## Article 6: California Climate Disclosures

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

### § 96070. Purpose

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reporting programs set forth in this article are also colloquially referred to by the legislative bill numbers that originally enacted them: Senate Bill (S.B.) 253 (2023), the Climate Corporate Data Accountability Act, codified at Health & Safety Code Section 38532; and SB 261 (2023), the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

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

### § 96071. Applicability.

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

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

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

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

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

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

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

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

**§ 96072. Definitions.**

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

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

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

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

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

(5) "Covered entity" means a corporation, partnership, limited liability company, or other business entity formed under the laws of the state, the laws of any other state of the United States or the District of Columbia, or under an act of the Congress of the United States with total annual revenues in excess of five hundred million United States dollars ($500,000,000) and that does business in California. The entity's revenue amount shall be determined by the lesser of the entity's two previous fiscal years of revenue. "Covered entity" does not include a business entity that is subject to regulation by the Department of Insurance in this state, or that is in the business of insurance in any other state.

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

(7) "Doing business" shall have the same definition as set forth in section 23101(a) of the California Revenue and Taxation Code.

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

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

(10) “Parent” means a business entity that has ownership interest in or control of another business entity by direct corporate association as specified in section 95833 of Title 17 of the California Code of Regulations. The indicia determining ownership or control are set forth in section 96072(a)(16).

(11) “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.

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

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

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

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

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

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

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

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

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

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

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

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

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

**Subarticle 2: Fees**

**§ 96073. Calculation of Fees.**

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

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

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

Where:

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

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

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

$TRR_y$ = Total Required Revenue for FY $y$

$A$ = Contingency Adjustment

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

(c) Health and Safety Code section 38532 Fee:

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

Where:

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

$N_{38532}$ = Number of reporting entities

(d) Health and Safety Code section 38533 Fee:

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

Where:

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

$N_{38533}$ = Number of covered entities

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

## § 96074. Payment and Collection.

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

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

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

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

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

## § 96075. Fee Enforcement.

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

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

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

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

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

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

(a) Reporting entities shall report their Scope 1 and Scope 2 emissions for the applicable preceding fiscal year as determined in section 96076(b), on or before August 10, 2026.

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

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

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

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

### § 96077. Severability.

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

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