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November 20, 2008

The Honorable Mary Nichols, Chair
California Air Resources Board
1001 I Street
P.O. Box 2815
Sacramento, CA 95812

**Subject: Preliminary Comments on Proposed AB 32
Scoping Plan**

Dear Madam Chair:

On behalf of the California Building Industry Association (CBIA), thank you for the opportunity to offer these preliminary comments on the recently-released Climate Change Proposed Scoping Plan *a framework for change*, October 2008.

These comments are being submitted to the Board in conjunction with its November 21, 2008, public hearing and are focused on key selected issues. CBIA will submit, by way of a separate letter, an expanded set of comments covering a broader range of issues prior to the Board's final meeting this year in December.

For the record, CBIA is a statewide trade association representing over 6,500 member companies involved in residential and light commercial construction. CBIA member companies account for over 80% of all new homes sold in California each year.

General Observations

To work most effectively, the Scoping Plan should be viewed as a nimble and flexible framework that can be adjusted as new information, changed circumstances, new technology and other such factors become available. It would be helpful if this point were clearly acknowledged in the introductory section of the document and reinforced, as appropriate, in subsequent sections.

It is also important for the Scoping Plan to acknowledge that AB 32 is the state's comprehensive plan to stabilize the emission of atmospheric greenhouse gasses in order to avoid or substantially lessen significant harm to the environment. This point should be clearly acknowledged in the introductory section and reinforced, as appropriate, in subsequent sections.

Ensuring full transparency of all GHG reduction estimates and supporting data is critical. While the Proposed Scoping Plan does provide additional information not originally contained in the Draft Scoping Plan that allows for a clearer understanding of how some estimated CO₂e reductions were determined or calculated, what continues to be missing is transparency regarding the assumptions CARB employed in setting sector and individual measure targets.

For example, it is essential that before it is adopted the Scoping Plan document the population, housing, employment and VMT growth projections used to calculate sector targets and measure effectiveness and cost-effectiveness.

Measures in the Scoping Plan need to be evaluated based upon their cost-effectiveness and cost-effective rankings should be included in the Scoping Plan. Now more than ever, it is important for CARB to avoid policies that will unnecessarily increase costs. Opting for the most practical and lowest cost emission reduction strategies is essential. On this point, CBIA is in complete agreement with the AB 32 Implementation Group and the Los Angeles County Economic Development Corporation on the need for a more comprehensive economic analysis on how the Scoping Plan impacts the competitiveness of California businesses including the near and long-term cumulative costs.

Estimating the GHG Benefits of Regional Targets

The Scoping Plan does not clearly identify how the 5 MMTCO₂e “target” for the transportation/land use sector was set. After extensive analysis on our part, it appears that CARB used the 2020 passenger vehicle emissions inventory (160.8 MMT) as the baseline, deducted emissions savings from implementation of a low carbon fuel standard (LCFS) and the AB 1493 (Pavley) auto fuel efficiency standards (@ 27.7% total taking the emissions inventory to 116.2 MMT) and then applied a 4% statewide VMT reduction resulting from “smart” land uses in order to achieve the 5 MMT figure.

Assuming this was the methodology and assuming that CARB anticipates that “smart” land use strategies will be applied exclusively to new development (new housing) and not to existing development, then achieving the 5 MMT target from the new housing sector by 2020 (given our review of historical and estimated future housing starts) would require a per unit VMT reduction of between 40-50%. This significantly exceeds the VMT reductions identified in the literature (including the 2008 study by Dr. Carolyn Rodier) as associated with neighborhood design characteristics and means that meeting the 5 MMT target by 2020 by focusing solely on new housing development activity is highly unlikely and practically impossible.

The 5 MMT target is even less attainable if one accounts for the state's recent economic downturn in general and the freefall in our state's housing markets in particular which will depress housing starts even further between now and 2020.

The Scoping Plan should spell out in detail all the assumptions leading to the 5 MMTCO_{2e} target and the 4% VMT reduction standard. Additionally, the Scoping Plan framework adopted by CARB should acknowledge the flexibility to adjust this target as needed to reflect actual circumstances within regions across the state and the realities of the housing market.

In our final submittal of comments to CARB in early December, we will provide a full technical analysis of our findings on this issue.

Indirect Source Rules

The Scoping Plan identifies GHG reduction plans prepared pursuant to SB 375 (Steinberg) as the means for reducing regional VMT and meeting the 5 MMTCO_{2E} target assigned to the Transportation/Land Use Sector. While (as discussed above) we question the increase in the proposed target, we fully support the SB 375 Sustainable Community Plans as the appropriate way to address VMT reduction. Travel behavior can best be addressed at the regional and sub-regional scale, as SB 375 provides.

In light of this, we are very troubled that diametrically-opposed methods -- indirect source rules -- are identified in the Proposed Scoping Plan as a "proven measure" that should be used for GHG emission reductions above and beyond SB 375. CARB is already proposing to mitigate high carbon-footprint projects through the existing CEQA process. Indirect source rules would impose an additional, redundant and unnecessary layer of regulation to the regionally-oriented SB 375 mandates and the project-oriented CEQA process.

Rather than addressing VMT at the regional/sub regional scale as intended by SB 375, indirect source rules require VMT reductions (or costly in lieu fees) from individual projects before they may obtain a building permit. Individual projects do not have the ability to provide the type and scale of transit options, transportation networks, and community-scale land use relationships that can best minimize the need for vehicle trips and trip lengths. Far from proven, indirect source rules have not yet been used for GHG reduction in California, nor has it been demonstrated that individual projects can change individual travel behavior absent reinforcing larger-scale regional transportation, transit and land use plans designed to minimize passenger vehicle use.

We strongly believe that once a region has an approved GHG reduction plan pursuant to SB 375, that plan should be recognized as the comprehensive AB 32 land use compliance mechanism for the region.

Project-level mitigation through indirect source rules can achieve only marginal improvements from projects that already incorporate the latest energy conservation/efficiency standards, low emission building materials, and project design features to reduce GHG emissions. We request that indirect source rules be removed from the final Scoping Plan.

Zero Net Energy

As we noted earlier in our comments on the Draft Scoping Plan, Zero Net Energy (ZNE) buildings may at some point in the future be cost-effective and commercially viable. While the Proposed Scoping Plan now acknowledges that energy system transformations -- such as allowing consumers to sell unlimited electricity to the grid -- are essential to ZNE buildings becoming commonplace, the Proposed Scoping Plan continues to overemphasize this measure even though new residential development is far less carbon-intensive than existing housing and even though new housing constitutes less than 1% of the housing stock each year.

The Scoping Plan promotes higher density and compact design, reinforcing the current trend toward more high density two- and three-story structures. There simply is not enough rooftop area on high-density designs to install a PV energy panel of adequate size to achieve zero-net energy for a project.

As we also noted in our prior comments on the Draft Scoping Plan, a study by National Renewable Energy Laboratory (NREL) commissioned by the Sacramento Municipal Utility District explored what it would take to make a typical single-family home constructed in CEC Climate Zone 12 (Sacramento Valley Region) at minimum compliance with the 2005 CEC residential energy efficiency standards effectively zero net energy. The study concluded that to achieve ZNE it would take not only additional energy efficiency measures far more stringent than those required by current regulations but it would also require the combination of a 4.5 kilo-watt photovoltaic energy system and a solar hot water unit on the roof of each home. The total cost of going beyond current code and making the home ZNE was estimated to be \$20.00 per square foot or \$50,000 for a standard 2,500 square foot home. A cost increase of this magnitude would clearly have a staggering effect on low- and moderate-income housing.

We recommend that the Scoping Plan document the prerequisite steps, a realistic schedule for achieving those steps and all other assumptions that affect the ultimate target associated with this program. We further recommend that the Scoping Plan establish the cost-effectiveness of this approach relative to all others in the Scoping Plan.

Again, thank you for the opportunity to offer these preliminary comments on the Proposed AB32 Scoping Plan. As noted earlier, we will be submitting an expanded set of final comments in early December, prior to the next scheduled meeting of the Board.

Sincerely,

A handwritten signature in black ink that reads "R. Lyon". The letters are cursive and fluid, with a large "R" and "L" and a smaller "Yon" following.

Richard Lyon
Senior Legislative Advocate