ASSOCIATION OF
ENVIRONMENTAL
PROFESSIONALS

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California Air Resources Board
1001 I Street
Sacramento, CA

ELECTRONIC SUBMITTAL

Subject: Comments on CARB's Draft 2022 Climate Change Scoping Plan, Dated May 10, 2022.

On behalf of the Association of Environmental Professionals (AEP), Climate Change Committee, we appreciate the opportunity to provide comments on the California Air Resources Board's (CARB) *Draft 2022 Scoping Plan Update*, Dated May 10, 2022.

AEP is a non-profit organization of California's environmental professionals. AEP's Climate Change Committee (Committee) members are actively involved in supporting California cities and counties in the evaluation of greenhouse gas (GHG) emissions impacts for new development subject to the California Environmental Quality Act (CEQA), preparing communitywide GHG emissions inventories and forecasts and developing and implementing Climate Action Plans (CAPs). GHG emissions thresholds for CEQA is of great interest to the Committee and our CEQA and climate action planning work with California cities and counties, especially as it relates to local target setting and CEQA significance thresholds. The Committee supports CARB in its challenging work to establish GHG emissions thresholds to support the State's GHG reduction goals under Senate Bill 32, Executive Order S-03-05, and Executive Order B-55-18.

AEP's Climate Change Committee has the following key comments on the Draft 2022 Scoping Plan Update.

Appendix D: Local Actions

- Local governments will look to Appendix D, Local Actions, to determine how they can ensure that their actions and land use decisions are consistent with the measures identified in the Scoping Plan Update. We appreciate that Appendix D clearly outlines that the actions of local governments are crucial for supporting the State's climate goals.
- The list of recommended strategies for CAPs is good.
- The list of project-level BMPs for consistency with the scoping plan is good.
- Appendix D provides direction on one type of development that would be clearly consistent with Scoping Plan Update (e.g., affordable housing). However, the bullet list of attributes for residential and infill development is overly restrictive. For example, the requirement to relax parking requirements could be a barrier at the local level to garner support for an affordable housing project. Additionally, we seek CARB's guidance on attributes/BMPs for other project types (light industrial, warehouses, goods movement, educational, institutional, recreational, medical, infrastructure, roadway, etc.). While Appendix D does not need to address every land use action/project type that may come before lead agencies, there should be some minimal guidance of other types of projects that would support the State's GHG reduction goals. We also seek CARB's guidance for CEQA GHG thresholds for project types beyond residential.
- We commend CARB for recommending the use of offsite mitigation measures under CEQA. Lead agencies want to be able to consider and help develop feasible mitigation strategies for their projects and options to

recommend to projects applicants in their jurisdiction. We recommend that CARB take the first step in developing the foundation for these offsite mitigation strategies, as it is not feasible for most project developers / applicants to initiate, administer, and implement local emission reduction programs. The cited examples (Newhall and Centennial) are massive plan-level development projects with billion-dollar budgets. The scale of most CEQA projects are much smaller project-level land use projects. Appendix D identifies the following potential local offset programs: urban forestry projects, building retrofit programs, and direct investments (EV charging, school buses, shared mobility services). The vast majority of CEQA project applicants do not have resources available to be able to develop citywide or regional scale local off-site reduction program. For project-level land use development projects, a lead agency would typically adopt a Finding that these types of citywide-scale or regional-scale mitigation measures are within another lead agency's jurisdiction; and are therefore, not feasible. CARB's Scoping Plan Appendix D should provide examples of measures that would be applicable at a project-level versus those types of measures that would be available at a plan-level. More importantly, if CARB desires that these are the types of local government actions that are needed to support the 2022 Scoping Plan Update, CARB must provide regional agencies the tools they need to implement these type of citywide/regional-scale offset projects. These types of programs would be most effective if set up by CARB, air districts, or other regional agencies (e.g., Metropolitan Planning Organizations or local Council of Governments). Please see additional discussion of the GHG bank below.

- We commend CARB for explicitly stating that voluntary GHG offset credits can be used as CEQA mitigation. However, there is no scientific basis for preferring voluntary GHG offset credits over local offsite emission reduction programs; offsets are equally effective at mitigating a project's GHG impact under CEQA.
- CEQA mitigation must be "roughly proportional" to the impacts of the project (CEQA Guidelines sections 15041 and 15126.4(a)(4)(B)). If local offsite GHG mitigation is substantially more expensive than voluntary GHG offset credits, then it is not roughly proportional to mandate that a project mitigate it's GHG impact locally. We recommend that the 2022 Scoping Plan explicitly states that CARB's preference for local offsite GHG mitigation is based on policy and not based on CEQA's legal mandate or the science of climate change. We also recommend that CARB update section 4.1.3 to explain that under CEQA, lead agencies need not prioritize local offsite GHG mitigation over voluntary GHG offsets given feasibility, cost, and proportionality considerations.
- We applaud CARB's explicit desire to reduce the use of "overriding considerations" by lead agencies. Applicants and lead agencies must implement all feasible mitigation to mitigate a project's significant climate change impacts. However, CARB's stated preference for prioritizing local GHG mitigation over voluntary offset credits may have the unintended consequence of encouraging unnecessary overriding considerations for those applicants that do not have the resources or time to explore local offsite mitigation, and who fear litigation or comment letters from CARB if they use voluntary offset credits as mitigation. The Committee believes this outcome would represent a missed opportunity for projects to mitigate their GHG impacts using voluntary offset credits as a valid, effective means of battling the climate crisis.
- We thank CARB for explaining how Cap & Trade offsets are effective emission reduction tools and that CEQA projects are not permitted to use these offsets.
- We ask that CARB explain what local governments need to do in their local CAPs to meet state goals and explain what an "*adequately supported GHG emission reduction goal*" means for a CAP. Relatedly, the Draft 2022 Scoping Plan Update is missing a clear performance metric that local governments can strive to achieve in their Climate Action Plans. Previous versions of the Scoping Plan have included such quantitative performance metrics for local governments (e.g., per-capita efficiency targets, percent reduction from business-as-usual, percent reduction from 1990 levels). We ask that CARB explicitly state that local CAPs don't need to show a defined, quantified path to carbon neutrality to align with the scoping plan. However, we recommend that the 2022 Scoping Plan provide guidance on performance metrics for local governments or measures that should be included to be consistent with the State's carbon neutrality goals.
- We understand that the path towards carbon neutrality by 2045 requires carbon dioxide removal and natural lands. However, these types of strategies are often not applicable at a local level. What measures would

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CARB recommend that a Climate Action Plan include to ensure that the jurisdiction is doing enough to be consistent with the 2022 Scoping Plan and the State's carbon neutrality goals as they relate to carbon dioxide removal?

- Appendix D states that California must accommodate population and economic growth in a far more sustainable and equitable manner that in the past and that CARB relies on local government efforts to implement State priorities; and therefore, it is recommend that CARB quantify and/or describe exactly what that is so that it is clear to local jurisdictions what CARB needs from them.
- Appendix D should identify the per capita GHG 2045 target assumed without Carbon Dioxide Removal (CDR). The AB 32 GHG Inventory Sectors Modeling Data Spreadsheet identifies that the Preferred Alternative (Alternative 3) would result in 79.5499 million metric tons of CO_2e ($MMTCO_2e$) from CDR. Without CDR, Alternative 3 would generate 94.54991 $MMTCO_2e$. This would help lead agencies determine whether or not GHG emissions reductions implemented in their jurisdiction supports the State's carbon neutrality goals.
- The Draft 2022 Progress Report on California's Sustainable Communities and Climate Protection Act shows that California is still not reducing GHG emissions from personal vehicle travel as needed under SB 375. The report shows that per capita GHG emissions and per capita VMT continued to increase, though more slowly than in the 2018 Progress Report, Despite the historical trends in VMT. The 2022 Scoping Plan Update includes a VMT reduction target of 22 percent by 2045. Does the Scoping Plan consider alternative strategies for the gap this measure leaves if the State continues to see increasing trends in VMT per capita?

Greenhouse Gas Emissions Bank

We are excited that CARB identified a potential avenue to provide all regions access to mitigation opportunities through the creation of a statewide mitigation bank for CEQA mitigation purposes. We believe that a statewide GHG offset bank administered by the state's expert agency for CEQA and beyond (e.g., Climate Action Plans, voluntary participants, etc.) would be the best route to achieving offsite, local/regional GHG offsets and encourage CARB to further evaluate this possibility.

In our experience, there are substantial concerns regarding the feasibility of individual CEQA project applicants to develop an offsite local or regional GHG offset project. The tasks to initiate and complete a local GHG offset include:

- Identify potential off-site locations that are likely under different ownership, and survey such locations for potential GHG reduction opportunities
- Evaluate the constraints of each off-site location and the preliminary magnitude of GHG reduction potential
- Negotiate the legal rights necessary to make GHG reduction improvements at such off-site locations
- Negotiate contractual terms required to implement such reduction activities
- Administer and fund such activities
- Complete the process in a timely manner such as accomplish each of the steps outlined herein prior to issuance of grading and building permits, which is often required in CEQA mitigation.

It is important to highlight the substantial timing constraint of developing local offsets based on the above listed tasks. The process outlined above could take numerous years to accomplish, unnecessarily holding up important development within the state such as housing. Voluntary market offsets are available as they have occurred in the past, so the policy preference for local offsets comes with a significant time commitment unless a bank is available. The above list assumes that the GHG offset does not need to meet voluntary market offset registry standards and protocols. If the GHG offset does require to meet the voluntary market offset standards such as from the Climate Action Reserve, American Climate Registry, or Verra, then additional steps are required such as creating methodologies and protocols for the specific type of reduction activity, which can add over a year to the timeline.

The two examples of land use development projects in Appendix D (Newhall Ranch and Centennial) that committed to local offsets are very large developments by developers who have the vested interest, capital, and capability – as well as litigation pressure – to make local offsets happen. These two examples are not representative of typical development under CEQA, which are generally much smaller land use projects, so local offsets should not be assumed to be a practical solution for most CEQA projects. As noted above, Appendix D identifies the following potential local offset programs: urban forestry projects, building retrofit programs, and direct investments (EV charging, school buses, shared mobility services). The vast majority of CEQA project applicants do not have these resources available to be able to develop citywide or regional scale local off-site reduction program.

There are also feasibility concerns related to a lead agency to develop and administer a local offset program. Many of the abovementioned issues for an individual applicant also apply to a lead agency. In addition, lead agencies typically lack the expertise and funding to administer such a program. Further, a larger geographic area beyond the lead agency's jurisdictional boundaries would provide for greater opportunities as an individual city may be too limited of a geography to meet their offset needs.

A regional collaborative is a great idea; however, a regional GHG offset bank has not occurred yet (except for the San Joaquin Valley APCD Carbon exchange program) highlighting the difficultly in developing and implementing a bank even when GHG experts are consulted such as air districts.

With a GHG bank, the administrator can offer the strategies to the community and have landowners sign up or they can do the upfront work of identifying the opportunities. That would help with the significant timing issue if these local strategies could be ready or almost ready to commence when the funding becomes available. A bank could also help fund larger projects that benefit a greater community population, such as a transit station, where multiple projects may be required to fund. While all GHG reductions of any size and scale are important, providing the of opportunity to fund larger projects can achieve the most important community-wide co-benefits (in comparison to retrofitting individual homes). With a larger geographic bank, such as one administered by CARB, projects with regional benefits can be made possible.

The goal of the statewide GHG bank should reach beyond CEQA so that individuals and companies within California that currently purchase out-of-state offsets are provided an opportunity to contribute funding to achieve GHG reductions in their communities. Cities, counties, regional collaboratives, and other jurisdictions and agencies who strive to support CARB's carbon neutrality goal through CAPs and GHG reduction plans have the nearly impossible challenge of achieving of carbon neutrality by 2045. Residual GHG emissions that cannot be mitigated locally is very common. Providing a means to reduce or offset these residual GHG emission within a community via a GHG bank can help these communities achieve carbon neutrality.

While a regional GHG bank is something of immense interest to us, cost should be evaluated as one of the first steps in the process. Our understanding is that local offsets can be substantially more expensive than offsets available outside of California. The magnitude of the difference in cost should be evaluated to ensure this is a feasible program. There is no scientific nexus to require local GHG offsets to reduce a project's contribution to climate change. The mitigation nexus is tied to the geographic scale of climate change, which is global. Local offsets are a policy and social preference as co-benefits are of great interest and value. While most applicants and lead agencies agree that contributing to improvements within their community is good planning and policy, cost is typically prohibitive in making this a reality.

We recognize that a GHG bank will likely be different than traditional offsets on the voluntary market. For example, the key additional criteria may not be required; instead, the offset opportunity may not otherwise happen or happen on a timely basis without funding. Compromises may be necessary to overcome obstacles.

We hope CARB will reach out to AEP for additional thoughts as we are happy to discuss our experiences and provide feedback. We also can connect CARB to other interested stakeholders such as offset brokers who understand the voluntary market intimately and lead agencies who have considered local offsets but have experienced hurdles. We have been thinking of how a GHG bank would work for CEQA for years and are excited to work with CARB to further evaluate this possibility.

We appreciate all that CARB is doing to enable a low-carbon future for California. Meeting the state's long-term GHG goals is a substantial challenge. The Draft 2022 Scoping Plan is an excellent step in that direction. We understand it's a lot of effort and appreciate the opportunity to comment.

Sincerely,

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NOTE: The Opinions expressed herein are those of the individual members of the Committee and not the firms they represent.