scoping Plan Update

Dear Chair Randolph and Members of the Board:

On behalf of BizFed, the Los Angeles County Business Federation, an alliance of over 220 business organizations who collectively represent over 450,000 employers in Los Angeles County, and the undersigned organizations, we write today to express our very serious concerns about the Draft 2022 Scoping Plan Update (the "Update") which is proposed for consideration by the California Air Resources Board ("CARB").

BizFed's members generally share goals of (i) addressing and mitigating greenhouse gas emissions ("GHG") arising from activities in California, and (ii) doing so in ways that will both improve the lives and well-being of all Californians and protect and benefit our economy. In addition, we believe that to achieve AB32/SB375 goals and the best outcomes:

- new and ongoing CARB regulations must be soundly justified and obtainable (technologically, financially, etc.)
- CARB's regulations should be as commanding or as tempered as the proof and data indicate is best; and
- The evolution and ongoing evaluation of CARB's policies and regulations should reflect input from all affected stakeholders, including certainly from the most affected industries.

Although we appreciate the regulatory intention behind much of the Update, we are concerned that the Update contains many elements that are ill-advised and should be forgotten or substantially corrected before CARB finalizes the Update. Both the diversity of BizFed's membership and the Update's broad sweep prevent us from providing a thorough expression of our many concerns; and we expect that some of our members will provide comments of their own. We therefore ask CARB to consider our more basic concerns about the Update, as follows:

1. **If the State of California wishes to be a true global leader in the field of GHG reduction regulations, then CARB must be far more circumspect – it must *think globally* – when analyzing the effects of its proposed mandates and policies; and it should avoid measures that will exacerbate the growing trend toward the out-migration from California of business activity, jobs and citizens.**

For many years, California's legislature and its three most recent governors have espoused the goal of making California a global leader in achieving GHG reductions in ways that benefit rather than harm California's citizens, its businesses and its economy. California will not meet this goal if CARB continues to ignore the extra-jurisdictional implications of its regulatory actions. The Update shows that CARB continues to view its legislative directive myopically and without regard to California's relative position both nationally and worldwide.

CARB's general failure in this regard can best be understood by examining two particular shortcomings in CARB's analyses put forth in the Update. The first is the fact that the Update analysis is limited to only those activities that take place physically within California's borders (excepting only the production of electricity imported into the state for in-state consumption) when considering the GHG impacts of citizens' lives and industry throughout California. (See Update, p. 34.) Any and all other activity which is located and transpires in any other relatively GHG-intensive state or nation is ignored in CARB's analyses. **As a consequence, CARB's approach is to impose increasingly on activities and industry occurring in California in ways that cause the actors and industries to either move or keep their operations outside of California (i.e., to move or keep all such activities in other states and nations, which in most cases leads to more harmful GHG impacts).**

An example is CARB's proposed regulation of cement production within California. Whereas CARB proposes an eventual standard of GHG neutrality on such in-state cement production irrespective of the costs, CARB blindly welcomes the importation of cement into California even though it may be produced in Asia using the worst possible GHG causing production methods. From CARB's point of view, it does not matter if the cement produced in California was already the world's most GHG efficient cement. If GHG-intensive imported cement could be moved about within California to its ultimate destination by means of a GHG-free vehicle, then CARB will assume that such imported cement has no GHG associated with its production, application and consumption in California.

Because CARB ignores extra-jurisdictional GHG emissions (except from electricity production), CARB's approach is irrational in relation to the State's legitimate governmental interest in reducing GHG and its worldwide impacts. In other words, CARB has chosen to make *intra-state* GHG betterment the direct enemy of *global* GHG betterment – even though global climate change caused by GHG is unarguably a global problem that can best be addressed only when it is considered at a global scale.

While AB32 expressly requires CARB to minimize "leakage"¹ of GHG emissions from California's economy,² the flawed design presented in this draft Scoping Plan is likely to cause leakage.

If CARB were to correct its error in this regard, then CARB would appreciate that many of California's industries are already at the relative vanguard of responsibly addressing GHG in their operations and practices. Such industries should therefore be nurtured, encouraged to stay and prosper here, and further imposed upon regulatorily only in more balanced and non-disruptive ways than CARB is proposing.

¹ "'Leakage' means a reduction in emissions of greenhouse gases within the state that is offset by an increase in emissions of greenhouse gases outside the state." [AB32 California Global Warming Solutions Act of 2006, codified at Health & Safety Code section 38505(j).]

² Health & Safety Code section 38562(b)(8).

The second main shortcoming in CARB's analytical approach is that CARB ignores all evidence of the fact that its policies are leading and will foreseeably further lead to the out-migration of California's citizens (in addition to its industries) to other states and nations where per capita GHG is much higher. California ranks second in the nation in lowest per capita GHG emissions, only slightly behind the State of New York. If CARB were to view GHG properly as a global problem that is best addressed globally, then CARB would naturally embrace policies that discourage and do not themselves spur the out-migration of citizens from California. CARB would instead adopt policies that might invite significant net immigration into California. CARB's policies – and particularly many of those concerning land use and housing, transportation and energy consumption – are spurring an increasingly apparent and predictable out-migration of Californians to other regulatory climes where the per capita GHG emissions are much higher. CARB's policies are thereby worsening global climate change. Each of these is discussed briefly below.

2. In the Update, CARB proposes to continue to advance land use and housing policies that undermine local control and exacerbate California's housing shortage and affordability crisis.

Sound land use decisions always require a thorough understanding of the myriad factors that are anecdotally at hand given the context. Consequently, land use decisions are best left to the respective local governments which – through their democratic processes – best allow for well-informed land use changes. For this reason, BizFed and its coalition partners support the primacy of respective local governments vis-a-vis local land use decision-making.

In contrast, the Update reflects CARB's increasing hostility toward local governments' primacy in land use decision-making. In the Update, CARB continues to champion heavy-handed, top-down, prescriptive land use formulae that would, if realized, have an unduly constrictive and centripetal effect on land use, and would send the bulk of future growth and redevelopment into relatively expensive and already crowded urban centers. Such CARB policies are inconsistent with the ongoing will of both local governments and California's tens of millions of residents.

The Update contains four main land use regulatory concepts that are particularly problematic. First, CARB proposes policy changes under the California Environmental Quality Act ("CEQA"), which requires deciding agencies (usually local governments) to study impacts and impose mitigation requirements when approving projects and land use plans. CARB's CEQA proposals would strongly disfavor all but relatively high-density (e.g., at least 20 units per acre), central urban, mass transit-oriented development and redevelopment. The aim and effect of such policies is to disfavor, prejudice and relatively burden all other types of development (lower density communities and redevelopment projects, suburban development, "edge" development, "new towns," and the like). (See Update pp. 195-206 and Appendices D and F.) Some of CARB's recommended CEQA changes have nothing to do with air quality and GHG (i.e., within CARB's purview and relative expertise), such as CARB's proposed CEQA exemption for projects that contain at least 20% subsidized housing and meet certain labor standards. Although BizFed's members have long advocated for CEQA reform, CARB should not be championing CEQA reform that would undercut local governments' prerogatives and disfavor many reasonable types of development which are (i) needed in substantially greater quantity, (ii) most affordable, and (iii) popular with California's consumers.

Second, CARB proposes to rule out development on 90% of California's land by labeling them as "natural and working lands" – apparently slated for regulatory protection from

development. (Update, p. 195.) Like CARB's recommended changes to CEQA, such a sweeping designation of lands as natural and working lands suggests a top-down dismissal of local jurisdictions' land use prerogatives, imposed at a time that local jurisdictions should be wielding their approval powers more urgently to address the present housing shortage and home affordability crisis. Local jurisdictions should be assessing land use in their General Plans through the extensive study and preparation of their respective General Plan Housing Elements.

Third, the Update recommends stripping land use authority from local governments and ceding it instead to regional metropolitan planning organizations - such as the Southern California Association of Governments (SCAG). (See Update, Appendix E, pp. 27, 29.) BizFed has perennially participated in SCAG's processes by which it updates its Sustainable Community Strategy (its regional land use scenario). We therefore have a reasonable understanding of the scenarios and growth modeling that underpin SCAG's land use vision. It contains various parts that should never be pursued and can never be realized. Given our ongoing recognition of the primacy of local governments' prerogatives concerning land use, we strongly reject CARB's suggestion that land use authority should be stripped away from local governments and ceded instead to regional metropolitan planning organizations.

Lastly, CARB continues to champion land use policies aimed at radically reducing per capita vehicle miles traveled ("VMT"). Indeed, the Update contains a stated goal of reducing non-commercial, per capita VMT by some thirty percent (30%) between 2019 and 2045. In short, CARB aims not to decrease GHG per se, but instead to decrease individual mobility by nearly one-third, and to do so by mandating sweeping, massive, concentrated changes in our urban form and effectively ruling out and stultifying all other kinds of development and redevelopment.

CARB has a long-running, very poor record in terms of appreciating Californians' steadfast reliance on VMT and individual mobility. Such reliance is essential for citizen's maintaining their livelihoods and efficiently spending their precious time. Since 2010 (pursuant to Senate Bill 375 enacted in 2008), CARB has been promoting land use scenarios aimed at reducing per capita VMT; but no meaningful VMT reductions have been realized. CARB - as well as other agencies such as the Governor's Office of Planning and Research - should leave off their overreaching aims of curbing individual mobility in California. The state's VMT initiatives are not working. They are stultifying needed homebuilding. They will never work without imposing land use outcomes that would be devastating to California's citizens' lifestyles and its economy; and - as long as they are pursued - they run the risk of driving California's citizens out of state at an increasing pace. Jobs are transitioning and are becoming more automated; and employers are offering workers the opportunity to work from home. California is investing in transit projects, electrical vehicle charging stations, fleet upgrades to electrical vehicles, etc. Prior to VMT action, CARB should assess these lifestyle changes and infrastructure investments prior to enacting the VMT mandate to ensure our state remains the economic leader it is today.

3. In the Update, CARB proposes to continue to pursue transportation policies that the data show have been and are being effectively rejected by overwhelming percentages of the relevant public.

Consistent with CARB's wish to greatly reduce individual mobility and VMT, the Update indicates CARB's continuing push to promote (i) mass transit systems and infrastructure, and (ii) mass-transit-oriented real estate development and redevelopment, in each case to the exclusion of all other alternatives (such as new and better roads leading to new towns). Specifically, the Update calls for a doubling of transit service coverage and service

frequencies by 2030. (Update, Appendix E, p. 13.) All available data from recent years show, however, that public utilization of mass transit is both relatively minimal and generally slipping further. Indeed, per capita mass transit utilization was trending downward even before the COVID-19 pandemic decreased such utilization even more – as SCAG and other MPOs have recognized. We therefore question the wisdom of CARB’s determination to keep pouring state funding into mass transit infrastructure that California’s citizens find to be of little collective utility.

The Update similarly calls for additional and substantial spending focused on infrastructure for walking and bicycling, which is connected with CARB’s push toward relatively dense urban housing. (Update, Appendix E, pp. 6-11.) But spending on walking and bicycling infrastructure will have no more than a de minimis impact on the other forms of mobility such as individual VMT or mass transit, given that – for example – all but a small fraction of VMT (less than 2%) involves trip lengths that are short enough to be accomplished by walking or biking, and many citizens have infirmities that preclude deriving much utility from such modes apart from exercise if they can.

Given our concern stated above about CARB advancing policies that drive California’s citizens to leave for more accommodating sister states, we believe that all state agencies should be working to provide a balanced mix of new transportation infrastructure, which would include mass transit where it would have the most utility, and paths for walking and biking, but also significant new roads and lane additions where they would have utility and allow for additional homebuilding of all typologies.

4. In the Update, CARB proposes policies concerning energy consumption that will foist huge costs on California’s citizenry.

Finally, we are concerned about CARB’s many suggestions in the Update concerning the rapid and near total de-carbonization of California’s energy consumption. BizFed and its coalition partners support an all-the-above approach to our energy needs. We believe that a diversified energy portfolio is necessary to meet our clean air and GHG goals while also balancing equity and most importantly - energy reliability and affordability. We therefore support hydrogen, clean and renewable natural gas, electrification, solar, wind, the ongoing, albeit more clean and efficient use of petroleum, and other means to ensure we are lowering greenhouse gas emissions (GHG) while keeping costs low, supporting jobs, and meeting our economic demands.

The Update, however, sets forth the goal of carbon neutrality by 2045 primarily through the rapid acceleration of electricity production using solar, wind, hydrogen, and other renewable fuel sources. In what appears to be nothing other than gifts to environmental interests, however, CARB foresees very little future reliance on fossil fuels (a greater than 90% reduction between now and 2045), no future reliance whatsoever on nearly GHG-free nuclear power, and decreased reliance on nearly GHG-free hydro-generated electricity production.

The impacts to the grid from a one-size-fits all strategy would be devastating and both businesses and consumers would be impacted. Adopting decarbonization without a thorough assessment of existing infrastructure, technology and energy alternatives is a risky proposition. Coordination and extensive planning between the CEC, the CPUC and stakeholders is critical to ensure that the state’s electrical grid is prepared to meet the needs for all zero emissions technologies.

Most troublingly, the Update is devoid of meaningful estimates of the costs associated with such a rapid and sweeping transition from present fuel sources and infrastructure to the near carbon-free future that CARB envisions for 2045. BizFed therefore urges CARB to prepare such cost-benefit analyses and share them with the stakeholders for scrutiny and comment – so that all concerned can participate in a discussion of the relative costs and benefits of forgoing various energy sources and thoughtfully pursuing others.

Our concern is that CARB should be moving California toward orderly and cost-efficient shifts in energy policy only with the relative costs and benefits more clearly in view. New energy sources and new means of utilizing energy should be pursued only if and when California's citizens can be assured that the basic utility that they presently enjoy (for example, warm homes in the winter, or a needed quantum of VMT) can be maintained affordably and without wasting their money and efforts on regulatory missteps. Here again, if CARB were to impose expensive, wasteful and unpopular energy policies, CARB will drive citizens to leave the state for more GHG-intensive jurisdictions. CARB will then have failed both California's citizenry and posterity when compared to what CARB might instead do, which is lead a balanced, careful, non-misanthropic, and multi-decadal effort to move California as wisely and intelligently as possible closer to the ideal of GHG neutrality.

Conclusion

As stated at the beginning, like you, we desire to see continued emissions reduction while maintaining the state's diverse economic vitality. This is not an easy feat. We appreciate the staff and board's diligence in bringing diverse groups to the table to map out the most effective CARB Scoping Plan possible.

CARB has made significant strides in emissions reductions, and it should be proud of its accomplishments. We would like to remind CARB these reductions were done in collaboration with many stakeholders, in particular those in the business community. With that in mind, we look forward to continuing our work with CARB and the state to develop smart and effective policies to achieve additional GHG emissions reductions where technically and economically feasible.

Thank you for your consideration of our letter. If you have any questions, please contact sarah.wiltfong@bizfed.org.

Sincerely,

Madlen Saddik

Madlen Saddik
CEO/President