California Air Resources Board

# Public Hearing to Consider the Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation

## Final Statement of Reasons for Rulemaking, Including Summary of Comments and Agency Response

# Attachment 2
# Board Hearing
# Written Comments

*Public Hearing Date: February 26, 2026*
*Agenda Item No.: 26-1-3*

# U.S. Tire Manufacturers Association (Stephanie Schlea)

Please see attached comments from the U.S. Tire Manufacturers Association regarding CARB's Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation. Please don't hesitate to reach out to me with any questions.

February 25, 2026

**Submitted electronically *via* email to COTB@arb.ca.gov**

Clerks' Office
California Air Resources Board
1001 I Street
Sacramento, CA 95814
Attn: Jordan Ramalingam, Chief, Climate Data and Risk Reporting Branch

**Re: Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation**

Dear Mr. Ramalingam,

The U.S. Tire Manufacturers Association (USTMA) appreciates the opportunity to provide comments on the proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation. USTMA is the national trade association for tire manufacturers that produce tires in the United States. USTMA members operate 55 facilities in 16 states, are responsible for more than 291,000 jobs, and have an annual economic footprint of $170.6 billion. The industry supports more than 510,000 additional domestic jobs in supplier and induced activities, totaling more than 801,000 jobs nationwide. The tires from our member companies make mobility possible and keep the U.S. economy moving. USTMA advances a sustainable tire manufacturing industry through commitment to science-based public policy advocacy.

USTMA previously submitted comments to CARB on July 30, 2025. Those comments are attached for your convenience. We thank CARB for addressing our request to publicly disclose the appropriations for these climate-related programs in the proposed regulation. However, we continue to advocate for a revenue-based, tiered fee system, based on different ranges of California-specific revenue incomes of the reporting entities, rather than the proposed flat fee system tied to program costs and number of reporting entities. USTMA maintains that such a system would reasonably connect a party's fees to the extent of the party's presence and market access in California.

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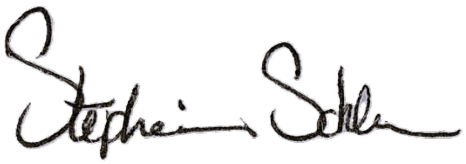
USTMA and its members are dedicated to making safe, efficient, and reliable tires that safely transport hundreds of millions of Americans each day. We appreciate the opportunity to provide these comments and look forward to continued dialogue with CARB. Please contact me with any questions about these comments at SSchlea@ustires.org or 1-202-682-4836.

Respectfully Submitted,



Stephanie Schlea
Vice President, Environment, Health, Safety, & Sustainability
U.S. Tire Manufacturers Association

# National Technology & Engineering Solutions of Sandia, LLC

COMMENTS ON
PROPOSED CALIFORNIA GREENHOUSE GAS
REPORTING AND CLIMATE-RELATED FINANCIAL RISK
DISCLOSURE INITIAL REGULATION

February 9, 2026

## ABOUT SANDIA

Sandia National Laboratories (Sandia) is a multimission federally funded research and development center (FFRDC) sponsored by the Department of Energy's (DOE) National Nuclear Security Administration (NNSA), dedicated to advancing science, technology, and engineering solutions for the nation's most pressing security challenges, including national defense, nuclear deterrence, nonproliferation, energy security, AI, and cutting-edge industries. Thus, the labs perform many vital activities that help keep the nation safe. The labs are managed and operated by National Technology & Engineering Solutions of Sandia, LLC (NTESS) under a long-term management and operating (M&O) contract with the NNSA.

002.1 This relationship positions NTESS as a specialized contractor whose interactions with the federal government are integral and exclusive in purpose: put simply, NTESS exists solely to run Sandia on behalf of the NNSA, ensuring the labs fulfill their critical role in national security without the characteristics of typical private businesses. Unlike other private entities, NTESS does not solicit investors—in California or elsewhere—nor does it sell products or services to the public at large; its sole client is the federal government, with all operations funded and directed through this contractual framework. In the context of California's proposed implementation of climate-disclosure legislation under Senate Bills 253 and 261 — laws never intended to apply to governmental entities — the potential application to NTESS remains ambiguous. While NTESS is not formally part of the federal government, NTESS' activities are focused solely on its management of the Labs for the federal government.

## PUBLIC COMMENTS

These comments are intended to assist the Board in ensuring that the final regulations are legally sound, administrable, and consistent with longstanding principles governing federal instrumentalities and national security operations. NTESS would emphasize the tremendous National Security importance of its mission, its unique legal and practical role as a steward of federal assets, and the corresponding urgent need to clarify the applicability of these rules to NTESS' operations.

## I.

## CLARIFICATION IS NECESSARY TO AVOID UNINTENDED APPLICATION TO FEDERAL NATIONAL SECURITY FACILITIES

Federally funded national security laboratories, such as those operated under management and operations (M&O) contracts with the U.S. Department of Energy and the National Nuclear Security Administration, exist solely to carry out core federal missions. These laboratories operate as federally funded research and development centers (FFRDCs) and are subject to extensive federal oversight, direction, and security controls.

002.2

Absent a clear regulatory clarification, the current draft could be interpreted to apply disclosure obligations to entities whose assets are exclusively federal and whose operations are conducted exclusively or primarily pursuant to federal "M&O" contracts and under federal control. Such an interpretation would risk extending state regulatory requirements into areas traditionally and constitutionally reserved to the federal government.

Further, the proposed regulations could be interpreted as subjecting these entities, or their management and operating contractors, to reporting obligations notwithstanding the fact that their operations are conducted exclusively in furtherance of federal missions. Such an outcome would extend the scope of the climate disclosure programs beyond their intended commercial focus. Thus, NTESS proposes, as reflected in **Exhibit A,** the following language be added to § 96071 (b):

> "(6) A Federally Funded Research And Development Center (FFRDC), national laboratory, or similar entity that operates pursuant to a contract with the United States Department of Energy, the National Nuclear Security Administration, or another federal agency for purposes of national security, nuclear security, energy security, or classified research, including any management and operating contractor acting in furtherance of such federal mission."

Exempting NTESS from reporting requirements under a federal actor exemption aligns with the express legislative intent of SB 253 and SB 261, which were designed from the beginning to target profit-oriented corporations contributing to climate impacts through commercial activities, **not** mission-driven federal extensions like FFRDCs. CARB's proposed exemptions for non-profits, universities, and entities with minimal California

footprints underscore a focus on commercial business enterprises and efforts, avoiding overreach, and NTESS fits this ethos - its presence in California is solely for federal research/national security purposes, not for the purposes of business expansion. Treating NTESS as a regular for-profit business could chill federal-state cooperation and invite costly litigation over preemption. But by classifying NTESS as a subcategory of federal government actor (solely and exclusively for the purposes of these proposed regulations) would ensure these regulations remain targeted at true private sector emitters without ensnaring vital public-interest operations.

## II.

## THE DEFINITION OF "REPORTING ENTITY" AND "COVERED ENTITY" SHOULD BE MODIFIED TO EXCLUDE FEDERALLY FUNDED NATIONAL SECURITY LABORATORIES

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As currently drafted, the proposed definitions of "reporting entity" and "covered entity" are broad and, absent clarification, could be interpreted to encompass federally funded national security laboratories and their management and operating contractors. The latter entities, Atomic Energy Act authorized management and operating contractors, while frequently organized as corporations or limited liability companies, do not operate as ordinary commercial actors. Rather, they perform exclusively or primarily federal mission functions under close federal direction and control, including activities in such critical areas as national security, nuclear deterrence, energy security, and classified research.

Accordingly, NTESS proposes, as reflected in the attached **Exhibit A,** the following language be added to § 96072:

> "(5) Covered entity" means a corporation, partnership, limited liability company, or other business entity formed under the laws of the state, the laws of any other state of the United States or the District of Columbia, or under an act of the Congress of the United States with total annual revenues in excess of five hundred million United States dollars ($500,000,000) and that does business in California, provided that said entity is not a federally funded research and development center, Federally Funded National Security Laboratory, or an entity operating primarily or exclusively pursuant to a federally funded mission involving national security, nuclear security, energy security, or classified activities under the direction or control of the United States government. The entity's revenue amount shall be determined by the lesser of the entity's two previous fiscal years of revenue. "Covered entity" does not include a business entity that is subject to regulation by the Department of Insurance in this state, or that is in the business of insurance

in any other state.

(9) "Federally Funded National Security Laboratory" (FFNSL) means a federally funded research and development center or another entity operating under contract with the United States Department of Energy, the National Nuclear Security Administration, or another federal agency whose mission includes national security, nuclear deterrence, or classified activities under the direction or control of the United States government.

(12) "Reporting entity" means a partnership, corporation, limited liability company, or other business entity formed under the laws of this state, the laws of any other state of the United States or the District of Columbia, or under an act of the Congress of the United States with total annual revenues in excess of one billion United States dollars ($1,000,000,000) and that does business in California, provided that said entity is not a federally funded research and development center, Federally Funded National Security Laboratory, or a similar entity operating primarily or exclusively pursuant to a federally funded mission involving national security, nuclear security, energy security, or classified activities under the direction or control of the United States government. The entity's revenue amount shall be determined by the lesser of the entity's two previous fiscal years of revenue."

Modifying the above definitions to expressly exclude FFRDCs, FFNSLs, and their management and operating contractors acting pursuant to federal missions is necessary to align the regulations with constitutional principles of intergovernmental immunity. Without such an exclusion embedded in the definitional provisions themselves, the regulations could be construed to impose state disclosure requirements that directly regulate federal operations, creating legal uncertainty and potential conflicts with federal law and policy.

In addition, embedding this exclusion within the definitions promotes common sense, regulatory clarity, and administrative efficiency. It avoids the need for case-by-case determinations regarding federal mission scope, contractual structure, or operational control, and ensures that the climate disclosure programs remain focused on their intended targets: commercial entities whose disclosures are designed to inform investors and the public, rather than entities performing classified, federally controlled national security functions.

## IV.

## CONCLUSION

Clarifying that national laboratories such as Sandia and their management and operating contractors are excluded from the reporting requirements will:

- Provide certainty to regulated entities and CARB;
- Prevent unnecessary legal disputes in state and federal courts;
- Avoid costly and inefficient case-by-case determinations; and
- Ensure the regulations remain focused on their intended targets: commercial entities whose climate-related disclosures may advance transparency for investors and the public.

For these reasons, NTESS respectfully urges CARB to adopt revisions that clearly exclude FFNSLs, FFRDCs, and their management and operating contractors acting pursuant to federal missions from the California Climate Disclosures reporting requirements, as proposed in detail in **Exhibit A**. These clarifications are consistent with common sense, known statutory intent, constitutional principles, and sound administrative practices, and will strengthen the final regulations against possible legal challenges.

002.4

Thank you for your attention to this matter.

# Exhibit A

National Technology & Engineering Solutions of Sandia, LLC's

Proposed Rules Redline

**Article 6: California Climate Disclosures**

**Subarticle 1: General Requirements for California Climate Disclosures Reporting**

**§ 96070. Purpose**

The purpose of this article is to establish certain requirements pursuant to sections 38532 and 38533 of the Health and Safety Code. The climate change disclosure reporting programs set forth in this article are also colloquially referred to by the legislative bill numbers that originally enacted them: Senate Bill (S.B.) 253 (2023), the Climate Corporate Data Accountability Act, codified at Health & Safety Code Section 38532; and SB 261 (2023), the Climate-Related Financial Risk Act, codified at Health & Safety Code Section 38533.

NOTE: Authority cited: Sections 38532, 38533, 39600 and 39601, Health and Safety Code.
Reference: Sections 38532 and 38533, Health and Safety Code.

**§ 96071. Applicability.**

(a) This article applies to reporting entities and covered entities, as defined in section 96072.

(b) This article does not apply to the following entities:

(1) Non-profit or charitable organizations that are tax-exempt under the Internal Revenue Code;

(2) A business entity that is subject to regulation by the Department of Insurance in this state, or that is in the business of insurance in any other state.

(3) Federal, State and local government entities, and companies that are majority-owned by government entities (>50.00%);

(4) A business entity whose only activity within California consists of wholesale electricity transactions; ~~and~~

(5) A business entity whose only business in California is employee compensation or payroll expenses, including teleworking employees; and

(6) A Federally Funded Research And Development Center (FFRDC), national laboratory, or similar entity that operates pursuant to a contract with the United States Department of Energy, the National Nuclear Security Administration, or another federal agency for purposes of national security, nuclear security, energy security, or classified research, including any management and operating contractor acting in furtherance of such federal mission."

**§ 96072. Definitions.**

(a) For the purposes of this article, the following definitions apply:

(1) "Business entity" means a corporation, partnership, limited liability company, or other business entity formed under the laws of the state, the laws of any other state of the United States or the District of Columbia, or under an act of the Congress of the United States.

(2) "CARB" means the California Air Resources Board.

(3) "Climate Accountability and Emissions Disclosure Fund" means the account where proceeds of the Health and Safety Code section 38532 implementation fee are deposited, and from which moneys are continuously appropriated for use by the state board for purposes of administering the Climate Corporate Data Accountability Act established by Health and Safety Code section 38532.

(4) "Climate-Related Financial Risk Disclosure Fund" means the account where the proceeds of the Health and Safety Code section 38533 implementation fees are deposited, and from which moneys are continuously appropriated for use by the state board for purposes of administering the Climate-Related Financial Risk program established by Health and Safety Code section 38533.

(5) "Covered entity" means a corporation, partnership, limited liability company, or other business entity formed under the laws of the state, the laws of any other state of the United States or the District of Columbia, or under an act of the Congress of the United States with total annual revenues in excess of five hundred million United States dollars ($500,000,000) and that does business in California, provided that said entity is not a federally funded research and development center, Federally Funded National Security Laboratory, or an entity operating primarily or exclusively pursuant to a federally funded mission involving national security, nuclear security, energy security, or classified activities under the direction or control of the United States government. The entity's revenue amount shall be determined by the lesser of the entity's two previous fiscal years of revenue. "Covered entity" does not include a business entity that is subject to regulation by the Department of Insurance in this state, or that is in the business of insurance in any other state.

(6) "Debt" means those loans obtained by CARB, and required by the Legislature to be repaid, to carry out sections 38532 and 38533 of the Health and Safety Code.

(7) "Doing business" shall have the same definition as set forth in section

23101(a) of the California Revenue and Taxation Code.

(8) "Doing business in California" means doing business and meeting either of the criteria set forth in subsections 23101(b)(1) or 23101(b)(2) of the California Revenue and Taxation Code. Wholesale sales of electricity do not count for purposes of determining an entity's sales in California under Revenue and Taxation Code section 23101(b)(2).

(9) "Federally Funded National Security Laboratory" (FFNSL) means a federally funded research and development center or another entity operating under contract with the United States Department of Energy, the National Nuclear Security Administration, or another federal agency whose mission includes national security, nuclear deterrence, or classified activities under the direction or control of the United States government.

(10) "Implementation Fee" means the fee set by the state board and assessed annually on a reporting entity or covered entity.

(11) "Parent" means a business entity that has ownership interest in or control of another business entity by direct corporate association as specified in section 95833 of Title 17 of the California Code of Regulations. The indicia determining ownership or control are set forth in section 96072(a)(6).

(12) "Reporting entity" means a partnership, corporation, limited liability company, or other business entity formed under the laws of this state, the laws of any other state of the United States or the District of Columbia, or under an act of the Congress of the United States with total annual revenues in excess of one billion United States dollars ($1,000,000,000) and that does business in California, provided that said entity is not a federally funded research and development center, Federally Funded National Security Laboratory, or a similar entity operating primarily or exclusively pursuant to a federally funded mission involving national security, nuclear security, energy security, or classified activities under the direction or control of the United States government. The entity's revenue amount shall be determined by the lesser of the entity's two previous fiscal years of revenue.

(13) "Required Revenue" (RR) means the total amount of funds necessary to recover the costs of implementation of expenditures under the programs established by Health and Safety Code sections 38532 or 38533, respectively, for each fiscal year, based on the number of personnel positions, including salaries and benefits, contracting costs, and all other costs, including legal defense of this article, as approved in the California

Budget Act for that fiscal year.

(14) "Revenue" has the same meaning as "gross receipts" under section 25120(f)(2) of the California Revenue and Taxation Code.

(15) "Scope 1 Emissions" means, as defined in Health & Safety Code Section 38532(b)(3), all direct greenhouse gas emissions that stem from sources that a reporting entity owns or directly controls, regardless of location, including, but not limited to, fuel combustion activities.

(16) "Scope 2 Emissions" means, as defined in Health & Safety Code Section 38532(b)(4), indirect greenhouse gas emissions from consumed electricity, steam, heating, or cooling purchased or acquired by a reporting entity, regardless of location.

(17) "Subsidiary" means a business entity that another business entity has ownership interest in or control of by direct corporate association as set forth in section 95833 of Title 17 of the California Code of Regulations. A subsidiary may operate as a separate legal entity but is under the control of the parent entity due to this direct corporate association which can influence the subsidiary's operations, management, or financial decisions. The following indicia of control determine ownership or control:

(A) Greater than 50 percent of ownership of any class of listed shares, the right to acquire such shares, or any option to purchase such shares of the other entity;

(B) Greater than 50 percent of common owners, directors, or officers of the other entity;

(C) Greater than 50 percent of the voting power of the other entity;

(D) In the case of a partnership other than a limited partnership, greater than 50 percent of the interests of the partnership;

(E) In the case of a limited partnership, greater than 50 percent of control over the general partner or greater than 50 percent of the voting rights to select the general partner; and

(F) In the case of a limited liability corporation, greater than 50 percent of ownership in the other entity regardless of how the interest is held.

(18) "Total Required Revenue" (TRR) means Required Revenue with a 10% contingency adjustment to cover unforeseen costs or reductions in revenue, plus the Debt.

NOTE: Authority cited: Sections 38532, 38533, 39600 and 39601, Health and Safety Code.
Reference: Sections 38532 and 38533, Health and Safety Code.

**Subarticle 2: Fees**

**§ 96073. Calculation of Fees.**

(a) For entities reporting pursuant to Health and Safety Code sections 38532 and 38533, CARB shall annually calculate a fee rate for each program using the following formula:

$RR_y = RR_{y-1} \times [1+ANN_y]$

$TRR_y = (RR_y \times (1 + A)) + D$

Where:

$RR_y$ = Required Revenue, as specified in subsection 96072(a), for FY (y)

D = Debt, as defined in section 96072(a)

$ANN_y$ = Percentage change in the cost of living for FY (y), pursuant to California Revenue and Taxation Code section 2212, is the percentage change from April 1 of the prior year to April 1 of the current year in the California Consumer Price Index for all items, as determined by the California Department of Industrial Relations. Since the base year is FY 2026–27, the first year of inflation application is 2027.

$TRR_y$ = Total Required Revenue for FY y

A = Contingency Adjustment

(b) If there is any excess or shortfall in revenue collected for any fiscal year, such excess or shortfall shall be carried over to the next year's calculation of TRR.

(c) Health and Safety Code section 38532 Fee:

$F_{38532} = (TRR_y \times P_{38532}) / N_{38532}$

Where:

$P_{38532}$ = Percentage of TRR dedicated administration of Health and Safety Code section 38532 as derived from the authorized staff positions assigned to Health and Safety Code section 38532.

$N_{38532}$ = Number of reporting entities

(d) Health and Safety Code section 38533 Fee:

$F_{38533} = (TRR_y \times P_{38533}) / N_{38533}$

Where:

$P_{38533}$ = Percentage of TRR dedicated to administration of Health and Safety Code section 38533 as derived from the authorized staff positions assigned to Health and Safety Code section 38533.

$N_{38533}$ = Number of covered entities

NOTE: Authority cited: Sections 38532, 38533, 39600 and 39601, Health and Safety Code.
Reference: Sections 38532 and 38533, Health and Safety Code.

**§ 96074. Payment and Collection.**

(a) Annual fees are assessed for reporting entities and covered entities. Beginning in fiscal year 2026 and for each year thereafter, on or by September 10, the Executive Officer shall provide a written fee determination notice to each affected entity of the amount due. The amount of the fee shall be calculated using the fee calculation formulas set forth in section 96073.

(b) *Payment Period*. Each entity that is notified by the Executive Officer that it must remit a specified fee amount to CARB for the current reporting year shall remit that fee amount to CARB for deposit into the Climate Accountability and Emissions Disclosure Fund and/or the Climate-Related Financial Risk Disclosure Fund, as itemized on the invoice, within 60 days of the fee determination notice date. Payment shall be made payable to the California Air Resources Board.

(c) *Late Fee*. Entities failing to remit the fee to CARB within 60 days of receipt of the fee determination notice are subject to a late fee. The Executive Officer shall set the late fee in an amount sufficient to cover the additional costs to CARB in administering and implementing this program caused by the entity's untimely payment. The late fee is in addition to any penalty that may be assessed as provided in section 96075.

(d) *Recordkeeping.* Entities subject to this article must maintain records demonstrating that they meet the revenue and doing business in California thresholds of Health and Safety Code sections 38532 and 38533, as defined in section 96072 of this article. Entities must retain these records for five years, and must provide these records to CARB if requested.

NOTE: Authority cited: Sections 38532, 38533, 39600 and 39601, Health and Safety Code.
Reference: Sections 38532 and 38533, Health and Safety Code.

**§ 96075. Fee Enforcement**.

(a) *Penalties.* Penalties may be assessed for any violation of this subarticle consistent with Health and Safety Code sections 38532, 38533, and 38580; and Article 3 (commencing with Section 60065.1) and Article 4 (commencing with Section 60075.1) of Subchapter 1.25 of Chapter 1 of Division 3 of Title 17 of the California Code of Regulations. Each day during any portion of which a violation occurs is a separate offense.

(b) *Injunctions.* Any violation of this subarticle may be enjoined pursuant to Health and Safety Code section 41513.

(c) *Payment Violations.* The failure to pay the full amount of any fee required by this subarticle shall constitute a single, separate violation of this subarticle for each day or portion thereof that the fee has not been paid after the date the fee is due.

(d) *Auditing.* The Executive Officer may contract with or consult with outside entities, including, but not limited to, the Board of Equalization or the California Franchise Tax Board, to obtain data or services needed to audit the fee remittances provided by fee payers, or unpaid fees. The Executive Officer may use fee revenues collected under this subarticle, in addition to other funding sources, to fund auditing and collection procedures.

NOTE: Authority cited: Sections 38532, 38533, 39600 and 39601, Health and Safety Code.
Reference: Sections 38532, 38533, and 41513, Health and Safety Code.

**§ 96076. Deadline for Reporting Under Health and Safety Code Section 38532**

(a) Reporting entities shall report their Scope 1 and Scope 2 emissions for the applicable preceding fiscal year as determined in section 96076(b), on or

before August 10, 2026.

(b) For purposes of this section, the "applicable preceding fiscal year" shall be determined as follows:

(1) If the reporting entity's fiscal year ends on or before February 1 in a calendar year, the applicable preceding fiscal year shall be the fiscal year ending in the current calendar year.

(2) If the reporting entity's fiscal year ends after February 1 in a calendar year, the applicable preceding fiscal year shall be the fiscal year ending in the previous calendar year. However, reporting entity may choose to report their Scope 1 and Scope 2 emissions from their most recent preceding fiscal year notwithstanding their fiscal year ending after February 1, where that data is available.

NOTE: Authority cited: Sections 38532, 38533, 39600 and 39601, Health and Safety Code.
Reference: Sections 38532 and 38533, Health and Safety Code.

**§ 96077. Severability.**

(a) Each part of this article is severable. In the event that any part of this article is held to be invalid, the remainder of this article shall continue in full force and effect.

NOTE: Authority cited: Sections 38532, 38533, 39600 and 39601, Health and Safety Code.
Reference: Sections 38532 and 38533, Health and Safety Code.

Biocom
1121 L Street, Suite 1111
Sacramento, CA 95814

February 26, 2026

Office of the Clerk
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Proposed California Corporate GHG Reporting and Climate-Related Financial Risk Disclosure Initial Regulation

Dear Chair Sanchez and Members of the Board:

On behalf of Biocom, the world's largest life science organization, representing biotechnology, pharmaceutical, medical device, genomics and diagnostics companies of all sizes, research universities and institutes, clinical research organizations, investors and service providers, we appreciate the opportunity to submit this written comment regarding the Proposed Initial Regulation for the implementation of SB 253 and SB 261.

Life science activity in California is the second largest industry in the state, generating approximately $395.7 billion in total business output for California and contributed approximately $125.7 billion in salaries and sole proprietor income (2024). Our ecosystem includes a large presence of small, emerging companies alongside established, mature firms. Together, these companies develop, manufacture, and distribute the technologies, devices, diagnostic tests, and health information systems that are transforming healthcare through earlier disease detection and more effective treatments to improve the human condition.

003.1 As the Board considers initial regulations, and prepares for the subsequent rulemaking phases, we must reiterate that the complexities of Scope 3 emissions present a unique hurdle for the medical technology and biotechnology sectors. These emissions encompass the downstream processing, transportation, distribution, consumer use, and end-of-life treatment of products after they are sold, as well as the upstream supply chain investments our companies rely on (but do not own or oversee). The sheer volume of these data points, combined with the likelihood of double counting and the necessary reliance on secondary data, makes assessing Scope 3 emissions with accuracy incredibly difficult.

To avoid duplicative reporting and prevent capturing these emissions multiple times, we urge CARB to align its implementation and future reporting requirements with existing federal and international reporting standards.

Maintaining alignment with recognized global standards will streamline the logistical burden for our companies, ensure that emissions are reported accurately, and, most importantly, allow for the continued, on-time production and delivery of essential medical technologies to patients who depend

Biocom
1121 L Street, Suite 1111
Sacramento, CA 95814

on them.

We appreciate the opportunity to provide these comments for the official record and look forward to working collaboratively with CARB throughout the implementation process. Please feel free to contact me at GLara@biocom.org or our lobbyist Moira Topp at Moira@ToppStrategies.com with any questions.

Sincerely,

Gilbert Lara
State Government Affairs Manager

# Otto Starzmann

I submit the attached written testimony in strong support of CARB's proposed SB 253 regulations, with five targeted technical recommendations on the three decisions before the Board today: (1) graduate the flat fee structure by revenue tier; (2) allow a consolidated fee election for corporate families filing consolidated reports; (3) clarify the "doing business in California" definition to address digital economy business models; (4) adjust the initial reporting deadline to October 31, 2026; and (5) establish a 30-day first-year grace period for good-faith fee payment delays. These recommendations are grounded in three decades of direct experience implementing disclosure frameworks under multilateral oversight and are intended to strengthen CARB's program, not soften it.

**WRITTEN TESTIMONY SUBMITTED TO CALIFORNIA AIR RESOURCES BOARD**

Public Hearing on Proposed Regulations Implementing SB 253 and SB 261

Climate Corporate Data Accountability Act and Climate-Related Financial Risk Act

**Submitted to:**
California Air Resources Board (CARB)
1001 I Street, Sacramento, CA 95814
Clerk of the Board: cotb@arb.ca.gov

**Submitted by:**
Otto Starzmann
ESG Strategy & Corporate Data Ethics Authority
Expert in Infrastructure Development, Climate Risk, and Corporate Sustainability
New York, New York
otto@ottostarzmann.com

**Re:** Climate Data and Financial Risk Reporting Fee Regulation
**Regulatory Authority:** California Code of Regulations, Title 17, Sections 96070–96077
**Hearing Date:** February 26, 2026
**Position:** SUPPORT with Technical Recommendations

## SUMMARY

I respectfully submit this testimony in strong support of CARB's proposed regulations implementing SB 253 *(Climate Corporate Data Accountability Act).* California's leadership in establishing mandatory climate disclosure requirements creates essential market infrastructure that improves capital allocation and positions California businesses competitively as global markets converge around standardized emissions reporting.

This testimony addresses the ***three specific decisions*** before the Board at this hearing: (1) the fee structure, (2) covered entity definitions, and (3) the first-year reporting deadline. I offer five targeted technical recommendations to strengthen program effectiveness while maintaining compliance feasibility, drawing on more than three decades of experience implementing disclosure and accountability frameworks under multilateral oversight across diverse jurisdictions.

I acknowledge that CARB has appropriately deferred reporting requirements, verification standards, and Scope 3 guidance to subsequent rulemaking. I intend to provide detailed technical analysis on those implementation elements when CARB opens that process. This testimony focuses exclusively on the decisions currently before the Board.

**Regarding SB 261:** I support CARB's continued parallel rulemaking on climate-related financial risk disclosure. The graduated tier structure and consolidated fee election recommended here for SB 253 apply to SB 261 as well, once the Ninth Circuit injunction is resolved—

004.2

recalibrated proportionally around the SB 261 base fee of $1,403 rather than the SB 253 base of $3,106. Given that SB 261 implementation remains stayed, this testimony focuses on the SB 253 decisions the Board can act on today.

## CREDIBILITY AND RELEVANT EXPERIENCE

My testimony is informed by direct operational experience implementing complex disclosure and accountability frameworks in politically sensitive, multi-jurisdictional contexts:—

- ***Multilateral Development Implementation:*** 14 years managing World Bank and Inter-American Development Bank (IDB) projects requiring cross-jurisdictional regulatory navigation, stakeholder coordination, and disclosure framework implementation across more than 10 countries in Latin America and the Caribbean.
- ***Organizational Complexity Expertise:*** Direct experience navigating how theoretical regulatory requirements meet real-world compliance constraints in organizations with complex subsidiary structures, multi-tier supply chains, and resource limitations—including multi-entity reporting consolidation as a tool for oversight efficiency under multilateral mandates.
- ***Climate Disclosure Practice:*** Extensive implementation experience with *Scope 3* measurement methodologies, carbon accounting system design, and state-level climate policy application across manufacturing, food systems, logistics, and infrastructure sectors.
- ***Regulatory Implementation Perspective:*** Three decades observing how specific regulatory design choices—fee structures, deadline sequences, and definitional thresholds—produce predictable operational outcomes that either enable or undermine program effectiveness.

I offer this testimony as an independent expert with no financial interest in the outcome of this rulemaking beyond advancing effective climate disclosure architecture.

## PART 1:
## TECHNICAL RECOMMENDATIONS ON THE THREE CURRENT CARB DECISIONS

### Decision 1:
### Fee Structure

### Recommendation #1:
### Graduate the Fee Structure by Revenue Tiers

***Current Proposal***

CARB's draft regulations establish a flat annual fee of approximately $3,106 for all entities subject to SB 253, regardless of company size, operational complexity, or value chain breadth.

***Problem***

A flat fee structure treats a $1 billion revenue company identically to a $500 billion revenue company, despite vast differences in:—

- Compliance capacity and technical resources.
- *Scope 3* value chain complexity (supplier count, geographic distribution, and data collection burden).
- Administrative cost absorption capability.
- Systemic and/or strategic importance to California's overall economy.

004.3

This creates disproportionate burdens on smaller entities within the $1 billion+ threshold while under-recovering costs from the largest, most complex reporters.

***Recommendation***

Implement graduated fee tiers based on annual revenue brackets:—

- **Tier 1** ($1B – $5B revenue): Base fee (~$3,106)
- **Tier 2** ($5B – $25B revenue): 1.5x base fee (~$4,659)
- **Tier 3** ($25B – $100B revenue): 2.5x base fee (~$7,765)
- **Tier 4** ($100B+ revenue): 4x base fee (~$12,424)

***Rationale***

This approach reflects the proportionality principle embedded in EU *Corporate Sustainability Reporting Directive (CSRD)* implementation, where regulatory burden scales with company capacity. It also aligns with California's own progressive policy traditions in other regulatory domains, including workers' compensation premium structures and unemployment insurance contributions.

Graduated fees would:—

- Better match program costs to entities creating the greatest compliance complexity.
- Reduce barriers for smaller entities newly crossing the $1 billion threshold.
- Maintain program revenue adequacy as CARB refines cost estimates.
- Provide political sustainability by demonstrating fairness across a highly varied entity population.

***Precedent***

The EU *CSRD* explicitly incorporates proportionality through phased implementation timelines and reduced disclosure requirements for smaller entities. While California's $1 billion threshold already provides a materiality floor, graduated fees within that population acknowledge

continued variation in compliance capacity. California's well-established regulatory tradition supports this approach: the state routinely scales obligations by organizational size and capacity across environmental, labor, and financial regulatory domains.

## Recommendation #2: Address the Multi-Subsidiary Fee Problem Through a Consolidated Fee Election

### *Current Proposal*

The draft regulations establish fees ***per entity,*** not per reporting unit. This means every subsidiary of a parent corporation that independently qualifies under the revenue and "doing business in California" thresholds must pay the $3,106 fee separately—even when the parent files a consolidated emissions report covering all subsidiaries.

004.4 ### *Problem*

A conglomerate or private equity portfolio with 30 to 50 California-operating subsidiaries, each individually meeting the $1 billion revenue threshold, faces cumulative SB 253 fee exposure of $93,000–$155,000—plus equivalent SB 261 fees once the Ninth Circuit injunction lifts. This is not a barrier for the very largest companies, which can absorb it readily. But it creates disproportionate burden for ***mid-market holding structures***—operating companies organized across legal entities for legitimate business purposes—and for portfolio structures common in real estate, infrastructure, and private equity.

Critically, paying multiple fees does not produce better emissions data. When a parent is filing a single consolidated report, the per-entity fee structure imposes administrative duplication on both the regulated community and CARB without improving the quality or completeness of the reported emissions. The structure also creates perverse incentives for corporate restructuring—consolidating entities purely to minimize fee exposure—which would complicate CARB's oversight without advancing any substantive program goal.

### *Recommendation*

CARB should allow a ***consolidated fee election*** for corporate families filing consolidated emissions reports. Under this approach:—

- A parent entity filing a consolidated report covering multiple California subsidiaries would pay ***a single graduated fee*** based on the total consolidated revenue of all covered entities.
- All subsidiaries included in the consolidated report would be identified in the filing, providing full transparency to CARB.
- The applicable graduated fee tier would be determined by ***total consolidated revenue,*** ensuring that large conglomerates pay appropriately scaled fees—not a discounted flat amount.

- This election would be ***optional:*** entities preferring to file and pay separately could continue to do so.

***Rationale***

Multi-entity reporting consolidation at the program level is a well-established principle in multilateral development finance, where I have direct operational experience. Under World Bank and IDB frameworks, program-level consolidated reporting consistently produced better oversight outcomes than entity-by-entity reporting—because it allowed regulators to assess systemic performance patterns rather than isolated entity snapshots. The same logic applies here.

A consolidated fee election would:—

- Eliminate duplicative administrative burden for both regulated entities and CARB staff.
- Remove incentives for artificial corporate restructuring to minimize fee exposure.
- Maintain program revenue adequacy through graduated fee tiers calibrated to total consolidated revenue.
- Simplify CARB's verification and enforcement processes by aligning the fee-paying unit with the reporting unit.

This is a gap in the current draft that other submissions are unlikely to have addressed from an operational implementation standpoint. I urge the Board to close it.

**Decision 2:**
**Covered Entity Definitions**

**Recommendation #3:**
**Clarify "Doing Business in California" for Digital Economy Business Models**

***Current Proposal***

CARB's *Initial Statement of Reasons* defines "doing business in California" by excluding certain activities (telework-only operations and wholesale electricity transactions without physical presence) but does not affirmatively clarify the treatment of digital economy business models.

***Ambiguity***

Many companies generate substantial California revenue through purely digital channels. These include: (1) Software-as-a-service; (2) Cloud computing; (3) Streaming media; and (4) E-commerce platforms. These entities may have:—

- Minimal or no physical California presence (no offices, warehouses, or employees).
- A large California customer base generating revenue well above the $1 billion threshold.
- An unclear nexus under traditional "doing business" frameworks.

The current draft language does not explicitly address whether such entities are "doing business in California" for SB 253 purposes.

Given that California's technology and digital media economy represents one of the largest concentrations of high-revenue digital businesses anywhere in the world, this ambiguity is not a peripheral edge case—it is a structural gap that could exempt a significant population of large emitters from the program's reach.

***Recommendation***

CARB should clarify that entities with $1 billion+ in annual ***California-source revenue*** (sales to California customers, regardless of the entity's physical presence) are subject to SB 253 reporting requirements.

This approach:—

- Aligns with the economic reality that digital business models have substantial California market presence through customer relationships, not physical footprints.
- Prevents avoidance strategies where companies opt to maintain minimal physical presence while continuing to serve large California markets.
- Treats digital and physical businesses equivalently—a software company selling to California customers reports on the same basis as a manufacturer with California-located facilities.
- ***Harmonizes with California's own existing legal framework:*** CARB's proposed definition already tracks *Revenue and Taxation Code* §25120(e)/(f), which uses a sales-based assignment methodology. That methodology, in its modern economic nexus interpretation following the 2018 *South Dakota v. Wayfair* Supreme Court decision, already attributes revenue to the customer's location for digital businesses.

  Applying the same economic nexus principle to SB 253 represents a logical extension of California's own definitional framework. CARB should note, however, that *Wayfair* established economic nexus for ***tax*** jurisdiction specifically—and that regulatory disclosure jurisdiction is a legally distinct concept.

  CARB should therefore either confirm this interpretation explicitly by regulatory clarification in the final rule, or—if the statutory language requires it—seek targeted legislative authority to make the economic nexus standard explicit for disclosure jurisdiction purposes. Either pathway closes the gap; only the first can be acted on today.

***Alternative***

If CARB concludes that the statutory language limits jurisdiction to entities with physical California presence, clarifying this explicitly would provide legal certainty and allow legislative correction if the California Legislature intends broader coverage.

***Rationale***

Regulatory clarity prevents both over-compliance (entities unnecessarily reporting) and under-compliance (entities avoiding reporting through definitional ambiguity). Digital economy business models are central to California's economy. They should not create enforcement gaps in a program designed to capture the state's largest corporate emitters.

004.5

There is, however, a further operational dimension to this recommendation that distinguishes it from the positional arguments CARB is likely to receive from other submitters on this point. Technology companies with significant California revenue have strong incentives to argue—through legal counsel—that they fall outside coverage under a physical-presence reading of the statute. Advocacy organizations have equally strong incentives to argue the opposite. Both sets of arguments are about who wants to be covered. This recommendation addresses something different: ***The operational consequences of leaving the ambiguity unresolved***—regardless of which side ultimately prevails.

In multi-jurisdictional regulatory environments where I have direct implementation experience, definitional ambiguity around coverage thresholds consistently produces three predictable outcomes:—

(a) Well-resourced entities use the ambiguity as litigation cover, delaying compliance for years while the question works through the courts;

(b) Smaller entities at the threshold—unable to absorb that uncertainty—either over-comply at significant cost or wait for clarity that does not come; and

(c) The administrative entity's (in this case, CARB's) first enforcement action against a well-resourced entity (in this case, a non-resident digital-only mega-corporation), whenever it arrives, becomes the test case through which the program's jurisdictional reach gets litigated down.

These consequences are almost inevitable—unless the definitional question has been pre-resolved by explicit regulatory language. None of these outcomes serve CARB's program objectives. An explicit clarification—in either direction—costs CARB nothing administratively and eliminates all three risks. Leaving the ambiguity open preserves no useful optionality. It simply defers a problem that will be harder and more expensive to resolve once the first enforcement dispute has been filed.

**Decision 3:**
**First-Year Reporting Deadline**

**Recommendation #4:**
**Adjust the Initial Reporting Deadline to October 31, 2026**

***Current Proposal***

The first *Scope 1* and *2* emissions reports are due August 10, 2026, covering calendar year 2025 emissions.

***Problem***

The August 10, 2026 deadline creates a compound timing problem that makes first-year compliance structurally unachievable for a significant portion of covered entities, regardless of their good-faith preparation efforts. This is not an argument about corporate willingness. It is an argument about a regulatory procedural sequence that has made adequate preparation impossible in practice.

The mechanics are as follows:—

1. CARB is finalizing regulations at this February 26, 2026 hearing.
2. If the Board adopts substantive modifications today, California's *Administrative Procedure Act* requires a further ***15-day*** comment period on the modified text.
3. That process pushes regulatory finalization to mid-March 2026 at the earliest.
4. The reporting template and associated CARB guidance will not be fully operational until finalization—meaning companies cannot complete their data collection and submission preparation until they have a final, stable set of requirements to work against.

004.6

5. Companies with non-calendar fiscal years must disaggregate emissions data across two different fiscal periods to produce calendar-year 2025 figures—a data engineering exercise that adds weeks to preparation timelines and has no shortcut.
6. Public companies cannot finalize *Scope 1* and *2* emissions data independently of their SEC 10-K process, which typically closes 60–90 days after fiscal year-end. For December fiscal year-end companies, that means late February to early March 2026—leaving only five months between data availability and the August 10 deadline, with regulatory finalization uncertainty layered on top.

August 10, 2026 does not allow adequate time for any of these constraints to be resolved in sequence. They are not independent obstacles—they are a chain, and the total elapsed time from regulatory finalization to a complete, submission-ready filing is structurally longer than the remaining window provides.

***Additional Timing Pressures***

- Many companies operate on non-calendar fiscal years, common in retail, entertainment, and agriculture—sectors that are prominent in California. A company with a June 30 fiscal year-end reporting "2025" calendar-year emissions under CARB's framework must disaggregate data from two different fiscal periods, adding weeks to data collection timelines.
- Public companies subject to SEC reporting typically finalize annual disclosures 60–90 days after fiscal year-end. Requiring verified emissions disclosure by August 10 compresses timelines in ways ***that will compromise data quality*** in early reporting years—precisely the opposite of what CARB intends.

***Recommendation***

Adjust the initial deadline to ***October 31, 2026*** for calendar year 2025 emissions. This provides 10 months post-period for first-year compliance and aligns more closely with:—

- The realistic regulatory finalization timeline, including the possibility of a 15-day APA comment period following any modifications adopted today.
- Corporate fiscal year-end closing cycles.
- SEC 10-K filing timelines.
- Standard third-party verification engagement timelines.

For subsequent years, I recommend maintaining the October 31 deadline or considering an option for companies to report based on their own fiscal year-end with appropriate period labeling.

***Rationale***

First-year implementations invariably encounter technical issues. These could include: (1) Reporting system questions; (2) Verification standard interpretation; and (3) CARB guidance clarifications. Providing additional time for the inaugural reporting cycle ***increases data quality*** and ***reduces enforcement burden*** associated with good-faith delays that are a direct consequence of the regulatory timeline, not corporate indifference.

The adjustment from August 10 to October 31 does not represent a substantive retreat from SB 253's ambitions. It represents implementation realism in service of those ambitions: better data, collected under viable conditions, reported with genuine third-party verification, ***is worth more to CARB's program objectives than rushed filings of uncertain quality.***

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**Recommendation #5:**
**Establish a First-Year Payment Grace Period for Good-Faith Fee Payment Delays**

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***Current Proposal***

The draft regulations specify that each day an entity fails to pay required fees constitutes a separate violation subject to penalties. (I note that CARB has already announced it will not assess penalties during Year 1 for substantive reporting deficiencies—this recommendation addresses ***fee*** payment enforcement specifically, where that protection has not been equally extended.)

004.7

***Problem***

This enforcement structure provides no flexibility for first-year administrative delays that do not reflect intentional non-compliance. Causes could include: (1) Payment processing errors; (2) Entity identification questions; (3) CARB fee notice delivery issues; or (4) Banking and accounting system constraints. Daily accruing penalties can create disproportionate exposure for technical violations during a program's inaugural year when both regulated entities and CARB staff are navigating novel administrative processes simultaneously.

***Recommendation***

CARB should establish a first-year grace period providing entities with ***30 additional days*** beyond the payment deadline to cure fee payment deficiencies without penalty, provided:—

- The entity demonstrates good-faith compliance effort.
- Payment is completed within the cure period.
- The delay does not reflect a pattern or practice of non-compliance.

After the inaugural year, CARB may eliminate or reduce the grace period as program administration matures and entities establish reliable payment processes.

To make the good-faith standard workable in practice, CARB should publish—alongside the final regulation—a clear, standardized fee notice procedure specifying: (1) The form in which fee invoices will be issued; (2) The office or system from which they will originate; and (3) The deadline that will run from notice receipt rather than from an assumed awareness date.

Establishing what good-faith compliance effort looks like before a dispute arises is more efficient than adjudicating it after one does. A defined notice procedure would give both covered entities and CARB a shared reference point for evaluating any grace period request—reducing the administrative burden of case-by-case determinations while making the grace period mechanism meaningfully enforceable rather than merely aspirational.

***Precedent***

The Internal Revenue Service provides “first-time abatement” of penalties for taxpayers with clean compliance history who encounter isolated payment delays. The California Franchise Tax Board offers similar penalty relief for reasonable cause. Both recognize that administrative systems require adjustment periods and that proportional enforcement distinguishes honest mistakes from willful violations.

***Rationale***

CARB’s regulatory authority is most effectively preserved when enforcement focuses on substantive non-compliance—failure to report emissions or refusal to pay fees—rather than technical administrative timing. A grace period for first-year payment issues:—

- Builds a voluntary compliance culture in the program’s formative period.
- Reduces CARB’s administrative burden from penalty appeals during a period when staff are already managing implementation pressures.
- Concentrates enforcement attention on entities deliberately evading requirements.
- Acknowledges the inevitable reality of first-year implementation friction without creating any permanent exemption from fee obligations.

## PART 2: A NOTE ON SUBSEQUENT RULEMAKING ELEMENTS

CARB has appropriately deferred several critical program elements to subsequent rulemaking: (1) Reporting requirements; (2) Verification and assurance standards; (3) *Scope 3* implementation guidance; and (4) Ongoing enforcement provisions. These are the decisions that will ultimately determine whether SB 253 produces high-quality, actionable emissions data—or generates compliance theater.

I intend to provide detailed technical analysis on all of these elements when CARB opens that process, drawing on direct implementation experience with *Scope 3* measurement methodology, *double materiality* frameworks, sector-specific disclosure challenges across California's major industries, and the structural lessons from how multilateral disclosure frameworks have succeeded or failed in comparable implementation environments.

004.8

I flag here, for completeness, that verifier capacity and cost deserve early attention as CARB develops the subsequent rulemaking timeline. Limited assurance becomes mandatory for *Scope 1* and *2* reporting after the inaugural 2026 cycle, with reasonable assurance required by 2030.

Industry and practitioner projections place first-year assurance engagement costs in the range of $150,000 to $500,000 per entity for corporate-scale engagements—a figure that will shape compliance feasibility for the entire covered entity population when assurance requirements take effect. The verification standards ultimately adopted will also determine whether the existing CARB-accredited verifier pool can serve the SB 253 market or whether new accreditation pathways are required. Beginning that rulemaking process promptly—so that assurance standards are final well in advance of the first mandatory assurance cycle—is the most important timeline management decision CARB can make to prevent the verification capacity problem from becoming, in a future reporting year, exactly the kind of structural impossibility this recommendation addresses for 2026.

## PART 3: LITIGATION CONTEXT

The U.S. Chamber of Commerce challenged both SB 253 and SB 261 primarily on First Amendment grounds, arguing that the disclosure requirements unconstitutionally compel speech. The Ninth Circuit issued a preliminary injunction staying SB 261 implementation but declined to stay SB 253—allowing emissions disclosure requirements to proceed. Oral argument before a three-judge panel took place January 9, 2026, with questioning focused closely on whether each statute compels speech and whether the required disclosures qualify as purely factual, uncontroversial commercial speech. No ruling has been issued as of this testimony date.

004.9

This distinction reflects the First Amendment difference between compelling disclosure of historical, factual emissions data (SB 253) and compelling disclosure of forward-looking risk assessments and mitigation measures (SB 261)—which courts treat as closer to compelled

opinion, carrying a higher constitutional burden. The Ninth Circuit's decision to allow SB 253 to proceed while staying SB 261 signals that the court views factual emissions reporting as more likely to survive First Amendment scrutiny as uncontroversial commercial speech. This provides CARB a clear path to finalize and implement these regulations while the underlying litigation continues. I urge the Board to proceed with confidence on that basis.

## CONCLUSION

I urge CARB to adopt the proposed SB 253 regulations with the following five technical refinements:—

1. ***Graduate the fee structure*** by revenue tiers to reflect proportionality and compliance capacity differences across a highly varied entity population.
2. ***Allow consolidated fee elections*** for corporate families filing consolidated emissions reports, eliminating duplicative administrative burden while maintaining revenue adequacy through graduated tiers based on total consolidated revenue.
3. ***Clarify the "doing business" definition*** to explicitly address digital economy business models based on California-source revenue, harmonizing with the economic nexus principles already embedded in California's own Revenue and Taxation Code.
4. ***Adjust the initial reporting deadline to October 31, 2026*** to align with the realistic regulatory finalization timeline, corporate fiscal year-end cycles, and third-party verification engagement requirements—***so that the data produced is actually worth having.***
5. ***Establish a first-year payment grace period*** of 30 days for good-faith fee payment delays, focusing enforcement resources on substantive non-compliance.

These recommendations are grounded in direct experience implementing disclosure frameworks in the conditions that matter: ***real*** organizations, ***real*** resource constraints, ***real*** multi-jurisdictional complexity, and ***real*** consequences when design choices fail at the implementation stage. They are intended to strengthen CARB's program, not to soften it.

Thank you for the opportunity to provide this testimony. I am available to serve as a continuing resource to CARB staff on technical questions related to these implementation elements and, when the time comes, on the subsequent rulemaking addressing reporting requirements, verification standards, and *Scope 3* guidance.

**Respectfully submitted,**
Otto Starzmann
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**Date:** February 24, 2026

# Green America (Cathy Becker)

Please find our comment attached. Thank you.

**California Air Resources Board**
**Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation**

**Cathy Becker**
**Responsible Finance Campaign Director, Green America**

Chair Sanchez and members of the California Air Resources Board,

Thank you for this opportunity to comment on the initial regulation of the proposed California corporate greenhouse gas reporting and climate-related financial risk disclosure.

My name is Cathy Becker, and I am the Responsible Finance Campaign Director at Green America, a national nonprofit dedicated to building a more equitable and sustainable economy. We represent over 250,000 consumers and 1,500 businesses and investors nationwide.

005.1 I would first like to thank you for quickly and transparently drafting the proposed rules to establish fees, timelines, and definitions for implementing California's ground-breaking corporate greenhouse gas disclosure program. Your work will provide consumers, investors, and communities with the comparable and reliable information they need to assess how climate change is impacting companies that do business in California, and how these companies are impacting the climate by emitting planet-warming pollution.

While we fully support California's leadership in devising the nation's first corporate greenhouse gas disclosure rules, we do seek one change in the proposed rules you have drafted so far: **Please remove the proposed exemption from emissions reporting for business entities regulated by the Department of Insurance.**

005.2 As you know, California is experiencing one of the worst property insurance crises in the country, driven by the increasing frequency and severity of climate disasters.

Last year's wildfires in Los Angeles are a prime example. Immediate costs are estimated at over $250 billion – more than all billion-dollar climate disasters in 2024 combined. Yet survivors who lost their homes report difficulties in getting insurance policies that they have paid for years to cover clean-up and rebuilding costs.

Tracking of disasters costing $1 billion or more shows an increase and frequency and severity of these storms from a few per year in the 1980s to dozens now. This has led major insurance companies to depart the state or greatly raise rates.

California is ground zero for the climate-driven insurance crisis:

- From 2018 to 2023, nonrenewal rates in California rose 82%, according to a 2024 report from the Senate Budget Committee.
- Of the 100 zip codes with the highest nonrenewal rates, 23 are in California, according to 2023 data from the Federal Insurance Office.
- Californians have seen a 55.3% rise in home insurance premiums from 2019 to 2024, according to LendingTree.
- Of the 100 zip codes with the highest increases in insurance premiums from 2018 to 2023, a staggering 84 are in California, according to FIO data.

Californians are being forced to pay thousands of dollars for landscaping and roof upgrades just to maintain insurance coverage. It's not just homeowners affected – landlords pass on these costs to renters, and small businesses are paying higher rates.

Disappearing insurance and higher rates have forced 1 in 5 Californians to go without property insurance – disproportionately Latino, low-income, and young adults. Without insurance, young people cannot obtain mortgages to buy a home, affecting the entire housing market. Affordable housing is especially hard hit by rising insurance costs.

**Major insurance companies are contributing to the problem**

Yet even though major insurance companies are asked to pay for climate damages, they are also contributing to climate change by insuring and investing in fossil fuels.

Just as an individual cannot obtain a mortgage without property insurance, a fossil fuel company cannot get financing without an insurance certificate.

While insurance certificates for fossil fuel projects are not always available, records show that major insurance companies Liberty Mutual, AIG, Zurich, The Hartford, Travelers, and Berkshire Hathaway (parent of Geico) insure the liquified natural gas terminals across the Gulf South.

Currently operating methane export terminals and those under construction would emit annual emissions equivalent to releasing 1,287 million metric tons (MMT) of greenhouse gasses into the air, similar to adding 345 coal plants to the power grid or adding the emissions of 285,721,641 cars to the road.

The picture is even more complete for investing. As of 2019, the US insurance industry had a total of $582 billion invested in oil, gas, coal and other fossil fuel projects. More recently, 2024 figures from Urgewald's Investing Climate Chaos, which draws data from Bloomberg and the London Stock Exchange Group, show the following:

| Insurance Company | Shares (US$) | Bonds (US$) | # Fossil Fuel Companies | Total Investments |
|---|---|---|---|---|
| **Berkshire Hathaway (GEICO)** | $95.4 billion | $0.3 billion | 8 | **$95.8 billion** |
| **State Farm** | $10.7 billion | $9.9 billion | 65 | **$20.6 billion** |
| **USAA (via Victory Capital)** | $8 billion | $3.2 billion | 282 | **$11.2 billion** |
| **AIG** | $1.2 billion | $8.5 billion | 275 | **$9.7 billion** |
| **Nationwide** | 0 | $7.2 billion | 77 | **$7.2 billion** |
| **Allstate** | $7 million | $4.5 billion | 111 | **$4.5 billion** |
| **Travelers** | 0 | $1.9 billion | 49 | **$1.9 billion** |
| **Liberty Mutual** | 0 | $1.8 billion | 65 | **$1.8 billion** |
| **The Hartford** | $166 million | $1.2 billion | 91 | **$1.3 billion** |

Berkshire Hathaway, which owns Geico, is especially notable here:

- It has $95.8 billion invested in fossil fuels companies, including as the largest shareholder in Chevron
- It has no restrictions on insuring or investing in fossil fuels including coal
- Its subsidiary Berkshire Energy owns 11 coal plants and partially owns 13 more
- Its railroad ships coal all over the country
- Its CEO Warren Buffet has said climate should not be a factor in investment decisions

Clearly these large insurance companies are underwriting and investing in fossil fuels at the root of the climate crisis – which means they do carry climate-related financial risk. As such, they should be reporting their Scope 1, 2, and 3 greenhouse gas emissions.

For these reasons, we urge you to remove the exemption on large insurance companies reporting their greenhouse gas emissions under California's climate disclosure rules.

Thank you so much for and for considering these comments.

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Head of Sustainability
The Kroger Co.
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Jordan Ramalingam
Branch Chief, Corporate Greenhouse Gas Reporting
and Climate Financial Risk Disclosure
California Air Resources Board

February 26, 2026

Dear Mr. Ramalingam,

The Kroger Family of Companies is writing to the California Air Resources Board (CARB) regarding the proposed disclosure timelines in the SB 253 legislation.

Kroger has a long history of operating responsibly and reporting our progress on sustainability and social responsibility topics, including climate impact and resilience. We have prepared and publicly reported the results of an annual extensive greenhouse gas (GHG) emissions inventory for many years. Our latest disclosures are available in Kroger's 2025 Responsible Business Report and our response to the CDP questionnaire.

As we comply with SB 253 in future years, our aim is to provide CARB with GHG emissions inventories that are as comprehensive, accurate and consistent as possible.

006.1 Due to our company's (Kroger and its entities operating in California, namely Ralphs and Food 4 Less) floating fiscal year end-date (ends on the fifth Saturday of each calendar year), we will generally be required to calculate, audit and report to CARB our GHG inventory on an extremely accelerated and impractical timeline each year. And in some reporting years, we would be reporting the same data set two years in a row due to our fiscal year ending in both January and February, depending on the year. As a result, it will be very difficult for Kroger to establish effective and accurate annual reporting processes.

For additional background:

(1) Current SB 253 regulations indicate that companies with a fiscal year ending between January 1 and February 1 in the reporting year must report data from the year that just ended. In disclosure years when our fiscal year ends before or on February 1 and the reporting due date is June 30, we would only have five months to complete our GHG inventory and conduct a subsequent Limited Assurance audit. This is a much shorter timeframe than Kroger requires to conduct our comprehensive annual GHG inventory,

let alone complete third-party review and assurance. This timeline would require us to adopt significant estimation measures to complete and audit our data in a timely manner, ultimately resulting in using more estimation methods and less primary / actual data as is best practice.

(2) The current SB 253 regulation would also result in Kroger reporting to CARB the same dataset two years in a row when the fiscal year ends on or before February 1 in one year but after February 1 in the next year. The first instance of this situation is in disclosure years 2028 and 2029, for which we would be required to report our fiscal year 2028 data for both years. This creates year-over-year inconsistencies in our internal processes, reporting and timelines. It also does not seem to fulfill the CARB rule intention for annual year-over-year company reporting.

As a result of the above concerns and challenges with our floating fiscal year-end, and with the intent of providing the state with the most comprehensive, accurate and consistent GHG inventories over time, we plan to disclose Kroger's annual GHG inventory for the fiscal year ending in the prior year. This means that in 2026, we would report fiscal year 2024 data; in 2027, we would report fiscal year 2025 data and so on. This enables the Kroger team to complete a comprehensive GHG inventory with more actual performance data and quality controls, and conduct the required third-party limited assurance.

The Kroger team is also available to discuss these reporting plans at your earliest convenience.

Thank you,

Lisa Zwack
Head of Sustainability