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

Appendix A
Summary of Comments and Agency Response

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

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A. General Support

A-1 Multiple Comments: General Support towards the Regulation and the Program

Comment: SB 253 and 261 represent a landmark shift in U.S. business reporting, bringing domestic climate-related disclosures into alignment with international frameworks. The mandate for Scope 1, 2, and 3 emissions is critical for ensuring comparability across industries and borders. (45d-003.2)

Comment: Neste strongly supports climate disclosure and California's leadership in addressing climate change. We recognize the importance of transparent, reliable emissions reporting and are committed to meaningful compliance with reasonable regulatory requirements. (45d-010.11)

Comment: On behalf of the California Public Employees' Retirement System (CalPERS), I am writing to express our continued support for the implementation of SB 253 and SB 261, as amended by SB 219, and our appreciation for the California Air Resources Board's (CARB) solicitation of feedback to inform the proposed initial regulation. The implementation of these statutes will provide institutional investors, consumers, and policy makers with a consistent source of valuable emissions and climate-related financial risk reporting data and allow investors to address such risk through asset allocation, voting, or engagement. (45d-012.1)

Comment: We believe that companies should disclose consistent, comparable, and reliable information in regulatory reports to help shareowners more easily identify, assess, and manage climate risk and opportunity, and to better understand the full financial implications of climate-related data. (45d-012.2)

Comment: The actions CARB is taking will help ensure consistent, comparable, reliable, and decision-useful information for companies and investors navigating diverse reporting requirements. Climate change is a global challenge and as long-term investors, with inviolable fiduciary duty to our members, we cannot afford to ignore its effects upon our investments that we rely upon to generate the returns that pay benefits. (45d-012.3)

Comment: We support both the purpose of these statutes and CARB's decision to move forward with implementation in 2026 through the initial proposed rulemaking. (45d-014.1)

Comment: Overall, we welcome CARB's staged approach: establishing administrative foundations now, while reserving substantive reporting requirements for future rulemaking. We have provided specific comments on individual points, based on priority. (45d-014.2)

Comment: TCR strongly supports the California Air Resources Board's (CARB) ongoing efforts to develop and implement the Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure programs, as mandated by SB 253 and SB 261. (45d-016.1)

Comment: We view the proposed initial regulation as a foundational milestone in establishing a transparent and robust climate reporting system in California. (45d-016.2)

Comment: TCR commends CARB's steady progress and underscores the importance of maintaining this momentum. Consistent progress in these early stages will ensure the long-

term scalability and efficacy of the programs. We are encouraged by this forward movement and support the continued efforts to efficiently and effectively establish these programs. (45d-016.3)

Comment: SB 253 is a critical step toward transparency in corporate climate reporting, particularly for Scope 3 emissions associated with capital goods and construction activities. For infrastructure-intensive sectors such as ports, transportation, energy, and coastal development, embodied emissions from construction materials represent a significant portion of Scope 3 emissions. (45d-017.1)

Comment: We are strongly supportive of CARB's proposal to mandate climate-related disclosures and applaud CARB's proactive position on advancing transparency for the investor community on climate risks. We also acknowledge that the proposed rule will impact both our clients and our organization, and our response reflects this awareness. (45d-020.1)

Comment: Everybodys Cool International (Entity #6350466) hereby submits this comment in support of the initial regulatory framework for SB 253. (45d-025.1)

Comment: We support the Board's efforts to establish consistent reporting deadlines (such as the proposed August 10, 2026 date) and fee structures that prioritize transparency. (45d-025.2)

Comment: Overall, we support the intent and function of the Proposed Regulation to clarify the applicability (45d-027.1)

Comment: We also support establishing the fee program under the Climate Corporate Data Accountability Act (codified in Health and Safety Code section 38532) and the Climate-Related Financial Risk Reporting Act (codified in Health and Safety Code section 38533). (45d-027.2)

Comment: We appreciate that CARB noted in the Staff Report its intent to "…undertake a second rulemaking to establish future reporting dates beyond 2026 and to provide additional details for reporting contents and format, data assurance, and related matters." (45d-028.1)

Comment: We strongly support SB 261 and SB 253. These landmark laws will provide critical transparency around corporate greenhouse gas emissions and climate-related financial risks, enabling investors, consumers, and businesses to make more informed decisions. Comprehensive emissions reporting incentivizes companies to investigate their supply chains, revealing hidden emissions that could pose material financial risks. Companies may also discover opportunities for decarbonization.

Moreover, requiring Scope 3 disclosures creates a multiplier effect. Companies providing disclosures often encourage companies within their supply chains to develop their own greenhouse gas emissions reporting processes. Each entity in the value chain has some degree of influence over overall emissions and reductions, and reporting companies can influence Scope 3 emissions reductions upstream and downstream of their operations. (45d-030.1)

Comment: The proposal establishes the fee structure for businesses subject to the laws, definitions needed to implement the rules, reporting deadlines, and available enforcement measures. We generally support these aspects of the proposal. (45d-036.2)

Comment: Thank you for advancing this important effort to ensure corporate transparency and accountability on climate risks, impacts, and action. (45d-036.9)

Comment: Accordingly, we encourage CARB to complete rulemaking as soon as possible and finalize the regulation at the February 26 Board meeting. This will enable CARB to move forward with other rulemakings related to SB 253 and/or SB 261. (45d-038.2)

Comment: We strongly support a speedy implementation of the Acts. (45d-039.1)

Comment: EnergyTag supports the Proposed Regulation as written, recognizing that it is focused on moving SB 253 forward and establishing reporting requirements for 2026. (45d-042.1)

Comment: EnergyTag supports the goals and purpose of SB 253 – greater electricity emissions impact transparency is a foundational step towards improved policymaking, regulatory decisions, public engagement, investment decisions, and voluntary clean energy procurement and climate actions. (45d-042.2)

Comment: EnergyTag agrees that increased information about climate-related risks, including company-wide emissions impacts, allow investors, consumers, and other stakeholders to make better-informed decisions in ways that align with their goals. It additionally encourages companies to better understand their exposure to emissions-intensive energy sources, and incentivizes them to invest in clean energy to reduce their emissions. (45d-042.3)

Comment: EnergyTag supports the core purposes of SB 253 – transparency, accountability, and decision-useful information are critical components to accurately identifying climate risk and exposure and driving investment towards needed decarbonization solutions. (45d-042.5)

Comment: We can not make informed decisions on how to address the climate crisis without accurate data on what is contributing to it. This Proposed Initial Regulation paves a critical path forward for corporations to support California's climate leadership. Establishing this foundation of information sharing will help CARB and the State of California build better and more equitable solutions to the climate crisis.

With these goals in mind, Greenlining supports much of what is in the Proposed Initial Regulation. This includes the proposed fee structure, penalties, and deadlines. We see these as essential to ensuring timely, consistent, and enforceable implementation of SB 253 and SB 261. A clear, entity-based fee structure will enable CARB to sustain the staffing and capacity necessary to operate these programs, while transparent and specific penalties with firm deadlines establish regulatory certainty for participating companies. Although some regulated entities have raised concerns about initial compliance burdens and assurance timelines, the phased approach to the verification requirements creates an important balance

between flexibility and the need to preserve the integrity of the disclosure framework over time. (45d-045.1)

Comment: I appreciate the Board's efforts and progress to date to implement these important laws quickly and transparently, and for the opportunity to comment. (45d-048.1)

Comment: The proposed rule establishes the fee structure for businesses subject to the laws, definitions needed to implement the rules, reporting deadlines, and available enforcement measures. We generally support these aspects of the proposal. (45d-048.3)

Comment: Thank you for advancing this important effort to ensure corporate accountability and transparency on climate risks, impacts, and action. (45d-048.10)

Comment: AISI welcomes the fact that the proposed regulation enables climate disclosure at a corporate-wide level and believes that this will not only minimize the burden on reporting entities but also will help to shed light on the full emissions profile of a company. Corporate-wide reporting reduces inconsistencies, improves data quality, and minimizes redundant reporting effort for companies that typically calculate and disclose information based on the entire corporate carbon footprint. Further, many companies receive reporting assurance at a corporate-wide level. To require separate assurance for segments of a corporation could be cost-prohibitive and would require unnecessarily duplicative efforts by reporting companies. (45d-050.3)

Comment: AISI supports the approach of accepting disclosures in alignment with internationally-recognized standards, such as the GHG Protocol, the International Sustainability Standards Board's International Financial Reporting Standards, and the Task Force on Climate-related Financial Disclosures 2017.[14] These standards provide robust and widely-adopted methodologies, which enable consistency and credibility across the disclosure landscape.

AISI urges CARB to continue to accept broad reporting in alignment with these internationally-accepted standards beyond the first year of implementation. This will not only reduce administrative burden and duplicative effort on behalf of the reporting entities but will benefit CARB's program by demonstrating a commitment to consistency, transparency, and integrity in the state's reporting and disclosure regimens. (45d-050.4)

[14] SB 253/261/219 Public Workshop: Update on California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Programs (Slide 6), CALIFORNIA AIR RESOURCES BOARD https://ww2.arb.ca.gov/sites/default/files/classic/SB%20253%20261%20Nov%20Workshop%20slides%20%28Updated%29.pdf

Comment: The California climate disclosure legislation creates an important regime that will provide investors in California and the broader capital markets with the comparable, comprehensive, and consistent information they need to assess public and private companies' climate-related financial risks. (45d-052.1)

Comment: US SIF broadly supports the proposed definitions and the framework on who should report under both laws. As CARB moves forward with rulemaking, we would like to reiterate the importance of these laws and the information they will provide for investors in making informed investment decisions that both serve their clients and fulfill their own fiduciary duties. (45d-052.2)

Comment: Climate Risk Is Financial Risk

It is essential that CARB's rulemaking maintains reporting from companies on the corporate value-at-risk from the physical impacts of climate change and on what companies are doing to build resilience to these risks.

Investors have been calling for increased disclosure around climate-related risks and other long-term systemic risks for decades because they recognize the impact these factors have on their financial returns. Global and U.S. investors rely on timely and accessible corporate data to make meaningful risk and opportunity assessments.

Both investors and companies acknowledge that climate change has a material impact on business. The US SIF Sustainable Investing Trends 2025/2026 Report found that climate change is the most frequently considered environmental factor by investors (77%) due to the ever-solidifying thesis that climate and nature related risks are material financial risks.[i] The 2024/2025 Sustainable Investing Trends report found that companies reporting headline climate-related risk to the Securities and Exchange Commission (SEC) have grown threefold since 2018.[ii] In addition, a 2025 Morgan Stanley study found that 57% of global corporates report business impact from physical climate events in the past year.[iii]

The Los Angeles (LA) wildfires and other natural disasters emphasize the need for increased information about the financial impacts of physical climate risks. The National Centers for Environmental Information (NCEI) catalogued 27 individual climate and weather disasters costing over $1 billion each in 2024. The total cost of these 27 events is estimated to be $187.2 billion, making 2024 the fourth costliest year on record.[iv] This calculation does not include the devastating wildfires in LA which current estimates say cost $65 billion.[v]

Due to the unpredictability of physical climate risks such as extreme weather events, it is essential that investors have meaningful data on the finanically material climate-related risks that may potentially impact their assets across both the public and private markets. Investors require this information to assess the business continuity of investee companies and their supply chains, identify insurance gaps, and accurately value their assets. SB 261's inclusion of both public and private companies helps narrow the transparency gaps in data disclosures, protects funds from greenwashing risks by having verifiable information, and helps institutional investors meet increasing demands for their carbon footprint disclosure. (45d-052.3)

[i] US SIF Foundation, US Sustainable Investing Trends 2025/2026 Report, December 9, 2025, https://www.ussif.org/research/trends-reports/us-sustainable-investing-trends-2025-2026-executive-summary.

[ii] US SIF Foundation, US Sustainable Investing Trends 2024/2025, December 17, 2024, https://www.ussif.org/research/trends-reports/us-sustainable-investing-trends-2024-2025-executive-summaryarchived.
[iii] Morgan Stanley, "Sustainable Signals: Corporates 2025," July, 2025, https://www.morganstanley.com/assets/pdfs/MS_Institute_for_Sustainable_Investing_Sustainable_Signals_Corporate_report_2025.pdf.
[iv] National Centers for Environmental Information, "Billion Dollar Weather and Climate Disasters," 2025, https://www.ncei.noaa.gov/access/billions/.
[v] Gallagher Re, "H1 2025: Natural Catastophe and Climate Report Preliminary Overview," https://www.ajg.com/gallagherre/-/media/files/gallagher/gallagherre/news-and-insights/2025/july/h1-2025-naturalcatastrophe-and-climate-report.pdf.

Comment: There are multiple aspects of the proposed regulation that CCEEB supports, such as Enforcement Discretion, the Flat Fee, and No Assurances Required for 2026. (45d-056.2)

Comment: We strongly believe these landmark laws will help usher in a new era of corporate transparency and provide critical decision-useful climate information to investors, consumers, and the public. We want to thank CARB for its diligent work on implementation and for the robust opportunities provided for stakeholder engagement, including numerous workshops and information solicitations. (45d-059.1)

Comment: EDF supports this Proposal overall as a key step in CARB's implementation of programs that will increase consistency and reliability of public reporting of corporate greenhouse gas ("GHG") emissions and climate-related financial risks. Improved reporting will benefit investors, consumers, and the broader public. (45d-064.1)

Comment: EDF supports the Proposal's incorporation of Revenue and Taxation Code ("tax code") definitions. As EDF has explained in prior comments to CARB,[6] grounding the revenue and "doing business in California" parameters of these disclosure programs in that well-established and widely familiar framework provides reliability, clarity, and efficiency for regulated entities, regulators, and end users of information alike. (45d-064.4)

[6] See Letter from EDF to CARB at 2-6 (Mar. 21, 2025), https://ww2.arb.ca.gov/form/publiccomments/submissions/22566 (recommending alignment with tax code definitions and Franchise Tax Board data); Letter from EDF to CARB at 1 (Sept. 11, 2025), https://ww2.arb.ca.gov/form/publiccomments/submissions/52356 (further recommending use of tax code definitions and data for reliability and efficiency).

Comment: EDF agrees that the programs the Proposal helps to implement will "provide accurate, comparable, and decision-useful climate information to investors, lenders, insurers, and the public in California" and "ultimately result in beneficial reductions in GHG emissions."[8] For a detailed presentation of evidence establishing these benefits, please see the amicus brief that EDF submitted in the Ninth Circuit Court of Appeals on October 23, 2025,[9] which is attached to this submission. (45d-064.6)

[8] CARB, Public Hearing to Consider the Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation, Staff Report: Initial Statement of Reasons at 16 (Dec. 9, 2025), https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/sb253-261/isor.pdf.
[9] Br. of Amicus Curiae Env't Def. Fund in Support of Defendants-Appellees, Chamber of Commerce of the United States v. Sanchez, No. 25-5327 (9th Cir. Oct. 23, 2025).

Comment: The development of this initial regulatory text is much-needed to encourage timely implementation of the original legislation, SB 253 (Wiener, Chaptered 2023) the Climate Corporate Data Accountability Act and SB 261 (Stern, Chaptered 2023) the Climate-Related Financial Risk Reporting Act, amended by SB 219 (Wiener, Chaptered 2024).

Our organization would like to recognize the comprehensive work done by CARB staff to develop this regulatory proposal. The passage and subsequent implementation of these laws in California mark yet another landmark climate policy victory for the state. The programs parallel established reporting frameworks already in use internationally and underscore California's commitment to policy that aligns with the evolving needs of the climate crisis. In alignment with changing times, these programs will deliver greater information about climate-related financial risks and corporate greenhouse gas emissions that consumers, lenders, key stakeholders, and the general public will benefit from. (45d-075.1)

Comment: This initial regulatory proposal is a substantial and critical component needed to move forward in the implementation process. The development of this proposal was preceded by multiple thorough opportunities for stakeholder feedback as well as proactive work from staff to gather input on resources to inform reporting logistics. Our organizations commend CARB staff for this thoughtful work. (45d-075.5)

Comment: Edison International and SCE are committed to supporting California's clean energy transition and are supportive of the California Air Resources Board's (CARB) efforts to create a successful climate-related disclosure program. (45d-076.1)

Comment: As a representative of companies operating globally across the technology sector, we support the intent of California's corporate GHG and climate related financial risk disclosure programs to enhance transparency and climate accountability. (45d-077.1)

Comment: This SB 253 is an incredibly important step for California in terms of corporate transparency and in terms of climate action, particularly in an era when the federal government, under the Trump administration, is doing everything in its power to destroy any and all -- any and all climate action at the federal level. Even the smallest scintilla of climate action, they're trying to eliminate. It is critically important that California lead. And transparency is a critical part of that. And I'm grateful to the Board, to staff for working with us. (BHT-001.1)

Comment: This is the law of California and the Board is implementing it, so thank you for standing strong and proposing -- for proposing a very solid initial implementing regulation, understanding that there is more work to do. And I know there have been procedural complexities. And I am grateful to the Chair, the Board, and the staff for working to really implement the intent of the Legislature. And I'm excited about this step. (BHT-001.2)

Comment: We would like to express our support for the proposed California Corporate Greenhouse Gas Reporting and Climate Related Financial Risk Disclosure initial regulation. (BHT-002.1)

Comment: The framework presented today represents an important step towards implementing transparent, reliable, climate-related reporting and we value the thoughtful engagement that has helped shape it. (BHT-002.3)

Comment: Thank you for all your terrific work on this regulatory series. (BHT-004.1)

Comment: And as mentioned in our written comments that we've submitted previously, TCR is very supportive of CARB's work to develop and implement the Climate Reporting and Disclosure Programs. (BHT-005.1)

Comment: TCR strongly supports CARB's ongoing efforts to implement the 2 --SB 253 and SB 261 programs. (BHT-005.2)

Comment: The proposed initial regulations being considered today is a foundational milestone in establishing a transparent and robust climate reporting system in California. (BHT-005.3)

Comment: We support the proposed rule. (BHT-010.1)

Comment: We see this -- the satisfaction -- the implementation of SB 253 and 261 as particularly critical right now, given the lack of federal programs on climate. (BHT-010.2)

Comment: Bill Magavern with the Coalition for Clean Air in support of the proposed rule... (BHT-011.1)

Comment: We supported the climate disclosure laws when they were in the legislative process and think that their implementation will add an important element to California's pioneering climate program. And at a time when the Trump administration's rollbacks will actually exacerbate climate change and kill thousands of Californians every single year, it's important for the State to continue being a role model for the rest of the country and climate disclosure is part of that. (BHT-011.2)

Comment: We agree with most of the choices that the staff have made in this proposal… (BHT-011.3)

Comment: As one of the co-sponsors of SB 253 and a strong supporter of SB 261, EnviroVoters is incredibly glad to see the initial regulation before the Board this morning. This is the first and much needed step in the process of getting these programs off the ground and it reaffirms California's continued commitment to leading globally on climate. (BHT-012.1)

Comment: These laws provide a platform for meaningful corporate accountability and transparency on climate change. For consumers, decision-makers, investors and the people of California at large, in the midst of a warming climate and living in a state that boasts the fourth largest global economy, we have to be informed about the climate trends from of the largest actors that are doing business in our state. (BHT-012.2)

Comment: I would also like to take a moment to thank that CARB staff for their comprehensive thorough work to get this regulation developed in a timely manner. Adoption of this initial reg is necessary for establishing a durable administrative structure, so both

CARB and reporting companies have predictability about the program's operation for years to come.

Additionally, with the finalization of key definitions included within the initial reg, this will provide certainly regarding what entities are covered under these programs. (BHT-012.3)

Comment: We are looking forward to continuing to work with staff on the next chapter of regulation for these programs. This rule is a key step for our state to double down on its commitment to climate leadership. I urge the Board's aye vote today and thank the Board for their climate leadership. (BHT-012.5)

Comment: We strongly believe that these landmark bills will usher in a new era -- actually laws now, a new era of corporate transparency and provide critical decision-useful climate information to investors, consumers and the public. (BHT-013.1)

Comment: The State of California, and CARB implementing agency, has long been a global climate environmental leader and has a track record of enacting game-changing policies. I want to thank Chair Sanchez and the CARB team, led by Sydney Vergis, for the leadership in developing these initial set of regulations. (BHT-013.2)

Comment: Thank you, Board, and again staff, for your leadership today and for what will come next as we, here in California, provide national and global leadership when it's so sorely needed. (BHT-013.9)

Comment: "I appreciate the opportunity to express my support for the adoption of the initial regulations to implement SB 253 and SB 256. (BHT-014.1)

Comment: Today's vote is a critical first step in standing up these landmark climate transparency programs. These laws were designed to provide transparency to consumers, investors and policymakers, so they can evaluate corporate climate claims based on real data. At a time when our State continues to face escalating wildfire, extreme heat and climate driven disasters, accurate and comprehensive emissions disclosure is not optional, it is essential. (BHT-014.2)

Comment: We appreciate CARB's work to implement Climate Corporate Data Accountability Act and the Climate Related Financial Risk Act. (BHT-015.1)

Comment: Our members recognize the importance of both and many are already engaged in voluntary sustainability reporting, emissions tracking and climate risk assessments. (BHT-015.2)

Comment: What we like in the proposal is the enforcement discretion, the flat fee, the -- and no assurance requirements in 2026. (BHT-017.1)

Comment: Many of our member companies and investors have expressed strong support for the passage and implementation of these laws. There is substantial corporate demand for standardized and consistent climate reporting requirements and a significant majority of

large-cap and mid cap U.S. companies are already voluntarily disclosing information on climate and sustainability risks.

More to the point, these California laws are underpinned by the recommendations of the Task Force on Climate-Related Financial Disclosure, or TCFD. And in 2024, 65 percent of companies in the Russell 1000 Index reported in alignment with the TCFD recommendations

I raise these points to underscore the breadth of investor and corporate support for these laws, the market's readiness to comply, and the critical role standardized disclosures play in protecting investors, improving market functioning, and enabling economy-wide risk management. Companies are well positioned to comply with these laws and now they uniformly request regulatory certainty as they build the internal capacity to comply with them. Predictability is critical to these businesses' ability to make informed decisions and to allocate resources efficiently. (BHT-020.1)

Comment: I want to applaud the diligent work of the CARB staff in drafting a very comprehensive and workable regulation here, and Ceres urges the Board to adopt the regulation. (BHT-020.2)

Comment: So first of all, thank you for your progress in implementing these crucial climate risk disclosure laws that give consumers and regulators the tools they need to assess corporate claims of decarbonization. Research confirms that disclosures prompt statistically significant emissions reductions. (BHT-023.1)

Comment: We support the resolution and proposed initial regulations, and are appreciative of all the hard work CARB has done to develop this regulation and the supporting guidance. (BHT-024.1)

Comment: EDF supports the proposed initial rule That is before the Board today. This rule is a key step in CARB's implementation of programs that will increase the consistency and reliability of public reporting of corporate greenhouse gas emissions and climate-related financial risks. Improved reporting will benefit investors, consumers, and the broader public. (BHT-033.1)

Comment: EDF commends the proposal's incorporation of California Tax Code definitions, grounding the revenue in doing business in California parameters for coverage, and that well-established and widely familiar framework provides reliability, clarity and efficiency for regulated entities regulators and end users of information alike. (BHT-033.2)

Comment: Thank you for drafting the proposed rules to establish fees, timelines, and definitions for California's Corporate Greenhouse Gas Disclosure laws. Your work will provide comparable and reliable information on how companies doing business in California are impacting the climate. (BHT-037.1)

Comment: We are here today to state our strong support for the timely passage and adoption of these initial regulations to advance corporate climate ambition and transparency. (BHT-045.1)

Comment: We urge the Board's aye vote on these regulations, this initial regulation is the first critical step in establishing comprehensive, climate transparency, and accountability for Californians. (BHT-045.3)

Comment: As You Sow strongly supports both SB 253 and SB 261. Through emissions reporting, companies come to understand not only the sources of emissions created across their enterprises, but also where efficiencies and improvements can be gained by reducing those emissions, which improves competitiveness. When assessing Scope 3 emissions, companies also gain knowledge about their suppliers and their supply chain risk. (BHT-046.1)

Comment: We support the core goals of the proposed regulation, recognizing it's focused on moving SB 253 forward in establishing reporting requirements for 2026. (BHT-049.1)

Comment: Regarding SB 261: I support CARB's continued parallel rulemaking on climate-related financial risk disclosure. (BH-004.2)

Comment: 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. (BH-005.1)

> **Agency Response:** No changes were made in response to these comments. The Board approved the resolution to adopt the Regulation on February 26, 2026. CARB acknowledges the commenters' support for Health and Safety Code sections 38532 and 38533, the Regulation, and its associated components.

B. Fee Structure

B-1 Unique Comment: Disapprove Flat Fee Structure

Comment: There is no sliding scale for emissions or California footprint, meaning comparatively smaller and environmentally cleaner maritime operations may be required to contribute a disproportionate amount compared to larger entities that dominate statewide emissions and risks. (45d-009.4)

> **Agency Response:** No changes were made in response to this comment. Health and Safety Code sections 38532 and 38533 require that both a "reporting entity" and a "covered entity" shall pay an annual fee to the State Board for the administration and implementation. The Regulation implements this statutory direction.
>
> As discussed in the Staff Report, the fee structure is a flat amount assessed across all entities in scope to reduce administrative burden associated with calculating, verifying, and managing a variable fee. A variable fee structure based on emissions or revenue, like the structure used for the AB 32 Cost of Implementation Fee Regulation, was explored, but CARB ultimately decided to propose a flat fee structure. While the

regulated entities may vary in size or emissions, CARB's cost of administering and implementing the reporting obligations for each entity under Health and Safety Code sections 38532 and 38533 is generally uniform in structure and scope. CARB must still review emissions and climate-related financial risks on a per-entity basis. A flat fee reduces overhead costs, therefore minimizing the cost assessed to regulated entities, and provides higher predictability for the cost for all reporting entities and covered entities from year to year without the need for estimations tied to emission volumes or financial metrics. A flat fee also avoids creating disincentives for full disclosure or for entities with complex supply chains. An equal fee ensures that all entities contribute fairly to the shared administrative infrastructure that supports compliance, enforcement, and public transparency. See also the discussion of the "Progressive Fee Payment Based on GHG Emissions" alternative that CARB considered but rejected on pages 22-23 of the Staff Report. As discussed in the Staff Report, CARB lacks accurate and verified emission data across various scopes of each regulated entity that would be required for an emissions-based fee prior to the time the fee assessments are sent to reporting entities and covered entities. It also remains unclear how a fee assessment would be scaled according to each entity's climate risks.

B-2 Unique Comment: Confidentiality Concern

Comment: The Proposed Auditing Provision Exceeds CARB's Statutory Authority and Raises Confidentiality and Due Process Concerns.

The proposed auditing provision authorizes CARB's Executive Officer to contract with or consult outside entities, including the Franchise Tax Board (FTB) and the California Department of Tax and Fee Administration (formerly the Board of Equalization), to obtain data or services needed to audit fee remittances or unpaid fees, and to fund those auditing activities using fee revenues. As drafted, this provision exceeds CARB's delegated authority and lacks the necessary statutory and procedural guardrails.

First, while CARB may verify whether required fees have been accurately calculated and remitted, neither SB 253 nor SB 261 authorizes CARB to obtain or use confidential taxpayer information held by the Franchise Tax Board or the California Department of Tax and Fee Administration. Disclosure and use of tax return information are governed by strict confidentiality provisions in the Revenue and Taxation Code[32], which permit interagency sharing only where the Legislature has expressly authorized it.[33] Nothing in SB 253 or SB 261 provides such authorization. An administrative regulation cannot create access to confidential tax data where the Legislature has not done so.

Second, the proposed language is overbroad in scope. It does not limit auditing activities to information reasonably necessary to verify fee applicability or fee amounts, nor does it define the permissible data sources, audit methods, or boundaries of inquiry. Absent clear limits, the provision could be read to authorize expansive financial audits or inquiries into unrelated business operations, which would exceed the narrow purpose of fee verification and raise

due process concerns. Regulatory audits must be no more intrusive than necessary to administer the authorized program, and regulated entities are entitled to clear notice of the scope and basis of any audit.

For these reasons, the auditing provision should be revised to: (1) expressly limit audits to verification of fee remittances using information lawfully provided by the fee payer or otherwise publicly available; and (2) clarify that nothing in the regulation authorizes access to confidential tax information held by FTB or CDTFA absent express statutory authorization. (45d-069.15)

[32] See Rev. & Tax Code § 19542.

[33] In California, when the Legislature wants one agency to have access to another agency's tax data, it writes a specific "interagency sharing" provision (See Rev. & Tax. Code §§ 19551 – 19570). Here the statutes authorized CARB to collect "fees" and "reports," but they are silent on tax records. It is unclear what statutory authority exists, for CARB to collect tax records.

Agency Response: No changes were made in response to this comment. Health and Safety Code sections 38532 and 38533 each establish a threshold, expressly based on revenue, for determining which entities are subject to the GHG emissions disclosure and climate-related financial risk disclosure programs, respectively. (See Health and Safety Code sections 38532(b)(2) and 38533(a)(4).) The common-sense approach for establishing and confirming entities' revenue amounts – and thereby confirming whether entities are above or below the revenue threshold – is through the information they provide in their tax filings. Not only does this provide for consistency across state agencies, but it reduces burden on regulated entities because this is information that entities already provide to the California Franchise Tax Board. The commenter does not identify another verified source for establishing a given entity's revenue amounts that is accurate, verified, consistent, and less burdensome.

In addition to the authorities cited above, CARB has authority to "do such acts as may be necessary for the proper execution of the powers and duties granted to, imposed upon, the State Board…" (See Health & Saf. Code 39600.) Under the Regulation and supporting statutes, the Executive Officer has authority to ensure compliance with regulatory requirements. The Executive Officer would carry out any auditing in a way that is consistent with the law and confidentiality obligations. CARB takes privacy seriously, adheres to compliance with privacy laws, and regularly works with highly sensitive confidential data on a regular basis in the course of business, including tax records.

B-3 Multiple Comments: Alternative Fee Structures

Comment: We believe that fees should only be assessed at parent company entities or for entities that file a report. We expect most companies to file an aggregate report at the parent company level, that incorporates its subsidiaries and therefore should only be assessed a fee as one entity. The statute requires fees to cover the "actual and reasonable costs" of

administration. If a parent entity files one consolidated report, CARB staff only reviews/audits one document. Charging 50 separate fees for 50 subsidiaries when only one report is filed creates a "revenue-to-cost" mismatch rather than aligning fees with the actual work CARB performs (reviewing one report). Additionally, SB 219 explicitly amended the law to allow for consolidated reporting at the parent level. The fee structure should mirror the reporting structure. If the legislature recognized that consolidated reporting is sufficient for transparency, the fee structure should reflect that same unit of compliance. (45d-012.6)

Comment: CARB should place a cap, e.g., 10, on the number of subsidiary entities that would pay a fee for any parent company. (45d-012.7)

Comment: CARB should allow for a Tiered Consolidation Fee. This would significantly reduce the administrative burden for complex companies while still providing the fee revenue expected by CARB. For example, if a parent entity estimates that it has between 50 and 100 in scope entities, it could opt to pay for the 100-fee tier. This allows the entity to satisfy its obligation without the burdensome assessment of determining whether it has a precise number of fee eligible entities between 50 and 100. (45d-012.8)

Comment: Assess filing fees on a per-report basis, with tiered costs based on the FTB-reported California-specific revenue of the entity submitting the report.

Assessing filing fees on a per-report basis addresses some of the challenges associated with identifying in-scope entities given the evolving nature of CARB's guidance on this topic. Additionally, it represents a more proportionate approach to the allocation of filing fees (and aligns with the reality that companies take different approaches on consolidated tax filings to California) than the fairly complicated per-entity approach set forth in the Proposed Regulation.

This approach would also facilitate CARB's fee collection efforts, since CARB would already need to verify in-scope entities based on California tax filings. To further facilitate CARB's fee assessment efforts, CARB could include on the cover page boxes for the reporting entity to indicate its fee tier (similar to the cover page to SEC reports). (45d-018.7)

Comment: Assess filing fees on a per-report basis, with tiered costs based on the Franchise Tax Board-reported California-specific revenue (which CARB would already use to access "doing business") of the entity submitting the report.

Rationale: Ensuring Clear and Predictable Fee Process for Both CARB and Companies, Making Fees More Proportionate

The Proposed Regulation establishes a Total Required Revenue (TRR) framework and annual invoicing process that depend on CARB identifying the covered populations (N38532, or Number of reporting entities, and N38533, Number of covered entities, respectively) and other fee calculation inputs. The core formulas set Required Revenue (RR) and TRR annually, then allocate TRR into separate fee rates for § 38532 and § 38533 based on staffing allocation percentages (i.e., authorized staff positions assigned to each, referred to in the Proposed Regulation as P38532 and P38533, respectively).[18]

At the same time, the Proposed Regulation and Staff Report leave unresolved practical questions that are necessary to ensure fees remain tied to "actual and reasonable costs" and are administered in a predictable and dispute-resilient manner.[19] (45d-018.17)

[18] Proposed Regulation § 96073(a)-(d), pp. 5-6.
[19] HSC § 38532(c)(2)(G)(ii)-(iv); HSC § 38533(c)(2)(B)(i)-(ii); Staff Report at 11-12.

Comment: CARB's Staff Report explains that a flat fee is intended to reduce administrative burden and improve predictability, and that a variable fee based on emissions or revenue was considered but rejected.[20]

That rationale is best served by assessing a single fee per consolidated disclosure report filed, rather than per legal entity within a corporate group. The statutes expressly permit consolidated reporting at the parent-company level.[21]

A structure-driven per-entity approach risks arbitrary outcomes (different fee burdens based solely on how a single enterprise's organizational structure may have evolved for historical, legal, or tax reasons) and invites disputes over how to count covered entities for N38532/N38533.[22] As discussed in one of our prior comment letters,[23] the per-entity fee structure also fails to acknowledge the challenges that both CARB and in-scope companies may experience with identifying in-scope entities, particularly considering some of the remaining ambiguities that we and other commenters have raised. These challenges will be exacerbated for CARB because many companies measure and report GHG emissions on a consolidated level at the parent level, and will likely do so under § 38532 regardless of whether that parent is itself in-scope. As a result, it would be complicated for both companies and CARB to calculate their fees each year under the per-entity approach, since the California-based revenues being examined for purposes of "doing business in California" may fluctuate from year to year as set forth in the Proposed Regulation.

In contrast, both companies and CARB can take advantage of a more streamlined process for budgeting and calculating fees if the final regulation provides for payment of a fee for each unique § 38532 report, whether prepared on a consolidated or non-consolidated basis, rather than a fluctuating and potentially uncertain amount of fees based on the number of entities ultimately determined to be in scope each year. (45d-018.18)

[20] Staff Report at 12.
[21] HSC § 38532(c)(2)(A)(iii); HSC § 38533(b)(2).
[22] Proposed Reg. Text § 96073(c)-(d), pp. 5-6.
[23] See Society Comment Letter in Response to Request for Comments Following August 21, 2025 Public Workshop (September 2025), available at https://higherlogicdownload.s3.amazonaws.com/GOVERNANCEPROFESSIONALS/5d47927b-105a-4bc7-9aef-821536f3505b/UploadedImages/Society_for_Corporate_Governance_Comment_Letter_Post-August_21__2025_Workshop__9-11-25_.pdf.

Comment: To further increase certainty and predictability, we recommend that the fee be tiered based on the size of a single line item (the "FTB Line Item") in the Franchise Tax Board tax filing for the reporting parent entity (or if that entity is not itself in scope of § 38532, the

largest in-scope subsidiary)—with the FTB Line Item being the same line as the one companies and CARB will need to verify for purposes of the "doing business in California" definition. A clear advantage of this approach is that, to the extent that CARB will be using the FTB Line Item to verify whether an entity is "doing business in California", CARB would also be able to use the FTB Line Item to verify whether the entity has paid the correct amount of fees.

Further, as CARB stated during its August workshop[1] (when it proposed a similar fee structure as set forth in the Proposed Regulation), a goal for the fee structure is to ensure that enterprises with more California contact shoulder a greater proportion of the state's overall administration costs for the climate reporting programs under § 38532 and § 38533. We believe that a more well-tailored and practical method for promoting proportionality between the degree of an enterprise's California contacts and the amount of filing fees paid by such enterprise is to require enterprises to pay tiered filing fees based on the FTB Line Item (which CARB itself has identified in the "doing business" definition as an indicator of California contacts), rather than the number of affiliated entities that may be in-scope. For example, if an entity reports California franchise taxes on a consolidated basis and its FTB Line Item was barely above the threshold for "doing business in California," that company should logically be assessed a lower filing fee as compared to another company that reports California franchise taxes on a consolidated basis and has a much higher FTB Line Item.[24] (45d-018.19)

> [24] A tiered fee approach based on tax filing line item is consistent with current practices under California law. For example, California currently requires limited liability companies ("LLCs") to pay an annual fee based on their total income "from all sources derived from or attributable to California" under Revenue and Tax Code § 17942. When then file their Form 568 each year, LLCs would pay $900 (if total income is between $250,000-$499,999), $2,500 (if total income is between $500,000-$999,000), $6,000 (if total income is between $1,000,000,000-$4,999,999,000), and $11,790 (if total income is over $5 million). See FTB Pub. 3556: Limited Liability Company Filing Information | Forms and Publications | FTB.ca.gov.

Comment: In addition, since CARB is permitting consolidated reporting, which is expected to be the approach used by many reporting companies, a per-report fee structure is also more proportionate with respect to CARB's burdens and costs under § 38532.

A per-report filing fee for each unique § 38532 report based the same FTB Line Item used to verify whether a company is "doing business in California" would increase clarity and predictability for companies (particularly the many that are likely to submit a consolidated report as contemplated by § 38532), while also facilitating CARB's fee assessment and collection efforts. (45d-018.20)

Comment: We appreciate CARB's efforts to establish a fee structure that supports effective administration and enforcement. We believe adopting a per-report fee structure—rather than

[1] For all comments related to workshops, these comments are not related to the formal notice and therefore, these comments are outside the scope of this rulemaking, irrelevant, or not specifically directed at CARB's proposed action or directed to the procedures followed by CARB in proposing or adopting the action, so CARB is not required to respond.

per-entity fees—would best align with CARB's stated goals of reducing administrative burden and improving predictability. (45d-018.22)

Comment:

- Companies pointed out that the proposed fee structure does not achieve the laws' stated goals, because the fees are assessed based on corporate structure (i.e., the fee is allocated to each entity or subsidiary that meets the criteria for reporting), not at the level of the organization where financial and pollution abatement decisions are made (i.e., the parent level for companies that choose to consolidate reporting at the parent).
    - If a company has multiple subsidiaries covered under the laws, it will pay the implementation fee several times over, even if the company consolidates reporting at the parent level as permitted under SB 219.
- Ceres appreciates that CARB may not have flexibility to assess fees based on the number of entities that ultimately submit reports, rather than the aggregate number of reporting/covered entities; a flat fee provides higher predictability from year to year. Still, we wanted to relay this concern. (45d-033.5)

Comment: (1) clarify which entities in parent-subsidiary structures are responsible for fee payment, and regardless, provide that fees will be assessed on a per-filing basis; (2) align fee assessment with the statutory structure of SB 253 and SB 261 by assessing fees on a per-filing basis; (45d-046.4)

Comment: The Proposed Rule Should Clearly Align Fee Assessment With the Statutory Structure of SB 253 and SB 261 by Assessing Fees on a Per-Filing Basis.

The ambiguity in the Proposed Rule is compounded by the different ways in which SB 253 and SB 261 treat parent-subsidiary relationships for reporting purposes. Under SB 261, the statute expressly provides that climate-related financial risk reports may be consolidated at the parent company level and that, where a subsidiary qualifies as a covered entity, the subsidiary "is not required to prepare a separate climate-related financial risk report" if included in a parent's consolidated report.[4] The statute therefore makes a clear distinction between a subsidiary's potential eligibility as a covered entity and its actual reporting obligation when the parent consolidates reporting. SB 253 similarly places reporting obligations on the "reporting entity" and requires disclosure of Scope 1 and Scope 2 emissions from sources the reporting entity owns or directly controls,[5] with reporting to be conducted in accordance with the Greenhouse Gas Protocol. And SB 253, as amended by SB 219, similarly provides that a subsidiary that qualifies as a reporting entity is not required to prepare a separate report if reporting is consolidated at the parent company level. Neither statute, however, specifies how consolidated reporting affects fee liability, leaving that issue for CARB's implementation.

[4] CAL. HEALTH & SAFETY CODE § 38533(b)(2).
[5] CAL. HEALTH & SAFETY CODE § 38532(b)(2)-(4).

In light of these statutory provisions, it is unclear how CARB intends to apply the fee framework in Section 96073 of the Proposed Rule—particularly the calculation variables N_{38532} (number of reporting entities) and N_{38533} (number of covered entities)—in cases where a parent company elects or is permitted to file a consolidated report encompassing one or more subsidiaries.

Specifically, the Proposed Rule does not clarify whether a subsidiary whose emissions or climate-risk disclosures are included in a parent's consolidated report will be counted as a separate "reporting entity" or "covered entity" for fee purposes or whether subsidiaries that do not have an independent reporting obligation, but are nonetheless covered by a report, may be assessed a separate fee. CARB has also not explained in the Proposed Rule whether it will assess separate fees for every entity covered by a single report. If the fee is assessed on a per-entity basis, as opposed to a per-filing basis, CARB stands to assess multiple fees for the same report where reporting is consolidated at the parent level. BHE strongly encourages CARB to assess a single fee per filing entity, which would enhance CARB's ability to administer reports and reporting obligations under SB 253, and SB 261, promote uniformity and predictability for filers, and more efficiently serve the purposes of the relevant statutes. (45d-046.8)

Comment: To address these issues and to ensure predictable, administrable and equitable implementation, BHE respectfully requests that CARB address, either in the final regulation text or in binding guidance, the following:

1. The entity that submits the required report is the only fee-liable entity in a parent–subsidiary structure where reporting is consolidated at the parent level under SB 253 and/or SB 261.
2. That subsidiaries whose reporting obligations are satisfied through a parent's consolidated filing are excluded from the count of N_{38532} or N_{38533} for purposes of calculating the annual fee.
3. How CARB will ensure that a single corporate group is not assessed duplicative fees for the same underlying reporting activity when parent-level consolidation is permitted or required.
4. The meaning and scope of the term "affected entity" in Section 96074(a), including whether that term is intended to encompass only the reporting or covered entity that is responsible for filing, or potentially multiple entities within the same corporate family. (45d-046.10)

Comment: CCEEB recommends that CARB establish a one-report = one-fee regulation to incentivize the consolidation of reports and further streamline the regulation. It is unclear how the consolidation of a report would result in additional costs to CARB in order to justify multiple fees. (45d-056.8)

Comment: CCEEB recommends that if CARB chooses to pursue a fee for each subsidiary, regardless of a consolidated report, that CARB include the rationale for such fees. In addition to the one-report = one-fee concept, CCEEB recommends a cap on the total fees that a

single parent entity would pay ($50,000), regardless of the number of covered and reporting entities within the same parent company. (45d-056.9)

Comment: Per Entity Fee Assessment. CMTA requests that CARB revise its proposal to assess fees against each reporting entity and each covered entity to incentivize reporting at the parent company level and to reflect CARB's program implementation costs more accurately. By encouraging subsidiary entities to report at the parent company level, CARB would reduce its own administrative burden by reducing the number of reports it must review and evaluate and would more equitably distribute program implementation costs across reporting and covered entities. . .CARB can achieve this by assessing fees based on the number of reports it expects to receive: a single fee for any entity submitting a report for itself only, and a single fee for groups of entities reporting under a single, parent-level report. (45d-061.11)

Comment: CARB should clarify that fees levied under the Climate Disclosure Rules will be assessed against only the corporate entity submitting required disclosure reports. The Climate Disclosure Rules provide that required reports may be consolidated and submitted at the parent company level.[5] CARB issued guidance on July 9, 2025, as updated on November 17, 2025, in which CARB proposed assessing fees at the level of individual corporate subsidiaries even if a parent company submits a consolidated report.[6] The proposed regulation follows CARB's guidance, stating that "annual fees are assessed for reporting entities and covered entities."[7] Allowing parent companies to submit the required reports will reduce CARB's administrative burden. To incentivize reporting at the parent level and minimize CARB's administrative costs, CARB should levy program fees against only the parent entity submitting the reports rather than individual subsidiary entities. (45d-068.4)

[5] California HSC §§ 38532(c)(2)(A)(iii), 38533(b)(2).
[6] CARB, California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Programs: Frequently Asked Questions about Regulatory Development and Initial Reports, at pg. 9, posted July 9, 2025, and updated November 17, 2025.
[7] Proposed § 96074(a).

Comment: The current fee structure does not achieve the stated goal of the law because it assesses the fee based on corporate structure (i.e., allocates a fee to each entity or subsidiary that meets the criteria for reporting), not at the level of the organization where financial/investment and pollution abatement decisions are made (i.e., parent level for companies that report at the parent level). (45d-070.2)

Comment: Regarding CARB's proposed "flat" fee, the Group recommends that CARB instead assess filing fees on a "per filing" basis. Under this approach, if a parent company submits a consolidated disclosure on behalf of two or more in-scope subsidiaries within its corporate structure, only a single filing fee should be required for each of SB 253 and SB 261. This method would avoid duplicative fees for business entities included in consolidated reports and reduce unnecessary compliance expenses for companies with complex corporate structures. Under this approach, CARB should also allow flexibility as to whether the parent or subsidiary pays the fee. A "per filing" structure would also reduce overhead costs, an

outcome which, as CARB acknowledges in the ISOR, would “minimiz[e] the cost assessed to regulated entities, and provide[] higher predictability for the cost for all reporting and covered entities from year to year without the need for estimations tied to emission volumes or financial metrics.” (45d-078.20)

Comment: CARB also proposes that a subsidiary included in a parent company’s report would still be considered a separate entity subject to the fee. The Group disagrees with this approach. CARB should provide flexibility for companies to report either at the parent or subsidiary level, and to determine which entities pay the associated fees on a per filing basis, rather than mandating that fees be assessed solely at the subsidiary level. (45d-078.22)

Comment: Calculation of fees, the current fee structure does not achieve the stated goal of the law, because it assesses the fee based on corporate structure, i.e. allocates a fee to each entity or subsidiary that meets the criteria for reporting, not at the level of the organization where financial/investment in pollution abatement decisions are made. (BHT-032.2)

Comment: We continue to advocate for a revenue based tiered fee system, based of different ranges of California-specific revenue incomes of the reporting entities, rather than the proposed flat fee system tied to programs costs and number of reporting entities. USTMA maintains that a tiered fee system would reasonably connect a party's fees to the extent of the party's presence and market access in California. (BHT-042.1)

Comment: 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. (BH-001.1)

Comment: As discussed elsewhere in this letter, we recommend CARB reassess the fee structure for different reasons. (45d-018.44)

Comment: 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.

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)

Rational

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. (BH-004.3)

Comment: 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.

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. (BH-004.4)

Agency Response: No changes were made in response to these comments. CARB considered a variety of recommendations for structuring the fees under Health and Safety Code sections 38532 and 38533. The options included implementing a per-report fee structure, parent fees, fee caps, recovering no fees, emissions-based fees, consolidation fees, and revenue-based tiers. However, CARB determined that these alternatives are inconsistent with statutory language.

Health and Safety Code sections 38532 and 38533 explicitly require that each "reporting entity" and "covered entity" pay an annual fee to the State Board, and the Regulation follows such statutory direction. Consistent with how applicability is assessed at the individual entity level to determine whether an entity is in scope, fee assessment follows the same approach. Fee liability is tied to each individual entity's applicability, rather than to the number of reports submitted. While consolidated reporting at the parent level is permitted to reduce reporting burden for regulated entities, it does not alter which entities are subject to the Regulation or their corresponding fee obligations.

CARB also considered comments asserting that a per-report fee structure would reduce administrative burden on CARB by aligning fees with the number of reports submitted. However, in practice, even where a single consolidated report is submitted, CARB must still identify, verify, and track each individual entity that meets the applicability criteria, including confirming that all in-scope entities are appropriately included in the report.

Similarly, parent-subsidiary relationships do not affect fee assessment. Regardless of how many in-scope subsidiaries exist within a consolidated report submitted by a parent entity, each entity is evaluated independently and, if applicable, is considered a "reporting entity" or "covered entity" and assessed its own fee. The term "affected entity" in section 96074(a) refers to each "reporting entity" or "covered entity" that is in scope, and is independent of which entity submits the report. Furthermore, one commenter suggested allowing companies to determine what level to report and determine which entities pay the associated fees on a per filing basis. This would lead to inconsistency in the program, lack of accountability, and not account for the reasonable costs of the program.

While revenue and sales in California are factors relevant for determining whether an entity is in scope, revenue-related financial metrics are not reported to CARB as part of the climate disclosure process. Utilizing these fluctuating financial values to

calculate annual fees would introduce significant administrative complexity and unpredictability for both the agency and regulated entities. CARB's work and associated costs will still be required regardless of a company's revenue, so utilizing a revenue structure would not ensure fees remain tied to "actual and reasonable costs" and are administered in a predictable manner.

While CARB understands that the reporting level may not be at the level of the organization where financial/investment in pollution abatement decisions are made, the purpose of the statutes is transparency, not to regulate company decisions on pollution abatement.

A flat fee assessed for each "reporting entity" and "covered entity" is the most administrable approach for this program and recovers program costs in a standardized and administrable manner consistent with the statutory framework.

Regarding comment 45d-018.19, CARB disagrees with the assertion that the agency previously proposed a fee structure based on "proportionality of California contacts." Since the inception of the rulemaking, CARB has consistently proposed a fee structure based on the total program implementation costs divided by the number of regulated entities to ensure the program is fully funded in a standardized manner.

Assessing a flat fee on a per-entity basis ensures consistency with the statutory framework and provides a clear, administrable approach aligned with how applicability is determined.

B-4 Multiple Comments: Legal Concerns With Fee Structure

Comment: Inclusion of Legal Defense Costs Is Neither Appropriate Nor Consistent with Statutory Intent: The TRR definition includes "legal defense costs to support the State's ability to defend the regulation in court." We do not believe it is appropriate to require regulated entities to fund litigation expenses – particularly when such litigation may challenge processes or concerns with the proposed regulation that go beyond the administrative and implementation costs foreseen by the legislature when regulation was adopted. The statute states that "The total amount of fees collected shall not exceed the state board's actual and reasonable costs to administer and implement this section." Litigation costs, by their nature, are unpredictable and not directly tied to program administration or implementation. Including them in fee calculations stretches the meaning of "actual and reasonable costs" beyond what the statute allows. We respectfully request that CARB exclude legal defense costs from the TRR to ensure compliance with legislative intent and fairness to regulated parties. (45d-018.50)

Comment: The staff stated the contingency adjustment ("A") for unforeseen costs or revenue shortfalls is currently 10%. It is unclear whether CARB is intending on reviewing, and possibly making an adjustment to, the contingency adjustment periodically to reflect the current and

expected economic conditions. We recommend CARB clarifies this point to prevent potential overfunding in future periods. (45d-027.17)

Comment: The Proposed Regulation establishes a fee structure and funding for implementation of Health and Safety Code sections 38532 and 38533. We understand that the funding is primarily for covering the costs associated with the hiring of staff to enforce and review compliance. However, we recommend establishing a review or adjustment process to avoid unnecessary fees if program costs stabilize but revenue keeps growing due to the 10% annual increase. (45d-027.20)

Comment: CARB is authorized to assess fees based on the reasonable costs of implementing and administering the statutory greenhouse gas (GHG) reporting and disclosure programs. Dairy Institute is alarmed by the inclusion of costs that go beyond administering the program, directly attributable to all qualifying entities. (45d-040.4)

Comment: As dictated by California law, fees must remain strictly limited to actual and reasonable implementation and administration costs. This means the agency's actual verifiable and documented costs—not estimated or average trends. Inflation indexing is allowed only if it closely matches increases in the specific program's costs, and a blanket CPI adjustment alone is unacceptable. (45d-040.6)

Comment: The fee structure also includes a 10% contingency to Total Required Revenue for potential unexpected costs, applied even if those costs do not occur. Excess revenue is proposed to be maintained with CARB, instead of an attempt to credit back entities or reduce future fee assessments. (45d-040.7)

Comment: Health and Safety Code sections 38532 and 38533 do not include any authorization for CARB to recover the costs of defending the regulations in court. Dairy Institute is very concerned by this attempt to pass unrelated expenses, such as litigation defense, onto the regulated entities. These costs are a general government responsibility, and entities that are not bringing action against the state for the implementation of this regulation should not be required to cover the costs of legal defense in their annual fees. (45d-040.8)

Comment: Dairy Institute is very concerned with multiple attempts to go beyond the actual and reasonable regulatory costs, which undermines the integrity of the fee structure and goes beyond CARB’s statutory authority. (45d-040.9)

Comment: Additionally, without further clarification, the Proposed Rule creates a risk of inconsistent fee assessment across similarly situated corporate groups, depending on how CARB interprets and applies the undefined term “affected entity.” This uncertainty is particularly acute for companies with complex corporate structures and regulated subsidiaries, including energy and utility holding company systems. Moreover, assessing fees on subsidiaries that do not have an independent reporting obligation—particularly where a parent is reporting on their behalf—would be difficult to reconcile with both the structure and intent of SB 253 and SB 261, which tie fee authority to the administration and implementation

of reporting obligations. Fees assessed in the absence of a corresponding reporting obligation could also undermine the statutory direction that fees be "actual and reasonable" costs of administering these programs.[6] (45d-046.9)

[6] CAL. HEALTH & SAFETY CODE §§ 38532(c)(1)(G), 38533(c)(2).

Comment: Section 96072(a)(12) of the proposed regulation defines "Required Revenue" as "the total amount of funds necessary to recover the costs of implementation or expenditures under the programs established by HSC §§ 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." (emphasis added). The inclusion of such legal defense fees is an improper barrier to the exercise of First Amendment rights to petition the government, which includes filing lawsuits to challenge unconstitutional laws. It further violates due process rights by imposing an unconstitutional penalty for accessing the court system. This provision must be removed from the proposed definition. (45d-051.17)

Comment: The proposed regulation provides that in the event of an excess or shortfall of fees, the balance is carried over to the following year. However, there may be instances where a covered or reporting entity reports in one year and does not meet the threshold to report in the following year. In the case where CARB determines that covered or reporting entities paid too much, the regulations should include both a requirement to refund the fees and a process for covered and reporting entities to request a refund. (45d-056.10)

Comment: In order to comply with Proposition 26, CARB must demonstrate by a preponderance of the evidence that the charge is no more than necessary to cover the reasonable costs of the government activity and bears a reasonable relationship to the payer's burden or benefits received from the governmental activity. Without this assurance, this fee becomes a tax. (45d-056.11)

Comment: Health and Safety Code sections 38532 and 38533 authorize CARB to assess fees solely for the purpose of recovering the reasonable costs of implementing and administering the statutory greenhouse gas reporting and disclosure programs. Nothing in these provisions authorizes CARB to recover the costs of defending regulations against judicial challenge (45d-063.8)

Comment: The methodology for calculating and assessing implementation fees in Sub article 2 of the proposed regulations raises substantial legal concerns. As designed, the fee framework exceeds CARB's fee authority under Health and Safety Code sections 38532 and 38533, and independently exhibits the characteristics of an unauthorized tax under Article XIII A of the California Constitution and a compelled subsidy of government advocacy in violation of the First Amendment. (45d-063.9)

Comment: The proposed fee framework also includes an automatic annual adjustment tied to the Consumer Price Index (CPI). While inflation indexing can be appropriate in limited circumstances, the CPI mechanism proposed here operates independently of actual program costs and therefore risks systematic overcollection in violation of both statutory fee authority

and the constitutional limits on regulatory fees. This also raises concerns with how these types of costs would be represented in the three-year cycle of general rate cases at the California Public Utilities Commission (CPUC). The potential for over collection presents an added concern for utilities, including water utilities, regulated by the PUC, which may result in utilities incurring costs that cannot be passed through or back to customers. (45d-063.10)

Comment: III. The Proposed Fee Structure Exceeds CARB's Statutory Authority Under Health and Safety Code Sections 38532 and 38533 and Raises Serious Constitutional Concerns

The methodology for calculating and assessing implementation fees in Subarticle 2 of the proposed regulations raises substantial legal concerns. As designed, the fee framework exceeds CARB's fee authority under Health and Safety Code sections 38532 and 38533 and exhibits the characteristics of an unauthorized tax under Article XIII A of the California Constitution and a compelled subsidy of government advocacy and restraint on petition, in violation of the First Amendment to the United States Constitution. (45d-069.4)

Comment: Inclusion of Legal Defense Costs Exceeds CARB's Fee Authority Under Health and Safety Code Sections 38532 and 38533

Health and Safety Code sections 38532 and 38533 authorize CARB to assess fees solely for the purpose of recovering the reasonable costs of implementing and administering the statutory greenhouse gas reporting and disclosure programs. Nothing in these provisions authorizes CARB to recover the costs of defending regulations against judicial challenge.

The statutory scheme is narrowly focused on program implementation, such as establishing reporting requirements, collecting and reviewing disclosures, and administering compliance mechanisms. By contrast, defending the validity of a regulation in court is a general governmental function that serves the interests of the State as sovereign, not a cost of administering a reporting program attributable to regulated entities.

By defining "Required Revenue" to include the "legal defense of this article," CARB exceeds the fee authority delegated to it by the Legislature. Agencies may not expand their fee authority by regulation beyond the limits established in statute.[12] Where a statute authorizes fees to recover implementation and administration costs, the agency may not use that authority to shift unrelated governmental expenses, such as litigation defense, onto regulated parties.[13] (45d-069.5)

[12] See Government Code Sections 11342.1 and 11342.2.

[13] See, e.g., Sinclair Paint Co. v. State Bd. of Equalization (1997) (Sinclair Paint), 15 Cal.4th 866, 875–876.

Comment: B. The Fee Structure Also Likely Constitutes an Unauthorized Tax Under Proposition 26

The proposed implementation fee exceeds the constitutional limits on regulatory fees and likely constitutes an unauthorized tax under Article XIII A, section 3(b) of the California Constitution, as amended by Proposition 26.

1. Proposition 26 Presumes State-Imposed Charges Are Taxes Unless a Narrow Exception Is Satisfied

Proposition 26 establishes a broad constitutional presumption: any levy, charge, or exaction imposed by the State is a "tax" unless the government affirmatively demonstrates that the charge falls within a narrow exception. One such exception allows charges imposed solely to recover the reasonable costs of regulation, including costs incident to issuing permits, conducting inspections and audits, and administrative enforcement and adjudication.[14] An agency has the burden of demonstrating that the costs are administrative in nature and the charge recovers no more than the reasonable costs of regulatory activity.[15] Failure to meet this condition means a charge is a tax regardless of how an agency labels it.

The proposed regulation defines "Required Revenue" to include the "legal defense of this article." Legal defense of a regulation is not an administrative regulatory activity; it is adversarial litigation undertaken on behalf of the State as sovereign. Proposition 26's exception for administrative adjudication does not extend to defending regulations in court.

California courts have held that a regulatory fee is valid only if it is imposed to mitigate or defray the costs of the regulatory program itself, not to fund general governmental functions.[16] Defending the legality of a regulation is a general governmental responsibility that benefits the State broadly and cannot be attributed to the specific costs of administering the regulatory program itself. By incorporating litigation defense of the regulatory package into the fee base, the proposed regulation severs the required reasonable nexus between the charge and permissible regulatory costs, effectively rendering the charge a tax. (45d-069.6)

[14] Cal. Const., art. XIII A, § 3(b)(3).
[15] Cal. Const., art. XIII A, § 3(d).
[16] See, e.g., Sinclair Paint, 15 Cal.4th at 874–878.

Comment: 2. The Fee Is Not "No More Than Necessary" to Cover Regulatory Costs

Even apart from litigation defense, the structure of the fee fails Proposition 26's requirement that charges be no more than necessary to recover reasonable regulatory costs.

First, the regulation imposes a mandatory 10 percent contingency adjustment to Total Required Revenue to account for speculative "unforeseen costs."[18] This preemptive surcharge is not tied to documented expenses and is imposed regardless of whether such costs materialize and effectively builds a surplus into the fee structure. "Fee" structures that include speculative buffers or built-in surpluses untethered to actual costs run the risk of becoming a tax.[19]

Second, Section 96073(b) requires that any excess revenue be rolled forward indefinitely, with no mechanism for refunding overcollections to the entities that paid them. Sustained overcollection without refunds is a hallmark of a tax, not a fee. Where revenues materially exceed actual regulatory costs, the charge loses its "fee" character.[20]

Together, the contingency surcharge and mandatory roll-over are likely to ensure that the program will routinely collect more than its actual costs and retain those funds permanently.

That outcome is incompatible with Proposition 26's requirement that regulatory fees be limited to actual and reasonable costs.

Because the proposed charge exceeds the regulatory-cost exception, it is a tax under Article XIII A. CARB, as an administrative agency, lacks authority to impose a tax by regulation. Taxes may be imposed only by the Legislature (or the electorate), subject to constitutional voting requirements.[21] An agency cannot cure this defect by characterizing a tax as a "fee." Nor can the agency rely on its general regulatory authority to expand fee recovery beyond what the Constitution and enabling statutes permit. Where a charge functions as a tax, it is invalid regardless of policy justification. (45d-069.7)

[18] ISOR, at p. 12.
[19] California Farm Bureau Fed'n v. State Water Resources Control Bd. (2011) 51 Cal.4th 421, 441; See also Sinclair Paint, 15 Cal. 4th at 878.
[20] Ibid.
[21] Cal. Const., art. XIII A, § 3(a); Sinclair Paint, 15 Cal. 4th at 872-873;

Comment: C. Compelled Funding of the State's Legal Defense of this Regulation Raises First Amendment Concerns

1. Compelled Subsidization of Government Advocacy

In addition to exceeding CARB's statutory fee authority and the constitutional limits on regulatory fees, the requirement that regulated entities fund the State's legal defense of this regulation raises serious and independent concerns under the First Amendment to the United States Constitution. The First Amendment protects not only the right to speak, but also the right to refrain from speaking and from being compelled to subsidize speech with which one disagrees.[22] The Supreme Court has repeatedly held that compelled financial support for expressive activity, particularly advocacy on contested legal or policy issues, implicates core First Amendment interests.[23]

Defending a regulation in court is inherently expressive and adversarial. It involves advancing legal and policy arguments intended to persuade a judicial audience regarding the legality and constitutionality of the State's regulatory choices. When the State requires regulated entities to finance that advocacy through mandatory fees, it compels those entities to subsidize speech that may directly conflict with their own views, interests, and legal positions. This concern is particularly acute where the regulated entities funding the State's legal defense may themselves be challenging the regulation or supporting challenges brought by others. In such circumstances, entities are forced to bankroll arguments deployed against their own claims in court.

2. Burden on the Right to Petition

The First Amendment separately protects the right "to petition the Government for a redress of grievances," including through access to the courts. Government actions that impose financial burdens on the exercise of this right are subject to heightened constitutional scrutiny.[24]

The statutory overreach of the fee structure is compounded by serious First Amendment concerns. By requiring covered and reporting entities to fund the State's legal defense of this regulation, CARB compels regulated parties to subsidize governmental advocacy in proceedings where those same parties may be exercising their constitutional right to petition the courts for redress of grievances.

By embedding judicial defense costs of the regulation into the fee base, the proposed regulation effectively inhibits regulated entities from seeking judicial review. Regulated entities must challenge the regulation knowing that they are simultaneously funding the State's efforts to defeat those challenges. This structure creates a built-in disincentive to petition the courts and risks chilling meritorious claims. Courts have repeatedly held that government actions that penalize, retaliate against, or impose unjustified burdens on the exercise of the right to petition, whether directly or indirectly, raise serious First Amendment concerns and are subject to heightened constitutional scrutiny.[25]

3. Lack of Germaneness to Permissible Regulatory Purposes

Even in contexts where compelled fees are permitted, the Supreme Court has required that funded activities be germane to the regulatory purpose that justifies the fee.[26]

Administrative implementation, compliance review, and agency-level enforcement may satisfy that germaneness requirement. Judicial defense of the regulation itself does not. Litigation defending the validity of a regulation does not advance day-to-day program administration. Instead, it serves the State's institutional interest in preserving its regulatory authority. That interest, however, should not be financed through compelled contributions from regulated entities who may oppose the regulation or seek judicial review of its legality.

Taken together, the fee structure risks creating a systemic chilling effect on judicial review. Judicial challenges play a critical role in testing the legality and constitutionality of administrative regulations. A regulatory scheme that requires challengers to fund the government's defense undermines that role and threatens to insulate agency action from meaningful scrutiny.[27] The words "including legal defense of this article" should be stricken from the proposed regulation. (45d-069.8)

[22] See Janus v. AFSCME (2018) 585 U.S. 878, 892; see also Knox v. SEIU (2012) 567 U.S. 298, 309.
[23] United States v. United Foods, Inc. (2001) 533 U.S. 405, 410–414.
[24] See BE&K Construction Co. v. NLRB (2002) 536 U.S. 516, 524–525; California Motor Transport Co. v. Trucking Unlimited (1972) 404 U.S. 508, 510–511.
[25] California Motor Transport Co. v. Trucking Unlimited (1972) 404 U.S. 508, 510–511; BE & K Construction Co. v. NLRB (2002) 536 U.S. 516, 524-526, 530.
[26] See Keller v. State Bar of California (1990) 496 U.S. 1, 13–14.
[27] See City of Lakewood v. Plain Dealer Publishing Co. (1988) 486 U.S. 750, 757–758 (laws that chill First Amendment activity are constitutionally suspect even absent proof of actual suppression).

Comment: D. The Fee Structure Creates a Substantial Risk of Overcollection

The proposed fee framework also includes an automatic annual adjustment tied to the Consumer Price Index (CPI). That inflation indexing, layered on top of a ten percent

contingency adjustment, operates independently of actual program costs and therefore risks systematic overcollection in violation of both statutory fee authority and the constitutional limits on regulatory fees.

Regulatory fees must be calibrated to the agency's reasonable administrative costs. CARB's implementation costs for SB 253 and SB 261 are likely to be disproportionately high in the initial years as internal systems are developed, but those costs do not inherently track CPI over time. As systems mature and processes are standardized, many costs may remain flat or decline. An automatic CPI escalator applied to a prior year's revenue estimate, without reconciliation to actual cost experience, introduces a built-in upward ratchet disconnected from CARB's real expenditures.

That risk is magnified because CPI indexing is not the only upward pressure in the fee formula. When layered on top of mandatory contingency adjustments and a roll-forward mechanism that permanently retains excess revenue, the CPI adjustment functions as an automatic revenue escalator rather than a cost-recovery tool. The absence of any mandatory true-up or refund mechanism exacerbates this ratchet effect, effectively ensuring that overcollections are retained rather than corrected.

Article XIII A of the California Constitution, as amended by Proposition 26, requires that regulatory fees be no more than necessary to cover reasonable costs. An automatic CPI adjustment that is not reconciled to actual expenditures fails that standard. As the nexus between the charged fee and the agency's real regulatory costs erodes over time, the charge ceases to function as a lawful cost-recovery fee and instead takes on the characteristics of a revenue-raising tax.

The constitutional defect created by CPI indexing in this context is compounded by the absence of any mechanism to return excess collections to fee payors. Even where CPI-based increases result in revenues that materially exceed actual costs, the regulation provides no way to reconcile those overcollections. Instead, surplus funds are retained and carried forward, placing the entire risk of forecasting errors on regulated entities, contrary to the settled principle that regulatory fees must reflect costs actually incurred by the agency.

To at least partially address the many statutory and constitutional requirements, CARB should:

- Limit any CPI adjustments to situations where CARB can demonstrate corresponding increases in actual program costs, rather than applying a generalized inflation index disconnected from the agency's actual reasonable costs;
- Pair any inflation adjustment with a mandatory reconciliation to actual expenditures, to ensure that fee levels remain calibrated to reasonable regulatory costs; and
- Provide for pro-rata refunds or credits where collections exceed costs, consistent with the requirement that fees recover no more than the reasonable costs of regulation.

As drafted, the CPI adjustment mechanism contributes to a fee structure that is not reliably tied to actual and reasonable regulatory costs and therefore further supports the conclusion

that the proposed charge is likely to function as an unauthorized tax rather than a lawful regulatory fee. (45d-069.9)

Comment: We urge CARB to revise the proposal before proceeding. At a minimum, CARB should

…

and ensure fees remain strictly limited to actual and reasonable implementation and administration costs authorized by Health and Safety Code sections 38532 and 38533. (45d-069.28)

Comment: And nine, the definition of required revenue should not include legal defense fees. (BHT-003.10)

Comment: First, the inclusion of, "legal defense of this article", in the definition of "Required Revenue" is incredibly problematic. This appears to be drawn from the AB 32 cost of implementation fee regulations, but there's a critical distinction. Under the COI framework, recovery of legal defense cost is narrowly tied to the defense of the subarticle that establishes the fee collection mechanism itself.

Here by contrast, the proposal would require regulated entities to fund the legal defense of the entire climate disclosure program and its underlying policy mandates. That expansion materially alters the nature of the fee. It risks transforming a regulatory fee into an unauthorized tax under Prop 26, and raises concerns over violation of the right to petition. It compels that the regulated community to finance the State's adversarial legal advocacy against them, regardless of who prevails, creating a systematic chilling effect on the pursuit of judicial view. (BHT-008.2)

Comment: However, fees must remain strictly limited to CARB's actual and reasonable implementation costs, as required by law. We are concerned about the inflation indexing not tied to program costs, contingency reserves retained indefinitely, and the inclusion of litigation defense costs. (BHT-009.4)

Comment: Third, the fee structure must remain strictly tied to the reasonable cost of implementation, including litigation defense costs, automatic contingency add-ons, and CPI escalators risks over collection. Regulatory fees should cover actual administration -- administrative costs, nothing more. (BHT-015.6)

Comment: Additionally on fee authority, the Health and Safety Code provisions authorize CARB to recover only reasonable costs in administering greenhouse gas reporting programs, not litigation defense. (BHT-040.3)

> **Agency Response:** No changes were made in response to these comments. The Regulation is consistent with applicable law, including constitutional, statutory, and other requirements. Both Health and Safety Code sections 38532 and 38533 expressly provide that CARB may adjust the fee in any year to reflect changes in the California Consumer Price Index (CPI). Use of CPI indexing helps to account for real

expected costs with staffing associated with the program over time. The CPI adjustment is a well-established method for adjusting costs to inflation and is based on an official state process undertaken by the California Department of Industrial Relations.

One commenter discussed concerns about how inflation indexing would be represented in the generate rate cases at the California Public Utilities Commission (CPUC). This issue is beyond the scope of the Regulation and CARB is not required to respond.

As demonstrated by the record and as required by Health and Safety Code sections 38532 and 38533, the fee amount is no more than necessary to cover the reasonable costs of the governmental activity, and the manner in which those costs are allocated to a payor bear a fair or reasonable relationship to the payor's burdens on, or benefits received from, the governmental activity. Any excess revenue is not permanently retained, as the rollover would be factored into the budget for the following year. The fee structure only reimburses actual costs, as the amount of money spent each year is the sum adopted by the Legislature.

All fees are deposited in the Climate Accountability and Emissions Disclosure Fund and the Climate-Related Financial Risk Disclosure Fund. These funds are to be spent to implement their respective programs and reimburse any outstanding loans made from other funds used to finance the initial costs of CARB's activities under these programs.

CARB also disagrees with comments arguing that the fee amounts cannot cover legal defense costs. Legal defense is an essential part of program administration and implementation, as any program may face legal challenge and incur legal costs in carrying out the program. Litigation challenges to agency actions in recent years have increased substantially and in this instance, there is already litigation pending. Furthermore, legal defense costs are a normal part of program implementation fee amounts, including in CARB's AB 32 Cost of Implementation Fee Regulation. (See 17 California Code of Regulations section 95203(a)(2).) Given legal defense costs are directly related to implementing the statutory programs, given that legal challenges can be a considerable agency cost burden for new statutory programs, given there is litigation already pending, and given the established practice of including them as part of program implementation costs, the fee is not a tax under California law.

Some commenters submitted comments regarding the contingency adjustment mechanism. CARB set the contingency adjustment at 10% for the first year to ensure sufficient revenue as the fee program is becoming established. This mechanism is necessary to address unforeseen costs or revenue shortfalls, which helps maintain program stability in the face of uncertainty, and which does not result in any potential for overcollection of fee revenue. The approach taken by CARB to manage the fund avoids overfunding as described above.

Some commenters argue that certain components of the program amount to compelled subsidization of government advocacy. As explained in response to comment D-6, the APA does not require agencies to address all legal arguments against CARB's authority for a proposal, but rather to explain the applicable statutes that authorize the regulatory proposal. CARB has done so here. While no specific response is needed to the Constitutional comments raised by commenters, CARB nevertheless provides the following response for informational purposes: CARB respectfully disagrees, and no changes are needed. Health and Safety Code sections 38532 and 38533 direct CARB to "set the fee … in an amount sufficient to cover the State Board's full costs of administrating and implementing this section." (Health and Safety Code section 38532(c)(2)(G)(ii).) Legal defense costs are frequently part of implementing and enforcing a governmental program. These legal defense costs do not involve subsidization of government advocacy; the costs instead cover a necessary part of implementation of a government program. Furthermore, the governmental program addressed by the Regulation involves reporting of Scope 1 and Scope 2 emissions data – objective emissions data similar to many other emissions reporting programs in California and in the United States. CARB therefore disagrees that the fee provisions amount to compelled funding of government advocacy.

B-5 Multiple Comments: Consolidated Payment

Comment: CARB should allow a consolidated fee invoice and payment process to increase efficiency.

Although the Proposed Initial Regulation establishes fee liability at the reporting entity level, it does not address how CARB intends to invoice and collect fees where a parent company submits consolidated reporting on behalf of multiple subsidiaries.

To reduce administrative burden and improve payment efficiency, CARB should clarify that it will permit a consolidated invoice and payment option under which CARB will issue a single fee determination notice to a parent entity that itemizes the fees attributable to each reporting entity within the corporate group, and allow the parent entity to remit a single payment on behalf of all reporting entities within the corporate group.

We believe the recommended approach is consistent with CARB's prior guidance. In the FAQs, CARB noted that "[f]ees may be paid by the parent company level".[26] To provide certainty and further increase efficiency, we recommend CARB to explicitly provide for a consolidated fee invoice and payment process in the implementing regulations. (45d-026.18)

[26] See FAQs, at 9 (Item 18).

Comment: In addition, in alignment with prior guidance indicating that fees may be paid at the parent company level, CARB should clarify how it intends to invoice and collect fees where a parent company submits consolidated reporting on behalf of multiple subsidiaries. To reduce the administrative burden and improve payment efficiency, CARB should produce a

consolidated invoice under which CARB issues a single fee determination notice to a parent entity filing a consolidated report, which itemizes the fees attributable to each reporting entity and/or covered entity within the applicable corporate group and permits the parent entity to remit a single payment on behalf of all reporting entities and/or covered entities. (45d-049.11)

Comment: CARB's November workshop presentation[16] indicates that a parent company may submit a single combined payment to cover all fees for its subsidiaries. However, this fee payment option is not reflected in the proposed regulatory text. To reduce administrative burdens and enhance clarity, CARB should revise the proposed Section 96074 to explicitly allow parent companies to make one combined payment for multiple subsidiaries, consistent with its workshop presentation. (45d-051.14)

[16] See CARB, SB 253/261/219 Public Workshop: Update on California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Programs, Slide 16. November 18, 2025; available at: https://ww2.arb.ca.gov/sites/default/files/classic/SB%20253%20261%20Nov%20Workshop%20slides%20%28Updated%29.pdf.

Comment: Seven, parent companies should be allow to make a single combined fee payment for their subsidiaries that are directly subject to the regulation. (BHT-003.8)

Agency Response: No changes were made in response to these comments. Changes were not necessary because the Regulation does not prohibit and CARB will allow for consolidated fee payment at the parent level. This is a voluntary administrative option that facilitates the manner in which payments are received should regulated entities voluntarily choose to submit payment through their parent corporations—but it is not a requirement. This does not interpret or make any specific statutory or regulatory provisions that are not already allowed, does not resolve ambiguity in legal requirements or articulate new compliance criteria. It is merely an administrative payment option. As such, the fee payment pooling practice is not a regulation, order, or standard of general application which was adopted by the Board to implement, interpret, or make specific the law enforced or administered by it, or to govern its procedure. It is merely a voluntary accounting technique to reduce administrative burden and improve payment efficiency if regulated entities choose to collectively make payment at the parent level. Please note, because this is not a requirement, CARB will not be issuing consolidated invoices nor issuing a single fee determination to the parent company.

B-6 Multiple Comments: Concerns With 60-Day Payment Window

Comment: The proposed Regulation provides 60 days to pay the required fees upon receipt of a fee determination notice from CARB. As the fees are based on the program costs in a given fiscal year and the number of reporting entities, both of which can vary every year, an entity will be unable to accurately budget for such costs, which are expected to be in the thousands of dollars. As such, there should be a process for any reporting entity to be

granted additional time of a 90-day payment period upon request and without conditions, as these changes are likely to necessitate additional processes internally and then execution of payment. Further, late fees are proposed to be assessed, which are undetermined at this time, as well as a Payment Violation for each day after the payment period.

A 90-day payment window is to the benefit of both CARB and reporting parties. Providing an additional 90-day payment window, upon request, should allow sufficient time to fully process the fee payment and eliminate unnecessary enforcement activities. (45d-011.4)

Comment: Companies often maintain internal vendor payment processes that are complex and may require more time than is contemplated by the proposed regulatory text. Limiting the payment remittance period to 60 days, coupled with the imposition of fees for failure to meet that deadline, may establish a framework that is not aligned with the operational realities of large corporations subject to the law. We urge CARB to reevaluate these timelines. (45d-020.5)

Comment: The proposed regulation requires entities to pay the fee within 60 days. Given the magnitude of the fees and the complex and time-consuming exercise for applicability determinations, CCEEB recommends extending the period to pay the fees to 90 days. This timeframe is also consistent with the amount of time CARB has to make the reporting disclosures available on the digital platform. (45d-056.17)

Comment: The proposed fee framework also allows for 60 days to pay fees after receipt of notice from CARB. Because the fees are variable and are not finalized at this time, we are concerned that entities cannot budget fully for these unknown fees and may need additional time to allocate funding beyond the proposed 60-day time period. Also, processing fees through corporate accounting systems can take significant time, especially when paying a fee for the first time. Extending the payment period to a period of no less than 90 days would better allow corporations to perform the necessary accounting processes needed. (45d-066.4)

Comment: Safe Harbor and Extended Timeframe for Fee Payment

Finally, the proposed regulations require reporting and covered entities to remit program fees within 60 days, after which daily penalties may begin to accrue. Given the complexity of the applicability determinations, the magnitude of the fees, and the absence of a clear process to challenge reporting or covered-entity status or fee calculations, a 60-day payment window is unreasonably short and creates unnecessary risk of penalties for good-faith entities.

Determining the correct fee amount may require internal review of revenue calculations, corporate structure, and parent–subsidiary relationships. In some cases, CARB may not deliver the fee notice to the proper channel to ensure timely payment. In many cases, companies must also coordinate with outside counsel, accountants, or assurance providers to confirm that the fee assessment is accurate and consistent with the regulations.

A rigid 60-day deadline, combined with compounding daily penalties, effectively forces companies to pay under protest to avoid enforcement exposure even where there are

legitimate disputes regarding applicability or fee calculation. That outcome undermines due process and discourages the careful review necessary to ensure accurate fee remittance. (45d-069.24)

Comment: Payment and collection of fees, we're requesting additional flexibility to allow entities 90 days to pay these instead of 60. (BHT-017.5)

Comment: Establish a First-Year Payment Grace Period for Good-Faith Fee Payment Delays

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.)

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. (BH-004.7)

  Agency Response: No changes were made in response to these comments. CARB recognizes that entities may need to complete internal reviews and payment processing prior to remittance. However, the 60-day period was chosen because it balances the needs of the regulated entities to complete their internal reviews and process payments with the agency need to have its reasonable costs covered. Furthermore, this timeframe has precedent with the AB 32 Cost of Implementation Regulation. The 60-day timeframe provides a reasonable timeframe for entities to process payments upon receipt of a fee notice.

B-7 Multiple Comments: Insufficient Information for Fee Calculation and Collection

Comment: TRR Calculation Cannot Be Finalized Without Clarity on Covered Entities: As noted earlier, the scope of coverage – specifically, how many companies will be subject to these fees – remains unclear. Without knowing the total number of regulated entities, it is not possible to accurately calculate the per-entity fee or even the aggregate TRR. Any attempt to finalize fees now risks either overestimating or underestimating costs, leading to inequitable outcomes. We urge CARB to first establish clear parameters on coverage before setting fees. (45d-018.49)

Comment: The calculation of the fees is of great concern to CCEEB’s members that are covered and reporting entities.

…

CARB's August Workshop provided an estimate of the fees as well as an estimate of the number of covered and reporting entities under each bill. CARB estimates that the number of reporting entities for SB 253 is approximately 2,600, with fees estimated at $3,100 per entity, regardless of whether a reporting entity consolidates and submits a single report. For SB 261, CARB estimates that the number of covered reporters is 4,150 with a fee of $1,400. For covered entities that are required to report under SB 261, they must pay both fees annually (even though SB 261 is a biennial report). CARB's November Workshop points out the challenges and limitations with regards to estimating the fees. The Workshop Slides indicate that there are major holes in the data, imprecise revenue estimates, and outdated information. These issues create very significant concerns about the accuracy and reasonableness of the fee estimates.

Because of the high level of uncertainty in CARB's costs, the irresolution as to what full regulatory compliance will require, legal precariousness, and the unknown universe of who is actually reporting, CCEEB recommends that CARB not collect fees in 2026. CARB should collect data in 2026 on the universe of covered and reporting entities before collecting fees and finalize the universe of regulatory costs, resulting in a more accurate estimate. This approach will better ensure that CARB maintains a clear nexus between the costs of administering the program and regulated entities. CCEEB additionally recommends smoothing costs over a period of years to reduce the volatility of the fees. (45d-056.7)

Comment: Fee Calculation

CMTA requests clarification on how CARB intends to determine the number of entities subject to SB 253 and SB 261 for purposes of calculating the proposed fee. CARB staff acknowledged during the November 2024 public workshop that its preliminary effort to determine the number of covered entities was significantly flawed and that CARB was unable to accurately determine the number of entities that fall within the scope of either law. Staff also emphasized that it "must accurately identify all entities subject to the 200s on an annual basis for fee purposes, including revenue and doing business," and indicated that it may rely on a subset of Franchise Tax Board data. (See SB 253 261 Nov Workshop Slides (Updated).)

However, CARB staff had previously advised that the Franchise Tax Board may be legally precluded from sharing the necessary data with CARB. (See Virtual Public Workshop on SB 253, SB 261, and SB 219 - August 21, 2025 recording at 1:15; SB 253/261/219 Public Workshop: Regulation Development and Additional Guidance.) Has CARB resolved this legal issue? If not, how will CARB ensure that its determination of the number of covered entities and reporting entities is accurate? (45d-061.10)

Comment: On the calculation of fees, this is our greatest concern. The Air Resources Board does not yet know all of the costs. They don't have accurate information to determine how many entities will be reporting and there are still legal issues that need resolving. So we believe strongly that CARB should not collect fees in 2026, so there's more time to fill in the

blanks, answer the questions that need to be answered and to get the fee structure right. (BHT-017.3)

Agency Response: No changes were made in response to these comments. Health and Safety Code sections 38532 and 38533 require CARB to assess annual fees for both reporting entities and covered entities beginning in 2026. Consistent with this statutory direction, CARB will assess fees as required.

Initial estimates set forth in the rulemaking package of the number of regulated entities and associated fee levels were based on the best available data at the time of publication, to provide the public with the best available information at that time. Entities identify whether they meet the definition of applicability for this Regulation and thus must report. CARB will issue a detailed, updated fee calculation and associated invoicing following the August 10, 2026, reporting deadline. This approach ensures that CARB has sufficient information and capacity to identify reporting entities and to establish and administer fees in a manner consistent with statutory requirements.

A commenter recommended not collecting fees in 2026. As discussed in the "No Fee Alternative" in the Staff Report, this alternative would directly conflict with the statutory fee mandates in Health and Safety Code sections 38532 and 38533.

Regarding the comments concerning Franchise Tax Board data, under the Regulation, the Executive Officer may – but is not required to – audit information in various specified ways. The Executive Officer would carry out any auditing in a way that is consistent with the law and confidentiality obligations. As set forth in the Regulation, CARB may also contract with outside entities to assist with any data gaps encountered.

B-8 Unique Comment: Funding Allocation for Health and Safety Code Sections 38532 and 38533

Comment: Ensure separate program allocations and transparent explanations for § 38532 and § 38533.

Rationale: Ensuring Clear and Predictable Fee Process for Both CARB and Companies, Making Fees More Proportionate

§ 96073 already separates the fee calculations for Health and Safety Code § 38532 and § 38533 using distinct allocation percentages (P38532 and P38533) and denominators (N38532 and N38533).[34]

The Staff Report similarly states costs for the two statutes must be calculated individually (even if invoiced together) and that allocation is based on the share of program resources dedicated to each statute.[35]

Conclusion: To avoid opacity or perceived cross-subsidies, CARB should further explain how P38532 and P38533 are determined and how they may change year-to-year and should

explain how CARB will use companies' annual fees to fund its administration of § 38533 in non-reporting years.[36] (45d-018.23)

[34] Proposed Regulation § 96073(c)-(d), pp. 5-6.
[35] Staff Report at 11.
[36] Staff Report at 11-12; HSC § 38533(c)(2)(A)-(B).

Agency Response: No changes were made in response to this comment. As described in the Staff Report (p. 11), the allocation percentages for Health and Safety Code sections 38532 and 38533 are based on the share of program resources dedicated to each statute. These percentages were developed using information from the Budget Change Proposal,[2] which outlines the administrative needs of the program. Program administration costs related to Health and Safety Code section 38533 are not limited to years in which covered entities submit disclosures. At this time, CARB does not plan to adjust these allocation percentages on a year-to-year basis, reflecting the ongoing nature of administering the program according to the reporting and analysis timelines described in Health and Safety Code section 38532-38533.

B-9 Unique Comment: Suggestion to Publish List of Covered and Reporting Entities

Comment: In order to ensure that the written fee determination notice is received by the reporting and covered entities, the Executive Officer should publish the list of covered entities, including addresses, for public review at least 90 days in advance of September 10, 2026. (45d-002.1)

Agency Response: No changes were made in response to this comment. The Regulation states that annual fees will be assessed for reporting entities and covered entities on or by September 10, 2026, and that the Executive Officer will issue a written fee determination notice to those entities. Health and Safety Code sections 38532 and 38533 do not require that CARB publish a list of reporting entities and covered entities for public review.

B-10 Unique Comment: Clarifying Question Regarding Fee Applicability

Comment: Additionally, the proposed regulatory text should clarify that annual fees apply only to reporting entities subject to the regulation. Parent entities that are not directly subject to the regulation but report on behalf of their subsidiaries under the consolidated fee payment option should not be assessed a separate, additional annual fee. (45d-051.15)

Agency Response: No changes were made in response to this comment. Health and Safety Code sections 38532 and 38533 require that each "reporting entity" and each "covered entity" pay an annual fee to support program administration and

[2] California Department of Finance. (2024.) FY2024-25 Budget Change Proposal, Org 3900, BCP 7505. https://bcp.dof.ca.gov/2425/FY2425_ORG3900_BCP7505.pdf

implementation. Consistent with this statutory direction, fee liability is tied to each individual entity's applicability and is independent of which entity submits the report. A parent entity that is not subject to the Regulation, but submits a report on behalf of its in-scope subsidiaries, will not be assessed a separate fee. Each of the in-scope subsidiaries will be assessed a fee.

B-11 Multiple Comments: Request for CARB to Determine Applicability

Comment: The proposed per-entity fee model presupposes that CARB can determine (1) the population of "reporting entities" and "covered entities" (the denominators N38532 and N38533) and (2) which entities are "affected" and thus will receive fee determination notices.[25]

Yet the Proposed Regulation does not specify the data sources, decision rules, or administrative process CARB will use to identify 'affected entities' in time for the proposed September 10 notice date, particularly where corporate groups contain multiple potentially in-scope legal entities.[26]

Because the statutes require fees to be adequate to cover costs but not exceed "actual and reasonable" costs, the population denominator is not a minor implementation detail: it directly drives fee levels for all entities (F38532 and F38533).[27] Lack of a clearly defined process for identifying in-scope entities also undercuts the predictability rationale CARB cites for the September 10 timeline and the flat fee approach.[28]

CARB states that the September 10 assessment date "ensures predictability" and aligns with the state's fiscal cycle.[29] But predictability depends on entities receiving advance clarity on whether they will be treated as "affected entities" for the incoming fee year.[30] Without having proposed and adopted any timeline or procedure for producing a list of "affected entities" in advance of the September 10 proposed fee assessment date, companies will not have predictability on their fees. There is currently no clarity on how CARB is generating its list of "affected entities" for purposes of the fee calculation, and which companies will be ultimately included on that list. (45d-018.21)

[25] Proposed Reg. Text § 96073(c)-(d) and § 96074(a), pp. 5-7.
[26] Proposed Reg. Text § 96074(a), pp. 6-7.
[27] HSC § 38532(c)(2)(G)(ii); HSC § 38533(c)(2)(B)(i).
[28] Staff Report at 12.
[29] Staff Report at 12.
[30] Proposed Regulation § 96074(a), pp. 6-7.

Comment: Fees. CARB should further clarify in the final regulations or subsequent guidance its role in determining which entities are in scope and administering fees under SB 253 and SB 261.

We recommend that CARB clarify in the final regulations several aspects of its proposed administration of fees in order to reduce uncertainty among reporting entities, support

efficient administration of SB 253 and SB 261, and minimize unnecessary administrative burdens on reporting entities.

In the proposed rules, CARB proposes a flat, per-entity fee structure and indicates that CARB will issue written fee determination notices to reporting entities on an annual basis. However, the proposed rules do not make it clear how CARB will determine which entities are subject to the fee, how CARB will identify the total number of reporting entities for fee calculation purposes, or how fees will be invoiced and collected where reporting is conducted on a consolidated basis.

CARB should clarify that it is responsible for determining which entities are reporting entities under SB 253 and covered entities under SB 261. While the proposed rules would require entities to maintain records demonstrating whether they meet the applicable "revenue" and "doing business in California" thresholds, the proposed rules also contemplate that CARB will issue fee determination notices to reporting entities. Clarifying that CARB is responsible for identifying which entities are in scope under SB 253 and SB 261 would avoid confusion, promote consistent application of SB 253 and SB 261, and better support consolidated, parent-level reporting structures.

If, alternatively, CARB intends to rely on information submitted by entities to determine the total number of reporting entities or covered entities, as applicable, for purposes of calculating the per-entity fee, CARB should clearly specify the information required, the form in which it must be submitted, and the timeline for submission. Because fees are assessed on a per-entity basis and consolidated reporting is permitted under SB 253 and SB 261, relying solely on consolidated reports would not necessarily provide CARB with sufficient information to determine the total number of reporting entities for fee calculation purposes. (45d-049.8)

> **Agency Response:** No changes were made in response to this comment. Each entity is responsible for determining whether it is in scope. For purposes of fee assessment, CARB is responsible for determining the total number of regulated entities, and for issuing fee determination notices on or before September 10, 2026.
>
> In carrying out these responsibilities, CARB will rely on information submitted by regulated entities, as well as other available information (such as tax records, Securities and Exchange Submissions, etc.), to identify in-scope entities for the purpose of calculating the per-entity fee.

B-12 Unique Comment: Clarifying Question Regarding Fee Applicability for Nonreporting Entities

Comment: The Proposed Regulation establishes a fee structure in Sections 96073 and 96074 that clearly applies to reporting entities—but it fails to clarify whether entities that do not report in the first year remain obligated to pay the implementation fee. This omission creates additional unfairness and inconsistency.

Section 96074(a) states that "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." However, the regulation does not define "affected entity" in this context or specify whether entities exempt from first-year reporting under the good faith framework remain "affected entities" for fee purposes.

Basic principles of fairness dictate that all entities meeting the statutory definition of "reporting entity" should pay the implementation fee regardless of whether they report in the first year. As described in the ISOR, the fee is designed to recover CARB's costs for "implementing the programs established by sections 38532 or 38533 of the Health and Safety Code, including personnel salaries and benefits, legal defense costs, and contracting expenses." These costs do not diminish simply because some entities do not report.

If entities that voluntarily collected data before December 2024 must both report and pay fees, while entities that did not collect data escape both obligations, the unfairness described above would be dramatically exacerbated. Entities that took voluntary climate action would effectively subsidize program implementation for entities that avoided such efforts. This outcome would be unjust and contrary to the polluter-pays principle that underlies much of California's environmental law.

CARB should consider pausing implementation until it can establish a fair fee structure that does not penalize voluntary climate disclosure efforts. Alternatively, if CARB moves forward with reporting and fee collection, at a minimum CARB must clarify that all reporting entities as defined in Section 96072(a)(11) must pay the implementation fee, regardless of first-year reporting status. (45d-010.8)

> **Agency Response:** No changes were made in response to this comment. The term “affected entity” in section 96074(a) refers to each “reporting entity” or “covered entity” that is in scope. This term does not require definition because it is generally understood to mean the entity that is impacted by the regulation. Please see definition of “affected.”[3]
>
> Pursuant to the December 2024 Enforcement Notice,[4] provided reporting entities make good faith efforts to comply, CARB will exercise enforcement discretion for the first report due in 2026, allowing reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued. However, this reporting flexibility does not affect fee applicability. Entities that meet the applicable criteria and are considered a “reporting entity” or a “covered entity” remain subject to the Regulation for purposes of

[3] Oxford Dictionary, https://www.oxfordlearnersdictionaries.com/definition/english/affected.
[4] CARB, The Climate Corporate Data Accountability Act: Enforcement Notice (Dec. 5, 2024), https://ww2.arb.ca.gov/sites/default/files/2024-12/The%20Climate%20Corporate%20Data%20Accountability%20Act%20Enforcement%20Notice%20Dec%2024.pdf.

fee assessment, regardless of whether they are required to submit a report in the first year.

The fee structure is identified in section 96073 and does not penalize voluntary climate disclosure efforts because regardless of what information is reported, all covered entities and regulated entities will be subject to the fee.

B-13 Unique Comment: General Concern with Compliance Cost

Comment: We ask CARB to bear in mind that excessive compliance costs will divert resources from actual emissions reduction investments on an industry and company level. (45d-009.3)

Agency Response: No changes were made in response to this comment. Health and Safety Code sections 38532 and 38533 require that both a "reporting entity" and a "covered entity" pay an annual fee to the State Board for the administration and implementation. The Regulation implements this statutory direction. As demonstrated by the record, the fee amount is no more than necessary to cover the reasonable costs of the governmental activity. Furthermore, the purpose of the regulation is to implement the intent of the legislation – including providing additional transparency so consumers, investors, and other stakeholders can make informed decisions. – "California investors, consumers, and other stakeholders deserve transparency from companies regarding their greenhouse gas (GHG) emissions to inform their decisionmaking."[5]

B-14 Unique Comment: Concern with Fee Amount in Relation to California Based Activity

Comment: 6. CARB's data collection process has not been properly utilized to calculate the proposed fee assessment.

…

ACA is concerned that CARB's proposed fee assessment will require members of the paint and coatings industry to pay an annual fee that is disproportionate to the company's actual performance in the state of California (e.g., based off the company's GHG emissions, etc.). It does not appear that the Board's standard data collection process is being implemented appropriately in the rulemaking for SB 253 and SB 261. Accordingly, ACA recommends that CARB take the necessary steps to conduct an evaluation or survey of reporting and covered entities' activities in the state of California prior to assessing any annual fee requirements. (45d-073.6)

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[5] Senate Bill 253 (Wiener, Stats. 2023, Ch. 382), https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202320240SB253.

Agency Response: No changes were made in response to this comment. Health and Safety Code sections 38532 and 38533 require that each “reporting entity” and each “covered entity” pay an annual fee to the State Board for program administration and implementation, without regard for an entity’s California-based emissions. The Regulation implements this statutory direction.

B-15 Unique Comment: Concern with Fee Assessment for Partial Reporting

Comment: No to fees for reporting especially on partial reporting. If there's a fee, reporting should be complete. (BHT-043.2)

Agency Response: No changes were made in response to this comment. Health and Safety Code sections 38532 and 38533 require that each “reporting entity” and each “covered entity” pay an annual fee to the State Board for program administration and implementation. Health and Safety Code sections 38532 and 38533 do not condition fee obligations on the completeness of reporting. The Regulation implements this statutory direction.

B-16 Unique Comment: Concern with Administrative Burden of Fee Structure

Comment: It also states that this fee structure across all entities in scope was proposed “to reduce administrative burden associated with calculating, verifying, and managing a variable fee.” While we agree with the spirit of this proposal to reduce such burdens, we believe the fee structure does not take into consideration the administrative burden of large and complex entities that may have dozens of subsidiaries. Through our engagement with publicly traded companies, we have noted that the administrative burden of assessing all subsidiaries on an annual basis is significant. In fact, the costs of administration and assessment for these companies can exceed the cost of the aggregated subsidiary fees themselves. (45d-012.5)

Agency Response: No changes were made in response to this comment. To minimize the administrative burden on regulated entities, the Regulation utilizes established definitions from the California Revenue and Taxation Code to establish applicability. Because these definitions are already used by entities that file corporate tax filings in California, the information required to determine applicability is readily available to entities. The assessment of applicability relies on existing financial records already maintained in the ordinary course of business and therefore should not incur additional costs. The reporting deadline for this regulation is in August, which was designed to accommodate tax filing deadlines to ensure entities filing taxes will have this information readily available for submission of their reports under this regulation.[6]

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[6] 26 U.S.C. 6072, subd. (a).

B-17 Multiple Comments: Concern with Record Keeping Provision for Fee Purposes

Comment: Improve clarity about parent/subsidiary identification and disputes -- It would be helpful for CARB to clarify how the fee framework is intended to operate in practice, including that CARB determines applicability and issues fee determination notices, while entities maintain records demonstrating whether they meet the applicable thresholds and provide those records upon request. (45d-021.3 and 45d-022.3)

> **Agency Response:** No changes were made in response to these comments. Each entity is responsible for determining whether it is in scope. For purposes of fee assessment, CARB is responsible for determining the total number of regulated entities and for issuing fee determination notices on or before September 10, 2026.
>
> As provided in section 96074(d), entities subject to the Regulation must maintain records demonstrating that they meet the applicable revenue and doing business in California thresholds, retain such records for five years, and provide them to CARB upon request.

B-18 Multiple Comments: Support Proposed Fee Structure

Comment: CARB's proposed fee structure is an appropriate mechanism to recover the reasonable costs of implementing and administering the SB 253 and SB 261 programs. Adequate and stable funding is essential to support program integrity, data quality, and consistent administration over time. (45d-016.5)

Comment: We recognize the need for CARB to collect fees from covered entities to implement the applicable statutes (SB 261, SB 253) and regulations, and we agree with the methodology to establish and collect a flat fee from all entities on an annual basis while encouraging CARB to carefully monitor the program for potential cost savings throughout implementation. (45d-038.1)

Comment: Dairy Institute agrees with CARB's proposal of a flat amount assessed across all qualifying entities to reduce the administrative burden and provide clarity for all entities. Assessing a flat fee instead of a fee based on company size that requires calculation, verification, and excessive management is the streamlined approach needed to make such an extensive climate reporting program workable. (45d-040.5)

Comment: CCEEB also agrees with CARB that a flat fee is more equitable and less burdensome to calculate than a variable fee tied to emissions or financial metrics. A flat fee reduces CARB's administrative burden – and cost of program implementation - when compared to verifying and managing a variable fee. The flat fee streamlines implementation and provides higher predictability for the program, covered and reporting entities, and CARB. (45d-056.4)

Comment: CARB's proposed fee structure is an appropriate and necessary mechanism to cover the reasonable cost of implementing and administering these programs. (BHT-005.4)

Comment: We support the flat fee structure for clarity and administrative efficiency. (BHT-009.3)

Comment: We think the initial regulations will ensure order and certainty for companies and support the provisions

…

as well as the fee structure … (BHT-013.5)

> **Agency Response:** No changes were made in response to these comments. CARB acknowledges the commenters' support for the fee structure.

C. Revenue

C-1 Multiple Comments: Disapprove Current Proposed Definition

Comment: This approach could over-capture high-volume, low-profit operators, thereby triggering obligations even when California operations are small. (45d-009.2)

Comment: The Proposed Regulation defines revenue using the same meaning as "gross receipts" under California Revenue and Taxation Code § 25120(f)(2). This definition emphasizes sales and "does not deduct operating costs" because, according to the Staff Report, "sales is a more appropriate metric for identifying companies that may potentially have large operations and associated carbon footprints."[58] We urge CARB not to equate larger revenue with higher emissions, as this assumption is not uniformly valid across diverse sectors and business models. For example, retailers with high pass-through sales, firms with limited direct emissions, and holding companies with multiple legal entities, can be large in revenue but modest in emissions. (45d-018.43)

[58] Staff Report at 10.

Comment: In addition, we believe CARB should acknowledge that the Staff Report assumption or inference is unfounded and revise its justifications for using this metric to more accurately represent corporate realities. (45d-018.45)

Comment: The proposed approach to determining whether an entity meets the statutory revenue threshold also raises concerns. Reliance on gross receipts, without regard to margins or extraordinary, non-recurring transactions, may disproportionately affect high volume, low-margin industries such as retail, logistics, and wholesale trade. In these sectors, revenue is often a poor proxy for emissions profile, climate risk, or capacity to absorb new regulatory costs. Clarifying how one-time transactions or anomalous revenue spikes are treated would improve predictability and fairness. (45d-069.19)

> **Agency Response:** No changes were made in response to these comments. While CARB considered alternative definitions, CARB determined that the definition of "gross receipts" set forth in section 25120(f)(2) of the California Revenue and Taxation Code remains appropriate for defining "revenue," as it provides a standardized, transparent, and objective measure of an entity's size and economic activity that business entities

are already familiar with. This definition was also supported by stakeholders during the rulemaking process for being standardized across entities. Gross receipts is used solely to determine whether an entity meets the statutory revenue thresholds and is not intended to serve as a proxy for an entity's emissions, or to assess an entity's California-specific operations.

The Regulation also includes a two-year lookback period to address potential one-time transactions or anomalous revenue spikes, as an entity must meet the applicable revenue thresholds for two consecutive previous fiscal years to meet the revenue applicability criteria.

C-2 Multiple Comments: Intercompany Transaction

Comment: CARB should clarify that the proposed definition of "revenue" incorporates the relevant regulations and interpretations regarding the definition of "gross receipts" under the RTC and that an entity's gross receipts amount as reported in its tax filings with the FTB is determinative of the entity's revenue for purposes of determining its "revenue" under the Climate Laws. The Proposed Initial Regulation states that "revenue" has the same meaning as "gross receipts" under Section 25120(f)(2) of the RTC.[13] We recommend CARB to clarify that the definition of "revenue" incorporates the relevant regulations and interpretations regarding the definition of "gross receipts" under the RTC to further align these definitions and avoid any discrepancies in how these definitions are interpreted and applied in practice. For example, although the definition of "gross receipts" under Section 25120(f)(2) of the RTC does not include an explicit carve out for intercompany transactions, intercompany receipts from unitary group members would generally be excluded from taxable income for California income tax purposes under § 25106.5-1 of Title 18 of the California Code of Regulations. Without our recommended clarification, there would be ambiguity as to whether intercompany receipts from unitary group members would be required to be included as "revenue" for purposes of the Climate Laws, when they are generally excluded for corporate income tax purposes. (45d-026.14)

[13] Gross Receipts is defined under Section 25120(f)(2) of the RTC as "[t]he gross amounts realized (the sum of money and the fair market value of other property or services received) on the sale or exchange of property, the performance of services, or the use of property or capital (including rents, royalties, interest, and dividends) in a transaction that produces business income, in which the income, gain, or loss is recognized (or would be recognized if the transaction were in the United States) under the Internal Revenue Code, as applicable for purposes of this part. Amounts realized on the sale or exchange of property shall not be reduced by the cost of goods sold or the basis of property sold."

Comment: When intercompany sales are excluded, the scoping results will match the tax filings for taxpayers submitting a California combined return (i.e., the entity and revenue total used for scoping would be the same as the revenue included in a company's tax filing), which is required pursuant to California tax law. If intercompany sales are included, there is a misalignment between which subsidiaries are doing business for California tax purposes. For example, an entity may come into scope based on intercompany sales that are not listed in a

company's tax filing. If intercompany sales are included, CARB may not be able to verify its list of reporting entities with Franchise Tax Board records. (45d-033.3)

Comment: Gross receipts should exclude any intercompany transactions as defined under Cal. Code Regs. 25106.5-1(b)(1).

When intercompany sales are excluded, the scoping results will match the tax filing for taxpayers filing a California combined return (i.e. the entity and revenue total used for scoping would be the same as the revenue included in a company's tax filing), which is required pursuant to California tax law. If intercompany sales are included, there is a misalignment between which subsidiaries are doing business for California tax purposes. (45d-070.1)

Comment: Gross receipts should exclude intercompany transactions. Revenue has the same meaning as gross receipts under section 25120(f)(2) of the California Revenue and Taxation Code. Gross receipts should exclude any intercompany transactions as defined under Cal Code regs 25106.5-1(b)(1). (BHT-032.1)

> **Agency Response:** No changes were made in response to these comments. The Regulation aligns with the definition of "gross receipts" in section 25120(f)(2) of the California Revenue and Taxation Code. As explained at page 10 of the Staff Report, this definition is intended to be "consistent with how revenue is interpreted in other California regulatory contexts, including corporate tax filings and business registration thresholds, which promotes regulatory consistency and reduces confusion for reporting entities." Entities should consult their tax, accounting, or legal advisors to ensure their calculations align with both the California Revenue and Taxation Code definition and their specific filing status.

C-3 Multiple Comments: FTB Corporate Tax Filing Form

Comment: The revenue definition remains unclear for some companies. CARB recently clarified via a memo the impact of Water's Edge accounting on CARB's total revenue thresholds: CARB has previously stated that the "total annual revenue" (used to meet the $500M/$1B thresholds) is defined as gross receipts on Form 100 Schedule F Lina 1a in the company's Franchise Tax Board (FTB) filings. While this may represent total global revenue for some companies, entities that elect to use the Water's Edge accounting methodology will actually use Form 100W. This accounting approach allows them to not include certain subsidiaries (following specific accounting criteria) and may cause some companies to fall out of scope for Health and Safety Code sections 38532 and 38533. We would appreciate guidance or clarification for companies that use an alternative methodology to be included either in the regulatory text, FAQs, or otherwise accessible public supplementary material. (45d-020.2)

Comment: In addition, to provide further certainty to entities determining whether they exceed the revenue thresholds under the Climate Laws, CARB should clarify that an entity's

gross receipts amount as reported in its tax filings with the FTB is determinative of the entity's revenue for purposes of determining its "revenue" under the Climate Laws. During CARB's Third Public Workshop held on November 18, 2025, CARB staff noted that gross receipts are verifiable in FTB filings, referencing specific line items of entities' California tax filings (i.e., Schedule F, Line 1a of corporations' and S-corporations' tax filings on Form 100 and Form 100S, respectively, Line 1a of partnerships' tax filings on Form 565, and Schedule B, Line 1a of LLCs' tax filings on Form 568) as showing the amount of "total revenue."[14] Our recommended clarification is consistent with the approach announced at the workshop and provides entities further clarity and certainty in determining whether they exceed the revenue thresholds under the Climate Laws. (45d-026.22)

[14] November Presentation, at 21.

Comment: Covered Entities and Revenue Definition Consistencies. CARB should resolve the discrepancy between the definition of "revenue" provided in CARB's proposed regulations and materials from its November Workshop and its workshop on May 29, 2025 (the "May Workshop") by cross-referencing the Form 100, Schedule F, Line 1a definition of gross receipts and explicitly excluding from the definition any income sources in the financial sector, such as interest, fees, dividends, and investment income, in its final regulations.

At the November Workshop, CARB stated that corporations should calculate "revenue" (for purposes of determining if they were required to report under SB 253 or SB 261) by reference to what they reported on California FTB Form 100, Schedule F, Line 1a ("gross receipts") for the applicable fiscal year. However, the definition of "gross receipts" under Rev. & Tax. Code § 25120(f)(2), which CARB proposed adapting as the definition "revenue" for purposes of SB 253 and SB 261, includes amounts not reported under that line item.[8] CARB should align the regulations with its workshop guidance by revising the proposed regulatory definition of "revenue" to reference the amount reported on Line 1a of Schedule F.

At the May Workshop, CARB acknowledged feedback in its workshop materials (slide 24) that "income sources in the financial sectors such as interest, fees, dividends, and investment income should not be considered revenue as they do not represent GHG emissions." CARB staff then stated at the November Workshop that "certain financial institutions such as holding companies and mutual funds would be excluded by virtue of the definition of revenue staff are proposing as they generally do not report gross receipts." CARB should provide additional clarity on this point to companies operating in the financial sector and explicitly incorporate that approach in its final regulations. (45d-049.7)

[8] We believe there may be other misalignments between the definition and the line item referred to in the CARB guidance as well including, for example, with respect to how income from affiliated entities is reported, especially where an entity serves as a "pass-through" or "conduit" to support affiliated excluded insurance companies.

Agency Response: No changes were made in response to these comments. As with many applicability provisions, entities are responsible for determining their obligations under the Regulation. While CARB may provide guidance to assist entities in identifying the appropriate values within their corporate tax filings, such guidance is

intended for illustrative purposes and does not relieve entities from individually assessing whether they are subject to the regulatory requirements based upon the applicability provisions in the regulatory text. The Regulation aligns with the definition of “gross receipts” in section 25120(f)(2) of the California Revenue and Taxation Code. As explained at page 10 of the Staff Report, this definition is intended to be “consistent with how revenue is interpreted in other California regulatory contexts, including corporate tax filings and business registration thresholds, which promotes regulatory consistency and reduces confusion for reporting entities.” Each entity is responsible for establishing its gross receipts based on the adopted regulatory text.

Regarding the use of specific tax forms and line items, CARB acknowledges that for many entities, the "gross receipts" reported to the Franchise Tax Board will serve as a primary reference point for determining applicability. However, because tax filing requirements and form structures (such as Form 100 versus Form 100W for Water's Edge electors) vary significantly between entities, a single line item may not be determinative for every entity. Entities should consult their tax, accounting, or legal advisors to ensure their calculations align with both the California Revenue and Taxation Code definition and their specific filing status.

C-4 Unique Comment: Double Counting Revenue

Comment: Additionally, since partnerships are subject to the implementation fee under the proposed rules, their revenue creates a double counting problem. For tax purposes, partnership revenue flows through to the partners/owners who report their proportionate share on their own tax returns. For example, if a partnership generates $100 in revenue and has two C-corporation owners with 50% ownership each, those owners will each report $50 of partnership revenue on their individual tax returns. Under the proposed fee structure, this same $100 would be counted twice: once at the partnership level (which is subject to the fee) and again. (45d-033.6)

Agency Response: No changes were made in response to this comment. Applicability is assessed at the individual entity level. The Regulation aligns with the definition of “gross receipts” in section 25120(f)(2) of the California Revenue and Taxation Code. As explained at page 10 of the Staff Report, this definition is intended to be “consistent with how revenue is interpreted in other California regulatory contexts, including corporate tax filings and business registration thresholds, which promotes regulatory consistency and reduces confusion for reporting entities.” Entities should consult their tax, accounting, or legal advisors to ensure their calculations align with both the California Revenue and Taxation Code definition and their specific filing status.

C-5 Multiple Comments: Global vs. State Gross Receipts

Comment: 4. The proposed definition for the term 'revenue' should clearly indicate that it refers to revenue generated in the state of California.

…

CARB's proposal unfairly burdens members of the paint and coatings industry by failing to clarify whether the term 'gross receipts' refers to a company's global gross income or state gross income. Without clarification, the term 'gross receipts' refers to a company's global gross income. Companies with over $1 billion or $500 million in gross receipts, no matter the actual size of the entity's business activities in California, will be forced to comply with SB 253's and SB 261's reporting requirements and fee assessments. Accordingly, ACA urges CARB to revise its proposed definition for the term 'revenue' and clarify that only entities' state gross income will be considered. (45d-073.4)

Comment: As an initial matter, CARB should clarify that the revenue thresholds in SB 253 and 261 are specific to California-generated revenue, not revenue for the company as a whole. Furthermore, CARB should clarify that this threshold applies only to entities actually doing business in California rather than their corporate parents, which may not even be located in the United States. (45d-078.53)

> **Agency Response:** No changes were made in response to these comments. The Regulation aligns with the definition of "gross receipts" set forth in section 25120(f)(2) of the California Revenue and Taxation Code to define "revenue," which is intended to be used to assess each entity's total global revenue rather than California-generated revenue. California-specific activity is evaluated under separate criteria. Only covered entities and reporting entities doing business in California are required to report and pay fees.

C-6 Unique Comment: Parent-Level Revenue Calculation

Comment: The Group recommends that CARB allow subsidiaries the flexibility to calculate "revenue" at the parent level. For some companies, particularly those with complex corporate structures, preparing revenue information for an individual subsidiary may present significant challenges. For example, such companies often prepare consolidated financial statements at the ultimate parent entity level and file tax reports that combine multiple entities within the corporate group. These companies should have the option to calculate revenue at the parent level. Because each company's circumstances are unique, providing this flexibility would enable companies to make decisions based on their specific business needs and operational capabilities. (45d-078.21)

> **Agency Response:** No changes were made in response to this comment. While applicability is assessed at the individual entity level, an entity may utilize the consolidated total annual revenue of its parent entity to determine if it meets the statutory revenue thresholds. Because the consolidated revenue of a parent entity will,

by definition, be greater than the revenue of any individual subsidiaries, utilizing the parent-level revenue as a proxy for the threshold check does not undermine the scoping process.

In practice, many subsidiaries within a unitary group submit revenue data that account for their individual gross receipts to the Franchise Tax Board and should have access to entity-level revenue information. Entities should consult their tax, accounting, or legal advisors, as appropriate, to determine gross receipts.

C-7 Multiple Comments: Parent-Level Revenue Calculation (II)

Comment: Additionally, we would recommend that the Board clarify that, consistent with the text of the California Climate Laws, companies who may be doing business in California may elect to compute their "total annual revenues" on a standalone basis without regard to their parents, subsidiaries or affiliates. (45d-063.14)

Comment: We appreciate CARB's efforts to implement SB 253 and SB 261 and share the State's commitment to corporate climate accountability and transparency for large companies that do business in California. The FAQ No. 15 created significant ambiguity regarding the application of the Proposed Regulation to out-of-state parent companies with California-based subsidiaries, and we appreciate CARB's efforts in clarifying that these companies with de minimis ties to California do not get swept in. An alternate conclusion risks unintended compliance burdens, regulatory uncertainty, increased risk of litigation due to jurisdictional limits, and further delays in implementing the regulations. (45d-067.4)

Comment: In CARB's California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Programs: Frequently Asked Questions About Regulatory Development and Initial Reports, last updated November 17, 2025 (the "FAQ"), CARB addressed Question 15, which asked: "When calculating a parent company's total revenue for the purposes of determining compliance obligations under HSC §§ 38532 and/or 38533, must the revenue from the parent company's subsidiaries be included in the calculation?" CARB responded that "if a parent company and its subsidiaries file California taxes as a unitary business, then the revenue of the subsidiaries counts towards the revenue of the parent company as part of its gross receipts."

This is the first time CARB has ever taken such a position. Indeed, prior guidance has outlined that each entity was to be evaluated for applicability individually. Evaluating entities individually is most appropriate, as consolidating subsidiary revenues with those of a parent company for compliance purposes disregards the separate legal existence of each corporate entity—a fundamental principle of the corporate form. (45d-067.5)

Comment: Under California law, it is well settled that a parent company and its subsidiaries are separate and distinct legal entities.[5] The general rule is that, because a parent and a subsidiary are separate legal entities, the subsidiary's inclusion in the scope of a law does not automatically make the parent covered or liable.[6]

Both statutes here explicitly define “reporting entity” and “covered entity” as a specific business entity that meets the enumerated criteria. We are aware of no relevant legal basis to suggest that one entity must be bound by a law based on another entity’s revenues or activities simply because they file a unitary tax return. Rather, unitary filing is only relevant for the limited purpose of tax apportionment computations. Unitary filing does not dissolve the separate corporate entity of each member entity.

Thus, nothing supports consolidating parent and subsidiary revenue for determining which entities are in scope for SB 253 and SB 261 simply because the entity chose or was required to file tax returns on a unitary basis. (45d-072.3)

[5] *See Sonora Diamond Corp. v. Super. Ct.*, 83 Cal. App. 4th 523, 540 (2000) (“We start with the firm proposition that neither ownership nor control of a subsidiary corporation by a foreign parent corporation, without more, subjects the parent to the jurisdiction of the state where the subsidiary does business.”).

[6] See id. at 541 (only “when the acts of the parent may be found to trespass the boundaries of legitimate ownership and control of the subsidiary” is the parent exposed to the “power of the state in which the subsidiary does business.”). See also United States v. Bestfoods, 524 U.S. 51, 61 (1998) (“It is a general principle of corporate law deeply ingrained in our economic and legal systems that a parent corporation (so-called because of control through ownership of another corporation's stock) is not liable for the acts of its subsidiaries.” (cleaned up; citations omitted)). There are very limited circumstances in which this distinction may be disregarded, for example, when the corporate form is abused, is used for inequitable conduct, or when a subsidiary merely serves as an agent for its parent. See, e.g., Sonora Diamond, 83 Cal. App. 4th at 538 (“Ordinarily, a corporation is regarded as a legal entity, separate and distinct from its stockholders, officers and directors, with separate and distinct liabilities and obligations. … A corporate identity may be disregarded—the ‘corporate veil’ pierced—where an abuse of the corporate privilege justifies holding the equitable ownership of a corporation liable for the actions of the corporation.”); id. at 541 (“[T]he case law identifies one situation when the acts of the parent may be found to trespass the boundaries of legitimate ownership and control of the subsidiary and expose the parent to the power of the state in which the subsidiary does business. Thus, where the nature and extent of the control exercised over the subsidiary by the parent is so pervasive and continual that the subsidiary may be considered nothing more than an agent or instrumentality of the parent, notwithstanding the maintenance of separate corporate formalities, jurisdiction over the parent may be grounded in the acts of the subsidiary/agent.”).

Agency Response: No changes were made in response to this comment. The Regulation aligns with the definition of “gross receipts” in section 25120(f)(2) of the California Revenue and Taxation Code. As explained at page 10 of the Staff Report, this definition is intended to be “consistent with how revenue is interpreted in other California regulatory contexts, including corporate tax filings and business registration thresholds, which promotes regulatory consistency and reduces confusion for reporting entities.” Applicability is evaluated at the individual entity level, and each entity must independently meet the applicable criteria to be subject to the Regulation. The Regulation does not alter the corporate status of parents and subsidiaries, but rather references information included in tax filings to determine applicability at the entity level. A subsidiary’s revenue and sales in California are considered only for that subsidiary in determining applicability and are not aggregated with or attributed to a parent entity. Entities should consult their tax, accounting, or legal advisors to ensure

their calculations align with both the California Revenue and Taxation Code definition and their specific filing status.

C-8 Multiple Comments: Calculation of Revenue for Government M&O Contractors

Comment: First, clarification is needed regarding whether the entirety of LLNS's federally funded budget is considered "revenue" within the scope of the proposed regulation. LLNS is subject to extensive federal oversight and scrutiny in how it spends this budget. While LLNS is a limited-liability company doing business in California as a partnership, the entity's actual revenue, from a tax perspective, is the management fee from which taxable income is calculated. As an M&O contractor, LLNS's zero net reimbursables and costs from its federally funded budget are rolled up into the financial statement (for the purpose of apportionment) to allocate the taxable fee that the partnership receives for management of LLNL. Within the context of the proposed regulation, LLNS's contract fee is more appropriate to consider as the total revenue amount within the context of the proposed regulations. Therefore, LLNS recommends that CARB exclude, from the calculation of revenues, the federal funds used solely for the operation of a federal facility and assets, as proposed in the Enclosure below.

…

(13) "Revenue" has the same meaning as "gross receipts" under section 25120(f)(2) of the California Revenue and Taxation Code, excluding gross receipts of federal funds solely used for the management and operation of federal facilities. (45d-053.1)

Comment: Specifically, CARB should either exclude from the calculation of revenue federal funding provided solely to operate federal facilities … (45d-053.4)

> **Agency Response:** No changes were made in response to these comments. CARB disagrees that federal flow-through funds or reimbursable costs should be excluded from the calculation of revenue. Under California tax law and standard accounting principles, gross receipts are calculated based on the total inflow of funds before the deduction of expenses, regardless of whether those costs are subsequently reimbursed by a client or federal partner. This objective standard is necessary to ensure consistent application across all sectors, including government contractors.

C-9 Unique Comment: Support Proposed Definition

Comment: We appreciate the consistency in the definition of revenue with "gross receipts" under section 25120(f)(2) of the California Revenue and Taxation Code. (45d-027.10)

> **Agency Response:** No changes were made in response to this comment. CARB acknowledges the commenters' support for the definition of "revenue."

C-10 Unique Comment: Clarifying Question

Comment: CARB should clarify that the proposed definition of "revenue" incorporates the relevant regulations and interpretations regarding the definition of "gross receipts" under the California Revenue and Taxation Code ("RTC") and that an entity's gross receipts amount as reported in its tax filings with the California Franchise Tax Board ("FTB") is determinative of the entity's revenue for purposes of determining its "revenue" under the Climate Laws. (45d-026.4)

> **Agency Response:** No changes were made in response to this comment. While CARB may provide technical guidance documents to assist entities in identifying where these values typically appear on tax filings, such guidance does not supersede the formal regulatory definition. The Regulation aligns with the definition of "gross receipts" set forth in section 25120(f)(2) of the California Revenue and Taxation Code. By referencing this "gross receipts" definition, the Regulation is intended to maintain consistency with existing, well-established California tax law. As explained at page 10 of the Staff Report, this definition is also intended to be "consistent with how revenue is interpreted in other California regulatory contexts, including corporate tax filings and business registration thresholds, which promotes regulatory consistency and reduces confusion for reporting entities." Aligning with this well-established and familiar concept of "gross receipts" helps reduce duplicative efforts and streamline entities' applicability determinations. Entities should consult their tax, accounting, or legal advisors to ensure their gross receipts calculations correctly reflect the California Revenue and Taxation Code definition and their specific tax filing status.

D. Doing Business in California

D-1 Unique Comment: Suggestion of Two-Year Look Back Period for "Doing Business in California"

Comment: Sequent supports the two year "look back" period for the applicability thresholds but urges CARB to extend this to the definition of "Doing business in California."

CARB is planning to adopt part of the definition of "Doing business in California" from the California Revenue and Tax Code Section 23101(b)(2), which includes a minimum sales threshold of $735,019.[2] Just as CARB has provided flexibility for calculating revenue, CARB should extend that same flexibility to calculating sales since sales generated in California, like revenues in general, can also experience large changes from year to year. Just as it has proposed for calculating revenue, CARB should also include a provision that entities must exceed the minimum sales threshold for two consecutive years in order to qualify for "doing business in California." (45d-062.4)

[2] Sequent understands this to be the 2024 inflation adjusted sales threshold for Section 23101(b)(2), as shared by CARB in the Climate Disclosure regulation workshops.

> **Agency Response:** No changes were made in response to this comment. While CARB considered applying a two-year lookback to sales in California for determining

"doing business in California," similar to the approach used for calculating "gross receipts" for determining "revenue," the statutory revenue thresholds are set at a significantly higher level than the sales in California threshold under section 23101 of the California Revenue and Taxation Code. For example, the 2024 inflation-adjusted sales in California threshold was $735,019, which is approximately 0.15% of the lowest applicable revenue threshold of $500 million.

The two-year lookback for revenue was included to address potential fluctuations or one-time changes at that higher threshold level. CARB determined that applying the same approach to the sales in California threshold is not warranted, as the magnitude of fluctuations relevant to the revenue thresholds is not comparable to those at the sales in California threshold used to determine whether an entity is "doing business in California."

D-2 Multiple Comments: In-scope Entities that Have Relatively Minimal California Revenue

Comment: This economic nexus approach could capture primarily out-of-state marine operators with few California touchpoints, such as a limited number of voyages, de minimis in state sales, or California-sourced revenue that is small relative to overall company size, and in doing so, effectively force reporting and fees for companies with minimal activity in the state. (45d-009.1)

Comment: However, we remain concerned that the proposed definition fails to provide a clear and sufficient California nexus, and remind CARB of our recommendation that the proposed definition include an additional California-specific revenue threshold beyond those set forth in Revenue and Tax Code § 23101(b) to establish this nexus.[4] (45d-018.1)

[4] For entities not domiciled or headquartered in California, or that have operations in many states, this standard in and of itself does not and cannot demonstrate a sufficient nexus with the state of California necessary for required compliance with the extensive and time-consuming GHG emissions and climate-related financial risk reporting under Health and Safety Code § 38532 and § 38533, respectively. Because of the use of unclear terminology (e.g., "commercially domiciled") and relatively low applicability thresholds, this definition was clearly not intended to be used for laws such as Health and Safety Code § 38532 and § 38533 to establish the necessary substantive nexus. Using Revenue and Tax Code Section 23101(b) could result in a company meeting the requisite definition of "doing business" in California by virtue of having a single California transaction, which would not serve CARB's legal obligation to establish clear, predictable, and objective standards that are appropriately calibrated to demonstrate a clear and sufficient nexus between potential in-scope companies and the state of California, particularly in light of the significant time, effort, and expense that companies will need to incur to comply with Health and Safety Code § 38532 and § 38533.

Comment: To ensure proportionality, CARB should establish an exemption for companies with minimal financial contacts with California. In its September 2025 pre-rulemaking comments, Sequent urged CARB to consider a de minimis threshold of 5%, meaning a minimum of 5% of a company's total revenue must be generated within California, below which entities would be exempt from reporting requirements. To put this in perspective,

Sequent's California-related revenue represented less than 0.07% of its total gross revenue in 2024 (and an even smaller percentage in 2025). And yet, Sequent's de minimis financial relationship with California could subject it to an undue burden of complying with these climate disclosure regulations. This is contradictory to the intent of the laws and contrary to CARB's stated intent for excluding other minimal relationships with the state. Establishing a de minimis threshold would allow CARB to focus its regulatory efforts on entities with meaningful in-state operations or business relationships while avoiding undue burdens on out-of-state businesses with minimal California activity, minimizing risk of regulatory overreach and associated litigation.

Sequent again urges California to adopt a de minimis threshold when defining "revenue." When discussing the definition of revenue in the Staff Report, CARB focused on a definition to "identify[] companies that may potentially have large operations and associated carbon footprints." Further, CARB has already recognized that there are de minimis contacts with California that should be exempt from disclosures; CARB excluded thresholds for real property and tangible personal property and compensation in the state tax code when defining "doing business in California" because including those thresholds "would bring companies into the regulation's scope with marginal operations in California that are beyond the intent of the legislation." These statements acknowledge that California is sensitive to the impact on businesses that have a de minimus relationship with the state. Yet, the proposed regulation fails to include a de minimis financial exemption. This oversight must be corrected. (45d-062.2)

> **Agency Response:** No changes were made in response to these comments. CARB considered the alternative definitions proposed by the commenter. No changes are necessary since the Regulation aligns with relevant provisions of section 23101 of the California Revenue and Taxation Code to define "doing business in California." This approach establishes an appropriate economic nexus using a standard that is widely used and understood by entities submitting corporate tax filings in California and aligns with the statutory intent to capture large entities meeting the revenue threshold that participate in California's market.
>
> Consistent with established tax law, entities exceeding the threshold for sales in California are considered to have a significant economic presence. Furthermore, CARB further narrowed the definition of "doing business in California" to avoid capturing entities with potentially marginal operations in California by excluding the property and payroll-related conditions in section 23101. Excluding these conditions from the Regulation's definition of "doing business in California" ensures the Regulation focuses on entities with a meaningful economic nexus to California through substantial sales or place of organization or domicile.

D-3 Multiple Comments: Entities with Limited Physical Operations in California

Comment: While we acknowledge and appreciate the amount of work CARB put into the definition of "doing business in California," the proposed definition may bring in entities without a meaningful connection to California. Entities may exceed the applicable sales thresholds despite not having employees, facilities, or physical operations in California. CCEEB recommends that CARB consider a definition tied to operational presence. (45d-056.16)

Comment: However, CARB's proposed regulations must include a reasonable definition of "doing business in California," along with specific exemptions as outlined above, to avoid unintended reporting burdens on entities that do not operate or have a physical activity within California's jurisdiction. (45d-062.7)

Comment: With respect to the definition of "doing business in California," the proposed reliance on sales-based thresholds may sweep in entities with limited operational presence in the state. Companies that have no facilities, employees, or physical operations in California may nonetheless exceed sales thresholds based on national or global distribution patterns. (45d-069.18)

Comment: Doing business in California, it's a pretty sample phrase, but as we and many others, including your staff, have worked on it, it's more complicated than you can imagine. The proposed definition unintentionally brings in entities without a meaningful connection to California. For example, entities without employees, facilities, or even physical operations in California may be captured in the net of the definition that's being proposed. (BHT-017.4)

> **Agency Response:** No changes were made in response to these comments. The Regulation aligns with relevant provisions of section 23101 of the California Revenue and Taxation Code to define "doing business in California" and focuses on entities with a meaningful economic nexus to California through substantial sales or place of organization or domicile.
>
> The Regulation omits the property and payroll related provisions of section 23101 of the California Revenue and Taxation Code as CARB determined, based on public feedback during the rulemaking process, that the applicable thresholds for those provisions are too low and could result in capturing entities with potentially marginal operations in California. Under this approach, and consistent with the existing tax law, entities exceeding the sales in California threshold are doing business in California, regardless of whether an entity has employees, facilities, or other physical operations in California. Limiting the requirements to only entities that have facilities, employees, or physical operations in California would be inconsistent with the intent of the statute, and would not provide the same level of consistency and alignment with existing provisions in the Revenue and Taxation Code. See also response to comment D-2 above.

D-4 Multiple Comments: Request for Operational Nexus Standard Over Tax-Apportionment Mechanics

Comment: CARB's December 2025 proposed regulations align the applicability definitions with California tax-code concepts. While Sequent appreciates CARB's effort to provide clarity, relying on tax-filing constructs that were designed for fiscal purposes risks sweeping in entities that have no physical, operational, or emissions-related nexus to the State. Using the tax filing constructs that CARB has proposed, Sequent would trigger disclosure requirements because its wholesale transactions of natural gas to the citygates exceeds the "sales" thresholds set forth in California Revenue and Taxation Code section 231010(b)(2). Yet, Sequent is not 'at home' in California, has no facilities, assets, or personnel in California, sells only at wholesale market delivery points, and derives a de minimis share of its total revenue from California. Regulating entities like Sequent that operate exclusively outside of California, based solely on incidental wholesale transactions completed in interstate commerce, risks creating extraterritorial effects that are excessive in relation to the local benefits, raising dormant commerce clause and personal jurisdiction concerns.

California's Revenue & Taxation Code definition of "doing business" was developed to allocate tax liability, not to identify which entities have a meaningful environmental or operational nexus with the state. This tax nexus is poorly calibrated with the purpose of California's climate disclosure laws and is legally fragile under due-process minimum contacts principles. Both the climate disclosure laws and CARB's proposed regulations improperly seek to regulate behavior that occurs beyond the state's borders by relying on two variables: a revenue threshold determined by total revenue (within and without of California's borders) and a tax filing nexus rather than an operational nexus to the state. Essentially, absent a de minimis exemption or exemption for wholesale natural gas transactions, and based upon CARB's minimal tax nexus definition of "doing business in California," CARB's regulations would force Sequent to make climate disclosures and file climate related financial reports, not an insignificant burden, based almost entirely on commercial activity that occurs outside of the state of California. In sum, this regulation places an undue burden on Sequent's commercial activity occurring outside of California's boundaries. This is a precarious legal position for CARB. Program applicability and enforcement should rely on in-state operational nexus, not on tax principles or other standards unrelated to an operational or environmental nexus.

Sequent respectfully requests CARB not to finalize the tax code definition of "doing business in California." Instead, CARB should craft its own definition, tailored by its role as an environmental regulator and for a program that is focused on environmental disclosures. A CARB-developed definition would provide the agency the ability to adapt the regulation to the unique and likely evolving needs of the climate disclosure program instead of being bound by lists or thresholds developed by other government agencies that are focused on fiscal, revenue, and tax-related priorities. Further, if the tax code or definition changes, that could significantly disrupt how CARB conducts this program. In short, for environmental disclosure programs, applicability must hinge on an entity's in-state operational footprint and

environmental relevance, not on tax-apportionment mechanics unrelated to climate risk or jurisdictional fairness. (45d-062.3)

Comment: To comply with these statutory directives, CARB should develop a cost-effective reporting program that does not impose unnecessary burdens on reporting entities, especially those that have little, if any, presence in California. This includes out-of-state business entities whose only activity within California consists of wholesale electricity transactions, renewable energy certificates ("RECs") transactions, carbon offset transactions, or sale or purchase of renewable natural gas ("RNG") credits, as well as out-of-state business entities whose only business in California is employee compensation or payroll expenses, including teleworking employees. (45d-078.4)

Agency Response: No changes were made in response to these comments. In the January 30, 2024 letter from Senator Wiener and Senator Stern, published in the Senate Daily Journal, the authors explicitly stated their intent to exclude entities whose only activity within California consists of wholesale electricity transactions from Health and Safety Code sections 38532 and 38533. CARB determined such an exclusion is appropriate, and CARB received feedback in the record supporting this exclusion, including comments noting the reliability and grid balancing functions of wholesale electricity transactions. CARB agrees that it is appropriate to exclude such entities. However, the letter does not reference wholesale natural gas transactions.

Regarding CARB's rationale on wholesale natural gas transactions' applicability under Health and Safety Code sections 38532 and 38533, please refer to Agency Response E-9.

The Regulation focuses on entities with a meaningful economic nexus to California through substantial sales or place of organization or domicile. Under this approach, for purposes of the Regulation, an entity's employees, facilities, or other physical operations in California are not considered in determining whether it is "doing business in California."

The Regulation and the controlling statutes are consistent with applicable constitutional and statutory authorities and requirements. The regulatory requirements are narrowly tailored to achieve the purposes of the statutes. This includes restricting applicability to entities that do business in California and meet the relevant sales thresholds. Applicability is non-discriminatory and limited to entities with a meaningful economic nexus to California. The Regulation adopts well-known applicability requirements already codified in California law. Using these applicability provisions ensures that the Regulation applies only to entities with substantial economic connections to California, and ensures that the regulation is not unduly burdensome in relation to the state's substantial interest in obtaining accurate climate-related disclosure information necessary to implement the statutes.

Some commenters request a separate operationally-based applicability standard, which CARB considered as part of its rulemaking. CARB determined that aligning with

the existing, well-established California Revenue and Taxation Code definition of "doing business in California" provides greater certainty and consistency than a novel program-specific operational nexus standard, which would require entities to apply a new, potentially duplicative standard that may lack the clarity of the well-established standard in the Regulation.

D-5 Unique Comment: Administrative Burden of Restructuring Consolidated Reporting for Non-Resident Parents

Comment: Further, the question of whether or not a specific corporate entity "does business" in California is more complex than contemplated by the proposed regulations. Many large organizations make use of complex shared services and intercompany arrangements among various subsidiary corporate entities, making it extremely unclear what it means for a given company to "do business" in California. And though CARB would allow companies to submit consolidated reports at the parent level, not all parent entities independently do business in California, and requiring out-of-state businesses to restructure consolidated GHG reporting to be consistent with California-specific requirements would be burdensome, impose on the regulatory prerogatives of other jurisdictions, and have little benefit, as least as to those entities currently reporting under accepted alternative frameworks. CARB's proposal thus ignores the foundational concept of corporate separateness and risks drawing in entities who themselves might not be subject to disclosure requirements at all. CARB's published guidance on this topic likewise lacks clarity and leaves many unanswered questions as to whether a given entity is or is not in scope, as we discuss further in Section II below. (45d-057.7)

Agency Response: No changes were made in response to this comment. The Regulation does not subject an out-of-state parent entity to reporting obligations solely based on the presence or activities of a subsidiary. A subsidiary alone does not bring an out-of-state parent entity into scope unless the out-of-state parent entity independently meets the criteria, including "revenue" and "doing business in California."

Consistent with the statutes, CARB's program seeks to avoid duplication of effort and align with established reporting requirements where possible. The premise that out-of-state entities would need to restructure consolidated GHG reporting to meet California-specific requirements not reflected by the Regulation. The December 2024 Enforcement Notice further clarifies that CARB will exercise enforcement discretion for the first-year reports due in 2026, allowing reporting entities who demonstrate good faith efforts to comply to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when the Notice was issued.

D-6 Multiple Comments: Jurisdictional Nexus of Out-of-State Parent Entities

Comment: The proposed regulations also present constitutional concerns. The proposed definition of "doing business" in California raises due process concerns and violates notions of federalism by attempting to subject out-of-state entities to these laws based on the existence of a subsidiary or actions that have only a limited nexus to the State of California. CARB must adopt a reasonable and clear definition of "doing business" in California that makes explicit that a subsidiary alone, even one that normally utilizes intercompany shared services or consolidates financial or other data within its broader enterprise, cannot subject a parent entity to reporting obligations. (45d-057.2)

Comment: II. The proposed scope of CARB's regulations is vague and places an undue burden on out-of-state businesses.

A. Without additional guardrails, CARB's implementation of the reporting triggers raises Due Process concerns.

CARB must provide further clarity and limits on the three reporting criteria to ensure that the 200s do not run afoul of the U.S. Constitution in their implementation. First, a clear and unambiguous definition of "doing business in California" is crucial for ensuring that CARB's final regulations avoid creating due process concerns. Due Process "requires the invalidation of laws that are impermissibly vague," meaning that they "fail[] to provide a person of ordinary intelligence fair notice of what is prohibited, or [are] so standardless that [they] authorize[] or encourage[] seriously discriminatory enforcement. FCC v. Fox Television Stations, Inc., 567 U.S.239, 253 (2012) (citation omitted). In evaluating whether a vague law gives fair notice such that a regulated entity "know[s] what is required of them," the law's requirements must be clear from the common understanding of the terms used. See Butcher v. Knudsen, 38 F.4th 1163, 1168, 1173 (9th Cir.2022 (quoting Fox, 567 U.S. at 253). The proposed definition does not rise to this standard. CARB's regulations contemplate a three-part test for determining whether an entity is subject to reporting obligations under the 200s. First, the entity must be based in the United States.[6] Next, the entity must meet the revenue threshold—$500 million for SB 261, and $1 billion for SB 253.[7] Finally, the entity must "do[] business in California."[8] The proposal defines "doing business in California" to include "engaging in any transaction for the purpose of financial . . . gain" in California, which includes being organized or domiciled within California, or doing business that exceeds certain sales amounts.[9]

Yet, as with the proposed reporting frameworks under the 200s, this three-part test is not sufficient to provide notice to a parent entity that it is subject to reporting obligations. The phrase "within California" implies that an entity must transact within California's borders to be subject to reporting requirements, but the definition as proposed could draw in parent entities wholly outside California. For example, our members include large corporations whose operations may reach several states by virtue of subsidiaries or other affiliated entities. Without greater clarity, a large parent company could trigger the requirements even if the parent itself only has de minimis operations within the State if it exceeds the revenue thresholds based entirely on sales outside of California and has a wholly owned subsidiary

domiciled in California. Or a parent may own a more limited interest in a subsidiary that has greater operations in the State. It is not clear from the face of the rule whether these parent entities would themselves be subject to reporting obligations through their subsidiaries. The proposed definition thus fails to give notice to parent entities domiciled and operating outside California as to whether they must comply with the burdensome reporting obligations under SB 253 and SB 261.

To make this clearer, consider a specific (but highly likely) example: Imagine an entity, Acme Parent Inc., a Delaware corporation that is publicly listed, has global operations, and collects and reports GHG emissions for its constituent entities to the Environmental Protection Agency and pursuant to various international reporting laws. Acme Parent Inc. generates tens of billions of dollars annually across its organization, but does not directly generate any revenue in California, thus it does not apparently independently fall under the remit of any of the 200s. On the other hand, it has a subsidiary, Acme Western Inc., that generates $100 million in revenue from operations in the western United States, including Arizona, Nevada, Washington, Oregon and California. The revenue generated in California totals $15 million. Under the test for aggregate revenue, Acme Western Inc. does not meet the aggregate revenue thresholds of $500 million or $1 billion, although it clearly generates more than $735,000 of revenue in California. However, it has intercompany shared services with Acme Parent Inc. (consisting of payroll services, financial reporting consolidation, a public company board of directors with responsibilities overseeing the entirety of Acme Parent Inc., including Acme Western Inc.). Under CARB's guidance directing companies to assess obligations on an "individual company basis,"[10] it appears that Acme Parent Inc. would not be "doing business in California," and Acme Western Inc. would not be deemed to meet the aggregate revenue thresholds of $500 million and $1 billion, respectively—seemingly resulting in no reporting requirement for either entity. But it is unclear whether California would share this view and respect the corporate separateness of the organizational structures, particularly in light of the shared services and consolidated reporting (financial and for GHG emissions) that Acme Parent Inc. has long employed. This foundational vagueness makes it risky for companies to confidently determine that they are—or are not—subject to these laws. (45d-057.9)

[6] Proposed Regulations § 96072(a)(5), (11).
[7] Id.
[8] Id.
[9] Id. § 96072(a)(7), (8); Cal. Code Regs. tit. 18 § 23101(a), (b)(1), (b)(2).
[10] See Cal. Air Resources Bd., California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Programs: Frequently Asked Questions About Regulatory Development and Initial Reports at 8 (Nov. 17, 2025), https://perma.cc/2YQC-58A2. [hereinafter "FAQ"].

Comment: CARB should resolve these constitutional concerns and provide an unambiguous definition of "doing business in California." CARB should revise the proposed definition to clarify that if only a subsidiary of an entity is subject to the 200s, the laws' reach does not extend to the parent, and such determination is not undermined by shared services or intercompany arrangements between parents and subsidiaries. CARB's regulations must be clear and provide fair notice to those it seeks to regulate to avoid being deemed

unconstitutional on Due Process grounds. If necessary, CARB should include examples in the preamble to any final rule that demonstrate that actions of one subsidiary or corporate affiliate cannot be attributed to the parent or other affiliated entities when determining whether an entity meets the reporting thresholds. (45d-057.11)

Comment: The proposed regulations impermissibly regulate out-of-state conduct

Due Process is not the only constitutional concern within CARB's proposal. The Constitution affords Congress the exclusive power to "regulate Commerce . . . among the several States." U.S. Const. art. I, § 8, cl. 3. Implicit in this power is the prohibition against States "impos[ing] undue burdens on interstate commerce." Nat'l Pork Producers Council v. Ross, 6 F.4th 1021, 1026 (9th Cir. 2021) (quoting South Dakota v. Wayfair, 585 U.S. 162, 173 (2018)), aff'd, 598 U.S. 356 (2023). This limitation is designed to prevent "purposeful discrimination against out-of-state economic interests," and extends to the regulation of commerce taking place "wholly outside of [a] State's borders, whether or not the commerce has effects within the State." Nat'l Pork Producers Council v. Ross, 598 U.S. at 371–72; Daniels Sharpsmart, Inc. v. Smith, 889 F.3d 608, 614 (9th Cir. 2018) (quoting Healy v. Beer Inst., 491 U.S. 324, 336 (1989)). The critical inquiry in assessing a law's validity on these grounds is whether the regulation, in effect, "control[s] conduct beyond the boundaries of the State." Smith, 889 F.3d at 614 (quoting Healy, 491 U.S. at 336).

CARB's proposed regulations fail that test. Though CARB has attempted to tie the regulated conduct to California, the regulations still impose an impermissible extraterritorial reach and require reporting for emissions and climate risks that may occur well outside California's borders. Under CARB's definition, the mere existence of a subsidiary might compel conduct by parent companies transacting entirely outside of the state. Not only would that parent have to disclose emissions and other climate-related information related to the California subsidiary, but it might also be required to disclose such information related to its own nationwide or even international operations. It would violate basic notions of federalism to attempt to apply these disclosure requirements to out-of-state parent companies based on what can be a tenable nexus to California through a subsidiary. CARB should therefore clarify the definition of "doing business in California" to ensure it does not reach out-of-state businesses solely on the basis of a subsidiary that has operations in-state. CARB should provide additional guardrails in any final rule to address this issue. (45d-057.12)

Comment: The regulations and definitions should offer all entities operating within California, regardless of their ownership form or structure, reasonable clarity as to whether their operations would fall within or outside the scope of the California Climate Laws.

We recommend that the "doing business in California" test be determined on an entity-by-entity basis, not including parents, subsidiaries or affiliates, rather than on a consolidated basis, which is consistent with the text of the California Climate Laws. (45d-063.2)

Comment: CARB Should Clarify That Out-Of-State Parent Companies That File Unitary Taxes with Total Annual Revenues in Excess of $500 Million or $1 Billion Are Not Covered or Reporting Entities Solely Due to Indirect Control of California Subsidiaries

A. The Doing Business in California Threshold

The Proposed Regulation defines two key entity types:

1. An SB 261 "covered entity" is a U.S.-based entity with (1) total annual revenues in excess of $500 million that (2) does business in California. § 96072(5).
2. An SB 253 "reporting entity" is a U.S.-based entity with (1) total annual revenues in excess of $1 billion that (2) does business in California. § 96072(11).

The Proposed Regulation provides that "'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" and that "'doing business' shall have the same definition as set forth in section 23101(a) of the California Revenue and Taxation Code." § 96072 (7)-(8). Under these provisions, an entity is "doing business in California" if the entity is: (1) actively engaging in any transaction for the purpose of financial gain or profit in California and (2) either: (a) is organized or commercially domiciled in California, or (b) has California-based sales that exceed approximately $735,019 (adjusted for inflation).

Many out-of-state holding and indirect parent companies do not meet this threshold as they are not organized or commercially domiciled in California and do not have any California-based sales. (45d-067.1)

Comment: It is also unclear whether this exception to the prior guidance extends to including a subsidiary's California-based sales to determine whether the parent is doing business in California. For example, suppose an out-of-state parent company has a subsidiary with California-based sales exceeding $735,019, but the subsidiary has annual revenue under $500 million and therefore is not a "covered entity." The parent company, meanwhile, has no California-based sales but has annual revenue exceeding $500 million. In that situation, does the parent company do business in California and become a "covered entity" solely because it files California taxes as a unitary business with a subsidiary that is doing business in California? (45d-067.2)

Comment: An out-of-state parent company should not be deemed a "covered entity" or a "reporting entity" solely because it is required to file California taxes on a unitary basis with subsidiaries that do business in California. Such an expansion was not intended by the legislature and is not anticipated by non-California parent and holding companies. This is especially unreasonable and not anticipated when those subsidiaries are small, with annual revenues well under the $500 million and/or $1 billion annual revenue threshold, but the parent company collectively generates $500 million and/or $1 billion in annual revenue.

Moreover, treating an out-of-state parent company as a "covered entity" under these circumstances would effectively purport to regulate entities that do not do business in California, raising significant jurisdictional and constitutional concerns. These legal issues would likely invite protracted litigation and could materially delay the implementation of the regulations.

Accordingly, we request that CARB confirm that a parent company is not a “covered entity” or a “reporting entity” under the Proposed Regulations where:

1) the parent company is organized and commercially domiciled outside of California,
2) the parent company does not have direct California-based sales meeting the $735,019 threshold (adjusted for inflation), and
3) none of the parent company's subsidiaries that do business in California individually meet the $500 million and/or the $1 billion annual revenue threshold.

This should hold true even if the parent company files California taxes as a unitary business and when, collectively, the parent company has total annual revenues in excess of $500 million or $1 billion United States dollars.

Stated differently, we seek confirmation that the $500 million and $1 billion annual revenue thresholds are evaluated at the individual entity level, and that the aggregation of subsidiary revenues on a unitary tax filing does not, by itself, cause an out-of-state parent company with no direct California sales to become a “covered entity” or a “reporting entity.”

Absent clear guidance that out-of-state parent companies with no California-based sales are not “doing business in California” simply due to their subsidiaries’ actions, especially when those subsidiaries actions in California are de minimis with less than $500,000 and/or $1 billion annual revenue for any one subsidiary, large international parent companies are being swept into mandatory reporting to their surprise and contrary to legislative intent and reason. (45d-067.3)

Comment: In the same vein, CARB should not attribute one entity’s California activities to another for purposes of determining whether that entity is “doing business in California,” again, because the entity chose or was required to file tax returns on a unitary basis. Staff have not suggested that they intend to do so (and any decision to do so would raise due process issues, as the determination as to whether an entity is “doing business in California” is a jurisdictional question). It would nonetheless help to clarify this point in the regulations. (45d-072.4)

Comment: 2. The proposed definition for the term ‘doing business in California’ should clearly indicate that it refers to either the sales of a parent company or a subsidiary company.

...

CARB’s proposal fails to clarify whether the term ‘doing business in California’ refers to either the sales of a parent company or a subsidiary company. Without clarification, there is no certainty as to the meaning of this provision and how it applies to specific corporate relationships and structures. Companies in the paint and coatings industry utilize many different corporate structures and application of this provision may determine whether certain entities are covered and must report. Accordingly, ACA urges CARB to clarify its proposed definition of ‘doing business in California’ so that companies with varying structures understand the scope of the requirements. (45d-073.2)

Comment: The Group further requests that CARB clarify that the revenue thresholds used in SB 253 and 261 to determine whether an entity is doing business in California pertain specifically to revenue generated through sales in California, rather than the total revenue for the company as a whole. Furthermore, CARB should clarify that this threshold applies only to business entities actually doing business in California, and not to their corporate parents, that may not even be located in the United States. (45d-078.24)

Agency Response: No changes were made in response to these comments. The Regulation does not subject an out-of-state parent entity to reporting obligations solely based on the presence or activities of a subsidiary. Applicability is evaluated at the individual entity level, and each entity must independently meet the applicable criteria to be subject to the Regulation. A subsidiary's revenue and sales in California are considered only for that subsidiary in determining applicability and are not aggregated with or attributed to a parent entity.

For example, where both the U.S.-based parent entity and the subsidiary are not commercially domiciled or organized in California, if the parent meets the applicable revenue threshold but does not meet the sales in California threshold, and the subsidiary meets the sales in California threshold but does not meet the applicable revenue threshold, neither entity would be in scope.

For purposes of the Regulation, a subsidiary alone does not bring an out-of-state parent entity into scope unless the parent entity independently meets the applicable criteria, including "revenue" and "doing business in California."

CARB respectfully disagrees with the allegation that the Regulation is unconstitutionally vague, and raises due process concerns, which is contradicted by the rulemaking record. The Regulation is clear and does not automatically attribute the activities of a subsidiary to a parent entity, as the commenters incorrectly allege. It adopts well-known applicability requirements already codified in California law.

Given the general nature of this comment, it is not possible to respond with specificity. CARB therefore provides the general response below. Furthermore, comments regarding the constitutionality of the enabling statutes and proposed regulations do not require detailed responses, as the APA requires an agency's responses to focus on how the proposed action has been changed to accommodate each objection or recommendation, or the reasons for making no change. (Cal. Gov. Code § 11346.9.(a)(3).) Additionally, the APA's "Authority" standard does not require agencies to rebut all legal challenges made by commenters opposing the regulation, but rather focuses specifically on whether the regulation is authorized by either:

(1) a California constitutional or statutory provision which expressly permits or obligates the agency to adopt, amend, or repeal the regulation; or

(2) a California constitutional or statutory provision that grants a power to the agency which impliedly permits or obligates the agency to adopt, amend, or

repeal the regulation in order to achieve the purpose for which the power was granted.

(See 1 CCR § 14(a).) As explained in the rulemaking record for the Regulation, both express and implied statutory authorities authorize the Regulation. (See, e.g., Health and Safety Code §§ 38532, 38533, 39600, and 39601.)

For the reasons described above, CARB is not required to respond to legal arguments beyond the standards discussed above. Nevertheless, for informational purposes, CARB voluntarily provides the following response.

The Regulation and the controlling statutes are consistent with applicable Constitutional and statutory authorities and requirements, and no changes are needed in response to the commenter's Constitutional claims. The Fifth and Fourteenth Amendments to the United States Constitution prohibit states from depriving persons of "life, liberty, or property, without due process of law." These provisions have both procedural and substantive aspects. The substantive aspects of these due process protections ensure that the substance of challenged governmental actions are consistent with the provisions of the Constitution. The procedural aspects ensure that the government follows proper procedures in administering laws, and broadly require that a full and fair hearing be conducted before the government acts to directly impair a person's constitutionally cognizable life, liberty, or property interests.

Procedural Due Process:

Procedural due process asks if the process is fair. It requires the government to follow fair procedures before depriving a person of life, liberty, or property. This requires adequate notice and hearing where such a protected life, liberty, or property interest exists. Notice is the process that informs a person of the legal process involving the rights at issue and allowing an opportunity to respond. Procedural due process also requires an opportunity to be heard, usually in the form of a hearing. The inquiry is two prong - whether there exists a liberty or property interest which has been interfered with by the State, and whether the procedures attendant upon that deprivation were constitutionally sufficient. *In re Ilasa* (4th Dist. 2016).3 Cal. App. 5th 489, 208 Cal. Rptr. 3d 17.

The first prong considers whether there is a constitutionally protected property interest, which is determined by reference to existing rules or understandings that stem from an independent source, such as state law. (*Philips v. Wash. Legal Foundation* (1998) 524 U.S. 156, 164, citing *Board of Regents of State Colleges v. Roth* (1972) 408 U.S. 564, 577). It must be more than an abstract need or desire. In *Roth*, the United States Supreme Court explained that the existence of property rights is dependent upon the existence of a legitimate claim of entitlement - "[t]o have a property interest in a benefit, a person clearly must have more than an abstract need or desire for it. He must have more than a unilateral expectation of it. He must, instead, have a legitimate claim of entitlement to it." (*Roth*, supra at 408 U.S. 564, 577). The court further

explained that because the Constitution protects rather than creates property interests, the existence of a property interest is determined by reference to "existing rules or understandings that stem from an independent source such as state law." (*Ibid*).

Here, the procedures did provide fair notice, comment, and opportunity to be heard, satisfying the second prong regardless of whether a protected interest exists under the first prong. CARB fully complied with the provisions of the California Administrative Procedure Act (APA) in promulgating the Regulation. CARB issued full notice of this regulatory action as required by the APA, allowed multiple opportunities to comment (including at and in connection with multiple public workshops as well as the formal 45-day APA comment period), and provided the public with an opportunity to be heard at a formal Board hearing as well as in multiple public workshops. In CARB's 45-day notice, it incorporated multiple proposals, and the Regulation is a logical outgrowth of the information provided in the 45-day notice. CARB held a Board hearing on February 26, 2026, which allowed the public (including the commenter) an opportunity to speak.

Substantive Due Process:

Substantive due process asks whether the government has the right to take the action in the first place. In analyzing substantive due process challenges to a governmental action, courts first determine whether the action affects a fundamental right (or creates a suspect class of affected persons). Fundamental rights include the protections of most of the Bill of Rights. If a fundamental right is affected, a court will determine whether the challenged law was enacted to further a compelling governmental interest, and whether the law was narrowly tailored to achieve that interest.

In this matter, as stated above, due to the general nature of the comments, CARB responds generally that it has not found any impairment of the commenters' fundamental constitutional rights. The commenter has the burden of demonstrating that the Regulation is not rationally related to a permissible governmental interest. As set forth in more detail in the Staff Report for this rulemaking action, CARB developed this Regulation to implement the direction of, and achieve the purposes of, the enabling statutes. The Regulation is directed at providing transparency and consistency for the public, including for California investors, consumers, and other stakeholders. These substantial governmental interests are also adequately described in the Staff Report.

Scope of Statutory Authority

In response to the comment that CARB is acting outside the scope of statutory authority, CARB respectfully disagrees. While the comments are not entirely clear or aligned on what ways CARB is alleged to be acting outside the scope, CARB generally interprets them as alleging that certain aspects of the Regulation amount to an ultra vires act. Ultra vires refers to an act that goes beyond the scope or power permitted by the law (Ultra Vires, *Black's Law Dictionary*, 11th ed. 2019). An agency acts ultra vires when it exceeds the scope of the agency's statutory authority (*Water Replenishment*

District of Southern California v. City of Cerritos, (2012) 135 Cal. Rptr. 3d 895, 903). Therefore, an agency acts improperly when its actions go beyond the scope of authority given to it by the Legislature. Here, as discussed above in this response, the Legislature has authorized CARB to adopt rules relating to the implementation of the statutorily required climate disclosures. The Board is also authorized to take actions that are necessary to carry out its duties (Health & Saf. Code § 39600). This includes adoption of "standards, rules, and regulations." (Health & Saf. Code § 39601). Here, rather than performing an ultra vires act, CARB is acting within the scope of its authorities.

D-7 Multiple Comments: Determine Doing Business in California Status Based on Emissions and Number of Employees

Comment: The Class of ’85 urges CARB not to adopt the California RTC’s definition. The RTC’s definition was not intended for use in the context of statewide GHG emissions and is therefore overly broad in this context. Instead, CARB should narrow the definition to ensure that businesses with only minimal or immaterial business activity related to California are clearly exempted from regulatory applicability.

CARB has regulatory authority over sources that emit within the state and should implement the rule in a manner that covers only business entities with a physical presence that directly emit greenhouse gases within California. Cal. Health & Safety Code § 38530 states: “(b) The regulations shall do all of the following: . . . (1) Require the monitoring and annual reporting of greenhouse gas emissions from greenhouse gas emission sources beginning with the sources or categories of sources that contribute the most to statewide emissions.”[12] Additionally, the Legislature declared in SB 253 that “United States companies that have access to California’s tremendously valuable consumer market by virtue of exercising their corporate franchise in the state also share responsibility for disclosing their contributions to global GHG emissions.”[13] This indicates that CARB’s regulations must focus on business entities that generate emissions within California rather than out-of-state business entities that do not. (45d-078.23)

[12] Emphasis added.
[13] SB 253, § 1 (emphasis added).

Comment: The California Revenue and Tax Code’s definition of “doing business in California” should not be adopted, as this particular definition was not intended to apply in the context of statewide greenhouse gas emissions and is thus overly broad. CARB should consider narrowing the definition to ensure that businesses who have only minimal/immaterial business activity related to California are clearly exempted from regulatory applicability.

CARB has regulatory authority over sources that emit within the state and so should implement the rule in a manner that covers only entities that have a physical presence and

directly emit greenhouse gases within California. Cal. Health and Saf. Code § 38530 states: "(b) The regulations shall do all of the following: . . . (1) Require the monitoring and annual reporting of greenhouse gas emissions from greenhouse gas emission sources beginning with the sources or categories of sources that contribute the most to statewide emissions."[3] Additionally, the Legislature declared in SB 253 that "United States companies that have access to California's tremendously valuable consumer market by virtue of exercising their corporate franchise in the state also share responsibility for disclosing their contributions to global GHG emissions."[4] This indicates that CARB's regulations must focus on entities that generate emissions within California rather than out-of-state entities that do not generate emissions within the state.

Furthermore, out-of-state companies that have a de minimis number of employees working in California should not be covered. The de minimis threshold should encompass companies not principally located or operating in California and have 1% or less of their employees whose primary residence is in California. These approaches would align with CARB's mandate to consider alternatives that would limit regulatory burdens for covered entities by clarifying regulatory requirements and avoiding unnecessary reporting. See Cal. Gov. Code § 11346.2(b)(4). (45d-078.29)

[3] Emphasis added.
[4] SB 253, § 1 (emphasis added).

Agency Response: No changes were made in response to these comments. As stated in Health and Safety Code section 38532, the Legislature declared that "United States companies that have access to California's tremendously valuable consumer market by virtue of exercising their corporate franchise in the state also share responsibility for disclosing their contributions to global GHG emissions." Consistent with the statutory direction, the Regulation aligns with relevant provisions of section 23101 of the California Revenue and Taxation Code to define "doing business in California." The Regulation is also not limited to entities with direct emissions within California, given that Health and Safety Code section 38532 requires disclosure of global GHG emissions for entities with such market access.

Consistent with the enabling statutes, the Regulation focuses on entities with a meaningful economic nexus to California through substantial sales or place of organization or domicile. The Regulation also omits the property and payroll provisions of section 23101 to avoid capturing entities with potentially marginal operations in California. Under this approach, factors such as the number of employees in the state are not used to determine whether an entity is doing business in California. This approach provides a clear, objective standard that accurately reflects the scope of regulated entities intended by the Legislature.

CARB respectfully disagrees with the assertion that applicability should be limited to entities with direct emissions or a physical presence within California. The commenters' reference to Health and Safety Code section 38530 relates to the monitoring of statewide emission sources under different statutory authorities (AB 32).

However, Health and Safety Code section 38532 explicitly requires the disclosure of global GHG emissions for U.S.-based entities that meet the revenue threshold and are doing business in the state. Tying the Regulation only to in-state emitters would fail to fulfill the legislative mandate to capture the global contributions of large market participants.

D-8 Multiple Comments: Employee Headcount

Comment: Request for additional criteria beyond revenue for determining entities subject to disclosure

- It appears excessive to impose disclosure obligations on companies that only perform sales functions, have no production facilities, or operate with a relatively small number of employees.
- In particular, for companies that operate only office facilities, both the climate-related financial impacts and the level of GHG emissions are likely to be limited, and in such cases, the benefits of disclosure may be minimal compared to the effort and resources required to comply.
- Therefore, we respectfully request that you consider introducing additional criteria, such as an employee headcount threshold (as seen under the EU CSRD) or limiting the disclosure obligation to companies that operate production facilities. (45d-079.1)

Comment: Request for additional criteria beyond revenue for determining entities subject to disclosure

- It appears excessive to impose disclosure obligations on companies that only perform sales functions, have no production facilities, or operate with a relatively small number of employees.
- In particular, for companies that operate only office facilities, both the climate-related financial impacts and the level of GHG emissions are likely to be limited, and in such cases, the benefits of disclosure may be minimal compared to the effort and resources required to comply.
- Therefore, we respectfully request that you consider introducing additional criteria, such as an employee headcount threshold (as seen under the EU CSRD) or limiting the disclosure obligation to companies that operate production facilities. (45d-080.1)

Agency Response: No changes were made in response to these comments. CARB considered the alternative definitions proposed by the commenter. Introducing additional criteria, such as employee count, types of facilities, or climate related financial impacts fails to align with the intent of the Legislation, which instead identifies revenue thresholds and doing business in California as key applicability criteria.

The Regulation aligns with relevant provisions of section 23101 of the California Revenue and Taxation Code to define “doing business in California.” This approach relies on an objective and judicially established standard for economic nexus that is

widely used and understood by entities submitting corporate tax filings in California and aligns with the statutory intent of capturing large entities that participate in California's market.

The Regulation is also designed to focus on entities with a meaningful economic nexus to California through substantial sales or place of organization or domicile. By omitting the property and payroll related provision of section 23101 of the California Revenue and Taxation Code, the Regulation avoids capturing entities with entities with potentially marginal operations in California. Under this approach, the Regulation focuses on the economic impact and market access of an entity rather than its specific operational profile or number of employees to determine whether an entity is "doing business in California."

D-9 Unique Comment: Suggestion of Alternative Thresholds and Definition of Taxpayer

Comment: CARB should also reconsider its proposed definition of "doing business in California." The proposed definition imposes grossly disproportionate compliance requirements by implicating global operational data for companies that may have only a fraction of their business operations and income in California. To address these outsized burdens, WSPA recommends the following revisions:

- For domestic entities that meet the global revenue threshold but are not organized or commercially domiciled in California, WSPA recommends that an entity be considered within the scope of the regulation only if it: (1) meets the sales threshold in Revenue and Taxation Code (RTC) § 23101(b)(2); (2) reports more than $200 million in California-allocated/apportioned business income, adjusted annually for inflation; and (3) is registered to do business in California with the Secretary of State pursuant to General Corporation Law § 191.
- For unitary filers not commercially domiciled in California and with no California sales in excess of the amount in Section 23101(b)(2) – but who have allocated California sales due to their subsidiaries' operations – WSPA proposes revising the second sentence of Section 96072(a)(8) of the proposed regulation as follows: "For this section, 'taxpayer' in subsection 23101(b) is substituted with the term 'entity,' and to determine an entity's sales in California under Revenue and Taxation Code § 23101(b)(2), the sales of a subsidiary are not attributed to its parent notwithstanding any unitary tax return filed by them, and wholesale electricity sales are excluded." (45d-051.8)

Agency Response: No changes were made in response to this comment. CARB considered the alternative definitions proposed by the commenter but they fail to align with the intent and language of the enabling statutes. No changes are necessary since the Regulation aligns with relevant provisions of section 23101 of the California Revenue and Taxation Code to define "doing business in California" – the very same

applicability standard used in Health and Safety Code sections 38532 and 38533 themselves. This approach relies on an objective and legislatively-created, long-established standard for economic nexus that is widely used and understood by entities submitting corporate tax filings in California, and aligns with the statutory intent of capturing large entities that participate in California's market.

Applicability is evaluated at the individual entity level, and each entity must independently meet the applicable criteria to be in scope. A subsidiary's sales in California are considered only for that subsidiary in determining applicability and are not aggregated with or attributed to a parent entity, regardless of unitary filing status.

D-10 Unique Comment: Taxpayer and Doing Business Definition

Comment: A. Amend the definitions of "doing business" and "doing business in California" to reduce confusion and provide clarification regarding which entities are "reporting entities" and/or "covered entities."

As proposed, section 96072(a)(7) states: "'[d]oing business' shall have the same definition as set forth in section 23101(a) of the California Revenue and Taxation Code." Proposed section 96072(a)(8) defines "[d]oing business in California" as "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."

The adoption of these definitions from the Revenue and Taxation Code (RTC) would present two significant challenges requiring clarification so that entities know whether they will be considered a "reporting entity" (under SB 253) or a "covered entity" (under SB 261).

First, RTC section 23101 is focused on whether a "taxpayer" is doing business in California, and the term "taxpayer" under the RTC may not be the same thing as "entity" under SB 253 and 261. "Taxpayer" is defined in RTC section 23037 as a person subject to the State's corporate income taxes. Staff should ensure that the application of this definition is consistent with the enabling statute. The statutory language is clear that the "reporting entity" or "covered entity" is a single entity, which may in some cases be inconsistent with the "taxpayer" concept. It would thus be appropriate to substitute the word "entity" for the word "taxpayer" so that the definitions are consistent with SB 253 and SB 261. We propose that CARB revise the definition in section 96072(a)(8) as follows:

"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. For purposes of this section, the term "taxpayer" in subsection 23101(b) is substituted with the term "entity."

Second, CARB should clarify the intended meaning of "doing business" in California in the draft regulation. RTC section 23101(a) defines "doing business" as "actively engaging in any transaction for the purpose of financial or pecuniary gain or profit." RTC section 23101(b) provides a set of objective "tests" to determine whether an entity is "doing business." Staff

has indicated that rather than adopting the definition in RTC section 23101 wholesale, it made changes to address concerns that RTC section 23101 was overly broad, "potentially including businesses that conduct too few transactions to merit inclusion under this regulation."[1] For this reason, proposed section 96072(a)(8) makes subsections (a) and (b) of RTC section 23101 conjunctive. This change apparently seeks to narrow the definition of "doing business in California" to include only those entities whose activities in the state are for "financial or pecuniary gain or profit."[2] Yet CARB does not clarify the meaning of "financial or pecuniary gain or profit" nor does it provide examples of businesses that do not engage in transactions that drive "financial or pecuniary gain or profit."

If RTC section 23101(a) is interpreted to mean any transaction that benefits the corporation in any way, then establishing RTC section 23101(a) as a separate requirement in order to avoid "including businesses that conduct too few transactions to merit inclusion under this regulation," as was Staff's stated intention, does not serve this stated purpose. In order to serve Staff's stated purpose of excluding "businesses that conduct too few transactions to merit inclusion under this regulation" and to provide clarity to businesses regarding Staff's intention in making subsections (a) and (b) of RTC section 23101(a) conjunctive, we propose that the definition in section 96072(a)(7) be revised as follows:

"Doing business" shall have the same definition as set forth in section 23101(a) of the California Revenue and Taxation Code except that, for purposes of this section, "financial or pecuniary gain" means engaging in a transaction with the primary purpose or objective of earning a profit for the entity that engages in the transaction. The term does not include internal administrative, payroll, treasury, financing support, intercompany guarantees, or other intra-enterprise support activities that are not undertaken with a profit objective and do not directly generate profit or revenue for the entity. (45d-072.1)

[1] CARB, Kickoff Workshop: California Corporate Greenhouse Gas Reporting and Climate Related Financial Risk Disclosure Programs ("Kickoff Workshop"), slide 23 (May 29, 2025), https://ww2.arb.ca.gov/sites/default/files/2025-05/SB%20253%20261%20Workshop%20slides%205-29.pdf.

[2] As currently set forth in the proposed regulation, this distinction/limitation is circular, because RTC section 23101(a) defines "doing business" as "actively engaging in any transaction for the purpose of financial or pecuniary gain or profit," whereas (b) provides a set of objective "tests" to determine whether an entity is "actively engaging in any transaction for the purpose of financial or pecuniary gain or profit."

Agency Response: No changes were made in response to this comment. All of the entities that would be "doing business in California" for purposes of CARB's program are also filing taxes to the state of California. This approach is clear particularly since section 23101 of the Revenue and Taxation Code is referenced specifically for the criteria in subsections 23101(b)(1) (e.g., organized or domiciled in California; sales above the stated dollar amount; etc.).

CARB respectfully disagrees that proposed section 96072(a)(8) is unclear, or that common-sense terms like "financial or pecuniary gain or profit" need to be further defined. The applicability thresholds are sufficient and appropriate, and this is one of the reasons why CARB decided to cross-reference well-established provisions in the

California Revenue and Taxation Code as part of its definitions for "doing business" and "doing business in California." Not only was this provision of the California Revenue and Taxation Code duly enacted through a public legislative process, but also the terms financial or pecuniary gain or profit are common terms that are generally understood.[7]

D-11 Unique Comment: Align Definition with California Corporations Code and Secretary of State Dataset

Comment: Reliance on California Revenue and Taxation Code section 23101 creates ambiguity, particularly for entities not incorporated or headquartered in California, which entities have significant operations outside of California, especially in the case of entities with some California operations whose parent companies have limited or no independent tax nexus to California. CWA would suggest that the definition of "doing business in California" be aligned so that only entities that do business in California under the California Corporations Code and that appear in the California Secretary of State's Business Entities database would be subject to SB 253 and/or SB 261. (45d-063.1)

Agency Response: No changes were made in response to this comment. CARB considered the alternative definition proposed by the commenter. No changes are necessary since the Regulation aligns with relevant provisions of section 23101 of the California Revenue and Taxation Code to define "doing business in California." This approach relies on an objective and judicially established standard for economic nexus that is widely used and understood by entities submitting corporate tax filings in California. Relying solely on the California Corporations Code and the Secretary of State's Business Entities database would exclude many large entities that have significant economic activity from California's market through sales but may not be required to register with the Secretary of State.

D-12 Multiple Comments: Wholesale Sales of Natural Gas

Comment: Additionally, the proposed definition of "doing business in California" provides that "wholesale sales of electricity do not count for purposes of determining an entity's sales in California." For the reasons set forth in Section 1 above, this definition should be revised to extend that exclusion to wholesale sales of natural gas. (45d-062.5)

Comment: My comment is to bring the regulations into conformance with federal law by changing § 96071(b)(1), § 96071(b)(4), and § 96072(a)(8) as follows:

[7] For example, "financial" means "connected with money and finance". (See https://www.oxfordlearnersdictionaries.com/definition/english/financial?q=financial.) "Pecuniary" means "relating or connected with money". (See https://www.oxfordlearnersdictionaries.com/definition/english/pecuniary?q=pecuniary.)

…

[§ 96072(a)(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, wholesale sales of natural gas, and other sales that occur in interstate commerce do not count for purposes of determining an entity’s sales in California under Revenue and Taxation Code section 23101(b)(2). (45d-065.4)

> **Agency Response:** No changes were made in response to these comments. In the January 30, 2024 letter from Senator Wiener and Senator Stern, published in the Senate Daily Journal, the authors explicitly stated their intent to exclude entities whose only activity within California consists of wholesale electricity transactions from Health and Safety Code sections 38532 and 38533. However, the letter does not reference wholesale natural gas transactions. After careful consideration of this issue by CARB, the Regulation excludes wholesale sales of electricity for determining an entity’s sales in California but does not extend that exclusion to wholesale sales of natural gas.
>
> Regarding CARB’s rationale on wholesale natural gas transactions’ applicability under Health and Safety Code sections 38532 and 38533, please refer to Agency Response E-9.

D-13 Unique Comment: Digital Economy

Comment: 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.

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. (BH-004.5)

> **Agency Response:** No changes were made in response to this comment. The Regulation aligns with relevant provisions of section 23101 of the California Revenue and Taxation Code to define "doing business in California." Though the Regulation omits the property and payroll related provision of section 23101 of the California Revenue and Taxation Code to avoid capturing entities with potentially marginal operations in California, for the purposes of the Regulation, entities exceeding the sales in California threshold are doing business in California, regardless of their physical presence in the state. The Regulation adopts the sales-based threshold in section 23101(b)(2) and does not exclude digital sales or digital economy business models.
>
> One commenter recommended that CARB clarify that entities with over $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. CARB responds that the Regulation would cover such entities without modification, as it applies to entities over $1 billion in revenue and with sales in California above the sales threshold set forth in section 23101 of the California Revenue and Taxation Code.

D-14 Multiple Comments: Support for Proposed Definition

Comment: We support the proposed use of California Revenue and Tax Code section 23101(a), (b)(1), and (b)(2) to define "doing business" and "doing business in California" (Sections 96072(a)(7)-(8) of the proposed regulation). As discussed in more detail in our joint comment to the Board dated March 21, 2025, the definition of "doing business in California" contained in Section 23101 is an appropriate definition to reference for purposes of the reporting requirements of SB 253 and SB 261: it is well-established, will provide clarity to businesses, and contains limitations that appropriately exclude out-of-state entities with minimal or negligible business in California. (45d-039.3)

Comment: Carbon Accountable strongly supports the definition of "doing business" and "doing business in California" set forth in proposed § 96072 which incorporates by reference California Revenue and Taxation Code (RTC) § 23101. By using the definition provided by established state tax law, CARB provides a clear, objective, and verifiable standard. This approach avoids ambiguity and ensures that the regulation properly applies to entities with a meaningful economic nexus to the state and minimizes administrative burden. (45d-059.2)

Comment: Consistent with a letter EnviroVoters submitted during the initial Request for Information in December 2024, we appreciate CARB staff's proposal to reference the definition of "doing business in California" found in the Revenue and Tax Code, section 23101. This is in alignment with the intent of the bill language. (45d-075.2)

Comment: We think the initial regulations will ensure order and certainty for companies and support the provisions and definition of doing business in California… (BHT-013.4)

> **Agency Response:** No changes were made in response to these comments. CARB acknowledges the commenters' support for the definition of "doing business in California."

D-15 Unique Comment: Clarifying Question Regarding Teleworking Employees

Comment: The Proposed Regulation includes an exemption for "business entities whose only business in California is employee compensation or payroll expenses, including teleworking employees." The rationale for this included:

- A large number of teleworking employees since the global pandemic of 2020
- Challenges of interpreting how teleworking may fit into the definition of "doing business in California" in section 96202(a)(8) of the Proposed Regulation

- Seeking to avoid unintended consequences of businesses with only virtual operations in California from leaving the state.

While we do not disagree with these points, we also believe there may be an unintended consequence where business entities that currently do business in California and have operations in California revise their physical location and structure to where the business entity would only have virtual employees in California to avoid being required to comply with sections 38532 and 38533 of the Health and Safety Code. It is possible CARB already considered this, but we believe this is an important nuance to address in the rationale of the Proposed Regulation. (45d-027.7)

> **Agency Response:** No changes were made in response to this comment. While the Regulation includes an exemption for "business entities whose only business in California is employee compensation or payroll expenses, including teleworking employees," this exemption applies only where no other business activity in California is present.
>
> For purposes of the Regulation, an entity is "doing business in California" if it is commercially domiciled or organized in California, or exceeds the sales in California threshold, regardless of its physical structure or teleworking workforce. As a result, including an exemption for teleworking employees would not undermine the intents of the Regulation.

D-16 Multiple Comments: Clarifying Question on "Doing Business" and "Doing Business in California"

Comment: CARB should clarify that the proposed definitions of "doing business" and "doing business in California" incorporate the relevant regulations and interpretations regarding the definitions of "doing business " and the relevant prongs of "doing business in this state" under the RTC and an entity's in-state sales amount as reported in its tax filings with the FTB is determinative of the entity's in-state sales for purposes of determining whether the entity is "doing business in California" due to its in-state sales under the Climate Laws. (45d-026.5)

Comment: CARB should clarify that the proposed definitions of "doing business" and "doing business in California" incorporate the relevant regulations and interpretations regarding the definitions of "doing business " and the relevant prongs of "doing business in California" incorporate the relevant regulations and interpretations regarding the definitions of "doing business " and the relevant prongs of "doing business in this state" under the RTC and an entity's in-state sales amount as reported in its tax filings with the FTB is determinative of the entity's in-state sales for purposes of determining whether the entity is "doing business in California" due to its in-state sales under the Climate Laws. Under the Proposed Initial Regulation, "doing business" "shall have the same definition as set forth in section 23101(a) of the [RTC]", whereas "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 [RTC]", subject to certain exceptions.[15] Section 23101(a) of the RTC defines "doing business" as "actively

engaging in any transaction for the purpose of financial or pecuniary gain or profit".[16] Subsection 23101(b)(1) of the RTC provides that a taxpayer is doing business in California for a taxable year if the taxpayer is organized or commercially domiciled in California.[17]

Subsection 23101(b)(2) of the RTC provides that a taxpayer is doing business in California for a taxable year if sales, as defined in Section 25120(e) or (f) of the RTC as applicable for the taxable year, of the taxpayer in California "exceed the lesser of five hundred thousand dollars ($500,000) or 25 percent of the taxpayer's total sales."[18] We recommend CARB to clarify that the definitions of "doing business" and "doing business in California" incorporate the relevant regulations and interpretations regarding the definitions of "doing business " and the relevant prongs of "doing business in this state" under the RTC to further align these definitions and avoid any discrepancies in how these definitions are interpreted and applied in practice.

For example, subsection 23101(c)(1) requires the FTB to annually revise the $500,000 threshold for in-state sales to adjust for inflation.[19] The in-state sales dollar threshold for 2025 is $757,070.[20] Without our recommended clarification, there will be discrepancies between how the same term or phases will be interpreted and applied under the Climate Laws and the RTC.

In addition, to provide further certainty to entities determining whether they are deemed to be "doing business in California" under the Climate Laws, CARB should clarify that an entity's in-state sales amount as reported in its tax filings with the FTB is determinative of the entity's in-state sales for purposes of determining whether the entity is "doing business in California" due to its in-state sales under the Climate Laws. During CARB's Third Public Workshop held on November 18, 2025, CARB staff noted that whether a company has sufficient in-state sales to be deemed to be "doing business in California" can be verified in California FTB filings, referencing Schedule R-1, column (b) of entities' California tax filings (i.e., Form 100, Form 100S, Form 565 and Form 568 for corporations, S-corporations, partnerships and LLCs, respectively) for the amount of in-state sales.[21] Our recommended clarification is consistent with the approach announced at the workshop and provide entities further clarity and certainty in determining whether they are deemed to be doing business in California due to its in-state sales under the Climate Laws. (45d-026.15)

[15] Proposed Initial Regulation § 96072(a)(8).
[16] Cal. Rev. & Tax. Code § 23101(a).
[17] Cal. Rev. & Tax. Code § 23101(b)(1).
[18] Cal. Rev. & Tax. Code § 23101(b)(2) ("For purposes of this paragraph, sales of the taxpayer include sales by an agent or independent contractor of the taxpayer. For purposes of this paragraph, sales in this state shall be determined using the rules for assigning sales under Sections 25135 and 25136 and the regulations thereunder, as modified by regulations under Section 25137.").
[19] Cal. Rev. & Tax. Code § 23101(c)(1).
[20] State of California Franchise Tax Board, Doing Business in California, available at https://www.ftb.ca.gov/file/business/doing-business-in-california.html.
[21] November Presentation, at 21.

Agency Response: No changes were made in response to these comments. The definitions of "doing business" and "doing business in California" align with the relevant provisions, regulations, and interpretations of those terms under section 23101 of the California Revenue and Taxation Code.

An entity's sales in California, as reported in its corporate tax filings with the Franchise Tax Board, can be used to determine whether the entity meets the sales in California threshold for purposes of "doing business in California." The applicable sales in California threshold used for this determination is also adjusted for inflation consistent with subsection 23101(c)(1). The adjustments provided for in section 23101(c)(1) that amend 23101(b)(2) are ministerial inflation-based adjustments established by statute and do not constitute separate substantive standards. Entities should consult their tax, accounting, or legal advisors, as appropriate, to determine whether they are "doing business in California."

E. Exemption

E-1 Multiple Comments: Critique Against § 96071(b)(3) (Government entities exemption)

Comment: Make government entities also have to report but make it less restrictive for them. Every organization should be held accountable for the environmental harm they pose to communities. If an organization does not want to change the way they handle their operations to make for cleaner air for their local environment, they should be penalized. We need to hold everyone accountable for their actions. State, and local government entities produce vast amounts of GHG emissions, not taking these into account would not only undermine Californias clean energy goals but also the well-being of all Californians across the state. (45d-001.1)

Comment: Exempting federal, state, and local governments from covered entities status are inconsistent with the intentions of SB 253 and SB 261. Government activities on all levels are significant drivers of emissions. The state and federal governments have a vast amount of property holdings in the state that are directly linked to emissions. Additionally, government operations depend on extensive supply chains and large vehicle fleets. Excluding government entities from SB 253 and SB 261 further exposes the laws' inconsistencies, lack of justification, and risk of arbitrary enforcement. (45d-040.14)

Agency Response: No changes were made in response to these comments. Consistent with the statutes' intent, the Regulation is intended to apply to profit-seeking business entities that operate within traditional corporate structures and engage in commercial market activity. Government entities, by contrast, do not generate business income and are not organized for profit, and are therefore exempt under section 96071(b)(3).

E-2 Multiple Comments: Critique Against § 96071(b)(1) (Non-Profit Exemption)

Comment: Credit unions should be included -- In contrast to organizations with charitable intent or other community benefit that qualify as a tax-exempt under section 501(c)(3) of the Internal Revenue Code (IRC), credit unions are nonprofits organized under either Section 501(c)(1) or 501(c)(14) that compete in the marketplace with banks. Bankers believe limiting the Section 96201(b)(1) exemption to those organizations that qualify as tax-exempt under section 501(c)(3) of the IRC would be in accordance with the legislative intent. (45d-021.1)

Comment: Credit unions should be included -- In contrast to organizations with charitable intent or other community benefit that qualify as a tax-exempt under section 501(c)(3) of the Internal Revenue Code (IRC), credit unions are nonprofits organized under either Section 501(c)(1) or 501(c)(14) that compete in the marketplace with banks. Bankers believe limiting the Section 96201(b)(1) exemption to those organizations that qualify as tax-exempt under section 501(c)(3) of the IRC would be in accordance with the legislative intent. (45d-022.1)

> **Agency Response:** No changes were made in response to these comments. The Staff Report indicates that entities that are not profit-seeking, such as non-profit or charitable organizations that are tax-exempt under the Internal Revenue Code, do not fall within the legislative intent of corporate disclosures. Maintaining the existing text within section 96071(b)(1) ensures consistency with statutory direction and limits the scope of the Regulation to business entities.

E-3 Multiple Comments: Critique Against § 96071(b)(2) (Insurance Industry Exemption)

Comment: Excluding the insurance industry—a primary facilitator of economic activity and a significant stakeholder in climate risk management—undermines the efficacy of these disclosures. While the California Department of Insurance may pursue similar requirements, relying on disparate state-level regulators risks creating a fragmented reporting landscape. For companies headquartered outside of California, a lack of standardized mandates at the state level may lead to inconsistent data, hampering the ability of stakeholders to assess climate risk accurately. Removing this exclusion is essential to align the insurance industry with global reporting standards, provide investors with decision-useful data, and foster a robust internal control and reporting environment. (45d-003.1)

Comment: The specific exclusion of insurance entities creates a significant data gap in a sector that is deeply integrated into the broader financial system. Leaving oversight to individual state insurance commissioners will inevitably result in a "patchwork" of requirements, rendering cross-jurisdictional comparability nearly impossible. In the absence of final SEC climate rules, it is imperative that California demonstrates leadership by ensuring these requirements apply broadly across all high-impact industries. (45d-003.3)

Comment: Standardized disclosures improve market efficiency by allowing for more competitive and informed capital allocation. (45d-003.4)

Comment: In the insurance sector, where products are often highly commoditized, climate disclosures provide a vital point of differentiation for investors. These metrics offer insight into a carrier's underwriting philosophy, investment strategies, and long-term risk management. Inclusion in these rules will provide the transparency necessary for investors to understand the full scope of a company's operational and financed emissions. (45d-003.5)

Comment: The implementation of these regulations will necessitate rigorous improvements in corporate governance and internal controls. Establishing a clear chain of command for climate data—information that has historically been siloed or unmonitored—requires direct engagement from boards and executive leadership. This integration will modernize reporting systems and foster a culture of accountability. While the transition to tracking new data sets may be complex, the resulting evolution in control frameworks will ensure that insurance companies remain resilient in an era of rapid technological and environmental change. While calculating Scope 3 emissions for financial institutions is complex, established methodologies already exist to facilitate this transition. The Partnership for Carbon Accounting Financials provides robust guidelines tailored specifically to the insurance industry that align with the GHG Protocol. These guidelines offer clear boundaries for measuring emissions across diverse portfolios, from commercial lines to personal auto and investment holdings. By leveraging these existing standards, insurance carriers can provide clear, comparable, and reliable disclosures that meet the expectations of the global market. (45d-003.6)

[23] *Underwriting the Transition: A Deep-Dive Transition Plan Guide for Insurance and Reinsurance Underwriting Portfolios*, FORUM FOR INSURANCE TRANSITION TO NET ZERO (July, 2025), https://www.unepfi.org/wordpress/wp-content/uploads/2025/07/2nd-FIT-Transition-Plan_Final.pdf provides useful guidance on calculating Scope 3 emissions for this sector.
[24] Wong, *supra* note 7.
[25] GHG Protocol, Category 15: Investments, WORLD RESOURCES INSTITUTE.
[26] *The Measurement Gap: A Deep Dive into Climate Risk Reporting in the U.S. Insurance Sector*, CERES (Aug. 12, 2025), https://www.ceres.org/resources/reports/the-measurement-gap-a-deep-dive-into-climate-risk-reporting-in-the-us-insurance-sector.

Comment: The inclusion of insurance companies in the final regulations is vital to the integrity of California's disclosure framework. Insurance companies hold a unique and critical position in the global effort to mitigate climate change. As the primary backer of property and casualty risks, particularly in disaster-prone regions like California, carriers are on the front lines of observing the increasing frequency and severity of natural disasters. However, their responsibility extends beyond mere measurement; it requires active stewardship of their own carbon footprints and, more importantly, their massive investment portfolios. By prioritizing Environmental, Social, and Governance principles alongside financial returns, insurance companies can leverage their capital to foster a sustainable future, ensuring that the world they protect remains insurable for generations to come. By removing the current exclusion, CARB will enhance investor confidence, promote industry-wide consistency, and ensure that the insurance sector remains a resilient and transparent participant in the transition to a low-carbon economy. (45d-003.7)

Comment: 3. Applicability and exemptions: we encourage CARB to reconsider a blanket exemption for insurance companies under SB 253.

While insurers are subject to other climate-related disclosure requirements, those frameworks do not consistently deliver comprehensive emissions transparency—particularly for indirect (Scope 3) emissions, which often represent the majority of insurers' climate impact. Exempting insurers from SB 253 risks leaving a material gap relative to the statute's objectives. (45d-014.5)

Comment: We encourage CARB not to exempt insurers from emissions reporting under Health and Safety Code section 38532.

In particular, we wish to reinforce the California state legislature's emphasis on mandatory, uniform, and quantitative emissions-reporting frameworks for addressing today's climate risks.[2] (45d-015.1)

> [2] SB-253 Climate Corporate Data Accountability Act (Oct. 7, 2023) ("The current approach for disclosure of climate emissions from public and private corporate enterprises relies largely on voluntary reporting of GHG inventories, goals, commitments, and agreements, and lacks the full transparency and consistency needed by residents and financial markets to fully understand these climate risks").

Comment: Voluntary reporting, for instance through the National Association of Insurance Commissioners' ("NAIC") discretionary policy on Scope 3 data, may provide a stopgap in commercial contexts lacking the regulatory authority or political support for more substantive disclosure requirements. However, CARB, one of the nation's premier emissions regulators, here possesses strong support and arguably an obligation to fulfil the state legislature's mandate that "[t]he people, communities, and other stakeholders in California, facing the existential threat of climate change, have a right to know about the sources of carbon pollution, as measured by the comprehensive GHG emissions data of those companies benefiting from doing business in the state, in order to make informed decisions."[3]

The academic literature on climate-era disclosure regimes helps explain what makes a public mandate so crucial to reducing insurance-industry emissions. The California legislature's decision to expressly exempt insurers from Section 38533 coverage, but not from Section 38532 coverage, further clarifies this mandate. The fact that more than 80% of a typical insurer's emissions, via Scope 3 activities such as underwriting and investment, need not be disclosed under current industry self-regulation amplifies the need for this mandate. And the legislature has determined that CARB should administer this particular emissions-disclosure mandate, regardless of whether the state's Department of Insurance also measures insurers' climate risks. (45d-015.2)

> [3] SB-253 Climate Corporate Data Accountability Act (Oct. 7, 2023) ("The current approach for disclosure of climate emissions from public and private corporate enterprises relies largely on voluntary reporting of GHG inventories, goals, commitments, and agreements, and lacks the full transparency and consistency needed by residents and financial markets to fully understand these climate risks").

Comment: Empirical research confirms that insurers' climate-related disclosures prompt statistically significant emissions reductions. Cheng et al. (2024) use states' incremental

adoption of the NAIC's Climate Risk Disclosure Survey ("CRDS") to examine the impacts of mandatory climate risk disclosures on insurers' investment portfolios.[4] The authors find that, post-disclosure, CRDS-compliant insurers decreased their fossil fuel investments by an average of 13.1%.[5] This study suggests that, when required to disclose their climate risk, insurers "significantly adjust their investment strategies toward more environmentally responsible investments."[6] The authors note distinct characteristics of the insurance sector that contribute to meaningful emissions outcomes, such as: the industry's total financial assets of roughly $9 trillion dollars[7]; its search for high returns to fund ongoing business operations, including payouts to claimants; and its "investment choices that can exacerbate climate change" (here pointing to the industry's substantial holdings in fossil fuel related assets).[8]

More broadly, academic research in the U.S.,[9] the U.K.,[10] and France[11] shows that climate risk disclosures by corporations and investment funds can prompt notable GHG emissions reductions. Mandatory, quantitative, and uniform disclosures (of the type that the NAIC's Climate Risk Disclosure Survey requires for Scopes 1 and 2, but not for Scope 3) tend to yield more meaningful reductions than voluntary, qualitative, or open-ended disclosures.[12] The reductions can be significant, with covered U.K. companies reducing emissions by more than 15% relative to their non-covered peers,[13] and with French institutional investors reducing aggregate portfolio emissions by over 30% upon entering Article 173 compliance (which requires detailed reporting by French institutional investors of their exposure to climate-related risks, and their efforts to mitigate climate change).[14] These reductions may be further enhanced if the data is subject to third-party assurance reports— improving data accuracy, and limiting distortive framing in a firm's self-presentation of its emissions record.[15] (45d-015.3)

[5] Jiang Cheng, Jia Guo, Jeffrey Ng, and Tjomme Rusticus, The Effect of Mandatory Climate Risk Disclosure on Environmentally Responsible Investing: Evidence from the U.S. Insurance Industry, HKUJOCKEY CLUB ENTERPRISE SUSTAINABILITY GLOBAL RESEARCH INSTITUTE PAPER SERIES, 1 (2024), *https://ssrn.com/abstract=4771738*.

[6] Jiang Cheng, Jia Guo, Jeffrey Ng, and Tjomme Rusticus, The Effect of Mandatory Climate Risk Disclosure on Environmentally Responsible Investing: Evidence from the U.S. Insurance Industry, HKUJOCKEY CLUB ENTERPRISE SUSTAINABILITY GLOBAL RESEARCH INSTITUTE PAPER SERIES, 1 (2024), https://ssrn.com/abstract=4771738.

[7] Michelle Wong, U.S. Insurance Industry's Cash and Invested Assets Rise Over 5% to Close in on $9 Trillion as of Year-End 2024, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (May, 2025), https://content.naic.org/sites/default/files/capital-markets-special-reports-asset-mix-ye2024.pdf.

[8] Cheng et al., supra note 4, at 2.

[9] Sorabh Tomar, Greenhouse Gas Disclosure and Emissions Benchmarking, 61 JOURNAL OF ACCOUNTING RESEARCH, 451, 467 (2023).

[10] Benedikt Downar, Jürgen Ernstberger, Hannes Rettenbacher, Sebastian Schwenen, and Aleksandar Zaklan, Fighting Climate Change with Disclosure? The Real Effects of Mandatory Greenhouse Gas Emission Disclosure, 1795 DIW BERLIN DISCUSSION PAPER 1, 2 (2019), https://ssrn.com/abstract=3352390.

[11] Jean-Stéphane Mésonnier and Benoît Nguyen, Showing off Cleaner Hands: Mandatory Climate-Related Disclosure by Financial Institutions and the Financing of Fossil Energy, 2 (2022), https://ssrn.com/abstract=3733781.

[12] Cynthia A. Williams, Does Climate Disclosure Work to Reduce Greenhouse Gas Emissions? Emerging Evidence Suggests Cautious Optimism, 48 SEATTLE U. L. REV. 571, 577 (2025).
[13] Downar et al., supra note 10, at 4; Valentin Jouvenot and Philipp Krueger, Mandatory Corporate Carbon Disclosure: Evidence from a Natural Experiment 1 (July 13, 2021), https://ssrn.com/abstract=3434490.
[14] Mésonnier and Nguyen, supra note 11, at 2.
[15] Lily Hsueh, Do Businesses that Disclose Climate Change Information Emit Less Carbon? Evidence from S&P 500 Firms, 13 CLIMATE CHANGE ECONOMICS, 1 (2022).

Comment: Voluntary emissions reporting shows some promise of reducing emissions. Yet the academic literature suggests that voluntary regimes underperform mandatory regimes. Research also shows significant variation depending on the industry in which a firm operates. Most notably, voluntary regimes appear to work best in sectors perceived as heavy-emitting by the public— typically manufacturing-based sectors, rather than service-based sectors such as insurance, where emissions occur primarily as a consequence of underwriting and investment practices.

Kim and Lyon (2011) research the emissions impacts of the U.S. Department of Energy's ("DOE") voluntary registry program, which permits companies to file their claimed GHG emissions reductions. To measure the accuracy of these disclosures, Kim and Lyon also compare voluntary DOE-reported data to the required emissions reporting of electric utility companies, since those companies must report to the Federal Energy Regulatory Commission ("FERC").[16] The study finds a large gap between voluntarily reported emissions and actual emissions, with 68% of firms that voluntarily reported emission reductions to DOE reporting actual emission increases to FERC.[17] This suggests that such firms "viewed the [voluntary DOE] program as a form of greenwash."[18]

Hsueh (2022) compares S&P 500 corporations' voluntary Carbon Disclosure Project ("CDP") reporting between 2011 and 2016 to verified emissions data, finding company-wide emissions mostly unchanged (or in some cases increasing) following the adoption of CDP disclosures. [19] Participants who voluntarily reported taking additional steps to implement carbon management practices increased total carbon emissions by approximately 2.4%.[20] Some sectoral heterogeneity also emerged, with non-GHG-intensive sectors and consumer-oriented sectors more likely to claim inaccurate emissions reductions, whereas companies in GHG-intensive sectors showed actual company-wide reductions after opting into the CDP.[21] Hsueh attributes the emissions reductions of "dirtier" industries to enhanced scrutiny by regulators, politicians, and the public.[22] By contrast, industries with cleaner reputations engaged in reporting practices and related rhetoric that stakeholders were less able or inclined to verify.

Overall, the empirical findings on voluntary GHG emissions disclosures suggest that such regimes should be pursued when necessary, but should be replaced by a transparent and uniform regulatory mandate when legally and politically possible. The political will here is clear, and we encourage CARB to follow the California legislature's lead by not exempting insurers from Section 38532 coverage. (45d-015.4)

[16] Eun-Hee Kim and Thomas Lyon, Strategic Environmental Disclosure: Evidence from the DOE's Voluntary Greenhouse Gas Registry, Journal of Environmental Economics and Management, 311 (2011).
[17] *Id.* at 320.
[18] *Id.* at 311.
[19] Hsueh, *supra* note 15, at 5.
[20] *Id.* at 18.
[21] Id. at 23.
[22] *Id.* at 5.

Comment: We recognize that CARB's implementation timeline for SB 253 has not yet necessitated providing a detailed definition of reporting entities' Scope 3 obligations. However, this forthcoming Scope 3 focus will only further clarify the importance of including insurance-industry data.[23]

Given the U.S. insurance industry's roughly $9 trillion in assets, insurers' vast Scope 3 emissions have direct bearing on climate risk outcomes for the state's broader economy and its social well-being.[24] Yet voluntary reporting regimes have not provided sufficient disclosure of these emissions.

The World Resource Institute's GHG Reporting Protocol, which supplies accounting standards for 97% of S&P 500 companies participating in the voluntary Carbon Disclosure Project,[25] notes that "equity investments made by insurance companies using insurance premiums are required to be reported (although companies may establish a threshold for equity investments)." Yet CERES' 2025 publication *The Measurement Gap: A Deep Dive into Climate Risk Reporting in the U.S. Insurance Sector* finds that the insurance industry's reporting performance "remains extremely limited; with near-zero compliance…for financed emissions targets and negligible response rates for most other scope 3 categories." CERES further explains that Scope 3 sources represent "simultaneously the greatest challenge and the most significant opportunity for insurance industry climate risk management leadership," given that emissions from investing and underwriting practices account for 80-90% of a typical insurers' GHG footprint.[26] (45d-015.5)

[23] *Underwriting the Transition: A Deep-Dive Transition Plan Guide for Insurance and Reinsurance Underwriting Portfolios*, FORUM FOR INSURANCE TRANSITION TO NET ZERO (July, 2025), https://www.unepfi.org/wordpress/wp-content/uploads/2025/07/2nd-FIT-Transition-Plan_Final.pdf provides useful guidance on calculating Scope 3 emissions for this sector.
[24] Wong, *supra* note 7.
[25] GHG Protocol, Category 15: Investments, WORLD RESOURCES INSTITUTE.
[26] *The Measurement Gap: A Deep Dive into Climate Risk Reporting in the U.S. Insurance Sector*, CERES (Aug. 12, 2025), https://www.ceres.org/resources/reports/the-measurement-gap-a-deep-dive-into-climate-risk-reporting-in-the-us-insurance-sector.

Comment: With disclosure of such noteworthy Scope 3 emissions lagging under voluntary reporting frameworks, retaining insurers in CARB's Section 38532 coverage is crucial to providing the "people, communities, and other stakeholders in California," the "right to know about the sources of carbon pollution, as measured by the comprehensive GHG emissions data of those companies benefiting from doing business in the state." (45d-015.6)

Comment: In its December 9, 2025 Statement of Reasons for these drafted regulations, CARB notes that since SB 261 already excludes from coverage business entities subject to regulation by California's Department of Insurance ("CDI"), CARB now proposes to exclude such entities from Section 38532 coverage as well, "for continuity."[27] Respectfully, we submit that preserving SB 253's broad statutory scope provides a more fitting means of maintaining "continuity" in implementing the state's legislative mandate—rather than imposing SB 261's express exemption for insurers onto SB 253, which declines to offer any such exemption.[28]

We appreciate CDI's ongoing efforts to proactively address climate risk, including through its pending Long-Term Solvency Regulation, proposed October 28, 2025.[29] Yet we would highlight for CARB's consideration that CDI's proposed regulation does not require emissions-data disclosure, but instead focuses on insurers' long-term business risks and mitigation strategies. (45d-015.7)

[28] *California Climate Disclosure Laws: Recent Developments,* DEBEVOISE & PLIMPTON (Nov. 15, 2024), https://www.debevoise.com/-/media/files/insights/publications/2024/11/california-climate-disclosure-laws-recent.pdf notes that California's Senate Committee on Environmental Quality exempted insurers from SB 261 coverage in order to avoid "'double-reporting'" scenarios, given NAIC's existing disclosure standards. Regarding SB 253's emissions data, however, it is worth reinforcing that NAIC's Climate Risk Disclosure Survey leaves Scope 3 reporting voluntary, and that roughly 20 states, comprising roughly 15% of the U.S. insurance market, still do not participate in the survey, even for Scopes 1 and 2 reporting.

[29] Long-Term Solvency Planning (Workshop Text of Regulation), (Oct. 28, 2025).

Comment: Though important for assessing insurers' capacity to pay claims,[30] the documentation (not necessarily even disclosure) of these particular data points falls far short of SB 253's mandate to proactively inform the "people, communities, and other stakeholders in California…about the sources of carbon pollution, as measured by the comprehensive GHG emissions data of…companies."

We have also previously commended CDI for its Climate Risk Carbon Initiative and related climate disclosure initiatives.[31] However, these disclosures regarding insurers' fossil fuel investments fulfill a different function than SB 253's cross-sector reporting of emissions data by a wide range of businesses. Cross-sector reporting facilitates the public's capacity to track divergent emissions trends across the state's economy, to determine which industries have lagged in meaningful sustainability measures, and to promote appropriately tailored policy responses (or, as SB 253 put it, "to make informed decisions"). Here especially, uniform emissions reporting by numerous economic sectors proves valuable to investors seeking to assess which industries and businesses deserve their targeted support. (45d-015.8)

[30] *"Expect the Unexpected": Commissioner Lara Moves to Safeguard Californians' Financial Future With New Regulation,* CALIFORNIA DEPARTMENT OF INSURANCE (Oct. 28, 2025), https://www.insurance.ca.gov/0400-news/0100-press-releases/2025/release073-2025.cfm.

[31] Cynthia Hanawalt and Andy Fitch, Comment Letter on PreNotice Public Discussion on Long-Term Solvency Planning from the California Department of Insurance (Nov. 12, 2025), https://climate.law.columbia.edu/sites/climate.law.columbia.edu/files/content/Comment%20On%20California%20Department%20Of%20Insurance%20Prenotice%20Public%20Discussion%20on%20Long-Term%20Solvency%20Planning%20%2811.12.2025%29.pdf.

Comment: CARB should revise its drafted regulations for Health and Safety Code section 38532, preserving coverage of insurers. Empirical research shows mandatory, uniform, and quantitative emissions disclosures prompt the greatest emissions reductions. (45d-015.9)

Comment: By expressly exempting insurers from Section 38533 coverage, but not from Section 38532 coverage, the legislature indicated its intent that Section 38532 cover insurers. (45d-015.10)

Comment: Voluntary disclosure initiatives for insurers' especially extensive Scope 3 emissions have proved ineffective at promoting compliance. (45d-015.11)

Comment: We are concerned that CARB's proposed consolidated framework would exempt insurance companies from SB 253's greenhouse gas emissions reporting requirements in the interest of "continuity" with SB 261. That approach is inconsistent with the statutory scheme the Legislature enacted. During the legislative process, policymakers considered different approaches to the treatment of insurers under the two disclosure laws. Ultimately, the climate-related financial risk statute (SB 261) was modified in light of overlap with existing insurance regulatory frameworks, while SB 253 was enacted without any exemption for insurance companies. The absence of such an exemption in SB 253 is therefore deliberate. CARB does not have authority to create a categorical exclusion that the statute itself does not provide and that the Legislature declined to adopt. Extending an insurer exemption into SB 253 is not a matter of statutory interpretation but of policy preference, and it would improperly narrow the scope of a law designed to function as an economy-wide emissions disclosure regime.

Importantly, differences in coverage between SB 253 and SB 261 reflect deliberate legislative design, not statutory gaps, and do not authorize CARB to import limitations or exemptions from one statute into the other.

For these reasons, CARB should revise the proposal to require insurance companies that meet SB 253's $1 billion revenue threshold to report their Scope 1, Scope 2, and Scope 3 greenhouse gas emissions on the same basis as other covered entities, consistent with the statute's text and purpose. (45d-030.2)

Comment: Transparency around the insurance industry's exposure to financial risk through its fossil fuel investments is crucial. When California required disclosure of such investments from insurers under the Climate Risk Carbon Initiative in 2017, it explicitly recognized the potential significant financial risks posed to insurers' investments in oil, gas, coal, and utilities—yet this disclosure program was not continued, leaving a critical gap in information.[4] The inclusion of insurance companies under SB 253 would provide a level of transparency that is necessary for shareholders to assess risk as insurance companies continue to invest in and underwrite in the fossil fuel sector.

The impact of climate change on the insurance industry is increasingly apparent. Insurance companies in California are experiencing rising catastrophe losses resulting from climate change. In 2023, national insurance underwriting losses reached a 10-year high of $38 billion

due to more frequent and intense weather-related disasters, reinsurance price increases, and related inflation.[5] 2024 followed as the second-costliest year for catastrophe losses since 2005.[6] An Insure our Future report found that the share of insured losses from climate-related causes rose from 31% to 38% over the last decade and continues to rise.[7] These substantial losses have led to dramatic premium increases and insurance market withdrawals that are creating economic impacts far beyond the insurance industry itself. Exempting insurance companies from climate disclosures creates a major gap in understanding the risk of climate change to California and California businesses. (45d-030.3)

[4] https://interactive.web.insurance.ca.gov/apex_extprd/f?p=250:1:0::NO:10,25,30,40
[5] https://www.insurancejournal.com/news/national/2024/03/07/763884.htm
[6] https://www.insurancebusinessmag.com/us/news/property/pandc-returns-to-underwriting-profit-in-2024-529406.aspx
[7] https://insure-our-future.com/wp-content/uploads/2024/12/IoF-Scorecard-2024.pdf

Comment: Insurance companies in California report under National Association of Insurance Commissioners (NAIC) standards, which focus on climate-related financial risks but do not require comprehensive greenhouse gas emissions accounting. Although Insurers may disclose Scope 1,2, and "if appropriate," Scope 3 emissions; the framework does not prescribe standardized methodologies, formats, or third-party assurance, and it does not request financed or insured emissions – categories that represent the majority of insurers'' climate impact. In fact, most insurers do not report. A Ceres report found that only 31% of property and casualty insurance groups disclosed metrics and targets, signifying a major gap.[9]

The NAIC framework and SB 253 serve different purposes. Compliance with one does not satisfy the requirements of the other. For investors, this distinction is critical. Investors evaluating long-term value, exposure, and risk cannot rely solely on partial climate-risk narratives. They need quantified, comparable emissions data—particularly Scope 3—to assess which insurers are aligned with decarbonization trends, which face transition risk, and which are financing or underwriting activities likely to become stranded or uninsurable. Without transparent emissions disclosure, investors cannot accurately price risk, allocate capital, or evaluate whether insurers' business strategies are compatible with emerging regulatory, economic, and physical climate realities. (45d-030.4)

[9] Ceres, "Navigating Climate Risks: Progress and Challenges in U.S. Insurance Sector Disclosures," June 2024, p.30, https://www.ceres.org/resources/reports/navigating-climate-risks-progress-and-challenges-in-us-insurance-sector-disclosures

Comment: 1.Remove the proposed exemption for insurance companies under SB 253, requiring insurers to meet SB 253's revenue threshold to report Scope 1, 2, and 3 emissions. (45d-030.5)

Comment: If CARB believes regulatory guidance is needed for insurance industry-specific emissions calculations (particularly for financed and insured emissions), provide such guidance rather than creating a blanket exemption. (45d-030.6)

Comment: Insurance companies should be subject to the same transparency requirements as other large corporations. Their financed and insured emissions represent a substantial portion of California's and the nation's carbon footprint. (45d-030.7)

Comment: Ceres appreciates CARB staff's intent in exempting insurance companies from SB 253 for the sake of continuity, as expressed in the Staff Report: Initial Statement of Reasons. We recognize that insurers are subject to regulation by the California Department of Insurance, and we applaud the Department of Insurance for recently proposing a Long-Term Solvency Regulation that would, among other things, require insurers to analyze and disclose their strategies to mitigate climate-related risks.

- It was logical for SB 261 to exclude insurance companies, since insurers already disclose their climate risk in alignment with the Task Force on Climate-related Financial Disclosures (TCFD) framework, in response to the National Association of Insurance Commissioners' (NAIC) Climate Risk Disclosure Survey. The Metrics and Targets pillar of the TCFD recommendations would supposedly compel the disclosure of Scope 1, Scope 2, and relevant Scope 3 emissions. However, while insurers generally demonstrate high reporting rates in the Governance, Strategy, and Risk Management pillars of the TCFD recommendations, they consistently underperform when translating those disclosures into the measurable management systems required by the Metrics and Targets pillar.
- As Ceres detailed in an August 2025 report, The Measurement Gap: A Deep Dive into Climate Risk Reporting in the U.S. Insurance Sector, only 29% of insurers provided any information under the Metrics and Targets pillar in response to the latest NAIC survey. Furthermore, Ceres found a critical gap in indirect GHG emissions reporting, with a near-complete absence of reporting for Scope 3 emissions. This is despite Scope 3 representing the vast majority of many insurers' total GHG footprints, making comprehensive emissions measurement essential for understanding these companies' actual climate risk and impact.

Given this critical gap in insurers' emissions reporting practices, Ceres encourages CARB to reconsider this proposed exemption under § 96071(b)(2). Based on Ceres' research on disclosure gaps, insurers' reporting under SB 253 would in many cases result in new information beyond the data that most insurers are currently providing to regulators. The calculation of insurance- associated emissions is evolving, with early adopters reporting to the Partnership for Carbon Accounting Financials (PCAF) guidelines. In November 2022, PCAF launched the Global GHG Accounting and Reporting Standard for Insurance-Associated Emissions. Reinsurance and insurance companies, many of which are experienced with financed emissions measurement, are investing in systems for assessing and disclosing insurance-associated emissions. We anticipate that data collection and reporting methodologies will continue to improve over time, and the inclusion of insurance companies in SB 253 will provide meaningful data to the state, investors, and other stakeholders. Ceres notes that this recommendation reflects the internal view of our

organization and feedback from our Investor Network, but does not represent input from our company members. (45d-033.4)

Comment: I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements.

Insurance companies play a significant role in financing and backing fossil fuel infrastructure and invest heavily in industries that drive climate change. At the same time, many insurance companies are sticking Californians with the climate bill by withdrawing from communities and denying and delaying claims. Excluding insurance companies from emissions reporting leaves out a sector with a clear and direct connection to growing climate risk that is threatening the state.

The public deserves transparency about the insurance sector's climate harms. This exemption would weaken the rule and undermine public confidence in the climate disclosure program. The regulation should be finalized without delay and applied consistently to all covered corporations, including insurance companies, which clearly meet the criteria of SB 253. (45d-035.1)

Comment: We urge the Board to remove the proposed exemption from emissions reporting for insurance companies and finalize the rule expeditiously. (45d-036.1)

Comment: The proposal also includes a list of types of entities exempted from the two reporting programs, including state and federal government entities; tax exempt nonprofits and foundations; companies whose only business in California is the presence of teleworking employees; companies whose only business in the state is wholesale electricity transactions; and insurance companies. The proposal effectively justifies all exemptions except for the last, insurance companies, which is not supported by statutory text or the record of legislative intent. (45d-036.3)

Comment: However, we urge the Board to reconsider its unjustified exemption from SB 253 reporting for insurance companies doing business in the state. These are clearly corporate entities that make reportable revenue in the state and transact directly with California consumers. While SB 261 explicitly exempts insurance companies, SB 253 does not. Extending the exemption would be inconsistent with the statute, diminish the benefits of the program, and create a special carve out for an industry that is tightly linked to the state’s climate-related challenges. (45d-036.5)

Comment: An exemption for insurance companies is inconsistent with statute.

The Board has proposed exempting insurance companies from SB 253 reporting “for continuity,”[4] but doing so flatly contradicts the statute. The California legislature originally considered versions of both disclosure bills that did not exempt insurance companies,[5] but ultimately the financial risk disclosure law was adjusted in recognition that it significantly overlapped with the financial risk disclosure standard adopted by the National Association of Insurance Commissioners, while the emissions bill 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. Moreover, if the Board fabricates an exemption for insurers, other sectors are likely to seek exemptions as well. We note also that the two disclosure programs already differ in scope with respect to the number and size of firms required to report due to the different corporate revenue thresholds in the two laws. Other differences in scope are permissible as well—and indeed are required by the differences that the legislature deliberately created between the statutes. (45d-036.6)

[4] CARB. " Public Hearing to Consider the Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation. Staff Report: Initial Statement of Reasons ." December 9, 2025.
[5] California SB 449: "Climate-Related Financial Risk ." Stern. 2021-2022 Regular Session. February 16, 2021, as amended April 22, 2021; California SB 260: Climate Corporate Accountability Act . Wiener. 2021-2022 Regular Session. January 26, 2021, as amended August 15, 2022.

Comment: Insurance companies' greenhouse gas (GHG) emissions disclosures are important to California stakeholders.

California is experiencing a property insurance crisis driven in large part by climate change, exacerbated by the insurance industry's support for fossil fuels and harmful responses to the rising frequency, intensity, and cost of climate-related disasters. More frequent and destructive climate disasters have led insurers to raise rates, cut coverage, or abandon certain areas altogether (see, for example, State Farm's retreat right before the 2025 Los Angeles wildfires).[6] At the same time, nearly half of homeowners' insurance claims nationwide were closed without any payment in 2024[7] while premiums rose eight percent[8] — nearly three times the 2.9 percent inflation rate.

Even as insurers complain of growing climate-related losses, the industry's underwriting loss ratios remain low,[9] and overall profits set record highs.[10] In 2025, property insurers made profits of nearly $60 billion on underwriting alone across the country,[11] and that figure excludes investment profits. Executive compensation is increasing thanks in large part to so-called performance-linked pay packages that incentivize claim denials and other anti-consumer practices.[12]

Insurers are also among the leading institutional investors in fossil fuels,[13] investing approximately $580 billion in coal, oil, and gas[14] in 2019 alone. The burning of fossil fuels is the primary cause of climate change,[15] which means insurers' investments are contributing to the extreme weather events that are driving up costs for consumers. Simply put, it is in the public interest for California stakeholders to have more information about insurance companies' impact on the climate and their progress towards their stated climate goals. (45d-036.7)

[6] Jean Eaglesham and Susan Pulliam, "State Farm Was All In on California—Until It Pulled the Plug Before the Fires." *Wall Street Journal.* February 6, *2025.*
[7] Weiss Ratings, "14 Large U.S. Insurers Closed Nearly Half of Homeowner Claims with No Payment in 2024." June 11, 2025. 6 Jean Eaglesham and Susan Pulliam, "State Farm Was All In on California—Until It Pulled the Plug Before the Fires." *Wall Street Journal.* February 6, *2025.*
[8] "Natural Disasters Blamed as Home Insurance Projected to Rise 8% in 2025." *Rethinking65*. May 19, 2025.

[9] The property insurance industry's net loss ratio was 71.2 percent in 2024, compared to an average around 80 percent from 1980-2000. See: National Association of Insurance Commissioners. U.S. Property and Casualty and Title Insurance Industries – 2024 Full Year Results; Wang, Shaun S. et al. "U.S. property-casualty: Underwriting cycle modeling and risk benchmarks." *Casualty Actuarial Society.* Vol. 5, Iss. 2. 2012.
[10] See e.g., Jean Eaglesham, "Travelers Notches Record Profits; Insurer's Stock Rises." *Wall Street Journal.* January 22, 2025; Saqib Rahim, "Insurers earn record sums in disaster-free third quarter." E&E News. November 21, 2025; American Association for Justice. "The Insurance Industry is Quietly Making Record Profits =." April 1, 2025; Stancil, Kenny. Revolving Door Project. "Don't let home insurers fool you. They're more profitable than ever." July 14, 2025.
[11] Jean Eaglesham, "The Uproar Over Affordability Is Coming for Insurers." *Wall Street Journal.* January 22, 2026.
[12] Dan Wagner and Kenny Stancil. Public Citizen. "Home Insurance Executives Are Raking It In–At Your Expense." 2025.
[13] Investing in Climate Chaos. Urgewald. "Fossil Fuel Investment Report." August 9, 2024.
[14] Hailey Ross, "Climate risks for insurers: Why the industry needs to act now to address climate risk on both sides of the balance sheet." *S&P Global*. August 27, 2021.
[15] United Nations. "Causes and Effects of Climate Change." Accessed January 29, 2026.

Comment: Exempting insurance companies from SB 253 reporting would leave a documented emissions gap unaddressed.

While large insurance companies are disclosing climate-related financial risk reports to the California Department of Insurance,[16] there is a persistent gap in GHG emissions reporting.[17] The insurance industry has argued that GHG emissions generally do not represent a risk to insurers' financial health and thus should not be included in financial risk reporting.[18] This argument lacks merit, but in any event SB 253 addresses this gap because it requires disclosure of the full scope of GHG emissions reporting for corporate actors doing business in the state instead of relying on self-reporting that is limited to emissions that individual firms deem "risky" or "material." (45d-036.8)

[16] California Department of Insurance. NAIC Climate Risk Disclosure Survey Results Database. Accessed 2026.
[17] Ceres. "The Measurement Gap: A Deep Dive into Climate Risk Reporting in the U.S. Insurance Sector." August 12, 2025.
[18] American Property Casualty Insurance Association. Comment to the Securities and Exchange Commission. June 17, 2022.

Comment: We urge the Board to remove the proposed exclusion for insurers from emissions reporting, which is unauthorized by the language of the Acts. (45d-039.2)

Comment: We take issue, however, with the proposed exclusions in sections 96071(b)(2) and 96072(a)(5) for insurance companies. The Staff Report states correctly that SB 261 "excludes business entities subject to regulation by the Department of Insurance in this state, or . . . in the business of insurance in any other state." The proposed regulation would extend that exclusion to the application of SB 253 as well. This is not authorized by the plain terms of SB 253. The California State Legislature evidently knew how to draft an explicit insurance company exclusion when needed, as it did so in SB 261. It did not require or permit such an exclusion in SB 253.

The proposal does not seek to justify this exclusion beyond stating that it is being proposed "for continuity." This is no justification at all. The two laws already differ in scope with respect to the number and size of firms that are subject to reporting requirements. Excluding insurance companies from the requirements of SB 253 would not provide "continuity" in any meaningful sense, and is more importantly beyond the Board's statutory remit.

The Legislature had sound reasons for this difference between the Acts. Insurance companies were excluded from SB 261's reporting mandate because they are already subject to climate risk oversight through the California Department of Insurance and are required to report climate risk information in alignment with the Task Force on Climate-Related Financial Disclosures ("TCFD") framework under a standard adopted by the National Association of Insurance Commissioners. No parallel requirement for emissions reporting applies to insurers that would justify excluding them from SB 253, and there are large gaps in U.S. insurers' voluntary emissions reporting.[3] Indeed, a review of the most recent TCFD filings with the Department of Insurance[4] by the top ten California property and casualty insurers[5] reveals that only one made complete disclosure of Scope 3 emissions, and three made no emissions disclosures at all. As the Legislature stated in Section 1 of SB 253:

- California investors, consumers, and other stakeholders deserve transparency from companies regarding GHG emissions, to inform their decisionmaking;
- Accurate and comprehensive data is required to determine a company's GHG emissions and develop means to reduce them;
- Mandating annual, full-scope GHG emissions reporting will inform investors, empower consumers, and activate companies to improve risk management, and is a critical step for California to protect the state and its residents.

There is no statutory or other justification for excluding insurance companies from this mandate. (45d-039.5)

[3] Ceres, The Measurement Gap: A Deep Dive into Climate Risk Reporting in the U.S. Insurance Sector (Aug. 12, 2025).
[4] California Dept. of Insurance, Climate Risk Disclosure Survey Database, https://interactive.web.insurance.ca.gov/apex_extprd/f?p=201:6:::NO:RP,6,1::
[5] California Dept. of Insurance, 2023 California Property and Casualty Market Share Report, https://www.insurance.ca.gov/01-consumers/120-company/04-mrktshare/2023/upload/Top25grps2023.pdf

Comment: I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-043.1)

Comment: Insurance companies play a significant role in financing and backing fossil fuel infrastructure and invest heavily in industries that drive climate change. At the same time, many insurance companies are sticking Californians with the climate bill by withdrawing from communities and denying and delaying claims. Excluding insurance companies from emissions reporting leaves out a sector with a clear and direct connection to growing climate risk that is threatening the state. (45d-043.2)

Comment: The public deserves transparency about the insurance sector's climate harms. This exemption would weaken the rule and undermine public confidence in the climate disclosure program. The regulation should be finalized without delay and applied consistently to all covered corporations, including insurance companies, which clearly meet the criteria of SB 253. (45d-043.3)

Comment: Our primary recommendation for CARB is to reconsider the proposed exemption of insurance companies from SB 253 reporting requirements. While SB 261 explicitly excludes insurers, SB 253 does not, and extending that exemption is inconsistent with the enabling statute and legislative intent. Insurers are corporate entities doing business in California, generating revenue, and having real impacts on the environment via their underwriting and investment decisions. Existing disclosure regimes under the California Department of Insurance and the National Association of Insurance Commissioners Climate Risk Disclosure Survey are, at present, insufficient in their scope and jurisdiction to effectively substitute for the full scope of reporting under SB 253, specifically under the Metrics and Targets pillar of Scope 3 emissions. This is especially critical because this pillar is where much of the insurance industry's impacts are likely to be found.

Exempting insurers would create a major blind spot in California's overall, multi-agency climate disclosure system at a time when the state is facing an acute insurance availability and affordability crisis driven by climate-related disasters. Including insurers under SB 253 implementation would generate materially new information for regulators, investors, and the public, and would align California with emerging standards such as the Partnership for Carbon Accounting Financials for insurance-associated emissions. (45d-045.2)

Comment: I urge the Board to remove the proposed exemption from emissions reporting for insurance companies and finalize the rule expeditiously. (45d-048.2)

Comment: The proposed rule also includes a list of types of entities exempted from the two reporting programs, including state and federal government entities; tax exempt nonprofits and foundations; companies whose only business in California is the presence of teleworking employees; companies whose only business in the state is wholesale electricity transactions; and insurance companies. The proposed rule effectively justifies all exemptions except for the last, insurance companies, which is not supported by statutory text or the record of legislative intent. (45d-048.4)

Comment: However, I urge the Board to reconsider the proposed rule's unjustified exemption from SB 253 reporting for insurance companies doing business in the state. These are clearly corporate entities that make reportable revenue in the state and transact directly with California consumers. While SB 261 explicitly exempts insurance companies, SB 253 does not. Extending the exemption to SB 261 would be inconsistent with the statute, diminish the benefits of the program, and create a special carve out for an industry that is tightly linked to the state's climate-related challenges. (45d-048.6)

Comment: An exemption for insurance companies is inconsistent with statute.

The Board has proposed exempting insurance companies from SB 253 reporting "for continuity,"[4] but doing so flatly contradicts the statute. The California legislature originally considered versions of both disclosure bills that did not exempt insurance companies,[5] but ultimately the financial risk disclosure law in SB 261 was adjusted to exclude insurers in recognition that it significantly overlapped with the financial risk disclosure standard adopted by the National Association of Insurance Commissioners and implemented by the California Department of Insurance. I know this because I helped to draft the original version of SB 261 and provided technical assistance to its author as SB 261 and SB 253 moved through the Legislature.

SB 253 --the emissions disclosure bill -- was signed into law without an exemption for insurance companies. The California Department of Insurance does not require insurers to disclose emissions, nor does the NAIC Climate Risk Disclosure Survey. So the Legislature expressly did not exclude insurers from emissions disclosures under SB 253.

The Board lacks authority to carve out an exemption that does not exist in the statute and that the Legislature considered and rejected. Moreover, if the Board fabricates an exemption for insurers, other sectors are likely to seek exemptions as well. I note also that the two disclosure programs already differ in scope with respect to the number and size of firms required to report due to the different corporate revenue thresholds in the two laws. Other differences in scope are permissible as well—and indeed are required by the differences that the legislature deliberately created between the statutes. (45d-048.7)

[4] CARB. "Public Hearing to Consider the Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation. Staff Report: Initial Statement of Reasons." December 9, 2025.
[5] California SB 449: "Climate-Related Financial Risk." Stern. 2021-2022 Regular Session. February 16, 2021, as amended April 22, 2021; California SB 260: Climate Corporate Accountability Act. Wiener. 2021-2022 Regular Session. January 26, 2021, as amended August 15, 2022.

Comment: Insurance companies' greenhouse gas (GHG) emissions disclosures are important to California stakeholders.

California is experiencing a property insurance crisis driven in large part by climate change, exacerbated by the insurance industry's support for fossil fuels and harmful responses to the rising frequency, intensity, and cost of climate-related disasters. More frequent and destructive climate disasters have led insurers to raise rates, cut coverage, or abandon certain areas altogether (see, for example, State Farm's retreat right before the 2025 Los Angeles wildfires).[6] At the same time, nearly half of homeowners' insurance claims nationwide were closed without any payment in 2024[7] while premiums rose eight percent[8]—nearly three times the 2.9 percent inflation rate.

Even as insurers complain of growing climate-related losses, the industry's underwriting loss ratios remain low,9 and overall profits set record highs.[10] In 2025, property insurers made profits of nearly $60 billion on underwriting alone across the country,[11] and that figure excludes investment profits. Executive compensation is increasing thanks in large part to so-

called performance-linked pay packages that incentivize claim denials and other anti-consumer practices.[12]

Insurers are also among the leading institutional investors in fossil fuels,[13] investing approximately $580 billion in coal, oil, and gas[14] in 2019 alone. The burning of fossil fuels is the primary cause of climate change,[15] which means insurers' investments are contributing to the extreme weather events that are driving up costs for consumers. Simply put, it is in the public interest for California to have more information about insurance companies' emissions due to their impact on the climate and to have information about their progress towards their stated climate goals. (45d-048.8)

[6] Jean Eaglesham and Susan Pulliam, "State Farm Was All In on California—Until It Pulled the Plug Before the Fires." *Wall Street Journal.* February 6, *2025.*
[7] Weiss Ratings, "14 Large U.S. Insurers Closed Nearly Half of Homeowner Claims with No Payment in 2024." June 11, 2025.
[8] "Natural Disasters Blamed as Home Insurance Projected to Rise 8% in 2025." *Rethinking65*. May 19, 2025.
[9] The property insurance industry's net loss ratio was 71.2 percent in 2024, compared to an average around 80 percent from 1980-2000. See: National Association of Insurance Commissioners. U.S. Property and Casualty and Title Insurance Industries – 2024 Full Year Results; Wang, Shaun S. et al. "U.S. property-casualty: Underwriting cycle modeling and risk benchmarks." *Casualty Actuarial Society*. Vol. 5, Iss. 2. 2012.
[10] See e.g., Jean Eaglesham, "Travelers Notches Record Profits; Insurer's Stock Rises." *Wall Street Journal.* January 22, 2025; Saqib Rahim, "Insurers earn record sums in disaster-free third quarter." E&E News. November 21, 2025; American Association for Justice. "The Insurance Industry is Quietly Making Record Profits." April 1, 2025; Stancil, Kenny. Revolving Door Project. "Don't let home insurers fool you. They're more profitable than ever." July 14, 2025.
[11] Jean Eaglesham, "The Uproar Over Affordability Is Coming for Insurers." *Wall Street Journal*. January 22, 2026.
[12] Dan Wagner and Kenny Stancil. Public Citizen. "Home Insurance Executives Are Raking It In–At Your Expense." 2025.
[13] Investing in Climate Chaos. Urgewald. "Fossil Fuel Investment Report." August 9, 2024.
[14] Hailey Ross, "Climate risks for insurers: Why the industry needs to act now to address climate risk on both sides of the balance sheet." *S&P Global*. August 27, 2021.
[15] United Nations. "Causes and Effects of Climate Change." Accessed January 29, 2026.

Comment: Exempting insurance companies from SB 253 reporting would leave a documented emissions gap unaddressed.

While large insurance companies are disclosing climate-related financial risk reports to the California Department of Insurance,[16] there is a persistent gap in GHG emissions reporting.[17] The insurance industry has argued that GHG emissions generally do not represent a risk to insurers' financial health and thus should not be included in financial risk reporting.[18] This argument lacks merit, but in any event SB 253 addresses this gap because it requires disclosure of the full scope of GHG emissions reporting for corporate actors doing business in the state instead of relying on voluntary, self-reporting that is limited to emissions that individual firms deem "risky" or "material." (45d-048.9)

[16] California Department of Insurance. NAIC Climate Risk Disclosure Survey Results Database. 2026.

[17] Ceres. “The Measurement Gap: A Deep Dive into Climate Risk Reporting in the U.S. Insurance Sector.” August 12, 2025.
[18] American Property Casualty Insurance Association. Comment to the Securities and Exchange Commission. June 17, 2022.

Comment: However, given that insurance companies are clearly within scope based on the definition of reporting entities, the proposed insurance company exemption is not in conformance with the statutory language and the intent of the law as enacted. Throughout the legislative process supporters of SB 253 made clear the importance of ensuring a level playing field, where all commercial entities that meet the definition of reporting entity would be treated the same. We urge the CARB to reconsider its approach with respect to the application of the law to insurance companies to ensure even-handed application of this important statute. (45d-059.5)

Comment: EDF does not oppose the Proposal’s exclusion of insurance companies (§§ 96201(b)(2), 96202(a)(5)) from SB 261 reporting requirements, given explicit direction to that effect in that statute, but the text of SB 253 contains no analogous exclusion.[3] Insurers’ GHG emissions can be significant – in particular, scope 3 emissions associated with both investing and underwriting activities – and can serve as an indicator of financial risk, so emissions reporting from these entities would be of high value to the investors, consumers, and public that SB 253 is intended to benefit.[4] Methodologies for calculating and reporting these emissions have advanced markedly over the last several years.[5] Accordingly, EDF asks that CARB reconsider its proposed exclusion of insurers from SB 253 reporting requirements, if not in this initial rulemaking then in subsequent amendments. (45d-064.3)

[3] *Compare* Cal. Health & Safety Code § 38533(a)(4) (codifying the SB 261 definition of “covered entity” with its exclusion of insurance companies) *with* Cal. Health & Safety Code § 38532(b)(2) (codifying the SB 253 definition of “reporting entity”).
[4] *See* Silvia Bressan, *Greenhouse Gas Emissions and the Financial Stability of Insurance Companies*, 18 J. of Risk & Fin. Mgmt. 411 (2025), https://www.mdpi.com/1911-8074/18/8/411.
[5] *See* The Global GHG Accounting and Reporting Standard for the Financial Industry, Partnership for Carbon Accounting Financials, https://carbonaccountingfinancials.com/standard (last visited Feb. 2, 2026) (setting forth guidelines conforming with the GHG Protocol for calculation of financed, facilitated, and insurance-associated GHG emissions).

Comment: Additionally, we recommend against CARB staff’s proposal to exempt insurance companies from SB 253 compliance. The ISOR explains the basis of this exclusion is “for continuity[2]”. We are concerned about the basis of this rationale. To clarify, the groups of covered and reporting entities for the two different programs are expected to differ due to the distinct revenue thresholds that will change the scope of entities for each.

Moreover, we believe the emissions disclosures of insurance entities to be extremely pertinent given California’s current climate landscape and series of natural disasters exacerbated by global warming. Per the aim of these programs – providing increased transparency to consumers, investors, shareholders, and additional stakeholders – it is prudent that these programs are not preemptively exempted when the need for public access to emissions information is especially high.

We appreciate CARB staff's intent with this proposed exemption, however, urge consideration of the above factors. (45d-075.4)

[2] Staff Report: Initial Statement of Reasons

Comment: No company should be exempt from emissions disclosure rules! I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-117.1)

Comment: I strongly urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements which is fully unjustified with their investing in fossil fuels instead of things that prevent their claims or to ensure they can fully pay legitimate claims. (45d-140.1)

Comment: The law was passed to shine a light on all large corporate polluters, including insurance companies. There is no reason they should be treated differently from other industries that report their emissions. A rule that lets one industry off the hook weakens the law as a whole. (45d-141.1)

Comment: The regulation should be finalized without delay and applied consistently to all covered corporations, including insurance companies, which clearly meet the criteria of SB 253. Do the right thing. (45d-142.1)

Comment: Thank you for removing the proposed exemption for insurance companies from emissions disclosure requirements. (45d-144.1)

Comment: PLEASE remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-146.1)

Comment: The regulation should be finalized without delay and applied consistently to all covered corporations, including insurance companies, which clearly meet the criteria of SB 253. I am over 60 and have lived in California my whole life. I want to be protected from corporations polluting and dumping their waste!! Please think of the future generations!!! (45d-153.1)

Comment: In my arrogant opinion, all insurance companies and all participants in the insurance mafia are crooks. They make money by not keeping their promises to pay out. Their business model is to overcharge and underpay. No business likes to be told what to do or how to do it. We must have and enforce regulations to limit this criminal activity. (45d-157.1)

Comment: I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements. I am unable to appear in person but I consider it to be an important decision for the Board. The legislature got it right; please don't water it down! (45d-158.1)

Comment: As a lifelong Californian, I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-176.1)

Comment: I urge you to please remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-181.1)

Comment: Removing the proposed exemption for insurance companies from emissions disclosure requirements would be a slap in the face of every person who lives in California. (45d-188.1)

Comment: The regulation should be finalized without delay and APPLIED CONSISTENTLY TO ALL covered corporations, including insurance companies, which clearly meet the criteria of SB 253. (45d-193.1)

Comment: It is short-sighted to assume insurance companies play no role in climate change. The truth is, insurance companies play a significant role in financing and backing fossil fuel infrastructure and invest heavily in industries that drive climate change. (45d-196.1)

Comment: The law was passed to shine a light on all large corporate polluters, including insurance companies. There is no reason they should be treated differently from other industries that report their emissions. A rule that lets one industry off the hook weakens the law as a whole. (45d-221.1)

Comment: In my arrogant opinion, all insurance companies and all participants in the insurance mafia are crooks. They make money by not keeping their promises to pay out. Their business model is to overcharge and underpay. No business likes to be told what to do or how to do it. We must have and enforce regulations to limit this criminal activity. The climate crisis is killing all of us, not just human beings, but flora and fauna. Let us put our foot on the brake of the largest mass extinction of species since the dinosaurs. (45d-237.1)

Comment: Removing the proposed exemption for insurance companies from emissions disclosure requirements would be a slap in the face of every person who lives in California. (45d-268.1)

Comment: I am a native Californian. I own an electric vehicle, lawnmower and other yard equipment. I ride my bike whenever I can and am a member of the Sacramento Area Bicycle Advocates. I do my part to make sure California continues to lead on climate reform. So, I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements.

It is short-sighted to assume insurance companies play no role in climate change. The truth is, insurance companies play a significant role in financing and backing fossil fuel infrastructure and invest heavily in industries that drive climate change. (45d-276.1)

Comment: The regulation should be finalized without delay and applied consistently to all covered corporations, including insurance companies, which clearly meet the criteria of SB 253. The citizens of our state are interested and warrant the protection. Thank you for our future. (45d-290.1)

Comment: Do you somehow believe that pollution created from insurance companies' investments doesn't cause lung damage, doesn't create greenhouse gasses, doesn't

contribute to global warming? These laws should apply to everybody because they affect everybody. There should not be "free passes" for any industry, including the insurance industry. (45d-313.1)

Comment: I am a senior citizen with lung disease, and I am personally very concerned about this issue. (45d-351.1)

Comment: I am an elderly 3rd generation Californian who got my BS in Geology at a CSU in 1982. I am asking that you remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-356.1)

Comment: I really don't understand why insurance companies would be exempt unless they have someone in their back pockets. (45d-367.1)

Comment: Without insurance coverage, most oil and gas projects cannot move forward. That means these companies are directly responsible for the continued expansion of climate-damaging infrastructure. Their financial investments also pour money into the same companies driving heat, fires, and floods. These same insurers are walking away from Californians. They are raising premiums, cutting coverage, and pulling out of areas affected by wildfires and climate risk. Now they want to avoid even disclosing the pollution they help fund and profit from. (45d-369.1)

Comment: There is no valid reason to exempt insurance businesses from reporting their emissions. They do not act in the interest of Californians. This is yet another shameless money dodge. Please do not fall for it! (45d-416.1)

Comment: Please remove the proposed exemption for insurance companies from emissions disclosure requirements. I'm 83 years old and don't want to see California roll back climate change rules. (45d-417.1)

Comment: AS we try to eliminate fossil fuel, this exemption makes no sense. (45d-423.1)

Comment: Why give a hand out to insurance companies. All they do is hinder consumers. (45d-433.1)

Comment: Please remove the proposed exemption for insurance companies from emissions disclosure requirements! (45d-455.1)

Comment: No corporation or agency or business or person should be exempt from requirements to not harm our environment. (45d-456.1)

Comment: ANY companies that profit from fossil fuel expansion must be included in the California Air Resources Board rules requiring reporting on their roles in greenhouse gas emissions — and that must include companies investing in or insuring fossil fuel exploration, extraction, production, transportation, distribution, or use. We all know that insurance companies are some of the largest funders and guarantors of fossil fuel projects. These companies are directly responsible for the continued expansion of climate- damaging infrastructure. They save fossil fuel companies and utilities from costs related to losses linked

to heat, fires, and floods. Not only do they safeguard fossil fuel companies of the costs of their pollution but they directly harm their insured homeowners when there is a loss due to their products' impacts, pollution, and disasters both by underpaying for losses and by canceling coverage. (45d-494.1)

Comment: Stop selling out the environment and the rest of us. As a citizen, a constituent, an atheist, and a reality-based secular humanist values voter, I call on you to immediately remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-498.1)

Comment: NO INSURANCE LOOPHOLES! (45d-500.1)

Comment: I worked for nearly 32 years for both the San Diego APCD and the Air Resources Board helping to clean the air for residents of Southern California, as well as helping to reduce greenhouse gas emissions. Any carve out for insurance companies in regards to SB253 would be a slap in the face to me and the residents of Southern California. The rule should be applied consistently to all covered corporations. (45d-507.1)

Comment: Insurance companies should not be exempt from disclosure requirements. (45d-515.1)

Comment: Please remove proposed exemptions for insurance companies from emissions disclosure requirements.

Insurance companies play a significant role in financing and backing fossil fuel infrastructure and invest heavily in industries that drive climate change. Many insurance companies are then also sticking Californians with their climate bill by withdrawing from communities, and denying and delaying claims! Excluding insurance companies from emissions reporting leaves out a sector with a clear and direct connection to growing climate risk that is threatening our state.

Californians deserves transparency about the insurance sector's climate harms, and this exemption will only weaken the current rule and undermine public confidence in the climate disclosure program. This regulation must be consistent to all covered corporations, including insurance companies, which clearly meet the criteria of SB 253 with literally No exceptions! (45d-516.1)

Comment: I am a senior citizen and 40 year veteran of the climate response team. I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-533.1)

Comment: Climate change is real and exempting insurance companies is adding to the pollution that is propelling climate change. Don't put your head in the sand over this issue. (45d-534.1)

Comment: Insurance companies bankroll fossil dirty energy and worsen climate change. (45d-537.1)

Comment: We will NOT swallow this absurd exemption and let it go forward. (45d-539.1)

Comment: Do not weaken the California Climate Disclosure law that makes sure the large corporations doing business in this state report the emissions they generate. (45d-554.1)

Comment: It is insulting that insurance companies are refusing to insure homeowners while asking for this exemption. (45d-586.1)

Comment: I am a concerned citizen and homeowner STRONGLY URGING you to remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-590.1)

Comment: California passed a strong climate disclosure law to make sure large corporations doing business in the state report the carbon emissions they generate. This law is essential for public transparency and climate justice. It was written to include all major industries, especially those that profit from fossil fuel expansion. Now you consider weakening it. In the current draft rule, you propose to exempt insurance companies from reporting their greenhouse gas emissions. These companies do business in California, make huge profits off California consumers, and play a central role in financing fossil fuels. They insure oil and gas projects and invest billions in coal, oil, and gas. They are also raising rates and dropping coverage in communities hit hardest by wildfires and other worsening disasters, fueled by the devastating climate change they are driving with their investments and business practices. The law does not give them a free pass. Lawmakers have already debated this issue and intentionally kept insurance companies covered under the law. The exemption now being proposed is not supported by the text of the law or its legislative history. The industry wants special treatment, but CARB must not give in to the pressure. Why should insurance companies be given a free pass to pollute the air we all breathe and harm our climate? Thank you for giving this matter your serious unbiased consideration and protecting us. (45d-590.2)

Comment: Insurance companies are not neutral parties in terms of air pollution. In fact, they play a significant role in financing and backing fossil fuel infrastructure and they also invest heavily in industries that drive climate change. (45d-608.1)

Comment: Far too many decisions by regulators are quietly weakening the regulations as originally promulgated. (45d-609.1)

Comment: Of course the insurance industry wants a pass. They bankroll drivers of climate change, then raise rates and cancel policies to cover the resulting losses. They don't want to document the harm they are causing. We Californians depend on you to hold the line and require accurate reports from all contributors to the unfolding climate disaster. (45d-629.1)

Comment: Please help keep out air, water, and lands clean by not exempting insurance companies from emission disclosures. I've been a science teacher and everything we taught was about the need to make good changes for our future. This is not a good change for the environment. Be smart. Do the right thing. I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-641.1)

Comment: There should be no loopholes for any industry, especially one that contributes to the problem. Insurance companies play a significant role in financing and backing fossil fuel infrastructure and invest heavily in industries that drive climate change. (45d-670.1)

Comment: Insurance companies have gotten away with too much for far too long, they need to be held accountable, please. (45d-738.1)

Comment: As a person approaching 70 years old, I am directly affected by worsening air quality, as well as rising insurance rates on a fixed income. Please hold the financial sector accountable. (45d-787.1)

Comment: This is about Californians and their health and safety. Insurance companies are supposed to be about that. Please do not exempt insurance companies if their responsibilities. (45d-836.1)

Comment: As a senior citizen familiar with the insurance industry (long ago I was a Statistical Analyst for an insurance company in the insurance capital of the world), I'm upset at what insurance companies have been doing in California where I live now. Remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-845.1)

Comment: If you appropriately apply SB 253 to every corporation that does business in California, maybe humans will be able to survive on planet earth a little longer. Thank you for thinking about everyone as you do yourselves. (45d-855.1)

Comment: Are you aware of their collective, scandalous behavior in the wake of the Palisades and Alta Dena Fires? These insurance companies are backing out of insuring California properties because they are taking the impacts of climate change very seriously. You should be concerned about how insurance companies themselves are contributing to all the things that make climate change worse every day. Do not give these insurance companies a pass on this important effort. Otherwise, it would look like you are complicit letting them hide their impacts while they profit on ensuring less risky properties in California while making it difficult for Californians to insure their homes. I'm sure you all know someone who's had their insurance company pull the rug out from underneath them by canceling their coverage, demanding expensive amendments to property and doubling, or even tripling the annual rate. The Fair plan cannot handle every risky property in California. Think of all of this when making your decision. (45d-857.1)

Comment: As a pediatrician, for the health of our children, I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-926.1)

Comment: As an environmentally-conscious American, I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements.

Insurance companies are notorious for funding fossil fuel infrastructure and investing heavily in industries that contribute climate change. It is not unreasonable nor pedantic to want exact

reporting from them concerning greenhouse gas emissions. The public already distrusts insurance companies for having to pay high premiums just for living their lives but undermining data by excluding them would be yet another thing that people will see as another underhanded means of the powerful and the rich harming and profiting off of everyone else. Make sure regulations are applied to ALL. (45d-961.1)

Comment: Please don't implement SB 253 "WE THE PEOPLE" deserve transparency about the insurance sector's climate Harms. This exemption would weaken the rule. (45d-968.1)

Comment: I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements. There should be NO exemptions for any companies from emissions disclosure requirements. (45d-1057.1)

Comment: EVERYONE must be accountable to the climate and the environment. (45d-1068.1)

Comment: Please do not remove the proposed exemption for insurance companies from emissions disclosure requirements. Otherwise, you remove its teeth. It would be wrong. (45d-1128.1)

Comment: I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements--it violates the intent of the law and thus should never have been proposed. (45d-1206.1)

Comment: I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements. As a citizen, it means I would have no way to hold insurance companies accountable for their responsibility in contributing to the devastations of climate change. (45d-1303.1)

Comment: We need to have facts in order to make intelligent decisions. For large scale impactful decisions we must require the disclosure of relevant critical information. I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-1305.1)

Comment: I am a Sacramento resident nearing retirement. I will be relying more on insurance as I age in this area and I want to know they are held responsible. I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-1427.1)

Comment: I see no reason why this industry should get a special exemption from this rule, and this sets a dangerous tone that certain powerful industries can lobby their way out of requirements set in place by the legislative process. (45d-1434.1)

Comment: The purpose of SB 253 is to give the public the transparency it deserves, about various industries' involvement in climate harms -- and the public is especially affected -- coming and going! -- by the insurance sector's climate harms. (45d-1492.1)

Comment: Insurance companies have been among the most important sources of information and strategies in the field of climate change and fossil fuels impacts. As such they

should be shielded against threats and meddling by Big Oil seeking to minimize publicity of Big Oil's impacts. The rule in question here needs to be stopped as its net result is to allow Big Oil to intimidate insurance providers into colluding in Big Oll's decades of planned lies. (45d-1588.1)

Comment: I am a mother and a deeply concerned citizen who wants to mitigate the climate disruption that grows more apparent every day. Thus I oppose the proposed exemption for insurance companies from emissions disclosure requirements, and I urge you to eliminate it now. (45d-1703.1)

Comment: Please… for my lungs and health, as well as yours and all our progeny - remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-1786.1)

Comment: At its best, insurance is a helpful mechanism. When insurance is given special exceptions, it does not become its best. (45d-1793.1)

Comment: As a person who has lived in California for over 50 years, and a physician for a county health system whose patients and communities have experienced many of the negative health and environmental consequences of fossil fuel development, I strongly urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-1837.1)

Comment: I lived most of my life in California, before retiring. Insurance companies who invest in fossil fuels are contributing to the fire and drought in California. Don't exempt them. (45d-1838.1)

Comment: I am an octogenarian senior citizen and I have observed all too often when big money subverts good ideas. This proposed exemption is one of those instances. It seems there are always exemptions that are good for corporations but bad for people and this is another instance of that. (45d-1859.1)

Comment: There is no valid reason to exempt insurance companies from having to comply. Don't give in to their well-paid lobbyists! (45d-1861.1)

Comment: Exempting insurance companies from this law is clearly wrong on the face of it: don't let rapacious industries destroy our air quality! (45d-1876.1)

Comment: As someone who lives in a high risk zone for wildfires, I know firsthand the Human cost associated with continued inaction on climate change, and therefore see no reason whatsoever for multi-billion dollar corporations and their CEOs not being held fully accountable for their role in the climate crisis. (45d-1892.1)

Comment: PLEASE REMOVE THE PROPOSED EXEMPTIN FOR INSURANCE SOMPANIES FROM EMISSIONS DISCLOSURE REQUIREMENTS! (45d-1947.1)

Comment: Insurance companies are a catalyst for climate change because they finance fossil fuel infrastructure and polluting industries. They are making Californians pay for it by

withdrawing from communities and denying and delaying claims. If you leave out insurance companies from emissions reports, you leave out a whole sector that is strongly tied to an increasing climate risk Californians are facing. The insurance sector shouldn't be able to hide the harm they cause to the climate.

The proposed exemption pokes holes in the rule as it erodes the trust the public has in the climate disclosure program. The regulation should be finalized without delay and applied consistently to all covered corporations, including insurance companies, which clearly meet the criteria of SB 253. (45d-1983.1)

Comment: I strongly feel that insurance companies should not be exempt from reporting on emissions disclosures. The insurance companies need to be held much more accountable for their role in climate fueled disasters in our state. (45d-2012.1)

Comment: I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements that is not consistent with the intent of the law and protection of consumers from companies that spend hugely on investments known to make the fires worse then claim no money to pay claims. (45d-2213.1)

Comment: Insurance companies should not be exempted from emissions disclosure requirements; please reverse that in the final rule! (45d-2217.1)

Comment: Accountability is key. Real numbers can hopefully lend to minimizing areas of climate change. The public deserves transparency about the insurance sector's climate harms. (45d-2293.1)

Comment: Climate change is a significant health and economic reality that must be considered in all businesses! Insurance companies play a significant role in financing and backing fossil fuel infrastructure and invest heavily in industries that drive climate change. (45d-2363.1)

Comment: Our California lawmakers didn't make exceptions when they passed SB 253 - do not add extra loopholes to the law! I urge you to remove the proposed exemption for insurance companies from emissions disclosure requirements. (45d-2411.1)

Comment: Lawmakers have already debated this issue and intentionally kept insurance companies covered under the law. The exemption now being proposed is not supported by the text of the law or its legislative history, and it is an outrage that CARB is trying to weaken it laws designed to hold corporations accountable. (45d-2781.1)

Comment: In the current draft rule, the Board is proposing to exempt insurance companies from reporting their greenhouse gas emissions. These companies do business in California, make huge profits off California consumers, and play a central role in financing fossil fuels. They insure oil and gas projects and invest billions in coal, oil, and gas. They are also raising rates and dropping coverage in communities hit hardest by wildfires and other worsening disasters, fueled by the devastating climate change they are driving with their investments and business practices. The law does not give them a free pass. Lawmakers have already debated this issue and intentionally kept insurance companies covered under the law. The

exemption now being proposed is not supported by the text of the law or its legislative history. The industry wants special treatment, but CARB must not give in to the pressure. (45d-2890.1)

Comment: If they are on the side causing the problem then they need to disclose emissions and the negative impact on people and property that they were meant to protect. Insurance companies play a significant role in financing and backing fossil fuel infrastructure and invest heavily in industries that drive climate change. (45d-2913.1)

Comment: One thing I do -- the only criticism I have of the proposal has to do with the treatment of the insurance industry. And as noted in the presentation, the Legislature's intent with respect to the insurance industry is crystal clear. It was excluded from SB 261, and it was not excluded from SB 253. So the law of California is that the insurance industry is included in SB 253's carbon disclosure requirement. And so I do not believe that the Board has the authority to remove an industry that was included by the Legislature.

Now, I understand the rationale of the proposal, and that is that the Department of Insurance has a process around carbon disclosures for insurance industries -- for the insurance companies.

However, that disclosure, as I understand it, is not mandatory. It is voluntary. And even though CDI wants insurance companies to do it, it is not required. And so if we have CDI having a voluntary carbon disclosure and then the insurance industry is then exempt from SB 253, or from these regulations, then we will have insurance companies that effectively fall through the cracks and are not captured.

When we -- and I a also want to be clear that when we passed SB 253, and this was my intent, and I even -- we put an amendment in to make clear, that we do not want to duplicate disclosures. And we don't want to create make work for corporations that are already doing disclosures. And we have a specific provision in SB 253 that if, for example, another jurisdiction, whether eventually is the federal government or if it's the EU or another state, requires all or part of what SB 253 requires, then you can simply append those -- that disclosure to another jurisdiction to this disclosure.

So if the other jurisdiction -- and CDI I believe would qualify. If an insurance company is -- makes a disclosure under the CDI process, that fully encompasses what SB 253 requires it to disclose, then there's no reason to duplicate it. The insurance company, I believe, would simply be able to append its CDI disclosure and satisfy the CARB -- or the SB 253 requirement. If the CDI disclosure only gave you half of what SB 253 required, you can append that and then supplement it with the other half.

So we don't want to create make-work or duplication. And so I understand the spirit of what -- of what the proposed regulation is trying to do. However, because the CDI carbon disclosure is voluntary, I do not believe it is within the spirit or the language of SB 253 to exempt the industry. And again, if they're disclosing everything to CDI that 253 requires, then just append

it. We don't want to create make-work, but we do not want to exempt an industry. (BHT-001.3)

Comment: I rise, however, in opposition to the proposed exemption, carving out insurers from having to comply with the regulations as it relates to SB 253.

Right now, the Department of Insurance administers the NAIC Climate Risk Disclosure Survey. On the face of that survey, it's described as a voluntary risk management tool. And while some companies are reporting Scope 1 and Scope 2 emissions, they're not required to report Scope 3. And all companies are not reporting all emissions. So there is not duplication.

Number two, the Legislature did not give you the authority to exempt insurance companies from regulations under SB 253. The legislature decided, thanks to Senator Stern's very able leadership, to include an explicit exemption for insurers to report under SB 261, because there is a TCFD aligned reporting currently going on. But there is not emissions reporting required. And the Legislature in SB 253 expressly did not include an exemption for insurance companies.

So I respectfully submit that you lack the authority to exempt insurers from regulations under SB 253 as it relates to greenhouse gas emissions reporting and it would be contrary to the legislation to do so. I, therefore, strongly urge you to strike the language at regulatory section 96071(b)(2), which is within your authority to do so, in that that regulation is properly before you. There's been comment on that particular provision, and you have it within your authority to strike the offending language which provides for an exemption that exceeds your statutory authority and is contrary to the Legislature's intent. (BHT-004.2)

Comment: 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.

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

Insurance Company	Shares (US$)	Bonds (US$)	# Fossil Fuel Companies	Total Investments
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. (BH-005.2)

Comment: But we oppose the exemption for insurance companies from SB 253 reporting.

As you heard from Senator Wiener, if the Legislature had wanted to exempt the insurance industry, it would have done so. It chose not to, and therefore I don't think it's even legal for you to give them the exemption.

Secondly, the rationale for the exemption is inaccurate, as you heard from Commissioner Jones. The Department of Insurance disclosure is not enforceable, not comparable to what is required by this law. We know the insurance industry plays an important role in climate change, so it is important for them to be covered. So, urge you to make that change and move forward with implementation. (BHT-011.4)

Comment: We respectfully ask that the proposed exemption of insurers from SB 253 reporting requirements be removed. We understand staff's intent with this exemption. However, I want to echo the comments that were made by Senator Wiener and others in the room today that this strays from the legislative intent of SB 253. Keeping this group of entities included is necessary for thorough reporting from this sector and for preserving the integrity of the program. (BHT-012.4)

Comment: With regards to the proposed exemption of insurance companies, we support Senator Wiener's proposal to remove the proposed exemption from the regulation to confirm with the statutory language and intent of the law. (BHT-013.8)

Comment: However, I am concerned about the proposed exemption for insurance companies under 253. First, the Legislature did not authorize this exemption. The statute applies broadly to large entities doing business in California, and therefore the Board lacks authority to narrow its scope absent clear statutory direction.

Second, insurance companies are not peripheral actors in the climate economy. They are central. Insurers influence capital flows, shape risk pricing, determine underwriting standards and increasingly drive climate-related investment decisions. Their underwriting and investment portfolios can enable or constrain high emitting activities. Excluding them would leave a significant portion of climate-related financial exposure outside the disclosure framework.

Third, removing insurers undermines the principle of a level playing field and creates unequal treatment and weakens the comprehensiveness that gives these laws their value. I respectfully urge the Board to remove the insurance exemption and encourage the Board to work with industry to obtain any Scope 1 and 2 data they may be reporting to DO -- the Department of Insurance and to incorporate that into to 253, and support the vote today to approve the regulation. (BHT-014.3)

Comment: Finally, we noted in our recent comment letter on this proposed regulation that while SB 261 explicitly included legislative text carving out insurance companies, SB 253 did not, so we echo the other comments expressing that insurers should remain subject to SB 253. (BHT-020.3)

Comment: And to echo several other commenters, in order to live up to the letter and spirit of the law, CARB must not create an exemption for insurance companies under SB 253, which requires covered entities to disclose their greenhouse gas emissions. There are three main reasons why the insurance carve-out must be closed. First, exempting insurers violates the statutory text and legislative intent of SB 253, and therefore exceeds the Board's authority, which opens the door to legal challenges. I won't restate what was said by the Senator and former Insurance Commissioner.

Second, exempting insurers from mandatory reporting is a terrible public policy. Given the industry's essential role in driving the climate crisis through its underwriting and investing in

fossil fuels. If when you look at the financing of fossil fuel projects, insurance is required in order to unlock the giant loans and financial packages that enables them to be built.

The insurance industry's reckless response to climate driven extreme weather in California, in particular by raising rates, rejecting and underpaying valid claims, and abandoning whole markets together has been reckless and Californians deserve better. (BHT-023.2)

Comment: We support all aspects of the proposed fee regulation, except the unjustified exception from emissions reporting for insurance companies. We are extremely concerned that the Board proposed to exempt insurance companies. So this would generate a substantial gap in reporting for an industry that is tightly linked to the State's climate-related challenges. For everyday Californians who are impacted by climate change, insurers are perhaps the most important corporate entities that they will engage with and see transparency from on climate costs and harms.

Insurers decide how much consumer's climate costs will rise, if they will be able to keep their home and rebuild after disaster. And they are deeply contributing to the crisis at the same time through their investments and underwriting in fossil fuels.

While insurers complain about climate-related losses, the truth is that the industry posted near record profits of nearly $60 billion in underwriting alone across the country in 2025, and that excludes investment and profits. The public is right to seek this transparency and accountability from insurers and the existing methods are not up to task. CARB must deliver a plan to cover insurers and begin disclosing full scope emissions, as per the plain language of SB 253. (BHT-029.2)

Comment: EDF asks that CARB reconsider its proposed exclusion of insurers from SB 253 emissions reporting requirements, if not in this initial rulemaking, then in subsequent amendments. (BHT-033.3)

Comment: We are in support of almost all aspects of the proposed regulation, but I want to echo the comments, in particular of Senator Wiener, and former Commissioner Dave Jones, and other commenters thus far in urging the Board to eliminate the proposed exclusions for insurance companies. (BHT-036.1)

Comment: The proposed regulation would extend that exclusion to the application of SB 253. As previously stated by other commenters, this is not authorized by the plain terms of SB 253. Other commenters have spoken to the exclusion of insurance companies from SB 261's reporting mandate, because they are already subject to climate risk oversight by the California Department of Insurance, and are required to report climate risk information. (BHT-036.2)

Comment: This information is not duplicative of the information that would be required by reporting under SB 253. Eliminating the proposed exclusion for insurers would not result in duplicative reporting. There is no parallel requirement for emissions reporting that applies to insurers that would justify excluding them from SB 253's mandate. And there are, in fact, large gaps in U.S. insurer's voluntary emissions reporting. As the gentleman from the

insurance industry said, you can look at the filings made by insurers on the Department of Insurance's website and you will see that, in fact, three of the top ten California insurers made no emissions disclosures at all. (BHT-036.3)

Comment: We do seek one change in the proposed rules. Please remove the exemption from reporting for entities regulated by the Department of Insurance.

California is experiencing a property insurance crisis, driven by increasing frequency and severity of climate disasters caused by burning fossil fuels. From 2018 to 2023, non-renewal rates in California rose 82 percent, home insurance premiums are up 55 percent, and one in five Californias are now going without home insurance. (BHT-037.2)

Comment: Yet, even though major insurers are asked to pay for climate damages, they're also contributing to climate change by ensuring and investing in fossil fuels. For example, major insurers of LNG export terminals in the Gulf south, include Liberty Mutual, AIG, Zurich, The Hartford, Travelers, and Berkshire Hathaway. These terminals will emit 1.3 billion metric tons of greenhouse gases, similar to adding 345 coal plants.

As of 2019, the insurance industry had a total of 582 billion invested in coal oil and gas. The largest investor is Berkshire Hathaway 95.8 billion, including the top investor in Chevron. State Farm has 20.6 billion and so on. These large insurance companies are insuring and investing in fossil fuels at the root of the climate crisis. They should report their Scope 1, 2 and 3 emissions under California law.

And so for these reasons, we urge you to remove the exemption on large insurance companies under the Climate Disclosure rules. (BHT-037.3)

Comment: And I certainly hope if there are fees, it applies to all business, including insurance or things that do not be seem to be pollution generators. If they report on climate risk, maybe CARB can simply edit a report, edit a copy in its report. (BHT-043.5)

Comment: However, similar to many other comments today, we respectfully ask the Board to remove the proposed exemption for insurance companies. As Senator Weiner and others have stated, this exemption goes against the legislative intent of SB 253. (BHT-045.2)

Comment: While we support both laws, we join Senator Wiener, Dave Jones, EDF, NRDC, and many others commenting today in urging the Board to reconsider the proposed exemption of insurance companies from SB 253's greenhouse gas emissions reporting requirements.

The Legislature did not exempt insurance companies from SB 253. It could have done so, but did not, and we believe that that deliberate choice should be honored. Allowing insurance companies to avoid reporting emissions is to deny critical information to investors, the public, regulators and the companies themselves. This is especially true, given that insurance companies continue to invest in and insure high-carbon companies. Their emissions matter.

Major insurers hold tens of billions of dollars in fossil fuel investments and underwrite high-emitting projects, which represent substantial and material climate risk. The existing reporting

frameworks do not require standardized greenhouse gas accounting or cover financed and insured emissions. We respectfully request that the Board remove the proposed exemption for insurance companies. (BHT-046.2)

Comment: 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] (LC-001.3)

> [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-c arbon-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

Comment: 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 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 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. (LC-001.4)

[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-e missions/

Comment: 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. (LC-001.6)

Agency Response: No changes were made in response to these comments. CARB acknowledges the concerns raised by the commenters. In section 96071(b) of the Regulation, CARB exempted business entities subject to regulation by the Department of Insurance in this state, or that are in the business of insurance in any other state, from Health and Safety Code section 38532 for 2026 emissions reporting. The insurance exemption was appropriate for 2026, recognizing that requiring entities in the business of insurance to report to CARB would have yielded no new emissions information being reported to California state agencies.

The approximately 1,700 entities in the business of insurance operating in California with more than $100 million in underwriting are already required by the California Department of Insurance (CDI) to respond to the National Association of Insurance Commissioners (NAIC) survey on climate-related financial risk, which includes questions related to Scope 1, Scope 2, and Scope 3 emissions. For the subset of those entities that would have been subject to CARB's first year regulation, any insurer already collecting Scope 1 and Scope 2 data for CDI would have simply submitted that same information to CARB. Without regulatory exemption in this first year, that entity in the business of insurance would have been required to pay a fee to submit this duplicative data to CARB. Any insurer not collecting data would have been covered by the Enforcement Notice (and not required to submit reporting to CARB in 2026), while also being required to pay the fee.

Following public feedback and Board discussion, the Board adopted the Regulation with no changes. Based on public input, the Board's Resolution was amended to direct CARB to "coordinate with the California Department of Insurance in order to evaluate and propose future regulatory requirements, as appropriate, to include entities in the business of insurance within the scope of Health and Safety Code section 38532, provided that they are not otherwise required to submit that emissions data to the California Department of Insurance."

Some commenters argue that CARB lacks legal authority to exclude entities in the business of insurance from 2026 Phase 1 and Phase 2 reporting requirements. CARB respectfully disagrees. First, Health and Safety Code sections 38532 and 38533 expressly direct CARB to undertake rulemaking to implement and enforce the programs created by those statutes – which is precisely what CARB has done in the Regulation. (See Health and Safety Code sections 38532 and 38533.) Health and Safety Code section 38532 expressly authorizes CARB to "adopt or update any other regulations that it deems necessary and appropriate to implement this section." (Section 38532(c)(4).) Sections 39600 and 39601 of the Health and Safety Code also direct CARB to do such acts as may be necessary for the proper execution of CARB's powers and duties, and direct CARB to adopt regulations necessary for the proper execution of the powers and duties granted to CARB.

Here, many aspects of the statutory programs created by Health and Safety Code sections 38532 and 38533 necessitate further specificity and clarity through rulemaking – including the programs' applicability provisions. As part of the Regulation, CARB developed detailed applicability provisions and certain categories of entities to which the Regulation is not applicable. These provisions are necessary to clearly identify which entities are and are not subject to the Regulation. CARB developed additional provisions describing "revenue", "doing business in California", and other key applicability provisions, as well as specifying that the Regulation does not apply to certain entity types, including non-profit or charitable organizations; Federal, State and local government entities and government majority-owned entities; entities whose only activity in California consists of wholesale electricity transactions;

entities whose only business in California is compensation or payroll expenses; and certain specified entities in the business of insurance. (See proposed section 96071(b).) These exemption categories for first-year (2026) Scope 1 and Scope 2 reporting were identified by CARB as necessary for proper implementation of the programs created by Health and Safety Code sections 38532 and 38533.

One commenter argues that exempting insurers from reporting under Health and Safety Code section 38532 is contrary to legislative intent.[8] CARB respectfully disagrees. Neither Health and Safety Code section 38532 nor the bill enacting it (SB 253) includes any provisions specific to insurers. Similarly, nothing in any of the ten available legislative analyses for SB 253 indicates legislative intent regarding insurers. In developing the Regulation, CARB reasonably sought to treat insurers consistently across the two programs that are the subject of this rulemaking, promoting regulatory consistency. Notably, the rest of the Regulation treats similar entity types the same across the GHG reporting program under Health and Safety Code section 38532 and the climate-related financial risk reporting program under Health and Safety Code section 38533. In other words, the other exemptions and applicability provisions (beyond the statutory revenue thresholds) apply the same across those two programs.

As CARB explained in section H-2 of this document, CARB's development of the Regulation focused on 2026 reporting. CARB determined that for reporting year 2026, no additional Scope 1 and Scope 2 information would be obtained from entities in the business of insurance, as such entities would simply provide the same information to CARB as they would already report to CDI. Health and Safety Code section 38532(c)(2)(D)(i) states that the emissions reporting be structured in a way that minimizes duplication of effort. CARB is continuing to evaluate the program's applicability to entities in the business of insurance for reporting years 2026 and beyond. As part of this effort (and as some commenters also note), CARB will evaluate the existing NAIC survey reporting requirements under CDI in further considering whether to require the insurance industry to report their GHG emissions in future reporting years. As indicated at the February 2026 CARB Board meeting, CARB is open to receiving input across the entirety of CARB's newly initiated 2027 rulemaking concerning this same program, including revising the definitions and exemptions that were put forward as part of the Regulation.

E-4 Multiple Comments: Expand the Definition of § 96071(b)(3) (Government Entities Exemption)

Comment: CARB Should Modify the Scope of Its Proposed Exemption for Government Entities to Include Federally Chartered Instrumentalities of the United States.

[8] CARB notes that this comment letter (LC-001) was submitted outside of the 45-day comment period on the Regulation. CARB therefore objects to the entire comment letter as untimely. CARB is not required to respond to untimely comments. Nevertheless, CARB provides the following responses to ensure the record is clear on the topics raised by the commenter.

The coalition writes to explain the unique nature of the role its members play as instrumentalities of the United States and to request that CARB staff make targeted changes to its proposed initial regulation implementing the Climate Corporate Data Accountability and Climate-Related Financial Risk Disclosure laws (referred to herein as SB 253 and SB 261, respectively) to ensure that FCS institutions are exempted, for the reasons provided below.

1. Federally chartered instrumentalities of the United States are similar to companies that are majority government-owned in that they are quasi-governmental entities formed to serve the public interest.

CARB proposes to codify in § 96071(b)(3) an exemption for "Federal, State, and local government entities, and companies that are majority-owned by government entities (>50.00%)."[4] The coalition requests that CARB change the proposed exemption in § 96071(b)(3) to encompass all federally chartered instrumentalities of the United States due to their unique construct as entities created by the federal government to serve a specific public interest.

Presumably, CARB's proposed exemption for majority-owned government entities would encompass the Federal Home Loan Mortgage Corporation (Freddie Mac) and Federal National Mortgage Association (Fannie Mae) by virtue of their current ownership by the United States Treasury under their conservatorships. Both Freddie Mac and Fannie Mae are instrumentalities of the United States and were created by federal charter in the same manner as the FCS institutions. For example, one FCS institution—Farmer Mac—has similar characteristics and plays a similar role to Freddie Mac and Fannie Mae in that they are all secondary mortgage market GSEs. Farmer Mac was created by Congress to promote a secondary market in qualified agricultural real estate mortgage loans, similar to the secondary markets in residential mortgage loans served by Fannie Mae and Freddie Mac. Although it is not "government-owned," as an instrumentality of the United States, Farmer Mac's ties to the federal government closely resemble those of these other GSEs that would presumably be exempt under CARB's proposal. As examples: Farmer Mac has a congressionally authorized line of credit with the U.S. Treasury; the Federal Reserve Banks are required to act as Farmer Mac's depositories and fiscal agents, and Farmer Mac has congressionally authorized access to the book-entry system of the Federal Reserve System. Further, five of Farmer Mac's permanent board members are appointed by the President of the United States and confirmed by the Senate.

These and other characteristics of FCS institutions demonstrate their interrelationship with the federal government, similar to majority government-owned entities that CARB proposes to exempt. Through the requested modification to § 96071(b)(3), we simply seek to have FCS institutions recognized for their unique status as instrumentalities of the United States government.

Given the specialized purposes and discrete sectors that FCS institutions serve under their federal charters, emissions or climate-related risk information is unlikely to be meaningful or

decision-useful for their customer base, which relies on these institutions as a source of dependable liquidity to support agricultural production and rural infrastructure.

2. The requested exemption is necessary to ensure that CARB's reporting framework does not impose duplicative reporting obligations on FCS institutions.

FCS institutions are regulated by the FCA. Climate-related risk is already embedded in FCA's safety and soundness framework, tailored to the FCS institutions' agricultural and rural infrastructure portfolios. FCA's extensive regulatory and supervisory framework—including its climate-relevant oversight of natural disaster and collateral risks—already provides a unified, nationwide system for managing and disclosing the climate-related risks relevant to FCS institutions. Overlaying SB 253/SB 261 requirements on federally chartered instrumentalities of the United States would be duplicative, inconsistent, and overly burdensome, likely resulting in increased administrative costs and inefficient uses of resources by FCS institutions (by requiring them to divert resources from mission delivery to SB 253/SB 261 compliance activities), the impact of which is ultimately felt by customers in the communities these institutions serve. Regulatory frameworks should not impose unnecessary burdens, particularly where federal laws, regulations, and direct oversight already govern the field. CARB's proposed requirements would create exactly this problem—a second, competing disclosure regime that is not harmonized with FCA's prudential and investor protection requirements.[5]

For these reasons, the coalition requests that CARB finalize its Proposed Regulation with a slightly modified government exemption in § 96071(b)(3) to encompass federally chartered instrumentalities of the United States, as follows:

§ 96071. Applicability.

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

* * *

(3) Federal, State and local government entities, and companies that are majority-owned by government entities (>50.00%), and federally chartered instrumentalities of the United States;" (45d-044.1)

[4] *See* CARB, Notice of Public Hearing to Consider the Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation, Proposed Regulation Text A-1 (hereinafter Proposed Regulation), available here, at § 96071(b)(3) (emphasis added).

[5] The legislature exempted insurance companies from reporting climate-related risks under SB 261, presumably because many of these companies are already required to annually report climate-related risks via the TCFD-aligned "Climate Disclosure Risk Survey" adopted by the National Association of Insurance Commissioners (NAIC). For similar reasons, it would make sense for CARB to exempt FCS institutions from reporting because they already are subject to comprehensive requirements for investor disclosures—making the additional California-specific reports and disclosures duplicative of pre-existing federal requirements. *See, e.g.*, 12 C.F.R. § 620.5 (FCA regulatory requirements for annual reports to shareholders, which must describe—among other things—"any seasonal characteristics of the institution's business" and "risk exposure").

Comment: To provide greater regulatory certainty, the Group respectfully requests that CARB clarify the scope of such exemption to include subdivisions of government entities (e.g., a political subdivision of the state). A government entity is not a "business entity" based upon the plain meaning of that phrase. Government entities (which, in certain cases, delegate their power to their subdivisions) are sovereign entities responsible for the public welfare—not business entities. (45d-078.13)

Comment: Government entities and their subdivisions (e.g., a political subdivision of a state) should not be included, regardless of whether they generate revenue. Each such entity is not a "business entity" based upon the plain meaning of that phrase. Government entities are sovereign entities responsible for the public welfare (and, in certain cases, delegate their power to their subdivisions)—not business entities. (45d-078.30)

> **Agency Response:** No changes were made in response to these comments. As stated in the Staff Report, non-profit entities are excluded from the Regulation's applicability provisions. "Federal, State and local government entities, and companies that are majority-owned by government entities (>50.00%)" are also not subject to the Regulation. (See section 96071(b)(1) and (b)(3).) These provisions are sufficient to exempt governmental and majority-governmental-owned entities from the scope of the Regulation. Thus, CARB did not amend the Regulation to state expressly that FCS institutions and other instrumentalities of the United States are exempt, as they would already be exempt pursuant to section 92071(b)(3).

E-5 Unique Comment: Exemption for Maritime Industry

Comment: The proposed regulation excludes insurers, non-profits, government entities, and entities whose California activity is limited to payroll or telework but provides no sector-specific relief for marine operators. Maritime is a unique industry that faces specialized practices, contractual obligations, safety requirements, and data constraints, yet the proposed regulation grants no tailored compliance pathway for this sector, even as CARB acknowledges exemptions elsewhere. We ask that CARB recognize marine-sector realities and offer credit for existing climate disclosures to reduce duplicative work. (45d-009.11)

> **Agency Response:** No changes were made in response to this comment. Health and Safety Code sections 38532 and 38533 define key applicability-related terms of "reporting entity" and "covered entity." As noted by the commenter, the Regulation includes certain exemptions, including for entities that are not profit-seeking and entities whose California nexus consists solely of payroll or telework activity.
>
> CARB is committed to supporting compliance and streamlining implementation where possible. Consistent with the December 2024 Enforcement Notice and CARB's existing enforcement policy, CARB will exercise enforcement discretion for the first-year reports due in 2026, allowing maritime operators, like all reporting entities who engage in good faith compliance efforts, to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when

this Notice was issued. Entities that were not collecting data or were not planning to collect data, at the time the Enforcement Notice was issued, are not expected to submit Scope 1 and Scope 2 reporting data for this first reporting cycle. If an entity already submits annual Scope 1 and Scope 2 emissions through a voluntary program or to another regulatory program, that entity may submit that same information to CARB. CARB recognizes that entities are at different stages of readiness and will continue to work with regulated entities to support a smooth phase-in and good-faith compliance during the initial implementation period.

E-6 Multiple Comments: Exemption for M&O Contractors of Government Entities

Comment: Second, LLNS' unique position as an M&O contractor to the federal government presents additional challenges to the execution of the proposed disclosures required by SB 253 and 261. All real assets from which greenhouse gas emissions originate at LLNL come from the operation of a federal facility and related assets. Any climate-related financial risks LLNS identifies as part of its disclosure obligation would be directly associated with the operation of a federally-owned national laboratory site such as LLNL. As currently written, LLNS would be required to disclose such information on behalf of an otherwise exempt federal entity; yet if the federal government operated LLNL directly, they would be exempt from reporting requirements. For these reasons, LLNS recommends that CARB extend the exemption currently proposed for Section 96201 and 96071(b)(3) to apply to DOE M&O contractors exclusively managing a federal facility, as proposed in the Enclosure below.

...

(3) Federal, State and local government entities, and companies that are majority-owned by government entities (>50.00%); and companies whose primary purpose is to operate federally funded research and development centers (FFRDCs) including national laboratories on behalf of a federal government agency such as the United States Department of Energy. (45d-053.2)

Comment: In conclusion, LLNS recommends that CARB clarify certain elements defining applicability of its greenhouse gas and climate-related financial risk disclosure regulations to DOE M&O contractors such as LLNS. (45d-053.3)

Comment: CARB should expressly exempt M&O contracting contractors that exclusively manage federal facilities from the reporting requirements. (45d-053.5)

Comment: So there has been a lot of talk today about legislative intent. Well, let's ask ourselves what are these laws really meant to address? These laws were meant to really encourage transparency and designs from the beginning to target profit-oriented corporations. Laboratories, such as Sandia, are federally funded research and development centers. We don't really have profits. We don't have sales. We don't sell anything. We exist solely to run these laboratories on behalf of the federal government. And the way the law is

currently defined, the proposal will, I think, unintentionally include national laboratories, such as ours, within the scope of these, disclosure requirements.

But we don't own any property in the state. All the property is federal property. The mission is a federal mission. We have only one client and we have only one contract, which is the contract with the Department of Energy. So I would strongly encourage this body to take a look at our written comments and carve out a reasonable exception to where we can still perform our mission and are not subject to these burdensome and confusing requirements, which are meant for the industry, but not for national laboratories, such as ours. (BHT-025.2)

Comment: 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.

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. (BH-002.1)

Comment: 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.

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. (BH-002.2)

Comment: 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. (BH-002.4)

> **Agency Response:** No changes were made in response to these comments. CARB acknowledges the feedback and encourages an entity to evaluate its parent-subsidiary relationships and whether this operational control might meet the indicia of control specified in the definition section of the Regulation related to consolidated reporting. The Regulation is clear and does not automatically attribute the activities of a subsidiary to a parent entity solely based on corporate ownership. It adopts well-known applicability requirements already codified in California law.
>
> CARB understands that while government management and operation contractors are acting under governmental direction, they remain privately organized business entities with revenue subject to taxation under state and federal law. As a result, these entities remain subject to the Regulation should they meet the applicable revenue thresholds, doing business in California criteria, and U.S.-based requirement, unless these entities can demonstrate that it meets one of the five exemption categories. In an upcoming rulemaking, CARB will host numerous public engagement opportunities and is open to further stakeholder feedback regarding exemption categories and reporting

requirements that are most appropriate for their business structures, including this sector of management and operations contractors, to protect confidential business information and appropriately capture public and privately owned businesses that are not owned and controlled by a government entity.

E-7 Multiple Comments: Exemption of Certain Sales in Addition to Wholesale Electricity Transaction

Comment: CARB should clarify that this proposed exemption includes bilateral sales or purchases of electric power or other energy commodities or energy services (such as transmission) that occur in interstate commerce. Such sales or purchases are a type of wholesale electricity transaction. CARB should also include renewable energy certificates transactions (as such transactions support renewable energy projects and, consequently, should not be discouraged in any manner) and carbon offset transactions (as AB 1305 already accounts for disclosures about these transactions) within this proposed exemption. CARB should also expand the "do not count for purposes of determining an entity's sales in California" language at § 96072(a)(8) of the proposed regulations in order to account for these concepts. (45d-057.17)

Comment: Second, the Group urges CARB to clarify and ensure the exemption for wholesale electricity transactions also explicitly includes renewable energy certificate transactions. As the Group commented in response to CARB's information solicitation for the implementation of SB 253 and 261, REC transactions should be excluded, as such transactions support renewable energy projects and therefore should be encouraged and not discouraged in any way. Refraining from disincentivizing RECs aligns with CARB's duty to consider "overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health."[6] (45d-078.8)

[6] Cal. Health & Safety Code § 38562(b)(6).

Comment: CARB also should exclude carbon offset transactions from regulations under SB 253 and 261. CARB has a statutory duty to avoid duplicative regulations;[9] carbon offset transactions already are subject to disclosure requirements under AB 1305.[10] Further, regulating these transactions could create a disincentive for entities to invest in carbon offsets, which are a critical tool for reducing overall greenhouse gas emissions. An exemption would encourage participation in these markets. (45d-078.14)

[9] See Cal. Gov't Code § 11349(f) ("'Nonduplication' means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.").
[10] See Cal. Health & Safety Code § 44475 ("A business entity that is marketing or selling voluntary carbon offsets within the state shall disclose" details related to GHG emissions, including the annual emissions reduced and accountability measures if a project does not meet the projected emissions reductions or removal benefits).

Comment: CARB also should exclude entities whose only activity within California consists of the sale or purchase of RNG credits, such as renewable identification numbers ("RINs") under the U.S. Environmental Protection Agency's ("EPA") Renewable Fuel Standard ("RFS") program or credits under California's Low Carbon Fuel Standard ("LCFS"). This exemption would encourage, rather than discourage, the monetization of environmental benefits through clean fuels necessary for compliance and voluntary sustainability goals. (45d-078.15)

Comment: Separately, CARB should also exclude carbon offset transactions from regulations under SB 253 and 261, because disclosures about such transactions are already covered under AB 1305.[12] CARB has a statutory duty to avoid such duplicative regulations.[13] Imposing additional carbon offset disclosure requirements under statutes other than AB 1305 would be unduly duplicative. CARB should also exclude bilateral sales of energy or other energy-related products that occur in interstate commerce. Such sales constitute another type of wholesale electricity transactions. Again, the letter of Senator Wiener and Senator Stern (as discussed above) provides that the bills "are not intended to include a business entity whose only activity within California consists of wholesale electricity transactions that occur in interstate commerce." (45d-078.32)

[12] Cal. Health and Saf. Code § 44475 ("A business entity that is marketing or selling voluntary carbon offsets within the state shall disclose on the business entity's internet website all of the following information . . .").

[13] See Cal. Gov't Code § 11349(f) ("'Nonduplication' means that a regulation does not serve the same purpose as a state or federal statute or another regulation. This standard requires that an agency proposing to amend or adopt a regulation must identify any state or federal statute or regulation which is overlapped or duplicated by the proposed regulation and justify any overlap or duplication.").

Comment: Additionally, CARB should exclude renewable energy certificate ("REC") sales, as such transactions mitigate emissions of GHG and therefore should be encouraged and not discouraged in any way. (45d-078.33)

Agency Response: No changes were made in response to these comments. The narrow exclusion for wholesale electricity transactions in section 96072(a)(8) is intentionally limited and is designed solely to prevent the inclusion of entities whose only activity in California consists of wholesale electricity trades, consistent with the January 30, 2024 letter from Senator Wiener and Senator Stern, published in the Senate Daily Journal. The letter does not reference bilateral energy commodity sales, transmission services, renewable energy certificate transactions, or carbon offset transactions.

CARB will evaluate and propose, as appropriate, opportunities to account for emissions reductions from use of renewable electricity or renewable gas as part of an upcoming rulemaking, focusing on implementation of Health and Safety Code section 38532 for reporting year 2027 and beyond.

E-8 Multiple Comments: Propose Exemption for Not-For-Profit Organizations

Comment: The same rationale applies for not-for-profit organizations that are tax-exempt under the Internal Revenue Code. Therefore, such not-for-profit organizations should also be included within this proposed exemption. (45d-057.19)

Comment: With regard to § 96071(b)(1), in addition to non-profit and charitable organizations, there are other organizations (such as not-for-profit organizations) that are not profit-seeking and are tax-exempt under the Internal Revenue Code. All such organizations "do not fall within the legislative intent of corporate disclosures, and would not have reportable revenue according to section 96072(a)(13)."[1] Therefore, all such organizations should be exempted from § 38532 and § 38533. (45d-065.2)

[1] California Air Resources Board, Staff Report: Initial Statement of Reasons, Dec. 9, 2025, pg. 6.

Comment: For these same reasons, the Group requests that the proposed exemption also includes not-for-profit organizations that are tax-exempt under the Internal Revenue Code. (45d-078.11)

> **Agency Response:** No changes were made in response to these comments. CARB confirms that not-for-profit organizations qualifying as non-profit or charitable organizations that are tax-exempt under the Internal Revenue Code are exempt from the Regulation.

E-9 Multiple Comments: Propose Exemption for Natural Gas Transactions

Comment: Wholesale sales of electricity are currently proposed to be excluded from the definition of sales as it pertains to revenue and "doing business in California." CARB should consider applying the same rationale to wholesale sales of natural gas. As stated by Senator Weiner in his Letter to the Senate, excluding entities from reporting requirements whose only transactions in California are wholesale sales of electricity is intended to reduce the risk of out of state business entities retreating from the energy market, which would reduce the reliability of electricity for the state. Natural gas remains a critical resource for energy reliability in California and should be treated the same as wholesale electricity by excluding wholesale natural gas sales from the definition of doing business in California. (45d-004.1)

Comment: As currently proposed, CARB's draft regulations exempt business entities whose only activity within California consists of wholesale electricity transactions. CARB should expand this exemption to include wholesale natural gas transactions. California's climate disclosure laws—SB 253 and SB 261—were enacted to enhance transparency around corporate greenhouse gas emissions and climate-related financial risks. The stated intent is to provide California consumers, investors, and regulators with consistent, reliable data to assess the environmental impact and economic resilience of companies operating within the state. These laws are designed to target entities with a meaningful presence in California whose activities directly contribute to the state's emissions profile or financial exposure to climate risks. However, this legislative purpose does not support application of disclosure

requirements to companies like Sequent, who do not sell directly to individual customers and have no physical assets, infrastructure, or personnel in the state. The only contact that natural gas marketers such as Sequent have with California is indirectly through the sale of bulk quantities of gas in interstate commerce at market delivery or entry points for further distribution. The two main natural gas market delivery points in California are PG&E Citygate (serving Northern and Central California) and SoCal Citygate (serving Southern California).

The proposed regulations already contemplate and particularly account for the fact that the wholesale energy market does not have a sufficient nexus with California to justify disclosure requirements by exempting wholesale electricity transactions. Article 6, Subarticle 1, Section 96071. Applicability, Subparagraph b, includes an exemption for any "business entity whose only activity within California consists of wholesale electricity transactions." The proposed regulations also specifically exclude wholesale sales of electricity from a company's sales for purposes of the definition of "doing business in California."

In CARB's "Staff Report: Initial Statement of Reasons," CARB explains that the exemption for wholesale electricity transactions was included based on Senator Scott Wiener's January 30, 2024 letter published in the Senate Daily Journal regarding the legislative intent to exclude such transactions.[1] Senator Wiener's letter states that wholesale electricity transactions "that occur through the Western Energy Imbalance Market and will occur through the Extended Day Ahead Market, operated by the California Independent System Operator" were not intended to "constitute 'doing business in California.'" While Senator Wiener's letter did not address wholesale energy transactions involving natural gas, the same economic and jurisdictional logic applicable to wholesale electricity transactions applies equally to wholesale natural gas transactions at California's citygate delivery points. These citygate delivery points function identically to the electricity delivery points referenced in Senator Wiener's letter.

The California Independent System Operator ("CAISO") manages a centralized, wholesale exchange where entities transact at the grid (not with end consumers). The Western Energy Imbalance Market ("WEIM") is a real-time market operated by CAISO. It resolves the minute-to-minute mismatch between scheduled and actual electricity supply/demand across a wide footprint. Participants in the WEIM transact only in wholesale electricity. The Extended Day Ahead Market ("EDAM") is a day-ahead market extending CAISO's footprint. Participants submit bids and schedules for the next day and economically commit generation on a region-wide basis before real-time operations. For both WEIM and EDAM, no in-state physical presence or facility is required to participate.

Wholesale natural gas transactions at California citygates (e.g., PG&E Citygate, SoCal Citygate) are entirely analogous. Citygates are interstate pipeline delivery points that, like the CAISO markets, function as regional wholesale hubs; prices at these delivery points reflect the costs of transportation from upstream hubs, and marketers, like Sequent, deliver gas at these delivery points into California's pipeline distribution systems without owning or operating infrastructure in the state. Furthermore, the wholesale electricity and natural gas markets are inextricably tied to one another. Natural-gas-fired electric generation participates directly in CAISO's WEIM and EDAM. When these markets commit a gas-fired generator in

the day-ahead schedule or dispatch it in real time, that generator must secure corresponding natural gas supply and transportation. This creates a direct operational link between CAISO's electricity market commitments and the natural gas that is delivered at interstate pipeline citygates. U.S. interstate natural gas pipeline operations rely on nominations, balancing, storage, compression dispatch, and linepack management, all of which are sensitive to hourly and daily swings in power-generation demand.

Therefore, WEIM's real-time dispatch and EDAM's day-ahead unit-commitment processes drive upstream gas nominations, intra-day balancing, and citygate flows. The natural gas market's hub-and-citygate structure where gas is delivered from interstate pipelines into local networks functions as the fuel-supply analogue to CAISO's market dispatch: both are wholesale, interstate transactions that support power-sector operations with no in-state physical presence.

Wholesale gas marketers such as Sequent, just like entities whose only business in California consists of wholesale electricity transactions, operate entirely outside California's borders and do not engage in activities that generate emissions or economic activity within the state beyond a financial transaction. Including such entities within the scope of these laws and proposed regulations would dilute the focus of the regulations and impose burdens on companies whose connection to California is not only minimal, but purely transactional. Furthermore, including wholesale natural gas transactions within the scope of the law while exempting wholesale electricity transactions would burden one segment of the wholesale energy market while benefitting another. CARB should therefore ensure parity between wholesale electricity transactions and wholesale natural gas citygate transactions by including wholesale natural gas transactions within the existing proposed exemption for wholesale electricity transactions to remain consistent with the Legislature's stated intent. (45d-062.1)

[1] Staff Report, pg. 6 (citing California Legislature. (2024, January 30.) Senate daily journal, one hundred forty-second legislative day, 2023–24 regular session (p. 3057). Available at https://leginfo.legislature.ca.gov/faces/pubSenDailyJrn2.xhtml?type=doc&sessionyear=20232024&page n um=3057&sessionnum=0&fileid=996).

Comment: My comment is to bring the regulations into conformance with federal law by changing § 96071(b)(1), § 96071(b)(4), and § 96072(a)(8) as follows:

[§ 96071(b)(1)] Non-profit, charitable, or other organizations that are not profit-seeking and are tax-exempt under the Internal Revenue Code;

[§ 96071(b)(4)] A business entity whose only activity within California consists of wholesale electricity transactions, wholesale natural gas transactions, or other transactions that occur in interstate commerce; (45d-065.1)

Comment: With regard to § 96071(b)(4) and § 96072(a)(8), the US Constitution's Commerce Clause gives Congress exclusive power to "regulate commerce among the several states".[2] Under the "dormant" Commerce Clause, states may not pass laws or regulations that place

an “undue burden” on interstate commerce.[3] “Interstate Commerce” is defined in the Code of Federal Regulations:

Interstate commerce means trade, traffic, or transportation in the United States— (1) Between a place in a State and a place outside of such State (including a place outside of the United States); (2) Between two places in a State through another State or a place outside of the United States; or (3) Between two places in a State as part of trade, traffic, or transportation originating or terminating outside the State or the United States.[4]

A transaction that involves more than one state in its performance is in interstate commerce. A foreign corporation must pay California income taxes if it is “doing business” in California. The taxes are on amounts earned that are allocated to California activities. Activities a foreign corporation undertakes in interstate commerce are exempt from California taxation.

Wholesale electricity transactions are always in interstate commerce.[5] So are wholesale natural gas transactions that involve, or commingle with, any gas that flows across state lines.[6] Half-million dollar annual fines (§ 38532(e)(2)(A)) seem an “undue burden.”

CARB could consider being even more explicit, consistent with the intent of the Wiener and Stern letter,[7] for example by specifying that injections into, transportation in, and withdrawals from, interstate natural gas pipelines, even if only between injection and withdrawal points wholly within California, are exempt. This is because CARB rulemaking with perceived extraterritorial effects, or that interfere with energy markets, especially fossil fuel energy markets, would likely be met with furious counteractions by the Trump Administration and Republican-dominated states. The US Department of Justice has already sued four U.S. states in response to Executive Order 14260. The threat in the federal enforcement action of the Federal Trade Commission against CARB regarding vehicle emissions could not be more explicit.[8] (45d-065.3)

[2] U.S. Constitution Article 1, Clause 8, § 3.
[3] United States v. Lopez, 514 U.S. 549, 579 (1995) “One element of our dormant Commerce Clause jurisprudence has been the principle that the States may not impose regulations that place an undue burden on interstate commerce, even where those regulations do not discriminate between in-state and out-of-state businesses.”
[4] 49 C.F.R. § 390.5
[5] *New York vs. FERC*, 535 U.S. 1 (2002).
[6] E.g., *Interstate Nat. Gas Co., Inc. v. FPC*, 331 U.S. 682 (1947).
[7] Wiener, Stern, *re Legislative Intent- SB 253 and SB 251*, Jan. 29, 2024.
[8] “We are confident that today’s outcome ensures the continued free functioning of competition, including by ensuring that consumers are not harmed by California’s attempts to coopt private businesses to enforce preempted regulations in large swaths of the nation. Going forward, the [FTC] will intervene where, as here, private parties coordinate with a state actor to execute a sub-regulatory scheme to reduce competition, especially where the legal authority to do so is in grave doubt.” Statement of the Federal Trade Commission Regarding The Clean Truck Partnership Investigation (Aug. 12, 2025).

Agency Response: No changes were made in response to these comments. The narrow exclusion for wholesale electricity transactions in section 96072(a)(8) is grounded in specific legislative direction reflected in the January 30, 2024 letter from

Senator Wiener and Senator Stern, published in the Senate Daily Journal, which clarified that wholesale electricity sales occurring through CAISO administered markets were not intended to constitute "doing business in California" for purposes of Health and Safety Code sections 35832 and 38533. This legislative context is unique to the structure of the electricity markets referenced in that letter and does not extend to wholesale natural gas transactions, which were not addressed by the Legislature. Inclusion is non-discriminatory and limited to entities with meaningful economic activity in California.

Comments regarding the constitutionality of the enabling statutes and proposed regulations do not require detailed responses, as the APA requires an agency's responses to focus on how the proposed action has been changed to accommodate each objection or recommendation, or the reasons for making no change. (Cal. Gov. Code § 11346.9.(a)(3).) Additionally, the APA's "Authority" standard does not require agencies to rebut all legal challenges made by commenters opposing the regulation, but rather focuses specifically on whether the regulation is authorized by either:

(1) a California constitutional or statutory provision which expressly permits or obligates the agency to adopt, amend, or repeal the regulation; or

(2) a California constitutional or statutory provision that grants a power to the agency which impliedly permits or obligates the agency to adopt, amend, or repeal the regulation in order to achieve the purpose for which the power was granted.

(See 1 CCR § 14(a).) As explained in the rulemaking record for the Regulation, both express and implied statutory authorities authorize the Regulation. (See, e.g., Health and Safety Code §§ 38532, 38533, 39600, and 39601.)

For the reasons described above, CARB is not required to respond to legal arguments beyond the standards discussed above. Nevertheless, for informational purposes, CARB voluntarily provides the following response.

The Regulation and the controlling statutes are consistent with applicable Constitutional and statutory authorities and requirements, and no changes are needed in response to the commenter's Constitutional claims. The regulatory requirements are nondiscriminatory and narrowly tailored to achieve the purposes of the statutes. This includes restricting applicability to entities that do business in California and meet the relevant sales thresholds. Applicability is limited to entities with a meaningful economic nexus to California. The Regulation adopts well-known applicability requirements already codified in California law. Using these applicability provisions ensures that the Regulation applies only to entities with substantial economic connections to California, and ensures that the regulation is not unduly burdensome in relation to the state's substantial interest in obtaining accurate climate-related disclosure information

necessary to implement the statutes, for the substantial benefit of California investors, consumers, and other stakeholders.

E-10 Multiple Comments: Exemption for the Paint and Coatings Industry

Comment: Businesses within the paint and coatings industry should be exempt from the reporting requirements of SB 253 and SB 261.

Businesses in the paint and coatings industry should be exempt from the reporting requirements of SB 253 and SB 261 as they are already subject to a plethora of reporting requirements in air quality and toxics regulations in the state. Regulations governing the industry include statewide requirements under the Board as well as the Office of Environmental Health Hazard Assessment, the Department of Toxic Substances Control, and the state's thirty-five local Air Districts (e.g., South Coast Air Quality Management District (SCAQMD), Bay Area Air Quality Management District, etc.). For instance, the Board imposes fees on certain architectural coatings manufacturers and consumer product manufacturers for volatile organic compound emissions in the state of California. Many of the same companies are also subject to fees assessed by the SCAQMD. The Proposed Regulation's reporting requirements and fee assessments will negatively impact the paint and coatings industry by piling on additional reporting obligations and fees to companies operating in California. Accordingly, given CARB's existing oversight of the paint and coatings industry in California, ACA urges the Board to exempt businesses within the paint and coatings industry. (45d-073.1)

Comment: First, businesses within the paint and coatings industry should be exempt from the reporting requirements of both climate related disclosure laws, as these companies are already subject to a plethora of reporting requirements in both air quality and toxics regulations in the state. Simply put, CARB's proposed regulations reporting requirements and free assessments will negatively impact the paint and coatings industry by piling on additional reporting obligations and stringent fees to companies already operating in the state of California.

As such, given CARB's existing oversight of the paint and coatings industry in the state of California, ACA respectfully urges the Board to exempt businesses within the paint and coatings industry from these two laws reporting requirements. (BHT-021.2)

> **Agency Response:** No changes were made in response to this comment. Health and Safety Code sections 38532 and 38533 define key applicability-related terms of "reporting entity" and "covered entity". As approved by CARB, categorical exemptions are only established for entities that are either not profit-seeking or subject to existing corporate climate disclosure requirements to limit duplicative reporting efforts in climate risk and greenhouse gas emissions reporting. The paint and coatings industry operators that meet the applicable revenue thresholds, doing business in California criteria, and U.S.-based requirement remain subject to Health and Safety Code sections 38532 and 38533.

These climate reporting disclosures are new in scope and distinct from existing air quality or toxics reporting and fee requirements applicable to the paint and coatings industry. While CARB seeks to streamline program implementation and coordinates extensively with other state agencies and the air districts where feasible to minimize administrative burden and duplicative requirements, this Regulation addresses specific climate-related disclosure objectives as mandated by Health and Safety Code sections 38532 and 38533. The Regulation is information-based and does not require any actual mitigation of greenhouse gas emissions.

E-11 Unique Comment: Propose Exemption for Entities Already Reporting Under Existing CA Regulatory Programs

Comment: POET urges CARB to revise proposed § 96071(b) to exclude companies that already publicly disclose lifecycle emissions of their products under existing California regulatory programs from the applicability of § 35833. According to CARB, the goal of the Climate Disclosure Rules is to "help ensure that accurate, comparable, and decision-useful climate information is made available to inform investors, lenders, insurers, consumers and other stakeholders in the state."[1] Imposing these disclosures upon companies like POET that are already subject to emissions-related reporting requirements under the California Low Carbon Fuel Standard ("LCFS") program would not ensure that additional "decision-useful climate information" is made available to relevant California stakeholders. That is because CARB's LCFS reporting requirements already capture significant climate-related information regarding POET's products. As required under the LCFS program, POET's bioethanol lifecycle emissions are publicly available on the CARB LCFS Pathway Certified Carbon Intensities website. The publicly available Current Fuel Pathways spreadsheet lists the certified carbon intensity of POET's fuel pathways.[2] Additionally, biomass feedstocks are subject to new stringent sustainability requirements and reporting obligations pursuant to the 2025 LCFS rulemaking.[3] Climate-related risk information relating to POET's facilities, all of which are located outside of California, is unlikely to be useful to relevant California stakeholders — i.e., consumers of POET's bioethanol and co-products. For example, the estimated flood risk of a POET transloading facility located in Georgia is not meaningful information for a California consumer deciding whether to purchase E85. Because emissions information for POET's products sold in California is already publicly available and POET's facilities are not located in California, disclosing climate-related risks affecting POET facilities would not provide California stakeholders with decision-useful climate information. (45d-068.1)

[1] CARB, Public Hearing to Consider the Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Regulations—Staff Report: Initial Statement of Reasons, at 3 (Dec. 9, 2025).

[2] See CARB, LCFS Pathway Certified Carbon Intensities, https://ww2.arb.ca.gov/resources/documents/lcfs-pathway-certified-carbon-intensities.

[3] California Code of Regulations, Title 17, § 95488.9(g).

Agency Response: No changes were made in response to this comment. The applicability of Health and Safety Code sections 38532 and 38533 is based on an U.S.-based entity's revenue and whether it is doing business in California. It is not conditioned on whether the entity already reports facility-based GHG emissions under other California regulatory programs. Existing state programs such as the Low Carbon Fuel Standard serve different statutory purposes and emissions boundaries than the climate disclosure statutes in sections 38532 and 38533. Furthermore, as noted in the Staff Report, sections 38532 and 38533 require reporting of additional data, as well as reporting from additional entities, in comparison to the other California regulatory programs. Therefore, creating an exemption for entities already regulated elsewhere would conflict with the Legislature's intent to establish a corporate-level framework that provides investors, consumers, and the public with accurate, comparable, and decision-useful information on corporate GHG emissions and climate-related financial risk from the range of entities contemplated by the enabling statutes.

E-12 Multiple Comments: Propose Exemption for Private Companies

Comment: Furthermore, requiring private companies to disclose climate-related financial risks accomplishes none of the California legislature's stated goals, which are focused primarily upon empowering investors to make well-informed decisions. As a privately held company, POET's equity shares are not publicly traded, and the investing public has no discernible interest in the information subject to disclosure. Furthermore, neither § 35833 nor the Final Report of Recommendation of the Task Force on Climate-related Financial Disclosures ("TCFD") allows companies to withhold or redact information that is confidential, meaning that § 35833 could require companies to disclose confidential business information as part of their climate-risk disclosure.[4] Requiring private companies to disclose confidential business information, especially when the investing public holds no financial interest in such disclosures, is unreasonably burdensome and supports no appropriate state regulatory goals. (45d-068.2)

[4] See TCFD, Final Report: Recommendations of the Task Force on Climate-related Financial Disclosures (June 2017), https://assets.bbhub.io/company/sites/60/2021/10/FINAL-2017-TCFD-Report.pdf; see TCFD, Task Force on Climate-related Financial Disclosures: Implementing the Recommendations of the Task Force on Climate-related Financial Disclosures (Oct. 2021), https://assets.bbhub.io/company/sites/60/2021/07/2021-TCFD-Implementing_Guidance.pdf.

Comment: In conclusion, CARB should narrowly tailor § 35833 to achieve its objectives by excluding private companies and those which already report emissions under California regulatory programs from § 35833 applicability. At minimum, CARB should provide a mechanism for private companies to safeguard and redact from public disclosure confidential business information that would otherwise be subject to disclosure under the TCFD. (45d-068.3)

Agency Response: No changes were made in response to this comment. Health and Safety Code sections 38532 and 38533 apply to all U.S.-based business entities that

meet the statutory revenue thresholds and do business in California, regardless of whether they are publicly traded or privately held. The Legislature deliberately structured these statutes to address information gaps across the entire economy, including private entities whose operations may pose significant climate-related financial risks and generate greenhouse gas emissions at a scale relevant not only to investors in public markets, but also to California consumers, lenders, and insurers. The purpose of these programs is to provide "accurate, comparable, and decision-useful climate information" to a broad audience of stakeholders. For these reasons, the Regulation retains the existing applicability criteria without adding an exemption for privately held entities. Entities should be able to develop their reports under both 38532 and 38533 such that they do not include confidential business information, while still including all of the other information required to be included in those reports. Please refer to Agency Response I-9 for additional details regarding protocols for confidential business information.

E-13 Multiple Comments: Elevate Insurance Exemption to Group Level

Comment: Application of the Exemption at the Insurance Group Level

Consistent with our prior comments, we respectfully reiterate that HSC sections 38532(c)(2)(A)(iii) and 38533(b)(2) support applying the insurance exemption at the insurance group level where an insurer's CRDS filing incorporates or will incorporate disclosures for subsidiaries (including non-insurance subsidiaries) or affiliates, including any affiliates that provide specific functions in support of the insurance companies' operations. In practice, CRDS submissions frequently include information that extends beyond the regulated insurer entity to encompass non-insurance affiliates within the same corporate group.

Codifying this approach in the final regulations would reflect existing regulatory practice, remain faithful to statutory intent, and avoid the imposition of duplicative or inconsistent reporting obligations on affiliated entities whose climate disclosures are already captured through the insurer's CRDS filing. (45d-024.5)

Comment: Existing insurance disclosures are comprehensive and consistent nationwide. We believe --we also believe that the exemption should be at the group level. Climate disclosures are prepared on a consolidated insurance group basis and capture subsidiaries and affiliates. So group level reporting prevents unnecessary duplication and fragmentation and currently provides sufficient climate information to the state. (BHT-026.2)

Comment: ACLHIC also respectfully emphasizes the importance of applying this exemption at the consolidated insurance group level. In practice, insurer climate disclosures are often prepared on a group basis and already capture relevant information for subsidiaries and affiliates, including non-insurance entities that support insurance operations. Clarifying in the final regulations that group level reporting to the Department of Insurance satisfies any

reporting requirements under the Health and Safety Code for otherwise non-exempt non-insurance entities simply makes sense.

It would reflect the industry's existing regulatory practice, align with statutory intent, and prevent unnecessary fragmentation or duplication of disclosures across affiliated entities. (BHT-027.2)

Comment: And lastly, I would just want to note that the industry's disclosures are completed on a group level basis and we would recommend that the exemption apply similarly at the group level, and this would kind of help prevent any of that further fragmentation or duplication. Thank you. (BHT-031.3)

> **Agency Response:** No changes were made in response to these comments. Health and Safety Code sections 38532 and 38533 define key applicability-related terms, including “reporting entity” and “covered entity.”
>
> While Health and Safety Code sections 38532 and 38533 allow for consolidated reporting at the parent level to reduce reporting burden, such consolidation is optional and does not alter each in-scope entity’s responsibility to ensure compliance with the reporting requirements, whether through inclusion in a consolidated report or submission of a separate report.
>
> Section 96071(b)(2) provides that the insurance-related exemption applies only to 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. Even if a parent entity qualifies for this exemption, that status does not extend to its subsidiaries or affiliated entities solely by virtue of their inclusion in consolidated reporting. Applicability remains evaluated at the individual entity level, and each entity must independently meet the criteria for exemption.
>
> If a subsidiary or affiliated entity of an exempted insurance parent entity does not independently qualify for the exemption under section 96071(b)(2), but meets the applicable revenue thresholds, “doing business in California” criteria, and U.S.-based entity requirement, it remains subject to the Regulation. However, such entities may still submit a consolidated report at the parent level for compliance, notwithstanding the parent entity’s exemption, provided that both the parent and the subsidiary meet the definitions of “parent” and “subsidiary” as set forth in sections 96072(a)(10) and 96072(a)(16).

E-14 Multiple Comments: Exemption for Cooperatives

Comment: The comments I want to make today in relation to this proposed regulation and their impact on our cooperative are twofold and address why a cooperative should be excluded from this rule, as well as the potential for duplicative reporting, if entities such as ours are not exempted. We appreciate CARB's intention to remove this burden from nonprofit or charitable organizations that are tax exempt under the internal revenue code.

Exempting cooperatives would be aligned with exempting nonprofits and government entities because they share similar characteristics by operating on a nonprofit basis for a member benefit rather than profit maximization. Therefore, we ask that this definition be expanded to include nonprofit cooperative organizations organized under the provisions of Chapter 1 of Division 20 of the Food and Agricultural Code. (BHT-048.1)

Comment: For the reasons stated above, we ask that agricultural cooperatives such as ours be included in the list of exempted entities. (BHT-048.4)

> **Agency Response:** No changes were made in response to these comments. The Regulation is intended to ensure that accurate, comparable, and decision-useful climate information is collected and made available through standardized reporting disclosures. This Regulation is new in scope and not duplicative in reporting for agricultural cooperatives.
>
> Nonprofit cooperative associations that do not meet federal tax-exempt status but meet the applicable revenue thresholds, doing business in California criteria, and U.S.-based requirement remain subject to Health and Safety Code sections 38532 and 38533. For the reasons set forth in the Staff Report, exemptions are limited to those entities expressly set forth in section 96071(b), including, but not limited to, entities that are not profit-seeking or subject to existing corporate climate disclosure requirements to limit duplicative reporting efforts. Consistent with its statutory duties in developing the Regulation, CARB considered which exemptions may be necessary and appropriate, including for certain tax-exempt non-profit entities.
>
> Although nonprofit cooperative associations organized under the provisions of Chapter 1 of Division 20 of the Food and Agricultural Code are considered “nonprofit” under state law in certain respects, as stated in Food and Agricultural Code section 54033, such classification does not, by itself, confer tax-exempt status under the Internal Revenue Code. The exemption in section 96071(b)(1) applies specifically to non-profit or charitable organizations that are tax-exempt under the Internal Revenue Code.

E-15 Multiple Comments: Support Proposed Exemption(s)

Comment: We appreciate the clearer guidance on applicability and specifically on the clarification that the 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. (45d-012.4)

Comment: TEMUS strongly supports the exemption in the draft regulation of business entities whose only activity within California consists of wholesale electricity transactions under §96071(b)(5). This section provides much needed clarity as to the status as covered entities of electricity importers into the CAISO.

As pointed out in previous comments, this exemption upholds the intention of the authors of the Climate Disclosure legislation since electricity importers are already covered entities under CARB's Mandatory Reporting of Greenhouse Gas Emissions regulation. Electricity imports are a vital component of the continued reliability of the CAISO for California consumers, and it is important that the regulation does not create a barrier to these energy flows as over the past five years (2024-2020) peak net imports have contributed a minimum of 20% to peak demand in California. (45d-013.1)

Comment: TEMUS strongly supports the exemption in the draft regulation of business entities whose only activity within California consists of wholesale electricity transactions under §96071(b)(5). This section provides much needed clarity as to the status as covered entities of electricity importers into the CAISO.

As pointed out in previous comments, this exemption upholds the intention of the authors of the Climate Disclosure legislation[1] since electricity importers are already covered entities under CARB's Mandatory Reporting of Greenhouse Gas Emissions regulation. Electricity imports are a vital component of the continued reliability of the CAISO for California consumers, and it is important that the regulation does not create a barrier to these energy flows as over the past five years (2024-2020) peak net imports have contributed a minimum of 20% to peak demand in California.[2] (45d-013.2)

[1] California Legislature 2023-24, Senate Daily Journal 3058, (Jan. 30, 2024)
[2] https://www.caiso.com/library/key-statistics

Comment: Bonneville appreciates that § 96071 (b) provides that the proposed regulation does not apply to: (1) federal entities and (2) business entities whose only activity within California consists of wholesale electricity transactions. The proposed regulations satisfactorily respond to Bonneville's March 20, 2025 comments on implementation of SB 253 and SB 261. Those comments explain why Bonneville believes these types of entities should not be covered entities under SB 253 and SB 261. For these reasons, Bonneville urges CARB to include the proposed exemptions listed in § 96071 (b) if it adopts the proposed regulation. (45d-019.1)

Comment: We write in support of CARB staff's proposed approach to exempt insurers from applicability under Health and Safety Code (HSC) section 38532, consistent with the explicit statutory exemption in HSC section 38533 and as reflected in proposed sections 96071(b)(2) and 96072(a)(5). (45d-024.1)

Comment: Support for Exemption and Statutory Consistency

HSC section 38533, as enacted by the Legislature, expressly excludes business entities that are subject to regulation by the California Department of Insurance (CDI), or that are in the business of insurance in any other state. This statutory language is clear, unambiguous, and reflects legislative recognition that insurers are subject to a distinct, comprehensive regulatory framework administered by insurance regulators with subject-matter expertise in insurer solvency, risk management, and financial reporting.

CARB staff's Initial Statement of Reasons correctly notes that while HSC section 38533 contains this explicit exemption, HSC section 38532 does not. Staff's proposal to extend the same exemption to section 38532 is both reasonable and necessary to ensure continuity, coherence, and faithful implementation of legislative intent across the climate disclosure statutes. Absent such alignment, insurers could face overlapping or potentially inconsistent climate-related disclosure obligations across regulatory regimes, notwithstanding the Legislature's express decision to place insurers under the primary oversight of insurance regulators. (45d-024.2)

Comment: Existing Insurance-Specific Climate Disclosure Framework

For more than 15 years, insurers operating in California have been subject to an insurance-specific climate disclosure regime developed by the National Association of Insurance Commissioners (NAIC): the Climate Risk Disclosure Survey (CRDS). This survey was the first climate-risk reporting framework of its kind in the United States and has long provided insurance regulators, including CDI, with a detailed view of how insurers identify, assess, and manage climate-related risks.

Beginning in 2022, the NAIC substantially enhanced the CRDS to align with the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD). The survey is now expressly structured around TCFD's four core pillars—Governance, Strategy, Risk Management, and Metrics and Targets—and is designed to elicit decision-useful, principles-based information regarding insurers' exposure to and management of climate-related risks, including evaluation of Scope 1, Scope 2, and Scope 3 emissions.

By way of illustration:

- Governance: The CRDS assesses board and senior management oversight of climate-related risks and opportunities, including governance structures, frequency of review, and committee responsibilities.
- Strategy: The CRDS examines how insurers identify and integrate climate-related risks and opportunities into business strategy, including the use of scenario analysis and long-term resilience planning.
- Risk Management: The CRDS evaluates insurer processes for identifying, assessing, monitoring, and managing climate-related risks within enterprise risk management frameworks.
- Metrics and Targets: The CRDS requests information regarding metrics and targets used by insurers to assess and manage climate-related risks, including discussion of

greenhouse gas emissions, as well as information on targets, timelines, and internal methodologies used for tracking progress.

This established framework already provides regulators with robust, standardized, and insurance-relevant climate disclosures tailored to the unique risk profile and business model of insurers. (45d-024.3)

Comment: Appropriate Regulatory Jurisdiction

The proposed exemption appropriately recognizes CDI's primary jurisdiction over insurer financial and risk disclosures. Insurance regulation is fundamentally different from regulation of other corporate sectors, particularly with respect to capital adequacy, solvency, group supervision, and systemic risk. CDI, in coordination with the NAIC, is uniquely positioned to evaluate climate-related risks in a manner that is integrated with these prudential considerations.

Exempting insurers from CARB-administered reporting under HSC sections 96071(b)(2) and 96072(a)(5) avoids duplicative regulation while preserving robust climate risk oversight through the existing insurance regulatory framework. (45d-024.4)

Comment: We support the proposed regulatory text exempting insurers from applicability under both HSC sections 96071(b)(2) and 96072(a)(5) and respectfully request that CARB finalize the exemption as proposed, including clarifications confirming its application at the insurance group level. (45d-024.7)

Comment: Exempting government and nonprofit entities is reasonable, as the disclosure laws explicitly focus on "corporate" actors with large revenues that "do business in California" and therefore make reportable revenue as defined in California law. The carve out for companies whose only business in the state is the presence of teleworking employees is likewise not controversial, as these companies generally lack a sufficient economic nexus to be considered as "doing business" in the state. We also understand that Senator Weiner wrote a letter clarifying legislative intent to exempt companies whose business in the state is limited to interfacing with California Independent State Operator (CAISO) in the wholesale electricity market.[3] (45d-036.4)

[3] California Legislature. Senate Daily Journal 3058. 2023-24 Regular Session. January 30, 2024.

Comment: The proposed regulation would exempt tax-exempt entities from the framework to implement Senate Bills (SB) 253 and 261, as amended by SB 219.[1] The proposed regulation would also exempt a business entity whose only activity within California consists of wholesale electricity transactions. Moreover, the proposed regulation clarifies that wholesale sales of electricity do not count for purposes of assessing whether an entity is doing business in California for purposes of SB 253 and 261. These elements of the proposed regulation reflect the legislative intent expressed by the authors of SB 253 and 261.[2] The ISO strongly supports the inclusion of these elements in any action to adopt regulations to implement SB 253 and 261. (45d-037.1)

[1] These bills are codified at California Health & Safety Code §§ 38532 and 38533.

[2] California Senate Journal dated January 30, 2024 at 3058-3059.

Comment: We further support the exclusion of wholesale electricity sales from the calculation of an entity's sales in California for purposes of that definition, for the reasons of legislative intent discussed in detail in our March 21, 2025 joint comment (and referenced in the Board's December 9, 2025 Staff Report (the "Staff Report")). (45d-039.4)

Comment: Exempting government and nonprofit entities is reasonable, as the disclosure laws explicitly focus on "corporate" actors with large revenues that "do business in California" and therefore make reportable revenue as defined in California law. The carve out for companies whose only business in the state is the presence of teleworking employees is likewise not controversial, as these companies generally lack a sufficient economic nexus to be considered as "doing business" in the state. I also understand that Senator Weiner wrote a letter clarifying legislative intent to exempt companies whose business in the state is limited to interfacing with California Independent State Operator (CAISO) in the wholesale electricity market.[3] (45d-048.5)

[3] California Legislature. Senate Daily Journal 3058. 2023-24 Regular Session. January 30, 2024.

Comment: On behalf of the Association of Independent California Colleges and Universities (AICCU), which represents more than 80 non-profit colleges and universities, I am submitting comments in support of the staff recommendation to exempt non-profit entities, as proposed on page 5 of the staff report.

In our prior submitted comments, we sought an exemption for California's independent, non-profit colleges and universities. Among other items, we underscored that application of the new reporting requirements to independent, non-profit colleges and universities would (i) be inconsistent with the intent of the bills and their legislative histories, which showed they were designed to focus on large, for-profit corporations, (ii) create unique challenges to universities, resulting in substantial new costs that would divert critical funds from academic and student programs and institutional financial aid, and (iii), given the statutory exemption already in place for University of California entities, bring about an inequitable inconsistency in treatment of higher education institutions within the State. Staff's recommendation for exemption remediates these issues and remains consistent with the state and federal tax exempt status of non-profit institutions of higher education.

This request remains consistent with the state and federal tax-exempt statuses of non-profit institutions of higher education and the legislative intent to apply the new disclosure laws to large corporations that profit from the sale of goods. Staff's recommendation to exempt non-profit organizations would effectively satisfy our request in recognition of our educational mission. (45d-055.1)

Comment: CARB should implement its proposed exemptions, some of which in an expanded form.

We support CARB's proposed exemption for government entities and companies that are majority-owned by government entities. CARB should clarify that this proposed exemption

includes subdivisions of governments—such as a political subdivision of a state. Each such entity is not a "business entity" under the plain meaning of that phrase. (45d-057.15)

Comment: Additionally, we support CARB's proposed exemption for a business entity whose only activity within California consists of wholesale electricity transactions. As acknowledged by CARB, this exemption is consistent with the letter of intent from the lead sponsors of SB 253 and SB 261. (45d-057.16)

Comment: Also, we support CARB's proposed exemption for non-profits and charitable organizations that are tax-exempt under the Internal Revenue Code. As correctly stated by CARB, such organizations "do not fall within the legislative intent of corporate disclosures and would not have reportable revenue according to section 96072(a)(13)."[21] (45d-057.18)

[21] California Air Resources Board, Staff Report: Initial Statement of Reasons, Dec. 9, 2025, pg. 6.

Comment: Further, we support CARB's proposed exemption for business entities whose only business in California is employee compensation or payroll expenses, including teleworking employees. These out-of-state business entities have a minimal and tenuous connection with—and environmental impact within—California.[22] (45d-057.20)

[22] We also support CARB's proposed exemption for a business entity that is subject to regulation by the Department of Insurance in California, or that is in the business of insurance in any other state, but do not have further comments on this proposed exemption.

Comment: Carbon Accountable has reviewed the applicability provisions in § 96071 and supports the proposed exemptions for tax-exempt non-profit organizations, government entities, and business entities whose only California activity consists of wholesale electricity transactions or teleworking employees. These exclusions are entirely consistent with the legislative intent of SB 253, which was designed to capture the emissions of major commercial enterprises rather than governmental or charitable bodies. (45d-059.4)

Comment: CHG supports the Board's efforts to establish consistent greenhouse gas reporting and climate-related financial risk disclosures for covered for-profit entities and appreciates that both the Board and the Legislature have excluded nonprofit entities to minimize their administrative burdens. (45d-060.1)

Comment: Program Scope and Exemptions. CMTA supports CARB's proposed exemptions for government entities, nonprofit organizations, telework-only entities, and wholesale electricity transactions. These exemptions appropriately limit the programs' scope to entities with a meaningful operational presence in California. (45d-061.8)

Comment: EDF supports the Proposal's exclusions of nonprofit (§ 96201(b)(1)) and governmental entities (§ 96201(b)(3)), and of entities with business in California consisting only of wholesale electricity transactions (§ 96201(b)(4)) or employee payments (§ 96201(b)(5)). Each of these exclusions aligns with legislative text and intent that focused on entities conducting activities for financial gain in the state.[2] (fv)

[2] *See* Cal. Rev. & Tax. Code § 23101 (defining "doing business" as "actively engaging in any transaction for the purpose of financial or pecuniary gain or profit"); *see also* Letter from EDF to CARB 2-5 (Mar. 21,

2025), https://ww2.arb.ca.gov/form/public-comments/submissions/22566 (explaining rationales for excluding nonprofit and government entities, wholesale electricity transactions, and *de minimis* business activities from applicability determinations).

Comment: Furthermore, we agree with the exemption below:

- A business entity whose only business within California consists of wholesale electricity transactions.

Per clarification from Senators Wiener and Stern in a letter submitted to the Senate Daily Journal, January 29th, 2024, the legislative intent of SB 253 and SB 261 did not include business entities whose sole activity within the state consists of wholesale electricity transactions[1]. (45d-075.3)

[1] Senate Daily Journal, "Re: Legislative Intent – SB 253 and SB 261", January 29th, 2024

Comment: The Class of '85 supports CARB's proposed exemption for a business entity whose only activity within California consists of wholesale electricity transactions and appreciates the Agency's consideration of the Group's previous comments on the issue.[4] The Group agrees that out-of-state business entities that sell energy, or other energy goods or services (e.g., transmission or reserves), into California through a separate market (such as the Western Energy Imbalance Market or the Extended Day Ahead Market) should not be covered, as these entities are one step removed from directly performing business activity in California and lack control over the ultimate disposition of their energy goods or services due to the presence of an intermediate market entity. (45d-078.6)

[4] Comments of the Class of '85 Regulatory Response Group on the information solicitation issued by CARB, Submission No. 22601, (Mar. 21, 2025). These previous comments are included as Attachment B.

Comment: The Group supports CARB's proposed exemption for business entities whose only business in California is employee compensation or payroll expenses, including teleworking employees. This exemption recognizes that the connection these out-of-state business entities have with California, as well as their environmental impact within the state, is minimal and tenuous. This approach aligns with CARB's mandate to consider alternatives that would limit regulatory burdens for covered entities by clarifying regulatory requirements and avoiding unnecessary reporting.[7] This approach also aligns with CARB's mandate to consider the effect of a regulation on the elimination of jobs within the state.[8] (45d-078.9)

[7] *See* Cal. Gov. Code § 11346.2(b)(4).
[8] *See* Cal. Gov. Code § 11346.2(c)(1)(A).

Comment: The Group supports CARB's proposed exemption for non-profits and charitable organizations that are tax-exempt under the Internal Revenue Code. This exemption is consistent with the legislative intent of the statutes and aligns with both federal and California laws that grant tax-exempt status. Additionally, subjecting such non-profits and charitable organizations to the disclosure requirements of SB 253 and 261 would impose significant burdens that could jeopardize their continued viability. (45d-078.10)

Comment: The Group also supports CARB's proposed exemption for government entities and to exclude companies that are majority-owned by government entities. (45d-078.12)

Comment: Out-of-state entities that sell energy, or other goods and services (e.g., transmission, reserves, or other energy-related products), into California through a separate market should not be covered. These entities are "one step removed" from directly performing business activity in California, and it is therefore appropriate to exempt them due to the existence of the intermediate entity of a separate market. In many such cases, the seller in such circumstances has very little or no control over the ultimate fate of their offered goods or services—whether those items end up in California or California markets, how, when, or for how much. It is often not logistically possible for a seller to control, monitor, track, or trace such transactions to that level, which is in any case, the actual function and purpose of the market, brokerage, or other seller.

This interpretation is supported by a letter from the lead sponsors of SB 253 and 261, Senator Wiener and Senator Stern, who clarified the bills were not intended to include companies participating in the Western Energy Imbalance Market and the Extended Day Ahead Market within the scope of the reporting obligation. Specifically, the letter provides the bills "are not intended to include a business entity whose only activity within California consists of wholesale electricity transactions that occur in interstate commerce."[5] To the extent CARB is concerned about the potential emissions associated with imported electricity, such emissions are already accounted for under California's cap-and-trade program.[6] Subjecting out-of-state companies to substantial reporting burdens just for helping balance California's electric grid would disincentivize companies from engaging in such transactions in the future. CARB should strive to avoid disincentives to electricity reliability in California, especially in light of the North American Reliability Corporation's 2024 Long-Term Reliability Assessment, which highlights future reliability concerns in future years due to a combination of demand growth and planned generator retirements.[7] Furthermore, creating such disincentives could hinder California's goal of electrifying the transportation sector, including Executive Order N-79-20's target of 100% in-state sales of new passenger cars and trucks being zero-emission by 2035,[8] as well as the electrifying other sectors, such as buildings.[9]

Finally, subjecting out-of-state companies to substantial reporting burdens for activities outside of California could be subject to legal challenges. Under the Due Process Clause of the U.S. Constitution, such requirements would be out of proportion to the out-of-state company's connection with California.[10] Similarly, under the Commerce Clause, such requirements would have the impermissible practical effect of regulating activities wholly outside of California's borders by requiring the disclosure of non-California activity.[11] Additionally, SB 253 and SB 261 may violate the First Amendment by compelling speech, as alleged in Chamber of Commerce of the United States v. California Air Resources Board, Case No. 2:24-cv-00801-ODW (C.D. Cal.). Excluding out-of-state utilities that do not generate emissions in California will help avoid these potential legal issues. (45d-078.31)

[5] California Legislature 2023-24, Senate Daily Journal, 3058, (Jan. 30, 2024), https://leginfo.legislature.ca.gov/faces/pubSenDailyJrn2.xhtml?type=doc&sessionyear=20232024&pagenum=3057&sessionnum=0&fileid=996.
[6] *See* Cal. Code Regs. tit. 17, § 95852(b)(1).
[7] North American Electric Reliability Corporation, 2024 Long-Term Reliability Assessment, 17 (Dec. 2024), https://www.nerc.com/pa/RAPA/ra/Reliability%20Assessments%20DL/NERC_Long%20Term%20Reliability%20 Assessment_2024.pdf.
[8] CARB, Going Zero: Leading the Way to Zero-Emission Drive, https://ww2.arb.ca.gov/going-zero (last visited Mar. 17, 2025).
[9] CARB, Building Decarbonization, https://www.energy.ca.gov/programs-and-topics/topics/building-decarbonization (last visited Mar. 17, 2025).
[10] See Allied-Signal, Inc. v. Dir., Div. of Tax'n, 504 U.S. 768, 777 (1992) ("The principle that a State may not tax value earned outside its borders rests on the fundamental requirement of both the Due Process and Commerce Clauses that there be 'some definite link, some minimum connection, between a state and the person, property or transaction it seeks to tax.'") (quoting Miller Brothers Co. v. Maryland, 347 U.S. 340, 344–345 (1954)).
[11] See Healy v. Beer Inst., Inc., 491 U.S. 324, 332 (1989) ("[A] state law that has the 'practical effect' of regulating commerce occurring wholly outside that State's borders is invalid under the Commerce Clause.").

Comment: The insurance industry has been engaged in climate risk reporting for nearly two decades. We support CARB's proposed language in Sections 96071(b)(2) and 96072(a)(5) to exempt insurers from reporting. This appropriately recognizes the long-standing role of the California Department of Insurance as our primary regular -- regulator.

Insurers are already reporting insurance-specific climate disclosure framework that provides regulators with information on governance, risk management, strategy, emissions without creating duplicative or consistent -- inconsistent reporting obligations. (BHT-007.2)

Comment: Regarding, the applicability provisions, we support the proposed exemption for tax exempt nonprofit organizations and government entities. (BHT-013.7)

Comment: We submitted a comprehensive letter outlining our support for CARB's proposed approach to exempt insurers consistent with the existing statutory exemption in the Health and Safety Code. We believe the regulatory clarification is appropriate to ensure continuity across the climate disclosure statutes. And absent such alignment, insurers will face overlapping and inconsistent climate disclosure obligations at a time the insurance market is already facing extraordinary challenges in California, and we don't want to make those worse.

For more than 15 years, insurers have been subject to insurance-specific climate disclosures developed by the National Association of Insurance Commissioners called the Climate Risk Disclosure Survey. And there has been a hundred percent compliance in California.

Beginning in 2022, the survey was expressly structured around the Task Force on Climate-Related Financial Disclosures four core pillars: governance; strategy; risk management; and metrics and targets. And to be clear, the metrics and targets section specifically includes disclosure of Scope 1, Scope 2, and when appropriate, Scope 3 greenhouse gas emissions.

You can review those reports right now on the California Department of Insurance website, where there's an online dashboard and historical overview.

The proposed regulation appropriately recognizes the elected Insurance Commissioner's primary jurisdiction over insurance, climate disclosures, and avoids duplicative regulation, while reserving robust climate risk oversight to the existing insurance regulatory framework.

And lastly, I'd note it is also consistent with Section 2 of SB 253, which clearly states the regulations should ensure that emissions reporting is structured in a way that minimizes duplication of effort. (BHT-022.1)

Comment: John Wenger here for Corebridge Financial, speaking in support of CARB's proposed insurer exemption. CARB's proposed exemption for insurers is appropriate for this rulemaking, because it aligns with CDI's longstanding regulatory role and avoids duplicative and inconsistent reporting. Insurers already report on climate risk. The insurance industry has been conducting climate-related reporting for nearly 20 years under an insurance-specific framework overseen by CDI, covering governance, risk management, strategy and emissions. (BHT-026.1)

Comment: As highlighted in its letter earlier this month, the insurance industry has been actively engaged in climate reporting for nearly 20 years. Therefore, ACLHIC supports CARB staff's proposed language in sections 96071(b)(2) and 96072(a)(5) to exempt insurers from reporting, as this aligns with the long-standing role of our statewide elected regulator.

Insurers are already subject to a comprehensive insurance-specific climate disclosure regime overseen by the California Department of Insurance, which provides regulators with robust information on governance, risk management, strategies, and emissions. This reporting mechanism covers virtually the entire U.S. insurance marketplace while also appropriately avoiding duplicative and potentially inconsistent reporting.

ACLHIC respectfully disagrees with the characterization that insurance reporting is deficient and that reporting through CARB would yield substantively new information. (BHT-027.1)

Comment: On behalf of our client, the Reinsurance Association of America, we support keeping the insurance exemption in the existing language. Eliminating this exemption would create a duplicate, burdensome and extensive reporting requirement that our members companies already provide to the Department of Insurance. (BHT-028.1)

Comment: We do support the proposed insurer exemption by CARB in Senate Bill 253, as well as the exemption already in place for Senate Bill 261, as they recognize CDI's long established regulatory authority and working to supervise the industry. (BHT-031.1)

Comment: We support the exemptions for a number of reasons, but first kind of remaining primarily regulated by CDI would avoid any duplicative or inconsistent reporting requirements. Also, considering those duplicative requirements, the industry has conducted climate-related reporting for about 20 years under an insurance-specific framework that covers emissions, risk management, governments and strategy, which has been overseen by CDI.

And I just want to know too here that this required framework, it is required for the U.S. industry -- or the insurance industry with direct written premiums over $100 million nationwide, and as result this captures over 1,700 companies making up over 85 percent of the market and that share is growing, and those are based off of CDI's figures from 2023. (BHT-031.2)

Comment: EDF supports all of the other proposed exclusions, which align clearly with legislative text and intent. (BHT-033.4)

Comment: We're here today to support CARB staff's proposed exemption for insurers under Health and Safety Code section 38532, consistent with the Legislature's clear exemption in section 38533. The statute expressly recognizes that insurers are subject to a distinct and comprehensive regulatory framework under the California Department of Insurance.

Extending the exemption ensures continuity and coherence across the statutes. Without this alignment, insurers could face overlapping or potentially inconsistent disclosure requirements, despite the Legislature's clear decision to place insurers under the primary oversight of insurance regulators. For more than 15 years, insurers in California have reported climate-related risks through the National Association of Insurance Commissioners' Climate Risk Disclosure Survey.

Since 2022, that survey has been aligned with the task force on climate-related financial disclosure and is structures around governance strategy, risk management, and metrics and targets. It already provides regulators with robust decision-useful and insurance-specific climate disclosures tailored to the unique risk profile of insurers. (BHT-035.1)

Comment: In the interest of time, I would just like to reiterate the comments made by APCIA, ACLHIC, ACLI, and the Personal Insurance Federation in support of the current exemption for the insurance industry. I just want to add that at a time when California is working hard to attract insurers to return to the California market, the addition of additional and duplicative regulations will not assist in that process. (BHT-039.1)

Comment: We would echo the comments of APCIA, PIF, ACLHIC, Zurich. Also we'd like to particularly echo the comments of Swiss Re. I will thank you for your time and look forward to further conversations. (BHT-050.1)

> **Agency Response:** No changes were made in response to these comments. CARB acknowledges commenter's support regarding the exemption.
>
> Some comments raise potential First Amendment concerns regarding the Regulation, including arguments regarding compelled speech. Comments regarding the constitutionality of the enabling statutes and proposed regulations do not require detailed responses, as the APA requires an agency's responses to focus on how the proposed action has been changed to accommodate each objection or recommendation, or the reasons for making no change. (Cal. Gov. Code § 11346.9.(a)(3).) Additionally, the APA's "Authority" standard does not require agencies

to rebut all legal challenges made by commenters opposing the regulation, but rather focuses specifically on whether the regulation is authorized by either:

(1) a California constitutional or statutory provision which expressly permits or obligates the agency to adopt, amend, or repeal the regulation; or

(2) a California constitutional or statutory provision that grants a power to the agency which impliedly permits or obligates the agency to adopt, amend, or repeal the regulation in order to achieve the purpose for which the power was granted.

(See 1 CCR § 14(a).) As explained in the rulemaking record for the Regulation, both express and implied statutory authorities authorize the Regulation. (See, e.g., Health and Safety Code §§ 38532, 38533, 39600, and 39601.)

For the reasons described above, CARB is not required to respond to legal arguments beyond the standards discussed above. Nevertheless, for informational purposes, CARB voluntarily provides the following response.

The Regulation and the controlling statutes are consistent with applicable Constitutional and statutory authorities and requirements, and no changes are needed in response to the commenter's Constitutional claims. CARB respectfully disagrees that the Regulation – or its enabling statutes – would result in compelled speech in violation of the First Amendment. As the commenter notes, this claim is currently being litigated in federal court. The Regulation involves reporting of factual emissions-based information, as well as information regarding the risks assessed by covered businesses. To the extent the Regulation governs speech at all, it only governs commercial speech, in furtherance of the substantial governmental interest of providing consistent, accurate, and decision-useful information to California's investors, consumers, and other stakeholders. Furthermore, as noted in the record, CARB has worked to ensure that the Regulation minimizes duplication of effort, aligns to the extent possible with existing statutory and regulatory provisions, targets the most decision-useful information, and applies to entities of most interest to California's investors, consumers and other stakeholders, consistent with statutory intent.

F. Rulemaking Procedure

F-1 Multiple Comments: Critique for the Rulemaking Process

Comment: Neste therefore urges CARB to consider pausing implementation of the first-year reporting deadline until:

- Comprehensive reporting regulations are developed and adopted through a formal rulemaking process and with input from reporting entities, including detailed specifications for:
    - Organizational boundary determinations and consolidation approaches;

- Data collection, calculation, and estimation methodologies;
- Reporting formats and assurance requirements;
- Clear compliance examples and safe harbors;
- Transparent enforcement criteria. (45d-010.12)

Comment: The current consultation timeline is positioned to meet only the minimum requirements under the California Administrative Procedure Act ("APA") (Government Code §§ 11340, et seq.). This approach is detrimental to the clarity, quality, and effectiveness of the Proposed Regulation. The rulemaking timeline does not permit meaningful amendments to the Proposed Regulation, as is expected to be warranted from the responsive comments provided. As such, we recommend CARB build in additional time for public consultation.

We appreciate that CARB published the Proposed Regulation on December 9, 2025, to provide additional review time in advance of opening the public comment period December 26. Nonetheless, the formal publication established a 45-day comment period running through the holiday period, resulting in a 30-business-day comment period. This timeline is tight and, given its overlap with the holiday period, inopportune for soliciting full participation and consultation from all stakeholders. Further, with only 13 business days between the close of the comment period and the board consultation, there is very little time for CARB staff to meaningfully review, analyze, vet, and prepare well-considered recommendations for the Board based on the public feedback.

Among other things, CARB should bear in mind that to accommodate substantial changes, the agency would be required to provide a second 15-day comment period in compliance with the APA. Additionally, to the extent that CARB decides not to incorporate changes based upon the comment period, staff must address the comments and provide justifications for declining recommended changes.

In light of the significant interest in the Proposed Regulation, which we understand has thus far exceeded CARB's records for stakeholder attendance and participation, we strongly recommend that CARB delay the planned Board hearing by at least 30 days to provide time for CARB staff to carefully digest and address input from stakeholders, and to accommodate the APA's additional 15-day period for stakeholder review of needed subsequent changes to the regulation. (45d-018.35)

Comment: We find the fragmented rulemaking approach adopted by CARB to be quite challenging from a stakeholder input and compliance planning standpoint. By establishing essential definitions and applicability for the fee scheme before the substantive reporting requirements have been developed, stakeholders lack clarity regarding how important concepts, such as parent-subsidiary relationships, will ultimately influence their responsibilities under the law. Likewise, from a compliance standpoint, it puts regulated entities in the position of having legal obligations imposed on them through the applicability provisions that are not yet substantively fleshed out. (45d-018.37)

Comment: In its Staff Report, CARB asserts the estimated compliance costs for its proposed fee regulation "are minimal and not anticipated to influence employment levels [in California]"

(page 18). It also asserts "[t]he estimated compliance costs for each regulated entity are minimal and therefore are not anticipated to affect the expansion of businesses currently doing business within the State of California."[55]

Beyond the proposed fee structure, CARB proposes in the Staff Report definitions for "business entity," "covered entity," "reporting entity," "doing business," "doing business in California," "revenue," "parent company" and "subsidiary." Each of these definitions bear on the potential fee amount covered entities would pay under the proposed regulation.

Contrary to CARB's assertion of "minimal" compliance costs, covered entities, or potentially covered entities, will incur significant costs to evaluate the scope and terms of the above definitions (the challenges of which are covered above) for the purpose, as relevant here, of calculating what fee amount, if any, they may be required to pay to CARB. Particularly for non-California entities that generate some revenues in the State and have complex organizational structures, joint or similar ventures, and/or global or multi-state operations, the internal and external accounting, legal, and tax resources, and related costs, required to determine threshold applicability of the fee regulation, develop or refine data systems and workflows, organize reporting on a consolidated or company-by-company basis, and ensure ongoing compliance—including establishing appropriate internal controls and record retention procedures—will be a substantial undertaking.

In a 2025 survey used to inform our March 2025 comment letter to CARB, Society members estimated compliance costs with § 38532 would range in the hundreds of thousands of dollars and up to $1 million.[56] While the respondents at that time were uncertain of the scope of the proposed regulation outside of the express statutory text and thus were asked to provide expected costs based on their initial assessment, the estimated amounts well exceed a "minimal" cost. (45d-018.41)

[55] Staff Report at 19.

[56] Society for Corporate Governance Survey: Emissions Disclosure, Assurance & Climate Risk Reporting (February/March 2025) (on file with author), referenced in Society Comment Letter: Information Solicitation to Inform Implementation of California Climate-Disclosure Legislation: Senate Bills 253 and 261, as amended by Senate Bill 219 (March 2025) at 8 note 6 ('Question: Based on your company's initial assessment of SB 253, what do you expect your company's initial and ongoing annual total costs will be to comply with the law, inclusive of development, expansion, and/or refinement of processes and procedures; technology; internal and outsourced staffing; consultants; and other resources? Please exclude attestation providers or specifically note that your costs include attestation.").

Comment: Further to the above, in the Staff Report Economic Impacts Assessment,[57] CARB concludes that the proposed regulation "is not expected to directly affect the creation or elimination of jobs within the state," because "the estimated compliance costs for this regulation are minimal." As noted, this will be far more than a minimal undertaking for many companies. As such, we respectfully recommend CARB to re-evaluate this assumption and conduct a more detailed economic impact analysis. Given the scale of preparatory work described by stakeholders, we suggest that CARB further evaluate whether assurance readiness, data collection and controls, increased disclosure, and multi-jurisdiction alignment

have already led to or will in the future lead to increased hiring or outsourcing and update the record accordingly to avoid understating impacts in compliance with the APA. (45d-018.42)

[57] Staff Report at 18.

Comment: It must be noted that substantial direct and indirect compliance costs will be shouldered by covered entities and associated entities alike. The data collection, staffing demands, legal review, and third-party assurance providers will have major cumulative costs. These costs extend beyond to smaller entities preparing information to share with associated covered entities. Regardless of the ultimate qualification, resources must be poured into monitoring and assessing the regulatory applicability. The Initial Statement of Reasons presented does not fully quantify the large-scale economic impact. (45d-040.16)

Comment: The rulemaking proposes significant defining terms that will result in substantial compliance costs for applicable entities, and therefore CARB should be required to conduct a Standardized Regulatory Impact Assessment (SRIA) under the Administrative Procedure Act (APA) for major regulations. (45d-047.2)

Comment: While CARB's ISOR indicates that the fee is expected to be negligible for "most" companies, this is not the only expense companies will incur in complying with the statutes and regulations. Companies will need to hire experts, third-party assurance providers, and incur millions of dollars in costs collecting, measuring, and reporting the most accurate data. (45d-056.12)

Comment: This Regulatory Package Triggers SRIA Requirements Under the APA

The current regulatory proposal is procedurally deficient because CARB has improperly bypassed the requirement to conduct a Standardized Regulatory Impact Assessment (SRIA). Under the Administrative Procedure Act and Government Code Section 11346.3(c), any "major regulation" must be preceded by a SRIA submitted to the Department of Finance. A "major regulation" is defined as having an economic impact on California business enterprises and individuals exceeding $50 million in any 12-month period. The ISOR incorrectly characterizes this rulemaking as "not major," claiming the highest annual cost is approximately $20.8 million. This figure is fundamentally flawed because it primarily accounts only for the administrative fees expected to be collected under the regulation. It entirely ignores the substantial and unavoidable direct compliance costs that will be borne by the entities this rulemaking determines must comply with SB 253 and SB 261.

As the ISOR repeatedly notes, defining terms such as "doing business in California," "revenue," "parent," and "subsidiary" establishes the universe of who must comply with SB 253 and SB 261 and who is excluded. Such determinations control the scale and economic impact of these disclosure programs.

The economic reality of the proposed regulation far exceeds the $50 million threshold of a "major regulation." CARB has acknowledged that thousands of entities will be subject to SB 253 and SB 261. For individual entities, these costs are expected to reach hundreds of thousands of dollars per year. Across the thousands of reporting and covered entities, the

cumulative impact of data collection, internal hiring and systems upgrades, external consultants and legal review, and the procurement of third-party assurance will reach hundreds of millions of dollars annually. By failing to quantify these direct costs to the California economy, CARB has not performed the rigorous macroeconomic analysis required by law, including the impact on job creation, business elimination, and the state's overall competitive disadvantage.

It is therefore concerning that CARB has advanced this rulemaking without preparation of a SRIA. As the Legislative Analyst's Office and Cal/OSHA have both observed, the SRIA process improves the quality of regulatory analysis and helps surface implementation challenges early. Given the significant economic impacts associated with the proposal, this rule should not be finalized without a SRIA.

To remedy this procedural error, CARB should suspend the current rulemaking and conduct a formal SRIA, as mandated by Government Code Section 11346.3, that reflects the actual compliance burden and economic impact of the proposed rulemaking and evaluates cost-effective alternatives. Proceeding without this data denies the public and the regulated community a meaningful opportunity to comment on the true economic consequences of the proposal and leaves the regulation vulnerable to challenge. (45d-069.1)

Comment: We urge CARB to revise the proposal before proceeding. At a minimum, CARB should complete the SRIA required for major regulations using a realistic accounting of direct compliance costs,… (45d-069.26)

Comment: In particular, CARB must ensure that its regulations adequately assess "the potential for adverse economic impact on California business enterprises" and address competitive impacts for existing businesses.[2] (45d-078.2)

[2] See Cal. Gov. Code §§ 11346.3(a), (e) and 11340.1(a).

Comment: Now second, no standard regulatory -- standardized regulatory impact assessment has been performed. Although the ISOR characterizes this as a limited fee package, the proposal makes substantive determinations as to who must comply and who is exempted from compliance. Those determinations of who must comply and who is exempt drive hundreds of millions of dollars of cumulative compliance costs for those who are not exempted.

The annual costs are substantially higher than the $28 million estimated in the ISOR. It clearly crosses the $50 million threshold for performing SRIA and without evaluating that, you don't have the ability to see the economic impact. (BHT-008.3)

Comment: First, the economic impact of this rulemaking is significant and likely exceeds the threshold of a major regulation. Thousands of entities will face substantial direct compliance costs, including data systems, third-party assurance, and value chain emissions tracking.

We encourage CARB to conduct a full and transparent impact assessment so policymakers and stakeholders like us may understand the true cost of Cal -- to California's economy including agriculture. (BHT-015.4)

Comment: First on the SRIA, the regulatory package qualifies as a major regulation under the APA with economic impacts exceeding the $50 million threshold. We really encourage CARB not finalize this rule without first completing a formal standardized regulatory impact assessment. (BHT-040.1)

Comment: 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. (LC-001.1)

> [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

Comment: 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. (LC-001.2)

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

> **Agency Response:** No changes were made in response to these comments. This Regulation is not a major regulation requiring a Standardized Regulatory Impact Assessment (SRIA) under Government Code section 11346.3. The SRIA threshold is evaluated based on the economic impact of the specific regulation being adopted

(here, a first-year reporting deadline and essential associated provisions), not the hypothetical downstream compliance costs associated with implementing the underlying statutes in future years (which will involve a second, future rulemaking for post-2026 reporting, for which a SRIA is being prepared). The Regulation being finalized here establishes fees, foundational definitions, and a first-year reporting deadline. The only non-negligible direct costs imposed by this Regulation are the program fees, which total approximately twenty million dollars annually, well below the fifty-million-dollar threshold for a major regulation.

CARB disagrees with commenters who argue that the compliance costs associated with Health and Safety Code sections 38532 and 38533 more broadly should be attributed to this Regulation for SRIA purposes. Costs such as Scope 3 compliance costs (not required as part of 2026 reporting), assurance requirements, and the full economic impact of the program in 2027 onward flow from the statute and future rulemaking (already underway, as noted above), and are outside the scope of this Regulation.

Regarding the rulemaking timeline, CARB published the Regulation ahead of schedule on December 9, 2025, specifically to provide stakeholders with 2 weeks of additional review time before the formal 45-day comment period opened, given the holiday season, which was not required under the Administrative Procedure Act. CARB supplemented the formal Administrative Procedure Act comment period with multiple public workshops, FAQ documents, and ongoing stakeholder engagement to ensure that entities had access to the information needed to participate meaningfully. The record reflects substantial public engagement, with attendance and participation exceeding prior CARB rulemaking processes.

Regarding comments on the rulemaking approach, CARB determined that establishing limited foundational definitions, fees, and a first-year reporting deadline through this Regulation provided necessary regulatory certainty for entities in advance of the first-year (2026) reporting. Deferring these foundational elements to a date after the 2026 reporting would not have provided certainty on key applicability questions for the regulated community during the first implementation year. CARB has indicated that it will exercise enforcement discretion for the first report due in 2026, allowing reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued. Entities that were not collecting data or were not planning to collect data, at the time the Enforcement Notice was issued, are not expected to submit Scope 1 and Scope 2 reporting data for this first reporting cycle. This approach is intended to support entities as they begin complying with these new reporting requirements.

One commenter argues that CARB violated the California Administrative Procedure Act (APA) by, in their view, introducing a novel rationale for the provision regarding insurers (reducing duplication of effort) and that the public did not have the ability to

comment on that rationale.[9] CARB respectfully disagrees. Health and Safety Code section 38532 expressly directs CARB to design emissions reporting under this program "in a way that minimizes duplication of effort." (Health and Safety Code section 38532(c)(2)(D)(i).) And rather than a “novel” rationale, nonduplication is one of the six core standards for rulemakings under the APA. (See California Government Code sections 11349(f); 11349.1(a).) The Staff Report also discusses CARB’s efforts to implement the statutory direction, including minimizing administrative burdens and costs to regulated entities generally. Commenters also submitted comments, included in the record for this rulemaking, describing the nonduplication benefits of excluding insurance entities from first-year reporting in 2026. Finally, CARB disagrees that every conceivable rationale for a proposed regulatory provision must be included in the Staff Report or circulated for 15-day public comment. The commentor provides no support for this assertion, other than for the requirement that an agency must identify any new materials on which it is relying. Here, CARB is merely indicating that the statute itself is another rationale for the provision. Agencies routinely receive public comments during the 45-day comment period providing additional perspectives and evidence into the rulemaking record. Disallowing agencies from considering these perspectives and evidence received during the public review process would undermine the purpose of the public review process that is at the heart of the APA.

F-2 Unique Comment: Critique of the Public Process

Comment: We appreciate that CARB staff have held several lengthy public meetings,[46] received many written comments, and endeavoured to have an open door. However, the rulemaking record and proposal do not clearly reflect the nature and substance of statutorily required consultation. The statute requires CARB to consult with all of the following: “(A) the Attorney General; (B) other government stakeholders, including, but not limited to, experts in climate science and corporate carbon emissions accounting and reporting; (C) investors; (D) stakeholders representing consumer and environmental justice interests; and (E) reporting entities that have demonstrated leadership in full-scope greenhouse gas emissions accounting and public disclosure and greenhouse gas emissions reductions.”[47] Beyond broad references to stakeholder consultations, the record of consultation does not discuss how CARB has met its requirement to meaningfully engage with these stakeholders. Had stakeholder consultations been given due weight, we would expect the Staff Report to reflect such input; however, no specific stakeholder input is discussed in the Staff Report with any substantive specificity. Indeed, the only place where the Staff Report addresses stakeholder input in any practical way is in connection with reporting deadline commentary and even there, the discussion is cursory and generalized and does not reflect the Society’s repeated

[9] CARB notes that this comment letter (LC-001) was submitted outside of the 45-day comment period on the Regulation. CARB therefore objects to the entire comment letter as untimely. CARB is not required to respond to untimely comments. Nevertheless, CARB provides the following responses to ensure the record is clear on the topics raised by the commenter.

feedback—provided through multiple written submissions and direct engagements with CARB staff— as to the timing of reporting.

By way of example, the Society has repeatedly expressed concerns about the § 38532 reporting deadline in the context of data that show that companies typically publish their sustainability reports, including GHG emissions disclosures, between six to nine months (on average, within a much broader range) after the end of their fiscal year and we have encouraged CARB to solicit additional feedback on this topic. Yet the Staff Report references only six months and implies that six months will accommodate all reporting companies without regard to data and written and oral feedback that is inconsistent with that conclusion.[48] As noted above in Section III.B., the Staff Report further inappropriately references CARB's existing and unrelated MRR program verification deadline[49] as a basis for the Health and Safety Code § 38532 reporting deadline without regard to the typical timelines by which companies typically disclose their GHG emissions and the fact that the MRR program verification deadline is not an appropriate benchmark for § 38532 reporting. As noted previously, § 38532 (c)(2)(A)(vi) provides: "The reporting timelines shall consider industry stakeholder input and shall take into account the timelines by which reporting entities typically receive scope 1, scope 2, and scope 3 emissions data, as well as the capacity for an independent assurance engagement to be performed by a third-party assurance provider." CARB should be responsive to data on current timing practices and the Staff Report should use that data to support the § 38532 reporting deadline included in the Proposed Regulation.

Both the stakeholder community and CARB stand to benefit from meaningful engagement and consideration by CARB. As noted in the preamble of and throughout this comment letter, at present, many concerns and considerations remain unaddressed in the Proposed Regulation and Staff Report, warranting greater stakeholder input before the adoption of the Proposed Regulation.

Further, stakeholder companies expect that their disclosure reports prepared in compliance with the Proposed Regulation will be read and relied upon by a much broader audience than just CARB. For example, § 38532(c)(2)(B) contemplates that consumers, investors, and other stakeholders will use these reports. The consultation process should account for the reality of the broad use cases and audiences for disclosure reports made in compliance with the Proposed Regulation to promote the disclosure of meaningful and practical information for that broader audience consistent with the statutory purpose. This consultation will be an important foundation for CARB's further substantive § 38532 rulemaking to ensure that the data and any format established for reporting is a net benefit to users of the information and maximally interoperable with other global reporting standards and schemes. (45d-018.36)

[46] Note that while the three public workshops in 2025 were lengthy, based on the number of commenters seeking to speak, comments were limited to two minutes, which for many participants, was not sufficient to meaningfully provide feedback or express concerns.

[47] Health and Safety Code §38532(c)(4).

[48] Staff Report at 15 ("Staff received feedback from stakeholders regarding a future first year reporting deadline. Two of the main themes communicated in this feedback were, 1) reporting entities requested six months after the end of their fiscal year to gather data, verify the accuracy of the data, and report to

CARB, and...This approach guarantees at least six months of time between fiscal year end and the proposed reporting deadline, to provide additional flexibility and accommodate the wide range of fiscal year timelines.")

[49] Staff Report at 15 ("The proposed first reporting deadline of August 10, 2026, matches the verification deadline under CARB's existing MRR program, with the goal of streamlining GHG reporting responsibilities and timing for entities reporting under Health and Safety Code section 38532 and MRR.")

Agency Response: No changes were made in response to this comment. CARB respectfully disagrees with the assertion that it did not engage robustly with stakeholders. Consistent with the APA and with the Board's long-standing practice, CARB held multiple public workshops (going above and beyond the requirements of the APA) and had numerous other meetings with interested persons during the development of the Regulation. (See Staff Report at 23-24.) These discussions provided CARB with useful information that was considered during development of the Regulation.

F-3 Unique Comment: Request for Additional Public Comment Period on Fee Structure

Comment: Berkshire Hathaway Energy Comments on CARB's Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation

CARB Should Provide an Additional Opportunity for Public Comment on the Fee Structure After Clarifying Fee Applicability for Parent–Subsidiary Structures and for Consolidated Reporting.

Because the Proposed Rule does not yet clearly define which legal entities within a parent-subsidiary corporate structure are subject to fee assessment under Subarticle 2, stakeholders currently lack a meaningful opportunity to evaluate the practical and economic implications of the proposed fee structure. The substantive effect of the fee calculation provisions in Section 96073—including the determination of the number of reporting entities (N_{38532}) and covered entities (N_{38533})—necessarily depends on how CARB ultimately resolves the questions regarding fee liability for parent companies versus subsidiaries, and the interaction of fee assessment with consolidated reporting under SB 253 and SB 261. Until those threshold issues are clarified, it is not possible for regulated entities to fully assess whether the proposed fee methodology is reasonable, equitable or consistent with the statutory directive that fees reflect CARB's actual and reasonable program administration costs.

Accordingly, BHE respectfully requests that CARB commit to accepting and responding to public comment on the fee structure and fee schedule after these clarifications have been made in subsequent rulemaking. In particular, BHE urges CARB to:

- defer final evaluation of stakeholder comments on the fee calculation methodology until CARB has clarified which entities may be assessed a fee when reporting is consolidated at the parent level; and
- provide a clear procedural opportunity for potentially affected entities to comment on the fee structure once the scope of fee-liable entities is known.

Providing an opportunity to comment on the fee schedule after these clarifications are issued is essential to ensure meaningful notice and comment and to allow stakeholders to evaluate the fee structure based on the substantive regulatory framework that will govern their compliance obligations. Without such an opportunity, regulated entities would be forced to comment on a fee proposal in the abstract, without understanding how the regulation will apply to real-world corporate structures. Proceeding to finalize the fee structure under these circumstances would deprive the public of a fair opportunity to understand and comment on the real-world implications of the proposal and would risk a rulemaking record that does not meaningfully grapple with the most consequential design choices.

BHE seeks assurance that CARB will allow stakeholders to provide informed input on the fee provisions once the contours of fee applicability are sufficiently defined. This approach would improve the quality of the administrative record, reduce the risk of unintended or inequitable outcomes, and support successful implementation of SB 253 and SB 261 consistent with legislative intent. (45d-046.12)

> **Agency Response:** No changes were made in response to this comment. CARB has provided a transparent rulemaking process with multiple opportunities for public input, including workshops and formal comment periods, in accordance with the APA. The fee calculation methodology and applicability definitions provided in the 45-Day Notice, Staff Report and the Regulation established a clear framework, within which the public was allowed to and did comment. Throughout the rulemaking process CARB has clarified that applicability criteria apply to each individual entity, regardless of parent-subsidiary relationships.

F-4 Multiple Comments: Suggestion for the Rulemaking Process

Comment: CARB should not automatically incorporate future changes to the GHG Protocol. If CARB considers alternative approaches after 2033, we encourage a transparent process that evaluates how any new accounting framework would affect clean electricity procurement and real-world emissions reductions. (45d-023.2)

Comment: We would welcome the opportunity to engage further during the second phase of rulemaking on how standardized digital data preparation can reduce costs, improve data quality, and minimize reporting burden. (45d-028.4)

Comment: We are aware that the regulation currently before the board is primarily focused on setting the reporting date for the first year of California's greenhouse gas (GHG) reporting program for Scope 1 and 2 emissions, as well as establishing an administrative fee for the

program. However, as CARB has noted, it will launch an additional rulemaking once this one is complete. In that subsequent process, it will be important for CARB to address several outstanding program design and implementation questions. We look forward to engaging with CARB as this work moves forward, and it will be especially critical for CARB to clarify how the California GHG Reporting Program will incorporate updates or revisions to the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard, which SB 253 requires California's reporting requirements to align with through at least 2033. (45d-032.2)

Comment: If CARB believes it is necessary to incorporate future Scope 2 revisions, CEBA strongly recommends that CARB provide public notice, solicit stakeholder input, and conduct a board vote before automatically defaulting to new guidance. (45d-032.4)

Comment: Going forward, CCEEB recommends CARB be fully transparent about any future changes in program funding needs and staffing levels, including proposed fee increases. CARB should bring any proposed changes to the Board as informational items and provide covered and reporting entities the opportunity for public input. (45d-056.14)

Comment: CMTA appreciates CARB's engagement with stakeholders and its efforts to provide early guidance. We suggest that CARB continue to engage regularly with stakeholders throughout the program's implementation to help identify and resolve problems that arise and to make program implementation more efficient.

…

We look forward to continued engagement as this rulemaking and program implementation move forward. (45d-061.15)

Comment: Furthermore, CARB should be fully transparent about any future changes in program funding needs and staffing levels, especially any proposed increases, by bringing proposed changes to the Board as informational items and providing reporting entities the opportunity for public comment and review. (45d-066.5)

Comment: First, given the fee-setting authority in this regulation, we urge the Board to bring any major changes in future -- in the future to fees or associated program costs to the Board as an item for public comment so that regulated and covered entities can provide feedback on those changes. (BHT-006.1)

> **Agency Response:** No changes were made in response to these comments. CARB appreciates ongoing collaboration with stakeholders. While the Regulation has a narrow focus, an upcoming rulemaking (which will primarily focus on implementation of Health and Safety Code section 38532 in 2027 and onward) will further discuss other outstanding program design and implementation questions, including the program's consistency with other recognized reporting frameworks.
>
> CARB and the climate disclosure program have always prioritized providing transparency on the program's progress and conducting stakeholder engagement to improve the program. CARB will continue adhering to this standard in any future rulemaking processes.

F-5 Unique Comment: Change the Regulation Text to Waive Assurance Requirements for the First Year

Comment: The Proposed Regulation should explicitly provide that assurance is not required for § 38532 reports in 2026. Because the statute appears clear that assurance is required, companies may be unable or reluctant to rely solely on the public workshop slides or the mere omission of a discussion of assurance requirements in the Staff Report, and will face the timing and resource constraints further described above in Sections II and III.

In addition, there is uncertainty regarding CARB's authority to selectively determine which aspects of § 38532 it can temporarily waive in the face of an explicit mandate to attain an assurance engagement at a limited assurance level beginning in 2026. The regulatory text should therefore also note CARB's authority to permit reporting in a manner contrary to the text of Health and Safety Code § 38532. In the case of each of the exemptions described above, without including in the final regulations text that explicitly waives assurance, companies that may elect to rely on the exemption (based on their inability to obtain adequate data or limited assurance for their 2026 reporting or otherwise) would need to assume meaningful legal and reputational risks.

A statement of enforcement discretion alone is an inadequate policy-making tool, as it leaves the regulated community technically out of compliance (and thus unable to, for example, support affirmation with "compliance with laws" provisions in contracts and other arrangements) and subject to additional guidance updates as and when they might be issued.

Certain companies also may have compliance policies that prohibit them from relying on informal agency guidance when that guidance is not codified in, and may be interpreted as being contrary to, later-adopted formal agency guidance (and clear statutory text in the case of assurance).

Without adopting final regulations that explicitly waive assurance requirements in 2026 and clearly explain CARB's regulatory authority for doing so, many companies may be unwilling or unable to take advantage of the relief CARB is seeking to provide. (45d-018.28)

Comment: WSPA requests that CARB modify the regulatory text to explicitly waive all assurance requirements for the first SB 253 report due in 2026, even for entities that have previously obtained third-party verification for Scope 1 and 2 emissions under a different voluntary or regulatory reporting framework. While CARB has provided guidance on enforcement discretion in its FAQ, the current regulatory text does not reflect this waiver. To avoid confusion and regulatory uncertainty, CARB should explicitly state that it will exercise enforcement discretion for the 2026 submission of Scope 1 and 2 emissions for any entity not receiving limited assurance under California's specific requirements, regardless of whether that entity has already obtained assurance on its collected data. (45d-051.11)

Agency Response: No changes were made in response to this comment. CARB has clearly stated in multiple instances that first-year reporting pursuant to Health and Safety Code 38532 can reflect information that reporting entities have already gathered at the time 2024 Enforcement Noice was issued.

F-6 Unique Comments: Consideration of Alternatives

Comment: California Government Code § 11346.2(b)(4) also requires CARB to consider "reasonable alternatives to the regulation that would lessen any adverse impact on small business," and reasonable alternatives that are "less burdensome." As part of these alternatives, CARB must consider "overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health."[3] (45d-078.3)

[3] Cal. Health & Safety Code § 38562(b)(6).

Agency Response: No changes were made in response to this comment. Chapter IX of the Staff Report discusses regulatory alternatives at length. The Board has not identified any reasonable alternatives that would lessen any adverse impact on small businesses as the Regulation will not have direct costs on small businesses given the high annual revenue threshold of $500 million and $1 billion, respectively, for reporting under Health and Safety Code sections 38533 and 38532.

Additionally, no alternative proposal was found to be less burdensome and equally effective in achieving the purposes of the fee program. The comment mentions that CARB must follow California Health and Safety Code section 38562(b)(6). CARB respectfully disagrees with this statement in that Health and Safety Code section 38562(b) only applies to regulations related to emissions reduction measures, whereas the Regulation is an emissions reporting program.

F-7 Unique Comment: Impacts on Small Business

Comment: The Staff Report states that due to the relatively high revenue thresholds of the Proposed Regulation, it is not expected to have direct costs on "small businesses," as defined by California Government Code § 11346.3.[59] We recommend CARB conduct further analysis to assess the effects on small businesses, considering factors like supply chain dependencies, contractual obligations with larger entities, and potential shifts in market dynamics. This would allow for a fuller picture of how the regulation might be more equitable and not inadvertently disadvantage smaller entities. (45d-018.46)

[59] Staff Report at 20.

Agency Response: No changes were made in response to this comment. In the Staff Report, CARB determined that the Regulation, which narrowly focuses on establishing a fee structure, defining key applicability terms, and setting a first-year only reporting

deadline, does not have direct costs on small businesses. Given the high annual revenue threshold of $500 million and $1 billion, it is reasonable to assume that regulated entities do not meet the definition of a “small business” under California Government Code section 11346.3.

F-8 Unique Comment: Compliance Cost Related with the Initial Regulation

Comment: Cost of implementation: The "Non-Major Regulation: Statement of the Results of the Economic Impact Assessment (EIA): The creation or elimination of jobs within the State of California" section of the Notice of Public Hearing to Consider the Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation states:

"The Proposed Regulation is not expected to directly affect the creation or elimination of jobs within the state, as the estimated compliance costs for this regulation are minimal and not anticipated to influence employment levels. Any potential costs associated with the addition of the first year (2026) corporate GHG reporting deadline through the Proposed Regulation would be negligible, and potentially zero for some companies, and is not expected to create or eliminate jobs." Some entities that meet the applicability requirements may not be accustomed to reporting such data, and accordingly will likely incur additional costs for implementation of policies, processes and controls over determining the applicability of sections 38532 and 38533 of the Health and Safety Code as well as the determination of the fees under these sections of the Health and Safety Code. As complexity of the reporting entity's structure increases, so do the associated costs of implementing the Proposed Regulation. (45d-027.5)

Agency Response: No changes were made in response to this comment. As described in the Notice of Public Hearing and supporting economic analysis, the Regulation is not expected to directly affect the creation or elimination of jobs within the state.

CARB respectfully disagrees with the assertion that the Regulation will result in quantifiable additional costs for the first reporting year, besides the program administration fees. Pursuant to the December 2024 Enforcement Notice, CARB will exercise enforcement discretion for the first report due in 2026, allowing reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued. As such, for the first reporting year, entities are not required to establish new policies, processes, or systems for 2026 reporting under Health and Safety Code section 38532.

CARB also disagrees with the assertion that determining fee applicability will incur additional costs. To minimize the reporting burden on entities, the Regulation relies on established definitions from the Revenue and Taxation Code, which are already widely used by entities that file corporate tax filings in California. Accordingly, the information

needed to determine applicability is readily available to entities as part of financial records maintained in the ordinary course of business.

F-9 Unique Comment: Anticipated Benefits from Initial Regulation

Comment: The Staff Report outlines anticipated benefits from its regulation, including that it will "support a program that involves further quantification and reporting of regulated entities' GHG emissions."[60] CARB expects this additional reporting to "ultimately result in beneficial reductions in GHG emissions following improved accounting," although "the extent of any such GHG reductions is not quantifiable at this time."[61] It is understandable that the emissions reduction piece is not quantifiable at this time; however, the statement that the program will lead to more reporting is also unquantified and unsupported.

We recommend that if this purported benefit is to be included in the record, CARB provide support and details on how much net new decision-useful information will be reported under § 38532 and § 38533, particularly as many of the public companies and mature reporters that the regulation captures already report in accordance with global frameworks and there is a statutory obligation for CARB to consider interoperability and reduced duplication, particularly with the GHG Protocol. (45d-018.47)

[60] Staff Report at 16.
[61] Id

Agency Response: No changes were made in response to this comment. As noted in the Staff Report, the Regulation itself does not require changes in GHG emissions or mandate additional reporting beyond what is already established in statute. Because of this, CARB does not expect the Regulation to produce quantifiable benefits such as cost savings or emissions reductions.

The Staff Report's discussion of program benefits refers to the broader statutory program created by Health and Safety Code sections 38532 and 38533. The Regulation provides the funding and administrative structure necessary for CARB to implement those statutory requirements, which are intended to produce accurate, comparable, and decision-useful climate information to protect California stakeholders.

CARB will continue to engage with stakeholders to streamline reporting and promote interoperability with existing frameworks where feasible, while ensuring that the program fulfills statutory requirements and is appropriate for California's regulatory context and scope of regulated entities doing business in California.

F-10 Multiple Comments: Support for the Public Process

Comment: TCR values CARB's ongoing consideration of stakeholder feedback throughout this process. (45d-016.4)

Comment: We appreciate CARB's thoughtful and pragmatic approach to implementing SB 253 and SB 261 and its continued engagement with stakeholders. (45d-024.6)

Comment: Please extend our appreciation to your staff for engaging our universities on this matter and for the opportunity to provide feedback in support of their recommendation. We stand ready to share research and expertise in this important endeavor. (45d-055.2)

Comment: First, we would like to recognize CARB's work on this herculean effort to advance regulations on California's Climate Disclosure Laws: SB 253, SB 261 and SB 219 (also referred to as the 200s). CARB has conducted numerous workshops and provided resources, such as the December 2024- Enforcement Notice, December 2025- Enforcement Advisory, FAQs, and Checklists. (45d-056.1)

Comment: We thank CARB for its continued engagement with stakeholders. We look forward to opportunities to comment on forthcoming rulemaking proceedings related to the California Corporate Greenhouse Gas Reporting and Climate Related Financial Risk Disclosure Programs. (45d-077.4)

Comment: We appreciate the ongoing constructive conversations between CARB staff and the utility industry throughout the development of this proposal. (BHT-002.2)

Comment: We look forward to ongoing opportunities to engage in this process and greatly appreciate CARB's consideration of stakeholder feedback in the process. (BHT-005.5)

Comment: Meghan Loper here on behalf of the American Council of Life Insurers, or ACLI, and we do appreciate the opportunity to comment and thank the staff for their engagement with our industry. (BHT-007.1)

Comment: We very much appreciate the opportunities to provide stakeholder engagement, the numerous workshops, and the templates and supporting documents for companies just getting on a start in corporate disclosure. (BHT-013.3)

Comment: We thank CARB for the substantial transparency and opportunity to engage, and urge you to keep pushing this process along. (BHT-029.1)

Comment: To start, you know, we commend and thank CARB on its transparency with the development of this program and appreciate the frequent opportunities to provide commentary and engage with the agency throughout the process. (BHT-047.1)

> **Agency Response:** No changes were made in response to these comments. CARB acknowledges the commenters' support for the public process of this rulemaking.

G. Miscellaneous

G-1 Multiple Comments: Request for Additional Guidance

Comment: If the Proposed Regulation proceeds as currently drafted, Neste plans to report Scope 1 and 2 emissions data for its U.S.-based subsidiary only, even though the supply

chain for that subsidiary is heavily intertwined with affiliated companies both within and outside the United States.

Neste believes this approach represents a reasonable interpretation of its reporting obligations under the current regulatory framework. However, given the lack of detailed guidance, Neste cannot be certain this approach will satisfy CARB's eventual compliance expectations.

If Neste's intended approach is not appropriate, CARB should issue additional guidance well in advance of the August 10, 2026 deadline. Providing such guidance only months or weeks before the deadline, or after the deadline through post-hoc enforcement interpretations, would be fundamentally unfair and would undermine the transparency goals of the statute.

This example demonstrates why comprehensive reporting guidance must precede any enforceable compliance deadline. Without clear rules regarding organizational boundaries, transfer pricing, intercompany transactions, and allocation methodologies, entities cannot produce comparable, reliable disclosures regardless of their good faith efforts. (45d-010.10)

Comment: For SB 253 reporting due August 10, 2026, we would appreciate further guidance as to how reported metrics should be submitted (i.e. through a public docket, on a company website, through a CARB-specified portal, etc.) (45d-020.4)

Comment: CARB should clarify certain aspects of the fee proposal to reduce uncertainty and increase efficiency in the implementation of the fee determination, invoice and payment processes. (45d-026.6)

Comment: As the Board continues refining the regulation and preparing for program implementation, CHG respectfully requests consideration of a simple process that entities may use to confirm or document their exempt status under the program (e.g., through a reporting portal or a brief attestation). (45d-060.2)

Comment: However, CMTA requests additional clarification regarding:

- How “doing business in California” will be applied to manufacturers with limited sales or distribution activity in the state; and
- How parent-subsidiary relationships will be treated where emissions data and financial risk management are decentralized.
- Whether, and to what extent, manufacturers with facilities located entirely outside of California would be subject to program requirements based solely on downstream sales or market participation.

Clear, objective guidance is essential to ensure the program remains focused on in-state environmental concerns, avoids extraterritorial regulation of out-of-state manufacturing activities, and prevents inconsistent interpretations or duplicative reporting obligations. (45d-061.9)

Comment: The California Retailers Association requests that CARB provide clarity on the disclosure submission timeline. Will disclosure submission be based on a fiscal calendar year

or a rolling 12-month timeline? The California Retailers Association seeks clarity from CARB on whether data is for Fiscal Year or Calendar Year, recognizing that companies have different year ends. CARB needs to keep the time of compiling data as equitable as possible for all companies. (45d-070.7)

Comment: Without clear guardrails, thresholds, and standards associated with determining applicability and scope of the regulations, an open-ended data grab will not help to advance California's objectives, and will be expensive, complicated, and daunting for both those charged with complying and those tasked with implementation, review, and enforcement. Potentially affected businesses need clear direction on applicability, requirements, costs, and timelines for completing the new disclosure requirements, as well as flexibility to accommodate differing reporting timelines and information available in diverse sectors. Providing certainty and clarity in the form of bright-line definitions, exclusions, and off-ramps will help to narrow the focus to those businesses whose operations are most applicable to greenhouse gas emissions in California. (45d-078.5)

Comment: Request for clear rules on the use of GWPs

– With respect to the Global Warming Potentials (GWPs) to be used in calculating GHG emissions, we believe it is necessary to clarify whether entities are required to use the latest available GWP values or may select among different versions at their discretion. (45d-080.5)

Comment: First, CARB should confirm that its proposed exemption for wholesale electricity transactions encompasses bilateral sales or purchases of energy or other energy goods (e.g., energy commodities) or services (e.g., transmission) that occur in interstate commerce. Such sales or purchases are a type of wholesale electricity transaction. (45d-078.7)

Comment: If CARB elects to retain the California RTC's definition, additional clarity is needed for business entities to determine applicability. For example, even with definitions for "revenue" and "doing business in California" based on the California RTC, it can be difficult for a business entity to determine applicability, particularly for out-of-state companies with subsidiaries in California that plan to file a consolidated report at a higher corporate level. (45d-078.25)

Comment: CARB should clarify that for electric utilities, electricity used at facilities located within their own service area (and not purchased from another utility) is encompassed by Scope 1 emissions and not Scope 2 emissions. This clarification is necessary to avoid the potential for double-counting emissions that could result from the inclusion of the phrase "regardless of location" in CARB's proposed definition of "Scope 2 Emissions."[14] (45d-078.26)

[14]See Electric Power Research Institute, Greenhouse Gas Emissions Accounting for Electric Companies, 2-5–2-6 (Sept. 2021), https://www.epri.com/research/products/000000003002022366.

Comment: Request for detailed guidance on entities exempt from reporting

- For entities whose first-year disclosure obligation under SB 253 is exempt, it will be important to avoid any misunderstanding that they have failed to comply with the 2026

disclosure requirements. To this end, we request that clear guidance be provided so that such entities may submit a statement in lieu of disclosure by the GHG emissions disclosure deadline of August 10.
- We therefore kindly request the early finalization and publication of detailed requirements for the submission of such statements (for example, the submission deadline, the information that must be included in the statement, and the method of submission).
- In addition, we would like to ask whether there are any plans to introduce similar exemption conditions under SB 261 as those under SB 253. (45d-079.2)

Comment: Request for information on the launch schedule and user guidance for the disclosure platform - We would appreciate detailed guidance on the planned launch schedule of the disclosure platform and on how California based subsidiaries can submit their information using the consolidated disclosure prepared by the parent company, including how such submissions would be handled via the platform. (45d-079.4)

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- We therefore kindly request the early finalization and publication of detailed requirements for the submission of such statements (for example, the submission deadline, the information that must be included in the statement, and the method of submission).
- In addition, we would like to ask whether there are any plans to introduce similar exemption conditions under SB 261 as those under SB 253. (45d-080.2)

Comment: Request for information on the launch schedule and user guidance for the disclosure platform - We would appreciate detailed guidance on the planned launch schedule of the disclosure platform and on how California based subsidiaries can submit their information using the consolidated disclosure prepared by the parent company, including how such submissions would be handled via the platform. (45d-080.4)

Agency Response: No changes were made in response to these comments. The exemptions included in this Regulation apply to both Health and Safety Code sections

38532 and 38533. Statutory requirements for Health and Safety Code section 38532 state that the report should be based on the entity's prior fiscal year.

CARB acknowledges stakeholder requests for additional guidance regarding applicability, first-year reporting, and fee payment. CARB will continue to consider stakeholder questions and concerns and will provide additional clarifying guidance, as appropriate.

G-2 Multiple Comments: Reporting Framework Allowed for First Year Reporting

Comment: The regulation also does not specify the format in which Scope 1 and 2 emissions should be reported—leaving uncertainty as to whether entities may choose their own reporting format. (45d-005.2)

Comment: Furthermore, the current CARB template requests that reporting entities use revenue-based metrics for Scope 1 emission intensities (as discussed in the preceding section). It is unclear whether a company would be penalized for instead using physical intensity ratios. (45d-005.3)

Comment: CARB's template currently requests that reporting entities disclose Scope 1 emission intensity per million dollars in revenue (mtCO2e/million dollars). CFCA recommends that CARB allow reporting entities to use physical intensity ratios (e.g., mtCO2e per square foot) rather than revenue-based metrics. Reporting intensity by physical unit would better align with facility-level operational data and protect confidential financial information from external exposure. CARB should consider providing flexibility for entities to select the intensity ratio most appropriate for their business operations. (45d-005.5)

Comment: As stated in the Society's prior submission on November 21, 2025,[62] deviating from this framework or mandating granular California-specific templates would substantially increase complexity and cost, especially for entities already reporting under international frameworks, contrary to § 38532(c)(2)(D)(i). (45d-018.48)

[62]Society Comment Letter in Response to Draft Reporting Template for Scope 1 and Scope 2 Greenhouse Gas Emissions Pursuant to Health and Safety Code § 38532 and Accompanying Memo (November 2025), available at https://higherlogicdownload.s3.amazonaws.com/GOVERNANCEPROFESSIONALS/5d47927b-105a-4bc7-9aef-821536f3505b/UploadedImages/Society_for_Corporate_Governance_Comment_CARB_Comment_Letter_Scope_1_and__2_Template_Memo_November_21_2025.pdf andhttps://higherlogicdownload.s3.amazonaws.com/GOVERNANCEPROFESSIONALS/5d47927b-105a-4bc7-9aef-821536f3505b/UploadedImages/Society_for_Corporate_Governance_Appendix_A_Annotated_SB253_Draft_Scope1_2_GHG_Template_November_21_2025.xlsx.

Comment: Additionally, while the Draft Template has been released and is considered optional to use for the first year of reporting, we encourage CARB to release guidance on what fields are mandatory if the Draft Template is not utilized. Examples of required guidance

include but are not limited to specific emissions breakdowns by Scope, source, use type; acceptable Global Warming Potential (GWP) Assessment Report (AR) versions; and attachments of verification or assurance statements. (45d-020.6)

Comment: The statute provides that emissions reporting should be "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, as long as those reports satisfy all of the requirements of [Health and Safety Code Section 38532]." Bankers encourage CARB to avoid prescriptive requirements or mandatory reporting templates that are at odds with the statute's clear expectation that reporting entities may satisfy their obligations by submitting reports prepared for other jurisdictions. (45d-021.10)

Comment: Preserve flexibility, avoid prescriptive requirements or reporting formats
The statute provides that emissions reporting should be "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, as long as those reports satisfy all of the requirements of [Health and Safety Code Section 38532]." Bankers encourage CARB to avoid prescriptive requirements or mandatory reporting templates that are at odds with the statute's clear expectation that reporting entities may satisfy their obligations by submitting reports prepared for other jurisdictions. (45d-022.7)

Comment: We continue to urge CARB to permit maximum flexibility under the evolving GHG Protocol standards and guidance and avoid prescriptive reporting format in connection with its implementation of the Climate Laws. (45d-026.7)

Comment: We continue to urge CARB to permit maximum flexibility under the evolving GHG Protocol standards and guidance and avoid prescriptive reporting format in connection with its implementation of the Climate Laws. Although we recognize that the scope of the Proposed Initial Regulation is limited, considering the other guidance CARB has issued, and the Subsequent Regulation CARB plans to promulgate, in connection with its implementation of the Climate Laws, we wish to reiterate a critical overarching principle discussed in BPI's prior comment letters to CARB. We continue to believe that permitting maximum flexibility under the evolving GHG Protocol standards and guidance and avoiding prescriptive reporting formats should be key considerations in CARB's implementation of the Climate Laws. To achieve the goal of better informing the decision-making of California consumers, investors and members of the public, it is critical for reporting entities to be able to provide the context in relation to the climate-related data and information required under the Climate Laws, including the relevant metrics and calculation methodologies used. A prescriptive approach to reporting format is also inconsistent with the general disclosure approach under the external climate reporting standards or protocols mandated by the Climate Laws, which focus on the substance, rather than the form, of climate-related disclosures.

Requiring reporting entities to provide climate-related data and information pursuant to prescriptive reporting format (such as the Draft Scope 1 and 2 GHG Reporting Template CARB issued on October 10, 2025[27]) without the ability or with limited ability to provide the

necessary context would be counterproductive to the goal of providing meaningful information, could potentially result in incomplete or misleading data and information, and would significantly hinder reporting entities' ability to rely on substituted compliance. (45d-026.20)

[27] CARB, SB 253 Scope 1 and Scope 2 Greenhouse Gas (GHG) Emissions Draft Reporting Template (Oct. 10, 2025), available at https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fww2.arb.ca.gov%2Fsites%2Fdefault%2Ffiles%2F2025-10%2FSB253_Draft_Scope1_2_GHG_Template.xlsx&wdOrigin=BROWSELINK; CARB, California Corporate Greenhouse Gas Reporting Program: Scope 1 and Scope 2 Emissions Draft Reporting Template Memo (Oct. 10, 2025), available at https://ww2.arb.ca.gov/sites/default/files/2025-10/Draft%20Memo_Scope1%262TemplatePublicRelease.pdf ("Reporting entities are not currently required to use the template; its use is voluntary for the 2026 reporting cycle.").

Comment: Many dairy processors already voluntarily report GHG emissions through existing systems. Our members have indicated a preference for maintaining consistency with reporting structures already in use to avoid overcomplicating the emissions reporting process. We encourage CARB to allow for flexibility in reporting systems and not make the proposed template mandatory in future years. It is important for CARB to allow companies to have discretion in the use of reporting structures, so that they may submit reports prepared for other jurisdictions in accordance with the Greenhouse Gas Protocol. (45d-040.17)

Comment: WSPA strongly encourages CARB to retain flexibility for reporting entities to rely on reporting mechanisms other than CARB's Scope 1 and 2 reporting template.[11] Mandating the template's use would impose unnecessary administrative burdens, leading to inconsistent or confusing reporting that is unhelpful to stakeholders. As WSPA has previously explained,[12] the template is overly complex, which risks over-collection of information, including confidential business data, without providing decision-useful information as intended by statute.

To address these issues, CARB should confirm that entities that develop their own GHG or sustainability reports that include verified Scope 1 and 2 emissions data would be permitted to submit the relevant emissions data from these reports in lieu of using the standard template. This approach provides flexibility for entities to align reporting with existing internal processes, third-party verification, and other regulatory or investor reporting practices, while maintaining data transparency and compliance with SB 253. Critically, this approach should not require the submission of the entire company-developed report, but only the specific, relevant verified emissions data.

WSPA urges CARB to clarify in the regulation that the template is optional for all reporting years, allowing entities to submit company-prepared reports with verified Scope 1 and 2 emissions data without being forced to use CARB's template. (45d-051.9)

[11] See CARB "Draft Scope 1 and 2 GHG Reporting Template." October 10, 2025; available at: https://ww2.arb.ca.gov/ourwork/programs/corporate-ghg-reporting/resources.
[12] *See* WSPA Comments on Draft Reporting Template for Scopes 1 and 2 GHG Emissions. October 27, 2025.

Comment: To further support compliance and exercise enforcement discretion, CARB's November 18, 2025, Workshop Presentation Slides (slide 12) indicate that the use of the Scope 1 and Scope 2 Template is optional for 2026 reporting. Since the inclusion of a template is beyond the scope of requirements in the 200s, CCEEB recommends that CARB revoke the template altogether. (45d-056.21)

Comment: CARB's proposed template for reports submitted under SB 253 likewise conflicts with the existing inventories of regulated entities, resulting in companies incurring significant costs to try to produce compliant data and leaving companies vulnerable if CARB later determines that existing practices are insufficient. CARB should allow reporting entities to rely on recognized, reasonably equivalent reporting frameworks without potential enforcement risk. (45d-057.4)

Comment: Reporting frameworks proposed to implement SB 253 diverge from established practices and thus with the intent of the law.

CARB should decline to impose a standardized approach to GHG reporting or require reporting through a mandated template. As discussed above, many public companies that could be subject to SB 253 have long made efforts to measure and inventory their GHG emissions data, often on a consolidated basis at the parent level of an organization. Requiring companies to diverge from their well-established practices thus threatens to impose substantial—and unnecessary—compliance costs on regulated entities with no clear benefits.

The Chamber objects to the submission of SB 253 reports under a mandatory template, which would create unnecessary burdens for companies already complying with the spirit of the law. CARB's own guidance recognizes the uncertainty and implementation difficulties inherent in complying with SB 253.[19] The guidance allows companies to submit emissions reports already prepared through another voluntary or regulatory program or pursuant to its own annual reporting methods for the first reporting period to "reduce uncertainty." CARB should maintain this approach as it finalizes its regulations. Many companies that would be subject to reporting obligations under SB 253 already maintain established inventories, participate in voluntary reporting programs, and have invested significant resources into calculating emissions data based on those protocols.

Adopting this approach would align with the intent of the law as well. Legislators recognize that many businesses already invest significant resources into inventorying and calculating their emissions. SB 253 thus requires CARB to structure emissions reporting "in a way that minimizes duplication of effort and allows a reporting entity to submit to the emissions reporting organization reports prepared to meet other national and international reporting requirements."[20] Allowing companies to submit reports based on existing inventories and frameworks would ensure consistency and reduce compliance burdens of the law. (45d-057.14)

[19] FAQ, supra note 11, at 9–10.

[20] Cal. Health & Safety Code § 38532(c)(1)(D)(i).

Comment: Establish a clear regulatory framework for how emissions information must be reported.

Specifically, CARB should develop standardized reporting templates or forms to promote consistency, reduce administrative burden, and minimize the risk of inconsistent submissions across entities. In addition, CARB should specify the accepted emissions accounting methodologies and emission factor sources that regulated entities must use, including whether CARB will rely on established standards such as IPCC, U.S. EPA, IEA, or another defined framework. Clear direction on reporting format and technical standards will be essential for accurate, comparable, and verifiable disclosures. (45d-061.6)

Comment: The California Retailers Association requests confirmation from CARB, related to the draft template for SB 253 compliance CARB published on October 10, that if a company uses a more up-to-date GWP factor than what the template is keyed to (AR6 instead of AR4), would the company still be considered in compliance? (45d-070.5)

Comment: Four, the draft Scope 1 and 2 reporting template should remain optional and entities should be allowed to submit verified emissions data from their own reports. (BHT-003.5)

> **Agency Response:** No changes were made in response to these comments. The Scope 1 and Scope 2 reporting template that CARB published in October 2025 is optional for reporting in 2026. This reporting template is meant to serve as a resource for entities to organize and report their Scope 1 and Scope 2 data, and CARB will continue to provide additional guidance and compliance assistance to support reporting.
>
> To support initial implementation and reduce uncertainty, CARB issued an Enforcement Notice in December 2024. In this Enforcement Notice, CARB recognizes that some reporting entities may require lead time to develop or refine their data collection processes to ensure complete and accurate reporting of Scope 1 and Scope 2 emissions. CARB will exercise enforcement discretion for the first report due in 2026, allowing reporting entities who make good faith efforts to comply to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued. Entities that were not collecting data or were not planning to collect data, at the time the Enforcement Notice was issued, are not expected to submit Scope 1 and Scope 2 reporting data for this first reporting cycle. This approach is intended to support entities as they begin complying with these new reporting requirements. For example, each of the following scenarios would meet the first-year reporting requirement for Health and Safety Code section 38532:
>
> - If an entity develops its own annual report that includes information on Scope 1 and Scope 2 emissions, that entity may submit that report to CARB.

- If an entity already submits annual Scope 1 and Scope 2 emissions through a voluntary program or to another regulatory program, that entity may submit that same information to CARB.
- An entity may choose to submit data using CARB's Scope 1 and Scope 2 GHG Emission Reporting Template.
- If an entity does not collect Scope 1 and Scope 2 GHG emissions data, pursuant to the Enforcement Notice that entity does not need to submit data for the first year's report. Any entities not submitting Scope 1 and Scope 2 GHG emissions data in 2026 pursuant to Health and Safety Code section 38532 can submit a statement on company letterhead to CARB, stating that they did not submit a report, and indicating that in accordance with the Enforcement Notice, the entity was not collecting data or planning to collect data at the time the Notice was issued. CARB will open a public docket near the first year 2026 reporting deadline, to which these statements will be uploaded.

G-3 Multiple Comments: Alignments with Greenhouse Gas Protocol Updates

Comment: We encourage CARB to provide certainty by allowing companies to continue using the GHG Protocol's current Scope 2 Guidance (2015) through at least 2033. This guidance was in effect when SB 253 was enacted and remains the foundation of corporate clean electricity procurement today. Companies have made long-term investments and contractual commitments based on these rules that enable clean energy projects. Introducing uncertainty about Scope 2 accounting during the early years of SB 253 risks disrupting procurement and slowing progress at a time when accelerating clean electricity deployment is critical.

Policy stability is particularly important because the most impactful procurement strategies rely on long-term contracts. Multi-year power purchase agreements, long-term REC contracts, and similar instruments provide the predictable revenue that enables new renewable energy projects to secure financing. Sudden changes to accounting rules can undermine confidence in these contracts and reduce the willingness of companies to enter into new long-term agreements. (45d-023.1)

Comment: Emerging proposals that emphasize increasingly granular temporal or geographic matching should be evaluated carefully in the context of SB 253. While improved data and transparency can be valuable, overly restrictive matching requirements risk increasing cost and complexity in ways that reduce participation and weaken demand for new clean energy.

The clean electricity market has scaled largely because annual, certificate-based accounting enabled broad participation and supported long-term contracting that enabled new projects. Policies that make procurement significantly more complex or restrictive could unintentionally slow the pace of new project development by reducing the pool of participating buyers and undermining long-term revenue certainty.

For SB 253 to succeed, the reporting framework should reinforce the conditions that have enabled rapid renewable energy deployment: stable rules, scalable participation, and strong incentives for long-term contracting. (45d-023.3)

Comment: In particular, CARB should ensure that companies are not penalized for long-term clean electricity contracts executed prior to any rule changes. Transition provisions, including legacy treatment for existing agreements, will be essential to preserve market confidence and avoid stranding investments that were made in good faith under existing guidance. (45d-023.4)

Comment: Given that the initial reporting deadline for SB 253 is August 10, 2026, we urge CARB to allow companies to use the existing GHG Protocol Scope 2 Guidance (2015) for SB 253 reporting through 2033. (45d-032.3)

Comment: CARB should take note that the proposed guidance under consideration includes much stricter time and location matching requirements, which may be infeasible and costly for some businesses to implement. (45d-032.5)

Comment: While the Scope 2 Guidance is a voluntary standard, California disclosure regulation is a mandatory requirement. As such, we request that CARB clarify in SB 253 implementing regulations that any new protocols and guidance documents developed by nongovernmental organizations will not become binding on California stakeholders until CARB has solicited public input and voted to adopt such new protocols and guidance documents as California regulations, consistent with CARB 's well-established public process. Failure to do so could impose costly, infeasible requirements on many businesses and is not consistent with the intent of SB 253.

Additionally, we request that CARB ensure any changes to accounting rules will not undermine existing clean electricity procurement. We ask that CARB establish clear transition provisions (e.g., legacy clauses) to avoid causing market uncertainty, penalizing existing long-term contracts executed under the 2015 rules. We request that CARB prioritize maintaining flexibility for organizations of different sizes and operational profiles, and ensuring any future granularity requirements are feasible, scalable, and supported by available data infrastructure. (45d-032.6)

Comment: CEBA and its members are invested in the success of California's climate disclosure reporting. By allowing companies to use the 2015 guidance through 2033, CARB can provide regulatory certainty for reporting entities without jeopardizing the intent or time line of SB 253. We welcome further dialogue and offer our expertise to help shape solutions that are both rigorous and feasible. (45d-032.8)

Comment: SB 253 calls for reporting in conformance with the Greenhouse Gas Protocol (GHGP) accounting and reporting standards. As noted in SB 253’s Section 1, the GHGP is the globally recognized GHG emissions accounting and reporting standard. It is a widely adopted, relied upon, and trusted methodology, and appropriate for the statutory purpose. The GHGP has been or is being integrated in a number of policies and standards worldwide.[6]

We note, however, that the Board's SB 253 implementation process falls squarely in the GHGP Scope 2 Guidance update process – the first update in a decade, and one that is intended to significantly strengthen the integrity and impact of Scope 2 reporting. To meet the statutory goals of transparency and corporate accountability, it will be critical that the Board implement SB 253 such that the required Scope 2 reporting evolves with the GHGP methodology as that methodology is updated.

The existing GHGP Scope 2 rules have played an important role in developing corporate demand for clean and renewable energy, spurring the growth of renewable energy markets and supporting the deployment of renewable energy on grids across the world.[7] That said, as grids across the world integrate more renewables, led by jurisdictions like California, research shows the need to move towards more granular time and location matching of clean energy generation with corporate claims of clean energy use, in order to ensure rigorous claims for Scope 2 emissions and drive continued decarbonization.[8] That is the focus of the pending GHGP Scope 2 update, and it is imperative for consistency and transparency that CARB adopt the updated methodology in due course. We understand that CARB will consider the details of implementing Scope 2 reporting in a future rulemaking, and we look forward to providing more detailed comments on this topic at that time. (45d-039.6)

[6] https://ghgprotocol.org/sites/default/files/2024-03/GHG-Protocol-Integration.pdf#page=20&zoom=100,92,116

[7] https://about.bnef.com/insights/finance/corporate-clean-power-buying-grew-12-tonew-record-in-2023-according-to-bloombergnef/

[8] https://arxiv.org/pdf/2511.03049; https://www.cell.com/joule/pdf/S2542-4351(23)00499-3.pdf

Comment: The GHG Protocol Scope 2 Guidance in effect at the time SB 253 was enacted was the 2015 Scope 2 Guidance, which reflects the accounting framework the Legislature reasonably contemplated when establishing the statute's reporting requirements. That guidance remains the only finalized and widely adopted international standard for Scope 2 accounting. The GHG Protocol standards and guidance are currently under revision. Proposed updates to Scope 2 accounting and reporting rules include requiring hourly matching for buyers with load above a specified threshold; however, these updates are not expected to be finalized until late 2026, with the full Corporate Standard potentially finalized in 2027 or later.[5] These revisions are not yet complete, and there is no consensus on the role of hourly accounting in corporate GHG disclosure.

Requiring hourly reporting raises significant implementation concerns, as hourly generation data are not widely available and most regional energy attribute tracking systems, including the Western Renewable Energy Generation Information System (WREGIS), do not yet support credible, standardized hourly tracking.[6] In practice, this could force reporters to rely on estimated or incomplete datasets, resulting in inconsistent, less accurate, and less decision-useful disclosures.

Moreover, even with improved tracking infrastructure, credible and effective utility- and state-administered programs—including renewable portfolio standards, power supply disclosure, and GHG reporting programs—will continue to rely on annual or monthly instruments and

supplier data. These programs provide reporting entities with legitimate energy attributes and emissions data that should remain usable for Scope 2 reporting. Treating hourly matching as the sole valid approach would exclude functioning programs and materially increase reporting complexity and cost.

For these reasons, CARB should avoid codifying hourly Scope 2 reporting requirements in regulation and should permit reporting consistent with the 2015 GHG Protocol Scope 2 Guidance. This approach remains credible, transparent, and verifiable, provides continuity with widely adopted market-based accounting practices, and aligns with the standards in place at the time SB 253 was enacted while allowing time for international standards and best practices to mature. (45d-041.2)

[5] GHGP Public Consultation – Scope 2: https://ghgprotocol.org/sites/default/files/2025-10/GHG-Protocol-Scope2-Public- Consultation.pdf
[6] Center for Resource Solutions, Readiness for Hourly: U.S. Renewable Energy Tracking Systems: https://resourcesolutions.org/document/061523/

Comment: As subsequent rulemakings are considered, alignment between reporting requirements under SB 253 and the updated GHGP Scope 2 Guidance is essential. While those updates are not yet final, the draft rules indicate a clear direction of travel toward greater accuracy, transparency, and credibility, and a timeline for finalization that can be used by CARB to inform its future rulemakings.

The updated Scope 2 Guidance is expected to be final by the end of 2027. Therefore, EnergyTag recommends that, alongside efforts to align SB 253 rules with updated Scope 2 Guidance, CARB commits to a rulemaking in 2028 to adopt the finalized GHGP Scope 2 updates and ensure continued alignment between SB 253 and the GHGP. (45d-042.4)

Comment: Accuracy is the critical component, and without following the GHGP's indicated direction towards hourly and locational accounting, this legislation risks missing the mark on intended impacts.

Additionally, if this legislation dictates accounting rules that are less accurate, phase in more slowly, or allow for more exemptions than the GHGP process, there is a significant risk of undermining and confusing global emissions reporting processes. Alignment is critical to reduce the burden on reporting companies and to develop comparable and decision-useful emissions information.

The GHGP Scope 2 development process is being guided by significant academic, technical, and public input. Aligning SB 253 compliance requirements with GHGP Scope 2 updates, on its scheduled timeline and with its feasibility measures included, is sound policy. (45d-042.6)

Comment: Specifically, ACORE encourages CARB to clarify that companies can continue reporting under the current GHG Protocol Scope 2 Guidance, which was in place when SB 253 was enacted,[4] at least until 2033. In addition, CARB should specify that any updated GHG Protocol standards would not be automatically required of reporting entities. Further, any potential mandatory adoption of updated standards after 2033 should be subject to notice-and-comment rulemaking to promote transparency and consistency. (45d-054.1)

[4] *See generally* WORLD RES. INST. & WORLD BUS. COUNCIL FOR SUSTAINABLE DEV., THE GREENHOUSE GAS PROTOCOL: SCOPE 2 GUIDANCE (2015) ("GHG Protocol Scope 2 Guidance"), https://ghgprotocol.org/sites/default/files/2023-03/Scope%202%20Guidance.pdf.

Comment: There are two primary reasons that CARB should clarify that reporting entities can continue to rely on the current GHG Protocol Scope 2 Guidance at least through 2033. First, the existing Scope 2 Guidance is widely in use today; continuing to allow it will minimize reporting entities' compliance burdens and provide reporting entities with needed flexibility in the early years of California's new regulatory scheme. Second, the existing Scope 2 Guidance has a demonstrated track record of promoting investment in clean energy, whereas some of the updates under consideration could undermine existing incentives to invest in clean energy sources. (45d-054.2)

Comment: CARB should make clear in its regulations that companies can follow the GHG Protocol framework that was in place in January 2024 when SB 253 went into effect at least through 2033, or any successor GHG Protocol framework. This would advance the goal of allowing for flexibility and easing the compliance burden, while still providing California with high quality GHG emissions information.

Allowing entities to report under the current GHG Protocol Scope 2 Guidance for the foreseeable future would promote flexibility and ease the compliance burden on reporting entities. Companies are already comfortable and familiar with the effective Scope 2 Guidance that exists today.[6] In fact, 97 percent of S&P 500 companies that voluntarily reported their emissions to the Carbon Disclosure Project ("CDP") followed the GHG Protocol framework in 2023.[7] The current version of the GHG Protocol was in place when legislators enacted SB 253 and pointed to the GHG Protocol as the framework to follow. In addition, some ACORE members have expressed concern about increased reporting costs associated with certain proposed requirements under proposed updates to the GHG Protocol, underscoring the benefits of regulatory flexibility to continue using the existing framework.[8]

Moreover, the statute specifically affords a mechanism for CARB beginning in 2033 and every five years thereafter to "survey and assess currently available greenhouse gas accounting and reporting standards" and determine whether an "alternative accounting and reporting standard. . . would more effectively further the goals of this section."[9] At least until that time, CARB should clarify through its regulations that companies can use the GHG Protocol framework that was in place when the law was passed or any successor GHG Protocol framework if a company so chooses.

ACORE also requests that CARB not require reporting entities to adhere to any forthcoming GHG Protocol updates, particularly not until CARB has a chance to hear from reporting entities in a dedicated notice-and-comment rulemaking. To provide certainty and flexibility, ACORE encourages CARB to confirm that the existing GHG Protocol Scope 2 Guidance (or any successor GHG Protocol framework) is an acceptable framework at least through 2033, when CARB will assess whether an alternate accounting and reporting standard would more effectively further the goals of the law.[10] (45d-054.3)

[6] That is, the GHG Protocol Scope 2 Guidance published in 2015. See note 4.

[7] GHG Protocol, About Us, https://ghgprotocol.org/about-us (accessed Jan. 20, 2026).
[8] Reporting entities have raised concerns about hourly matching and deliverability requirements significantly raising reporting costs.
[9] See Cal. Health & Safety Code § 38532(c)(2)(A)(iv)(I).
[10] See Cal. Health & Safety Code § 38532(c)(2)(A)(iv)(I).

Comment: Clarifying in CARB's forthcoming regulations that reporting companies can continue to use the existing GHG Protocol Scope 2 Guidance at least through 2033 would also promote clean energy investment and development. ACORE cautions against requiring strict adherence to the GHG Protocol updates currently under consideration which could discourage certain clean energy investments and have a chilling effect on the clean energy market.

Voluntary agreements to procure clean energy play a vital role in driving greater levels of clean energy deployment because such agreements de-risk projects and enable financing. However, the proposed hourly matching and deliverability requirements under consideration in the GHG Protocol Scope 2 update process threaten to undermine these incentives, which could result in less clean-energy capacity additions in the real world. Companies would have a more difficult time promoting renewable energy via purchases of Renewable Energy Certificates ("RECs") and Virtual Power Purchase Agreements ("VPPAs"). Indeed, a poll released in 2025 found that 78 percent of respondents involved in sourcing clean electricity and related instruments were not confident that they could continue such sourcing under an hourly matched and deliverable framework.[11] Today, many companies need to aggregate their load across regions to have enough demand for a long-term power purchase agreement. The new requirements proposed would therefore weaken a pivotal lever for companies to drive clean energy development.

By affording companies the flexibility to continue using the longstanding GHG Protocol framework in place when SB 253 was signed into law, CARB's forthcoming regulations can avoid any potential complications related to the GHG Protocol revision process. (45d-054.4)

[11] Green Strategies, Inc., Report: How Scope 2 Revisions May Change Clean Electricity Procurement Strategies at 15, Figure 9. Respondent's Confidence Level on Sourcing Clean Electricity Under Scenario at 2 (May 6, 2025) https://www.greenstrategies.com/report-release-scope-2-accounting-revisionspractitioners- perspectives/.

Comment: In short, ACORE encourages CARB to draft regulations that clarify that the existing version of the GHG Protocol framework will be an acceptable framework for Scope 2 emissions reporting at least until 2033, when the statute provides for reassessment. (45d-054.5)

Comment: We're aware the regulation currently before the Board is primarily focused on reporting for the first year of California's program for Scope 1 and 2 emissions. However, going forward, it will be important for CARB to clarify how the California GHG reporting program will incorporate updates to the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard, which SB 253 requires the program to align with through at least 2033. (BHT-038.1)

Comment: Therefore, we urge CARB to allow companies to use the existing GHG protocol Scope 2 guidance from 2015 for SB 253 reporting through 2033. CEBA and its members are invested in the success of California's climate disclosure reporting. By allowing companies to use the 2015 guidance through 2033, CARB can provide regulatory certainty for reporting entities without jeopardizing the intent or timeline of SB 253. (BHT-038.2)

Comment: Specifically, we encourage CARB to clarify that companies can continue reporting under the current greenhouse gas protocol Scope 2 guidance, which was in place when SB 253 was enacted, at least until 2033. (BHT-044.1)

Comment: In addition, CARB should specify that any updated GHG protocol standards would not be automatically required of reporting entities. Any potential mandatory adoption of updated standards after 2033 should be subject to notice and comment rulemakings for transparency and consistency.

There are two primary reasons that CARB should clarify that reporting entities can continue to rely on the current greenhouse gas protocol Scope 2 guidance, at least through 2033. First, the existing Scope 2 guidance is widely in use today. Continuing to allow it will minimize reporting entities' compliance burdens and provide reporting entities with new flexibility in the early years of California's new regulatory scheme.

Second, the existing Scope 2 guidance has a demonstrated track record of promoting investment in clean energy, whereas some of the updates under consideration could undermine existing incentives to invest in clean energy sources. (BHT-044.2)

Comment: We wish to make it clear how important it is for regulations to establish direct coordination with the updated greenhouse gas protocol Scope 2 guidance, which are currently ongoing and expected to be finalized by the end of 2027.

Proposed revisions dramatically improve the accuracy, comparability, and decision usefulness of corporate Scope 2 inventories in line with the intent of SB 253. While aligning with the updated global standard, we'll reduce duplicative reporting burden on companies and ensure the data is genuinely comparable and decision useful. Therefore, EnergyTag recommends that CARB commits to a rulemaking in 2028 to adopt the finalized greenhouse gas protocol Scope 2 updates and ensure continued alignment between SB 253, the greenhouse gas protocol, and a number of other emerging global and U.S. Standards for emissions reporting. (BHT-049.2)

> **Agency Response:** No changes were made in response to these comments. Pursuant to the December 2024 Enforcement Notice, CARB will exercise enforcement discretion for the first report due in 2026, allowing reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued. Entities that were using the existing GHG Protocol Scope 2 Guidance at the time the Notice was issued may continue to use that approach for the first reporting year. Reporting requirements for 2027 and beyond will be considered in an upcoming rulemaking.

G-4 Multiple Comments: Comments Related to Health and Safety Code section 38533

Comment: Health and Safety Code § 38533 requires a covered entity to make its climate-related financial risk report publicly available "on its own internet website."[50] The statute does not require submission of the report, or a link to the report, to a CARB-hosted docket as a condition of compliance.

Recent CARB guidance materials, website content, and related compliance documents repeatedly state that covered entities "must" submit a public link to their climate-related financial risk reports to a CARB-hosted docket. Although CARB has characterized current docket participation as voluntary, this posture reflects the existence of a court-ordered injunction[51] rather than a determination that docket posting is optional under § 38533. CARB has otherwise indicated, through published guidance and enforcement materials,[52] that submission of a report link to the CARB docket[53] is expected for compliance once enforcement resumes, creating significant uncertainty for covered entities, particularly because CARB's guidance consistently presents docket submission as a mandatory compliance step despite the absence of statutory or regulatory authority for that obligation.

Any requirement that covered entities submit report links to a CARB docket would impose an obligation beyond the express terms of § 38533 and is not included in CARB's proposed regulatory text. Under the California Administrative Procedure Act, compliance obligations must be established through statute or duly adopted regulations.[54]

We therefore urge CARB to clarify in its final regulations implementing § 38533 that a covered entity satisfies the reporting requirement by making its climate-related financial risk report publicly available on its own internet website by the applicable deadline, and that no additional posting or submission to a CARB-hosted docket is required. (45d-018.40)

[50] Health & Safety Code § 38533(c)(1). Likewise, Health & Safety Code § 38533(f)(2) directs CARB to adopt regulations that authorize the imposition of penalties if a covered entity fails to make the disclosure report "publicly available on its internet website or publishes an inadequate or insufficient report (emphasis added).

[51] See, e.g., CARB's November 18, 2025 presentation slides "SB 253/261/219 Public Workshop: Update on California
Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Programs," p. 34, available at
https://ww2.arb.ca.gov/sites/default/files/classic/SB%20253%20261%20Nov%20Workshop%20slides%20%28Update d%29.pdf.

[52] See Enforcement Advisory: Climate-Related Financial Risk Reporting (SB 261), December 1, 2025, available at https://ww2.arb.ca.gov/sites/default/files/2025-12/Dec%201%20SB%20261%20Enforcement%20Advisory.pdf.

[53] CARB's public docket is available at https://ww2.arb.ca.gov/public-comments/climate-related-financial-risk-reports-sb-261-docket

[54] See Cal. Gov. Code § 11340.5 (a); Cal. Gov. Code § 11342.600; 1 CCR § 250(1)(a). Rules not written nto regulations or otherwise legislatively authorized are invalid "underground" regulations and cannot be enforced. See, e.g., Donaldson v Dep't of Real Estate (2005) 134 Cal.App. 4th 948, 966;

Tidewater Marine W., Inc. v Bradshaw (1996) 14 Cal. 4th 557, 563. This includes requirements characterized as policies as well. See, e.g., Morillion v Royal Packing Co. (2000) 22 Cal.4th 575, 570.

Comment: CARB should limit GHG emissions disclosures under SB 261 to emissions that create a material financial risk to the reporting entity. This limits disclosures to information that is useful for investors, consistent with SB 261's intent to inform investors of climate-related business risks. This approach also aligns with the Securities and Exchange Commission's (SEC) approach in its climate-related financial disclosure rule. In adopting its final climate-related disclosure rule, the SEC changed course from the proposed rule and only required the disclosure of Scope 1 and Scope 2 emissions if the emissions are material.[1]

The SEC explained that a registrant should "apply traditional notions of materiality under the Federal securities laws when evaluating whether its Scope 1 and/or 2 emissions are material. Thus, materiality is not determined merely by the amount of these emissions."[2] The SEC reminded registrants that the guiding principle for a materiality determination under the Federal securities laws is "whether a reasonable investor would consider the disclosure of an item of information, in this case the registrant's Scope 1 emissions and/or its Scope 2 emissions, important when making an investment or voting decision or such a reasonable investor would view omission of the disclosure as having significantly altered the total mix of information made available."[3]

We recommend CARB take a similar approach to emissions disclosure under SB 261. We acknowledge CARB's guidance that for the initial reporting period, reporting entities are not required to disclose Scope 1 and 2 emissions. For future reporting periods, we recommend CARB limit the required emissions disclosures to those that are material under the standard of materiality applied to financial disclosures. Doing so would ensure disclosures are relevant and actionable, and consistent with the purposes of SB 261. (45d-031.1)

[1] The Enhancement and Standardization of Climate-Related Disclosure for Investors, Final Rule, p. 244.
[2] *Id*. at 245.
[3] *Id*. at 245-246.

Comment: III. The proposed regulations and guidance to implement SB 261 are insufficient to inform regulated entities how to comply with the rule

The constitutional concerns do not end with assessing whether a company must comply in the first place. Even assuming a company can navigate that first hurdle, CARB's proposed framework for submitting reports under SB 261 lacks both the clarity and specificity to provide companies with sufficient direction to allow them to submit compliant reports. CARB's guidance provides superficial guidelines for filing compliant reports, stating that its framework for SB 261 reports is "largely based on TCFD".[11] And the items that CARB lists as minimum requirements for disclosure generally align with TCFD's broad recommendations for climate-related risk disclosure. CARB further states that, at least for the first-year reports are due, reports that are "compliant with TCFD 2017" are also compliant with obligations under SB 261 with respect to content of the reports, initially appearing to offer comfort to regulated entities.[12]

However, the authors of SB 261 appear to have forgotten a key point—that the TCFD is a voluntary reporting regime, and not a regulatory regime. In other words, the TCFD provides considerable room for individual company discretion in determining what to report. The TCFD, on its own, does not impose any enforceable requirements and outlines only disclosures or analyses an entity might "consider" including in its reports. Importantly, there is no body charged with authoritatively interpreting TCFD and scrutinizing individual TCFD reports, companies' approaches and therefore no authoritative voice indicating just what is and is not "compliant" with the TCFD.

As a result, "compliant" TCFD reports differ significantly across the board. Consider, for example, TCFD's recommendation with respect to scenario analyses to evaluate the impacts of climate change on a business. TCFD recommends that entities evaluate a "2° C or lower scenario in addition to two or three other scenarios" relevant to their circumstances.[13] Bayer's 2024 TCFD Report, for example, evaluated only two climate scenarios.[14] Liberty Mutual's 2023 TCFD Report, by contrast, assessed four.[15] Banner Bank's considered only one.[16] Some entities may submit reports without any scenario analysis at all, and some undertake a more comprehensive and detailed analysis than others. TCFD reports vary in other ways, too. Some, like Bank of America's, carefully walk through every metric that TCFD advises giving consideration to, while AT&T's is much more succinct.[17]

But which, if any, of these TCFD reports would comply with SB 261? Will CARB accept all of these approaches, or only a more limited subset? And, more importantly, how would a regulated entity know if it complies, and how would a company know whether it was likely to see an enforcement action against it for inadequate disclosure? CARB's proposal, which directs entities to take into account "various climate scenarios,"[18] is unclear. This broad wording, along with the rest of CARB's superficial guidance, thus leaves companies in an inappropriate conundrum – how to discern the adequacy of voluntary subjective requirements for a legally compulsory disclosure? CARB is thus empowered with inappropriate discretion to determine whether a TCFD report complies with SB 261, and companies have no way of knowing whether their reporting is likely to be deemed sufficient. SB 261 does not clearly describe what kind of (or whether a) scenario analysis is required; it does not specify which considerations and recommendations from TCFD an entity must implement. Against this backdrop, SB 261 fails to offer entities a way to know with certainty whether their reports will ultimately be deemed compliant. This creates fundamental Due Process problems for a law that includes enforcement discretion and provides for the imposition of penalties, making it likely that enforcement will be inconsistently applied and thus would be arbitrary and capricious.

It would seem (although again, it is far from clear) that CARB views minimum alignment with TCFD's four pillars as a practical floor, but without defined and comprehensive parameters, it remains unclear to entities how to build out their disclosures in a manner that CARB will consider compliant. For example, after the first year of reporting, where entities initially indicated gap disclosures in their reports, does CARB expect those gaps to be filled in? And by when? If a company has not conducted scenario analysis, are they expected to do so?

What constitutes full alignment with the TCFD? CARB's lack of guidance fails to provide entities with any reasonable opportunity to know and understand what compliance looks like and will, therefore, result in continued increased costs for entities and fear of selective or arbitrary enforcement. If CARB determines that a report is insufficient, a company seemingly would have little success in challenging that determination owing to the significant discretion CARB has bestowed upon itself. Companies might be then forced to incur significant funds trying to remedy their reports (to meet an unknown standard) or pay heavy penalties—costs that could have been avoided were reporting requirements clear to begin with. CARB should thus revise its regulations and guidance to clearly and unambiguously outline the precise requirements and minimum standards for a compliant report under SB 261, including specifying which TCFD recommendations an entity must implement, if any, so companies are fairly put on notice of their reporting obligations. (45d-057.13)

[11] Checklist, supra note 5, at 3.
[12] FAQ, supra note 11, at 12.
[13] TCFD, supra note 2, at 27–28.
[14] Bayer Group, Task Force on Climate-Related Financial Disclosures (TCFD) Report 2024 at 5 (Mar. 5, 2025), https://www.bayer.com/sites/default/files/2025-03/bayer-tcfd-report-2024.pdf.
[15] Liberty Mutual Insurance, 2023 Task Force on Climate-Related Financial Disclosures Report at 21, https://www.libertymutualgroup.com/documents/tcfd-2023-report.pdf.
[16] Banner Bank, TCFD Report 2024, at 7, https://www.bannerbank.com/-/media/project/banner-bank/dotcom/pdfs/tcfd_ada.pdf?.
[17] See Bank of America, Managing our Transition to a Sustainable Future (Nov. 16, 2023), https://about.bankofamerica.com/content/dam/about/report-center/esg/2023/2023_TCFD_Report.pdf; AT&T, Task Force on Climate-related Financial Disclosures (TCFD) Index (last updated Aug. 9, 2023), https://sustainability.att.com/reports/reporting-frameworks/tcfd.
[18] *Checklist*, *supra* note 5, at 6.

Comment: 3. SB 261 Reporting Framework and Standards

With respect to SB 261 climate-related financial risk disclosures, CMTA similarly urges CARB to provide a defined regulatory framework for how manufacturers should report required information. CARB should develop standardized templates or structured reporting formats to ensure clarity and comparability across submissions while reducing unnecessary compliance complexity.

CMTA also requests that CARB clearly identify the accepted disclosure standard entities are expected to follow. This disclosure should specify whether CARB intends to align with established national or international frameworks—such as the Task Force on Climate-related Financial Disclosures (TCFD)—or with another clearly defined reporting standard.

Early clarity on the governing framework will allow companies to design internal processes, avoid duplicative reporting, and ensure disclosures are decision-useful for regulators and stakeholders. (45d-061.7)

Comment: Many companies have challenges with CARB setting a reporting deadline of January 1, 2026, for the 2025 calendar year data in SB 261. It will be difficult for companies to finalize 2025 data and report it on January 1st, especially since that is a federal holiday.

The California Retailers Association understands CARB has stated “good faith efforts” rather than penalties in the first year of implementation, but we request CARB go further and move the deadline to a date in March 2026, so companies have time to compile full, accurate data with the spirit of ensuring successful compliance.

Additional reasons for compliance difficulty with a January 1, 2026, due date are listed below and were provided to CARB via email (Climatedisclosure@arb.ca.gov) on September 11, 2025.

Retailers have a particular challenge given most fiscal years end in January vs. December.

- For more background, retailers typically receive final (January) utility bills in March/April. Retailers must do iterative calculations which takes weeks to months, then submit them for verification.
- Verification alone takes 6-8 weeks.
- Ultimately, retailers can do some estimating of missing data to meet the time frame, but then there is less accuracy. Since retailers are tracking towards emissions reductions, retailers would prefer to have more accuracy, and our member companies want to successfully comply with California’s Corporate Climate Reporting Laws.

In summary: Retailers' preference is for California to align with the CDP voluntary climate disclosure timeline, which allows more time for accurate calculations and verification. An earlier disclosure date could be a challenge for retailers to get the data from their third parties in time. (45d-070.8)

Comment: The California Retailers Association requests clarity from CARB on the following section regarding SB 261 and “Climate-Related Financial Risk” (see italics below). The California Retailers Association is concerned that “Climate-Related Financial Risk” will ask organizations to submit hard numbers on climate disclosures. Many companies do not want to disclose exact numbers due to the costly and overly burdensome operational lift and confidentiality standards. (2) “Climate-related financial risk” means material risk of harm to immediate and long-term financial outcomes due to physical and transition risks, including, but not limited to, risks to corporate operations, provision of goods and services, supply chains, employee health and safety, capital and financial investments, institutional investments, financial standing of loan recipients and borrowers, shareholder value, consumer demand, and financial markets and economic health. (45d-070.6)

Comment: Provide that a company’s climate-related financial risk report under SB 261 can use either calendar year or fiscal year data.

SB 261 does not specify whether a company submitting a climate-related financial risk report must use calendar year or fiscal year data. Rather, covered entities have been instructed to use the “most recent/best available data.” CARB’s failure to specify whether using calendar year or fiscal year data is acceptable for a company’s report under SB 261 unduly burdens members of the paint and coatings industry by requiring businesses to ascertain whether calendar year or fiscal year data constitutes the most recent/best available data. Given that

many of the reporting requirements in state air quality and toxics regulations already require or permit the use of calendar year data, businesses in the paint and coatings industry should have the option to decide whether they use calendar year or fiscal year data for their climate-related financial risk reports. Accordingly, ACA recommends that CARB provide that a company's climate-related financial risk report under SB 261 can use either calendar year or fiscal year data if it comports with standard company operating procedures. (45d-073.8)

Comment: Now, recognizing the enforcement notice and pending the Ninth Circuit Court's decision, for companies planning to voluntary report and prepare for possibly future mandated reporting, it would be very helpful to receive clarification around any formal transitional relief related to the assessment and disclosure of climate-related risk under the "Strategy" section. The greatest impacts and risk often lie in company supply chains. Health and Safety Code section 38533, paragraph 2 defines climate related financial risk and includes risk to supply chain specifically, among others. However, under the climate-related financial risk disclosures checklist for minimum CARB requirement for disclosure for the strategy pillar, supply chain, or the wider value chain, is not mentioned.

This might leaders to mistaken believe that supply chain risk should not be included in their assessments and disclosures. This appear to be at conflict with the overarching statute. Furthermore, Appendix A of the Climate-Related Financial Risk Disclosure Initial Regulation references the published guidance, but does not include reference to any formal transitional relief related to supply chain coverage, like we see other national jurisdictional climate disclosure regulations.

We support inclusion of supply chain risk, but would appreciate any clarification around this area, including a potential modification to ensure covered entities can properly meet minimum statute requirements. (BHT-024.2)

> **Agency Response:** No changes were made in response to these comments. These comments are outside the scope of the Regulation. While the Regulation established the definitions that establish eligibility under both Health and Safety Code sections 38532 and 38533, it does not set any reporting requirements for Health and Safety Code section 38533. The reporting requirements of Health and Safety Code section 38533 are established in statute and do not require a separate rulemaking.
>
> Relating to confidentiality concerns, CARB understands the concern and handles confidential data in the regular course of business across many different programs. CARB must follow the California Public Records Act regarding requests for information. However, under the California Public Records Act, trade secrets are exempt from disclosure to the public. (See Gov. Code § 7924.510(c) and (d).) Also, CARB has regulations that specify what CARB does in the instance that a company claims confidentiality. (See Cal.Code Regs., tit.17 §§ 91000 et seq.) CARB recommends all regulated entities properly identify any information that is properly considered confidential business information (CBI) and trade secrets by properly labeling all documents.

In addition, on November 18, 2025, the Ninth Circuit Court of Appeals issued an order temporarily enjoining enforcement of Health and Safety Code section 38533. In light of this order, CARB will not enforce against covered entities that fail to post and submit reports by the January 1, 2026, statutory deadline while the injunction remains in effect. CARB will provide further information, including an alternate date for reporting climate-related financial risk disclosures, as appropriate, after the injunction is lifted.

G-5 Multiple Comments: Definition of Materiality

Comment: Similarly, we recommend CARB limit emissions disclosures under SB 253 to material emissions. Materiality in this context could be defined by setting an emissions threshold, similar to both California's GHG Reporting program and the federal GHG Reporting program. Both of these programs require covered facilities to report GHG emissions if emissions exceed 25,000 metric tons of CO2e.[5] CARB could adopt a similar threshold, meaning only those who have emissions that exceed 25,000 metric tons of CO2e would be subject to SB 253 reporting requirements. This would create consistency across the different GHG reporting frameworks and would align with the statute's intent of seeking comprehensive data on GHG emissions in California and mitigating the state's climate risk.[6]

It would also target the most significant emitters, while minimizing the reporting burden on entities with emissions that do not meet the standard for significance under related GHG reduction frameworks. As CARB acknowledges, the Cap-and-Invest Program covers about 80% of the state's GHG emissions. Quantifying the contributions from the remaining 20% of sources likely would contribute little to advancing the goals of SB 253 since these sources are predominantly small and the burdens of reporting cannot justify the additional informational accuracy that might result.

Many companies will spend significant time and money mapping and calculating their emissions, particularly Scope 3 emissions. Limiting emissions disclosures to material emissions will align with CARB's effort to "design these programs to be the least burdensome" and could decrease costs for reporting businesses, particularly for those who've determined that they do not face material risk from its GHG emissions.[7] (45d-031.2)

[5] EPA GHGRP, What is the GHGRP?; CARB Guidance for California's Mandatory Greenhouse Gas Emissions Reporting.
[6] SB 253, Section 1(g), (h).
[7] CARB California Corporate Greenhouse Gas (GHG) Reporting and Climate Related Financial Risk Disclosure Programs.

Comment: We also recommend that CARB define the materiality of GHG emissions that an individual reporting entity must include in quantifying its GHG emissions. The International Standards Organization (ISO) has developed standards for defining the GHG footprint of organizations and facilities and those standards make clear that an organization may exclude non-material sources of GHG emissions from its emissions assessment.

Specifically, ISO 14067, which sets forth an accepted methodology for assessing carbon footprints, specifies that a carbon emissions assessment should include only significant sources of GHG emissions and that the study should include criteria specifying thresholds for identifying significant emissions sources and excluding those that are not significant sources.[8] ISO 14044 provides useful guidance for cut-off criteria that allows insignificant sources of GHGs to be omitted from GHG footprint calculations based on mass, energy or environmental significance.[9]

These ISO criteria provide a useful model for CARB to obtain a complete and accurate accounting of GHG emissions in California while excluding insignificant GHG sources, which will help mitigate the burden of GHG reporting under SB 253. (45d-031.3)

[8] ISO 14067, 5.7 & 6.4.3.4.
[9] ISO 14044:2006(E), 4.2.3.3.3.

Comment: The Class of ’85 would like to emphasize the importance of ensuring that California accomplishes its objectives without unduly burdening businesses by requiring the reporting of immaterial emission sources or unnecessarily granular or out-of-scope information. Balancing the compliance burden on regulated businesses alongside California’s interest in information collection would help to ensure that the data ultimately reported are useful, pertinent, and relevant. (45d-078.1)

> **Agency Response:** No changes were made in response to these comments. These comments are outside the scope of the Regulation, given the context of the December 2024 Enforcement Notice for first-year reporting. Materiality considerations will be considered in an upcoming rulemaking focusing on implementation of Health Safety Code section 38532 for 2027 and beyond.

G-6 Multiple Comments: Health and Safety Code Section 38532 Assurance Standards

Comment: Additionally, there are currently not enough providers to choose from when it comes to third-party verification for assurance for Scope 3 emissions. As there will likely be a shortage of available and qualified assurance providers and new providers entering the market, we urge CARB to consider accreditation for third-party verifiers. Dairy Institute also recommends against limiting businesses to a specific approved list of third-party providers. (45d-040.21)

Comment: Additionally, CARB should maintain flexibility for reporting entities to use applicable GHG emissions reporting standards to accommodate diverse organizational structures and global compliance obligations. For example, CARB should clearly authorize the use of current versions of existing protocols like the International Organization for Standardization (ISO) 14060 family (e.g., ISO 14064-3:2019 standard) and International Standard on Sustainability Assurance (ISSA) 5000 for assurance purposes. Such protocols are widely used in the United States and provide an internationally recognized framework for

Scope 1 and Scope 2 GHG emissions verification. To support process efficiency and avoid unnecessary administrative burden, CARB should not require application of the Mandatory Reporting Regulation verification process, as doing so would impose an excessive administrative and capital burden on a program that lacks the financial underpinnings of a Cap-and-Invest program. (45d-051.12)

Comment: Six, limited assurance requirements for initial reports should not be enforced and flexibility and efficiency in the verification process should be supported. (BHT-003.7)

> **Agency Response:** No changes were made in response to these comments. These comments are outside the scope of the Regulation as it does not address assurance requirements. Pursuant to the December 2024 Enforcement Notice, CARB will exercise enforcement discretion for the first report due in 2026, allowing reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued, whether or not the data received limited assurance. This topic will be considered in an upcoming rulemaking focusing on implementation of Health and Safety Code section 38532 for 2027 and beyond.

G-7 Multiple Comments: Third-Party Assurance Provider Accreditation

Comment: C. Safe Harbor for Reliance on Qualified Third-Party Assurance Providers

The regulations should include a safe harbor for entities that rely on qualified, independent third-party assurance providers to review disclosures. Where an entity engages an assurance provider that meets CARB's qualification requirements and follows the provider's professional recommendations in good faith, the entity should not be exposed to penalties based on later disagreements over methodological interpretation.

Absent such a safe harbor, entities are placed in the untenable position of being second-guessed for relying on professional experts whose services the regulations themselves effectively require. (45d-069.31)

Comment: Request for guidance regarding GHG emissions verification bodies

For companies measuring and verifying their GHG emissions for the first time, it can be difficult to assess which verification bodies are sufficiently reliable. It would be very helpful if you could provide a list of verification bodies within California that meet the appropriate qualifications and competencies. (45d-079.7)

Comment: Request for guidance regarding GHG emissions verification bodies

- For companies measuring and verifying their GHG emissions for the first time, it can be difficult to assess which verification bodies are sufficiently reliable. It would be very helpful if you could provide a list of verification bodies within California that meet the appropriate qualifications and competencies. (45d-080.7)

Agency Response: No changes were made in response to these comments. These comments are outside the scope of the Regulation as it does not address assurance requirements. CARB will exercise enforcement discretion for the first report due in 2026, allowing reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued, whether or not the data received limited assurance. CARB will address assurance requirements in an upcoming rulemaking and will provide guidance on assurance verification bodies and accreditation requirements.

G-8 Multiple Comments: Alternative Reporting Periods

Comment: CARB should provide reporting entities with maximum flexibility with respect to the reporting period covered by reports under SB 253. (45d-026.3)

Comment: CARB should provide reporting entities with maximum flexibility with respect to the reporting period covered by reports under SB 253. In proposing the definition of "applicable preceding fiscal year", CARB proposes to use February 1 as the date for determining which fiscal year's data should be covered in a reporting entity's first-year report under SB 253 due by August 10, 2026, including flexibility to allow for more recent fiscal year data if available.[12] In proposing this definition, CARB appropriately recognizes that many reporting entities have fiscal years that differ from the calendar year. However, CARB should also recognize that some reporting entities may collect and report GHG emissions data for a 12-month period that does not match their fiscal years.

In determining the definition for "applicable preceding fiscal year" in connection with the reporting entities maximum flexibility with respect to the reporting period covered by reports under SB 253, considering all relevant factors that may affect a reporting entity's timeline for collecting, reconciling and obtaining assurance for the GHG emissions data required under SB 253. These factors include, but are not limited to, the annual reporting deadline under SB 253 established by CARB, a reporting entity's fiscal year (which may not match the calendar year), and a reporting entity's reporting cycle for GHG emissions data (which may not match its fiscal year).

This flexibility is even more necessary with respect to scope 3 emissions reporting because of the unique challenges financial institutions face in reporting scope 3 emissions data. As discussed in detail above, the process for collecting scope 3 emissions data typically results in a 12-month to 18-month time lag. In addition, it is widely accepted across the financial services industry that financed emissions calculations inherently involve a timing mismatch between exposure data and client emissions data. For example, a financial institution's scope 3 financed emissions calculation for fiscal year 2024 would typically rely on 2024 exposure data combined with client emissions data from fiscal year 2022 or 2023, based on the most recent emissions data available from external data providers. As a result, even where reporting entities are afforded up to 12 months to report, this mismatch will persist. Providing

flexibility to use best available data is therefore critical to producing high-quality financed emissions disclosures under SB 253.

We believe providing reporting entities maximum flexibility with respect to the reporting period covered by reports under SB 253 will support reporting entities' efforts to apply reporting methodologies in a manner that is best suited for their businesses and circumstances and avoid potentially restricting reporting entities' ability to apply industry standards that supplement the GHG Protocol to address industry-specific issues. (45d-026.13)

[12] Proposed Initial Regulation § 96076, available at https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/sb253-261/reg%20text.pdf ("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.").

Agency Response: No changes were made in response to these comments. Health and Safety Code section 38532 explicitly requires the reporting period to be the reporting entity's prior fiscal year. CARB's proposal to anchor the prior fiscal year around February 1, 2026, recognizes the variability of different fiscal year ends. Pursuant to the December 2024 Enforcement Notice, CARB will exercise enforcement discretion for the first report due in 2026, allowing reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued.

However, the comments regarding Scope 3 emissions reporting are out of scope of the Regulation, as it does not establish any Scope 3 emissions reporting requirements. This topic will be considered in an upcoming rulemaking.

Regarding the 2026 reporting deadline pursuant to Health and Safety Code section 38532, please refer to Agency Response H-2.

G-9 Multiple Comments: Concerns Over Greenhouse Gas Protocol Reporting Methodologies

Comment: However, CARB should note that the GHG Protocol Corporate Standard explicitly states that it does not accurately measure or reduce indirect (scopes 2 and 3) emissions. The Corporate Standard states "Reductions in indirect emissions (changes in scope 2 or 3 emissions over time) may not always capture the actual emissions reduction accurately."[2] This is because the Corporate Standard, and therefore the corresponding Scope 2 Market-Based Method and Location-Based Method, are built on attributional accounting, which allocates "responsibility to entities for emissions/removals arising from specified sources/sinks," in order to help "establish emissions quotas and/or track emissions over time."[3] It is essential that CARB take note that the attributional accounting methodology

currently prescribed by the GHG Protocol is designed to measure changes only in a company's in-boundary emissions. Transfers of emissions to other companies are explicitly not included. Therefore, to date, there is no evidence that when an individual company reports reductions in its Scope 2 emissions under this framework, overall emissions have actually reduced. (45d-034.2)

[2] https://ghgprotocol.org/sites/default/files/standards/ghg-protocol-revised.pdf
[3] 3https://ghginstitute.org/2021/04/21/the-most-important-ghg-accounting-concept-you-may-not-have-heard-of-the-attributional-consequential-distinction/

Comment: SB 253 tasks CARB with quantifying and causing emissions reductions using the GHG Protocol. Therefore, we propose that CARB needs to use frameworks from the GHG Protocol that are designed for this purpose, specifically the The GHG Protocol for Project Accounting (Project Protocol). The Project Protocol establishes methods for measuring the global impact of different actions and the Guidelines for Quantifying Emissions Reductions from Grid-Connected Electricity Projects establishes guidance specific to the electricity sector. In fact, the GHG Protocol Corporate Standard reinforces this, stating that "In cases where accuracy is more important, it may be appropriate to undertake a more detailed assessment of the actual reduction using a project quantification methodology."[13] The Advanced Markets Instruments

(AMI) Working Group, as part of the GHGP revision process, is also developing potential new approaches to assessing the consequential emissions impact of companies. Other suitable options include pairing the GHGP Corporate Standard with strict and mandatory additionality tests or a system using California's SGIP marginal emissions signal. (45d-034.3)

[13] https://ghgprotocol.org/sites/default/files/standards/ghg-protocol-revised.pdf

Comment: Because they rely on attributional accounting and average emissions factors, neither the Scope 2 Location-Based Method nor the Scope 2 Market-Based Method is equipped to measure or drive actual emissions reductions at the company level. CARB should consider the more appropriate purpose-built accounting approaches described above. (45d-034.4)

> **Agency Response:** No changes were made in response to these comments. CARB acknowledges the commenters' concerns with the Greenhouse Gas Protocol reporting standards. The December 2024 Enforcement Notice allows reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued. In 2026, if an entity already submits annual Scope 1 and Scope 2 emissions through a voluntary program or to another regulatory program, that entity may submit that same information to CARB. Reporting requirements for 2027 and beyond will be considered in an upcoming rulemaking.

G-10 Multiple Comments: Organizational Boundary

Comment: Regarding organizational boundaries, CFCA urges CARB to allow reporting entities the flexibility to select a boundary condition consistent with established frameworks such as the Greenhouse Gas Protocol or the EU Corporate Sustainability Reporting Directive (CSRD). Each business structure is unique, and a one-size-fits-all boundary definition would not reflect operational realities. For example, some entities use an "operational control" approach consistent with the GHG Protocol framework, while others may opt for "equity share" approach or "financial control" approach. CARB should maintain flexibility for entities to apply whichever recognized boundary approach best fits their organization in order to accurately account for GHG inventories. (45d-005.6)

Comment: Finally, CARB's initial rulemaking does not directly address the substance of reports that will be required under SB 253 and SB 261. However, it does include broad definitions of "parent" and "subsidiary." When proposing rules on the content of reports under SB 253 and SB 261, CARB should not use those definitions to prescribe the organizational boundaries that should be used when preparing a consolidated report. As discussed in the March 8th SIFMA Letter, CARB should adopt the same approach as was taken by the SEC in adopting its climate-disclosure rules and allow companies to set to their own organizational boundaries for purposes of consolidated reporting. (45d-049.10)

Comment: CARB should also make clear the potential implications for disclosure at a corporate-wide versus company-wide level. For example, if a company decides to provide corporate-wide disclosure in the first disclosure period, is that company then obligated to continue providing data at the corporate-level in subsequent disclosure periods? The structure and expectations around allowable data outside of the first year of disclosure must be made clear before these programs are implemented so that companies may make fully informed decisions. (45d-050.7)

Comment: WSPA maintains its position, elaborated in previous comment letters,[6,7] that CARB should retain flexibility for entities to select one of the three boundary approaches defined by the GHG Protocol: equity share, financial control, or operational control.[8] Allowing reporting entities to select an approach that aligns with existing sustainability and investor reporting practices, including established regulatory frameworks or industry best practices (e.g., the U.S. Environmental Protection Agency's GHG emissions reporting program and sustainability reporting guidance for the oil and gas industry released by Ipieca, the American Petroleum Institute, and the International Association of Oil and Gas Producers), and would mitigate confusion arising from inconsistent presentations of reporting data and enhance the usefulness of reported information by recognizing diverse corporate structures. (45d-051.3)

[6] Ibid.

[7] See WSPA Comments on Draft Reporting Template for Scopes 1 and 2 GHG Emissions. October 27, 2025; available at: https://ww2.arb.ca.gov/system/files/webform/public_comments/53876/wspa-sb-253-draft-reporting-template-comments-with-citations-10-27-2025.pdf.

[8] See U.S. EPA, Scopes 1 and 2 Emissions Inventorying and Guidance; available at: https://www.epa.gov/climateleadership/determineorganizational- boundaries. Accessed January 2026.

Comment: Additionally, although CARB has clarified that it will not enforce SB 261 reporting requirements,[9] the agency previously confirmed that entities will have flexibility in selecting a climate disclosure framework under SB 261. For example, entities reporting in alignment with the 2017 Task Force on Climate-Related Financial Disclosures (TCFD) recommendations may use any of the three GHG Protocol organizational boundary approaches. Therefore, limiting flexibility in selecting the GHG emissions reporting boundary under SB 253 could cause disclosures under SB 253 and SB 261 to become misaligned, resulting in information that is not coherent or useful for decision-making. Mandating a reporting boundary for SB 253 while allowing flexibility under SB 261 would also undermine CARB's goal of reducing confusion and streamlining compliance where possible. (45d-051.4)

[9] See CARB, Enforcement Advisory Climate-Related Financial Risk Reporting (SB 261). December 1, 2025; available at: https://ww2.arb.ca.gov/sites/default/files/2025-12/Dec%201%20SB%20261%20Enforcement%20Advisory.pdf.

Comment: In sum, CARB should explicitly authorize reporting entities, in this and any subsequent regulations, to select the GHG emissions disclosure boundary approach most appropriate for their respective operations and disclosures. (45d-051.5)

Comment: Two, optionality for entities to select boundary approaches for reporting should be retained. (BHT-003.3)

Agency Response: No changes were made in response to these comments. The comments regarding organizational boundaries are out of scope of this rulemaking. However, the December 2024 Enforcement Notice allows reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued, which includes flexibility of organizational boundaries. The definitions for "parent" and "subsidiary" included in the Regulation are for determining which entities may submit a consolidated report and do not apply to determining organization boundaries for the reports themselves. CARB will explore the methodologies used to determine an entity's organizational boundary in an upcoming rulemaking.

G-11 Multiple Comments: Scope 3 Emissions

Comment: The requirement to report Scope 3 emissions remains unworkable, unreliable, and unfairly punitive, and it fails to align with the goal of advancing climate improvements while maintaining affordability for California's small businesses.

Unlike direct (Scope 1) and indirect (Scope 2) emissions, Scope 3 emissions are generated outside a company's direct control, making accurate reporting impossible. These requirements impose an excessive burden on businesses by forcing them to track emissions from suppliers, distributors, and customers—many of whom may not even operate in California. Additionally, Scope 3 emissions are impossible to verify because companies cannot compel third-party suppliers to disclose emissions data, which leads to inaccurate and inconsistent reporting. If CARB's goal is to provide more verifiable information regarding

climate risk to the marketplace, requiring Scope 3 emissions disclosures only adds uncertainty. Overestimating or underestimating emissions due to lack of reliable data can harm both businesses and the marketplace. A fuel distributor reports Scope 3 emissions based on estimates from suppliers because actual data is unavailable. If the distributor overestimates emissions, it could appear less environmentally responsible than it actually is, potentially affecting investor perceptions, credit ratings, or contract opportunities. Conversely, unknowingly underestimating emissions could expose the company to regulatory scrutiny or reputational risk if discrepancies are later discovered. In both cases, inaccurate reporting creates uncertainty that can harm both the business and the overall marketplace.

Furthermore, these requirements disproportionately burden small and mid-sized businesses that lack the legal and compliance resources to conduct complex emissions audits across their supply chains. They also create competitive disadvantages for California companies that must comply with these mandates while out-of-state and international competitors face no similar requirements.

Instead, we urge CARB to eliminate all Scope 3 emissions reporting requirements from SB 253 implementation, align with federal reporting standards to prevent regulatory duplication and ensure consistency, and exempt small and mid-sized businesses from any new climate disclosure mandates to prevent disproportionate impacts on local economies. (45d-005.7)

Comment: This comment is submitted to provide evidence of a viable technical solution for Scope 3 compliance within the pulp, paper, and energy sectors. Arboreum Commercial Solutions (ACS) has established a standard for replacing virgin timber feedstock with agricultural waste through an energy-independent, closed-loop, carbon-negative process. As the Architect of this IP (filed 12/17/25, see attached receipt), I am notifying the Board that 'unfeasibility' claims by industrial entities are no longer factually supported. ACS provides the necessary industrial floor to meet 2026 reporting requirements today. (45d-007.1)

Comment: Maritime operators’ emissions often comprise customers’ Scope 3 emissions while also including operators’ Scope 1 and 2 emissions. This conflation, which the program does not adequately address, risks double-counting emissions data. Without clear guidance, operators face inconsistent data disclosure that could inaccurately reflect their company’s actual output. To mitigate this, we encourage CARB to promptly issue Scope 3 guidance tailored to marine transport and allow modeled factors where data is impractical or imprecise. (45d-009.7)

Comment: As CARB develops Scope 3 reporting guidance, I urge the Board to explicitly recognize habitat creation and ecological performance as relevant contextual information for long-lived infrastructure assets. While habitat creation does not replace greenhouse gas accounting or emissions disclosure, it is a meaningful component of value-chain impact and climate risk assessment. Infrastructure materials deployed in marine environments can either degrade ecosystems or actively support habitat formation, biodiversity, and ecological resilience.

Manufacturers and project developers increasingly generate quantitative data on biological colonization, habitat complexity, and ecological performance associated with infrastructure materials. Allowing companies to reference this information alongside Scope 3 emissions disclosures would improve the quality and completeness of climate-related reporting, particularly for assets located in climate-vulnerable coastal zones. This approach aligns with California's broader climate, biodiversity, and resilience goals and reflects the reality that emissions impacts and ecological outcomes are interconnected for coastal infrastructure.

I encourage CARB to provide guidance that enables companies to disclose embodied emissions while also transparently describing habitat creation and ecological performance associated with long-lived capital goods. Doing so will strengthen SB 253 implementation by ensuring disclosures reflect not only emissions quantities, but the real-world environmental consequences of infrastructure investment decisions. (45d-017.2)

Comment: CRA is concerned that the requirement to report Scope 3 emissions is impractical and misaligned with the goal of producing accurate, decision useful climate disclosures. Unlike Scope 1 and 2 emissions, Scope 3 emissions occur outside a company's direct control, making precise data collection and verification, in many cases, impossible. Companies are expected to rely on estimates from suppliers and distributors, many of whom may lack the capability or obligation to provide emissions data, resulting in inconsistent, unverifiable, and potentially misleading disclosures. Such inaccuracies create uncertainty for regulators, investors, and the marketplace. CRA urges CARB to reconsider the inclusion of Scope 3 emissions in the regulation. (45d-029.2)

Comment: As CARB looks to establish Scope 3 regulations, Dairy Institute would like to reiterate that Scope 3 emission reporting has a lot more ambiguity and demands clearer definitions. (45d-040.20)

Comment: At the point at which CARB begins collection of Scope 3 data, the Scope 3 categories to be disclosed should be only those determined to be material by the individual reporting companies. Mandatory disclosure of immaterial Scope 3 categories will unduly burden the reporting companies by requiring additional data collection efforts that will not impact the rigor and completeness of emissions estimates. (45d-050.5)

Comment: For Scope 3 emissions, the California Retailers Association is requesting clarity from CARB on whether the Board is expecting all categories to be reported or only those that a company considers material? If CARB hasn't acknowledged that only material categories need to be reported, CRA recommends that CARB clarify that only material Scope 3 categories be required to be reported. The California Retailers Association also submitted this comment to CARB via email on September 10, 2025. (45d-070.10)

Comment: We conclude with a note on different types of GHG emissions from law firms. Some of law firms' GHG emissions stem from their business operations, including natural gas and refrigerant losses from firm offices, purchased electricity, and vehicle and air travel for business purposes.[23] But the bulk of law firms' GHG emissions are indirect, advised emissions—the greenhouse gas emissions associated with projects and matters on which

lawyers advise.[24] These are also known as "[s]erviced emissions"—GHG emissions "arising from or impacted by client activities that are informed or enabled by the advice or services of a professional service provider."[25] Professional service providers include law firms, consultants, and advertisers, among others.

Law firms currently provide indispensable services to fossil fuel and other GHG-emitting projects, including advising on project finance and permitting. Without these legal services, those projects would not operate and produce GHG emissions. Law firms' advised emissions have recently come under greater scrutiny internationally, as the Law Society of England and Wales has issued guidance stating that, "For lawyers, the most significant GHG emissions associated with [their] organisation[s] are likely to be emissions associated with the matters upon which they advise . . . . "[26] These advised emissions could ultimately be considered scope 3 GHG emissions, as they are downstream emissions from the use of the law firm's sold product—legal services for fossil fuel and other GHG-emitting projects.[27] Advised emissions are an emerging topic, and we look forward to future opportunities to engage with CARB on the topic. (45d-071.4)

> [23] See, e.g. FRESHFIELD SECR CARBON FOOTPRINT REPORT, FRESHFIELDS LLP (Aug. 15, 2025), https://www.freshfields.com/globalassets/about-us/rb/reports/freshfields-secr-carbon-footprint-report-2024-2025.pdf [https://perma.cc/PD78-PVLE] (a law firm reporting their Scope 1, 2, and 3 GHG emissions under the United Kingdom's Streamlined Energy & Carbon Reporting for May 2024 to April 2025).
> [24] THE LAW SOCIETY, supra note 4. We hope to provide additional comments on advised emissions quantification when CARB releases it draft regulations on Scope 3 emissions reporting for S.B. 253.
> [25] The Serviced Emission Hub, OXFORD NET ZERO, https://netzeroclimate.org/research/serviced-emissions-hub/ [https://perma.cc/JPN2-KPZH] (last visited Feb. 7, 2026); see also UN RACE TO ZERO, CATALYSING CLIMATE ACTION: THE ROLE OF PROFESSIONAL SERVICE PROVIDERS IN REALIZING A NET-ZERO FUTURE 6-7, 9-11, 16-17 (2024) (noting that "Serviced Emissions are likely to be the main type of GHG emissions associated with [Professional Service Providers]").
> [26] THE LAW SOCIETY, *supra* note 4.
> [27] See GREENHOUSE GAS PROTOCOL, CORPORATE VALUE CHAIN (SCOPE 3) ACCOUNTING AND REPORTING STANDARD 5 (2013) (identifying "use of sold products" as part of Scope 3 emissions); id. at 36 (summarizing GHG Protocol Category 11 as emissions from the "[e]nd use of goods and services sold by the reporting company"); id. at 48.

Comment: 5. Scope 3 greenhouse gas emissions should not be included in any reporting requirements.

Section 96072(a) of the Proposed Regulation does not contain a definition for the term 'Scope 3 Emissions,' and ACA believes that the Scope 3 GHG emissions reporting requirement under SB 253 should be disregarded entirely. As generally understood, Scope 3 GHG emissions are generated by upstream and downstream partners in the chain of manufacturing, and ACA members do not have access to this information. Extraordinary efforts are required to obtain such information from upstream and downstream partners, which significantly increases costs for the industry. California should eliminate the requirement to report Scope 3 GHG emissions since this information will be obtained directly from the upstream and downstream partners in their Scope 1 and Scope 2 GHG emissions reports. Not only does this requirement significantly increase the cost of compliance, it will

likely lead to GHG emissions being double reported by submitters. Accordingly, ACA recommends that CARB not enforce SB 253's reporting requirement for Scope 3 GHG emissions. (45d-073.5)

Comment: Second, our client encourages CARB, in drafting future Scope 3 reporting rules, to clarify that a reporting entity with a non-reporting corporate parent can report the Scope 3 emissions of its corporate parent (even if the reporting entity reports the Scope 1 and 2 emissions of its own operations). (45d-074.2)

Comment: Second, our client encourages CARB, in designing its Scope 3 regulations, to clarify that a reporting entity with a non-reporting corporate parent can report the Scope 3 emissions of its corporate parent (even if the reporting entity reports the Scope 1 and 2 emissions only of its own operations). This clarification would enhance cross-jurisdictional harmonization, ease compliance burdens, and support data accuracy and transparency.

…

CARB should clarify through regulation that a reporting entity that is a U.S. subsidiary of a foreign corporate parent can submit its parent's Scope 3 data that covers the full parent organization. This approach would help to harmonize California's rules with other jurisdictional requirements and alleviate compliance burdens. While the text of the statute already appears to allow for this flexibility,[7] additional regulatory clarification on this point would be very helpful because reporting entities may wish to use different organizational boundaries when reporting their Scope 1 and 2 data and their Scope 3 data (for example, reporting on behalf of the U.S. subsidiary for Scopes 1 and 2 and at the foreign parent level for Scope 3 emissions). This proposed flexibility would also enhance transparency, as in its absence, investors and consumers could potentially be confused by a major disparity between comprehensive Scope 3 data publicly reported to Japanese (or other non-U.S.) authorities by a parent company and Scope 3 data publicly reported to CARB by certain U.S. subsidiaries of those parent companies. In short, this modest flexibility would support SB 253's goals of cross-jurisdictional harmonization and transparency while minimizing compliance burdens.[8] (45d-074.6)

> [7] *See* Cal. Health & Saf. Code § 38532(c)(2)(A)(iii) ("Reports may be consolidated at the parent company level. If a subsidiary of a parent company qualifies as a reporting entity pursuant to paragraph (2) of subdivision (b), the subsidiary is not required to prepare a separate report.").
> [8] We note that relatively few entities are likely to take advantage of this flexibility, as it is likely to be most helpful to reporting entities that have foreign parents that are not reporting entities.

Comment: Request for consideration of a one-year deferral of Scope 3 disclosure for entities exempt from 2026 reporting

- For entities exempt from 2026 disclosure whose GHG emissions measurement systems are not yet fully in place, it may be practically challenging to report Scope 1, Scope 2, and Scope 3 emissions together in 2027.

- Accordingly, we respectfully request that you consider granting entities exempt from 2026 disclosure an additional one year deferral for Scope 3 reporting, so that they would begin disclosing Scope 3 emissions from 2028 instead. (45d-079.6)

Comment: Request for consideration of a one-year deferral of Scope 3 disclosure for entities exempt from 2026 reporting

- For entities exempt from 2026 disclosure whose GHG emissions measurement systems are not yet fully in place, it may be practically challenging to report Scope 1, Scope 2, and Scope 3 emissions together in 2027.
- Accordingly, we respectfully request that you consider granting entities exempt from 2026 disclosure an additional one year deferral for Scope 3 reporting, so that they would begin disclosing Scope 3 emissions from 2028 instead. (45d-080.6)

Comment: My name is Gilbert Lara representing BioCom, the largest life sciences trade association advocating for the pharmaceutical, biotechnology, and medical technology sectors throughout the state. As you consider the initial regulation and prepare for subsequent rulemaking, we want to reiterate the complexities of Scope 3 emissions present a unique hurdle for our industry.

The emission encompass everything from upstream supply chain investments to downstream processing, transportation, consumer use, and the end-of-life treatments for our progress. The sheer volume of these data points assessing Scope 3 emissions with true accuracy prove incredibly difficult. (BHT-019.1)

Comment: Second, ACA believes that the Scope 3 GHG emissions reporting requirement under SB 253 should be disregarded by CARB. As generally understood, these types of emissions are generated by upstream and downstream partners in the chain of manufacturing, and ACA members do not have access to this type of information. As such, extraordinary efforts will be required to obtain this information, which will significantly raise costs for industry. Moreover, this reporting requirement significantly increases the chance of their being double emissions reported by submitters. (BHT-021.3)

Comment: To our second point, California Dairy farmers have led the way in implementing sustainable practices on farm that reduce GHG inventories. As such, we use our Scope 3 information as a competitive differentiator for our farms. Publicly disclosing this information removes that opportunity for our California-based farmers to benefit from their reductions they've invested in. (BHT-048.2)

Comment: We are deeply concerned with the risk this regulation poses for overestimating GHG emissions for agriculture. Our business is deeply interconnected with other dairy processors that will be subject to this reporting. For example, we may ship some of our farmer's milk to another processor. The secondary processor will request our Scope 3 emissions and both companies will include those emissions in their footprints resulting in the risk for double counting across our sector. We firmly believe our nonprofit cooperative

structure serves as grounds to exempt us from these reporting requirements and protect our California farmers. (BHT-048.3)

Comment: 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. (LC-001.5)

[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

Agency Response: No changes were made in response to these comments. The comments regarding Scope 3 emissions reporting are out of scope of this Regulation, as the Regulation focuses on 2026 reporting and does not establish any Scope 3 emissions reporting requirements. Regulatory provisions regarding Scope 3 emissions reporting will be considered in an upcoming rulemaking.

G-12 Multiple Comments: Program Deadlines for Future Reporting Years

Comment: For future years, CARB should consider a later deadline as reporting requirements increase substantially to include scope 3 emissions information. The fourth quarter of the year would be more realistic for all companies as they undergo verification of scope 1 and 2 data and perform timely and complex calculations to estimate scope 3 emissions. (45d-004.3)

Comment: First year August 10 reporting deadline becomes more challenging once assurance and Scope 3 added, December 31 promotes more durable and consistent reporting – Section 96076(a) establishes a deadline for the 2026 reporting. CARB is encouraged to take into account future Scope 3 reporting and assurance requirements, not only the Scope 1 and Scope 2 reporting included in this regulation package, to establish a durable emissions disclosure framework that can scale effectively over time.

While some entities with mature data systems and established emissions reporting processes can meet an August 10 reporting deadline today for Scope 1 and Scope 2 disclosures, this timing is not sustainable as a permanent regulatory requirement. As reporting and assurance expectations expand, an early August deadline becomes increasingly misaligned with how emissions data are finalized, reviewed, and assured in practice. Over the longer term, reporting deadlines should be moved later in the year and aligned across scopes. Aligning

Scope 1 and Scope 2 reporting with Scope 3 on a December 31 deadline would provide a more durable and consistent reporting framework. (45d-021.4)

Comment: Establishing the proper long-term reporting deadline also requires considering Scope 3 timing. As CARB develops a permanent reporting framework, Scope 3 considerations are directly relevant to deadline design and should be incorporated from the outset, rather than retrofitted later. Scope 3 emissions reporting presents distinct and materially greater timing challenges, which underscore why a single August reporting deadline is not appropriate across all scopes. Scope 3 data depend on third-party information that is outside an entity's control and often subject to significant lags. For financial institutions, financed emissions calculations rely on emissions data from thousands of counterparties across sectors and jurisdictions, many of whom do not publish relevant information until well after mid-year. Data vendors supporting Scope 3 reporting similarly face delays in obtaining, validating, and updating datasets. As a result, Scope 3 disclosures inherently trail Scope 1 and Scope 2 and cannot reasonably be finalized by an August 10 deadline. (45d-021.6)

Comment: A December 31 reporting deadline better accommodates the realities of third-party data flows and provides a stable foundation as assurance requirements mature. Aligning all scopes to a single year-end deadline would support higher-quality data, improve comparability across reporting entities, reduce operational risk, and enable CARB to establish a durable emissions disclosure framework that can scale effectively over time. (45d-021.8)

Comment: First year August 10 reporting deadline becomes more challenging once assurance and Scope 3 added, December 31 promotes more durable and consistent reporting – Section 96076(a) establishes a deadline for the 2026 reporting. CARB is encouraged to take into account future Scope 3 reporting and assurance requirements, not only the Scope 1 and Scope 2 reporting included in this regulation package, to establish a durable emissions disclosure framework that can scale effectively over time.

While some entities with mature data systems and established emissions reporting processes can meet an August 10 reporting deadline today for Scope 1 and Scope 2 disclosures, this timing is not sustainable as a permanent regulatory requirement. As reporting and assurance expectations expand, an early August deadline becomes increasingly misaligned with how emissions data are finalized, reviewed, and assured in practice. Over the longer term, reporting deadlines should be moved later in the year and aligned across scopes. Aligning Scope 1 and Scope 2 reporting with Scope 3 on a December 31 deadline would provide a more durable and consistent reporting framework.

For financial institutions, Scope 1 and Scope 2 emissions data are sourced from numerous offices, subsidiaries, and operational systems across multiple jurisdictions. While some firms can finalize this information by early August, doing so may require accelerated timelines and tightly sequenced internal processes, leaving limited flexibility to accommodate late-arriving data or additional review. These challenges are more acute for entities with decentralized operations, less mature emissions data systems, or limited experience coordinating

emissions reporting alongside assurance processes within compressed timelines after the fiscal year closes.

Establishing the proper long-term reporting deadline also requires considering Scope 3 timing. As CARB develops a permanent reporting framework, Scope 3 considerations are directly relevant to deadline design and should be incorporated from the outset, rather than retrofitted later. Scope 3 emissions reporting presents distinct and materially greater timing challenges, which underscore why a single August reporting deadline is not appropriate across all scopes. Scope 3 data depend on third-party information that is outside an entity's control and often subject to significant lags. For financial institutions, financed emissions calculations rely on emissions data from thousands of counterparties across sectors and jurisdictions, many of whom do not publish relevant information until well after mid-year. Data vendors supporting Scope 3 reporting similarly face delays in obtaining, validating, and updating datasets. As a result, Scope 3 disclosures inherently trail Scope 1 and Scope 2 and cannot reasonably be finalized by an August 10 deadline. (45d-022.4)

Comment: Although we recognize that the Proposed Initial Regulation only proposes August 10, 2026 as the first-year reporting deadline under SB 253, with future reporting deadline under SB 253 to be established in the Subsequent Regulation, we continue to be deeply concerned about the annual reporting deadline under SB 253, because of the complexity and challenges associated with GHG emissions reporting, particularly scope 3 emissions, as well as related assurance requirements. (45d-026.1)

Comment: If you have any leeway to move this deadline back to at least October, especially for reporting years after 2026 (which we acknowledge will be established in subsequent regulation), these companies would greatly appreciate the flexibility to adhere to their existing reporting calendars. Such flexibility would align with the statutory provision in Health & Safety Code Section 38532: "The reporting timelines shall consider industry stakeholder input and shall take into account the timelines by which reporting entities typically receive scope 1 emissions, scope 2 emissions, and scope 3 emissions data, as well as the capacity for an independent assurance engagement to be performed by a third-party assurance provider." (45d-033.7)

Comment: When CARB proposes Scope 3 reporting requirements, SIFMA also urges CARB to align the timing of Scope 3 emissions disclosure with a December 31 deadline for Scope 1 and Scope 2 emissions disclosure. A single, calendar-based reporting deadline that is consistent across all scopes would provide clarity and certainty for reporting entities, support consistent administration and enforcement by CARB, and reflect the interconnected nature of emissions data collection, internal review, and assurance processes. (45d-049.2)

Comment: These concerns will intensify as the program matures. Respondents that currently publish Scope 3 emissions information indicated that gathering and validating Scope 3 data takes substantially longer than for Scope 1 and Scope 2, reflecting reliance on third party information, methodological complexity, and extended internal review processes. For example, companies required to calculate and report on Scope 3 category 15 financed

emissions will be confronted with significant challenges, especially in providing calculations for the numerous asset classes for which no widely agreed methodology for calculating emissions data is available. An August 10 deadline for Scope 1 and Scope 2 emissions, which is already impractical for assured GHG emissions disclosures, will become increasingly difficult to sustain as Scope 3 disclosure requirements are phased in beginning in 2027 and become even more difficult as the assurance requirements become substantially more extensive with a shift to reasonable assurance for Scope 1 and Scope 2 emissions and limited assurance for Scope 3 emissions in 2030.[6] (45d-049.4)

[6] When the assurance requirements for Scope 1 and Scope 2 GHG emissions under SB 253 move to reasonable assurance beginning in 2030, reporting processes under SB 253 will become more onerous than many other mandatory climate reporting regimes, including the European Union's Corporate Sustainability Reporting Directive. Reporting entities will need significant additional time to obtain assurance at a level that will not be required for mandatory climate disclosure reporting in other jurisdictions.

Comment: After 2026, an August 10th reporting deadline will become a greater problem as assurance requirements transition from "limited" to "reasonable" assurance, a much more rigorous and time-consuming process. Furthermore, the technical and administrative burden of these disclosures is expected to grow as reporting and assurance standards evolve. Revisions to the GHG Protocol's treatment of Scope 2 emissions reporting are currently under consideration and may make Scope 2 reporting increasingly complex. This burden will be compounded significantly when Scope 3 reporting requirements join the mandate. Scope 3 disclosure requires the collection and verification of data from an entity's entire upstream and downstream value chain which is information often outside the reporting entity's direct control and notoriously difficult to quantify. As these even more complex reporting layers are phased in, the time required to gather, verify, and assure this data will necessarily increase. In future years, a rigid August deadline fails to account for the prolonged data-collection cycles required for these expansive indirect emission reporting requirements.

We recommend that CARB adopt one of the following two alternative reporting structures after 2026:

Alternative 1: Rolling Deadline Based on Fiscal Year End

Under this approach, CARB adopts a "rolling" submission schedule where reports are due exactly twelve months following the close of an entity's individual fiscal year. This model provides the greatest degree of equity, ensuring that every reporting entity has an identical window of time to finalize and assure its data regardless of its accounting cycle. This "rolling" approach would distribute the demand for specialized technical and assurance services throughout the calendar year, lowering costs and ensuring that each report reflects the most recent and accurate data available for that specific enterprise. Given the impending complexity of Scope 2 updates and the addition of Scope 3, providing deadline flexibility is essential.

Alternative 2: Unified December 31 Deadline with Fiscal Year Cutoff

This approach preserves the existing framework in Section 96076(b), which uses a February 1st cutoff to determine the applicable reporting year, but replaces the August 10th submission date with a uniform December 31st deadline. Under this method, companies with fiscal years ending on or before February 1st would report data from that most recently completed fiscal year, while those ending after February 1st would report from the fiscal year ending in the prior calendar year. Using a December 31st deadline is more consistent with how emissions data are typically reviewed and assured in practice and gives reporting entities more time to report as the requirements become more onerous. Increasing the time period between the February 1st cutoff and the reporting deadline also helps space out demand for technical and assurance services. (45d-069.3)

Comment: Third, our client encourages CARB, in selecting the deadline for reporting Scope 3 emissions in a future rulemaking, to choose the end of the calendar year—i.e., December 31 each year. (45d-074.3)

Comment: In its regulations for future years, our client encourages CARB to choose the same or later August 10 deadline and the same flexible approach to the "applicable preceding fiscal year." (45d-074.5)

Comment: Third, our client encourages CARB, in selecting the deadline for reporting Scope 3 emissions, to choose the end of the calendar year—i.e., December 31 each year. Due to the challenges of Scope 3 reporting—particularly in the early years of implementation—entities would benefit from having several months after reporting their Scope 1 and 2 data to prepare and ensure accuracy of Scope 3 data. The Legislature indicated in both SB 253 and SB 219 that it expected that significant time would be needed between the deadline for Scope 1 and 2 reporting and the deadline for Scope 3 reporting.[9] Further, because the law will eventually require assurance of Scope 3 data, a meaningful gap between these reporting dates is critical to ensure that assurance providers with expertise in Scope 3 data can meet the market's need in a timely manner.[10] A Scope 3 deadline of no earlier than December 31 would provide reporting entities with 4.5 months after the proposed August 10 reporting deadline for Scopes 1 and 2 to vet their Scope 3 data. (45d-074.7)

> [9] The original text of SB 253 assumed that the deadline for reporting Scope 3 emissions would be significantly after—albeit "no later than 180 days after"—the deadline for reporting Scope 1 and 2 emissions. SB 253 (2023-2024 Reg. Sess.); Stats. 2023, ch. 382, § 2(c)(1)(A)(II). SB 219 amended the law to provide CARB with further flexibility in selecting the Scope 3 deadline. SB 219 (2023-2024 Reg. Sess.); Stats. 2024, ch. 766, § 1(c)(2)(A)(i)(II) (codified at Cal. Health & Saf. Code § 38532(c)(2)(A)(i)(II)). CARB can therefore select a Scope 3 deadline that is more than 180 days after the Scope 1 and 2 deadline.
>
> [10] Id. § 38532(c)(2)(F)(iii) (providing that "[t]he assurance engagement for scope 3 emissions shall be performed at a limited assurance level beginning in 2030" and authorizing CARB to establish an assurance requirement for Scope 3 emissions earlier).

Comment: However, CTA is concerned with future challenges presented by a rigid August 10 date given additional complexity will be added with Scope 3 reporting requirements as well as the possibility of a transition from "limited" to "reasonable" assurance. As CTA noted in our prior comments, reasonable assurance significantly increases complexity (with limited value

add) and CTA supports withdraw of the mandatory reasonable assurance in favor of limited assurance. In future years with additional reporting requirements and/or with a requirement of reasonable assurance, six months or 180 days may prove insufficient. Flexibility will be needed from CARB as the program continues to evolve. (45d-077.3)

Comment: And in the forthcoming regulation for reporting deadlines in subsequent years, we would encourage a later reporting deadline. (BHT-020.4)

> **Agency Response:** No changes were made in response to these comments. The comments regarding reporting deadline for 2027 and beyond are out of scope of the Regulation, as it establishes the first year 2026 reporting deadline only. Reporting deadlines for 2027 and beyond under Health and Safety Code section 38532 will be established in an upcoming rulemaking.

G-13 Multiple Comments: Alignment with Other Jurisdictional Requirements and Reporting Standards

Comment: CRA writes to highlight concerns that the proposed regulatory text could duplicate existing reporting frameworks and impose significant compliance burdens and costs that would be better directed toward meaningful, on-the-ground sustainability and decarbonization initiatives.

The proposed regulatory structure would create overlapping and duplicative reporting obligations with existing federal and voluntary frameworks. Rather than improving the quality or usefulness of climate information, the draft regulations would establish parallel processes with different methodologies, timelines, and verification expectations, without clear mechanisms for coordination or harmonization. This approach increases administrative burden and compliance complexity without demonstrating meaningful benefits for regulators, investors, or the public.

For example, many companies already report greenhouse gas emissions under EPA's Greenhouse Gas Reporting Program and provide climate and risk disclosures through widely used voluntary frameworks, including the Greenhouse Gas Protocol, Carbon Disclosure Project, and reporting aligned with the Task Force on Climate-related Financial Disclosures or International Sustainability Standards Board standards. In addition, several other states have introduced climate disclosure legislation that, if enacted, could further compound compliance obligations over time by creating a patchwork of state-specific requirements.

CRA is concerned that layering a new reporting program on top of existing frameworks is unnecessary to achieve the intended transparency objectives. If CARB elects to move forward with additional reporting requirements, CRA encourages the agency to align the final regulatory text with existing federal and voluntary frameworks wherever possible. Allowing companies to rely on comparable disclosures that have already undergone verification and review, instead of creating separate and duplicative processes, would streamline compliance,

improve consistency, and help ensure that resources remain focused on practical and measurable emissions reduction efforts.

CRA is particularly concerned that the effort, staff time, and financial costs required to comply with the proposed rules, especially for Scope 3 calculations and biennial climate risk reporting, could divert resources away from direct emissions-reduction initiatives. Many corn refiners are undertaking significant sustainability projects, including:

- Deployment of lower-carbon energy systems
- Agricultural supply-chain partnerships that reduce upstream emissions
- Carbon capture and storage projects
- Increased use of renewable electricity

Compliance with the proposed regulations, especially in the early years, could demand substantial additional financial investment in data collection systems, third-party verification, internal reviews, and legal evaluations. CRA believes that these resources are most impactful when directed toward on-the-ground decarbonization rather than duplicative administrative processes. (45d-029.1)

Comment: As future rulemakings are conducted, IETA urges CARB to continue closely tracking evolving international carbon accounting, reporting and disclosure frameworks. As several jurisdictions bring forward similar legislation – all while major existing voluntary standards undergo updates[1] – we remain concerned about growing global fragmentation of disclosure rules and the challenges of interoperability across jurisdictions. To ensure CARB's regulations meet California-specific needs while remaining aligned with evolving external standards, it is critical that reporting obligations are clearly defined, focused and allow for harmonized reporting that does not layer unnecessary compliance burden. This can include, in part, by relying on established standards, practices, and methodologies that provide flexibility and avoid duplication. (45d-038.3)

[1] The Greenhouse Gas Protocol is undergoing revisions across its suite of standards and frameworks, as well as an ongoing harmonization process with ISO. IETA recently submitted comments to the GHG Protocol in response to its proposed updated Scope 2 Guidance: https://www.ieta.org/ieta-comments-to-greenhouse-gas-protocol-scope-2-guidance

Comment: CCEEB appreciates the language that was incorporated into SB 219 that encourages minimizing duplication of effort and allows reports prepared to meet other national and international reporting requirements as well as the language that encourages alignment with existing, widely recognized reporting frameworks. However, the language also specifies "as long as those reports satisfy all of the requirements in this section," which ultimately reduces the simplification and streamlining of reporting requirements. CARB should identify existing protocols that satisfy the reporting requirements for SB 253 and SB 261 and allow companies the flexibility to choose which protocol they want to use to demonstrate full compliance. The inclusion of this provision would again streamline reporting, allow for timely implementation, provide accurate, comparable information, and reduce the administrative burden on CARB. (45d-056.13)

Comment: CCEEB proposes CARB provide a safe harbor for entities that calculate and disclosure climate-related financial risk and emissions using existing standards and methodologies identified by CARB, including how divestments, mergers, and acquisitions are addressed under such standards and methodologies. Moreover, future regulations should not deviate from existing standards or methodologies or standard reporting practices. To do so would only add to the burden of CARB staff as well as covered and reporting entities, without any tangible benefits. Adding reporting complexity would take away resources from companies that could better be put to use in programs that actually reduce emissions. In particular, the Greenhouse Gas Protocol (GHGP) provides guidance on how entities should account for acquisitions, divestments, mergers, and other structural changes. CARB should not require anything different from the GHGP's guidance on how companies should account for structural changes. (45d-056.22)

Comment: Align definitions, methodologies, and reporting structures with existing state and federal programs wherever possible; (45d-061.14)

Comment: To the extent CARB ultimately provides materiality, documentation, or assurance guidance for SB 253, we urge that such guidance be aligned with established investor-grade standards and with existing annual financial reporting cycles to avoid duplicative workstreams. This comment is offered solely to support efficient implementation of SB 253 and does not address any requirements currently stayed under SB 261. (45d-062.6)

Comment: To avoid duplicative reporting, we urge CARB to align its implementation and future reporting requirements with existing federal and international standards. Maintaining alignment with recognized global standards will streamline the logistical burden and ensure emissions are reported accurately. Most importantly, it will allow for the continued on-time delivery of essential medical technologies to the patients who depend on them most. (BHT-019.2)

Comment: 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 on them. (BH-003.1)

Agency Response: No changes were made in response to these comments. CARB is focused on supporting compliance and streamlining implementation where possible. For the first-year reports due in 2026, consistent with the December 2024 Enforcement Notice, if an entity already submits annual Scope 1 and Scope 2 emissions through a voluntary program or to another regulatory program, that entity may submit that same information to CARB.

CARB will address reporting requirements in an upcoming rulemaking in a manner that provides flexibility with existing reporting requirements and frameworks while still meeting the reporting requirements as outlined in the statutes.

G-14 Multiple Comments: Streamline Reporting

Comment: According to CARB's ISOR, the proposed regulation is expected to provide no negligible benefits, no cost savings, no direct impacts on emissions of criteria pollutants, no direct impacts on toxic air contaminants, no direct reductions of greenhouse gas emissions, no strong implications for environmental justice, no creation of jobs, and no expectation that it will result in an expansion of any existing businesses or the creation of new businesses. The sole benefit is information for investors and consumers at a cost of $14 million annually for CARB, in addition to the millions for each covered and reporting company to comply. Given this reality, CCEEB recommends CARB continue to search for additional ways to streamline the proposed regulation and upcoming regulations to reduce costs and simplify the process for covered and reporting entities. (45d-056.23)

Comment: Minimize duplicative or conflicting requirements that do not directly advance emissions reductions. (45d-061.17)

Agency Response: No changes were made in response to these comments. CARB is focused on supporting compliance and streamlining implementation where possible. For the first-year reports due in 2026, consistent with the December 2024 Enforcement Notice, if an entity already submits annual Scope 1 and Scope 2 emissions through a voluntary program or to another regulatory program, that entity may submit that same information to CARB.

G-15 Multiple Comments: Adoption of Open Data Standards such as XBRL

Comment: We respectfully recommend that, in the next phase of rulemaking, CARB includes requirements for data to be submitted in a digital, structured, standardized format using an open standard such as XBRL. The rationale for this recommendation is described below.

First, data submitted in a machine-readable format is easier and less costly to collect, process, and analyze. When data is reported in structured digital form, CARB can reduce or eliminate the need to develop custom extraction and analytics tools for the public to access the data. Regulators and other data users can automate data ingestion and analysis,

improving efficiency and timeliness. U.S. federal regulators, the SEC, the FDIC, and the FERC have been benefitting from these advantages for years and many of the same businesses that report in XBRL to federal regulators will fall under the California mandates as well. These companies already have the resources and experience to produce financial data in structured XBRL format; generating climate-related data in structured format will require no additional tools or learning.

Second, data quality is likely to improve when in standardized format. Structured, granular data enables automated validation rules to check for completeness, internal consistency, and common errors such as incorrect signage or conflicting values. Machine-readable reporting also reduces reliance on manual data entry and review, further improving accuracy and speed of access.

Third, the EFRAG Discussion Paper released in Dec 2025, Connectivity of Financial and Sustainability Reporting [https://www.efrag.org/en/news-and-calendar/news/efrag-publishes-discussion-paper-on-connectivity-of-financial-and-sustainability-reporting], underscores that structured digital data via XBRL is essential for enhancing the connectivity and consistency of reported information across different annual report sections. Implementing these digital standards allows regulators to automate the reconciliation of sustainability disclosures with financial statement line items, ensuring a holistic and coherent view of an entity's climate-related risks.

Fourth, alignment with existing international reporting frameworks can reduce reporting burden for covered entities. Organizations that already report to non-U.S. regulators—such as under the EU Corporate Sustainability Reporting Directive or in IFRS-based jurisdictions—can reuse the same digital reports to satisfy CARB requirements. These regimes already require reporting in XBRL using open taxonomies that capture substantially similar information. CARB could leverage these existing, freely available taxonomies at no cost.

Fifth, structured and standardized data facilitates auditability and assurance through improved traceability, better data quality, and automation. This will assist covered entities in the second phase of rulemaking when assurance requirements will be addressed.

Finally, smaller entities without global reporting obligations can be supported through appropriately designed tools. For example, CARB's spreadsheet-based reporting template could be adapted to generate both human-readable and machine-readable outputs that remain interoperable with international reporting frameworks. As a proof of concept, XBRL US has developed an open-source spreadsheet-based tool aligned with this approach and is currently revising it to match the CARB template. (45d-028.2)

Comment: More broadly, the use of open data standards can strengthen regulatory data collection efforts. XBRL provides a semantic data model that unambiguously defines reported facts at a granular level, enabling consistent interpretation across systems and users. This approach, described in greater detail in this paper [https://xbrl.us/wp-content/uploads/2024/06/Digitzed-data-to-combat-climate-change.pdf], is well suited to climate-related data, including greenhouse gas emissions, air quality metrics, and cap-and-

trade program information. Establishing a shared semantic model—through a taxonomy or ontology agreed upon by state and federal regulators—would improve data comparability, accessibility, and reuse across programs and jurisdictions. (45d-028.3)

Comment: My comments pertain specifically to what we believe will be the second phase of rulemaking, which will address reporting contents and format, assurance and other timing issues.

We respectfully recommend that in the next phase of rulemaking, CARB includes requirements for data to be submitted in digital structured standardized format using an open standard such XBRL. Data submitted in digital format is easier and less costly to collect, process and analyze. Second, data quality will improve because structured granular data enables automation validation rules to check for errors, and standards establish a common language. Third, this approach aligns with international programs, including the EU's corporate sustainability reporting directive, and IFRS reporting programs around the world. And last, small entities that do not have global footprint can use spreadsheet based reporting tools that are adapted to generate data in the same format. (BHT-010.3)

Comment: To maintain trust, data, must be viewed across entire value chain from the smallest upstream vendor to the largest global enterprise. Under such structure data isn't just a technical requirement, it's strategic necessity. By implementing a semantic layer, like that of eXtensible Business Reporting Language, XBRL, will ensure the transparency and auditability that an AI to AI ecosystem requires. It's a digital DNA that ensures information remains accurate and accountable as it moves between machines. Data is fluid across value chains and is easily accessible across upcoming mandates in U.S. and globally EU, Japan, Mexico and Africa. (BHT-016.1)

> **Agency Response:** No changes were made in response to these comments. CARB acknowledges the concerns to standardize and streamline data processing of reports received. CARB will consider and evaluate these comments regarding the use of standardized digital data submission formats in an upcoming rulemaking.

G-16 Multiple Comments: Fiduciary Duties

Comment: Long-Term Fiduciary Duty

The California climate disclosure rules must be developed with the view of safeguarding long-term value and investment returns. Without adequate climate risk disclosures, investment fiduciaries will not have the information they need to implement their fiduciary duties toward the assets of long-term American savers and pension holders.

Opponents of climate change reporting often misstate both investor and corporate fiduciary duties. They typically refer to only some of the applicable investor and corporate legal duties, focusing exclusively on short-term issues. Both investor fiduciaries and corporate directors have long-term legal obligations that make climate change highly financially relevant. This myopic fixation on only short-term risks and opportunities will likely undermine American

companies' long-term competitive position and, therefore, impact the investment returns of US investors. According to McKinsey & Company, companies managed with a long-term view substantially outperform their short-term peers over time.[vi]

An investor's fiduciary duty of loyalty includes the Duty of Impartiality, which requires fiduciaries to balance the conflicting interests of different beneficiary groups in good faith. For instance, 25-year-old and 75-year-old beneficiaries have inherently different risk tolerances and investment time horizons, and fiduciaries cannot prioritize one group's interests over the other. This duty has significant implications for long-term climate-related risks and their related performance considerations that fiduciaries must address. The U.S. Supreme Court affirmed this principle in the 1996 case Varity v. Howe, stating that the common law of trusts mandates preserving assets for both present and future claims while impartially considering the interests of all beneficiaries.[vii]

Similarly, California's Uniform Prudent Investor Act explicitly requires trustees to act impartially when investing and managing trust property, ensuring that the differing interests of multiple beneficiaries are fairly considered.[viii]

Nonprofit institutional investors and trust fiduciaries–like foundations and endowments—also have what is called a Duty of Obedience to their charitable purpose. For these entities with a perpetual or long-term horizon, climate change impacts are likely to be very relevant to their long- and short-term mission goals. For example, California's Uniform Prudent Management of Institutional Funds Act (section 18503) requires that "an institution, in managing and investing an institutional fund, shall consider the charitable purposes of the institution and the purposes of the institutional fund."[ix] For many foundations and endowments with inter-generational or perpetual existence goals, climate change will present material considerations for management of long-term risks to achieve those goals.

In Delaware, where 66% of Fortune 500 companies are incorporated, corporate law requires boards to manage companies with a long-term perspective. The Delaware courts reinforce this obligation, as seen in the 2024 McRitchie v. Zuckerberg opinion. On page 73, the ruling states, "The fiduciary duties owed by directors of a Delaware corporation require the directors to seek to maximize the value of the corporation over the long term for the benefit of the stockholders as residual claimants to the value created by the specific firm that the directors serve."[x] (45d-052.4)

[vii] Varity Corp v. Howe (1996), United States Court of Appeals for the Eight Circuit, https://supreme.justia.com/cases/federal/us/516/489/.
[viii] 2007 California Probate Code Article 2.5. Uniform Prudent Investor Act, Justia, https://law.justia.com/codes/california/2007/prob/16045-16054.html
[ix] 2009 California Probate Code – Section 18501-18510: Part 7. Uniform Prudent Management of Institutional Funds Act, Justia, https://law.justia.com/codes/california/2009/prob/18501-18510.html.
[x] James McRitchie v. Mark Zuckerberg et al. (2024), Court of Chancery of the States of Delaware, https://cases.justia.com/delaware/court-of-chancery/2024-c-a-no-2022-0890-jtl.pdf?ts=1714494707.

Comment: When developing California's climate risk disclosure rules, CARB should consider both the physical risks associated with climate change and the fiduciary duties that investors have to long-term savers. (45d-052.5)

> **Agency Response:** No changes were made in response to these comments. CARB acknowledges the comments regarding information related to investor and fiduciary duties. The Regulation establishes the first steps in creating a regulatory framework that ensures this data is made available to the public.

G-17 Multiple Comments: Concerns Outside CARB's Authority to Change

Comment: SB 253 does not impose a minimum emissions threshold to trigger reporting duties; rather, reporting duties are based on company revenue, not emissions levels. This approach unfairly burdens industries like ours, which emit significantly fewer greenhouse gases than other transportation modes, while potentially exempting higher-emitting companies with smaller revenues but perhaps much larger carbon footprints. This approach undermines California's climate goals because it hurts low-emitting industries while possibly exempting higher-emitting ones. AWO urges CARB to consider adjustments that align reporting obligations with actual emissions impacts. (45d-009.8)

Comment: However, CARB must consider an important technical contradiction in the proposal as currently drafted. Specifically, Section 38532, subdivision (c)(1)(A)(ii), which establishes the use of the Greenhouse Gas Protocol (GHG Protocol) Corporate Standard for emissions reporting, conflicts with the legislative intent of driving emissions reductions because the GHG Protocol Corporate Standard is not designed to accurately reflect or drive reductions in greenhouse gas emissions and does not do so. The GHG Protocol Corporate Standard is not an appropriate framework for advancing the emissions-reduction priorities established by SB 253, and CARB should consider alternative frameworks. (45d-034.1)

Comment: The proposed regulations impose a mandatory regulatory burden on U.S.-based companies that would not apply to foreign steelmakers. The regulation's failure to compel equivalent disclosure from foreign-based corporations ensures that the state's data will be incomplete and inaccurate – incentivizing some to provide "cherry picked" data that seeks to put the GHG disclosures and climate risk of its U.S.-based subsidiaries in the best possible light. And steelmakers who sell into California via vendors who do not meet the revenue thresholds to require disclosure will be in the best possible position: these companies will have no direct reporting obligations. Schemes to avoid "doing business in California" will emerge as a form of regulatory relief. This will skew the data California uses as it seeks carbon neutrality and, in the case of steel[12], undercount the state's carbon footprint given that American-made steel is cleaner than that of its foreign competitors. In essence, "greenwashing" of critical climate disclosure and risk data is baked into the CARB's regulation.[13]

Failure to require GHG disclosure and/or climate risk disclosure from foreign-based parent companies ensures CARB will implement a system that imposes a greater regulatory burden

upon good-faith actors and incentivizes incomplete and inaccurate data collection, undermining the state's professed goals. (45d-050.2)

[12] The regulation's flaws are not unique to steel and will impose additional regulatory burdens on both U.S.-based corporations and any company that meets the statutory thresholds and does business directly in California instead of through intermediaries. Sadly, it appears that CARB sees this structure as a feature and not a bug that undermines American manufacturing and accurate reporting. "HSC §§ 38532 and 38533 only apply to U.S.-based companies. If this foreign company is not a U.S.-based company as defined in HSC §§ 38532 and 38533, then that foreign company is not subject to the requirements of HSC §§ 38532 or 38533." CARB FAQs at p. 10.

[13] *Greenwashing – the deceptive tactics behind environmental claims*, THE UNITED NATIONS https://www.un.org/en/climatechange/science/climate-issues/greenwashing.

Comment: It cannot be ignored that this regulation suffers from a fatal statutory flaw that imposes a greater regulatory burden on U.S.-based companies than on foreign-based ones. This flaw is further magnified by the fact that corporations that operate through out-of-state vendors face no regulatory burden as these corporations are not required to comply with the regulation – no matter their size, volume of product used in California, or total GHG emissions and climate risk. The flaw all but ensures that CARB's data collection will result in an incomplete accounting of GHG emissions and climate risk associated with commerce in California. AISI urges CARB to expand the scope of its regulatory scheme and encourage corporate-wide reporting based upon internationally-recognized standards – for corporate parents, both U.S.-based or foreign-based – of any "covered entity" or product sold into the state. (45d-050.10)

Comment: However, we feel that it's critical to identify what we see as a fatal flaw that we need to make sure that all are aware of. CARB is proposed to advance regulations that unfairly burden American manufacturers with reporting requirements that don't equitably apply to their foreign competitors. In our eyes, this is completely unreasonable. In the case of the American steel industry, we produce the world's cleanest steel. Of the major steel producing countries, the U.S. has the lowest carbon dioxide emissions per ton of steel produced and the lowest energy intensity, and the industry has not shied away from providing emissions and risk disclosure publicly.

Under these regulations though, manufacturers of steel could potentially evade all disclosure requirements while still doing business in California. To not require equivalent data from foreign competitors punishes American companies who have been doing the right thing all along. Excluding non-U.S. based companies is an invitation for manipulation or deceit. (BHT-047.2)

Comment: These regulations reward foreign companies that have no ties to this state and simply operate through vendors. A foreign steel company using vendors could sell an unlimited quantity of dirty steel into California with no disclosure requirements at all. Greenwashing and avenues for evasion of disclosure are essentially baked into these regulations. (BHT-047.3)

Comment: Should California implement these regulations in the way that they're currently proposed, the State will not be able to defensively -- defensibly use this information to support any claims of progress towards climate neutrality. California will be relying on data that is incomplete at best, intentionally manipulated at worst. These regulations will not only fall short of their goal, but will hinder U.S. manufacture in the process. California can and must do better. (BHT-047.4)

> **Agency Response:** No changes were made in response to these comments. The applicability criteria of the program are established by statute under Health and Safety Code sections 38532 and 38533. Consistent with this statutory direction, the Regulation evaluates each individual entity's applicability based on revenue, doing business in California, and U.S.-based criteria. An entity's emissions are not used to determine applicability, pursuant to the authorizing statutes, and the Regulation focuses on providing accurate, comparable, and decision-useful climate information to investors, consumers, and other stakeholders in California, rather than to regulate or reduce emissions.

G-18 Multiple Comments: Disaggregated Reporting

Comment: In addition to retaining flexibility for reporting entities to rely on reporting mechanisms other than CARB's Scope 1 and 2 reporting template,[13] CARB should limit mandated reporting information to aggregated totals of Scope 1 or Scope 2 emissions. As WSPA explained in our previous letter,[14] any disclosure of more granular Scope 1 and Scope 2 data should be optional and should not be subject to separate third-party verification. Mandating disaggregated reporting would unnecessarily complicate the implementation of SB 253 without providing additional decision-useful information.

CARB's draft reporting template introduces unnecessary complexity by requiring Scope 1 and Scope 2 emissions to be disaggregated by both source and individual GHG species, with no meaningful difference or benefit to shareholders beyond aggregated emissions disclosure. This complexity is compounded by inherent differences between source categories for Scope 1 and Scope 2 emissions. For example, the template requests Scope 1 emissions by stationary, mobile, process, and fugitive sources, while it requests Scope 2 emissions by electricity, heating, steam, and cooling sources. These disparities in emissions sources increase reporting burdens and reduce the clarity of the reported data, making it more difficult for stakeholders to interpret.

By ensuring that any additional reporting beyond aggregated Scope 1 and 2 GHG emissions remains optional, regardless of whether an entity uses CARB's reporting template, CARB would better achieve its stated commitment to an effective, efficient, and streamlined implementation of SB 253. WSPA encourages CARB to clarify that such additional reporting is optional in the regulation for both 2026 and future years to avoid potential compliance ambiguity, consistent with CARB's regulatory approach in the Frequently Asked Questions (FAQ) Regarding California Climate Disclosure Requirements.[15] (45d-051.10)

[13] Ibid.
[14] *See* WSPA comments on Draft SB 253 Scope 1 & 2 Reporting Template. October 27, 2025.
[15] See CARB, California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Programs: Frequently Asked Questions About Regulatory Development and Initial Reports, Question 21. Updated November 17, 2025; available at: https://ww2.arb.ca.gov/sites/default/files/classic/FAQs%20Regarding%20California%20Climate%20Disclosure%20Requirements_Nov.pdf.

Comment: I. Reporting obligations place undue burdens on businesses because they do not align with corporate organizational structures.

CARB's proposed framework for reporting obligations under the 200s does not align with how corporations and other climate-focused organizations assess climate risks. As is common for consolidated financial reporting, corporate policies and frameworks for GHG emissions reporting tend to focus on consolidated emissions reporting, in keeping with the global nature of climate issues. The same is true for identifying and assessing climate risk. Many publicly traded companies, for example, analyze emissions and climate-related risks across their entire group of corporate affiliates, as this approach can provide a more comprehensive understanding of the overall climate risk profile arising from business activities. This consolidated reporting approach is embedded within other climate reporting frameworks, like the Task Force on Climate-Related Financial Disclosure ("TCFD") recommendations. The TCFD's framework is centered around reports prepared at the enterprise level, which the TCFD defines as the "group, company, or companies, and other entities for which consolidated financial statements are prepared, including subsidiaries." This is because aligning climate disclosure practices with financial ones better allows companies to discern the "linkages and connections between climate-related issues and their governance, strategy, risk management, and metrics and targets" and produce "consistent, comparable, reliable, clear, and efficient" disclosures.

CARB's proposed regulations do not effectively implement this approach. While CARB's reporting framework under SB 261 claims to be "largely based on TCFD," the proposed regulations require reporting compliance at the entity level where a company actually "does business" in California, mandating a reporting framework for subsidiary corporations that are already covered by consolidated-level reporting. Many of these individual subsidiaries do not currently have the capability to generate granular, subsidiary-level reports because accepted GHG reporting practices currently focus on consolidated reporting among corporate affiliates and companies have made substantial investments in providing reporting of that nature. This creates a host of problems: disaggregation and verification of subsidiary-level data from consolidated reporting will be challenging and burdensome, if it is even possible at all; potential inconsistencies among reporting across various jurisdictions will create potential legal risk, including for non-California entities regulated in other jurisdictions; and such a granular requirement would add little value in the context of corporate entities already covered by established consolidated reporting. (45d-057.6)

Comment: The same is true of emissions reporting under SB 253. Like with financial reporting and climate risk management, many companies report emissions on a consolidated

basis. Instead of making use of these established practices, the proposed regulations would require time-consuming, burdensome, and speculative guesswork and projecting, which constituent companies must assemble (or disaggregate) for the first time and present for public scrutiny. Many multi-entity organizations that do collect GHG data do not do so on an entity-by-entity basis, and forcing complex organizations to do so places an unreasonable burden on these companies. CARB's proposed framework thus creates an unnecessary, arbitrary burden—either requiring subsidiaries with California operations to prepare a separate, potentially inconsistent set of emissions reports, a significant burden with no real benefit, or compelling larger entities with a minimal-at-best connection to California to comply with California regulations at the parent level, despite intentional and well-recognized legally foundational corporate separations amongst related entities.

Recognizing that many companies have long abided by established international frameworks like TCFD or the International Sustainability Standards Board, CARB should incorporate these established practices into its rulemaking efforts. We request that CARB set clear standards for reporting obligations under the 200s so regulated entities can produce compliant reports without unnecessary burdens. (45d-057.8)

Comment: Reporting approach when the parent company submits consolidated disclosure

- Where a parent company located outside California submits consolidated disclosure that includes subsidiaries subject to SB 253 and SB 261, it would be helpful to have clear rules on whether California based subsidiaries may simply be covered by the consolidated information, or whether their information must be explicitly broken out and reported separately within the same report. (45d-079.3)

Comment: Reporting approach when the parent company submits consolidated disclosure

- Where a parent company located outside California submits consolidated disclosure that includes subsidiaries subject to SB 253 and SB 261, it would be helpful to have clear rules on whether California based subsidiaries may simply be covered by the consolidated information, or whether their information must be explicitly broken out and reported separately within the same report. (45d-080.3)

Comment: Five, more granular emissions disclosures beyond the aggregated Scope 1 and 2 totals should remain optional and should not be subject to separate third-party verification. (BHT-003.6)

> **Agency Response:** No changes were made in response to these comments. The December 2024 Enforcement Notice allows reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued. For the first-year reports due in 2026, there are no requirements to submit disaggregated data at the individual entity level within a report submitted by a parent entity. Use of the draft Scope 1 and Scope 2 emissions reporting template is voluntary in 2026. Entities may report at the parent

level, provided they meet the definitions of “parent” and “subsidiary” as set forth in sections 96072(a)(10) and 96072(a)(16).

G-19 Multiple Comments: General Request for Definition Refinement

Comment: Definitions relating to applicability should be further refined to avoid overbreadth. (45d-047.6)

Comment: VII. Applicability Definitions Warrant Further Refinement to Avoid Overbreadth and Unintended Consequences

The proposed regulations adopt definitions of “doing business in California” and “revenue” that will determine which entities are subject to the requirements of SB 253 and SB 261. These threshold determinations are among the most consequential aspects of the rule package, as they define the scope of the regulated universe and drive both compliance obligations and fee liability. We believe these definitions would benefit from further refinement. (45d-069.17)

> **Agency Response:** No changes were made in response to these comments. The definitions for “revenue” and “doing business in California” were developed to align with existing statutory frameworks and to ensure a clear, enforceable threshold for applicability under Health and Safety Code sections 38532 and 38533. The current definitions are sufficiently clear to determine applicability and align with statutory intent.

G-20 Multiple Comments: Entity Identification and the Preliminary List

Comment: CARB should clarify that it is responsible for determining the reporting entities under the Climate Laws. Under the Proposed Initial Regulation, CARB is responsible for issuing fee determination notices to reporting entities, while entities are required to maintain records demonstrating whether they meet the applicable revenue and “doing business in California” thresholds and to provide such records upon request.[22] Accordingly, we believe it is implied that CARB is also responsible for determining which entities are reporting entities and the number of reporting entities under each Climate Law; however, the proposed regulatory text is ambiguous in this regard. Clarifying that CARB is responsible for determining which entities are in scope of the Climate Laws would help avoid confusion and would support more efficient and consistent compliance with the fee provisions, especially for parent companies reporting on behalf of many reporting entity subsidiaries under one consolidated, parent-level report.

If, on the other hand, CARB intends to rely on information submitted by entities to determine the total number of reporting entities for purposes of determining the per-entity fee under each Climate Law, CARB should propose the information required to be submitted by reporting entities and the timeline for submitting such information. Because the fees are

assessed on an individual reporting entity basis[23] and because companies may rely on consolidated reporting as permitted under the Climate Laws, solely relying on the number of entities submitting reports under each Climate Law would not provide CARB with an accurate total number of reporting entities for purposes of the fee calculation.

Furthermore, as discussed in Section II.C above, if CARB determines that it must collect information from reporting entities earlier than December 31 in order to calculate and collect the annual fees to support the administration of the reporting programs under the Climate Laws, CARB should bifurcate the annual deadline for collecting information on reporting entities, which may be earlier than December 31, and the annual deadline for GHG emissions reporting, which should be December 31. (45d-026.16)

[22] Proposed Initial Regulation § 96074(d).
[23] FAQs, at 9 (Item 18).

Comment: Determining applicability: Entities may face uncertainty in determining applicability, even after management review or legal support. It would be beneficial for CARB to provide consultation resources for entities to contact. (45d-027.4)

Comment: Dairy Institute has reviewed CARB's list of reporting and covered entities. While preliminary and not exhaustive, it did contain wrongly identified entities. It is essential to establish a clear process for entities to be removed from the list if they do not meet the applicable thresholds for SB 261 or SB 253. Providing a process that would allow companies to be removed from the list will help ensure the accuracy and fairness of the reporting system. (45d-040.11)

Comment: We write to urge CARB to clarify how this Proposed Regulation, the Climate-Related Financial Risk Act (S.B. 261), and the Climate Corporate Data Accountability Act (S.B. 253) apply to U.S. law firms. As we explain below, it appears that at least some large U.S. law firms may be considered "reporting" entities for S.B. 253 under the Proposed Regulation.[5] We therefore request that CARB (1) develop a list of law firms that are "covered" and "reporting" entities for S.B. 261 and S.B. 253, respectively; and (2) publish this list separately or update CARB's existing "Preliminary List of Reporting/Covered Entities" to include law firms and other limited liability partnerships or professional corporations.[6] (45d-071.1)

[5] We decline to comment further at this time on how S.B. 261 may apply to law firms.
[6] Posted: Preliminary List of Reporting/Covered Entities and Stakeholder Survey, CAL. AIR RESOURCESBOARD (Sep. 24, 2025, at 14:54 PT), https://content.govdelivery.com/accounts/CARB/bulletins/3f42d2c [https://perma.cc/JN54-GK5D].

Comment: It appears that at least some large U.S. law firms may be reporting entities for S.B. 253, based on the Proposed Regulation.[7] S.B. 253 defines a "reporting entity" as 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 dollars ($1,000,000,000) and that does business in California."[8] This definition

explicitly covers partnerships and corporations, which are typical U.S. law firm structures.[9] In California, for example, a law firm can be structured as a Professional Corporation or Limited Liability Partnership (LLP).[10]

Some large U.S. law firms may also meet the next part of the "reporting entity" definition: they have "total annual revenues in excess of one billion dollars."[11] The Proposed Regulation defines "revenue" as "gross receipts," per Section 25120(f)(2) of the California Revenue and Taxation Code.[12] As CARB has noted in an FAQ, "[r]evenue considers total gross receipts, regardless of whether the revenue was generated within California."[13] At the time of writing this comment, the authors do not have access to law firms' exact gross receipts from their tax filings for purposes of this definition.[14] But the publicly available data suggests that the annual gross receipts of some large U.S. law firms may be in excess of $1 billion. The Am Law 100 reports that, in 2024, fifty-eight law firms in the United States had gross revenue of $1 billion or more.[15]

At least some of the large U.S. law firms with over $1 billion in annual revenue may do business in California, meeting the final part of the "reporting entity" definition.[16] The Proposed Regulation defines "doing business" as "actively engaging in any transaction for the purpose of financial or pecuniary gain or profit."[17] For-profit law firms are "doing business" through their sale of legal services. The Proposed Regulation further defines doing business in California as "doing business" and either: (1) the business entity is "organized or commercially domiciled" in California or (2) the business entity's sales in California exceed the lesser of 25% of total sales or an inflation-adjusted threshold amount—$735,019 in 2024 dollars.[18] We anticipate that some large U.S. law firms may meet one or both of these criteria. For one example, the law firm Gibson, Dunn & Crutcher LLP, which reported gross revenue of over $3.5 billion in 2024, may be organized or commercially domiciled in California as it appears to be headquartered and have its primary place of business in Los Angeles.[19] At this time, the authors do not have access to California sales data for large U.S. law firms reporting over $1 billion in gross annual revenue. But, based on the extent of their revenue, it stands to reason that at least some of these firms may have annual sales of over $735,019 in California.

Finally, none of the applicability exceptions listed in Section 96071(b) of the Proposed Regulation appear to apply to for-profit U.S. law firms. We further note that other professional service providers, including multiple consulting companies, already appear on CARB's "Preliminary List of Reporting/Covered Entities."[20]

Altogether, this analysis suggests that at least some large U.S. law firms may be reporting entities for S.B. 253. We therefore request the following from CARB: (1) develop a list of law firms that are "covered" or "reporting" entities for S.B. 261 and S.B. 253, respectively; and (2) publish this list separately or update CARB's existing "Preliminary List of Reporting/Covered Entities" to include law firms and other limited liability partnerships or professional corporations.[21] As S.B. 253 states, "California investors, consumers, and other stakeholders deserve transparency from companies regarding their greenhouse gas (GHG) emissions to

inform their decisionmaking."[22] This entails transparency from all reporting entities, including any U.S. law firms that meet the statutory and regulatory requirements. (45d-071.2)

[7] Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation, § 96072(a)(5), (11) [hereinafter Proposed Regulation].
[8] CAL. HEALTH & SAFETY CODE § 38532(b)(2); Proposed Regulation § 96072(a)(11) (same).
[9] See Lynn Bai & Sarah Harden, Limited Liability Partnerships: An (Overlooked) Hole in the Shield, 23 U. PA. J. BUS. L. 862 (2021) ("At least eighty-five percent of the top 350 law firms in the U.S. are formed as LLPs . . . .").
[10] See CAL. CORPORATIONS CODE § 16953; Cal. Bar, tit. 3, R. 3.150-3.161, https://www.calbar.ca.gov/legal-professionals/rules/rules-state-bar/title-3-programs-and-services/chapter-3-law-corporations. In California, law firms may not adopt a Limited Liability Company (LLC) structure. See CAL. CORPORATIONS CODE § 17375 (preventing LLCs in California from "render[ing] professional services").
[11] CAL. HEALTH & SAFETY CODE § 38532(b)(2).
[12] Proposed Regulation § 96072(a)(13).
[13] California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Programs: Frequently Asked Questions About Regulatory Development and Initial Reports, CAL. AIR RESOURCES BOARD, (Nov. 17, 2025), https://ww2.arb.ca.gov/sites/default/files/classic/FAQs%20Regarding%20California%20Climate%20Disclosure%20 Requirements_Nov.pdf [https://perma.cc/Z375-VEYH].
[14] See id. ("To determine the gross receipts, entities should reference their corporate tax filings."); SB 253/261/219 Public Workshop: Update on California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Programs, CAL. AIR RESOURCES BOARD (Nov. 18, 2025), https://ww2.arb.ca.gov/sites/default/files/classic/SB%20253%20261%20Nov%20Workshop%20slides_v2.pdf (describing total revenue as gross receipts listed on a partnership's Form 565 tax filing with California's Franchise Tax Board).
[15] The 2025 Am Law 100: Ranked by Gross Revenue, LAW.COM (Apr. 15, 2025), https://www.law.com/americanlawyer/2025/04/15/the-2025-am-law-100-ranked-by-gross-revenue/. In 2023, fifty-four firms posted gross revenue of $1 billion or more. The 2024 Am Law 100: Ranked by Gross Revenue, LAW.COM (Apr. 16, 2024), https://www.law.com/americanlawyer/2024/04/16/the-2024-am-law-100-ranked-by-gross-revenue/. We include both years because the Proposed Regulation states that an "entity's revenue amount shall be determined by the lesser of the entity's two previous fiscal years of revenue." Proposed Regulation § 96072(a)(11).
[16] CAL. HEALTH & SAFETY CODE § 38532(b)(2).
[17] Proposed Regulation § 96072(a)(7); CAL. REVENUE & TAXATION CODE § 23101(a).
[18] Proposed Regulation § 96072(a)(8); CAL. REVENUE & TAXATION CODE § 23101(b)(1), (2); see CAL. AIR RESOURCES BOARD, supra note 14 (describing "inflation adjusted thresholds of seven hundred thirty-five thousand and nineteen ($735,019)" in sales); see Doing Business in California, STATE OF CAL. FRANCHISE TAX BOARD (Nov. 27, 2025), https://www.ftb.ca.gov/file/business/doing-business-in-california.html [https://perma.cc/NKV9-WDS2]. The term "sales" includes the "gross amounts realized" for "the performance of services." CAL. REVENUE & TAXATION CODE § 25120(f). Please note that the threshold amount of sales is adjusted for inflation annually.
[19] The 2025 Am Law 100: Ranked by Gross Revenue, LAW.COM (Apr. 15, 2025), https://www.law.com/americanlawyer/2025/04/15/the-2025-am-law-100-ranked-by-gross-revenue/; see The Monitor, GIBSON DUNN (Apr. 5, 2023), https://themonitor.gibsondunn.com/privacy-statement/ [https://perma.cc/VD8Z-RJMM] (a Gibson Dunn publication identifying "registered office at 333 South Grand Avenue, Los Angeles, CA 90071-3197"); Registration Statement Pursuant to the Foreign Agents Registration Act of 1938, GIBSON, DUNN & CRUTCHER (Sept. 4, 2024 at 17:15 ET), https://efile.fara.gov/docs/7454-Registration-Statement-20240904-1.pdf [https://perma.cc/YT3K-AS63] (listing Los Angeles, California office as location of primary business address); Gibson Dunn & Crutcher LLP, THE LAW SOCIETY, https://solicitors.lawsociety.org.uk/office/496085/gibson-dunn-crutcher-llp

[https://perma.cc/YMA7-DD2R] (last visited Feb. 7, 2026) (listing Gibson Dunn's "[h]ead office" as the office in Los Angeles, California); Gibson, Dunn & Crutcher, FORBES (Dec. 17, 2025 at 06:30 ET), https://www.forbes.com/companies/gibson-dunn-crutcher/ [https://perma.cc/K3A5-AJL4] (listing the firm as "[h]eadquartered in Los Angeles").

[20] CAL. AIR RESOURCES BOARD, supra note 6 (listing consulting groups including The Boston Consulting Group, Atlas Technical Consultants, and others).

[21] Id.

[22] Climate Corporate Data Accountability Act, CAL. HEALTH & SAFETY CODE § 38532 S.B. 253 § 1(e).

Comment: In sum, we believe that law firms and the legal industry in California could benefit from additional guidance on how the Proposed Regulation, S.B. 261, and S.B. 253 apply to law firms. (45d-071.5)

Agency Response: No changes were made in response to these comments. The "Preliminary List of Reporting/Covered Entities" published by CARB was intended for informational purposes and to assist in the initial assessment of the program's scope; it is not a final legal determination of applicability. Each entity is responsible for determining whether it is in scope. The applicability criteria in Health and Safety Code section 38532 apply to all qualifying business entities meeting the revenue threshold and doing business in California, regardless of industry or organizational form. Law firms and other professional service firms meeting those criteria are not exempt from the program. CARB has released guidance to assist with applicability determination and to support compliance.

Specific concerns regarding fee assessment are addressed in Agency Response B-11.

G-21 Multiple Comments: Request for Flexibility

Comment: We continue to urge for maximum flexibility that will ultimately impact the ease of compliance and reduce cost burdens that have a real impact on dairy processors. (45d-040.1)

Comment: Dairy Institute respectfully requests that revisions be considered before adoption in an effort to improve clarity and reduce the burden of compliance. This foundational rulemaking will have a significant impact on future rulemakings and subsequent implementation. Dairy Institute urges maximum flexibility for reporting and compliance to help create a practical and effective reporting system that supports progress toward California's climate goals. (45d-040.18)

Comment: Edison International also recommends that CARB allow entities to report separate line items for: (1) GHG emissions from T&D line losses; and (2), GHG emissions from facility electricity, steam, heating, or cooling. Because T&D losses represent approximately 97% of Edison International's Scope 2 GHG emissions, combining emissions from both categories could mislead reviewers into thinking that most of Edison International's scope 2 GHG emissions are associated with facility energy use. (45d-076.14)

Comment: One, that flexibility for reporting entities to address data availability challenges for the initial SB 253 report should be preserved. (BHT-003.2)

> **Agency Response:** No changes were made in response to these comments. The December 2024 Enforcement Notice allows reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued. As such, entities retain flexibility in meeting the reporting requirements.

G-22 Multiple Comments: Definition Refinements and Formatting

Comment: Parent: We believe there may be a typographical error in the reference to indicia and thought the reference to section 96202(a)(6) should be section 96202(a)(16). (45d-027.14)

Comment: 3. Revise CARB's proposed definition for the term 'parent.'

ACA believes that reference to section 96072(a)(6) is an inadvertent error. The factors that will be considered when determining ownership or control of another business entity are listed in section 96072(a)(16). ACA appreciates CARB's thoroughness in drafting the Proposed Regulation, and recommends that the text be revised to provide the following: "[t]he indicia determining ownership or control are set forth in section 96072(a)(16)." (45d-073.3)

> **Agency Response:** A non-substantial change has been made to correct this error in cross-reference numbering. CARB agrees that the reference to section 96072(a)(6) was an inadvertent error and should clearly have referred to section 96072(a)(16). This modification does not change the regulatory requirement or the original intent of the definition of "parent," but rather ensures the internal consistency of the Regulation.

Comment: There appears to be inconsistency between duplicating definitions in other code sections or paragraphs and referencing the other code sections or paragraphs, such as the references that were included in sections 96202(a)(7) and 96202(a)(8) relating to "doing business" and "doing business in California." We recommend that CARB be consistent on either duplicating or referencing definitions listed in other code sections or paragraphs. In general, we believe referencing the definitions in other code sections or paragraphs may lead to more consistency throughout the code. Changing the reference format may simplify updates and prevent inconsistencies in definitions, as noted in our detailed comments below. (45d-027.8)

Comment: What we continue to believe needs changing, calculation of the fees, the definition of doing business in California, the payment and collection of fees, and the deadline for reporting. (BHT-017.2)

> **Agency Response:** No changes were made in response to this comment. CARB acknowledges the recommendation regarding consistency in referencing versus duplicating definitions. However, the current structure of the Regulation balances the

need for internal clarity with the necessity of aligning with specific statutory language in the Health and Safety Code and the California Revenue and Taxation Code. The current approach is effective for this initial rulemaking.

Specific concerns regarding the definition of doing business in California, fee structure, and deadline are addressed in sections B, D and H of this document.

G-23 Multiple Comments: Requests for Clarity on Future Rulemaking and Reporting Implementation

Comment: Finally, without additional detail regarding the regulatory implementation of the SB 253 and SB 261 disclosure frameworks, it is impossible for stakeholders to make meaningful comments on CARB's Proposed Rule. (45d-046.3)

Comment: (4) allow additional comment on Subarticle 2 of the Proposed Rule after CARB releases additional proposed regulations that further articulate implementation of SB 253 and potentially SB 261. (45d-046.6)

Comment: Alternatively, if the proposed deadline is finalized, CARB should finalize the critical, detailed requirements in a subsequent rulemaking as soon as possible to provide business entities with sufficient time to establish the necessary systems and processes to facilitate reporting. (45d-078.18)

Comment: To avoid adverse economic and competitive impacts, the final implementing regulations must include clear guardrails, thresholds, and standards for determining applicability and scope. This will ensure the regulations advance California's objectives without creating undue expense and complexity for businesses and regulators. CARB also should finalize the critical, detailed requirements of the rulemaking as soon as possible to provide regulated entities with greater regulatory certainty. (45d-078.27)

Comment: 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.

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. (BH-004.8)

> **Agency Response:** No changes were made in response to these comments. This rulemaking is limited to establishing the fee structure, the first-year reporting deadline for Health and Safety Code section 38532, and certain essential related applicability definitions for Health and Safety Code sections 38532 and 38533. CARB acknowledges the importance of the technical elements cited by the commenters and intends to address these in an upcoming rulemaking. Verifier capacity and cost are out of scope for this Regulation.
>
> CARB disagrees with the assertion that CARB has released insufficient details for entities to comply with the Regulation. In developing this Regulation, CARB engaged extensively with stakeholders through public workshops, publication of guidance materials, multiple public comment periods, and ongoing stakeholder meetings to clearly communicate the program's scope, structure, and implementation approach.

G-24 Multiple Comments: Regulatory Burden

Comment: While CCEEB appreciates CARB's efforts to reduce confusion, simplify compliance, and streamline reporting requirements, there are multiple parts of the proposed regulation that do not reflect operational realities, are not practical, or do not advance climate goals in a cost-effective manner, such as Calculation of Fees, Applicability, the Definition of "doing business in California," Payment and Collection, Fee Enforcement, and Deadline for Reporting (45d-056.6)

Comment: 7. Cumulative Regulatory Burden on Manufacturer

California manufacturers are already subject to extensive climate, energy, and reporting requirements, including Cap-and-Invest compliance, air district permitting, energy efficiency mandates, and supply chain disclosures. SB 253 and SB 261 add substantial new layers of cost and administrative burden without clear alignment to existing programs. Manufacturers also face risks due to the requirement to incorporate data from third-party organizations into an entity's value chain to report under SB 253. (45d-061.12)

Comment: In addition, these regulations represent a substantial shift for regulated water utilities. Full compliance with SB 253 and SB 261 will be a significant operational and

financial undertaking. For many utilities, the infrastructure, tools and expertise needed to comply are not currently in place. Data collection, internal hiring and system upgrades along with legal consultation and third-party assurance are expected to reach hundreds of thousands of dollars annually.

CWA underscores the financial burden these regulations place on California's regulated water utility customers. Many will need to augment processes and procedures to comply at the national-parent utility level. These efforts could strain budgets and often will be born by California customers and ratepayers. (45d-063.11)

Comment: In particular, CARB must ensure that its regulations adequately assess "the potential for adverse economic impact on California business enterprises" and address competitive impacts for existing businesses. See Cal. Gov. Code §§ 11346.3(a), (e) and 11340.1(a). California Government Code § 11346.2(b)(4) also requires CARB to consider "reasonable alternatives to the regulation that would lessen any adverse impact on small business," and reasonable alternatives that are "less burdensome." As part of these alternatives, CARB must consider "overall societal benefits, including reductions in other air pollutants, diversification of energy sources, and other benefits to the economy, environment, and public health." To comply with these statutory directives, CARB should develop a cost-effective reporting program that does not impose unnecessary burdens on reporting entities especially those entities that have little, if any, presence in California. This includes out-of-state entities that engage in wholesale electricity, renewable energy certificate, or carbon offset transactions with California entities, as well as out-of-state companies that have a de minimis number of employees working in California.

Without clear guardrails, thresholds, and standards associated with determining applicability and scope of the regulations, an open-ended data grab will not help to advance California's objectives, and will be expensive, complicated, and daunting for both those charged with complying and those tasked with implementation, review, and enforcement. Potentially affected businesses need clear direction on applicability, requirements, costs, and timelines for completing the new disclosure requirements, as well as flexibility to accommodate differing reporting timelines and information available in diverse sectors. Providing certainty and clarity in the form of bright-line definitions, exclusions, and off-ramps will help to narrow the focus to those businesses whose operations are most applicable to greenhouse gas emissions in California. (45d-078.28)

Comment: In closing, we respectfully ask CARB to revise these regulations to improve clarity, stay within statutory authority, and reduce unnecessary compliance burdens, so that this foundational rulemaking supports both climate goals and a viable competitive dairy processing industry. (BHT-009.7)

Comment: However, the proposed regulation must be workable and reflective of real-world agricultural operations. (BHT-015.3)

> **Agency Response:** No changes were made in response to these comments. CARB considered the economic impacts during the development of the Regulation, as

detailed in the Economic Impact Assessment section of the Staff Report and the Form 399.

The December 2024 Enforcement Notice reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued. If an entity was not collecting data or was not planning to collect data at the time the Enforcement Notice was issued, they would not be expected to submit Scope 1 and Scope 2 reporting data for the first reporting cycle. This flexibility provided by the Enforcement Notice was intended to minimize the regulatory and economic burden on regulated entities for the first reporting year. As a result, the only expected economic impact of this Regulation is from the fees, which are designed to cover the costs of program administration.

G-25 Multiple Comments: Reporting Methodologies and Data Quality

Comment: CRS reiterates previous comments supporting consistent market-based reporting methodologies throughout Scopes 1, 2, and 3, as this is the only way to assign specified transactions to a company's value chain.[2] Market-based accounting is already standard practice and consistent with existing GHG Protocol's (GHGP) Scope 2 Guidance. But, market-based accounting should also be required for Scope 1 and 3, and such capabilities should be added to the reporting template for at least Scope 1. This would be consistent with California's Low Carbon Fuel Standard (LCFS), which already recognizes market based attribution of renewable thermal energy through book-and-claim accounting for pipeline injected biomethane and renewable hydrogen. Under the LCFS, regulated entities may claim the environmental attributes of renewable natural gas (RNG) or biogenic feedstocks when injected into a common-carrier pipeline and used for vehicle fuel or hydrogen production, provided those attributes are uniquely retired and not double-counted.[3] This existing framework demonstrates that market based instruments, like renewable thermal certificates, are a credible and regulated mechanism for allocating the climate benefits of renewable fuels. CARB should maintain consistency across programs by allowing comparable market-based recognition of renewable fuel attributes within Scope 1 accounting under SB 253. There is additional support for using market-based accounting for Scope 1, highlighted in the Clean Energy Accounting Project (CEAP)'s recent publication Market-Based Accounting for Clean Fuels.[4] (45d-041.1)

[2] CRS comments on the Corporate Climate Data Accountability Act: https://resource-solutions.org/document/021325/
[3] California Code of Regulations, Title 17, § 95488.8(i).
[4] Market-Based Accounting for Clean Fuels Report: https://resource-solutions.org/document/042125/

Comment: Finally, AISI strongly encourages CARB to periodically assess whether the goals of the program are being met by the implemented regulations. This should include assessment of the collection of Scope 3 data given the potential high uncertainty in terms of quality and representativeness. (45d-050.9)

Comment: Data gathered needs to be in one digital format that everyone can understand. Otherwise, its value will be limited. People who have to decipher the data may make mistakes or simply not have time and ignore it. (BHT-043.1)

> **Agency Response:** No changes were made in response to these comments. These recommendations regarding specific reporting templates, digital formats, and emissions accounting methodologies are outside the scope of this Regulation. However, CARB acknowledges these technical insights and will consider them during an upcoming rulemaking focusing on reporting requirements for 2027 and onward pursuant to Health and Safety Code section 38532. CARB intends to ensure that the eventual reporting framework produces high-quality data in a format that is useful to the public while minimizing administrative burden.

G-26 Multiple Comments: Support for CalChamber Comments

Comment: We are writing to support the comments filed by the CalChamber in their entirety. (45d-047.1)

Comment: AF&PA shares CalChamber's legal concerns regarding various elements of the proposed regulation. (45d-047.4)

> **Agency Response:** No changes were made in response to these comments. CARB acknowledges the commenter's input. Other sections of this document address the comments submitted by the California Chamber of Commerce.

G-27 Multiple Comments: Fairness and Proportionality

Comment: However, the Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation ("Proposed Regulation") and associated guidance documents establish compliance obligations that are fundamentally vague, contradictory, arbitrary, and unfair. These deficiencies will result in uneven treatment of similarly situated entities and undermine the very transparency goals the statute seeks to advance. (45d-010.1)

Comment: We respectfully request that CARB refine the proposed regulations to provide greater clarity, flexibility, and proportionality, particularly for manufacturers that form the backbone of California's economy and clean energy supply chains. (45d-061.16)

> **Agency Response:** No changes were made in response to these comments. The Regulation is designed to provide a clear and equitable framework for all entities that meet the applicability criteria established in Health and Safety Code sections 38532 and 38533. The current language provides sufficient clarity for regulated entities to determine their status and fee obligations, as described in the Staff Report and throughout this document.

The flexibility provided under the December 2024 Enforcement Notice recognizes that different entities are in different stages of their ability to comply with the Regulation. CARB is therefore using this enforcement discretion approach to assist entities with first-year (2026) compliance. Further technical refinements for 2027 and beyond, including reporting and verification requirements, will be considered in an upcoming rulemaking.

G-28 Unique Comment: Request for Implementation Pause

Comment: This pause would serve multiple important purposes:

First, it would allow CARB to develop the complete regulatory framework contemplated by Health and Safety Code section 38532(c). That provision requires CARB to "adopt regulations to implement this section" by July 1, 2025, and then allows regulated entities to begin compliance "starting in 2026." The Proposed Regulation represents only the beginning of this rulemaking process, establishing fees and a single deadline but leaving vast portions of the regulatory framework undefined. It would be unfair for CARB to have missed its own deadline of July 1, 2025 but then turn around and insist that the 2026 deadline for others is immovable. The clear statutory intent of the time between the July 1, 2025 deadline and the 2026 reporting deadline was to give regulated parties time to prepare based on known final regulations. Completing this rulemaking before requiring compliance would fulfill this statutory purpose and ensure entities can make informed, consistent compliance decisions.

Second, a pause would eliminate the arbitrary tiered compliance system described above. Rather than penalizing entities that voluntarily collected data while excusing entities that did not, CARB could establish uniform requirements that apply fairly to all reporting entities once clear rules exist. It would ensure that all entities report and pay fees simultaneously.

Third, delaying implementation pending litigation resolution would conserve both state and regulated entity resources. If courts ultimately determine that SB 253 is unconstitutional or must be significantly modified, compliance efforts made by some entities in 2026 may be wasted. Waiting for judicial clarity would ensure resources are invested in a legally sound program.

The ISOR acknowledges that "other program requirements, including, but not limited to, reporting and assurance requirements and enforcement provisions, will be developed and adopted through a subsequent rulemaking." If these fundamental requirements are not yet developed, it is premature to require compliance. CARB should complete its regulatory framework before establishing binding deadlines. (45d-010.14)

Agency Response: No changes were made in response to this comment. CARB has a statutory mandate to implement Health and Safety Code sections 38532 and 38533, which includes adopting regulations that establish the administrative and fee foundations for the program. Delaying this initial rulemaking would prevent CARB from meeting its statutory obligations.

To help stakeholders meet the August 10, 2026 deadline outlined in the Regulation, CARB has conducted extensive public engagement and released numerous guidance documents over the past year to support compliance.

G-29 Unique Comment: Reporting Platform

Comment: We also maintain our position of reporting directly to CARB, as reporting through a third-party entity raises significant concerns. (45d-040.19)

Agency Response: No changes were made in response to this comment. The Regulation establishes the fee structure, applicability definitions, and the first-year reporting deadline for Health and Safety Code section 38532. CARB acknowledges the feedback regarding reporting directly to the Board and will consider the security, transparency, and administrative efficiency of various reporting structures.

G-30 Unique Comment: Liability Concerns

Comment: While SB 253 and SB 261 do not create a private cause of action, compliance with CARB's regulation will likely increase liability risks under other legal theories. These risks include unfounded claims of greenwashing, consumer fraud, and/or human rights claims stemming from mandated disclosure in areas where data is often based on assumptions and is difficult to meaningfully quantify. As such, WSPA strongly urges CARB to include language limiting liability for reported information under any statute or other cause of action. (45d-051.13)

Agency Response: No changes were made in response to this comment. CARB is implementing direction from Health and Safety Code sections 38532 and 38533, which did not include language limiting liability for reported information.

G-31 Unique Comment: Concern With Tiered Compliance System

Comment: B. The Contradictory Guidance Creates an Arbitrary Tiered Compliance System

This guidance creates a three-tiered compliance system with fundamentally different obligations:

Tier 1: Entities that voluntarily collected Scope 1 and 2 data before December 5, 2024, must report that data by August 10, 2026.

Tier 2: Entities that had not been collecting data but had plans to collect data as of December 5, 2024, arguably must make "good faith efforts" to collect and report data, though the standard remains undefined. The ISOR lacks clarity in that it affirmatively states that it is allowing entities to report "based on information they already have or were collecting" when the Enforcement Notice was issued but then, in the next sentence, indicates that "planning to collect data" as of the Enforcement Notice date will result in a good faith compliance

obligation. As a result of the inconsistency, some companies that were planning to collect data but had not yet collected data may reasonably sort themselves into Tier 2 or Tier 3.

Tier 3: Entities that were not collecting data and had no plans to collect data as of December 5, 2024, have no reporting obligation whatsoever in 2026.

This tiered system is arbitrary and directly penalizes entities that voluntarily undertook climate disclosure efforts prior to the statute's enactment. Companies that responsibly collected emissions data now face mandatory reporting obligations while less proactive competitors have no compliance obligations. (45d-010.7)

> **Agency Response:** No changes were made in response to these comments. The flexibility provided under the December 2024 Enforcement Notice recognizes that different entities are in different stages of their ability to comply with the Regulation. CARB disagrees with the assertion that the current approach penalizes entities that have voluntarily been reporting climate disclosures, as the Notice allows entities to submit existing emission reports for the first-year reports due in 2026.
>
> CARB is using this enforcement discretion approach to assist entities with compliance as opposed to an enforcement first approach. Further technical refinements for 2027 and beyond, including reporting and verification requirements, will be considered in an upcoming rulemaking.

G-32 Unique Comment: Support for California’s Climate Goals

Comment: CEBA supports California's clean energy goals, and our members are committed to ambitious, science-based climate action. (45d-032.1)

> **Agency Response:** No changes were made in response to this comment.

G-33 Unique Comment: Use of Data

Comment: Reported data gathered under SB 253 and SB 261 will be made publicly available to provide increased transparency and support the state’s environmental planning efforts. AWO urges CARB to provide clarity on how the data collected will be used, as such disclosures could result in significant implications for the reporting entities. To avoid unintended consequences, we ask that CARB use the information to inform state emissions reduction initiatives and guide reduction strategies rather than as a punitive tool. Doing so will not only safeguard entities’ operations but also support compliance and good faith efforts to reduce emissions and report transparently. (45d-009.12)

> **Agency Response:** No changes were made in response to this comment. CARB is committed to implementing Health and Safety Code sections 38532 and 38533 in a manner that fulfills the statutory goals of providing increased transparency for California consumers, investors, and other stakeholders. Consistent with the legislative

intent, the reported data will be made publicly available to provide a comprehensive view of corporate greenhouse gas emissions and climate-related financial risks.

G-34 Multiple Comments: Comments Received During Information Solicitation Request

Comment: The California Retailers Association Response: No, as this does not specify a revenue threshold. (45d-070.11)

Comment: The California Retailers Association Response: Align with the Task Force on Climate-related Financial Disclosures (TCFD) and ISSB reporting and standardize reporting in alignment with either framework. Additionally, we recommend CARB follow the most updated GHG Protocol standards. If this references external standards and protocols such as the GHG Protocol, the assurance requirements set out by CARB will ensure that company reporting is in alignment with the evolving guidance. The GHG Protocol was designed in 1998 and is the standard framework for measuring and reporting greenhouse gas emissions, making it the most common method for corporate carbon accounting and reporting globally. Additionally, the Task Force on Climate-Related Financial Disclosure (TCFD) provides guidelines for companies seeking to assess and mitigate their exposure to climate-related risks. Since incorporation of the TCFD into the International Sustainability Standards Board, it provides a structural approach to a complex, highly technical process that involves four themes: governance, strategy, risk management and metrics and targets. Both standards have a transparent governance process to take feedback, allow for updates and publish a basis for conclusions. CRA recommends that CARB adopt both standards to ease compliance for reporting companies. (45d-070.12)

Comment: The California Retailers Association (CRA) Response: We stress the importance of alignment with existing mandatory regulations and programs. For example, SEC regulation and European Union CSRD, which is the directive on corporate sustainability reporting that empowers the European Union Commission to adopt delegated and implementing acts to specify how competent authorities and market participants shall comply with the obligations laid down in the directive. In particular, CRA stresses the importance of aligning Scope 3 emission reporting and assurance:

- As currently written, CA requires limited assurance in 2030 whereas SEC regulation requires reasonable assurance in 2034.
- As currently written and understood, CA requires disclosure and verification on all categories of Scope 3, but later references the use the GHG Protocol to comply, which refers to disclosing relevant categories of Scope 3 emissions. Clarity will be necessary in the final draft of CARB's regulations.

The use of "relevant" categories is similar in CSRD, which requires disclosure of significant categories of Scope 3.

Additionally, CRA recommends CARB outsource to a third party like CDP for reporting emissions so companies aren't disclosing the same information in multiple places. Similarly, since SB 261 is TCFD-aligned, CARB can access the TCFD disclosure in a company's annual ESG report to satisfy this requirement. We recommend CARB accept the CDP Climate reporting in accordance with TCFD guidance. (45d-070.13)

Comment: The California Retailers Association (CRA) Response: Given the multitude of frameworks and protocols in the statute, CRA recommends CARB provide companies with the flexibility to adjust their reporting methods year over year with a constantly changing and evolving reporting environment. There are times when retailers change methods as data collection improves. If retailers change methods, similar to standard accounting procedures, companies should be able to explain the reasoning behind the change. Flexibility with the option for companies to utilize common reporting disclosures as the basis for compliance (i.e., CDP questionnaire) would be ideal. Additionally, companies are always looking for opportunities to standardize across jurisdictions to ease the patchwork of regulations that are being adopted at the state-level across the country. CRA recommends CARB utilize common reporting disclosures to allow for consistency and efficiencies. (45d-070.14)

Comment: The California Retailers Association (CRA) Response: Anticipated costs are impacted by the usage of carbon accounting/ESG data platforms, associated set up/management fees, and related headcount requirements. Additional costs include consultant labor to obtain and analyze relevant data and develop reports. For companies that have not completed a GHG inventory and set targets, this reporting will be significantly more expensive initially. Costs depend on business size, where a company does business, whether a company has in-house staff to conduct the assessment and subsequent reporting, the variety of a company's product categories, and more. For example, a company that sells consumer goods must evaluate the environmental/GHG impact of the use and disposal of those goods. The number of approved assurance providers will also impact costs (e.g., if only the big 4 are allowed, costs will go up). Requiring reasonable vs limited assurance will drive costs. Reasonable assurance will be more expensive and burdensome from both an audit and resources perspective. CRA is concerned about labor costs if enough time is not allowed following the end of the fiscal year for reporting – at least 180 days is recommended. CRA recommends CARB conduct a survey or study to determine what the costs are today for companies to do climate disclosures - consultants, submission fees, audit fees, tech platforms, etc. (45d-070.15)

Comment: The California Retailers Association (CRA) Response: Many entities already report emissions through CDP. This tool could be leveraged and reporting companies could select an option to share emissions to CARB through the CDP portal. CARB could outsource to another third party like CDP for reporting, so companies aren't disclosing the same information in multiple places.

Alternatively, if CARB maintains a disclosure website for SBs 253 and 261, companies that include Scope 1-3 emissions and TCFD disclosure in their annual ESG report should be

given the option to provide a link to the report on the CARB disclosure website to satisfy reporting requirements for both SBs253 and 261.

CRA recommends CARB allow for CDP Climate reporting to “count” in lieu of direct reporting and therefore reduce additional workload for companies that are already voluntarily reporting. We urge the Board to explore the option to use the CDP platform for all emissions reporting so reporting is consolidated under one resource.

CRA would also recommends CARB allow companies to utilize Workiva or CDP (where a data feed transferred over more "seamlessly"); conversely, CRA would also prefer that it is not aligned to CSRD reporting, as many companies are not currently beholden to those disclosure regulations.

Retailer companies want to use the platforms they already use (e.g. S&G report, website, etc). (45d-070.16)

Comment: The California Retailers Association (CRA) Response: CARB should outsource to a third party like CDP for reporting, so companies aren’t disclosing the same information in multiple places. CDP https://www.cdp.net/en Any standardization would need to happen by industry. CRA requests that Scope 3 does not require assurance and reiterates that retail companies should be able to use their existing platforms (e.g. S&G report, etc). (45d-070.17)

Comment: The California Retailers Association (CRA) Response: Boundaries, market vs. location-based scope 2 emissions, and different scope 3 categories should be taken into consideration. CRA recommends CARB consider whether the reporting should include US operations only or global operations. For companies that have a global footprint, it will prove challenging to separate the two. We recommend CARB allow companies to follow pre-established guidance and existing framework outlined in the GHG Protocol or other established accounting standards, which allow for flexibility, but are credible and widely accepted and used and to avoid introducing separate standards. If various states set state specific “standards” this will become a very complex reporting landscape. The existing frameworks allow for consistency across all reporting requirements. Fiscal year is preferred. Retailers also need enough time (180 days) after the fiscal year ends to ensure companies can report. (45d-070.18)

Comment: The California Retailers Association (CRA) Response: CRA recommends Assurance, which allows the ISO standard - standard for emissions - or other established accounting standards like ISAE. Many assurance vendors exist and are experts in GHG emissions assurance, which differs from financial assurance. CRA urges CARB to not use SB 253 to mandate that companies use a Big 4 accounting firm for emissions assurance. Additional options for standard verification/assurance providers are: Keramid Standard, KPMG and Apex. (45d-070.19)

Comment: The California Retailers Association (CRA) Response: The existing definitions of reasonable vs. limited assurance should remain as those are the standards that companies have already been using to inform their assurance reports.

Assurance allows ISO standard, which is standard for emissions, or other established accounting standards. CRA recommends CARB establish definitions for limited and reasonable assurance, which have been in place for emissions verification for many years. There is no need to create something new.

The ability to use commonly-accepted assurance standards is preferred (i.e., AICPA standards, ISO standards, international standards, etc). The International Auditing and Assurance Standards Board (IAASB) is the comprehensive standard for both reasonable and limited assurance engagements on non-financial information.

Some assurance providers only use certain standards so clarity on acceptable standards, as well as provider qualifications is needed. Additional clarity about the reporting requirements is needed for retailers to estimate costs (e.g., a mandate to use a big 4 accounting firm would increase company costs of compliance). It is better to keep at limited assurance. Jumping to "reasonable assurance" will be more expensive and resource-intensive for companies. (45d-070.20)

Comment: The California Retailers Association (CRA) Response: Annual reporting on one fiscal year of data is the frequency and time period currently being used for reporting.

The timing for reporting should be relative to a company's fiscal year close in order to allow time for companies to calculate and assure data. October would be recommended since it aligns with CDP disclosure, which many companies are already reporting to. Major annual reporting requirements are 180 days or more for retail companies. (45d-070.21)

Comment: The California Retailers Association (CRA) Response: Historically, emissions data becomes available at the end of February or early March (throughout Q1 and sometimes even into Q2) and is not finalized until early Summer. This then requires verification. Therefore, data is not ready to be reported typically until six months following the fiscal year end. This can range from late July to late August or in October to align with CDP Climate disclosure timeline. (45d-070.22)

Comment: The California Retailers Association (CRA) Response: Software systems commonly used for voluntary reporting emissions data in an annual ESG Report include: Watershed, Persefoni, Net Zero Cloud, Carbon Trail, Schneider Electric, Workiva, CDP Climate, S&P Global's CSA, and other voluntary ESG surveys. Some companies still do calculations in Excel. GHG calculations are performed in these software systems and reported through the CDP Climate disclosure platform. (45d-070.23)

Comment: The California Retailers Association (CRA) Response: The timeframe should be at least six months following a company's fiscal year end and align with timing for SB 253 and CDP deadlines. Synchronizing timing for these bills will minimize the reporting burden on companies. (45d-070.24)

Comment: The California Retailers Association (CRA) Response: CRA recommends CARB begin with Scope 1 & 2 emissions for year one and provide a two-year cycle grace period for

other climate related financial risks and metrics such as scenario analysis and quantification of material risks. (45d-070.25)

Comment: The California Retailers Association (CRA) Response: Existing climate financial disclosures companies are already preparing include: ISSB, ESG Reports, 10K reports, Proxy statements, CDP Climate and Corporate Responsibility Reporting following Task Force on Climate-Related Financial Disclosures (TCFD) guidelines. (45d-070.26)

Comment: The California Retailers Association (CRA) Response: Companies are using the following approaches: Climate risk/scenario analysis; Enterprise Risk Management; EU Taxonomy. CRA recommends that CARB allow companies to align the definition of materiality / substantive impact with existing company frameworks, such as enterprise risk management or other financial reporting frameworks across the organization. This approach aligns with CSRD. (45d-070.27)

Comment: The California Retailers Association (CRA) Response: Aligned with TCFD. (45d-070.28)

Comment: The California Retailers Association (CRA) Response: CSRD; ISSB/IFRS S2. TCFD is folding into the IFRS Foundation standard: https://www.ifrs.org/issued-standards/ifrs-sustainability-standards-navigator/ (45d-070.29)

Comment: Additional, over-arching comments and concerns by the California Retailers Association (CRA) include: Top priorities in rulemaking for CRA are:

1. Maintain reporting based on Fiscal Year
2. Provide sufficient timing to report (minimum 180 days). Businesses need enough time(180 days) after the fiscal year ends to ensure they can gather data, complete calculations, and obtain assurance
3. “Reasonable assurance” level creates biggest cost burden.
4. Compliance Costs: Overly complex requirements could lead to the need for implementing costly new systems and processes. Retailers would need to invest in new software, hire additional staff, or seek external consultants to ensure compliance.
5. Scope 3 Emissions: Although not immediately required, future reporting of Scope 3 emissions (indirect emissions from the entire value chain) is a significant concern. Retailers will need to engage with suppliers and other partners to gather this data, which can be complex and time-consuming. We will need clearly defined thresholds to exempt small and medium sized businesses.
6. Defining Materiality: Retailers need strong indicators of what is material and what is not, as well as acceptable methods for screening Scope 3 emissions. This will help ensure that the reporting is both accurate and relevant, and that it meets regulatory expectations.
7. Subsidiary of Parent Company Reporting Obligations: The inclusion of non-California subsidiaries in the parent company's emissions reporting significantly increases the data collection and reporting burden, creates operational discrepancies, requires additional resources, leads to regulatory overlap, and exposes companies to

reputational risks due to potential misinterpretation of consolidated data. Additionally, these subsidiaries may be immaterial to the overall emissions profile, making their inclusion unnecessary and burdensome.

Companies currently disclose Scope 1 and 2 GHG emissions, and two categories of Scope 3 GHG emissions in its annual voluntary sustainability report and all Scopes and applicable categories of emissions through CDP. Companies evaluate whether their current disclosures would comply with all specific information and data required under the California laws, acknowledging that much of the information and data they disclose does conform in principle with the California laws' requirements.

Sustainability consultants assist companies with their GHG emissions data gathering and calculations, and obtain limited assurance over their disclosed emissions from third-party assurance providers. Costs associated with these services are contemplated within companies' disclosure to CDP and not necessarily related to additional disclosures that would be required by the California climate-related disclosure laws.

Nonetheless, costs associated with additional external service providers, such as those for financial-related guidance and support, as well as assurance, may be incurred and are unascertainable at present time.

In addition to these general statements and concerns regarding SBs 253 and 261, CRA has questions about CARB's expectations for compliance with the requirements of the California climate-disclosure laws, in particular those included in SB 261:

- Does CARB expect the "biennial report" to cover a two-year period?
- Would a report issued "at least every two years" with annual information and data, which aligns with typical reporting commitments by a large-cap company, satisfy the "biennial report" obligation?
- Will disclosures under SB 261 need to be standardized across respondents?
- If CARB expects a standard format for SB 261 reports, will the Board issue a template for completion by responding entities?
- If a company responds to the annual CDP questionnaire, which itself is aligned with the TCFD recommendations and the ISSB IFRS S2 climate standard, could that company publish a copy of its CDP response on its own website to satisfy the requirements of SB 261?

Further, CRA has questions about CARB's expectations for compliance with the requirements of the GHG emissions disclosures and specific formatting for regulations to be promulgated under SB 253:

- Given CARB's focus on minimizing the duplication of efforts for entities that are required (or elect) to disclose emissions (and financial risk) under other programs, could compliance be satisfied through the sharing of existing disclosures, such as those submitted to CDP?

- Is CARB considering allowing for qualitative explanation to accompany emissions data?
- If CARB requires disclosers to follow a specific methodology or protocol, and that methodology or protocol is not one currently used by a company, will CARB grant a "grace period" for disclosures to allow for companies to change their approach on capturing and reporting relevant GHG emissions data? (45d-070.30)

Comment: Annual tax return data can be used to identify covered businesses, once the definition of "do[ing] business in California" is appropriately clarified. Additionally, entities not required to file any California state taxes have so little economic impact upon or from the State that they also should not be subject to any of California's climate disclosure regulations. (45d-078.34)

Comment: For GHG emissions, the mandatory reporting regulations could be incorporated by reference. This would ensure consistency in this reporting between these regulations, e.g., Scope 1 emissions reported to CARB under the state's Mandatory Reporting of Greenhouse Gas Emissions ("MRR") regulations could satisfy all or some of the Scope 1 reporting obligations under SB 253. This approach would minimize the burden on reporting entities, consistent with Cal. Gov. Code § 11346.2(b)(4). (45d-078.36)

Comment: Companies subject to this reporting would already have GHG reporting methodologies to calculate emissions, and likely already have their methodologies third-party verified. However, companies should not be locked into a particular methodology, as their business needs may evolve. As such, companies should be required to report which protocol they use and note if the methodology has changed from prior reporting years. (45d-078.37)

Comment: Regarding public datasets that identify the costs for voluntary reporting already being submitted by companies, CARB should consult Federal or state rulemaking dockets of other similar disclosure regulations, such as the 2024 U.S. Securities and Exchange Commission climate disclosure regulation, which has a regulatory impact analysis for the economic impacts of similar regulations.[14] CARB should also consider the lifetime, ongoing burden on regulated entities for complying with these regulations, and quantify the actual monetary benefits projected from the rules to ensure that a non-negative cost-to-benefit ratio exists. (45d-078.38)

> [14] See U.S. Securities and Exchange Commission, The Enhancement of Climate-Related Disclosures for Investors, 89 Fed. Reg. 21,668, 21,829–21,894 (Mar. 28, 2024).

Comment: The state should require reporting directly to CARB. (45d-078.39)

Comment: Yes. The Climate Registry ("TCR") and Trinity Consultants ("Trinity") are capable of providing these services. TCR maintains a database for companies voluntarily reporting Scope 1, 2, and 3 emissions. Trinity is the private consulting firm contracted by Colorado Department of Public Health and Environment to gather Scope 1 GHG emissions data from reporting companies under the Colorado Natural Gas Transmission and Storage Segment Performance Based Program Emission Inventory Protocol. CARB should ensure that any

contracted reporting service conducts such services in alignment with the relevant accounting and reporting principles. (45d-078.40)

Comment: CARB should ensure that rulemaking does not deviate from the flexibilities currently allowed by the GHG Protocol permitting a reporter to establish their own operational, financial, or control boundaries. These determinations are critical to ensuring accurate reporting of emissions that are within the actual control of the reporter. (45d-078.41)

Comment: Large corporate auditing firms such as Deloitte, EY, KPMG, and PricewaterhouseCoopers, provide some level of Environmental, Social, and Governance auditing services. Additionally, private consulting firms such as Cameron-Cole LLC, LRQA, and TÜV SÜD America, Inc. provide greenhouse gas emissions verification services and are accredited by ANSI National Accreditation Board to ISO 14065. At least one Class of ’85 member utilizes auditors allowed by TCR. (45d-078.42)

Comment: The “reasonable assurance” standard is appropriate for Scope 1 and 2 emissions. However, the “limited assurance” standard is more appropriate for Scope 3 emissions because reporters have no control over the source of these emissions, have limited capability to verify the methodologies used by others to calculate the emissions provided to them, and may need to rely on inaccurate or incomplete data to calculate certain Scope 3 emission categories. (45d-078.43)

Comment: Currently, at least one Class of ’85 member reports voluntary, partial Scope 1 and Scope 2 emissions in its Corporate Sustainability Report on an annual frequency, 1 year time period basis. Another member annually reports Scope 1 and 2 emissions, verified to a reasonable level of assurance, and voluntarily reports Scope 3 emissions. Another member annually reports its Scope 1, 2, and 3 emissions and obtains limited assurance of Scope 1 and 2 emissions. This member’s disclosures often include the current reporting year plus 3 to 5 years of historical emissions.

SB 253 reporting should be required no earlier than the end of the year following the reporting year, in order to provide time to make the necessary calculations, obtain regulatory verification of data from EPA and other agencies, and have the data go through third-party verification. In the experience of some Class of ’85 members, verification can take longer, depending upon the staff resources of the verification entity, so there should be appropriate exceptions if such circumstances arise. (45d-078.44)

Comment: Select emissions and operational data are available from the prior year by the annual March 31 federal EPA air emissions reporting deadline for electric utilities. Other information, such as data regarding purchased power or power sales, or information supplied to the state or federal government in other reports, are not available until later in the year, up to July 1 in some cases. Third-party verification is generally completed by the end of the year following the reporting year. However, verification can take longer depending upon the available staff resources of the verification entity. (45d-078.45)

Comment: Certain Class of ’85 members do not use a dedicated ESG-type software system for voluntary reporting. Through research and review, these members found these systems both too expensive and too complex for their needs, both in their installation and ongoing use. Other Class of ’85 members generally used Microsoft Excel workbooks for reporting. At least one Class of ’85 member uses Workiva. Another member is in the process of implementing a third-party software called SWEEP to assist in reporting. (45d-078.46)

Comment: Much information for ESG reporting is taken from other properly vetted, qualified, and submitted state and federal reports, which have various reporting deadlines up to and including July 1 following the previous reporting year. Therefore, the Class of ’85 considers July 1 to be the earliest by which all necessary data and information is available for the prior year.

The Class of ’85 disagrees that assurance is required under SB 261 and thus encourages CARB to omit any such requirement in the promulgated regulations. In the event assurance is required, a reasonable period of time for verification should be considered. (45d-078.47)

Comment: CARB should provide great flexibility to covered entities in preparing their climate-related financial risk reports and allow reporting any time within the biennial reporting period, e.g., 2026-2027 reporting made available not later than December 31, 2027. This would allow covered entities already reporting pursuant to TCFD to align their reporting cadence to the biennial requirements of SB 261. In addition, this would provide a transition period to covered entities not following TCFD disclosure standards to align with the requirements of SB 261. This flexibility in reporting will also help give companies adequate time to perform a thorough materiality risk assessment and to prepare disclosures on their climate risk mitigation and adaptation efforts. (45d-078.48)

Comment: CARB should provide for a transition process for an entity that needs to move into reporting for a partial reporting period. Such regulations can reference program transition methods of existing standards and frameworks, such as the International Sustainability Standards Board’s (“ISSB”) framework. (45d-078.49)

Comment: At least one Class of ’85 member has historically followed the TCFD framework, now disbanded and incorporated into the ISSB’s framework.
Another Class of ’85 member is continuing to publish a TCFD report, which references the climate financial risk disclosures in the member’s 10-K and proxy statement. The member is currently evaluating utilizing disclosures in accordance with the ISSB standards. (45d-078.50)

Comment: At least some Class of ’85 members have historically followed the TCFD framework in their voluntary sustainability reporting. (45d-078.51)

Comment: SB 261 requires disclosure with the TCFD framework (or a successor). However, the TCFD framework does not include discussion of mitigation measures required in SB 261.[15] This will be a new disclosure requirement. (45d-078.52)

[15] Cal. Health and Saf. Code § 38533(b)(1)(A)(ii) (requiring a covered entity to disclose “[i]ts measures adopted to reduce and adapt to climate-related financial risk disclosed pursuant to clause (i).”).

Agency Response: No changes were made in response to this comment. CARB acknowledges the attachment of the comment letter submitted during the previous information solicitation period, which was outside of the public comment periods associated with the release of the Staff Report and the February Board Hearing. While the attached materials provide historical context, they were not submitted in response to the specific regulatory language noticed for this rulemaking. This feedback was considered by CARB during the development of this Regulation.

G-35 Multiple Comments: Outside the Scope of the Regulation and Program

Comment: Koutsoyiannis' quantitative scientific evidence nullifies the very premise of California's climate laws and regulations. I recommend focusing on lowest life cycle costs working towards long term sustainable energy and fuel use for the common good. Using geologically stored solar energy provided by our Creator enables rapid inexpensive rise out of poverty into sustainable society (aka natural gas, oil and coal.) (45d-006.1)

Comment: Please note that previous submissions under the name 'ACS' refer to the legal entity Arboreum Commercial Solutions, LLC. All technical feasibility data remains as filed on 12/17/25. (45d-008.1)

Comment: So I'd like to ask what about transparency with airplanes -- airplanes are emitting stuff into the stratosphere, these stratospheric air ejections, affecting many here in my county on a daily basis. And you all seek transparency, air quality and so what about disclosing why these plains are being allowed to release stuff like aluminum, barium, copper, sulfate, potassium, iodide... (BHT-030.1)

Comment: Can you hear me now? Okay. It's funny how you keep losing my audio when I mention things pertaining to what's being released in the stratosphere. I will ask, why it is? Why is it okay for you guys to declare that you care about the air quality when you Don't address things that are happening right above us?

As I said, it's a pattern with these agencies. You don't care about what the people have to say, and you're prioritizing monitoring the people, managing any behavior of the people, and that's what's really happening, Wiener if you're still in the house.

Policies that move us to tightly controlled, highly surveillance, and living environments under frameworks under the United Nations agenda for the 21st century. That's what's happening. I'm going to say this clearly, you are not above the consequences of what you help implement. You are not – (BHT-030.2)

Comment: Yes, I would just like to take note in the record of the fraud, waste, and abuse that's taking place, because you guys are talking about climate disclosures. As one of the callers said before, you know, there's --you could just look at our skies and see the things that are being sprayed. In fact, it's black carbon, it's human DNA graphing. The list goes on and on with all of the toxic things that are being sprayed, and all of the programs that are being done that are also using chemicals and toxics things that fall down upon the people. It's nano-

particulates. In fact, it makes fires, you know, go further and faster burning. And so, when you guys are sitting here talking about transparency, and accountability, and you want to enforce things and have compliance, you know, you guys need to be transparent with the people about what's really going on, because all the data that you guys are collecting is based off of fraud and you spew propaganda. And so these peep it -- people believe or, you know, obviously aren't doing their own research to really understand, because if you're getting data an information from people who are pushing an agenda, then all of the information that you're going to get and be pushing is flawed, because you're not paying attention to the geoengineering and the things that are happening to manipulate the weather.

And so you want to -- you know, in the times when you guys sit here and exempt things, and then you're sitting here acting like telling the people that put -- making electric trucks, like freight, into -- like that that's going to help with commerce or do anything. It's actually going to impede it. Have you guys ever talked to drivers that drive those trucks and what that would be like, the amount of weight that they have to pull? And how are you even going to regulate that? People can't even come into California and deliver goods, because they don't have an electric truck or you're just going to charge them so much that people can't even afford the goods that they're going to get.

Everything you guys do is inverted and it's just really sad to see that you can sit up there with a straight face and act like what you're doing is actually beneficial to the people, it's going to save lives, when in fact, it's not. It's harming people's lives, because you're not telling them the truth. And you guys need to like really course correct. (BHT-034.1)

Comment: It's crazy if you limit reporting to just Scope 1 and 2. We should know all emissions, especially the toxic ones. For instance, we should know how harmful things like leaded aviation fuel are. (BHT-043.3)

Comment: Government limiting reporting to just one or several things is what gets us into trouble, like certain areas needing clean-up while the populations who are really suffering are ignored. And when people look at this sort of partial pollution data, that is a big part of focusing on things which are not as serious, like decarbonization over plastics. (BHT-043.4)

Comment: In reference to Senator Wiener's comments we know which businesses are polluters, so whether or not they want to hide it should not matter. We have enough resources, like handheld pollution monitors, to verify who's generating what. Another (inaudible) fees are unneeded. (BHT-043.6)

> **Agency Response:** No changes were made in response to these comments. These comments are outside the scope of the Regulation. The Regulation is limited to establishing the fee structure and applicability criteria for Health and Safety Code sections 38532 and 38533 and first year reporting deadline for Health and Safety Code section 38532. CARB remains committed to its mission of protecting public health and the environment through its established air quality programs, but those programs are separate from the Regulation. The Regulation is focused on providing accurate, comparable, and decision-useful climate information to investors,

consumers, and other stakeholders in California. The fees established in the Regulation are required by statute to recover the actual and reasonable costs of administering these specific disclosure programs.

H. Deadline

H-1 Multiple Comments: Support Proposed Timeline

Comment: Given CARB's enforcement notice for SB 253, we support the deadline of no sooner than August 10 for the first reporting year to align with the MRR. (45d-004.2)

Comment: 1. Reporting deadline for emissions: Watershed supports CARB's proposed August 10, 2026 deadline for first-year Scope 1 and Scope 2 reporting under SB 253.

In our experience, initial disclosure of Scope 1 and 2 emissions is achievable within this timeframe for large companies, particularly where reporting is based on best-available data rather than fully assured, audit-ready outputs. Year one should focus on establishing a credible baseline and normalising emissions disclosure as a standard corporate obligation. Practical challenges in 2026 are better addressed through clear enforcement guidance and flexibility, rather than by delaying the reporting deadline itself, which risks undermining momentum and creating incentives for further deferral.

Looking ahead, we support CARB considering greater flexibility in future reporting cycles once baseline disclosure is established. As assurance requirements expand and Scope 3 reporting is phased in, moving reporting deadlines towards later in the calendar year may be appropriate. Providing clarity on the intended evolution of reporting timelines beyond 2026 would help companies plan investments in systems, controls, and assurance in a predictable and orderly way. (45d-014.3)

Comment: Establishing a reporting deadline of August 10, 2026 under this Proposed Regulation is important to get the program started and establish the expectation of annual reporting for compliant companies. (45d-042.7)

Comment: CARB's proposed definition of "applicable preceding fiscal year" in proposed §96076(b) continues to be both important and appropriate to permit companies that have a fiscal year end other than December 31 sufficient time to produce reporting. (45d-049.6)

Comment: EDF supports CARB's proposed initial reporting deadline of August 10, 2026 for scope 1 and 2 reporting under SB 253. The alignment with the verification deadline for CARB's Mandatory Reporting Regulation comports with SB 253's direction that "the emissions reporting [be] structured in a way that minimizes duplication of effort."[7] The proposed timing and fiscal year cutoff appear reasonable and feasible based on EDF's knowledge of current corporate emissions reporting practices. (45d-064.5)

[7] Cal. Health & Safety Code § 38532(c)(2)(D)(i).

Comment: First, our client supports CARB's proposal to provide companies with flexibility to submit information from their most recent preceding fiscal year notwithstanding their fiscal

year ending after February 1, as this promotes cross-jurisdictional harmonization and flexibility. (45d-074.1)

Comment: First, our client appreciates that, for the first SB 253 reporting deadline of August 10, 2026, CARB's proposed regulation allows a reporting entity to report emissions from an "applicable preceding fiscal year" ending after February 1, 2026. The proposed text for Section 96076(b)(2) provides that a 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."[3]

…

By allowing entities the option to prepare, assure, and submit the same report that is submitted to Japanese authorities (i.e., for the fiscal year ending on March 31), CARB will help to "ensure" that its "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."[5] Where entities choose this option, they will be disclosing the most recent and highest quality emissions data that is available. (45d-074.4)

[3] Cal. Air Res. Bd., Proposed Regulatory Text, at 6, https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/sb253-261/reg%20text.pdf.
[5] Cal. Health & Saf. Code § 38532(c)(2)(D)(i).

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

CARB is proposing that reporting entities report their Scope 1 and Scope 2 emissions for the applicable preceding fiscal year on or before August 10, 2026. CARB also defined the "applicable preceding fiscal year" as a fiscal year that ends on or before February 1 in a calendar year or, if after February 1, the fiscal year ending in the previous calendar year. This means, at minimum, there are approximately six months between the end of a fiscal year (Feb. 1) and the reporting deadline (Aug. 10) for this initial reporting year (2026).

As stated in our September 2025 comments, CTA supports a minimum of six months or 180 days from the end of a company's fiscal year before any reporting or, if a fixed calendar deadline is needed, CARB must accept the most recent fiscal year report available as of the fixed date. CARB's proposal is aligned with CTA's prior comments. (45d-077.2)

> **Agency Response:** No changes were made in response to these comments. CARB acknowledges the support for the deadline and timeline.

H-2 Multiple Comments: Request More Time to Comply

Comment: Marine operators typically need months to aggregate data from vessels and third party service providers such as shipyards, terminals, utilities, and assurance providers. The suggested timelines are too constrained, especially given that emissions reports cannot always be reviewed and assured by qualified third parties within the specific timeframes. (45d-009.5)

Comment: Furthermore, the proposed deadline does not account for the diversity of business calendars and the time needed to finalize data and complete assurance. Many companies, particularly smaller entities, lack the systems, expertise, and infrastructure to measure and verify emissions to the required standard in such a short period. Timing of data availability and reporting varies by entity and industry. We encourage CARB to adopt a later initial deadline and allow reporting entities to use the most recently closed fiscal year for reporting purposes, with assurance grace periods. Allowing this would ease reporting for regulated parties and, in turn, increase compliance. (45d-009.6)

Comment: While the proposed reporting deadline was delayed to August 10th, PMSA strongly recommends the reporting deadline be set to no earlier than December 31, 2026, and also allow entities to elect a reporting deadline consistent with a set period after the conclusion of their own fiscal year. Allowing up to 12 months after the close of a fiscal year is necessary in order to ensure adequate time to receive and compile the necessary data via internal sources and from third parties, then conduct QA/QC regarding these data streams, draft a report, and then complete the third-party assurance and verification process. A more realistic deadline provides adequate time for an entity to begin to undertake this extensive and complex exercise and provide the most accurate data with a high rate of confidence. For example, in our industry, it takes the Ports of Long Beach and Los Angeles approximately 10 to 11 months to complete their respective annual emission inventories. These reports are the model worldwide for the industry, have consistent methodologies, and have been honed over several decades of work; if it takes these experts 10 months to conduct such an exercise for well-understood and regularly executed emissions inventories for a set universe of local inputs with baseline accounting, then the time required to capture the complexities that will be experienced by the thousands of entities which have never undertaken these new and technically demanding efforts, including the integration of data from third-party sources around the globe without a universal accounting approach, will inevitably take much more time.

As this is a disclosure statute, and not a performance standard, the speed of reporting should be less important than the accuracy and reliability of the disclosures. (45d-011.1)

Comment: PMSA strongly urges CARB to incorporate into the proposed Regulation an extension for the reporting party acting to in good faith to comply. For example, if a delay is caused by the independent third-party who must be contracted with to provide the technical components of the assurance report a compliance extension should apply. Other compliance extensions should be considered when a reporting party experiences a delay in receiving data (especially scope 3) from a third-party, or experiences delays in consolidation efforts and enhancing data quality. If an entity is waiting on data from a supplier, for example, they should be provided additional time to receive and process these data. The alternative of submitting incomplete, presumption-based, or simply inaccurate reports to meet a deadline and then having to amend a report for corrections is not conducive for staff or the covered entities' time. A clear process to request such extensions is necessary and should be outlined in the proposed regulation. (45d-011.2)

Comment: CARB should permit all companies, regardless of the date of their fiscal year-end, to report their GHG emissions for their fiscal year ending in the previous calendar year, subject to their election to report more currently available data.

Currently proposed § 96076(b) bifurcates companies into two groups based on the date of their fiscal year-end. This particularly disadvantages companies with January 1 – February 1 fiscal year-ends (primarily retailers). It is also inconsistent with companies' typical reporting timelines (and thus the statutory text). As further discussed below, many companies, including mature GHG emissions reporters, do not and are unable to report their GHG emissions data six months after their fiscal year-end, and these challenges are exacerbated for new GHG emissions reporters.

The recommended approach not only better reflects the practical realities of corporate climate reporting, but also allows CARB to align with the approach taken by voluntary reporting organizations, such as CDP, to accommodate the practical challenges faced by companies with non-calendar fiscal years. (45d-018.2)

Comment: Permit companies to submit their initial Scope 1 and Scope 2 GHG emissions reports from August 10, 2026, through December 31 in 2026 and for subsequent reporting periods. Flexibility for companies to report on a rolling basis through the end of 2026 will alleviate practical challenges (and for some companies, infeasibility of compliance). Additionally, a later submission deadline is consistent with industry practice and CARB's legislative mandate, including the mandate to take into account availability of assurance providers and interoperability.[6] (45d-018.4)

[6] Health and Safety Code § 38532(c)(2)(A)(vi) requires that reporting timelines established by CARB's implementing regulations "shall consider industry stakeholder input and shall take into account the timelines by which reporting entities typically receive scope 1 emissions, scope 2 emissions, and scope 3 emissions data, as well as the capacity for an independent assurance engagement to be performed by a third-party assurance provider." Notwithstanding the fact that CARB's informal guidance specifically waived assurance for 2026 § 38532 reporting, as further discussed in Section III, particularly for mature reporting companies, assurance is an established and non-negotiable component of emissions reporting; as a result, assurance is a critical component of these companies' reporting timelines.

Comment: Conversely, there are mature GHG reporting companies with a post-February 1 fiscal year-end that would not want to report more than one-year-old data and that may elect to report their most current data in a post-August 10 submission window if they are in a position to do so. (45d-018.5)

Comment: If CARB needs to receive data on the number of reporting companies by August 10 for fee assessment purposes, permit companies that do not report by August 10 to submit a statement that they intend to report on or before December 31. This should also be an option available for subsequent reporting periods if August 10 remains CARB's selected date for fee assessment purposes. If it is important to CARB to have, by August 10, 2026, final data on the number of § 38532 reports it will receive in 2026 for purposes of calculating and invoicing the fees in a timely manner, we believe that goal would be served while permitting companies to submit § 38532 reports through year-end if CARB gave companies three

options, including the two it has already proposed. By August 10, companies in scope of § 38532 submit: (1) a cover note with a § 38532 GHG emissions report, (2) a cover note with a statement on company letterhead stating that "it did not submit a report" and "indicating that in accordance with the Enforcement Notice, [it] was not collecting data or planning to collect data at the time the Notice was issued," or (3) a cover note with a statement on company letterhead stating that it intends to submit a § 38532 GHG report on or before December 31, 2026. (45d-018.6)

Comment: II. Covered Year for GHG Emissions Reporting (§ 38532)

Recommendation 1: Amend § 96076 of the Proposed Regulation to permit all companies, regardless of the date of their fiscal year-end, to report their GHG emissions for their fiscal year ending in the previous calendar year, subject to their election to report more currently available data.

Rationale: § 96076 of the Proposed Regulation Does Not Align with Corporate Reality or CARB's Statutory Mandate to Take Into Account Corporate Timelines and Maximize Data Access

The statute mandates that CARB follow two principles in adopting regulations under § 38532, including with respect to deadlines for reporting. The first principle is set out in § 38532(c)(2)(A)(vi), which requires that reporting timelines established by CARB's implementing regulations "shall consider industry stakeholder input and shall take into account the timelines by which reporting entities typically receive Scope 1 emissions, Scope 2 emissions, and Scope 3 emissions data, as well as the capacity for an independent assurance engagement to be performed by a third-party assurance provider." Governor Newsom reinforced that requirement in his signing statement for § 38532, directing CARB to "clarify and streamline" implementation and to ensure that the program does not impose "inconsistent or infeasible compliance obligations."

The second principle is established by § 38532(c)(2)(B), which states that CARB shall ensure that the regulations adopted pursuant to the statute require that "a reporting entity's public disclosure maximizes access for consumers, investors and other stakeholders to comprehensive and detailed greenhouse gas emissions data across Scope 1 emissions, Scope 2 emissions, and Scope 3 emissions […] and is made in a manner that is easily understandable and accessible." (45d-018.8)

Comment: Most companies, including approximately 70% of the Russell 3000, have a fiscal year-end that ends on December 31.[7] For such companies, the August 10 deadline would provide only about seven months to prepare and submit Scope 1 and 2 GHG emissions in 2026. For the companies whose fiscal years end between January 1 and February 1, 2026, the proposed reporting timeframe is an even more compressed six months.

Feedback from our members in the Society Survey (consistent with the member survey we conducted in 2025 and that we used for purposes of informing our March 2025 comment letter[8] on this precise topic) indicates that six-to-seven months does not provide many

companies with sufficient time to publish GHG emissions disclosures with accurate data. Preparing and reporting GHG emissions requires substantial time, effort, and expense on an annual basis.

- According to the Society Survey, among companies that currently report Scope 1 and Scope 2 emissions data, nearly half of respondents will require between six and 11 months to publish their GHG emissions data in a regulatory compliance filing such as that required by the Proposed Regulation.
    - Data Collection. Many companies take up to six months (with 61% of companies requiring between three and six months, and a minority needing up to approximately ten months) just to gather the Scope 1 and Scope 2 GHG emissions data to begin analysis and development of disclosures.
    - Data Verification. Following data gathering, companies undertake an internal verification and approval process to ensure accuracy (as large companies typically do with all public disclosures), which takes additional time. Third-party assurance further extends this timeline.

The Society Survey reinforces the examples we shared during our engagements with CARB staff on December 19, 2025,[9] and January 28, 2026[10]—reaffirming the fact that even large, sophisticated, and mature emissions reporting companies with plentiful resources would find a six-to-seven month reporting timeframe infeasible or challenging and inconsistent with their current practices.[11]

In considering this data, CARB should note that mature GHG emissions reporting companies are much more likely to publish assured GHG emissions data than reporting companies that are newer to emissions disclosure, which, as noted above, extends the reporting timeline. This is the case notwithstanding CARB's enforcement relief in the first year, as was discussed in detail by members of mature reporting companies during the aforementioned engagements with CARB staff.

CARB should also note that the timing challenges would be even greater for companies without well-established data gathering and disclosure processes. In our experience, smaller and non-public companies that may not be captured in the Society Survey are much more likely to have immature climate reporting capabilities. Concerns about providing sufficient time to produce accurate and reliable data are even more salient for those companies. While we acknowledge the enforcement discretion that CARB has stated it will exercise with respect to the first year of reporting, gathering and preparing the relevant data (and, in future years, obtaining assurance) is an exercise that will need to be performed annually, and the challenges in doing so will not disappear after initial reports under § 38532 are published.

Conclusion: Permitting all companies to report their GHG emissions for their fiscal year ending in the previous calendar year would be more consistent with CARB's mandate to take into account existing practices and timelines because it allows companies to leverage their current processes and practices. Under the recommended approach, companies could also choose to provide more recent data, if available and ready for submission. (45d-018.9)

[7] Data as of February 2026 and derived from Intelligize's compilation of public company filings made through the U.S. Securities and Exchange Commission's Electronic Data Gathering, Analysis, and Retrieval filing ("EDGAR") system.
[8] See Society Comment Letter: Information Solicitation to Inform Implementation of California Climate-Disclosure Legislation: Senate Bills 253 and 261, as amended by Senate Bill 219 (March 2025), available at https://higherlogicdownload.s3.amazonaws.com/GOVERNANCEPROFESSIONALS/5d47927b-105a-4bc7-9aef821536f3505b/UploadedImages/Society_for_Corporate_Governance_Letter_in_Response_to_CARB_Information_Solicitation_March_21__2025.pdf.
[9] On December 19, 2025, Society leadership and members of certain mature reporting companies met with CARB Chair Chief of Staff Emily Wimberger to discuss their practices and processes and associated timing of GHG emissions reporting with reference to the timeline attached to this letter as Exhibit A.
[10] On January 28, 2026, Society leadership and members of certain mature reporting companies met with CARB Assistant Division Chief, Industrial Strategies Division Syd Vergis, and Branch Chief, Climate Data & Risk Reporting Branch Jordan Ramalingam, to discuss their practices and processes and associated timing of GHG emissions reporting with reference to the timeline attached to this letter as Exhibit A.
[11] *See* Exhibit A.

Comment: Recommendation

1. Permit companies to submit their initial Scope 1 and Scope 2 GHG emissions reports from August 10, 2026, through December 31 in 2026, and for subsequent reporting periods.
2. Rationale: A Rolling Timeline Supports CARB's Statutory Mandate to Take Into Account Corporate Timelines and Maximize Data Access
3. This recommendation is intended to promote the same statutory principles described in Section II above. Under the currently proposed August 10, 2026, § 38532 reporting deadline, many companies will not have sufficient time to collect, verify, and submit quality data as discussed above in Section II.A. As evidenced by the feedback from Society members, which reflects industry stakeholder feedback on the realities of the timelines by which companies typically receive and vet GHG emissions data for public reporting, as required under § 38532(c)(2)(A)(vi), the Proposed Regulation creates a reporting obligation that is at odds with the in-scope reporting company practices. As a result, the August 10 deadline would be challenging or, in some cases, impracticable, for initial reports due in 2026, even without an assurance requirement for the initial year of reporting (for those companies that elect to report unassured data), and would contravene the first statutory principle.
4. Because the August 10 deadline would create inconsistent or infeasible compliance obligations for many reporting companies, another foreseeable outcome is that some companies may be pressured to publish reduced quality data or data that is subject to significant gaps, caveats, and assumptions, with an increased risk of subsequent restatements or revisions, as further discussed in Section III.A below. This outcome would contravene the second statutory principle of maximizing access for consumers, investors and other stakeholders to comprehensive and detailed GHG emissions data

in a manner that is easily understandable and accessible, in addition to posing legal, reputational, and other risks for reporting companies.

5. For these reasons, we believe that the rolling submission window we recommend is more consistent with both statutory principles. (45d-018.11)

Comment: Gathering actual, reliable, and assurable data is a complex undertaking that, for larger enterprises, requires obtaining information from a large number of sites and stakeholders and, with respect to Scope 2 information, from utilities that may not provide the necessary data for months after the end of the relevant period. Requiring most companies to report within six-to-seven months of their fiscal year-end, as contemplated by the Proposed Regulation, would have the practical effects of increasing reliance on assumptions rather than actual data (which increases the risk of measurement errors and inaccuracy), increasing costs and imposing a substantial strain on resources that cannot be readily expanded. Companies go to great lengths to ensure the accuracy and reliability of public disclosure, especially disclosure made in response to regulatory mandates. Prior to making such disclosures, various layers of approval are often required, including assessment of the controls and processes around the data and systems for collecting it, review by owners of the relevant data and metrics, subject matter experts, disclosure committees that include senior members of management and, in many cases, the boards of directors (or committees thereof).

Truncating a company's review and internal and external controls processes to accommodate an arbitrary fixed filing deadline that is in many cases accelerated relative to current reporting practices is inconsistent with established corporate governance best practices. Among other adverse implications, it puts the accuracy and reliability of corporate disclosures at substantial risk. Companies may also face legal and reputational exposure under US securities laws and the laws of other regimes if they fail to maintain adequate controls over these public disclosures.

Conclusion: Providing reporting companies the flexibility to submit data between August 10 and December 31 would enable them to produce disclosure that comports with their internal controls and other practices based on accurate and comprehensive data as statutorily required, giving investors and other stakeholders access to more reliable information while limiting potential legal and reputational risks for companies. Combined with the recommendation in Section II, a rolling submission window would also promote the submission of more currently available data for those companies that are in a position to report GHG emissions for their fiscal year ending in the current calendar year but cannot do so within six-to-seven months after their fiscal year-end. (45d-018.12)

Comment: Our recommendations take into account that the Proposed Regulation is establishing reporting periods and a fixed deadline for 2026 submissions, and that CARB has indicated it will follow with a separate rulemaking process for "reporting contents and format, data assurance and more" beyond 2026.[13] However, CARB is not exempted from the statutory principles described above in 2026, which don't support adoption of a unique reporting timeline that is inconsistent with the underlying statute.

As a result, we urge CARB to consider our recommendations and adopt regulations that establish a reporting timeframe for 2026 that allows companies to rely on existing processes and controls while CARB establishes and finalizes the long-term § 38532 reporting requirements, which should be similarly adaptable as CARB recognized in its Staff Report[14] and consistent with current reporting practices as we have proposed in our recommendations.

Many companies have already structured their GHG emissions reporting processes to align with CDP reporting and other voluntary reporting regimes, as well as existing mandatory requirements.

- In 2025, CDP did not require responses to its questionnaire, including GHG emissions data, until November 19, 2025, when the submission portal closed.[15] Companies are permitted to begin submissions earlier, and typically submit between August and November each year.
- The United Kingdom's Streamlined Energy and Carbon Reporting greenhouse gas emissions and TCFD-aligned reporting obligations require disclosures to be submitted within nine months of fiscal year end.
- In California, the Energy Commission's Power Source Disclosure Program requires retail electricity suppliers to file annual reports on the energy sources and GHG emissions associated with their electricity sales by August 10, *and these reports are not verified for accuracy and completeness until October 1* [emphasis added].

CARB's proposed reporting deadline for GHG emissions reports under § 38532 is more stringent than these regimes. This not only disrupts ongoing processes, but also creates risks for those companies that are already required via their internal controls or other regulatory mandates to obtain assurance over their emissions information. According to the Society Survey, approximately 75% of respondents plan to obtain assurance for their Scope 1 and Scope 2 emissions disclosures to be reported in 2026. A substantial number of respondents to the survey indicated that they obtain assurance as a control to affirm accuracy and reliability and/or to satisfy existing reporting obligations in other jurisdictions. For those companies, producing unassured data on an expedited timeline for the sole purposes of complying with § 38532 creates a likely risk that data may later need to be revised or restated, posing significant legal and reputational risks.

While some companies are subject to both California's Mandatory Reporting Regulation (MRR) and § 38532, CARB's decision to align the § 38532 deadline to the existing verification deadline for submissions under the MRR, instead of the existing alternatives above, is neither consistent with its statutory mandate nor otherwise appropriate. MRR verification deadlines were adopted and designed to comply with a wholly different regulatory purpose (under the California Global Warming Solutions Act of 2006, to support California's Cap-and-Invest Program, among other goals) and apply to a different, specific group of reporting entities from those covered by § 38532.

The emissions data reported under MRR represents only a limited subset of an MRR reporting company's overall greenhouse gas emissions inventory. It generally captures only specified categories of Scope 1 emissions from covered facilities within California. It does not require enterprise-wide consolidation, nor does it include comprehensive Scope 1 emissions outside the regulated source categories, Scope 2 emissions, or Scope 3 emissions.

By contrast, SB 253 requires companies to prepare and obtain third-party assurance[16] over a comprehensive, enterprise-wide greenhouse gas inventory covering all Scope 1, Scope 2, and Scope 3 emissions across global operations and value chains. This requires aggregation of data from multiple internal systems, international operations, and third-party counterparties, as well as the application and assurance of methodologies that are materially broader and less mature than those used under MRR. Accordingly, the August 10 MRR reporting deadline—reflecting the feasibility of submitting a narrow, facility-level regulatory dataset—does not provide an appropriate or workable proxy for the timing required to prepare and assure the significantly broader disclosures required under SB 253.

Conclusion: Consistent with its statutory mandate to consider corporate timelines, CARB should take into account reporting deadlines under standards and frameworks that are more similar to § 38532 (including in terms of goals and types of reporting entities) than MRR. The recommended rolling submission window promotes CARB's alignment with comparable frameworks. (45d-018.13)

[13] Staff Report at 15.
[14] Staff Report at 15 ("For any future reporting deadlines, staff recognizes the need to manage different fiscal years that may apply across all regulated entities.").
[15] The approach taken by CDP accommodated the practical challenges faced by companies with non-calendar fiscal years, as shared in our first submission to and subsequent conversations with CARB.
[16] As noted elsewhere in this letter, many companies, particularly mature companies will not or are unable to forego third-party assurance on their reported GHG emissions notwithstanding CARB's waiver of the assurance requirement for 2026.

Comment: GHG emissions reporting is just one element of many companies' public disclosure obligations and functions. At the beginning of the year in particular, companies are tasked with a broad range of disclosure obligations, each associated with discrete controls and procedures. For example, within the first six months of their fiscal year end, US public companies typically prepare fourth quarter results, annual reports on Form 10-K (including audited financial statements), and proxy statements, each of which requires extensive resources that in many cases (particularly in smaller companies) overlap with the personnel (including senior level management and members of the board of directors) needed to gather data, develop disclosure, and undertake assurance for GHG emissions reporting. Companies are also navigating various other constituencies and obligations during the months following their fiscal year-end. For example, historically, approximately 90% of annual shareholder meetings are held in the first half of the calendar year, with the majority being between April and June of each year.

Conclusion: The same governance structures required to gather and analyze data and prepare disclosures for, review, assure, and approve § 38532 reports are typically also

involved in preparing, reviewing, and approving the disclosures and other materials required to support these other processes. This is especially true and particularly burdensome for smaller and mid-size companies that often have the same staff internally responsible for their SEC reporting/disclosures as their sustainability reporting/disclosures. CARB should account for these practical challenges and the timelines by which companies typically gather, report, and verify GHG emissions data under existing regimes, such as CDP, in 2026 and beyond. (45d-018.14)

Comment: As detailed by representatives of mature GHG emissions reporting companies in the meetings with CARB staff on December 19, 2025, and January 28, 2026, adopting a reporting timeline for GHG emissions that is accelerated relative to, and thus at odds with, many companies' existing reporting practices is problematic for many US companies. These concerns are exacerbated in the current environment which is characterized by increased scrutiny on corporate disclosures related to carbon emissions and other environmental topics due to the diverging requirements and expectations of diverse stakeholders, including shareholders, customers, and regulators in other jurisdictions in which companies operate. As a result, adhering to internal practices, processes, and other controls in the course of reviewing, approving, and publishing these disclosures is paramount and not negotiable notwithstanding regulatory-imposed timing pressures.

By providing companies with a sufficient reporting period to align their disclosures across their reporting obligations (an especially important consideration for public reporting companies, whose disclosures can impact their pricing, insider trading windows, ability to engage with investors, and other sensitive items), CARB would support companies', boards' and management's ability to exercise applicable fiduciary duties.

Conclusion: Not only would companies benefit from a reporting timeline that accommodates their typically robust internal control processes, stakeholders would also benefit because they would have access to reliable data that those processes are designed to support.

The recommended approach of an open submission window between August 10 through December 31 would be workable not only in 2026, but also for future years when the reporting requirements under § 38532 will necessarily expand, including with respect to assurance[17] (including reasonable assurance for Scope 1 and Scope 2 emissions data beginning in 2030) and Scope 3 emissions reporting obligations. (45d-018.15)

[17] Third-party assurance providers are expected to see an overwhelming increase in emissions assurance engagements, and there are a limited number of assurance providers with the experience and sophistication to provide high-quality assurance over reporting by complex enterprises. Even if reporting companies experience delays or challenges obtaining an assurance provider, the proposed window should help companies timely meet their reporting deadline.
Companies that currently obtain limited assurance but want or need to switch providers in advance of mandatory reporting obligations may require more time than in the past, as new firms will need to familiarize themselves with the reporting company and its data-gathering and control environment, and may employ different procedures. Fluctuations in the process from year-to-year could be accommodated by the proposed window more readily than a fixed deadline.

Comment: If CARB needs to receive data on the number of reporting companies by August 10 for fee assessment purposes, consider permitting companies that do not report by August 10 to submit a statement that they intend to report on or before December 31. If it is important for CARB to have final data on the number of § 38532 reports it will receive in 2026 for purposes of calculating and invoicing the fees in a timely manner by a deadline similar to the MRR deadline of August 10, we believe that goal would be served while permitting companies to submit § 38532 reports through calendar year-end if the final regulations provide companies three options, including the two CARB has already proposed.

As currently contemplated by the Proposed Regulation, by August 10, companies in scope of § 38532 would be required to submit (1) a cover note with a § 38532 report, or (2) a cover note with a statement on company letterhead stating that "it did not submit a report" and "indicating that in accordance with the Enforcement Notice, [it] was not collecting data or planning to collect data at the time the Notice was issued." We suggest CARB provide a third option: submission of a cover note with a statement on company letterhead stating that the company intends to submit a § 38532 report on or before December 31, 2026.

This recommendation should not meaningfully change CARB's currently contemplated processes, and would enable CARB to adopt the more realistic submission window described under Recommendation 1 above while receiving data on the number of reporting companies by August 10 for fee assessment purposes. This option should also be available for subsequent reporting periods if August 10 remains CARB's selected date for fee assessment purposes. (45d-018.16)

Comment: For financial institutions, Scope 1 and Scope 2 emissions data are sourced from numerous offices, subsidiaries, and operational systems across multiple jurisdictions. While some firms can finalize this information by early August, doing so may require accelerated timelines and tightly sequenced internal processes, leaving limited flexibility to accommodate late arriving data or additional review. These challenges are more acute for entities with decentralized operations, less mature emissions data systems, or limited experience coordinating emissions reporting alongside assurance processes within compressed timelines after the fiscal year closes. (45d-021.5)

Comment: Assurance processes create additional timing constraints across all scopes. Under SB 253, independent assurance for Scope 1 and Scope 2 emissions begins with limited assurance and escalates to reasonable assurance over time. Even limited assurance requires evidence-based testing, documentation of internal controls, and validation of underlying data. Reasonable assurance substantially increases the scope and rigor of review, requiring more extensive sampling, deeper controls evaluation, and additional review cycles. An August deadline limits flexibility for these processes and becomes increasingly misaligned as assurance expectations mature.

These timing pressures are further compounded by assurance provider capacity constraints. Assurance firms must allocate resources across multiple clients, scopes, and regulatory regimes and require sufficient time to conduct testing, resolve issues, and complete quality

reviews. A fixed August deadline increases the risk of bottlenecks and inconsistent outcomes, particularly as Scope 3 and reasonable assurance requirements are phased in. (45d-021.7)

Comment: Retain flexibility – CARB should afford reporting entities maximum flexibility with respect to the reporting period covered by reports. Relevant factors that may affect a reporting entity's timeline for collecting, reconciling and obtaining assurance include, but are not limited to, the annual reporting deadline established by CARB, a reporting entity's fiscal year (which may not match the calendar year), and a reporting entity's reporting cycle for greenhouse gas emissions data (which may not match its fiscal year). (45d-021.9)

Comment: Assurance processes create additional timing constraints across all scopes. Under SB 253, independent assurance for Scope 1 and Scope 2 emissions begins with limited assurance and escalates to reasonable assurance over time. Even limited assurance requires evidence-based testing, documentation of internal controls, and validation of underlying data. Reasonable assurance substantially increases the scope and rigor of review, requiring more extensive sampling, deeper controls evaluation, and additional review cycles. An August deadline limits flexibility for these processes and becomes increasingly misaligned as assurance expectations mature.

These timing pressures are further compounded by assurance provider capacity constraints. Assurance firms must allocate resources across multiple clients, scopes, and regulatory regimes and require sufficient time to conduct testing, resolve issues, and complete quality reviews. A fixed August deadline increases the risk of bottlenecks and inconsistent outcomes, particularly as Scope 3 and reasonable assurance requirements are phased in.

A December 31 reporting deadline better accommodates the realities of third-party data flows and provides a stable foundation as assurance requirements mature. Aligning all scopes to a single year-end deadline would support higher-quality data, improve comparability across reporting entities, reduce operational risk, and enable CARB to establish a durable emissions disclosure framework that can scale effectively over time. (45d-022.5)

Comment: Retain flexibility – CARB should afford reporting entities maximum flexibility with respect to the reporting period covered by reports. Relevant factors that may affect a reporting entity's timeline for collecting, reconciling and obtaining assurance include, but are not limited to, the annual reporting deadline established by CARB, a reporting entity's fiscal year (which may not match the calendar year), and a reporting entity's reporting cycle for greenhouse gas emissions data (which may not match its fiscal year). (45d-022.6)

Comment: CARB should establish December 31 as the annual deadline for GHG emissions reporting under SB 253, starting with the first-year report due in 2026. (45d-026.2)

Comment: CARB should establish December 31 as the annual deadline for GHG emissions reporting under SB 253, starting with the first-year report due in 2026. In the Proposed Initial Regulation, CARB proposes a reporting deadline of August 10, 2026 for the first-year report under SB 253. The CARB staff noted that this proposed first-year reporting deadline matches the verification deadline under CARB's Mandatory Reporting Regulation ("MRR") program,

with “the goal of streamlining GHG reporting responsibilities and timing for entities reporting under [SB 253] and MRR.”[5] For the reasons discussed below, CARB should not use the verification deadline under MRR program as the basis for establishing a reporting deadline under SB 253. Instead, we urge CARB to establish December 31 as the annual deadline for GHG emissions reporting under SB 253, starting with the first-year report due in 2026. (45d-026.9)

[5] Staff Report, at 15.

Comment: CARB should not use the verification deadline under the MRR program as the basis for establishing a reporting deadline under SB 253. The reporting deadline under SB 253 should not be tied to the reporting timeline under the MRR program, because the reporting entities, the reporting content, and the users of the information reported under SB 253 differ from those under the MRR program.

First, MRR requires data reporting and third-party data verification from the largest GHG emitters (e.g., certain facilities and suppliers that have covered emissions greater than a certain threshold and electric power entities importing power into California).[6] In contrast, subject to limited exceptions, all U.S. entities “doing business in California” with “total annual revenues” in excess of $1 billion, regardless of their industry sector and level of emissions, are subject to reporting under SB 253.

Second, as to the reporting content, unlike SB 253, the MRR program does not require scope 3 emissions reporting. As outlined below, one of the pertinent reasons that a deadline earlier than December 31 is impractical for SB 253 reporting is because of the complexities associated with collecting and reporting scope 3 emissions data, particularly for financial institutions.

Finally, MRR data supports California’s Cap-and-Trade Program,[7] whereas the stated goal for the reporting programs under the Climate Laws is to “help ensure that accurate, comparable, and decision-useful climate information is made available to inform investors, lenders, insurers, consumers, and other stakeholders in the state”.[8]

Because many reporting entities under SB 253 are not subject to the MRR, the reporting content is different even for entities that are subject to both the MRR and SB 253, and the users of the information reported under SB 253 and the MRR are also different, aligning the SB 253 reporting deadline with the MRR verification deadline would not lead to increased efficiency. (45d-026.10)

[6] CARB, Mandatory Greenhouse Gas Reporting: 2022 Emissions Year Frequently Asked Questions (Nov. 6, 2023), available at, https://ww2.arb.ca.gov/sites/default/files/classic/cc/reporting/ghg-rep/reported-data/2022mrrfaqs.pdf; CARB, Reporting Guidance for Determining Rule Applicability for California’s Mandatory GHG Reporting Program (Feb. 1, 2019) available at, https://ww2.arb.ca.gov/sites/default/files/classic/cc/reporting/ghg-rep/guidance/applicability-general.pdf

[7] CARB, Mandatory Greenhouse Gas Reporting: 2022 Emissions Year Frequently Asked Questions (Nov. 6, 2023)

[8] Staff Report, at 3.

Comment: CARB should establish December 31 as the single annual reporting deadline for all required GHG emissions data under SB 253, because the complexity and challenges associated with GHG emissions reporting, particularly scope 3 emissions, and related assurance requirements make an earlier deadline impractical.

We urge CARB to establish December 31 as the single annual reporting deadline for all required GHG emissions data, starting with the first-year report due in 2026, in light of the complexity and challenges associated with GHG emissions reporting and related assurance requirements.

Although we recognize that the Proposed Initial Regulation only proposes a first-year reporting deadline under SB 253, with future reporting deadline under SB 253 to be established in the Subsequent Regulation, it is important to look at the complete picture of how GHG emissions reporting, including scope 3 reporting, should be addressed in connection with the finalization of the Proposed Initial Regulation.

A single annual reporting timeline for all required GHG emissions data is consistent with the statutory requirements of SB 253,[9] and is more efficient for both the reporting entities and CARB. This is how GHG emissions data is generally reported today, either voluntarily or pursuant to reporting requirements in other jurisdictions. Further, a single annual report under SB 253 with all required GHG emissions data is more useful for users of the information and supports CARB's goal of providing accurate, comparable, and decision-useful climate information to investors, lenders, insurers, and the public in California. On the contrary, staggered deadlines would create inefficiencies and confusion for investors by forcing companies to prepare multiple reporting and assurance cycles in the same year. Even though scope 1 and 2 data are separate from scope 3 data, many of the same systems and controls apply, and assurance providers would need to repeat walkthroughs, control testing and methodological explanations if there are different reporting timelines for scope 1 and 2 reporting versus scope 3 reporting. This adds cost and burden without improving disclosure quality. More importantly, publishing scope 1 and 2 data months ahead of scope 3 data from the same reporting period creates an incomplete and potentially misleading picture of a reporting entity's emissions profile. For financial institutions, scope 3 represents the vast majority of their emissions. Aligning all scopes on the same annual deadline ensures efficiency, lowers costs, and provides stakeholders with a clear, integrated view.

As discussed in BPI's prior comment letters to CARB, we believe the single annual reporting deadline should be December 31 for all required GHG emissions data. This is because collecting, reconciling, and obtaining assurance for global emissions data are complex, challenging, and time-consuming, particularly with respect to scope 3 emissions data.

For large financial institutions, scope 1 and 2 emissions data is sourced from hundreds of offices and subsidiaries across multiple jurisdictions. Each local office relies on utility providers, landlords, or facility managers to supply energy use and fuel consumption data, and bills and records may not be finalized until months after year-end. Finalizing this

information requires multi-step internal controls, including reconciliation with utility invoices, cross-checks against internal systems, and validation by sustainability and finance teams.

Furthermore, Financial institutions face unique challenges in reporting scope 3 emissions, which make a deadline earlier than December 31 impractical.

- Data collection challenges. Financial institutions calculate scope 3 emissions—driven primarily by financed emissions—by aggregating data from a wide range of counterparties, including borrowers, investees, and other third parties. This data is often sourced through external data vendors that collect information from publicly available disclosures, private reporting, and estimates. This process typically results in a 12-month to 18-month time lag in emissions data, which presents significant challenges, as the emissions data used for reporting may not reflect the most current operational activities of counterparties.
- Availability and quality of data. The availability and quality of data required for scope 3 emissions vary widely. Many counterparties operate in jurisdictions without robust sustainability reporting requirements, leading to data gaps. Even when emissions data is available, the quality and consistency of that data can vary significantly across industries. Established sectors such as utilities tend to provide relatively reliable and standardized data, while other sectors are still in the process of developing comprehensive reporting frameworks and robust processes to measure and disclose their emissions. As a result, financial institutions often must rely on estimates or proxy data, which complicates assurance and comparability and may lead to volatility in year-over-year reporting as estimates and proxy methodologies are refined over time.
- Lack of universally accepted methodologies. Although the GHG Protocol provides a foundation for emissions accounting, there are no universally accepted methodologies for calculating scope 3 emissions across all asset classes. Asset classes such as loans to small businesses, private equity investments, asset management, or sovereign debt often lack specific guidance for calculating emissions.

Because of these unique challenges, we believe that a 12 month-period after the end of the reporting period covered by the report (e.g., a December 31 deadline for a company reporting on its fiscal year ended on December 31 of the prior year) is the minimum period feasible for financial institutions to report meaningful scope 3 emissions data required by SB 253, albeit there may still be a significant time lag (e.g., one year or more) for the scope 3 emissions data reported.

If a reporting entity cannot assemble complete and verified data by the reporting deadline, it may have to rely on estimates, proxies, or incomplete information. This could limit the ability to complete internal controls and assurance reviews and may result in disclosures that need to be revised after more accurate data becomes available. Such outcomes would reduce comparability across entities and risk undermining confidence in the reporting process.

Additionally, given that assurance by an independent third-party assurance provider is required under SB 253, beginning with “limited assurance” in 2027[10] and escalating to

“reasonable assurance” in 2030, reporting entities will need additional time to work with their assurance providers to complete the assurance process. Assurance providers often work across multiple clients and need sufficient time to conduct testing, sampling and quality checks. Limited assurance itself is not a “light touch,” as it requires evidence-based testing, sampling of invoices, and a demonstration of internal controls. This assurance process will take even longer as more stringent assurance requirements come into effect (e.g., transitioning from “limited assurance” to “reasonable assurance”). Reasonable assurance requires significantly more evidence, a broader audit scope, and more extensive testing. Rushing the assurance process may undermine the credibility of California’s climate reporting program. (45d-026.11)

[9] Cal. Health & Safety Code § 38532(c)(1; (G)(i).

[10] Although the text of SB 253 states that assurance is required beginning in 2026, CARB has provided additional guidance stating that assurance is not required for first-year reports in 2026. See FAQs, at 10 (Item 20) (“For 2026 reporting under [SB 253], CARB will exercise enforcement discretion for the first report due in 2026, allowing reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued, whether or not the data received limited assurance.”)

Comment: CARB should establish December 31, 2026 as the reporting deadline for the first-year report under SB 253 to align with our recommended subsequent annual reporting deadline under SB 253 and to avoid any unnecessary burdens on reporting entities to establish separate reporting procedures only for the first-year report under SB 253. For all the reasons discussed above, CARB should establish December 31 as the single annual reporting deadline for all required GHG emissions data under SB 253. Although we recognize that CARB will exercise enforcement discretion for the first-year report due in 2026 such that reporting entities will be allowed to submit scope 1 and 2 emissions for their prior fiscal year based on information they already have or were collecting as of December 2024, whether or not the data received limited assurance,[11] we nevertheless urge CARB to establish December 31, 2026 as the reporting deadline for the first-year report under SB 253 to align with our recommended subsequent annual reporting deadline under SB 253 and to avoid any unnecessary burdens on reporting entities to establish separate reporting procedures only for the first-year reports under SB 253.

However, if CARB nevertheless determines to establish August 10, 2026 as the first-year reporting deadline under SB 253, CARB should establish December 31 as the single annual reporting deadline for all required GHG emissions data under SB 253 starting in 2027 in the Subsequent Regulation.

Finally, if CARB determines that it must collect information from reporting entities earlier than December 31 in order to calculate and collect the annual fees to support the administration of the reporting programs under the Climate Laws, CARB should bifurcate the annual deadline for collecting information on reporting entities, which may be earlier than December 31, and the annual deadline for GHG emissions reporting, which should be December 31. (45d-026.12)

[11] CARB, The Climate Corporate Data Accountability Act, Enforcement Notice (Dec. 5, 2024), available at https://ww2.arb.ca.gov/sites/default/files/2024-12/The%20Climate%20Corporate%20Data%20Accountability%20Act%20Enforcement%20Notice%20Dec%202024.pdf; FAQs, at 10 (Item 20); CARB, SB 253/261/219 Public Workshop: Update on California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Programs (Nov. 18, 2025), at 12, available at https://ww2.arb.ca.gov/sites/default/files/classic/SB%20253%20261%20Nov%20Workshop%20slides%20%28Updated%29.pdf (the "November Presentation") ("For 2026 reporting, limited assurance is not required for data submission").

Comment: In response to CARB's December 2024 information solicitation to inform the implementation of these laws, Ceres commented that while companies generally agree that emissions data are available six to nine months after the end of a company's fiscal reporting year, the availability of the data does not necessarily mark the end of the reporting process. When we solicited corporate feedback to inform that earlier comment letter, many companies expressed a preference for the ability to report in Q4; one company observed: "Data supporting the carbon footprint can lag the close of the year by a number of months, as much as 4 months after the close of a year/period."

- Companies reiterated these concerns in response to CARB's proposed August 10 reporting date. Several underscored that there is no way to complete assurance engagements in time for an August 10 reporting date, particularly considering the potential shortage of third-party verification providers to meet the demand created by SB 253. One company opined in our recent roundtable: "It opens our company to legal and reputational risk to provide a GHG inventory without assurance where there likely will be changes to our data. It's one thing to put the data in a voluntary sustainability report without assurance; it's another to put it in a regulatory proceeding like this."
- Another company suggested that an August deadline would necessitate the submission of an initial report without verification, followed by a final submission after assurance has been completed, increasing the administrative burden on both reporting entities and CARB.
- Companies are requesting a reporting deadline of October 31 or later, to allow ample time for the processing and calculation of GHG emissions data and a roughly 90-day assurance process thereafter. Several companies suggested that CARB could open the reporting docket on August 10, then keep it open and accept reports on a rolling basis through the end of the calendar year without penalty. (45d-033.1)

Comment: Ceres recognizes that CARB is exercising substantial enforcement discretion in 2026. As the agency indicated in its December 2024 enforcement notice, entities that were not collecting data (or were not planning to collect data) at the time of the enforcement notice are not expected to submit data for this first reporting cycle. Furthermore, staff guided in the November 2025 public workshop that limited assurance will not be required for data submissions in 2026, unless the reporting entity will have already received third-party verification on its Scope 1-2 emissions. Considering these accommodations—and recognizing that CARB has only formally proposed an August 10 deadline for the 2026 reporting year in this regulation—we appreciate that there is less urgency to amend the

reporting deadline in this initial rulemaking. However, most of the companies providing feedback to Ceres have been voluntarily supplying emissions data for a long time; they would like to report their most recent available data from the immediately preceding fiscal year, and they worry that an August 10, 2026, deadline could set a precedent for future reporting deadlines in forthcoming regulation(s). (45d-033.2)

Comment: The proposal includes an August 10th reporting deadline for emissions data under SB 253 reporting. Although aligning deadlines with CARB's Mandatory Reporting Regulation (MRR) is a thoughtful effort, it does not have the intended streamlining. As proposed, SB 253 requires prior fiscal year emissions reporting, while MRR requires reporting for the prior calendar year, specifically for different and specific categories of emissions. The difference in time periods and data reported significantly erodes the desired efficiencies. (45d-040.2)

Comment: Dairy Institute agrees with the proposed alternative suggested by the California Chamber of Commerce that would allow for a "rolling" submission, allowing submissions up to twelve months following any entity's individual fiscal year. Providing all entities with the same appropriate window of time, regardless of the fiscal calendar, will create clarity and ultimately provide the flexibility entities need, especially as requirements become more burdensome. Additionally, a singular date deadline has implications for the nearing need for third-party assurance providers, ultimately exacerbating demand. An extended window for submissions will ease the pressure on the limited pool of providers for third-party assurance. (45d-040.3)

Comment: The proposed August 10 reporting deadline poses a concern for companies that must not only compete for a limited pool of third-party assurance providers, but also contend with increasingly complex emissions reporting requirements. CARB should consider alternative solutions outlined by CalChamber. (45d-047.3)

Comment: SB 253 Reporting Deadline for Scope 1 and Scope 2 Emissions. The reporting deadline should be December 31.

SIFMA urges CARB to set the reporting deadline for disclosure in proposed §96076(a) at December 31 and retain CARB's proposed definition of "applicable preceding fiscal year" in proposed § 96076(b). An August 10 deadline is incompatible with the time required to produce assured emissions disclosures: SIFMA member survey data indicates that internal data collection and review can for many institutions take in excess of four to five months, and third-party assurance can require up to an additional three to six months, a combined timeline that presses up against and often extends past August 10. A December 31 deadline generally accommodates this process, aligns with established GHG reporting practices, and positions the program for success as Scope 3 requirements phase in. (45d-049.1)

Comment: To assess the feasibility of an August 10 reporting deadline, SIFMA surveyed its members regarding their current GHG emissions reporting practices. SIFMA's membership includes numerous large, medium and small broker-dealers, investment banks and asset managers, many of whom have substantial experience in GHG emissions reporting. All 16

respondents currently report Scope 1 and Scope 2 emissions, and 11 currently report at least some Scope 3 emissions. Thirteen respondents obtain assurance over their Scope 1 and Scope 2 reporting, and a smaller number obtain assurance over at least some Scope 3 information. As such, the survey respondents are well positioned to share practical experience regarding the time and processes required for sophisticated institutions to produce reliable GHG emissions disclosures.

The first step in producing GHG emissions disclosures is to gather the relevant information internally and review it for accuracy, followed by internal governance and sign off processes involving senior management and relevant committees. Half of respondents indicated that, for Scope 1 and Scope 2 emissions, this initial data collection and internal review process alone takes at least four to five months, with several respondents indicating that it takes significantly longer. These internal processes typically support the preparation of emissions information across multiple scopes, rather than being conducted independently for each scope.

Obtaining third-party assurance is a subsequent and distinct step in the reporting process. Respondents reported that obtaining assurance can require significant additional time, with several institutions indicating that assurance requires three to six additional months. The length of time required depends on factors including the scope of assurance, the complexity of the reporting entity's operations, the assurance providers familiarity with the reporting entity and the provider's capacity. Respondents also noted that timelines may lengthen in future years as companies strengthen internal controls and independent review processes, and in some cases consider transitioning to new assurance providers, in response to emissions reporting transitioning from a voluntary exercise to a regulatory requirement. Timelines for reporting may further be extended if companies are required to disclose information with different level of detail or presentation than is typical under existing practice and other regimes.[3] These pressures will be compounded by assurance provider capacity constraints as SB 253 and other climate disclosure regimes expand the number of companies seeking independent assurance.

The challenges of meeting an August 10 deadline would likely be even greater for companies with fewer resources and less experience reporting GHG emissions than the respondents to SIFMA's survey.

SIFMA acknowledges that assurance is optional for the first year of reporting.[4] However, establishing a reporting deadline that is incompatible with obtaining assurance would disincentivize companies from pursuing assurance for the first year of reporting, even where they are otherwise prepared to do so.

Reporting deadlines that do not accommodate the full cycle of data collection, internal review, and assurance create a risk that companies will be forced to rely on estimates or incomplete information. Compressed timelines can impede internal controls and assurance review processes, increase the likelihood of subsequent revisions, and reduce comparability and confidence in reported data. (45d-049.3)

[3] For example, see our October 27, 2025 letter to CARB addressing the draft reporting template CARB provided for Scope 1 and Scope 2 GHG emissions pursuant to SB 253, available here.
[4] CARB staff indicated that limited assurance of Scope 1 and Scope 2 emissions data will not be required in the slides presented at the November Workshop and in Question 20 of its publication "California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Programs: Frequently Asked Frequently Asked Questions About Regulatory Development and Initial Reports."

Comment: Establishing a unified December 31 deadline now avoids locking in a timeline that CARB will need to revisit in the coming years. A December 31 deadline serves both regulatory clarity and data integrity, and will strengthen the effectiveness, credibility, and durability of California's climate disclosure program. (45d-049.5)

Comment: To best ensure compliance, it is imperative that reasonable deadlines be provided for all covered entities. While the GHG disclosure reporting deadlines are proposed for August 10, 2026, for 2025 data, AISI believes that this deadline is overly rushed. While CARB's work to date has been helpful in providing clarity on the expected reporting, the regulation is still not finalized, and by the time it is finalized, it is entirely possible that the regulation will have been in final form for less than six months before the date by which initial reporting is required to take place.

Companies need a minimum of one year from the date at which the final regulation is issued to review and understand reporting requirements, conduct a gap analysis of existing data collection capabilities, develop a compliance action plan to bridge any gaps in data availability, invest in the necessary systems and/or technological upgrades to capture the required data, and implement standard operating procedures and/or training protocols needed to accurately interpret and validate the additional data so that it aligns with California's standards. Forcing companies to report without adequate preparation time will increase the burden of compliance and lessen both data quality and completeness. Data collected hastily will likely be inaccurate and/or incomplete and could potentially affect the ability of consumers in California to make informed market decisions.

While CARB has indicated it will grant leniency and reciprocity in the reporting requirements for the initial reporting period, these leniency and reciprocity provisions have not been established as programmatic requirements but rather simply proposals. Should this level of leniency and reciprocity not be included in the final program, CARB must seriously consider extending the reporting deadline for the initial reporting period. (45d-050.6)

Comment: The deadline for reporting entities to submit their initial SB 253 report is August 10, 2026. CARB is proposing to establish a February 1 cutoff date to determine which fiscal year's data entities must submit for the initial report, with entities whose fiscal year ends on or before February 1, 2026 reporting data from their fiscal year ending in 2026, and entities whose fiscal year ends after that date reporting their 2025 data. WSPA urges CARB not to adopt this mandatory cutoff date.

Setting a mandatory cutoff date fails to account for data availability challenges for many complex organizations and diverges from the optional approach described in CARB's

November 2025 public workshop.[4] As WSPA has previously explained,[5] data from the prior fiscal year is generally not available for external reporting until the third or fourth quarter of the following year, particularly for complex organizations with multiple business units, international operations, or reliance on third-party data providers. For these entities, developing a complete and reliable GHG inventory often requires more than six months, making it impractical to finalize and disclose GHG reporting for SB 253 within the timeline implied by a mandatory "applicable preceding fiscal year" requirement for reporting in 2026.

Instead, WSPA urges CARB to incorporate a data availability provision for the first reporting year. This approach would provide entities with the flexibility necessary to ensure accurate, complete, and meaningful disclosures. (45d-051.2)

[4] See CARB SB 253/261/219 Public Workshop: Update on California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Programs. November 2025; recording available at: youtube.com/watch?v=h979MRn7JfE&feature=youtu.be and slides available at: https://ww2.arb.ca.gov/sites/default/files/classic/SB%20253%20261%20Nov%20Workshop%20slides%20%28Updated%29.pdf.

[5] See WSPA Comments on the Information Solicitation to Inform Implementation of California Climate Disclosure Legislation: Senate Bills 253 and 261. March 21, 2025; available at: https://ww2.arb.ca.gov/system/files/webform/public_comments/22731/WSPA%20SB%20253%20and%20261%20Climate%20Disclosure%20Information%20Solicitation%20Letter%203-21-2025.pdf.

Comment: CARB recognizes, and CCEEB concurs, that some reporting entities may require lead time to collect the data necessary in order to ensure complete and accurate reporting of Scope 1 and Scope 2 data. (45d-056.3)

Comment: The proposed regulation sets August 10, 2026, as the deadline for the first year of reporting for SB 253. CCEEB recommends extending this date until December 31, 2026, which would still comply with the 200s, establish a clear deadline, and provide the extra time that is needed to account for gathering and verifying data, the administrative strain imposed by this reporting requirement, and reflect the length of time needed for applicability determinations. Providing additional lead time will also lead to more accurate data and reduce uncertainty, ultimately benefitting consumers of the information, CARB, and the reporting entity. (45d-056.19)

Comment: CCEEB recommends as an alternative that CARB allow companies a rolling deadline of no less than 12 months after the end of each company's fiscal year to report. This additional flexibility allows for the accommodation of a wide array of fiscal year deadlines, results in reports being submitted in a steadier, more consistent fashion, avoids potential bottleneck from limited assurance provider capacity, and allows CARB to receive manageable amounts of data submitted at any one time. (45d-056.20)

Comment: Reporting Deadline for Emissions Data Under SB 253 is Untimely

The proposed regulation establishes August 10, 2026, as the first deadline for all reporting entities to submit the emissions data required under SB 253, which Staff indicates should streamline reporting responsibilities by aligning with the existing verification deadline under the existing Mandatory Reporting Regulation (MRR). Kern respectfully requests the reporting

deadline instead be no earlier than September 10. Kern appreciates Staff's goal of streamlining reporting responsibilities and timing for entities subject to MRR and corporate climate emissions reporting, however establishing August 10 as the reporting deadline will have the opposite effect. SB253 requires entities to report emissions data based on the fiscal year, while MRR and required verification use data based on the calendar year. This collection and verification of compliance data for a single report requires immense working hours across multiple departments within an organization. Aligning these due dates will actually create the additional burden of meeting two separate and equally intensive regulatory deadlines simultaneously. For a small refinery with a relatively limited support staff and resources, the duplicity of MRR verification and reporting SB 253 emissions data will fall on the shoulders of the same personnel. Pushing the corporate climate emissions reporting deadline back to September or later will allow Kern's staff to attentively work through the MRR verification process and adequately transition to SB 253 emissions reporting, resulting in a more timely and accurate completion of both. (45d-058.1)

Comment: First-Year Scope 1 and Scope 2 Reporting Deadline

CARB's proposal to require Scope 1 and Scope 2 emissions reporting by August 10, 2026, raises significant implementation concerns. While SB 253 requires reporting in calendar year 2026, it does not specify a deadline. Manufacturers, particularly those with complex operations, multiple facilities, or limited internal data systems, will need sufficient time to collect, validate, and harmonize emissions data across business units.

Furthermore, the technical and administrative burden of these disclosures continues to increase as the underlying standards (such as Greenhouse Gas Protocol (GHGP)) evolve. Revisions to the GHGP currently under consideration would make Scope 2 reporting increasingly complex. This burden, compounded significantly by the addition of Scope 3 reporting requirements to the mandate, requires more time to gather, verify, and assure the emissions data. (45d-061.2)

Comment: CMTA recommends that CARB:

- Provide additional flexibility for first-year reporting, including an extended or phased deadline, such as December 31, 2026, for the initial 2026 report. (45d-061.4)

Comment: CARB should adopt a "rolling" submission schedule where reports are due exactly twelve months following the close of an entity's individual fiscal year. This model provides the greatest degree of equity, ensuring that every reporting entity has an identical window of time to finalize and assure its data regardless of its accounting cycle. This "rolling" approach would distribute the demand for specialized technical and assurance services throughout the calendar year, lowering costs and ensuring that each report reflects the most recent and accurate data available for that specific enterprise. Given the impending complexity of Scope 2 updates and the addition of Scope 3, providing deadline flexibility is essential for a workable regulatory framework. (45d-063.4)

Comment: Timing flexibility will also address the concern related to the limited availability of qualified third-party assurance providers. Timing constraints will further be amplified as assurance requirements transition from “limited” to “reasonable” assurance, which is a much more time-consuming process. This type of reporting presents a technical and administrative burden, which will be further exacerbated when Scope 3 reporting requirements join the mandate. At that point, the time required to gather, verify, and assure this data will necessarily and significantly increase. A rigid “one size fits all” August deadline fails to account for the prolonged data-collection cycles required for these expansive indirect emission reporting requirements and the fact that companies may operate on different fiscal year-end dates. (45d-063.5)

Comment: Data availability will vary greatly depending on the reporting entity, the complexity of their operations and value chain, and the level to which data is available internally or must be obtained from a third-party, such as utility providers. Reporting entities are reliant upon the speed at which these third-parties process and provide the data necessary to calculate emissions. CARB must take into consideration not only when data is available to support reporting, but the variable time entities need to process data, calculate emissions, and undergo verification.

A broad array of reasons outside of a covered entity’s control could delay this process. For instance, the regulations will likely increase the demand for verification services, which will create bottlenecks in what is already a months-long process.

If there is an anomaly during data review, this could also add an unexpected delay to a covered entity’s verification timeline. Entities should be granted the necessary time to appropriately validate all data.

Accordingly, we strongly recommend CARB create a process to allow covered entities to request an extension of their reporting deadline if an entity can demonstrate that assurance or data collection is still ongoing. (45d-066.1)

Comment: Allowing up to 12 months after the close of a fiscal year provides needed flexibility to covered entities if they are not calculating their emissions inventory under optimal conditions, which will not be the case for every entity every year. Optimal conditions include that the entity has an experienced reporting team, data was readily available and received in a timely manner from internal teams and third parties, their operations were similar to the prior year, data availability and recommended calculation methodologies did not change, and prior years did not require restatements.

Additionally, providing companies with 12 months to submit emissions data under the rules would prevent entities that already voluntarily report emissions data from having to produce a second, duplicative report for CARB or dramatically accelerate their reporting timeline, which could negatively impact the quality of data and a report.

Proactively moving the initial reporting deadline to December 31st will further deter the need to request an extension in the deadline unless unprecedented circumstances occur. Moving

the reporting deadline further reduces the administrative burden on CARB to review and process such requests, and minimize entities' reporting incomplete, rushed data. Though we strongly encourage CARB to issue both an extension process for unforeseen circumstances and move the initial deadline to December 31st to submit data for fiscal year periods ending in 2025.

Creating a rolling 12 month submission deadline for future reporting years would also reduce anticipated bottlenecks in assurance providers which most observers believe will be induced by adhering to a single reporting deadline. (45d-066.2)

Comment: Need for SB 253 Reporting Flexibility and Recognition of Increasing Data Complexity

The proposed regulation establishes an initial August 10th reporting deadline for all reporting entities to submit the emissions data required under SB 253. CARB proposed this deadline for consistency with the verification deadline under CARB's Mandatory Reporting Regulation (MRR). The ISOR justifies the August 10th deadline by claiming that aligning with the MRR will streamline greenhouse gas reporting for entities that must comply with both. However, the deadline provides very little in the way of streamlining. SB 253 requires reporting for the prior fiscal year of entity-level global emissions. In contrast, MRR requires reporting for the prior calendar year and is focused on facility-specific emissions, emissions associated with imported electricity, and emissions associated with the combustion of fuels sold in California. SB 253 and MRR collect very different data sets measured over different periods of time.

Alignment in name only does not constitute streamlining and the effect of an August 10th reporting deadline creates an artificial compliance bottleneck. Forcing thousands of companies to compete for the currently limited pool of compliance service providers simultaneously will lead to severe capacity constraints and inflated costs without improving data quality. CARB should give the maximum amount of time in the calendar year for entities to perform their 2026 reporting by setting an initial reporting deadline of December 31, 2026, while preserving the February 1st cutoff date proposed in the regulatory package for determining which fiscal year to apply. (45d-069.2)

Comment: We urge CARB to revise the proposal before proceeding. At a minimum, CARB should

…

adopt reporting timelines that reflect fiscal-year variability and growing data complexity (45d-069.27)

Comment: Many retailers' fiscal year doesn't end until the end of February each year, so a June 30 deadline is not feasible. The California Retailers Association proposes either (1) using the previous fiscal year for the reporting requirement (for example by saying that the June 30, 2026, deadline applies to the fiscal year that ended between January 1, 2025 and December 31, 2025) or (2) having a rolling deadline of six months after a company's fiscal year end for their reporting deadline instead of a hard deadline of June 30, 2026. The

California Retailers Association submitted this comment to CARB via email on September 10, 2025. (45d-070.9)

Comment: Extend CARB's proposed reporting deadline under SB 253 to December 31, 2026, at the earliest.

Given the rulemaking schedule, an August deadline for reporting does not provide enough time for paint and coatings companies to develop the necessary report. The deadline should be extended to December 31, 2026, at the earliest.

A public hearing on the Proposed Regulation will be held on February 26, 2026. Upon Board approval, the Proposed Regulation will be sent to the state's Office of Administrative Law (OAL) for review.[1] The OAL will have thirty working days to approve or disapprove the Proposed Regulation. Consequently, the final regulations for SB 253 could come as late as April 2026. Without any relevant existing guidance or final regulations for SB 253 in place, ACA is concerned that members of the paint and coatings industry will be forced to hastily develop their Scope 1 and Scope 2 GHG emissions report by the August 10, 2026 deadline. Accordingly, ACA urges CARB to extend the proposed reporting deadline under section 96076(a) of the Proposed Regulation to December 31, 2026, at the earliest. (45d-073.7)

[1] If, however, the Board approves and substantially modifies the Proposed Regulation's text, then another public comment period will open and the OAL's review of the regulations for SB 253 will be further delayed.

Comment: Amend the reporting deadline for Scope 1 and Scope 2 GHG emissions to allow submissions from August 10, 2026 through December 31, 2026, to better align with other compliance requirements and allow for true, complete, and accurate reporting through third-party assurance; (45d-076.2)

Comment: The proposed August 10, 2026 deadline for the reporting of Scope 1 and Scope 2 GHG emissions for the 2025 fiscal year does not align with Edison International's data-collection and reporting timelines and does not allow for adequate time to complete both regulatory-driven and voluntary third-party assurance processes. As a result, that deadline increases the risk of incomplete and inaccurate public disclosures. (45d-076.5)

Comment: Aligning the SB 253 reporting deadline with other regulatory reporting timelines and allowing time needed for third-party assurance prior to first year reporting are essential to allow for true, complete, and accurate disclosures that minimize legal and reputational risks for reporting entities. (45d-076.7)

Comment: Alternatively, allowing companies with fiscal-year deadlines of December 31, 2025 to submit 2024 fiscal-year emissions would eliminate the legal and reputation risks associated with submitting unassured data. This approach is consistent with the December 5, 2025 enforcement notice which allows for use of "…information the reporting entity already possesses or is already collecting at the time this Notice was issued."[4] Edison International is prepared to submit Scope 1 and Scope 2 emissions disclosures based on fully assured 2024 reporting year data. (45d-076.8)

[4] December 5, 2024 Enforcement Notice reference: https://ww2.arb.ca.gov/sites/default/files/2024-12/The%20Climate%20Corporate%20Data%20Accountability%20Act%20Enforcement%20Notice%20Dec%202024.pdf

Comment: Edison International's principal subsidiary, SCE, accounts for more than 99.9% of Edison International's total GHG emissions. SCE is subject to multiple regulatory reporting requirements from local air districts, the U.S. Environmental Protection Agency (EPA), CARB, and the California Energy Commission (CEC). These reports provide the source data required to develop true, complete, and accurate GHG emissions inventories. Many reporting deadlines fall between March and July each year and require their own assurance processes, with one completed as late as October.

Scope	Category	Regulatory Body (Program)	Reporting Deadline	Third-Party Assurance Deadline
1	Emergency generators	Various local air districts	May 1[5]	NA
1	Sulfur hexafluoride[6]	EPA	March 31	NA
1	Sulfur hexafluoride	CARB	June 1	NA
1	Mobile sources	CARB (various)	June 30[7]	NA
1	Utility-owned generation	CARB (Mandatory Reporting Regulation)	July 17[8]	August 10
2	Transmission & distribution losses	CEC (Power Source Disclosure program)	June 1	October 1
3	Power purchased and delivered (Category 3)	CEC (Power Source Disclosure program)	June 1	October 1

Over 80% of SCE's electricity sales (bundled load) come from electricity sourced from third-party generators. GHG emissions associated with power purchases and delivery are reported as either Scope 3, Category 3 (Fuel- and Energy-Related Activities Not Included in Scopes 1 and 2) or Scope 2 Transmission & Distribution (T&D) line loss. These two categories of GHG emissions represent approximately 70% of Edison International's total GHG emissions.

Estimating GHG emissions in these categories requires data from more than 600 power generation sources, reported annually through the CEC's Power Source Disclosure (PSD) program by June 1.9 Subsequently, third-party assurance is required by October 1 to verify the accuracy and completeness of the reported data. Following that assurance, SCE publishes the Power Content Label[10] with fuel type and GHG intensity information for delivered power by the end of the first complete fourth-quarter billing cycle.

Under the draft regulation, the August 10, 2026 deadline would require Edison International to publicly report Scope 2 GHG emissions based on PSD data that has not yet completed third-party assurance for completeness or accuracy. This creates risk of restatements and conflicting GHG emissions disclosures across multiple regulatory filings, exposing the company to legal and reputational risks. (45d-076.9)

[5] Various air districts have reporting deadlines that begin in March and run through May 1.
[6] Sulfur hexafluoride emissions calculations reported to CARB under subpart DD slightly differ from those submitted to the USEPA. For purposes of SB 253 GHG reporting, Edison will rely on CARB reported emissions to ensure internal consistency between California disclosures.
[7] Various fleet regulations have reporting deadlines that begin in January and run through June 30.
[8] Final RPS adjustments deadline. Initial data submitted to CARB on April 10 for electric generating facilities and June 2 for power entities.
[9] The current Power Source Disclosure regulation can be found here: https://efiling.energy.ca.gov/GetDocument.aspx?tn=264974&DocumentContentId=101752
[10] SCE's 2024 Power Content Label can be found here: https://www.energy.ca.gov/filebrowser/download/9168

Comment: Third-party assurance requires an additional 90 days after GHG emission inventory development is complete

Typical GHG emissions reporting and assurance timeline

Edison International recognizes the importance of true, complete, and accurate GHG disclosures and has voluntarily reported GHG emissions in its annual Sustainability Report (SR) since 2012,[11] with reasonable assurance for Scopes 1 and 2 and limited assurance for Scope 3 GHG emissions since 2020. The SR is typically published at the end of May, using the best available data at that time. Additional or revised source data is then incorporated to update GHG emissions estimates, which are voluntarily submitted to The Climate Registry (TCR) by August 1 to begin third-party assurance against relevant TCR protocols.[12] It is Edison International's experience that the assurance process requires approximately 90 days, inclusive of field visits, multiple data review cycles, and time to correct any findings. The assurance process is typically completed by the year's end or the first quarter of the following year, with any corrections reflected in the next SR publication.

This timeline is driven in part by SCE's Power Source Disclosure filing, due June 1, after which it takes the company at least three weeks to process the data and identify the appropriate GHG emissions factors which update annually based on site-specific information. A fully assured inventory is generally not available until early October at the earliest. However, delays outside of the company's control can impact this timeline. For example, in 2025, delays with the Renewable Energy Certificate (REC) tracking system[13] and changes to the PSD reporting template delayed reporting, pushing the earliest potential completion of a fully assured inventory to early November.[14]

Third-party assurance is necessary to mitigate legal and reputational risks

The draft August 10, 2026 deadline would require Edison International to publicly report Scope 2 GHG emissions as part of a compliance submission before third-party assurance

can be completed. SB 253 filings will be subject to a heightened level of public scrutiny and elevated legal and reputational exposure compared to existing voluntary disclosures. While CARB has provided enforcement discretion for the first reporting year, Edison International believes it is necessary to complete third-party assurance to ensure that SB 253 disclosures are true, complete, and accurate. This is aligned with California Health and Safety Code Section 38532(c)(2)(A)(vi), which requires CARB consideration of the "timelines by which reporting entities typically receive scope 1, scope 2, and scope 3 emissions data, as well as the capacity for an independent third-party engagement to be performed by a third-party assurance provider." (45d-076.10)

[11] The most recent Sustainability Report and links to past reports can be found on this webpage: https://www.edison.com/sustainability/sustainability-report

[12] Edison International obtains third-party verification in accordance with The Climate Registry's (TCR) General and Electric Sector protocols. These protocols are fully aligned with the WRI GHG Protocol, while also providing additional and specific guidance for electric utility sector operations not explicitly outlined in the WRI Protocol. The relevant TCR protocols can be found here: https://theclimateregistry.org/registries-resources/protocols/

[13] RECs are tracked via a web-based system, the Western Renewable Energy Generation Information System or WREGIS, which is a division of Western Electricity Coordinating Council (WECC). The CEC coordinates with WECC to reconciliate REC data. Issues with the WREGIS system delayed utility access to 2024 REC data needed for PSD submissions.

[14] Due to the PSD reporting delay and other company considerations, third-party assurance is currently ongoing for the 2025 emissions inventory year.

Comment: Recommend reporting window between August 10 and December 31

To align SB 253 reporting with other California compliance timelines and ensure sufficient time for true, complete, and accurate data and to complete third-party assurance, Edison International recommends that CARB establish a reporting window between August 10, 2026 and December 31, 2026. This approach would (1) reflect CARB's statutory obligation to consider stakeholder input and the timing by which reporting entities receive GHG emissions data, and (2) provide for adequate time for companies to provide true, complete, and accurate reporting through third-party assurance from reputable providers.

A broader reporting window would also help mitigate potential delays resulting from growing demand for assurance and the limited availability of providers with the sophistication and resources needed to provide high quality assurance services. Maintaining this window for future reporting years would ensure reporting entities have the necessary time to meet assurance requirements when CARB enforcement discretion is no longer applicable. (45d-076.11)

Comment: Alternatively, clarify that the December 5, 2024 enforcement notice allows companies to submit 2024 fiscal year Scope 1 and Scope 2 emissions.

As an alternative to extending the reporting window, Edison International recommends that CARB clarify their enforcement discretion allows companies with a December 31, 2025 fiscal-year end to submit 2024 fiscal-year emissions by the August 10, 2026 reporting deadline. This clarification would ensure companies are not forced to choose between submitting 2025

fiscal-year data and mitigating legal and reputational risks. It would also align with the intent and language of the December 5, 2024 enforcement notice, which allows for use of "…information the reporting entity already possesses or is already collecting at the time this Notice was issued". (45d-076.12)

Comment: The Class of '85 cautions CARB against the proposed August 10, 2026, implementation date. Regulatory compliance requires certainty regarding the specific reporting requirements with sufficient lead time. Without clarity on fundamental aspects—such as precise reporting and data assurance requirements—regulated entities may be unable to adequately prepare compliant reports. A more reasonable approach would be to set the reporting deadline at the end of the calendar year. (45d-078.17)

Comment: We encourage CARB to set forth SB 253 GHG reporting deadlines that allow companies like Edison International to submit complete, accurate, and third-party verified inventories. Our full inventory can be verified each year no earlier than late October. (BHT-002.4)

Comment: Recommendation #4:

Adjust the Initial Reporting Deadline to October 31, 2026

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.
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. (BH-004.6)

Comment: Second, we'd ask for a change to the initial reporting deadline from August 10th to December 31st to give reporting entities under the Climate Disclosure Rules a minimum 12

months from the end of their fiscal years to complete data collection, internal validation, and third-party assurance. And these are very complex reports, where data lags or situations like mergers and acquisitions can delay reporting.

Although assurance is not required for this year's reporting, publicly traded companies will be very reluctant to release any investor-facing information, which these reports are, without having undergone third-party verification.

As a substitute possibly for the 12-31 reporting deadline, we'd ask that the agency consider enforcement flexibility for this first year for companies who face delays in data collection or assurance, but are willing to report to the agency and pay fees on time.

So in other words as flexibility is already being provided for entities who are not collecting data, we'd ask that similar flexibilities provided for covered entities, who want to provide CARB the most accurate and third-party assured data possible. This flexibility will be critical now and into the future as these rules and similar rules in other states create bottlenecks for assurance services. (BHT-006.2)

Comment: While we appreciate CARB's attempt to align SB 253 reporting with the MRR, the proposed deadline does not create true efficiency as the reported different timelines of data. We support a rolling reporting window tied to a fiscal entity's year, which would reduce confusion and relieve pressure on the already limited pool of third-party assurance providers. (BHT-009.2)

Comment: Second, the proposed August 10th reporting deadline creates an artificial bottleneck. Agricultural businesses operate on diverse fiscal years and often depend on third-party data across complex supply chains. As Scope 2 and Scope 3 requirements expand later in the regulatory process, flexibility will be essential. A rolling deadline or a December 31st submission date would provide more realistic compliance timelines while preserving accountability. (BHT-015.5)

Comment: And the last point is the deadline reporting we strongly support the delay of the deadline to December 31st. (BHT-017.6)

Comment: The principal concern of our clients is that they do not have internal greenhouse gas quantification and reporting systems in place and they are concerned about being able to submit anything of value in terms of Scope 1 and 2 emissions by August 10th. (BHT-018.1)

Comment: And finally, echoing some of the previous comments from today, ACA would recommend that CARB extend its currently proposed reporting deadline under SB 253 from August to December 31st, 2026 at the earliest. (BHT-021.4)

Comment: Additionally, on reporting deadline flexibility, the proposed August 10th deadline will create capacity constraints and inflated costs as thousands of companies simultaneously compete for a limited pool of qualified assurance providers. So we recommend either a rolling deadline based on fiscal year-end or a unified December 31 deadline to better align with actual data collection cycles. (BHT-040.2)

Agency Response: No changes were made in response to these comments. The August 10, 2026 deadline was established to ensure that all reporting entities have at least six months from the close of their fiscal year to prepare and submit first-year reports, consistent with section 96076 of this Regulation. The proposed February 1 fiscal year-end cutoff supports this minimum preparation window across entities with varying fiscal year structures.

CARB respectfully disagrees that a rolling deadline tied to individual fiscal year-end dates would better serve the program. A rolling deadline would require CARB to individually track submission obligations for each reporting entity throughout the year and would prevent the publication of a complete annual dataset, which is necessary to fulfill the public transparency objectives of Health and Safety Code section 38532.

To support first-year implementation, CARB issued an Enforcement Notice in December 2024 establishing that reporting entities may submit Scope 1 and Scope 2 emissions based on information they already had or were collecting at the time the Notice was issued, whether or not that data received limited assurance. Consistent with CARB's existing enforcement authority, CARB has stated it will exercise enforcement discretion for good-faith efforts to comply with the 2026 reporting cycle.

Scope 3 emissions, assurance requirements, and reporting deadlines for 2027 and beyond are outside the scope of this Regulation, which establishes fees, timelines, and definitions for the first reporting cycle. CARB anticipates addressing those issues in an upcoming rulemaking.

H-3 Multiple Comments: Floating Retail Fiscal Years

Comment: Further, many companies, particularly retail companies, do not have a fixed fiscal year-end date but rather have a formula-driven fiscal year-end (e.g., Saturday or Sunday closest to January 31). Under the Proposed Regulation, these companies would fall into different reporting categories in different years under § 96076(b). This creates unpredictability for both companies and CARB, and will result in arbitrary gaps in the data made available to the public. (45d-018.3)

Comment: Not all companies set a particular date for their fiscal year-end. Instead, many companies establish their fiscal year-end based on a formula, such as the Saturday or Sunday closest to a particular date in December or January. This is a common practice for retailers, which commonly use fiscal year ends that allow them to capture sales from the busy holiday season at the end of each calendar year.

Based on publicly available research, a meaningful number of companies establish fiscal year-ends using formula-based conventions rather than a fixed calendar date. An empirical analysis published in The CPA Journal found that approximately 8.5% of publicly traded companies used a 52/53-week (weekday-based) fiscal year in 2017, a structure under which the fiscal year ends on a specified weekday nearest to a particular month-end rather than on

a fixed date.[12] Applied to the current population of Form 10-K filers, this suggests that several hundred public companies use formula-based fiscal year-ends. In addition, private companies are also permitted to elect such fiscal year-end conventions under applicable tax rules; however, no comprehensive public data exist to estimate the prevalence of these practices among private firms. Accordingly, the total number of affected entities is likely materially higher than the public-company estimate alone.

If the bifurcated reporting year approach in the Proposed Regulation is adopted for years beyond 2026, this group of companies would have a fiscal year-end that periodically falls in and out of the January 1 to February 1 time period. This shifting will create practical challenges for CARB and reporting companies, as illustrated in the following table for a company whose fiscal year ends on the Saturday closest to January 31.

§ 38532 Reporting Year	*Company's Fiscal Year End Date*	*Company's Required Reporting Period*
2026	1/31	FY ending in 2026
2027	1/30	FY ending in 2027
2028	1/29	FY ending in 2028
2029	2/3	FY ending in 2028
2030	2/2	FY ending in 2029

In 2028 and 2029, this company would be required to duplicate reporting for the same fiscal year, which is inconsistent with CARB's statutory mandate under § 38532. In addition, this company would have only six months after fiscal year-end to prepare reporting in each of 2026 to 2028, their first three years of reporting to CARB, but would have 18 months to do so in the next two years.

A company whose fiscal year ends the Monday closest to January 31 would be required to report for the fiscal year ending in 2025 this year, but would need to report for the fiscal year ending in 2027 in 2027. This company would have 18 months after fiscal year-end to prepare reporting 2026, but would only have six months in 2027. In addition, CARB would not receive data for this company for the fiscal year ending in 2026.

As these examples show, the practical reality under the proposed § 96076 framework is one with arbitrary outcomes from company to company, and from year to year. Not only would adopting § 96076 as currently proposed reduce predictability for CARB and the companies, it would also create periods in which companies either would submit duplicative data or would not submit data at all because the data was previously submitted. In contrast, our recommended approach would promote both the timing and accessibility statutory principles described above. Allowing companies to report their GHG emissions for their fiscal year ending in the previous calendar year would facilitate companies' regular reporting cadence, which is consistent with CARB's statutory mandate to "take into account the timelines by which reporting entities typically receive Scope 1 emissions, Scope 2 emissions, and Scope 3 emissions data, as well as the capacity for an independent assurance engagement to be performed by a third-party assurance provider." By allowing companies to report on a

timeline that is both feasible for the company and more consistent with current market practice (including voluntary submissions to organizations such as CDP as further discussed below), our recommended approach would also help CARB meet the second statutory principle of ensuring reporting that “maximizes access for consumers, investors and other stakeholders to comprehensive and detailed greenhouse gas emissions data across Scope 1 emissions, Scope 2 emissions, and Scope 3 emissions” in a comparable and accessible manner.

Conclusion: The bifurcated framework currently proposed under Proposed Regulation § 96076 is inconsistent with statutory mandates, disparately impacts certain companies based solely on the date of their fiscal year-end and will create arbitrary outcomes for companies, CARB, and the public. Permitting companies to report their GHG emissions for their fiscal year ending in the previous calendar year would promote CARB’s statutory mandates. (45d-018.10)

[12] The CPA Journal, How Long is a Year?, March 2022, available at https://www.cpajournal.com/2022/03/16/howlong-is-a-year/.

Comment: We believe the August 10 reporting deadline is inconsistent with the more typical reporting dates of the 15th or 31st of the month and it is unclear what the regular reporting deadline will be in future years. While we understand the potential rationale to align reporting for entities with non-calendar fiscal years, we recommend that the Staff clarify what the regular reporting deadline will be in future years and align such deadlines with a more typical reporting date of the 15th or 31st of the month.

In addition, we believe guidance on how to handle entities with a 5-4-4 accounting period, which results in different fiscal years having different period-end dates, would be beneficial, as this may cause an issue where the fiscal year end may be February 2 one year and January 31 the following year. According to the draft regulations, entities would have a year with no report due and a year with two reports due. We suggest considering "fiscal periods beginning after January 15." This is consistent with how accounting and auditing standards avoid the issue when a 5-4-4 accounting period is used. (45d-027.19)

Comment: 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. (BH-006.1)

> **Agency Response:** No changes were made in response to these comments. The Regulation addresses first-year (2026) reporting timing in section 96076, which establishes a February 1 fiscal year-end cutoff and ensures all entities have a minimum of six months from their fiscal year close to prepare and submit reports. The deadline allows adequate time for 2026 reporting, including given that the proposed August 10 deadline has been publicly known since CARB's November 2025 public workshop. CARB will consider potential adjustments to reporting deadlines as appropriate for 2027 and beyond in an upcoming rulemaking.

H-4 Unique Comment: Mergers and Acquisitions

Comment: Additionally, CWA recommends CARB consider how reporting timelines are applied in the event of a merger or acquisition. In the event of a merger or acquisition, reporting should be limited to forward looking data only; in other words, a company should not be responsible for collecting and reporting data for a predecessor company or for a period of time prior to an acquisition. Reporting timelines should consider when a company has merged, allowing for a grace period to collect and report pertinent and relevant data. (45d-063.6)

> **Agency Response:** No changes were made in response to this comment. This comment is beyond the scope of the Regulation which sets definitions, defines a fee structure, and sets a first-year deadline for Scope 1 and Scope 2 GHG emissions reporting only. Eligibility criteria are defined by the Regulation and by Health and Safety Code sections 38532 and 38533, and are clearly stated in other provisions of the Regulation.
>
> For the first-year reports due in 2026, consistent with the December 2024 Enforcement Notice, reporting entities may submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued. Entities may continue to use their respective methodologies to measure and report emissions fluctuations due to mergers and acquisitions.

I. Enforcement

I-1 Unique Comment: Support Good Faith Standard

Comment: Maintain "Good Faith" Provisions for Companies Responsible for Disclosure CARB's proposed regulation is to be commended for its general clarity. The proposed text clearly identifies the fee structure, associated penalties, and the enforcement mechanism to address noncompliance. Further, as "[e]ach potentially-regulated entity remains responsible for compliance with statutory requirements"[5], it is appreciated that "CARB will exercise enforcement discretion for the first reporting cycle, on the condition that entities demonstrate good faith efforts to comply with the requirements of the law."[6] While AISI appreciates that CARB will recognize "good faith" efforts during the first reporting year, AISI believes that extension of this "good faith" standard in subsequent years would reflect the complicated nature of this regulation and the challenges associated with both implementation and compliance. (45d-050.1)

[5] California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Programs: Frequently Asked Questions About Regulatory Development and Initial Reports (CARB FAQs), CALIFORNIA AIR RESOURCES BOARD https://ww2.arb.ca.gov/sites/default/files/classic/FAQs%20Regarding%20California%20Climate%20Disclosure%20Requirements_Nov.pdf

[6] The Climate Corporate Data Accountability Act ENFORCEMENT NOTICE December 5, 2024, CALIFORNIA AIR RESOURCES BOARD https://ww2.arb.ca.gov/sites/default/files/2024-12/The%20Climate%20Corporate%20Data%20Accountability%20Act%20Enforcement%20Notice%20Dec%202024.pdf

Agency Response: No changes were made in response to this comment. CARB acknowledges the support for the program's "good faith" enforcement consideration. As noted in CARB's December 2024 Enforcement Notice and FAQ document, the enforcement discretion discussed in those documents pertains to first year (2026) reporting specifically, although a violator's "good faith" compliance actions are also an enforcement consideration for the climate reporting programs generally. (See Health and Safety Code sections 38532(f)(2)(A)(ii) and 38533(f)(2)(B).)

I-2 Multiple Comments: Disapprove Good Faith Standard

Comment: While mentioned in previous workshops, the initial regulation remains unclear regarding how reporting entities will be treated if they make good-faith efforts to submit complete Scope 1 and 2 emissions reports but are unable to fully comply with the voluntary framework provided by CARB. (45d-005.1)

Comment: Each day during any portion of which a violation occurs is considered a separate offense, potentially resulting in surmounting penalties. In addition, failure to pay the full amount of any fee required constitutes a single, separate violation for each day without payment. With this structure, disputes over regulated status, such as whether a firm truly "does business" in California, could expose operators to per-day penalties while their applicability remains uncertain. To ensure entities are not penalized for circumstances

beyond their control, such as delayed regulation guidance, we ask that CARB establish good-faith compliance protections. (45d-009.10)

Comment: Specifically, the "good faith" compliance standard articulated in CARB's December 2024 Enforcement Notice (“Enforcement Notice”) and the Proposed Regulation’s Initial Statement of Reasons (“ISOR”) creates a vague compliance framework. The Proposed Regulation compounds these problems by failing to clarify essential aspects of compliance, including fee obligations for non-reporting entities, the scope of "good faith" efforts, and corporate structure determinations.

Neste therefore urges CARB to consider pausing implementation of the first-year reporting deadline until comprehensive reporting guidance and regulations are developed or until ongoing litigation challenging the constitutionality of the statute is resolved, whichever is later. Such a pause would allow CARB to establish a fair, predictable, and legally sound compliance framework that achieves the statute's goals. Neste also encourages CARB to establish a workgroup composed of reporting entities to ensure a smooth implementation of SB 253 reporting. (45d-010.2)

Comment: A: The "Good Faith" Standard Lacks Necessary Specificity and Will Result in Unequal Treatment

The Enforcement Notice states that "CARB will exercise enforcement discretion for the first report due in 2026, on the condition that entities demonstrate good faith efforts to comply with the requirements of the law." The ISOR similarly explains that "CARB has indicated that it will exercise enforcement discretion for the first report due in 2026, allowing reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued. Entities that were not collecting data or were not planning to collect data, at the time the Enforcement Notice was issued, are not expected to submit Scope 1 and Scope 2 reporting data for this first reporting cycle."

…

First, "good faith" is inherently subjective and will mean different things to different entities. Some companies will interpret this standard to require comprehensive data collection efforts across all operations, incurring substantial costs for data systems, consultants, and internal resources. Other companies will take a minimalist approach, providing only readily available data with limited verification. Without clear metrics or benchmarks, similarly situated companies will make vastly different compliance investments, creating competitive disparities and undermining the goal of comparable disclosure.

Second, regulated entities have no assurance against arbitrary future enforcement. While CARB characterizes this as "enforcement discretion," entities face significant legal and financial risk if CARB later determines their good faith efforts were insufficient. The Enforcement Notice provides no criteria for evaluating good faith, no safe harbors, and no examples of what would constitute adequate compliance. Entities making good faith compliance decisions in 2026 could face penalties years later when CARB retroactively

applies different standards. This uncertainty defeats the purpose of the enforcement discretion.

Third, and most critically, there is a direct contradiction between the Enforcement Notice and the ISOR regarding who must comply. The Enforcement Notice states that CARB "will exercise enforcement discretion for the first reporting cycle, on the condition that entities demonstrate good faith efforts to retain all data relevant to emissions reporting for the entity's prior fiscal year." This language suggests all reporting entities must make good faith efforts to collect and retain relevant data for their prior fiscal year—defined in Proposed Section 96076 as fiscal year 2024-25 or 2025-26 depending on when the fiscal year ends.

However, the ISOR introduces an entirely different standard, stating: "Entities that were not collecting data or were not planning to collect data, at the time the Enforcement Notice was issued, are not expected to submit Scope 1 and Scope 2 reporting data for this first reporting cycle." The ISOR repeats this formulation multiple times, making clear that entities not collecting data as of December 5, 2024—more than 20 months before the August 10, 2026 reporting deadline—have no compliance obligation whatsoever in the first reporting year, even though the Enforcement Notice had already put them on notice that they should begin undertaking good faith efforts at the time. (45d-010.3)

Comment: If the Proposed Regulation goes forward, CARB must clarify that good faith enforcement discretion extends to all aspects of first-year reporting, including:

- Determinations of which entities meet the "reporting entity" definition;
- Analysis of parent-subsidiary relationships and organizational boundaries;
- Interpretation of "doing business in California" requirements; and
- Decisions regarding inclusion or exclusion of specific operations or affiliates.

Without such clarity, the vague good faith standard creates liability exposure that will force entities to make overly conservative (and costly) boundary determinations or face potential enforcement risk for reasonable interpretations. (45d-010.9)

Comment: 2. Enforcement discretion and first-year clarity: we support CARB’s intent to exercise enforcement discretion in 2026, though the current guidance would benefit from greater clarity.

As framed today, expectations risk being uneven: companies that began preparing early appear more clearly obligated to submit, while those that delayed may effectively face no expectations in year one. Similarly, it remains unclear whether assurance is optional for all, or expected if received before, creating uneven reporting obligations. We encourage CARB to provide clear, written guidance on:

- What constitutes a good-faith submission in 2026;
- Whether assurance is optional for all companies; and
- How expectations will be applied consistently across reporting entities. (45d-014.4)

Comment: Alternatively, clarify that the December 5, 2024 enforcement notice allows companies to submit 2024 fiscal-year Scope 1 and Scope 2 emissions by the August 10, 2026 deadline as part of good faith efforts to comply with the requirements of the law; (45d-076.3)

Comment: Edison International appreciates CARB's enforcement discretion for the first reporting year[4], which is intended to ensure companies are not penalized if they demonstrate "good faith efforts" to comply with the requirements of the law for the first reporting cycle. However, this flexibility does not eliminate the legal and reputation risks associated with inaccurate public disclosures in regulatory filings that may require restatements or revisions. (45d-076.6)

[4] December 5, 2024 Enforcement Notice reference: https://ww2.arb.ca.gov/sites/default/files/2024-12/The%20Climate%20Corporate%20Data%20Accountability%20Act%20Enforcement%20Notice%20Dec%202024.pdf

Comment: Greater clarity on the good faith option will help regulated entities align their legal, commercial, and operational obligations responsibly. (BHT-041.2)

Agency Response: No changes were made in response to these comments. A definition of "good faith" is unnecessary and would potentially contradict the purpose of that term, which is to recognize a range of circumstances when considering potential enforcement. The term "good faith" is a commonly understood – and, by its nature, flexible – concept. (See, e.g., "Good faith," Black's Law Dictionary (12th ed. 2024).) As the California Supreme Court has noted, "formulation of a precise definition of good faith is neither possible nor practicable." (*Tech-Bilt, Inc. v. Woodward-Clyde & Assocs.* (1985) 38 Cal. 3d 488, 495.) It is appropriately used in the context of the December 2024 Enforcement Notice and CARB's FAQ document to represent actions taken toward full compliance with the Regulation, without obfuscation or intentional delay, as described further in the Notice and FAQ.

Concurrent with CARB's existing enforcement policy, CARB has stated that it will exercise enforcement discretion for the first-year reports due in 2026. Additional assurances or provisions regarding future enforcement are unnecessary at this time. As stated in the December 2024 Enforcement Notice and the Staff Report, reporting entities may submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued, whether or not the data received limited assurance. First-year reporting expectations are based on whether an entity was collecting or planning to collect emissions data at the time the Notice was issued.

The enforcement discretion approach set forth in the 2024 Enforcement Notice and FAQ applies only to first-year emissions reporting and does not extend to other aspects of the Regulation, such as determinations of applicability. CARB has conducted an extensive public process and provided sufficient guidance and

resources to support entities in determining applicability and other compliance obligations, and applicability determinations are essential to program implementation.

As discussed in the enforcement guidance CARB has issued, for the first-year reports due in 2026, entities should submit a Scope 1 and Scope 2 emissions report for either fiscal year 2024–2025 or 2025–2026, based on their fiscal year end, as described in section 96076. The Scope 1 and Scope 2 reporting template published by CARB in October 2025 is optional and is intended as a resource to assist entities in organizing and reporting emissions data. Entities that choose to use this voluntary template may submit the information available at the time of reporting, even if all requested data are not available.

CARB will not delay implementation of 2026 reporting, as a 2026 deadline for Scope 1 and Scope 2 emissions is established by Health and Safety Code section 38532. CARB recognizes that entities are at different stages of readiness and will continue to support a smooth phase-in and good-faith compliance during the initial implementation period, as specified in CARB's guidance documents discussed above.

I-3 Multiple Comments: Suggest Safe Harbor Clause

Comment: Further, CARB should provide a safe harbor and affirmatively grant enforcement discretion for good faith efforts to comply and to provide a clear pathway for reporting entities to identify errors that are subsequently corrected without penalty, especially for the first five years as entities become familiar with the process. (45d-011.3)

Comment: CARB should establish a codified safe harbor to protect good-faith compliance efforts. (45d-047.7)

Comment: In addition, CCEEB recommends adding a safe harbor from penalties for the nonpayment of program fees while an entity is performing a good-faith applicability analysis. (45d-056.24)

Comment: Clearly articulate enforcement discretion and safe harbors for entities that make good-faith efforts using the best available data. (45d-061.5)

Comment: To alleviate the burdens associated with these risks, CMTA strongly encourages CARB to:

- Include a safe harbor for reasonable estimates of emissions where an entity makes reasonable efforts to obtain accurate data, uses appropriate estimation techniques where direct data is not obtainable, and transparently discloses the use of estimates and associated uncertainty. (45d-061.13)

Comment: CWA recommends that CARB establish a right to cure period for first-time or non-material violations. Given the complexity of the disclosure obligations under SB 253 and SB 261, the proposed regulations should include clear and enforceable safe harbors to protect good-faith actors and to avoid penalizing entities for circumstances beyond their reasonable

control. Safe harbors are particularly appropriate where compliance depends on third-party data, evolving methodologies, and professional judgment rather than bright-line conduct. (45d-063.13)

Comment: VIII. Implementation Would Benefit from Clear, Codified Safe Harbors

Given the novelty, scale, and complexity of the disclosure obligations under SB 253 and SB 261, the proposed regulations should include clear and enforceable safe harbors to protect good-faith actors and to avoid penalizing entities for circumstances beyond their reasonable control. Safe harbors are particularly appropriate where compliance depends on third-party data, evolving methodologies, and professional judgment rather than bright-line conduct.

Well-designed safe harbors do not undermine the integrity of the program. To the contrary, they promote more accurate reporting and encourage early and transparent engagement with CARB. Without such protections, the program risks punishing good-faith actors with unnecessary enforcement actions. (45d-069.21)

Comment: Safe Harbor for Good-Faith Use of Accepted Methodologies and Standards

The regulations should provide a safe harbor for entities that calculate and disclose emissions and climate-related financial risk using recognized, widely accepted methodologies employed to satisfy other national and international reporting requirements, including accepted versions of the GHG Protocol and other referenced frameworks. To preserve flexibility and minimize unnecessary duplication, CARB should avoid requiring the use of prescriptive reporting templates or mandating adherence to a single methodology where multiple credible standards are already in widespread use.

Where an entity can demonstrate that it relied in good faith on CARB-approved or widely accepted methodologies, applied those methodologies consistently, and documented its assumptions and calculation methods, the entity should not be subject to penalties solely because CARB later revises its interpretive guidance or adopts updated standards or reporting formats. This protection is particularly important given the accepted versions of the GHG protocol at the time the laws were passed, the likelihood of future changes to Scope 2 accounting rules, the anticipated expansion to Scope 3 disclosures, and the use of differing global warming potential values across regulatory regimes.

A safe harbor of this kind is also consistent with the statutory directive to minimize duplication of effort by allowing reporting and covered entities to rely on disclosures prepared for other jurisdictions. That objective would be undermined by rigid templates or inflexible standard-setting that forces entities to re-map, re-calculate, or re-format substantively equivalent information solely to satisfy California-specific presentation requirements.

A. Safe Harbor for Reasonable Estimates and Data Gaps Outside the Entity's Control

Especially for Scope 2 and Scope 3 emissions and climate-related financial risk disclosures, reporting entities will often be required to rely on estimates, proxy data, and information provided by third parties across complex value chains. The regulations should include a safe

harbor for reasonable estimates where primary data are unavailable despite good-faith efforts to obtain them.

That safe harbor should apply where an entity makes reasonable efforts to obtain accurate data, uses appropriate estimation techniques where direct data are unavailable or difficult to obtain, and transparently discloses the use of estimates and associated uncertainty. The regulations should also exempt information that may be prohibited from disclosure under applicable law, due to external confidentiality restrictions or obligations, or on national security grounds.

Critically, reporting entities should not be subject to penalties for inaccuracies that are attributable to incomplete, inconsistent, or unreliable third-party data, or to reasonable estimates derived from such data, where the entity does not control the underlying information and has complied with the applicable disclosure and documentation requirements. (45d-069.22)

Comment: Safe Harbor for Early-Year Reporting

The initial reporting years under SB 253 and SB 261 will involve significant learning curves for both reporting entities and regulators. The regulations should include an explicit safe harbor, beyond the one year flexibility provided by guidance for 2026, for early-year reporting errors that are promptly corrected upon identification. A limited, time-bound safe harbor would recognize the complexity of initial implementation and encourage transparency rather than discouraging disclosure out of fear of penalties.

Additionally, CARB has provided several enforcement notices and guidance documents. CARB should expressly include a safe harbor that prevents reporting and covered entities from being penalized for following such enforcement notice and guidance documents. (45d-069.23)

Comment: We therefore recommend that CARB establish a safe harbor for fee payment that allows additional time for good-faith review and dispute resolution. The regulations should: (1) extend the initial fee payment deadline to at least 120 days from the date of invoicing or notice of assessment; (2) provide an automatic safe harbor from penalties where a covered entity is engaged in a good-faith review or challenge of its covered-entity status or fee calculation; (3) suspend accrual of penalties during the pendency of a timely, good-faith dispute or clarification request; and (4) allow entities to remit payment without penalty upon resolution of the dispute within a reasonable period.

Extending the payment window and incorporating a safe harbor would not impede CARB’s ability to administer the program or collect fees. Instead, it would reduce unnecessary disputes, prevent inadvertent noncompliance, and align the fee collection process with the disclosure-oriented nature of SB 253 and SB 261. A more flexible approach would also improve fairness and compliance outcomes while reducing the likelihood of avoidable enforcement actions. (45d-069.25)

Comment: Finally, CARB should add codified safe harbors for good-faith compliance (including a longer fee payment window and tolling during good-faith disputes). (45d-069.30)

> **Agency Response:** No changes were made in response to these comments. CARB has stated that it will exercise enforcement discretion for the first-year reports due in 2026, and therefore additional codified safe harbors or separate assurances for good faith compliance are unnecessary. CARB recognizes that entities are at different stages of readiness and will continue to support a smooth phase-in and good-faith compliance during the initial implementation period.
>
> Regarding the flexibility granted in the December 2024 Enforcement Notice, please refer to Agency Response H-2. Scope 3 emissions are out of scope and are not addressed in this Regulation. Reporting requirements for 2027 and beyond will be considered in an upcoming rulemaking.
>
> CARB further clarifies that enforcement discretion is limited to first-year emissions reporting and does not extend to other requirements, including fee payment obligations. While CARB recognizes that entities may need time to complete internal review and payment processing, the 60-day payment period is consistent with the AB 32 Cost of Implementation Regulation and provides a reasonable timeframe for remittance upon receipt of a fee notice.

I-4 Multiple Comments: Suggest Graduated Penalties and Mitigation Factors

Comment: The proposed enforcement and penalty provisions should be revised to be more proportional, fair, and durable, as outlined by CalChamber. (45d-047.5)

Comment: The proposed enforcement and penalty framework raises serious concerns regarding proportionality, due process, and consistency with CARB's delegated authority. As drafted, the provisions expose regulated entities to excessive and unpredictable liability for technical or administrative violations, even in the absence of harm, intent, or repeated noncompliance.

The proposed enforcement provisions do not meaningfully distinguish between: willful misconduct and good-faith error, material violations and minor technical deficiencies, or first-time and repeat violations.

Absent clear mitigation standards, regulated entities face the same penalty exposure whether a violation results from intentional noncompliance or from reasonable disagreement, evolving guidance, or administrative oversight. This lack of differentiation discourages cooperative engagement with CARB, particularly during the early years of a complex, first-of-its-kind reporting regime.

Effective enforcement frameworks typically incorporate graduated penalties, safe harbors, cure periods, and explicit mitigation factors. The absence of these features here increases the risk of arbitrary outcomes and inconsistent enforcement. (45d-063.12)

Comment: Penalties Are Not Meaningfully Tied to Intent, Materiality, or Good-Faith Compliance

The proposed enforcement provisions do not meaningfully distinguish between willful misconduct and good-faith error, material violations and minor technical deficiencies, or first-time and repeat violations.

Absent clear mitigation standards, regulated entities face the same penalty exposure whether a violation results from intentional noncompliance or from reasonable disagreement, evolving guidance, or administrative oversight. This lack of differentiation discourages cooperative engagement with CARB, particularly during the early years of a complex, first-of-its-kind reporting regime. CARB's focus should be on helping entities come into compliance. Effective enforcement frameworks typically incorporate graduated penalties, safe harbors, cure periods, and explicit mitigation factors. The absence of these features here increases the risk of arbitrary outcomes and inconsistent enforcement. (45d-069.11)

Comment: We recommend that CARB revise the enforcement and penalty provisions to:

- Establish explicit cure periods for first-time or non-material violations;
- Incorporate mitigation factors that account for good-faith efforts, reliance on guidance, and prompt corrective action;
- Define clear limits or ranges for late fees and penalties to reduce uncertainty; and
- Align enforcement severity with actual harm, intent, and materiality.

These changes would reduce the risk of unintended or inequitable consequences. (45d-069.14)

Comment: The proposed daily compounding penalties are excessive particularly for technical or first timer errors. We urge CARB to adopt proportional one-time penalties, clear cure periods and distinctions between minor errors and intentional misconduct. (BHT-009.5)

Comment: Finally, enforcement should reflect the disclosure-based nature of these statutes. Clear cure periods, mitigation factors for good faith compliance, and codified safe harbors, particularly for early reporting years, will improve data quality and encourage compliance. (BHT-015.7)

Comment: And on enforcement, the enforcement provisions fail to distinguish between wilfulness conduct and good faith error, and first-time and repeat violations. So we really encourage CARB to incorporate graduated penalties, safe harbors, cure periods to ensure equitable enforcement. (BHT-040.4)

> **Agency Response:** No changes were made in response to these comments. The enforcement provisions included in this rulemaking are limited to the Regulation's scope and are designed to rely on CARB's existing, well-established enforcement authority, which inherently allows for discretion, proportionality, and case-by-case evaluation. By carefully following existing, well-established enforcement practices, CARB will help support compliance ensure that enforcement actions consider case-

specific factors regarding any noncompliance. CARB notes that the statute itself sets forth key circumstances relevant to enforcement, including whether the violator took good faith measures to comply with the statute. (See Health and Safety Code sections 38532(f)(2) and 38533(f)(2).) The additional inclusion of enforcement frameworks such as graduated penalties and explicit mitigation factors, beyond those already set forth in California statutes and in the Regulation, is unnecessary at this stage.

For a response to comments regarding the claimed lack of a "safe harbor" protection, please refer to Agency Response I-3.

I-5 Multiple Comments: Codify Enforcement Discretion

Comment: Additionally, CARB has indicated a "give us whatever you have" approach for the first compliance year, but the initial regulation does not explicitly clarify this. (45d-005.4)

Comment: In the final regulatory text, explicitly state the exemptions from § 38532 obligations provided under prior CARB guidance for (a) companies that were not collecting data or planning to collect data at the time the December 2024 Enforcement Notice was issued, (b) insurance companies, and (c) assurance requirements in 2026. Provide Greater Certainty for Companies Intending to Rely on CARB's Guidance. (45d-018.24)

Comment: The stated exemptions from applicability in the Proposed Regulation at § 96071 do not include the exemption proposed during the November 18, 2025, workshop[37] for companies that were not collecting data or planning to collect data at the time the December 2024 Enforcement Notice[38] was issued, and as set forth in the "Staff Report: Initial Statement of Reasons" (hereinafter, "Staff Report") accompanying the Proposed Regulation.[39] We recommend including the following or similar language in the Proposed Regulation:

"Reporting entities that were not collecting GHG emissions data or were not planning to collect GHG emissions data at the time that The Climate Corporate Data Accountability Act Enforcement Notice (Enforcement Notice) was issued (i.e., December 5, 2024) are not expected or required to submit Scope 1 and Scope 2 reporting data in 2026. Any such reporting entity that does not submit Scope 1 and Scope 2 reporting data on or before the first year reporting deadline (as set forth in § 96076) must submit a statement on entity letterhead to CARB, stating that the entity did not and will not submit a report in 2026 disclosing the entity's Scope 1 and Scope 2 emissions, and stating that, in accordance with the Enforcement Notice, the entity was not collecting Scope 1 and Scope 2 greenhouse gas emissions data or planning to collect such data at the time the Notice was issued."

The foregoing is consistent with the Staff Report, which provides:

"To support initial implementation and reduce uncertainty, CARB issued an Enforcement Notice in December 2024. In this Enforcement Notice, CARB recognized that some reporting entities may require lead time to develop or refine their data collection processes to ensure complete and accurate reporting of Scope 1 and Scope 2 emissions. Accordingly, CARB has indicated that it will exercise enforcement discretion for the first report due in 2026, allowing

reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when that Notice was issued. Entities that were not collecting data or were not planning to collect data, at the time the Enforcement Notice was issued, are not expected to submit Scope 1 and Scope 2 reporting data for this first reporting cycle (see below). This approach is intended to support companies as they begin complying with these new reporting requirements." (footnotes omitted) (45d-018.25)

[37] https://content.govdelivery.com/accounts/CARB/bulletins/3fa6191
[38] CARB, The Climate Corporate Data Accountability Act Enforcement Notice, December 5, 2024. At https://ww2.arb.ca.gov/sites/default/files/2024-12/The%20Climate%20Corporate%20Data%20Accountability%20Act%20Enforcement%20Notice%20Dec%202024.pdf.
[39] CARB, Staff Report: Initial Statement of Reasons, December 9, 2025, at 14-15, https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/sb253-261/isor.pdf.

Comment: We appreciate that CARB is exercising enforcement discretion for first year reports to relieve assurance obligations and accept reports based on available data. However, as discussed in Section V above, aside from the fact that many mature reporting companies in particular are unable to benefit from this relief due to internal controls, regulatory, or other requirements to report only complete and assured data (as discussed in Sections II and III), for those companies are able and elect to take advantage of the relief, we believe that this approach should be spelled out clearly in the Proposed Regulation to provide clarity on the obligations triggered by the proposed definitions and to ensure that regulated entities can reasonably understand and rely on the scope of their obligations during initial implementation. (45d-018.38)

Comment: we recommend that CARB amend the Proposed Regulation to expressly include the transition relief announced during its November workshop and in related FAQ updates. In particular, we believe the Proposed Regulation should expressly (1) as noted above, waive the assurance requirement for year one, (2) incorporate CARB's FAQ advice regarding waiver procedure for entities that were not yet collecting data as of the date of the December 2024 Enforcement Notice (December 5, 2024), and (3) incorporate CARB's FAQ advice confirming that entities may submit data in any format, including existing reporting, provided it includes the statutorily required Scope 1 and Scope 2 data reported under the Greenhouse Gas (GHG) Protocol.

As this is a critical compliance framework that is not self-executing under the statute, we believe these requirements should be codified subject to notice and comment rulemaking that allows stakeholders to weigh in and enjoy the reliance benefit of a clear rule. Taken together, we encourage CARB to consider delaying finalization of a fee-only rule and instead incorporate these definitions into a complete rule that would provide stakeholders with clarity and opportunity to weigh in on the full picture of the reporting proposal. (45d-018.39)

Comment: Further, CARB should formally allow the use of estimates, proxies or modeled data when third party records are not yet finalized, and without triggering penalties or re-filing obligations. (45d-021.12)

Comment: Further, CARB should formally allow the use of estimates, proxies or modeled data when third party records are not yet finalized, and without triggering penalties or re-filing obligations. (45d-022.9)

Comment: Now, we've seen the good faith guidance in the enforcement notice and the FAQ 19, and we appreciate it. What we are asking for today is that the Board clarify and codify the good faith framework for first-year filing, such that companies who fall under SB 253 jurisdiction, but do not have Scope 1 or Scope 2 quantification capabilities at this time can remain on the right side of California Air Resources Board compliance. Our clients need that certainty. (BHT-018.2)

Comment: In prior communication, CARB has indicated that companies may submit a statement affirming that they were not measuring emissions and had no intention of measuring emissions as of the enforcement notice date, and that such a submission may be accepted in lieu of filing Scope 1 and Scope 2 emission data in 2026. We would like to express concern about the implications of this approach.

As currently understood by many companies, this pathway creates a regulatory gray area. A company submitting such a statement is not reporting emissions as required by statute. Yet, it may not expect enforcement action by CARB. That distinction is significant. Many businesses are subject to financing agreements, procurement contracts, and other commercial competence that require them to remain in compliance with all applicable laws and regulations. An approach staff relies on discretionary nonenforcement rather than clear statutory compliance will expose companies to commercial risk. (BHT-041.1)

> **Agency Response:** No changes were made in response to these comments. CARB has stated that it will exercise enforcement discretion for the first-year reports due in 2026. Regarding the flexibility granted in the December 2024 Enforcement Notice, please refer to Agency Response H-2. CARB will exercise enforcement discretion for the first report due in 2026, allowing reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued, whether or not the data received limited assurance.

I-6 Multiple Comments: Health and Safety Code section 38533 Enforcement

Comment: SB 261 is currently enjoined pending appeal, meaning the Climate-Related Financial Disclosure Program is temporarily suspended. SB 261 requires companies to publish climate-related financial risk reports by January 1, 2026. While the public docket will remain open until July 1, 2026, the January 1 deadline places significant compliance pressure and creates uncertainty. If SB 261 is not overturned on appeal, we urge CARB to consider a reporting window, rather than a fixed date, to better reflect companies' differing fiscal years and reporting cycles. (45d-009.13)

Comment: As CARB is aware, SB 261 has a statutory reporting deadline of January 1, 2026. We understand that the enforceability of this reporting deadline is dependent upon the Ninth Court of Appeals. However, we would appreciate guidance indicating how CARB plans to adjust enforcement of the regulatory deadline if the court upholds the regulation and lifts the injunction. (45d-020.3)

Comment: To reduce the uncertainty arising from the pending litigation regarding the Climate Laws and related burdens on reporting entities, we urge CARB to clarify now that it will provide a grace period of 90 days for submitting the initial SB 261 reports should reporting obligations resume under SB 261. (45d-026.8)

Comment: To reduce the uncertainty arising from the pending litigation regarding the Climate Laws and related burdens on reporting entities, we urge CARB to clarify now that it will provide a grace period of 90 days for submitting the initial SB 261 reports should reporting obligations resume under SB 261. On November 18, 2025, the Ninth Circuit Court of Appeals issued an order temporarily enjoining enforcement of SB 261 until an appeal challenging SB 261 is resolved.[28] In both the Staff Report and the Notice of Public Hearing issued accompanying the Proposed Initial Regulation, CARB acknowledges the injunction and notes that "[i]n light of this order, CARB will not enforce SB 261 until the injunction is lifted" and that "CARB will continue this rulemaking to consider the Proposed Initial Regulation for adoption".[29] On December 1, 2025, CARB also issued an Enforcement Advisory, noting that "CARB will provide further information – including an alternate date for reporting, as appropriate – after the appeal is resolved."[30]

We appreciate CARB's efforts to acknowledge and provide guidance on this issue. However, providing further information, including an alternate date for reporting, as appropriate, after the appeal is resolved does not provide reporting entities with the clarity they need to prepare for a potential resumption of reporting obligations under SB 261. Without clear guidance on the alternative date for initial reporting under SB 261 now, reporting entities may need to continue to prepare and obtain internal approval for their initial SB 261 reports despite the injunction in order to prepare for a potential immediate resumption of reporting obligations under SB 261 if the injunction is lifted.

To reduce the uncertainty arising from the pending litigation and related burdens on reporting entities, we urge CARB to clarify now that it will provide a grace period of 90 days for submitting the initial SB 261 reports, should reporting obligations resume under SB 261. (45d-026.21)

[28] See Chamber of Commerce of the United States of America et al. v. California Air Resources Board et al., Case No. 25-5327 (9th Cir.).
[29] Staff Report, at 5; Notice of Public Hearing, at 3.
[30] CARB, Enforcement Advisory: Climate-Related Financial Risk Reporting (SB 261) (Dec. 1, 2025), available at https://ww2.arb.ca.gov/sites/default/files/2025-12/Dec%201%20SB%20261%20Enforcement%20Advisory.pdf

Comment: WSPA reminds CARB that the U.S. Chamber of Commerce and other organizations have filed a federal lawsuit seeking to have California's Corporate Greenhouse

Gas Reporting Act (SB 253) and Climate-Related Financial Risk Disclosure Act (SB 261) declared unconstitutional.[2] WSPA supports this legal challenge and maintains that these laws should be invalidated and their enforcement enjoined. As of November 18, 2025, the enforcement of SB 261 has already been enjoined pending appeal, and during oral argument on January 9, 2026, the United States Court of Appeals for the Ninth Circuit expressed concerns regarding the legality of certain aspects of both laws. Accordingly, CARB should defer any further actions to implement these laws pending final resolution of ongoing legal challenges, given the significant remaining uncertainty regarding the legality of such actions. (45d-051.1)

[2] See Chamber of Commerce of the United States of America v. Randolph, No. 2:24-cv-00801 (C.D. Cal.). See WSPA Comments on the Information Solicitation to Inform Implementation of California Climate Disclosure Legislation: Senate Bills 253 and 261. March 21, 2025; available at: https://ww2.arb.ca.gov/system/files/webform/public_comments/22731/WSPA%20SB%20253%20and%20261%20Climate%20Disclosure%20Information%20Solicitation%20Letter%203-21-2025.pdf.

Comment: On November 18, 2025, the U.S. Court of Appeals for the Ninth Circuit granted an injunction pending appeal against the enforcement of SB 261.[17] In response, CARB issued an Enforcement Advisory on December 1, 2025, stating that it will not enforce SB 261 reporting requirements.[18] Nevertheless, the proposed regulation includes SB 261-related provisions, including definitions and fee requirements.

Retaining these provisions creates unnecessary confusion and is facially inconsistent with the court's order enjoining CARB from "applying or taking any action to enforce" SB 261. Accordingly, WSPA urges CARB to remove all SB 261-related definitions and requirements from the proposed regulatory text. (45d-051.16)

[17] U.S. Chamber of Commerce v. Sanchez, Case No. 25-5327 (9th Cir.).
[18] See CARB, Enforcement Advisory Climate-Related Financial Risk Reporting (SB 261). December 1, 2025; available at: https://ww2.arb.ca.gov/sites/default/files/2025-12/Dec%201%20SB%20261%20Enforcement%20Advisory.pdf.

Comment: CARB's proposed requirements for reports to be submitted under the 200s create Due Process concerns for entities, even if they are able to determine whether they are covered by the laws. CARB's unclear proposal for implementing SB 261 leaves entities unsure of how to submit a compliant report. CARB should revise its guidelines to outline the precise requirements for a compliant report under SB 261 so companies are fairly put on notice of their obligations. (45d-057.3)

Comment: Finally, companies are set to incur substantial costs in assessing their requirements under the regulations and preparing compliant reports, all the while litigation concerning the validity of the laws is ongoing. It would be fundamentally unfair to require prompt compliance once the enforcement advisory CARB issued on December 1, 2025, is lifted or the pending litigation in the U.S. Court of Appeals for the Ninth Circuit surrounding the 200s is resolved. If and when the Ninth Circuit case is resolved and there is a final promulgation of regulations, CARB should continue to delay enforcement for a reasonable period of at least 1 year for initial reporting obligations. (45d-057.5)

Comment: VI. CARB should ensure regulated entities have sufficient time to comply with climate-related disclosure requirements.

Lastly, should the 200s survive judicial scrutiny, CARB should provide regulated entities with a grace period to come into compliance with reporting requirements. While compliance with SB 261 reports (initially due January 1, 2026) have been temporarily stayed and the regulations propose a deadline of August 10, 2026, for initial reporting under SB 253, requiring fully compliant reports by this deadline is unreasonable given ongoing challenges to the validity of the laws and the compliance costs entities must incur. Both SB 253 and SB 261 continue to be embroiled in litigation over constitutional concerns, and on November 18, 2025, the U.S. Court of Appeals for the Ninth Circuit enjoined enforcement of SB 261.[23] Importantly, the litigation centers around the validity of the laws. Companies cannot reasonably know whether the laws will be upheld nor, as discussed above, what their obligations under these laws would be. To make disclosures on time, companies must necessarily build out staff and infrastructure, engage advisors, and develop protocols months in advance to collect and process information. It would be fundamentally unfair to require companies to continue to incur substantial costs in trying to determine their compliance obligations and prepare reports based on vague regulations arising out of statutes that may ultimately be found to be unconstitutional.

CARB should thus continue to delay enforcement for a period of at least one year for any required submission under or enforcement of the 200s following the final promulgation of the regulations or final court adjudication. During this period, CARB should exercise its discretion to not take enforcement actions against companies who are unable to submit reports or who submit reports perceived to be noncompliant. Companies must be afforded sufficient time to review the final rule and accurately assess their disclosure obligations and determine how to comply. (45d-057.21)

[23] Order, U.S. Chamber of Commerce v. Randolph, No. 25-5327 (9th Cir. Nov. 18, 2025), Dkt. No. 44.

Comment: Regulatory Timing and Legal Uncertainty

CMTA acknowledges CARB's decision not to enforce the first reporting deadline under SB 261 in light of the Ninth Circuit's November 18, 2025, order enjoining enforcement of that statute. We appreciate CARB's recognition of the legal uncertainty surrounding SB 261. However, we are concerned about the continued development of compliance tools, voluntary reporting dockets, and fee structures. At the same time, the statute remains enjoined, which may create confusion and de facto pressure on regulated entities to prepare for obligations that may ultimately be modified or invalidated. Manufacturers depend on regulatory certainty to make long-term operational and investment decisions.

We urge CARB to clearly distinguish between voluntary and mandatory actions under SB 261 and to avoid regulatory approaches that effectively assume the law's enforcement prior to resolution of the litigation. (45d-061.1)

Comment: Regarding SB 261

We understand that CARB plans to review the climate related financial risk reports disclosed by companies under SB 261. If CARB could publish the criteria or examples that would be used to determine whether a disclosure is considered inadequate or not made in good faith, this would greatly assist companies in preparing their reports in a thorough and diligent manner. (45d-079.8)

Comment: Regarding SB 261

We understand that CARB plans to review the climate related financial risk reports disclosed by companies under SB 261. If CARB could publish the criteria or examples that would be used to determine whether a disclosure is considered inadequate or not made in good faith, this would greatly assist companies in preparing their reports in a thorough and diligent manner. (45d-080.8)

Comment: The Western States Petroleum Association reminds the Board that the U.S. Chamber and other organizations have filed a federal lawsuit seeking to have SB 253 and 261 declared unconstitutional.

During oral argument last month, the Ninth Circuit Court of Appeals expressed concerns regarding the legality of certain aspects of both laws. Given the significant remaining legal uncertainty, we urge the Board to defer any further actions to implement these laws, pending final resolution of legal challenges. WSPA supports this legal challenge, but filed comments on the following matters. (BHT-003.1)

Comment: Eight, all SB 261 related definitions and requirements should be removed from this rule. (BHT-003.9)

Comment: 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. 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. (BH-004.9)

> **Agency Response:** No changes were made in response to these comments. These comments are beyond the scope of the Regulation. While the Regulation establishes the framework by which fees will be assessed under Health and Safety Code sections 38532 and 38533, and for the purposes of the fee regulation, defines key terms such as (1) revenue, and (2) doing business in California, to clearly determine which entities will be covered by these programs, it does not establish any reporting requirements for

Health and Safety Code section 38533. The reporting requirements of Health and Safety Code section 38533 are established in statute and do not require a separate rulemaking.

In addition, on November 18, 2025, the Ninth Circuit Court of Appeals issued an order temporarily enjoining enforcement of Health and Safety Code section 38533. In light of the Court's order, CARB will not enforce Health and Safety Code section 38533 against covered entities for failing to post and submit reports by the January 1, 2026, statutory deadline. CARB will provide further information, including an alternate date for reporting, as appropriate, after the injunction is lifted.

In response to the comments arguing that the Regulation may conflict with the First Amendment, please see response to comment E-15.

I-7 Multiple Comments: Clarify Fee Enforcement Details

Comment: Regarding the enforcement mechanisms necessary to ensure compliance with the fee payment requirements in the Proposed Regulation, we ask CARB to provide details on how enforcement will be assessed and managed. While enforcement is authorized through the assessment of penalties, the proposal does not specify penalty amounts or implications for non-compliance. (45d-027.18)

Comment: Dairy Institute finds the proposed fee enforcement and associated penalties excessive, particularly in cases of technical and administrative errors. Daily compounding penalties for missed or inaccurate payments are excessive and unwarranted. If harm is not being caused or escalated on a daily basis, daily compounding fines should not be levied. The proposed enforcement mechanisms fail to distinguish between minor errors and intentional misconduct, or between first-time and repeat offences. As currently proposed, the penalties are disproportionate to the nature of the offense.

Such enforcement authority does not exist in SB 253 and SB 261, and this overreach undermines the intended obligations. Dairy Institute encourages the use of violation appropriate one-time penalties, established timelines for corrective action, and limitations for late fees and penalties be established to protect from abuse and unintended consequences alike. (45d-040.10)

Comment: For these reasons, BHE encourages CARB to:

…

(3) align any enforcement of fee nonpayment with the statutory authority provided in SB 253 and SB 261; (45d-046.5)

Comment: The Final Rule Should Ensure That Fee Enforcement is Consistent with Statutory Authorization and Provides a Dispute Procedure.

Given the lack of clarity regarding fee assessment, it is problematic that the Proposed Rule would authorize penalties, injunctions and per-day violations for "the failure to pay the full amount of any fee required," classifying each day after the due date as a separate violation and invoking CARB's administrative hearing procedures to enforce collection.[7] However, neither SB 253 nor SB 261 identifies "nonpayment of an administrative implementation fee" as an enumerated violation for which CARB is directed to adopt enforcement rules. To the contrary, SB 253's penalty provision addresses reporting-related noncompliance (e.g., non-filing, late filing) and expressly caps penalties in a "reporting year." SB 261 likewise directs CARB to adopt administrative penalties tied to reporting obligations (e.g., failure to make the required report publicly available or publishing an inadequate report). Neither statute expressly authorizes treating fee nonpayment as a substantively separate violation subject to daily penalties and injunctive relief under Title 17.

This lack of statutory authority is especially problematic here because the Proposed Rule lacks sufficient information for potentially regulated parties to determine which specific legal entities within a parent-subsidiary structure will receive fee assessments, and whether those assessments will be correct. As discussed above, the regulation does not define "affected entity" and does not specify how CARB will count entities in consolidated reporting scenarios when determining N_{38532} and N_{38533} for the fee formula. Compounding this ambiguity, the Proposed Rule does not outline any process to dispute or administratively challenge a fee assessment before penalties begin to accrue—there is no dedicated invoice protest, appeal or reconsideration mechanism for fee determinations (compare Section 96075's penalty and injunction tools with the absence of a fee-assessment contest provision).

BHE respectfully submits that, before adopting any regulation that imposes daily penalty exposure for fee nonpayment, CARB should: (1) identify the specific statutory authority for fee-nonpayment enforcement under SB 253 and SB 261, or tailor the enforcement text to the statutes' enumerated reporting violations; and (2) adopt a clear, timely and accessible fee-dispute process (e.g., an invoice protest window tolling penalties while a good-faith challenge is pending; defined evidentiary standards; and a written decision subject to administrative rehearing). These steps would better align Subarticle 2 with the Legislature's reporting-centric enforcement directives and ensure basic procedural fairness where the Proposed Rule presently leaves who is liable and how an entity can contest liability uncertain. (45d-046.11)

[7] Proposed Rule, §§ 96075(a)-(d), 96074(c).

Comment: CCEEB disagrees that the failure to pay the full amount of any required fee should constitute a single, separate violation for each day that the fee has not been paid after the date the fee is due given that harm would not accrue with each passing day. CCEEB instead recommends a cap on penalties arising due to the nonpayment of program fees. Health and Safety Code section 38532 and 38533 each contain annual caps for administrative penalties. Fees arising due to the nonpayment of program fees should be subject to a further, smaller annual cap. (45d-056.18)

Comment: Given the uncertainty around the number of covered entities under each program and who will report, we are concerned that reporting entities will be held accountable for paying fees for entities that are covered by the regulations but have not reported. CARB should establish a clear process for ensuring that regulated entities are not unfairly held accountable for shortfalls due to noncompliance. (45d-066.3)

Comment: IV. The Enforcement and Penalty Provisions Are Inconsistent With the Disclosure-Based Nature of SB 253 and SB 261

The proposed enforcement and penalty framework raises serious concerns regarding proportionality, due process, and consistency with CARB's delegated authority. As drafted, the provisions expose regulated entities to excessive and unpredictable liability for technical or administrative violations, even in the absence of harm, intent, or repeated noncompliance. These defects undermine fairness and unnecessarily increase compliance burden for reporting structures that even state agencies have struggled to implement.[28]

A. Compounding Daily Penalties Are Disproportionate to the Underlying Violations

The regulation provides that "each day during any portion of which a violation occurs is a separate offense," including for payment and reporting violations. Applied to fee payment obligations, this structure means that a single missed or disputed payment can result in daily, compounding penalties until the issue is resolved.

This approach is disproportionate to the nature of the underlying conduct. Late payment or administrative error do not cause incremental harm on a day-by-day basis. Treating each day of nonpayment as a separate violation converts a single administrative lapse into potentially massive liability that bears no reasonable relationship to the severity of the violation.

Administrative penalties must be reasonably related to the gravity of the offense, the regulated entity's culpability, and the harm addressed.[29] A penalty scheme that allows liability to grow exponentially based solely on the passage of time, without regard to intent, materiality, or actual harm, raises serious concerns under principles of proportionality and due process. (45d-069.10)

[28] Even an agency as well-resourced as the California State Teachers' Retirement System (CalSTRS) has warned that its past efforts at reporting Scope 3 emissions were inaccurate after it discovered a colossal climate data error. If even CalSTRS struggles with Scope 3, we must expect covered entities to struggle as well. See, e.g., Politico, "Why CalSTRS can't count", May 7, 2024, available at https://www.politico.com/newsletters/the-long-game/2024/05/07/theres-a-climate-accounting-problem-00156501).

[29] See, e.g., United States v. Bajakajian (1998) 524 U.S. 321, 334 ("The touchstone of the constitutional inquiry under the Excessive Fines Clause is the principle of proportionality: The amount of the forfeiture must bear some relationship to the gravity of the offense that it is designed to punish.")

Comment: Broad Discretion Without Clear Standards Raises Due Process Concerns

Several enforcement provisions vest broad discretion in CARB, including authority to determine when violations occur, assess daily penalties, impose late fees "sufficient" to cover additional costs, and determine whether and how penalties are mitigated.

While agencies necessarily exercise discretion in enforcement, due process requires that regulated entities have clear notice of the conduct that triggers penalties and the magnitude of potential liability. Open-ended standards and undefined penalty ranges prevent businesses from assessing compliance risk and create the appearance, and risk, of arbitrary enforcement.

Clear standards are especially important where penalties can accumulate rapidly and where the underlying obligations involve complex reporting judgments rather than bright-line conduct. (45d-069.12)

Agency Response: No changes were made in response to these comments. CARB confirms that the late fee penalty provision is necessary to deter noncompliance and that a late fee penalty provision feature is consistent with other fee regulations implemented by CARB. The fee component of the Regulation is essential to implementation of the overall statutory program, as reflected in the statute's direction that CARB "shall set the fee…in an amount sufficient to cover the state board's full costs of administering and implementing" the program. (See Health and Safety Code section 38532(c)(2)(G)(ii).) A regulation for a late fee is mandated pursuant to Health and Safety Code sections 38532(f) and 38533(f) and helps ensure that fees are paid in time to fund program implementation. This also allows CARB to recover additional administrative costs that would be potentially incurred due to delayed payments from noncompliant entities that fail to demonstrate good faith compliance efforts. Identifying a late fee payment and assessing a violation for each day that noncompliance continues to occur are common enforcement mechanisms used to address noncompliance and to provide an incentive for quickly returning to compliance.

CARB's regulatory and associated enforcement authority is specified in the Health and Safety Code. As noted above, Health and Safety Code sections 38532 and 38533 direct CARB to undertake rulemaking to implement and enforce the programs created by those statutes – which CARB has done in the Regulation. (See Health and Safety Code sections 38532 and 38533.) Health and Safety Code section 38532 expressly authorizes CARB to "adopt or update any other regulations that it deems necessary and appropriate to implement this section." (Section 38532(c)(4).) Sections 39600 and 39601 of the Health and Safety Code also direct CARB to do such acts as may be necessary for the proper execution of CARB's powers and duties, and direct CARB to adopt regulations necessary for the proper execution of the powers and duties granted to CARB. The Regulation's penalty structures and calculation methods are consistent with applicable statutes and established case law to provide transparency and an effective deterrent to noncompliance. As with all CARB enforcement actions, CARB works to ensure that any penalties sought are equitable and consistent with applicable law.

CARB further notes that entities that are subject to the Regulation that fail to report and pay the required fee may be subject to separate violations consistent with applicable statutory authority and the Regulation.

As CARB has indicated, during the initial implementation phase CARB is focused on supporting entities' compliance and encouraging entities to demonstrate first-year good faith compliance efforts.

I-8 Multiple Comments: Fee and Eligibility Disputes

Comment: The recordkeeping burden under § 96074(d) must be read in conjunction with the enforcement provisions in § 96075. Under § 96075(c), "[t]he 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."

This creates a problematic dynamic: an entity that in good faith believes it is not covered by the regulation has no safe harbor in the proposed text and faces per-day penalties while it disputes CARB's applicability determination. In this context, the recordkeeping burden becomes more consequential as entities must maintain comprehensive "applicability files" as defensive protection against enforcement action, even if they are confident they fall outside the regulation's scope. (45d-018.33)

Comment: If there are ultimately valid differences between CARB's list and a company's own scoping assessment as to itself and its subsidiaries, CARB is likely to be exposed to fee disputes, particularly since § 96075(c) would, as currently proposed, impose a daily payment violation for each day or portion thereof that a fee remains unpaid after the due date.[31] In addition, § 96074(c) also authorizes a late fee to cover administrative costs caused by late payment,[32] but does not describe any administrative process for resolving disputes, including those that result from a valid disagreement with CARB on whether an entity is in-scope.[33] The possibility of such a disagreement is likely to be higher with respect to smaller entities, which may have greater fluctuation on the FTB Line Item from year to year. Therefore, by looking at the FTB Line Item of the reporting parent entity (or if that entity is not in scope, then its largest in-scope subsidiary), CARB can reduce the likelihood of a fee dispute and decrease the costs and complexity of its administration of § 38532 and § 38533. (45d-018.51)

[31] Proposed Regulation § 96075(c), p. 7.
[32] Proposed Regulation § 96074(c), p. 7.
[33] Proposed Regulation § 96075(d), p. 7.

Comment: Specifically, CARB should clarify a process for disputes over assessments or entity classification before payments are due, how late identification of covered entities or corrections will be handled, and whether CARB will stay enforcement while disputes are pending. Adding these elements would reduce confusion and support more efficient fee administration. (45d-021.11)

Comment: Specifically, CARB should clarify a process for disputes over assessments or entity classification before payments are due, how late identification of covered entities or corrections will be handled, and whether CARB will stay enforcement while disputes are

pending. Adding these elements would reduce confusion and support more efficient fee administration. (45d-022.8)

Comment: CARB should provide a process for resolving disputes regarding reporting entity status and reconciling any change to per entity flat fee. The Proposed Initial Regulations are silent on how to resolve any disputes between CARB and an entity. For example, if there are disputes between CARB and entities regarding whether such entities are reporting entities and therefore should pay fees, it is unclear how such disputes would be resolved between CARB and the entities or how any resolution of such disputes would affect the other reporting entities in light of the per entity flat fee structure.

Accordingly, CARB should propose a process for resolving fee-related disputes for public comment, which should, at a minimum, address (1) the process and timeline for resolving a dispute between CARB and an entity as to whether the entity is a reporting entity under the relevant Climate Law, and (2) the process for reconciling any change to per entity flat fee under the relevant Climate Law after resolving disputes relevant to the determination of the number of total reporting entities under the relevant Climate Law. (45d-026.19)

Comment: Without a formal process for review, companies must either comply—often at a significant cost—or challenge their status and risk penalties. Determination, especially in the early years of compliance, involves many variables and complexities. Dairy Institute requests that entities file requests for determination regarding their covered entity status with a required timeline for CARB to provide a written response. In this process, fee levies and reporting requirements should be paused until such a determination is reached. (45d-040.12)

Comment: This uncertainty is compounded by the fee enforcement provisions of the Proposed Rule, which appear to exceed CARB's statutory authority and do not provide a mechanism for dispute. (45d-046.2)

Comment: Additionally, CARB should establish a formal invoice dispute process, allowing reporters to challenge the identification of in-scope entities and any resulting changes to the per entity flat fee. The proposed rules are silent on how disputes would be resolved or how adjustments would be made where the number of reporting entities and/or covered entities changes following a dispute. We believe this process is necessary given the potential for inaccuracies in CARB's preliminary lists of in-scope entities. Providing a defined dispute resolution and reconciliation process would improve transparency and ensure fair and predictable fee administration. (45d-049.9)

Comment: CCEEB recommends that CARB establish a mechanism to challenge CARB's determination that an entity is a "reporting entity" or "covered entity" subject to the requirements and fees of SB 253 or SB 261 prior to the imposition of fees, reporting obligations, or penalties. CCEEB also proposes a procedure by which entities can seek confirmation that they are "reporting entities" or "covered entities," as applicable, before being subject to fees, reporting obligations, and penalties. (45d-056.15)

Comment: The proposed regulations do not provide a clear mechanism for companies to challenge CARB's determination that they are "covered entities" subject to the requirements and fees of SB 253 and SB 261. Given the significant compliance obligations, ongoing fee liability, and potential penalties associated with covered-entity status, the absence of a defined process to contest applicability raises serious due process and fairness concerns. (45d-063.3)

Comment: The Regulations Should Provide a Clear and Fair Process for Entities to Challenge Covered-Entity Determinations

The proposed regulations do not provide a clear mechanism for companies to challenge CARB's determination that they are "covered entities" subject to the requirements and fees of SB 253 and SB 261. Given the significant compliance obligations, ongoing fee liability, and potential penalties associated with covered entity status, the absence of a defined process to contest applicability raises serious due process and fairness concerns.

Determining whether an entity is covered under SB 253 or SB 261 involves complex legal and factual questions, including interpretation of "doing business in California," application of revenue thresholds, treatment of affiliated entities, application of exemptions under the proposed rule, and classification of parent–subsidiary relationships. Reasonable disputes are inevitable, particularly for companies with limited physical presence in California, unusual corporate structures, or non-recurring revenue events. Without a formal avenue to seek review or clarification, companies may be forced either to comply under protest, incurring substantial and potentially unrecoverable costs, or to risk enforcement actions and penalties while disputing their status.

Fundamental principles of administrative due process require that regulated entities have a meaningful opportunity to challenge threshold determinations that trigger regulatory obligations. Absent a review mechanism, CARB's initial applicability determinations function as unreviewable, de facto adjudications, despite the lack of any formal adjudicatory process. Providing a clear path to contest covered or reporting entity status would improve accuracy, reduce unnecessary compliance costs, and encourage cooperative engagement with CARB.

Accordingly, we recommend that CARB amend the regulations to establish a transparent, time-bound process allowing entities to challenge or seek confirmation of covered-entity determinations prior to the imposition of fees, reporting obligations, or penalties. At a minimum, the regulations should:

- Allow entities to submit a written challenge or request for determination regarding covered-entity status;
- Require CARB to provide a reasoned written response within a defined timeframe;
- Suspend fee and reporting obligations while a good-faith challenge is pending; and
- Provide clarity regarding whether and how determinations may be revisited in subsequent reporting years.

Incorporating such a process would enhance procedural fairness and reduce the risk of erroneous coverage determinations. (45d-069.16)

Comment: We'd also like to stress that there must be a clear timely process for companies to challenge or clarify their covered entity status. Until a determination is made, fees and reporting obligations should be paused to prevent unnecessary costs and penalties on wrongly identified entities. (BHT-009.6)

> **Agency Response:** No changes were made in response to these comments. Each entity is responsible for determining whether it is in scope. The Regulation relies on objective, established criteria that are based on existing California Revenue and Taxation Code and existing tax reporting practices, which provide a clear and administrable basis for determining applicability for reporting and fee payment requirements.
>
> Because applicability determinations are made by each entity, rather than by CARB, a formal dispute process for both applicability status and fee assessment is unnecessary. CARB remains committed to supporting a smooth phase-in and good-faith compliance during the initial implementation period.

I-9 Multiple Comments: Clarify Confidential Business Information Protocols

Comment: As CARB collects data, it must take steps to ensure that any nonpublic, corporate data it collects is protected. CARB must develop a plan for data security that protects such information from potential exposure. AISI believes that the best way to avoid potential data security concerns is to rely on publicly-available reporting gathered in conformance with applicable international frameworks. In the development of this data security plan, CARB should engage broadly with industry associations, such as AISI, to ensure that the proposed approach is adequately protective of any confidential or proprietary information. (45d-050.8)

Comment: WSPA also continues to urge CARB to develop clear guidance on how it will manage and use data provided by entities while protecting proprietary and confidential information. Clear guidance will help define data requirements, prevent the submission of extraneous information, mitigate proprietary data leakage risks, and reduce unnecessary administrative costs for both CARB and reporting entities. (45d-051.18)

Comment: Certain climate-related disclosure requirements could inadvertently require reporting of various types of sensitive information, and CARB should look to restrict the risk of such disclosures. The Board should provide an exemption from supplying data if it would be confidential, proprietary or otherwise sensitive information, or if a company is prevented by applicable law from doing so, including in the case of information that may be classified or restricted due to national security concerns.

CWA recognizes that CARB does not have the same flexibility in setting the general substance of the disclosure requirements, as this was defined by the authorizing legislation;

however, these standards should recognize the need for nuance and flexibility in how organizations prepare relevant disclosures. (45d-063.7)

> **Agency Response:** No changes were made in response to these comments. CARB follows established legal requirements for the protection and handling of confidential business information. Any information properly designated as confidential is handled in accordance with Title 17, California Code of Regulations Sections 91000 to 91022, and the California Public Records Act (Government Code Sections 7920 et seq.). However, CARB notes the Regulation concerns emissions data reporting, rather than confidential information reporting.
>
> CARB will continue to engage with stakeholders regarding data management, confidentiality, and reporting practices, and will consider these concerns during implementation of the regulation and, as appropriate, in an upcoming rulemaking focusing on future (post-2026) reporting under Health and Safety Code section 38532.

I-10 Multiple Comments: Support Enforcement Approach

Comment: Ongoing constitutional litigation challenging SB 253 is resolved, providing regulatory certainty regarding the statute's enforceability. (45d-010.13)

Comment: No Assurances Required for 2026. CCEEB also appreciates CARB's statement in the November 18, 2025, Workshop Presentation Slides (slide 12) that limited assurance will not be required for 2026 SB 253 reporting for data submission. This provision supports reporting entities as they begin compliance. (45d-056.5)

Comment: Finally, we express our support for the robust fee enforcement mechanisms outlined in § 96075. The inclusion of late fees, the treatment of each day of non-payment as a separate violation, and the authority to seek injunctions are essential tools for maintaining the integrity of the program. Additionally, we support the provision allowing the Executive Officer to contract with external entities, such as the Franchise Tax Board, for auditing purposes. These measures ensure that the costs of implementation are borne fairly by all covered entities and that non-compliance does not result in a financial advantage. (45d-059.6)

Comment: Given the current lack of regulatory certainty, the Group also supports the exercise of enforcement discretion for SB 253 reporting during the 2026 reporting year, consistent with the notice CARB provided on December 5, 2024.[11] (45d-078.19)

> [11] See CARB, The Climate Corporate Data Accountability Act Enforcement Notice, (Dec. 5, 2024), https://ww2.arb.ca.gov/sites/default/files/2024-12/The%20Climate%20Corporate%20Data%20Accountability%20Act%20Enforcement%20Notice%20Dec%202024.pdf.

Comment: We think the initial regulations will ensure order and certainty for companies and support the provisions

…

[of] fee enforcement. (BHT-013.6)

Agency Response: No changes were made in response to these comments. CARB acknowledges the support for the enforcement provisions.

I-11 Multiple Comments: Disapprove Reporting Penalty Structure

Comment: D. Enforcement Provisions Are Inconsistent With the Nature of the Program

SB 253 and SB 261 establish a corporate disclosure regime, not an emissions control or environmental harm program. The Legislature recognized this distinction and therefore expressly excluded Health and Safety Code section 38580, CARB's general administrative penalty provision for AB 32, from applying to these statutes.[30] That exclusion reflects a deliberate legislative judgment that traditional environmental penalty structures are ill-suited to the nature of the obligations created by SB 253 and SB 261.

Notwithstanding this clear statutory direction, the proposed regulations adopt an enforcement framework that mirrors the penalty regimes used for environmental harm and emissions violations. Concepts such as treating "each day" of noncompliance as a separate violation, allowing penalties to accrue continuously over time, and imposing escalating liabilities untethered to materiality or harm are hallmarks of statutes designed to deter ongoing pollution or physical environmental impacts. In those contexts, daily penalties serve a clear purpose: they reflect the fact that each day of excess emissions causes incremental environmental harm.

By contrast, the obligations imposed by SB 253 and SB 261 involve the preparation and submission of disclosures. A failure to disclose information on a given date does not create new or compounding environmental harm with each passing day. Applying a per-day, compounding penalty structure to disclosure violations therefore bears no reasonable relationship to the nature of the underlying conduct. Instead, it transforms a technical or administrative lapse into an open-ended liability exposure that escalates solely by operation of time. The Legislature's decision to make section 38580 inapplicable to SB 253 and SB 261 reflects an understanding that disclosure violations should be addressed through measured, compliance-oriented remedies rather than punitive, harm-based penalties. CARB should not override that legislative judgment by importing environmental enforcement concepts through regulation.

The proposed regulatory package, however, expressly relies upon Section 38580 for the assessment of penalties.[31] Where the Legislature has affirmatively excluded a penalty statute, CARB has no discretion to revive that authority through regulatory cross-references or generalized enforcement language. The proposed enforcement framework therefore exceeds CARB's delegated authority and is inconsistent with the express terms and structure of SB 253 and SB 261. The proposed penalty regime materially alters the balance struck by the Legislature by treating failures to disclose as if they were ongoing emissions violations. The proposed regulation should be revised to align penalties with the nature of the

obligations imposed rather than relying on enforcement tools designed for environmental harm and expressly excluded by the Legislature. (45d-069.13)

[30] Health and Safety Code §§ 38532(f) and 38533(f).
[31] See § 96075(a) of the proposed regulation.

Comment: CARB should also narrow and clarify the enforcement, penalty, and audit provisions to align with the disclosure-based nature of these statutes and applicable statutory limits. (45d-069.29)

Agency Response: No changes were made in response to this comment. The Regulation's penalty structure is appropriate and consistent with other CARB programs. Failure to disclose climate information causes incremental harm to the abilities of consumers and investors to make important decisions, so an incremental penalty is warranted. Other CARB programs such as the Mandatory Greenhouse Gas Reporting Regulation and Cap-and-Invest use similar penalty structures. Likewise, enforcement and audit procedures support complete and accurate information for the public.

Health and Safety Code section 38532(f)(2)(A) places an upper limit of $500,000 per reporting year on administrative penalties. When considering penalties, CARB will follow the statutory requirement from the same section to consider, "the violator's past and present compliance" and, "whether the violator took good faith measures to comply". CARB recognizes that the first year of regulatory implementation will be an adjustment for many stakeholders. CARB is exercising enforcement discretion to support compliance, enumerated in the December 2024 Enforcement Notice.

Regarding comments concerning the reference in the proposed regulatory text to section 38580, a non-substantial change has been made to correct this. CARB agrees that section does not apply to a violation of Health and Safety Code sections 38532 and 38533. The reference to 38580 was included in error, and CARB has proposed to remove it as a correction to the final regulatory text.

J. Parent-subsidiary Relationship

J-1 Multiple Comments: Alternative Subsidiary Definition

Comment: Defining "subsidiary" in line with International Financial Reporting Standards (IFRS) or Generally Accepted Accounting Principles (US GAAP), rather than relying on the concept of "influence" (45d-070.4)

Comment: CARB should track parent/subsidiary relationships as they are detailed in tax filings. (45d-078.35)

Comment: defining subsidiary in line with international finance -- financial reporting standards or generally accepted accounting principles rather than relying on the concept of influence. (BHT-032.4)

Agency Response: No changes were made in response to these comments. CARB considered defining subsidiary in alignment with International Financial Reporting Standards or Generally Accepted Accounting Principles proposed by commenters. However, CARB decided to align with the definitions of "parent" and "subsidiary" for the Regulation as used by the Cap-and-Invest Program, a foundational part of California's climate policy portfolio since 2013 (Title 17, California Code of Regulations section 95833). Adopting consistent program definitions are appropriate in establishing the scope of determining corporate relationships. Many of the in-scope entities that would be subject to the Regulation include entities subject to the Cap-and-Invest regulation and these entities are familiar with CARB's parent-subsidiary disclosure requirements. Aligning the definition of "parent' and "subsidiary" within CARB's broader climate change programs allows for consistent identification of entities within corporate structures and supports consolidated reporting for parent-subsidiary corporate structures that desire to streamline reporting requirements.

J-2 Multiple Comments: Unclear Parent-subsidiary Interpretation for Applicability and Reporting Requirements

Comment: Maritime company structures often involve multiple levels. A 50 percent test may misrepresent operational control, creating uncertainty about which entity must report or pay fees. To enable clear delegation and reporting planning, we encourage CARB to explicitly clarify reporting duties between parent and subsidiary entities. (45d-009.9)

Comment: Reporting entity composition: We believe the regulations are unclear on how to determine what data and entities are included in an entity's report (i.e., the reporting entity). Specifically, how the definitions of parent and subsidiary relate to the definition of reporting entity and which subsidiaries should be included with the parent's report, not be included or be reported separately. We suggest that CARB create a flow chart to assist reporting entities in determining the scope of the subsidiary entities to be included in the parent's report. (45d-027.3)

Comment: In determining whether a business entity meets the definition of reporting entity or covered entity, and therefore meets the applicability requirement in section 96201(a), we believe it would be necessary to determine which other individual business entities within its corporate family tree should be included (or consolidated) to determine if the business entity meets the definitions of reporting entity under section 96202(a)(11) or covered entity under section 96202(a)(5) for purposes of complying with sections 38532 and 38533 of the Health and Safety Code, respectively. Two of the criteria to meet the definition of a reporting entity or covered entity are:

1. The business entity does business in California, which requires either:
    a. Being commercially domiciled in California or
    b. Meeting a certain threshold of sales in California as defined in section 23101(b)(2) of the Revenue and Taxation Code, and

2. Have revenue, which is equivalent to "gross receipts" under section 25120(f)(2) of the Revenue and Taxation, that meets a defined threshold

The composition of business entities included will affect the sales in determining whether the business entity does business in California under section 23101(b)(2) of the Revenue and Taxation Code and in determining the revenue (or "gross receipts") under section 25120(f)(2) of the Revenue and Taxation Code.

We believe it is unclear which individual business entities within a corporate family tree should be included when determining whether a given business entity meets the definition of a reporting entity or a covered entity and, therefore, sections 38532 and 38533 of the Health and Safety Code would apply to that business entity.

We recommend CARB design a flow chart to aid entities in evaluating whether they are within the scope of sections 38532 and 38533 of the Health and Safety Code by depicting each decision point in determining which other individual business entities within the corporate family should be included in a given business entity's determination of whether it meets the definition of a reporting entity or covered entity. See our comments in subsection B regarding the definitions of reporting entity and covered entity. (45d-027.6)

Comment: Dairy Institute appreciates CARB providing flexibility for companies to allow reports to be submitted at either the parent entity or subsidiary level. While we believe that this proposal does grant consolidated reports for parent and subsidiary entities, additional clarity should be given to ensure this is allowable. Consolidated reports will create more streamlined and accurate information while maintaining the intent of SB 253 and SB 261 disclosures. (45d-040.15)

Comment: While BHE supports CARB's goal of establishing a workable fee framework to administer these climate-related disclosures required by SB 253 and SB 261, the Proposed Rule, as currently drafted, does not provide sufficient clarity regarding which entities within a parent-subsidiary corporate structure may be assessed an implementation fee under Subarticle 2 (Fees), nor how that fee assessment relates to or interacts with consolidated reporting under SB 253 and SB 261. Absent clarification, this uncertainty creates a risk of inconsistent fee assessment and unequal treatment. (45d-046.1)

Comment: However, the regulation does not define the term "affected entity," nor does it explain how CARB will identify the fee-paying entity where a parent company and one or more subsidiaries are involved.[1] Although the Proposed Rule defines "parent" and "subsidiary,"[2] those definitions are not linked to any operative provision governing fee liability. As a result, entities are left without clarity as to whether CARB intends to assess a fee to a parent company only, assess fees to individual subsidiaries that independently meet statutory revenue and "doing business in California" thresholds, or assess fees to both parent and subsidiary entities even when reporting is consolidated at the parent level. This lack of clarity is particularly significant because the Proposed Rule would establish a fee enforcement mechanism with daily penalties for nonpayment[3] making clear identification of the fee-liable entity essential for due process and compliance planning. (45d-046.7)

[1] Proposed Rule, §§ 96071, 96073-96074.
[2] Id., § 96072(a)(10), (16).
[3] Id., § 96075.

Comment: We write to urge CARB to reconsider aspects of the proposed regulations implementing Senate Bills ("SB") 253 and 261, as modified by SB 219 (collectively, the "200s"). Both SB 253 and SB 261 offer little clarity with respect to their scope, applicability, and the requirements to be met to achieve compliance with the laws, and the proposed regulations are no different. Specifically, the proposed frameworks for submitting disclosures under the 200s do not align with the realities of complex corporate structures. This threatens to force out-of-state companies not otherwise within the scope of the laws to potentially make disclosures to the State of California they are not legally required to make—and potentially subjecting them to specific requirements that are inconsistent with accepted reporting frameworks or regulatory requirements in other jurisdictions—or to impose a substantial burden for subsidiary companies to supplement established parent-level consolidation of climate-related information by preparing redundant, potentially inconsistent GHG reports and/or climate risk reports. (45d-057.1)

Comment: CARB's vague regulations and guidance do little to explain how a subsidiary's in-state operations impact a parent's reporting obligations. The need for explicit line drawing is all the more important given the grave penalties levied under SB 253 and SB 261. Companies who do not report because they are unable to determine their obligations could be subject to over half a million dollars in penalties—thus leaving businesses compelled to undertake costly, unnecessary reporting efforts for fear of enforcement. Further, given the highly charged issues surrounding climate change, failure to report (whether or not a company's decision to do so was reasonable) could expose a company to other risks such as reputational harm from concerned parties or criticism from non-governmental organizations, which could have a real tangible or intangible impact on a company's brand or operations. In addition to vagueness, these triggering criteria potentially raise a second Due Process concern: it is a fundamental principle that individuals or entities should only be held liable for their own actions and inaction. Unless CARB places proper guardrails on these criteria, they can create situations where one corporate affiliate is held responsible for those of a separate entity. (45d-057.10)

Comment: Finally, the proposed regulations currently define the terms "parent" and "subsidiary," but do not provide clear guidance on how reporting obligations are to be applied in practice across parent–subsidiary corporate structures. Absent such guidance, reporting entities lack a workable framework for determining whether and how disclosures should be made on a consolidated basis, at the subsidiary level, or both.

Without clear rules addressing how consolidated reporting is to be achieved, the proposed approach risks inconsistent interpretation, duplicative reporting, and unnecessary administrative burden. Clarifying parent–subsidiary applicability and reporting mechanics at the outset is essential to ensure consistent implementation and workable compliance as the program moves forward. (45d-069.20)

Agency Response: No changes were made in response to these comments. CARB disagrees that the Regulation does not address how corporate affiliates should evaluate the applicability provisions. As set forth in the Regulation, applicability is assessed at the individual entity level to establish whether an entity is subject to the Regulation. Each entity that qualifies as a “reporting entity” or “covered entity” is subject to reporting and/or fee payment requirements, as specified, and is responsible for compliance. Specific concerns regarding how to determine revenue and whether an entity is doing business in California are addressed in sections C and D in this document.

The statutes specify that reporting may be consolidated at the parent entity level. (Health and Safety Code sections 38532(c)(2)(A)(iii) and 38533(b)(1)(B)(2).) Consolidated reporting can be done by a parent entity even where the parent entity is not itself in scope, provided that the parent-subsidiary relationship meets the definitions in sections 96072(a)(10) and 96072(a)(16). However, such consolidation is optional and therefore does not impose reporting obligations on out-of-scope entities or alter the underlying obligations of each individual in-scope entity. Additional provisions regarding organizational boundaries for corporate structures will be considered in an upcoming rulemaking.

CARB disagrees with the assertion that the reporting requirements are inconsistent with accepted reporting frameworks or regulatory requirements in other jurisdictions, or that they result in duplicative reporting burdens. Consistent with the December 2024 Enforcement Notice, entities may submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued, including emissions submitted through a voluntary program or other regulatory program. For entities that elect to submit a consolidated report, they are not required to provide disaggregated, entity-by-entity disclosures or submit separate reports for each in-scope entity, and the consolidated report may also include information from both in-scope and out-of-scope subsidiaries. The Regulation is consistent with existing corporate reporting practices and is designed to streamline reporting and reduce administrative burden.

Health and Safety Code sections 38532 and 38533 require that each “reporting entity” and each “covered entity” pay an annual fee to the state board for program administration and implementation. Consistent with this statutory direction, fee liability is tied to each individual entity’s applicability and is independent of which entity submits the report. To limit administrative burden, parent entities may choose to pay fees for their subsidiaries in a consolidated payment. Fee calculation is also based on the total number of reporting entities or covered entities, regardless of parent-subsidiary status. The term “affected entity” refers to each “reporting entity” or “covered entity” that is in scope, and is independent of which entity submits the report.

J-3 Unique Comment: Inconsistent Indicia

Comment: It appears there may be an inconsistency in the indicia used to determine "direct corporate association." Section 96202(a)(16) includes a list of indicia of control to determine ownership or control. In addition, the same section states a 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." It appears that the indicia in sections 95833(a)(1)–95833(a)(2) is included in the list of indicia included in list in section 96202(a)(16) and that three types of indicia from section 95833 to determine a direct corporate association are not included in the list in section 96202(a)(16). These are described in sections 95833(a)(3) and 95833(a)(5)-(a)(6) relating to when two entities are connected through a line of more than one direct corporate association, publicly owned electric utilities operating two facilities and individuals who have shared roles. We recommend that the entities that should be considered subsidiaries be clarified, preferably through reference to one or more sections in section 95833 of the California Code of Regulations or listing the indicia without the reference to section 95833 of the California Code of Regulations. (45d-027.15)

> **Agency Response:** No changes were made in response to this comment. Section 96072(a)(16) of the Regulation incorporates by reference the entirety of the direct association definition from section 95833. The indicia from sections 95833(a)(1-2) are written directly for reference, but sections 95833(a)(3) and 95833(a)(5) still apply when determining which entities can be part of a consolidated report.

J-4 Unique Comment: Support Proposed Definition

Comment: We also support the inclusion and definition of the terms "Parent" and "Subsidiary" in § 96072(a)(10) and § 96072(a)(16) respectively. It makes sense for CARB to align these definitions with Title 17, California Code of Regulations, § 95833, ensuring consistency with the Cap-and-Invest program. Establishing a clear scope of corporate relationships is necessary to accurately identify entities within complex corporate structures and appropriately determine reporting obligations. This alignment promotes regulatory consistency and closes potential loopholes that could otherwise allow entities to obscure their control over subsidiaries to evade compliance. (45d-059.3)

> **Agency Response:** No changes were made in response to this comment. CARB acknowledges the support for the definition of “parent” and “subsidiary”.

K. Other Components of the Regulation

K-1 Multiple Comments: Disapprove Record-Keeping Requirement

Comment: Maritime businesses already face extensive federal environmental regulations promulgated by the Environmental Protection Agency and U.S. Coast Guard. Businesses still lack clear guidance and templates to prepare reports that meet California’s requirements, and

entities must retain records proving that they do or do not meet the revenue and doing-business thresholds for five years. We ask that CARB pursue every opportunity to streamline the reporting required under SB 261 and provide supplemental draft regulations and templates as soon as possible to avoid confusion, clarify compliance, and make recordkeeping as easy to maintain as possible. Being mindful of the excessive delays and the burdensome nature of this reporting process, we urge CARB to consider a phased-implementation approach to allow entities ample time to develop compliance tools. (45d-009.14)

Comment: Remove currently proposed record-keeping requirements in favor of one of the more narrowly tailored options suggested below.

Rationale: § 96074(d) Would Impose Onerous Requirements Unmoored From Any Commensurate Benefit

The Proposed Regulation at § 96074(d) requires every entity "subject to this article" to (1) maintain records demonstrating that it meets the revenue and "doing business in California" thresholds, (2) retain those records for five years, and (3) provide them to CARB upon request. We respectfully submit this provision:

- Imposes an administrative burden on regulated entities that is disproportionate to the regulatory benefit;
- Duplicates information already available to CARB through existing state agency data-sharing mechanisms;
- Creates an asymmetry between CARB's role in determining applicability and fee amounts versus the entity's burden to prove or disprove its own coverage; and
- Provides limited incremental value for entities that are already complying with reporting and fee payment obligations. (45d-018.29)

Comment: CARB simultaneously asserts that state tax records provide verifiability and reduced burden, yet requires entities to maintain and produce their own records as though that infrastructure did not exist. The more coherent approach is for CARB to rely primarily on the same FTB-based sources it cites as the backbone for enforceable applicability determinations and only request incremental documentation in exceptional cases.

In practice, because CARB has already made an applicability determination (at least preliminarily) before any recordkeeping request arises, a universal five-year record retention mandate on every invoiced entity is duplicative: it requires companies to build and maintain a parallel "applicability file" for CARB's determination—often assembling records that already exist in government systems. Requiring entities to maintain duplicative records imposes unnecessary administrative costs. This is particularly true for entities that are already filing reports and paying fees—because CARB already has an active compliance channel with those entities and can validate coverage using the same objective state records that CARB cites as verifiable through FTB filings, the incremental value of a universal five-year applicability file is limited while the administrative burden is substantial. (45d-018.30)

Comment: This framework places CARB in the position of determining which entities are in scope and what fees are owed, yet the recordkeeping provision shifts the burden of maintaining applicability documentation to the entities themselves. If CARB is making these determinations—presumably based on data it already possesses or can obtain through FTB coordination—it is more appropriate for CARB to maintain the underlying applicability records rather than requiring each entity to do so independently.

The Staff Report rationale for this provision is minimal, stating only that "retention of records related to the eligibility thresholds of the Proposed Regulation allows Staff to follow up with entities to verify information when there are questions about coverage."[45] This rationale does not explain why entities should bear the cost of maintaining records that CARB can obtain through existing interagency mechanisms, particularly when CARB is the party making applicability determinations in the first instance.

The burden imposed by § 96074(d) is not theoretical. In practice, it will require companies to create and maintain duplicative documentation packages for CARB, even where state records already exist and where CARB can independently verify coverage:

- Data mismatch / mistaken invoicing scenario: A company receives a fee determination notice due to an upstream data error or corporate name/structure mismatch. To prepare for a potential CARB request, the company must assemble and retain multi-year "doing business" analyses, revenue workpapers, and internal sourcing data—often requiring significant legal and finance resources—despite CARB being able to validate the underlying criteria through tax documents and its audit authority.
- M&A / reorganization scenario: Following an acquisition, entities may need sensitive, transaction-related analyses to determine revenue and California nexus across consolidated structures. A blanket retention rule incentivizes over-collection and retention of confidential deal materials and internal workpapers far beyond what is needed to confirm basic coverage thresholds.
- Threshold "cycling" scenario: Entities near the threshold may shift in and out of coverage year-to-year. If § 96074(d) remains broad and undefined, companies will be compelled to preserve evolving internal analyses for five years even when the determination is ultimately based on objective, standardized tax concepts.

These examples illustrate why a universal recordkeeping mandate is likely to produce over-retention, overproduction, and compliance friction without meaningfully improving CARB's ability to administer the program. (45d-018.31)

[45] Staff Report at 13.

Comment: The Recordkeeping Requirement is vague and invites inconsistent, costly compliance behavior

§ 96074(d) does not specific-10y:

- what constitutes “records demonstrating” the thresholds (e.g., full returns, worksheets, apportionment schedules, board minutes, intercompany transaction data, corporate structure charts);
- whether summaries or certifications are sufficient;
- how to treat complex structures (parents/subsidiaries, reorganizations);
- how confidentiality will be handled when records include sensitive tax and commercial information.

This vagueness will predictably lead companies—especially those with limited in-house compliance teams—to over-retain, over-collect, and over-escalate to counsel to avoid enforcement risk. That is a real burden even for large entities, and it is particularly acute for private companies and organizations with complex corporate structures.

A blanket five-year retention requirement encourages creating a comprehensive, litigation-ready set of documents for every transaction—documents that are far broader than what is needed to validate fee applicability. (45d-018.32)

Comment: the recordkeeping provision in § 96074(d) imposes administrative burdens that are not justified by the regulatory benefits, particularly given CARB’s existing access to the relevant data through state tax authorities. In light of these considerations, we urge CARB to consider and adopt one of the following options instead:

Option 1 (preferred): Remove § 96074(d) and rely on CARB-maintained applicability records

Delete § 96074(d) in its entirety. CARB should maintain (internally) the data sources and decision logic used to identify “affected” entities for invoicing—consistent with CARB’s stated reliance on verifiable FTB tax documents and state infrastructure.

Option 2: Replace with a targeted, dispute-based record submission process

Replace § 96074(d) with language that:

- requires an entity to provide documentation only if it affirmatively claims it is not covered, disputes a fee notice, or seeks an exemption; and
- allows submission of a short certification plus specifically enumerated supporting items (e.g., a relevant excerpt of an FTB filing or a standardized apportionment/sales factor summary).

This approach aligns record submission with actual need, rather than imposing a universal retention regime.

Option 3: Narrow and clarify § 96074(d) to reduce burden and protect sensitive information

If CARB retains a recordkeeping requirement, CARB should (i) define a clear minimum safe harbor set of records (e.g., a short certification plus an excerpt or summary derived from relevant California tax filings), (ii) confirm that where CARB can verify annual revenue and California nexus from FTB filings or other state records, CARB will not require duplicative production absent a specific discrepancy, (iii) limit record requests to disputes or anomalies,

and (iv) clarify confidentiality handling for tax-return and proprietary commercial information. (45d-018.34)

Comment: CARB's proposal includes a data retention provision requiring entities subject to the regulation to maintain records demonstrating that they "meet the revenue and doing business in California thresholds."[10] This self-certification requirement is inconsistent with CARB's stated rationale of using publicly available and verifiable information to determine applicability. Reporting entities should not bear the additional burden of justifying their inclusion or providing proprietary business information beyond what is necessary for compliance. (45d-051.6)

[10] CARB, Proposed SB 253 Regulation Text A-1; available at: https://ww2.arb.ca.gov/sites/default/files/barcu/regact/2025/sb253-261/reg%20text.pdf. Accessed January 2026.

Comment: In addition, CARB's proposal states that entities must provide these records to CARB if requested, without clarifying the circumstances in which this information may be requested. If CARB maintains the proposed data retention requirements, then, at a minimum, CARB should clearly define the circumstances under which records can be requested. (45d-051.7)

Comment: Three the proposed record keeping requirements should be revised to limit burdens on reporting entities meeting an appropriate threshold of doing business in California. (BHT-003.4)

Agency Response: No changes were made in response to these comments. Given that each regulated entity is responsible for determining their applicability under Health and Safety Code sections 35832 and 35833, CARB includes the recordkeeping provision in the Regulation as an essential piece to support information retention necessary for implementation of the program.

CARB also disagrees with the assertion that recordkeeping will incur additional costs for regulated entities. To minimize the burden on regulated entities, the Regulation relies on established definitions from the California Revenue and Taxation Code, which are already widely used by entities that file corporate tax filings in California. The information needed to determine applicability is already available to entities as part of financial records and maintained in the ordinary course of business for business and tax purposes; the recordkeeping requirement simply requires regulated entities to retain those records, which entities should already be doing consistent with existing standard business practices. The recordkeeping requirement also allows CARB to assist entities with applicability questions.

K-2 Multiple Comments: Request Modifications over Reporting/Covered Entity Definitions

Comment: We noted the definition of "reporting entity" is similar to the Health and Safety Code paragraph 38532(b)(2) with a difference in how the entity's revenue is determined (i.e., the lesser of the entity's two previous fiscal years in the Proposed Regulation rather than the prior fiscal year in section 38532(a)(2) of the Health and Safety Code). In addition, we noted that the form of the entities listed is identical to the definition of "business entity" in paragraph 96202(a)(1). We believe referring to section 38532(a)(2) rather than repeating the definition may simplify updates and prevent inconsistencies in the future should one regulation be updated independent of the other.

In addition, it is unclear which other individual business entities in their respective corporate family tree should be included in the "reporting entity" in preparing the report and determining whether the entity does business in California. We believe the following items should be clarified:

a. The individual business entity(ies) within a corporate family tree that should submit a report. This includes:
    i. Clarifying whether each individual business entity should determine if they meet the criteria to be considered a "reporting entity"
    ii. For those individual business entities that meet the criteria to be considered a "reporting entity," the options the entities within a corporate family tree have to group themselves to submit a report
b. The subsidiaries to each of those entities that should be included in the report:
    i. All subsidiaries
    ii. U.S. subsidiaries only
    iii. Only subsidiaries doing business in California
    iv. Only subsidiaries that also meet the definition of "reporting entity"
    v. A subsidiary that submits a separate report under section 96202
    vi. Any combination of the above
c. If subsidiaries that meet the definition of "reporting entity" are also included in the parent entity, would the parent entity and the parent of the parent entity meet the definition of "reporting entity" if they file unitarily?
d. Can subsidiaries that meet the definition of "reporting entity" submit a separate report? If so, would the parent's report include the subsidiary that was reported separately?
e. How do the entities included as part of the "reporting entity" relate to the entities included in the determination of "revenue" under this section?

We believe the differences in the definition of "reporting entity" in the Proposed Regulation compared to that in Health and Safety Code paragraph 38532(b)(2) should explicitly be addressed. We offer the following recommendations in defining "reporting entity" for the purpose of Article 6: California Climate Disclosures of Title 17 of the California Code of Regulations to address the differences:

- Acknowledge the difference, retaining section 38532 as the primary definition source: (11) "Reporting entity" shall have the same definition as set forth in section 38532 of the Health and Safety Code, except that "Applicability shall be determined based on the business entity's revenue for the prior fiscal year" shall not apply for purposes of this section. For purposes of this section, the entity's revenue amount shall be determined by the lesser of the entity's two previous fiscal years of revenue. When applicable, a "reporting entity" shall include a parent (as defined in section 96202(a)(10)) and any subsidiaries (as defined in section 96202(a)(16)).
  or
- Create a new definition of "covered entity" within this section separate from the definition of "covered entity" in section 38532: (11) "Reporting entity" means a business entity with total annual revenues in excess of one billion United States dollars ($1,000,000,000) and that does business in California. The entity's revenue amount shall be determined by the lesser of the entity's two previous fiscal years of revenue. When applicable, a "reporting entity" shall include a parent and any subsidiaries as defined in section 96202(a). (45d-027.11)

Comment: We noted the definition of "covered entity" is similar to the Health and Safety Code section 38533(a)(4) with a difference in how the entity's revenue is determined (i.e., the lesser of the entity's two previous fiscal years in the Proposed Regulation rather than the prior fiscal year in section 38533(a)(4) of the Health and Safety Code). In addition, we noted that the form of the entities listed is identical to the definition of "business entity" in section 96202(a)(1). We believe referring to section 38533 rather than repeating the definition may simplify updates and prevent inconsistencies in the future should one regulation be updated independent of the other.

In addition, it is unclear which other individual business entities in their respective corporate family tree should be included in the "covered entity" when submitting the report and determining whether the entity does business in California. Our concerns listed in "reporting entity" above also apply.

We believe the differences in the definition of "covered entity" in the Proposed Regulation compared to that in Health and Safety Code section 38533(a)(4) should explicitly be addressed. We offer the following recommendations in defining "covered entity" for the purpose of Article 6 of Title 17 of the California Code of Regulations to address the differences:

- Acknowledge the difference, retaining section 38533 as the primary definition source: (5) "Covered entity" shall have the same definition as set forth in section 38533 of the Health and Safety Code, except that "Applicability shall be determined based on the business entity's revenue for the prior fiscal year" shall not apply for purposes of this section. For purposes of this section, the entity's revenue amount shall be determined by the lesser of the entity's two previous fiscal years of revenue.
  or

- Create a new definition of "covered entity" within this section separate from the definition of
"covered entity" in section 38533: (5) "Covered entity" means a business entity with total annual revenues in excess of five hundred million United States dollars ($500,000,000) that does business in California. 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. (45d-027.13)

Comment: Amend the definitions of “reporting entity” and “covered entity” to clarify that the application of these definitions should be on an entity-by-entity basis, notwithstanding any unitary tax return filed by any entity, to ensure consistency with the clear language of the enabling statute and California law. (45d-072.2)

Agency Response: No changes were made in response to these comments. These definitions are clear in the Regulation as written. For concerns regarding definition refinements, please refer to Agency Response G-22.

Regarding business entities within a corporate group, the revenue threshold determining eligibility as either a reporting entity or a covered entity is evaluated at the individual entity level.

CARB acknowledges the concerns raised in the comments regarding reporting data for subsidiaries within a consolidated report. Please refer to Agency Response J-2.

K-3 Multiple Comments: Suggest Changing Reporting / Covered Entity Definitions

Comment: We also recommend explicitly stating that entities “in the business of insurance” are exempted from the definition of “Reporting Entity” in § 96072(a)(11). We recommend this change to make it clear that the insurance-related exemption applies to emissions reports that would otherwise be required under § 38532. This should ensure that Proposed Regulation § 96071(b) is not (inadvertently) narrowly interpreted to only apply to entities that are exempt pursuant to Health and Safety Code § 38533. As so amended, the definition of “Reporting Entity” would read as follows: “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. The entity’s revenue amount shall be determined by the lesser of the entity’s two previous fiscal years of revenue. “Reporting 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. (45d-018.27)

Comment: Kern encourages Staff to reexamine the proposed definitions for “Covered Entity” and “Reporting Entity,” as proposed in Section 96202(a), and provide for the most recent three fiscal years of an entity’s revenue for determining applicability under these new regulations. As these definitions are proposed, two fiscal years is simply inadequate for determining whether an entity’s revenue exceeds the applicable threshold. Kern recognizes Staff’s intent to mitigate the potential for entities to cycle in and out of the programs due to unforeseeable or one-off type scenarios, and cautions Staff that two years is too narrow to achieve this objective.

In both the Initial Statement of Reasons and the Informative Digest of Proposed Action, Staff note these programs are targeted at large entities; however, revenue is only one of many metrics that can assess the size of an entity. Revenue alone serves as a poor proxy for the size of an organization, its emissions profile, or its ability to absorb new compliance costs. In the example of the high-volume/low-margin nature of the refining industry, and the volatile nature of two independent commodity markets, make gross revenue inaccurate in depicting the size of the business entity. Kern understands CARB must account for revenue because this metric is prescribed in the law, and believes this requirement further underscores the need to allow for no less than a three-year review of fiscal year revenue to determine program applicability. (45d-058.2)

Comment: To that end, we propose that the definition of “covered entity” set forth in section 96072(a)(5) be revised as follows:

“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. 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. The revenues, in-state sales, and other activities of a subsidiary will not be attributed to its parent for purposes of determining whether an entity is a “covered entity,” notwithstanding any unitary tax return filed by them. (45d-072.5)

Comment: We similarly propose that the definition of “reporting entity” set forth in section 96072(a)(11) be revised as follows:

“Reporting entity” means a corporation, partnership, 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. The entity’s revenue amount shall be determined by the lesser of the entity’s two previous fiscal years of revenue. The revenues, in-state sales, and other activities of a subsidiary will not be attributed to its parent for purposes of determining

whether an entity is a “reporting entity,” notwithstanding any unitary tax return filed by them. (45d-072.6)

Comment: THE DEFINITION OF “REPORTING ENTITY” AND “COVERED ENTITY” SHOULD BE MODIFIED TO EXCLUDE FEDERALLY FUNDED NATIONAL SECURITY LABORATORIES

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. (BH-002.3)

> **Agency Response:** No changes were made in response to these comments. Revisions to the definitions of "reporting entity" and "covered entity" are unnecessary. Section 96071(b) of the Regulation expressly states that "this article does not apply to the following entities," and identifies the categories of exempt entities. As such, there is no need to incorporate exemption language into the definitions of "reporting entity" and "covered entity." The inclusion of the insurance-related exemption within the definition of "covered entity" reflects specific statutory language and is an exception based on that statutory direction, rather than a general approach to incorporating exemptions within definitions.
>
> Additional clarification regarding applicability is unnecessary within the definitions of "reporting entity" and "covered entity." The criteria used to determine applicability, including "revenue" and "doing business in California," are defined in section 96072 of the Regulation and provide sufficient clarity, as they rely on established definitions from the California Revenue and Taxation Code that are widely used by entities that file corporate tax filings in California.
>
> A three-year lookback period is unnecessary. A two-year lookback period is sufficient to give advance notice to entities passing the revenue threshold which may soon be eligible under the Regulation, prevents entities from cycling in and out of scope, and provides a buffer for one-time revenue spikes. The definition of revenue provides a standardized, transparent, and objective measure of an entity's size and economic activity. However, revenue is used solely to determine whether an entity meets the statutory revenue thresholds and is not intended to serve as a proxy for an entity's emissions.
>
> Regarding comment BH-002.3, CARB has considered the commenter's input and does not believe a change is needed or merited. Please refer to Agency Response E-6 document for CARB's justifications.

K-4 Unique Comment: Clarification of Reporting/Covered Entity Definition

Comment: Dairy Institute appreciates the use of the prior two fiscal years when determining qualifying status, taking into account revenue abnormalities and fluctuations. While this use of a two-year record is appreciated, additional clarification on on-off transactions or unusual revenue increased would create more consistency and equitability. (45d-040.13)

> **Agency Response:** No changes were made in response to these comments. The two-year lookback provision is clear as written in the Regulation. On-off transactions and unusual revenue increases are some of the situations the provision is designed to alleviate.

K-5 Multiple Comments: Concerns over Scope 1 and Scope 2 Emissions Definition

Comment: The California Retailers Association recommends aligning key definitions in the regulation with widely accepted international reporting standards, for example: Using the GHG Protocol definitions for Scope 1 and Scope 2 emissions (45d-070.3)

Comment: 3. Amend the definition of Scope 2 to explicitly include Transmission and Distribution (T&D) losses, and ensure future reporting template structures allow for separate accounting of T&D line losses in addition to facility electricity, steam, heating, or cooling emissions. (45d-076.4)

Comment: T&D line loss occurs when electricity is lost as it travels across the electric grid between power plants and the end-use customers.[15] To promote consistent reporting across electric utilities and avoid double-counting across scopes, Edison International recommends that CARB explicitly include all T&D line loss emissions, excluding losses associated with owned generation,[16] in the Scope 2 definition, in alignment with guidance from The Climate Registry's (TCR) Electric Power Sector Protocol. (45d-076.13)

> [15] Includes SCE's retail customers as well our Direct Access customers and community choice aggregators (CCAs).
> [16] T&D losses associated with owned generation are captured under Scope 1 as these emissions are based on production activity and not consumption data.

Comment: The California Retailers Association recommends aligning key definitions in the regulation with widely accepted international reporting standards, for example, using the GHG protocol definitions for Scope 1 and 2 emissions (BHT-032.3)

> **Agency Response:** No changes were made in response to these comments. "Scope 1 emissions" and "Scope 2 emissions" are defined by statute per Health and Safety Code section 38532. The Regulation simply restates these definitions.
>
> For the first-year reports due in 2026, consistent with the December 2024 Enforcement Notice, reporting entities may submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice

was issued. Entities may continue to rely on existing methodologies for Scope 1 and Scope 2 emissions for the first reporting year.

K-6 Unique Comment: Circular Business Entity Definition

Comment: The definition of "business entity" includes "other business entity" as one of the forms of entities listed, which we believe may be circular and should be clarified. We recommend the wording be modified to "other entity doing business," which would refer to the definition of "doing business" in section 96202(a)(7) rather than "business entity," which is the term being defined. (45d-027.16)

Agency Response: No changes were made in response to this comment. The phrasing in the Regulation is intentionally aligned with the statutory structure of Health and Safety Code sections 38532 and 38533, which reference “other business entity” as a catchall category to ensure that all relevant corporate forms are appropriately captured. Importantly, while the “business entity” term is appropriately intended to be broad, it works in concert with other provisions in the Regulation that narrow the Regulation’s applicability to business entities by excluding certain specified entity types. These excluded entity types include Federal, State and local governmental entities and entities that are majority-owned by such government entities; as well as non-profit or charitable entities and certain other expressly excluded entity types. CARB notes that using the term “other entity doing business” in lieu of “business entity” here also results in both a narrower definition, as well as a somewhat circular definition in another part of the Regulation, as the definition for “covered entity” in section 96072(a)(5) is a “business entity” that “does business in California”.

K-7 Unique Comment: Suggest Defining “In the Business of Insurance”

Comment: we recommend including in the Proposed Regulation a definition of “in the business of insurance” to provide certainty regarding the applicability of the exemption to business entities that are not subject to regulation by the Department of Insurance in California. This definition could track the definition of “business of insurance” as set forth in the California Code of Regulations Title 10, § 2175.2(e) (and 18 U.S.C. § 1033(f)(1)), as follows: “The "business of insurance" means (1) the writing of insurance, or (2) the reinsuring of risks, by an insurer, including all acts necessary or incidental to such writing or reinsurance and the activities of persons who act as, or are, officers, directors, agents, or employees of insurers or who are other persons authorized to act on behalf of such persons.” (45d-018.26)

Agency Response: No changes were made in response to this comment. It is unnecessary to include this definition in the Regulation. The language set forth in Health and Safety Code section 38533 is sufficient to identify entities qualified for this exemption.

K-8 Unique Comment: Clarify Definition of Debt

Comment: CARB should clarify the definition of "Debt" to avoid including the same debt in the fee calculation multiple times. In the Proposed Initial Regulation, "Debt," which is a component of the Total Required Revenue definition, is defined as "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."[24] In the Staff Report, CARB staff explains that Debt is included to "ensure that CARB fully reimburses any loans obtained to fund the program as required by the Legislature."[25] We recommend CARB to clarify that the same Debt should only be included in the Total Required Revenue once. (45d-026.17)

[24] Proposed Initial Regulation § 96072(a)(6).
[25] Staff Report, at 12.

Agency Response: No changes were made in response to this comment. "Debt" is clearly defined and will not be doubly included in total required revenue. The debt recovered through fees corresponds to the loans obtained by CARB to support initial administration and implementation, consistent with the amount required by the Legislature to be repaid.

K-9 Multiple Comments: Support Proposed Definitions

Comment: Commend two-year revenue threshold window -- Bankers commend the inclusion of "the lesser of the entity's previous two fiscal years of revenue" in Section 96202(a)(11) as this avoids the circumstance where short-term revenue volatility, or one-time gains, may cause an entity to temporarily exceed the threshold. (45d-021.2)

Comment: Commend two-year revenue threshold window -- Bankers commend the inclusion of "the lesser of the entity's previous two fiscal years of revenue" in Section 96202(a)(11) as this avoids the circumstance where short-term revenue volatility, or one-time gains, may cause an entity to temporarily exceed the threshold. (45d-022.2)

Comment: The Group supports CARB's proposed definition of a "reporting entity" under SB 253 and a "covered entity" under SB 261 as an entity that meets the respective revenue threshold based on the lesser of its revenue from the two previous fiscal years. This approach provides crucial predictability for potentially regulated entities, ensuring that only business entities with sustained revenue above the threshold are subject to the regulations. It avoids unfairly capturing business entities that may experience a temporary, one-time revenue spike that is not indicative of their typical operational scale, thereby preventing unnecessary regulatory burdens. (45d-078.16)

Agency Response: No changes were made in response to these comments. CARB acknowledges the support for the Regulation's definitions.