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 4
Late Comment Letter

Public Hearing Date: February 8, 2026
Agenda Item No.: 26-1-3

April 8, 2026

Attn: Kenneth J. Pogue, Director
California Office of Administrative Law
300 Capitol Mall, Suite 1250
Sacramento, CA 95814-4339

Dear Mr. Pogue,

Public Citizen is among the nonprofit organizations that have spent years promoting the passage and implementation of the California Greenhouse Gas Reporting and Climate Related Risk Disclosure laws, now codified at California Health & Safety Code §§ 38532 (SB 253) and 38533 (SB 261). We write to you now regarding the Initial Regulation to establish fees, timelines, and definitions for implementing the laws, also known as the "fee regulation," which the California Air Resources Board (CARB) adopted at a public hearing on February 26. As the final rule package – including the rule, responses to public comment, and the final statement of reasons – now makes its way to the Office of Administrative Law, we ask you to address a number of procedural and substantive concerns before publication.

First, CARB introduced a wholly novel rationale for exempting insurance companies from SB 253 at the public hearing on February 26, where it voted to approve the regulation. In its Initial Statement of Reasons published in December 2025,[1] CARB staff suggested that insurers were being exempted from the rule to promote "continuity" with the rule implementing the Climate-Related Financial Risk Act (SB 261). Then at the public hearing, CARB offered a new explanation for the exemption—avoiding duplicative effort for reporting entities—but failed to provide an opportunity for public comment on that justification before finalizing the exemption. Government Code § 11346.8(a) states that if a public hearing is held, the agency "shall consider all relevant matter presented to it before adopting, amending, or repealing any regulation." CARB was unable to consider "all relevant matter" in this case because the public was in the dark about the new rationale before the hearing and adoption of the rule that same day.

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[1] CARB *Staff Report: Initial Statement of Reasons*, Dec. 9, 2025, on p. 6: "In addition, Health and Safety Code section 38533 excludes business entities subject to regulation by the Department of Insurance in this state, or that is in the business of insurance in any other state. Staff are proposing to exclude such entities from applicability under Health and Safety Code section 38532 as well, for continuity." https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/sb253-261/isor.pdf

Further, OAL's own guidance, consistent with the Administrative Procedures Act, provides that:

> A rulemaking agency must specifically identify any material the agency is relying upon for the proposed rulemaking in the initial statement of reasons. If during a rulemaking proceeding an agency decides to rely on material that the agency did not identify in the initial statement of reasons, the agency must make the document available for comment for 15 days. This notice and comment process is similar to the 15-day notice for substantial, sufficiently related changes to the regulation text.[2]

It is unclear whether CARB relied on particular "material" or a "document" in presenting its novel duplication justification for the insurance exemption at the February 26 public hearing. It is clear, however, that the public did not have opportunity to review and comment on that rationale, violating the requirements and flouting the purpose of notice and comment rulemaking. This is especially true in light of the significant public interest in the exemption and the amount of controversy it has engendered.

Second, the Air Resources Board impermissibly excluded the insurance sector from the Fee Regulation, contrary to law. As we have stated previously,[3] the exemption is inconsistent with statute, diminishes the benefits of the program, and creates a special carve out for an industry that is tightly linked to the state's climate-related challenges. The exemption for insurers could even make the rule vulnerable in court: The California legislature originally considered versions of both disclosure bills, SB 253 and SB 261, that did not exempt insurance companies. However, an exemption was ultimately added to SB 261 in recognition that the climate financial risk disclosure required by SB 261 significantly overlapped with the financial risk disclosure standard adopted by the National Association of Insurance Commissioners. *In contrast, the emissions disclosure bill SB 253 was signed into law without an exemption for insurance companies*. The Board lacks authority to carve out an exemption that does not exist in the statute and that the legislature considered and rejected. At CARB's February 26 hearing, SB 253 author Senator Scott Wiener testified that his and the Legislature's intent was not to exclude insurers from SB 261 emissions reporting, that an exemption was not included in SB 253, and that "the law of California" is that the insurance industry must disclose emissions.[4]

Third, CARB's justification of avoiding duplicative effort for reporting entities is itself a misreading of the statute. CARB argues that requiring insurers to report their emissions under this rule would be duplicative with reporting already required by the California Department of

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[2] Office of Administrative Law, *About the Regular Rulemaking Process*: https://oal.ca.gov/rulemaking_participation/

[3] Public Citizen, *Public Comment on CARB's Proposal to Exempt Insurance Companies from Carbon Disclosure*, Feb. 9, 2026: https://www.citizen.org/article/public-comment-on-carbs-proposal-to-exempt-insurance-companies-from-carbon-disclosure/

[4] White & Case, *California climate disclosure laws: CARB approves greenhouse gas reporting and climate financial risk disclosure regulatio*n, March 4, 2026: https://www.whitecase.com/insight-alert/california-climate-disclosure-laws-carb-approves-greenhouse-gas-reporting-and-climate

Insurance (CDI) via the NAIC Climate Risk Disclosure Surveys. CARB further grounds this interpretation in the text of the statute. CA Health & Safety Code 38532(c)(2)(D)(i) requires CARB to adopt regulations for SB 253 that ensure:

> That the emissions reporting is structured in a way that minimizes duplication of effort and allows a reporting entity to submit … reports prepared to meet other national and international reporting requirements, including any reports required by the federal government, as long as those reports satisfy all of the requirements of this section.

CARB is misreading the duplication language in the statute, which allows a reporting entity to file with CARB the emissions disclosures they are making to other national or international agencies, so long as the emissions disclosures to other agencies meet the standards of SB 253. It does not authorize CARB to exempt a whole industry from reporting to CARB just because they may be reporting to another agency. The legislative history of the climate risk disclosure laws further make clear that the amendments introduced and codified by SB 219 were intended to reduce administrative burden on companies in two key ways:

- Parent-Level Reporting: SB 219 clarified that subsidiaries need not prepare separate reports if the parent company includes all relevant emissions data in a consolidated filing. (2)(a)(iii)
- Flexible Reporting: SB 219 made clear that covered companies could satisfy reporting requirements by using existing reports submitted to other jurisdictions, *so long as* those reports meet *all* necessary criteria.[5]

Moreover, the reports CARB is referring to in this instance, namely the NAIC surveys filed by insurers with the Department of Insurance, categorically *do not* "satisfy all of the requirements" of the emissions disclosure law, which mandates that all covered entities disclose their Scope 1, 2, and 3 emissions. In contrast, the NAIC climate risk disclosure survey administered by CDI simply encourages insurers to "disclose Scope 1, Scope 2, and if appropriate, Scope 3 greenhouse gas emissions." There is no statute or regulation requiring insurers to report greenhouse gas emissions to CDI, nor does CDI have any authority to enforce fines or penalties against insurers who decline to disclose emissions.

There is also no duplication in fact. Public Citizen recently published an analysis confirming that the insurers reports to CDI do not satisfy the requirements of the emissions disclosure law to report Scope 1, 2, and 3 emissions.[6] An analysis of the 2024 Climate Risk Disclosure Surveys submitted by the largest 20 property and casualty (P&C) insurers operating in California – roughly 70 percent of the market – reveals significant gaps in insurer emissions reporting to

[5] California Legislature, S*B-219: An act to amend Sections 38532 and 38533 of the Health and Safety Code, relating to greenhouse gases*, Sept. 27, 2024 (effective date): https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB219

[6] Public Citizen, *Contrary to their claims, California regulators have little insight into insurer emissions*, March 25, 2026: https://www.citizen.org/news/contrary-to-their-claims-california-regulators-have-little-insight-into-insurer-emissions/

CDI. In fact, only 10 percent of the largest insurers in California make meaningful emissions disclosures to CDI inclusive of Scope 1, 2, and 3 emissions.

The lack of Scope 3 reporting is especially glaring: SB 253 was a landmark law precisely because it mandated disclosure of this complex and essential class of indirect emissions. Scope 3 emissions, including emissions from underwriting and investing in climate-intensive industries, comprise more than 95 percent of insurer emissions.[7] For example, Allstate, which included financed emissions and claims-handling emissions, but excluded underwriting emissions in their reporting, found that their Scope 3 emissions made up 99% of the firm's overall emissions contribution. With the inclusion of underwriting emissions, Scope 3 emissions would make up an even greater share of their total emissions. It follows that the reporting to CDI is insufficient to meet the requirements of the emissions disclosure law and there is no duplication in law or in fact.

For the reasons stated above, the Office of Administrative Law should return the rule to CARB with instructions to eliminate the insurance exemption under SB 253, adding insurers back to the scope of covered entities that most comply with emissions reporting requirements, consistent with the law.

Thank you for your prompt consideration of this matter. Please do not hesitate to reach out to us with any questions or concerns.

SIncerely,

Clara Vondrich
Public Citizen
cvondrich@citizen.org

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[7] KPMG, *ESG in insurance: Insured emissions*, at p. 7, 2023: https://assets.kpmg.com/content/dam/kpmg/xx/pdf/2023/08/esg-in-insured-emissions-web.pdf