

March 20, 2025

Chair Liane M. Randolph  
California Air Resources Board  
10011 I Street  
Sacramento, CA 95814

***Re: Information Solicitation to Inform Implementation of California Climate-Disclosure Legislation: Senate Bills 253 and 261, as amended by SB 219.***

Dear Chair Randolph,

Carbon Accountable would like to thank the California Air Resources Board (CARB) for its efforts to source information from a wide array of stakeholders in preparation for the launch of the formal review process required by the APA and appreciate the opportunity to comment on the *Information Solicitation to Inform Implementation of California Climate-Disclosure Legislation: Senate Bills 253 and 261, as amended by SB 219* (“The Solicitation”). The Solicitation asks for recommendations and discussion of key aspects of SB 253 and 261, laws enacted and codified in Health and Safety Code Sections [38532](#) and [38533](#) respectively.

**Overview**

In developing the responses below, Carbon Accountable drew upon its extensive experience providing legal and technical support to the Act’s author, Senator Scott Wiener (SD 11), beginning with the Bill’s original introduction of the Climate Corporate Data Accountability Act in January 2021 (originally introduced as SB 260, subsequently re-introduced as SB 253, or “the Act”). Since the bill’s enactment in 2023, Carbon Accountable has engaged in efforts to support its successful implementation and prepared a detailed roadmap to support the regulatory process ([SB 253 Regulation Roadmap](#) attached as an appendix to this letter). While we are committed to ensuring the effective implementation of SB 261, given our work on SB 253 and GHG emissions accounting and reporting expertise, we defer to our colleagues at Ceres and others with deep knowledge of climate risk disclosure.

At the same time that there are elements of the policy where implementing regulations will provide important clarity and guidance on how reporting entities comply with the Act, it is important that the CARB take a measured approach to the regulatory promulgation process. SB 253 was drafted and amended over the course of three years and two legislative sessions with an eye towards minimizing ambiguity and giving companies and other stakeholders confidence and clarity in the requirements of the Act. Based on the plain language of SB 253 and its legislative history, the following are policy cornerstones that should inform the rulemaking process to ensure the State delivers on the promise of the Act while minimizing the burden on reporting entities.

**Rely on the strength of the GHG Protocol.** The GHG Protocol was selected as the applicable standard because it is the internationally recognized standard for GHG emissions reporting and is a throughput across all mandatory and voluntary corporate reporting regimes and frameworks worldwide. Using the GHG Protocol reduces compliance burdens, ensures a seamless global alignment for corporate reporting and avoids the time intensive and potentially contentious process that would be associated with the creation of a bespoke California standard.

**Ensure streamlined reporting.** As it made its way through the legislative process, many of the amendments to the bill were focused on streamlining compliance and avoiding the duplication of effort by companies while continuing to ensure the disclosure of robust GHG emissions data and information. Where there are opportunities in the regulatory process to further this goal, they should be pursued.

**Create a fit-for-purpose infrastructure.** The goal of the Act is to make GHG emissions data publicly available to inform the decision making of companies and investors and empower the public and policymakers. The State's core obligations pursuant to the law are straightforward - create and maintain (1) a reporting portal to receive and manage reporting entity submissions, and (2) a public GHG emissions disclosure website that features the GHG emissions and other information submitted by reporting entities.

## **Responses to Questions**

### **General: Applicability**

#### **Question 1a: Should CARB adopt the interpretation of “doing business in California” found in the Revenue and Tax Code section 23101?**

While the use of California Revenue and Tax Code §23101 to define “doing business” in California would be a sound choice, if the CARB chooses to develop an alternative definition it should avoid construction that would have the effect of creating an uneven playing field where certain sectors and industries are not subject to the requirements of SB 253 and SB 261.

#### **Question 1b: Should federal and state government entities that generate revenue be included in the definition of a “business entity” that “does business in California?”**

Government entities were not included in the definition of a reporting entity (SB 253) or a covered entity (SB 261). SB 219 defines such an 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...”

*Relevant statutory language: H&S Code §38532 (b)(2).*

#### **Question 1c: Should SB 253 and 261 cover entities that are owned in part or wholly owned by a foreign government?**

If a foreign government has a subsidiary that is incorporated in the United States pursuant to California Health & Safety Code §38532 (b)(2), that subsidiary or business entity should be deemed a reporting entity and is subject to the requirements of SB 253.

## **General: Standards in Regulation**

**Question 3a: *How do we ensure that CARB’s regulations address California-specific needs and are also kept current and stay in alignment with standards incorporated into the statute as these external standards and protocols evolve?***

The reference to the GHG Protocol standards and guidance does not reference specific dates for the document with the intent being that the most recent version of the standard should be applied without need for additional regulatory action. Starting in 2033, the CARB has the opportunity to adopt an alternative reporting standard, if it would more effectively further the goals of the Act, thus creating an additional avenue for any necessary standards reform in the future.

*Relevant statutory language: H&S Code §38532 (c)(1)(A)(ii); H&S Code §38532 (c)(2)(A)(iv).*

**Question 3b: *How could CARB ensure reporting under the laws minimizes a duplication of effort for entities that are required to report GHG emissions or financial risk under other mandatory programs and under SB 253 or 261 reporting requirements?***

While SB 253 minimizes duplication of effort by allowing companies to submit reports created for other purposes, as long as the reports include the scope 1, scope 2 and scope 3 emissions data and related information required under GHG Protocol corporate standards, the State has an additional opportunity to lead with a tech-forward and digital-first approach to reporting. Elements of this should include building a reporting platform with robust functionalities and integrations that allow for easy data and information sharing.

The State also has the opportunity to require that GHG emissions data be digitally tagged in Inline XBRL to maximize international alignment for streamlined submissions and increase data accessibility. XBRL formatting renders the data machine-interpretable, more timely, accessible, and less expensive to collect and process. Many of the reporting entities subject to the requirements of SB 253 may also be reporting in compliance with the CSRD in the European Union (EU) or in countries that follow International Financial Reporting Standards (IFRS). Adopting the same approach eliminates duplication and generates interoperable data.

*Relevant statutory language: H&S Code §38532 (c)(2)(B); H&S Code §38532 (c)(2)(D)(i).*

**Question 3c: *To the extent the standards and protocols incorporated into the statute provide flexibility in reporting methods, should reporting entities be required to pick a specific reporting method and consistently use it year-to-year?***

Given SB 253's clear intent to minimize the burden on entities subject to the law, companies should be able to decide which reporting method to elect as long as it is in conformance with the requirements of the GHG Protocol. Companies may be subject to a variety of other reporting regimes and it would make sense to give them flexibility to streamline their efforts as long as the required data is included.

### **General: Data Reporting**

#### ***Question 5: Should the state require reporting directly to CARB or contract out to an "emissions" and/or "climate" reporting organization?***

Regardless of whether the CARB keeps the reporting and data platform functions "in house" or contracts them out, there must be a simple and well functioning portal experience for reporting entities and a robust public facing website where all stakeholders can easily access the data and information. Both the portal that companies use to upload reports and the interface that shares this information with the public should be clearly and unambiguously associated with the CARB and the State of California. It is important for companies to take their responsibility to report their emissions to the State of California seriously and for the public to have confidence that the data provided has the imprimatur of the State of California.

The public-facing website should be easily accessible and provide a "best in class" user experience. In addition, if the State contracts with a third-party, open standards should be required, all data should be freely and readily accessible and the reporting entity should not be allowed to create proprietary products or "walled gardens" of data and information.

*Relevant statutory language: H&S Code §38532 (e)(1)(B).*

### **SB 253: Climate Corporate Data Accountability Act**

#### ***Question 7: Entities must measure and report their emissions of greenhouse gases in conformance with the GHG Protocol, which allows for flexibility in some areas (i.e. boundary setting, apportioning emissions in multiple ownerships, GHGs subject to reporting, reporting by sector vs business unit, or others). Are there specific aspects of scopes 1, 2, or 3 reporting that CARB should consider standardizing?***

To the extent that the GHG Protocol standards and guidance allow for multiple approaches, to ensure alignment with other reporting regimes and reduce duplication of effort, reporting entities should be afforded neither more nor less flexibility than is provided by the standard.

Sincerely,

Carbon Accountable

# CA SB 253: A Regulations Roadmap

August 6, 2024 | Catherine Atkin, Esq., Michael Schmitz, Esq.

## Introduction

With the passage of the groundbreaking Climate Corporate Data Accountability Act (SB 253) California continues its proud history of enacting leading climate and environmental legislation. SB 253, authored by Senator Scott Wiener, requires US public and private companies with revenues in excess of one (1) billion dollars USD that do business in California to publicly report their scope 1 and scope 2 GHG emissions beginning in 2026 and scope 1, scope 2, and scope 3 emissions beginning in 2027.

There has been tremendous support and excitement worldwide for California as it joins the growing network of jurisdictions enacting mandatory corporate GHG emissions disclosure requirements including the EU with its new Corporate Sustainability Reporting Directive (CSRD) and the recently adopted ISSB standards. Meanwhile, here in the US, the SEC Climate Risk Disclosure Rule is facing significant legal challenges and its implementation has been stayed pending litigation. This reality underscores the critical importance of timely implementation of SB 253 to ensure full transparency of corporate carbon emissions in the world's largest market.

The purpose of this Roadmap is to **demonstrate the feasibility of adopting regulations and implementing SB 253 expeditiously**, in line with the statutory mandate established in the law, which provides for first reporting by companies in 2026. After identifying a set of policy principles that should inform development of regulations and implementation activities, this brief sets forth exemplar regulations in line with these principles and illustrates a feasible path to implementation of the Act on schedule.

## SB 253 Regulation Design Principles

SB 253 was drafted and amended over the course of three years and two legislative sessions with an eye towards minimizing ambiguity and giving companies and other stakeholders confidence and clarity in the requirements of the Act. It was **purposefully structured to minimize the burden on the California Air Resources Board (ARB)** to develop regulations and support ongoing implementation of the Act, **ensure streamlined reporting by companies**, and **provide access to readily available GHG emissions data for stakeholders**. The following are the key policy principles of SB 253, based on the plain language of the Act and its legislative history, that will accelerate and streamline the development of regulations in line with its legislative intent and drive successful implementation of the Act.

### Set the reporting standard:

The Act identifies the GHG Protocol standards and guidance as the accounting and reporting standard to be used by all companies subject to the disclosure requirements of SB 253. The **GHG Protocol is the internationally recognized gold standard** for GHG emission reporting and **the cornerstone of all mandatory and voluntary corporate reporting frameworks** worldwide. Following the GHG Protocol reduces compliance burdens, ensures a seamless global alignment for corporate reporting and avoids the time intensive and contentious process that would be associated with the creation of a “bespoke” California standard.

### Keep it simple, don't overbuild:

The Act requires the ARB to contract with an existing corporate GHG emissions reporting organization to administer California's disclosure requirements. The core activities outlined in the Act for this reporting organization are simple - to collect company GHG

emissions information and provide open access to the data for consumers and other stakeholders. SB 253 is a straightforward data transparency law and ARB should minimize unnecessary investments in infrastructure build-out and services.

### Minimize compliance burden:

In addition to requiring the use of the GHG Protocol standard, other provisions in the Act focus on the avoidance of duplication of effort by reporting companies including allowing reporting companies to submit required GHG emissions information in multiple formats. Moreover, instead of calling for the accreditation of assurance providers, the Act describes required assurance provider qualifications and states clearly that the assurance process should minimize the need for companies who may be reporting in other jurisdictions to engage multiple assurance providers.

## Exemplar Regulations

### Overview

In developing the exemplar regulations below, Carbon Accountable drew upon its extensive experience providing legal and technical support to Senator Wiener and his staff since the Act's introduction in January 2021. While many of these exemplar provisions flow directly from the language of the Act, it should be noted that some of the policy choices - including reporting timeline, assurance timelines, provider qualifications, and the calculation of fees - are guided by, and reflect, Carbon Accountable's analysis.

While Carbon Accountable looks forward to the formal process that will be led by the ARB to develop SB 253 implementing regulations, this exercise **demonstrates that the timely development of a robust set of implementing regulations for SB 253 is eminently doable.** This is good news because there is no time to lose - companies need GHG emissions data to manage climate risks and inform their chosen decarbonization strategies and consumers and investors must have access to the climate data they need for decision making.

### Exemplar Regulations 17 CCR §96030-96046

The regulations spanning 17 CCR sections 96030-96046 are structured as seven (7) subarticles of a new "Article 6 Corporate Greenhouse Gas Emissions Reporting" that would be added to the California Code of Regulations (CCR), Title 17. Public Health, Division 3. Air Resources, Chapter 1. Air Resources Board, Subchapter 10. Climate Change.<sup>1</sup>

Each of the 7 subarticles includes boxed editorial content that outlines what is covered in the subarticle and how its content maps to the provisions of SB 253 as codified in Health Safety Code Section 38532. **Each subarticle is color coded and mapped to SB 253 (as codified in California Health and Safety Code Section 38532) in the Appendix.**

#### Subarticle 1. Purpose and Definitions

Subarticle 1 specifies the purpose of the article and definitions of key terms.  
Maps to SB 253/Health and Safety Code Section 38532 (b)(1)-(5)

#### Subarticle 2. Applicability

Subarticle 2 specifies which entities will be deemed Reporting  
Entities subject to the requirements of the article.  
Maps to SB 253/California Health and Safety Code 38532 (b)(2) and (g)

<sup>1</sup> Title 17. Public Health Division 3. Air Resources Chapter 1. Air Resources Board Subchapter 10. Climate Change

**Subarticle 3. Greenhouse Gas Emissions Reporting Requirements**

Subarticle 3 specifies the GHG emissions information submission requirements, identifies the standard for accounting and reporting, and outlines how submissions can be made and the reporting timeline.  
Maps to SB 253/California Health and Safety Code 38532 (c)(1)(A)(i) and (ii),(C), (D) and (E)

**Subarticle 4. GHG Emissions Reporting Platform**

Subarticle 4 specifies the responsibilities of the Emissions Reporting Organization and functionality of the GHG Emissions Reporting Portal and public disclosure website.  
Maps to SB 253/California Health and Safety Code 38532 (c)(1)(B) and (c)(2), (d), (e)(1)

**Subarticle 5. Assurance Requirements for GHG Emissions Information**

Subarticle 5 specifies the assurance requirements and assurance provider qualifications.  
Maps to SB 253/California Health and Safety Code 38532 (c)(1)(F)

**Subarticle 6. Annual Filing Fee**

Subarticle 6 specifies the methodology for annual filing fee calculation and payment timeline.  
Maps to SB 253/California Health and Safety Code 38532 (c) (1) (G)

**Subarticle 7. Administrative Penalties and Other Provisions**

Subarticle 7 specifies the administrative penalties regime and specifies severability and jurisdiction provisions.  
Maps to SB 253/California Health and Safety Code 38532 (f) and (h)

**Subarticle 1. Purpose and Definitions**

Subarticle 1 specifies the purpose of the article and definitions of key terms.  
Maps to SB 253/Health and Safety Code Section 38532 (b)(1)-(5)

**§ 96030. Purpose**

(a) The purpose of this article is to establish mandatory public reporting of company and GHG emissions information for certain US corporations, LLCs and partnerships. This article is designed to meet the requirements of section 38532 of the Health and Safety Code.

(b) *Organization of this article.* Subarticle 1 specifies the purpose of the article and definitions of terms. Subarticle 2 specifies entities that are subject to the reporting requirements of the article. Subarticle 3 specifies the reporting requirements, the methodology for calculation and required elements of GHG emissions information, how submissions can be made, and reporting timeline. Subarticle 4 specifies the responsibilities of the Emissions Reporting Organization including the GHG Emissions Reporting Portal and public disclosure website. Subarticle 5 specifies the assurance requirements and assurance provider qualifications. Subarticle 6 specifies the methodology for annual filing fee calculation and payment. Subarticle 7 specifies the administrative penalties reporting entities are subject to under the article and specifies severability and jurisdiction parameters.



## § 96031. Definitions

“ARB” means the California Air Resources Board.

“Emissions Reporting Organization” means the entity the ARB contracts with to maintain an emissions reporting portal and maintain a public GHG emissions reporting website.

“Emissions Reporting Portal” means the platform maintained by the Emissions Reporting Organization for use by Reporting Entities to submit required GHG emissions information.

“Filing fee” means the annual fee that Reporting Entities need to pay to the Climate Accountability and Emissions Disclosure Fund.

“GHG Protocol” means the standards and guidance that Reporting Entities must use to calculate and report their GHG emissions information.

“Public GHG emissions website” means the website, developed and maintained by the Emissions Reporting Organization, that allows the public to access Reporting Entities GHG emissions information.

“Reporting Entity” means a US corporation, LLC or partnership subject to the requirements of this article.

“Scope 1 emissions” means direct greenhouse gas emissions from sources that a Reporting Entity owns or controls, regardless of location, including, but not limited to, fuel combustion activities as defined in the GHG Protocol.

“Scope 2 emissions” means indirect greenhouse gas emissions from the generation of electricity, steam, heating, or cooling purchased or acquired by a Reporting Entity, and consumed by operations owned or controlled by the Reporting Entity as defined in the GHG Protocol.

“Scope 3 emissions” means all other indirect upstream and downstream greenhouse gas emissions, other than scope 2 emissions, from sources that the Reporting Entity does not own or directly control as defined in the GHG Protocol.

### Subarticle 2. Applicability

Subarticle 2 specifies which entities will be deemed Reporting Entities subject to the requirements of the article.  
Maps to SB 253/California Health and Safety Code 38532 (b)(2) and (g)

## § 96032. Definition of Reporting Entity

(a) *Reporting Entities*. This article applies to an entity that in its prior fiscal year is:

- (1) 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, and
- (2) Doing business in California pursuant to RTC, Division 2, Part 11 Chapter 2, Article 1. §23101. If an entity’s fiscal year spans two calendar years, an entity is doing business in the state if it meets the requirements of RTC §23101 for one or both calendar years, and
- (3) Such entity has annual revenues in excess of one billion dollars (\$1,000,000,000).



(A) A publicly traded company shall determine whether it meets the revenue threshold based on its revenues as reported in its Form 10-K annual reports filed with the SEC.

(B) A privately held company shall determine whether it meets the revenue threshold using Generally Accepted Accounting Principles (GAAP) for revenue recognition including Accounting Standards Certification (ASC) 606.

(b) *Exemption for University of California:* This article applies to the University of California and its campuses only to the extent the Regents of the University of California, by resolution, make any provisions of this Article applicable to the University of California and its campuses.

### Subarticle 3. Greenhouse Gas Emissions Reporting Requirements

Subarticle 3 specifies the GHG emissions information submission requirements, identifies the standard for accounting and reporting, and outlines how submissions can be made and the reporting timeline.

Maps to SB 253/California Health and Safety Code 38532 (c)(1)(A)(i) and (ii),(C), (D) and (E)

## § 96033. Required Company and GHG Emissions Information

Reporting entities submissions shall include:

(a) *Required company information:* The name of the Reporting Entity and any fictitious names, trade names, assumed names, and logos used by the Reporting Entity.

(b) *Required GHG emissions information:* The Reporting Entity's scope 1, scope 2, and scope 3 GHG emissions information in conformance with the Greenhouse Gas Protocol standards and guidance.

### Current GHG Protocol Standard - What's Required

#### (a) Description of the Company and Inventory Boundary

- (1) An outline of the organizational boundaries chosen, including the chosen consolidation approach.
- (2) An outline of the operational boundaries chosen and a list specifying which types of activities are covered.
- (3) The reporting period covered.

#### (b) Information on Scope 1 and Scope 2 Emissions

- (1) Total scope 1 and 2 emissions independent of any GHG trades such as sales, purchases, transfers, or banking of allowances.
- (2) Emissions data separately for each scope.
- (3) Emissions data for all six GHGs separately (CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>O, HFCs, PFCs, SF<sub>6</sub>) in metric tonnes and in tonnes of CO<sub>2</sub> equivalent.
- (4) Methodologies used to calculate or measure emissions, providing a reference or link to any calculation tools used.
- (5) Any specific exclusions of sources, facilities, and / or operations.

#### (c) Information on Scope 3 Emissions

- (1) Total scope 3 emissions reported separately by scope 3 category
- (2) For each scope 3 category, total emissions of GHGs (CO<sub>2</sub>, CH<sub>4</sub>, N<sub>2</sub>O, HFCs, PFCs, and SF<sub>6</sub>) reported in metric tons of CO<sub>2</sub> equivalent, excluding biogenic CO<sub>2</sub> emissions and independent of any GHG trades, such as purchases, sales, or transfers of offsets or allowances
- (3) A list of scope 3 categories and activities included in the inventory

- (4) A list of scope 3 categories or activities excluded from the inventory with justification of their exclusion
- (5) For each scope 3 category, a description of the types and sources of data, including activity data, emission factors and GWP values, used to calculate emissions, and a description of the data quality of reported emissions data
- (6) For each scope 3 category, a description of the methodologies, allocation methods, and assumptions used to calculate scope 3 emissions
- (7) For each scope 3 category, the percentage of emissions calculated using data obtained from suppliers or other value chain partners

### § 96034. Submission of Required Information

(a) Reporting entities shall submit the company and GHG emissions information for the prior fiscal year required under section 96033 to the Emissions Reporting Portal described in section 96037 along with a copy of the assurance provider's report required under section 96039 according to the timelines required under section 96035.

(b) Reporting entities may submit the GHG emissions information required under section 96033 to the GHG Emissions Reporting Portal by:

(1) *Completion of a digital report.* Using a standardized digital reporting template available on the GHG Emissions Reporting Portal, or

(2) *Submission of existing reports.* Reporting entities may submit reports prepared for any purpose, including to comply with other national and international mandatory or voluntary disclosure requirements and frameworks, as long as the reports include the company and GHG emissions information required under section 96033.

(c) Reporting entities shall ensure GHG emissions information is electronically tagged in Inline XBRL to maximize international alignment for streamlined submissions.

(d) Reporting entities that report GHG emissions data to the ARB pursuant to Health and Safety Code Section 38530 may provide that data as an element of their comprehensive GHG emissions information disclosure required in this Article.

### § 96035. Reporting Timeline

(a) In 2026 a Reporting Entity shall submit to the Emissions Reporting Portal described in section 96037 the company information and scope 1 and scope 2 GHG emissions information required under 96033 for the prior fiscal year and a copy of the assurance provider's reports required under section 96039 by June 30.

(b) Starting in 2027, and annually thereafter, a Reporting Entity shall submit to the Emissions Reporting Portal the company information and scope 1 and scope 2 GHG emissions information for the prior fiscal year by June 30 and the scope 3 emissions information required under section 96033 for the prior fiscal year no later than December 31. All GHG emissions information submissions shall include a copy of the assurance provider's reports required under section 96039.

## Subarticle 4. GHG Emissions Reporting Platform

Subarticle 4 specifies the responsibilities of the Emissions Reporting Organization and functionality of the GHG Emissions Reporting Portal and public disclosure website. Maps to SB 253/California Health and Safety Code 38532 (c)(1)(B) and (c)(2), (d), (e)(1)

### § 96036. General

(a) The Emissions Reporting Organization under contract with the ARB shall maintain a

- (1) GHG Emissions Reporting Portal to receive and manage Reporting Entity submissions and a
- (2) Public GHG emissions disclosure website that features the GHG emissions and other information submitted by reporting entities.

### § 96037. GHG Emission Reporting Portal

(a) A GHG Emissions Reporting Portal, developed and maintained by the Emissions Reporting Organization, will enable reporting entities to submit the company and GHG emissions information submissions required under Subarticle 3, section 96033, and the assurance report required under Subarticle 5, section 96039.

### § 96038. Public GHG Emissions Disclosure Website

(a) The public GHG emissions disclosure website, developed and maintained by the Emissions Reporting Organization, will allow the public to easily access all reporting entities GHG emissions information as well as assurance reports.

- (1) Individual Reporting Entity GHG emissions information and assurance report shall be made available on the website within 30 days of submission to the GHG Emissions Reporting Portal.

(b) The public GHG disclosure website will enable the public to have access to downloadable GHG emissions information including

- (1) Single year and multi year data for individual Reporting Entity GHG emissions information.
- (2) Single year and multi year data for subsets of reporting entities by GHG emissions across scope 1, scope 2, and scope 3 as well as by geography and sector.

(c) In addition to Reporting Entity information, the website will include a one-time report analyzing the GHG emissions disclosures upon completion by an ARB contracted entity.

## Subarticle 5. Assurance Requirements for GHG Emissions Information

Subarticle 5 specifies the assurance requirements and assurance provider qualifications. Maps to SB 253/California Health and Safety Code 38532 (c)(1)(F)

### § 96039. Assurance Requirements

(a) Reporting Entities must obtain an assurance engagement, performed by an independent third-party assurance provider, of the GHG emissions information required under section 96033.

(1) *Scope 1 and Scope 2 GHG Emission Information Assurance.* The assurance engagement for scope 1 emissions and scope 2 emissions shall be performed at a limited assurance level beginning in 2026 and at a reasonable assurance level beginning in 2030.

(2) *Scope 3 GHG Emissions Information Assurance.* The assurance engagement for scope 3 emissions shall be performed at a limited assurance level beginning in 2028.<sup>2</sup>

(b) Any assurance report required under this section must be provided pursuant to standards that are:

(1) Publicly available at no cost or that are widely used for GHG emissions assurance; and

(2) Established by a body or group that has followed due process procedures, including the broad distribution of the framework for public comment including assurance standards issues by the Public Company Accounting Oversight Board (PCAOB), American Institute of Certified Public Accountants (AICPA), and the International Audit and Assurance Standards Board (IAASB).

(c) Reporting Entities shall submit a copy of the complete assurance provider's report at the same time it submits GHG emissions information required under section 96033.

### **§ 96040. Assurance Provider Qualifications<sup>3</sup>**

(a) Reporting entities shall engage a third-party assurance provider that:

(1) Is an expert in GHG emissions by virtue of having significant experience in measuring, analyzing, reporting, or attesting to GHG emissions. Significant experience means having sufficient competence and capabilities necessary to:

(A) Perform engagements in accordance with attestation standards and applicable legal and regulatory requirements; and

(B) Enable the service provider to issue reports that are appropriate under the circumstances.

(2) Is independent with respect to the Reporting Entity for whom it is providing the assurance report, during the professional engagement period.

(A) A GHG emissions assurance provider is not independent if such assurance provider is not capable of exercising objective and impartial judgment on all issues encompassed within the assurance provider's engagement.

(B) In determining whether a GHG emissions assurance provider is independent, the ARB will consider:

1. Whether a relationship or the provision of a service creates a mutual or conflicting interest between the assurance provider and the Reporting Entity, places the assurance provider in the position of attesting to their own work, results in the assurance provider acting as management or an employee of the Reporting Entity, or places the assurance provider in a position of being an advocate for the Reporting Entity; and
2. All relevant circumstances, including all financial or other relationships between the assurance provider and the Reporting Entity.

<sup>2</sup> While (c)(1)(F)(iii) requires assurance engagements for scope 3 to be performed at a limited assurance level beginning in 2030, it also allows the ARB to establish an assurance requirement prior to 2030. The authors propose that the ARB use its authority to require reporting entities to obtain limited assurance on their scope 3 GHG emissions in 2028, one year after first reporting in 2027.

<sup>3</sup> Given that SB 253 did not contemplate the accreditation of assurance providers by the ARB, the inclusion of additional language regarding assurance provider qualifications, based on emerging globally recognized standards of practice, should be carefully considered.

(3) Complies with relevant ethical requirements and applies a system of quality management that is at least as rigorous as the International Code of Ethics for Professional Accountants (including International Independence Standards), published by the International Ethics Standards Board for Accountants (IESBA).<sup>4</sup>

## Subarticle 6. Annual Filing Fee

Subarticle 6 specifies the methodology for annual filing fee calculation and payment timeline. Maps to SB 253/California Health and Safety Code 38532 (c) (1) (G)

### § 96041. Purpose

The purpose of this subarticle is to collect fees to be used for the administration and implementation of the article as well as to repay a loan from the Greenhouse Gas Reduction Fund (GGRF) used for initial implementation of the article. The total amount of fees collected each year shall not exceed the ARBs actual and reasonable costs of administration and implementation of this article.

### § 96042. Fee Calculation

#### (a) Total Required Revenue (TRR)

(1) The Required Revenue (RR) shall be the total amount of funds necessary to cover the costs of administration and implementation of the article for each fiscal year, based on the number of personnel positions, including salaries and benefits and all other costs, including contracts.

(2) The Required Revenue shall also include any amount required to be expended by ARB in defense of this article in court.

(3) If there is any excess or shortfall in the actual fee revenue collected for any fiscal year, such excess or shortfall shall be carried over to the next year's calculation of the Total Revenue Requirement. If ARB does not expend or encumber the revenue required for any state fiscal year, the amount not expended or encumbered in that fiscal year shall be carried over and deducted from the next year's calculation of the total revenue required.

(4) The annual total revenue requirement (TRR) is equal to the annual RR adjusted for the previous fiscal year's excess or shortfall amount.

#### (b) Fee Calculation

(1) The ARB shall set the Annual Filing Fee by dividing the TRR by the ARB's the number of expected Reporting Entities.

(2) The ARB may increase the fee in any year to reflect changes in the Consumer Price Index for the prior calendar year if required to cover the ARBs full costs of administration.

### § 96043. Filing Fee Payment Timeline

(a) Reporting Entities must remit the required filing fee to the ARB Climate Accountability and Emissions Disclosure Fund at the time of submission of company and GHG emissions information required under Subarticle 3.

<sup>4</sup> ARB should consider current efforts by the International Ethics Standards Board for Accountants (IESBA) to make sustainability-related revisions to the International Code of Ethics for Professional Accountants and develop ethics and independence standards for use and implementation by both professional accountants and other professionals performing sustainability assurance engagements.

## Subarticle 7. Administrative Penalties and Other Provisions

Subarticle 7 specifies the administrative penalties regime and specifies severability and jurisdiction provisions.  
Maps to SB 253/California Health and Safety Code 38532 (f) and (h)

### § 96044. Purpose and Scope

(a) The ARB has the authority to seek administrative penalties from Reporting Entities who fail to meet the requirements of this article including but not limited to non filing and late filing of GHG emission information.

(1) A Reporting Entity shall not be subject to an administrative penalty for any misstatements with regard to scope 3 emissions disclosures made with a reasonable basis and disclosed in good faith.

(2) Between 2027 and 2030, penalties associated with the scope 3 elements of required reports shall only be recovered for the non filing of required scope 3 data.

(b) The administrative penalties authorized by this section shall be imposed and recovered by the state board in administrative hearings conducted pursuant to 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.

(c) The administrative penalties imposed on a Reporting Entity shall not exceed five hundred thousand dollars (\$500,000) in a reporting year.

(d) In imposing penalties for a violation of this article, the state board shall consider all relevant circumstances, including both of the following:

(1) The violator's past and present compliance with this section.

(2) Whether the violator took good faith measures to comply with this section and when those measures were taken.

### § 96045. Severability

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

### § 96046. Jurisdiction

(a) Reporting Entities are subject to the jurisdiction of the State of California, including the administrative authority of ARB and the jurisdiction of the Superior Courts of the State of California, irrespective of whether it has reported data in accordance with this regulation.

## Appendix - SB 253 and Exemplar Regulations Crosswalk

The provisions of SB 253 below are color coded to map to the 7 subarticles of the exemplar regulations. Anything that is not color coded is a provision that does not need to be effectuated through the initial regulations.

### SB 253 as codified in California Health and Safety Code §38532

(a) This section shall be known, and may be cited, as the Climate Corporate Data Accountability Act.

(b) For purposes of this section, the following terms have the following definitions:

(1) “Emissions reporting organization” means a nonprofit Emissions Reporting Organization contracted by the state board pursuant to paragraph (2) of subdivision (c) that both:

(A) Currently operates a greenhouse gas emission reporting organization for organizations operating in the United States.

(B) Has experience with greenhouse gas emissions disclosure by entities operating in California.

(2) “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 dollars (\$1,000,000,000) and that does business in California. Applicability shall be determined based on the Reporting Entity’s revenue for the prior fiscal year.

(3) “Scope 1 emissions” means 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.

(4) “Scope 2 emissions” means indirect greenhouse gas emissions from consumed electricity, steam, heating, or cooling purchased or acquired by a Reporting Entity, regardless of location.

(5) “Scope 3 emissions” means indirect upstream and downstream greenhouse gas emissions, other than scope 2 emissions, from sources that the Reporting Entity does not own or directly control and may include, but are not limited to, purchased goods and services, business travel, employee commutes, and processing and use of sold products.

(c) (1) On or before January 1, 2025, the state board shall develop and adopt regulations to require a Reporting Entity to annually disclose to the emissions reporting organization, and obtain an assurance engagement performed by an independent third-party assurance provider on all of the Reporting Entity’s scope 1 emissions, scope 2 emissions, and scope 3 emissions. The state board shall ensure that the regulations adopted pursuant to this subdivision require all of the following:

(A) (i) (I) That a Reporting Entity, starting in 2026 on or by a date to be determined by the state board, and annually thereafter on or by that date, publicly disclose to the Emissions Reporting Organization all of the Reporting Entity’s scope 1 emissions and scope 2 emissions for the Reporting Entity’s prior fiscal year.

(II) That a Reporting Entity, starting in 2027 and annually thereafter, publicly disclose its scope 3 emissions no later than 180 days after its scope 1 emissions and scope 2 emissions are publicly disclosed to the Emissions Reporting Organization for the prior fiscal year.

(ii) A Reporting Entity shall, beginning in 2026, measure and report its emissions



of greenhouse gases in conformance with the Greenhouse Gas Protocol standards and guidance, including the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard and the Greenhouse Gas Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard developed by the World Resources Institute and the World Business Council for Sustainable Development, including guidance for scope 3 emissions calculations that detail acceptable use of both primary and secondary data sources, including the use of industry average data, proxy data, and other generic data in its scope 3 emissions calculations.

(iii) (I) Starting in 2033 and every five years thereafter, the state board may survey and assess currently available greenhouse gas accounting and reporting standards. At the conclusion of this assessment the state board may adopt a globally recognized alternative accounting and reporting standard if it determines its use would more effectively further the goals of this section. This review process shall include consultation with the stakeholders identified in paragraph (4).

(II) If the state board adopts an alternative accounting and reporting standard, the state board shall develop and adopt new regulations, pursuant to paragraph (1), to ensure full conformance with the new standard and reporting of scopes 1, 2, and 3 emissions and other requirements of this section.

(iv) During 2029 the state board shall review, and on or before January 1, 2030, the state board shall update as necessary, the public disclosure deadlines established pursuant to clause (i) to evaluate trends in scope 3 emissions reporting and consider changes to the disclosure deadlines to ensure that scope 3 emissions data is disclosed to the emissions reporting organization as close in time as practicable to the deadline for reporting entities to disclose scope 1 emissions and scope 2 emissions data.

(v) 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.

(B) That a Reporting Entity's public disclosure maximizes access for consumers, investors, and other stakeholders to comprehensive and detailed greenhouse gas emissions data across scopes 1, 2, and 3 emissions, as defined by this section, and is made in a manner that is easily understandable and accessible.

(C) That a Reporting Entity's public disclosure includes the name of the Reporting Entity and any fictitious names, trade names, assumed names, and logos used by the Reporting Entity.

(D) (i) That the emissions reporting is structured 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, including any reports required by the federal government, as long as those reports satisfy all of the requirements of this section.

(ii) Reporting entities that are required to report mandatory industrial emissions pursuant to regulations adopted pursuant to Section 38530 may provide that data with the disclosure required pursuant to this section.

(E) That a Reporting Entity's disclosure takes into account acquisitions, divestments, mergers, and other structural changes that can affect the greenhouse gas emissions reporting, and is disclosed in a manner consistent with the Greenhouse Gas Protocol standards and guidance or an alternative standard, if one is adopted after 2033.

(F) (i) That a Reporting Entity obtains an assurance engagement, performed by an independent third-party assurance provider, of their public disclosure. The Reporting Entity shall ensure that a copy of the complete assurance provider's report on the greenhouse gas emissions inventory, including the name of the third-party assurance provider, is provided to the emissions reporting organization as part of or in connection with the Reporting Entity's public disclosure.

(ii) The assurance engagement for scope 1 emissions and scope 2 emissions shall be performed at a limited assurance level beginning in 2026 and at a reasonable assurance level beginning in 2030.

(iii) During 2026, the state board shall review and evaluate trends in third-party assurance requirements for scope 3 emissions. On or before January 1, 2027, the state board may establish an assurance requirement for third-party assurance engagements of scope 3 emissions. The assurance engagement for scope 3 emissions shall be performed at a limited assurance level beginning in 2030.

(iv) A third-party assurance provider shall have significant experience in measuring, analyzing, reporting, or attesting to the emission of greenhouse gases and sufficient competence and capabilities necessary to perform engagements in accordance with professional standards and applicable legal and regulatory requirements. The assurance provider shall be able to issue reports that are appropriate under the circumstances and independent with respect to the Reporting Entity, and any of the Reporting Entity's affiliates for which it is providing the assurance report. During 2029 the state board shall review and, on or before January 1, 2030, shall update as necessary, the qualifications for third-party assurance providers based on an evaluation of trends in education relating to the emission of greenhouse gases and the qualifications of third-party assurance providers.

(v) The state board shall ensure that the assurance process minimizes the need for reporting entities to engage multiple assurance providers and ensures sufficient assurance provider capacity, as well as timely reporting implementation as required under clause (i) of subparagraph (A).

(G) (i) That a Reporting Entity, upon filing its disclosure, shall pay an annual fee to the state board for the administration and implementation of this section.

(ii) The state board shall set the fee established pursuant to clause (i) in an amount sufficient to cover the state board's full costs of administering and implementing this section. The total amount of fees collected shall not exceed the state board's actual and reasonable costs to administer and implement this section.

(iii) The proceeds of the fees imposed pursuant to clause (i) shall be deposited in the Climate Accountability and Emissions Disclosure Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, the money in the fund is continuously appropriated to the state board and shall be expended by the state board for the state board's activities pursuant to this section and to reimburse any outstanding loans made from other funds used to finance the initial costs of the state board's activities pursuant to this section. Moneys in the fund shall not be expended for any purpose not enumerated in this section.

(iv) The state board may adjust the fee in any year to reflect changes in the California Consumer Price Index during the prior year.

(2) The state board shall contract with an emissions reporting organization to develop a reporting program to receive and make publicly available disclosures required by this section pursuant to paragraph (1).

(3) The state board may adopt or update any other regulations that it deems necessary and appropriate to implement this section.

(4) In developing the regulations required pursuant to this subdivision, the state board shall 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.

(E) Reporting entities that have demonstrated leadership in full-scope greenhouse gas emissions accounting and public disclosure and greenhouse gas emissions reductions.

(5) This section does not require additional reporting of emissions of greenhouse gases beyond the reporting of scope 1 emissions, scope 2 emissions, and scope 3 emissions required pursuant to the Greenhouse Gas Protocol standards and guidance or an alternative standard, if one is adopted after 2033.

(d) (1) On or before July 1, 2027, the state board shall contract with the University of California, the California State University, a national laboratory, or another equivalent academic institution to prepare a report on the public disclosures made by reporting entities to the emissions reporting organization pursuant to subdivision (c) and the regulations adopted by the state board pursuant to that subdivision. In preparing the report, consideration shall be given to, at a minimum, greenhouse gas emissions from reporting entities in the context of state greenhouse gas emissions reduction and climate goals. The entity preparing the report shall not require reporting entities to report any information beyond what is required pursuant to subdivision (c) or the regulations adopted by the state board pursuant to that subdivision.

(2) The state board shall submit the report required by this subdivision to the emissions reporting organization to be made publicly available on the digital platform required to be created by the emissions reporting organization pursuant to subdivision (e).

(e) (1) (A) The emissions reporting organization, on or before the date determined by the state board pursuant to clause (i) of subparagraph (A) of paragraph (1) of subdivision (c), shall create a digital platform, which shall be accessible to the public, that will feature the emissions data of reporting entities in conformance with the regulations adopted by the state board pursuant to subdivision (c) and the report prepared for the state board pursuant to subdivision (d). The emissions reporting organization shall make the reporting entities' disclosures and the state board's report available on the digital platform within 30 days of receipt.

(B) The digital platform shall be capable of featuring individual Reporting Entity disclosures, and shall allow consumers, investors, and other stakeholders to view reported data elements aggregated in a variety of ways, including multi-year data, in a manner that is easily understandable and accessible to residents of the state. All data sets and customized views shall be available in electronic format for access and use by the public.

(2) The emissions reporting organization shall submit, within 30 days of receipt, the report prepared for the state board pursuant to subdivision (d) to the relevant policy committees of the Legislature.

(f) (1) Section 38580 does not apply to a violation of this section.

(2) (A) The state board shall adopt regulations that authorize it to seek administrative penalties for non filing, late filing, or other failure to meet the requirements of this section. The administrative penalties authorized by this section shall be imposed and recovered by the state board in administrative hearings conducted pursuant to 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. The administrative penalties imposed on a Reporting Entity shall not exceed five hundred thousand dollars (\$500,000) in a reporting year. In imposing penalties for a violation of this section, the state board shall consider all relevant circumstances, including both of the following:

(i) The violator's past and present compliance with this section.

(ii) Whether the violator took good faith measures to comply with this section and when those measures were taken.

(B) A Reporting Entity shall not be subject to an administrative penalty under this section for any misstatements with regard to scope 3 emissions disclosures made with a reasonable basis and disclosed in good faith.

(C) Penalties assessed on scope 3 reporting, between 2027 and 2030, shall only occur for non-filing.

(g) This section applies to the University of California only to the extent that the Regents of the University of California, by resolution, make any of these provisions applicable to the university.

(h) The provisions of this section are severable. If any provision of this section or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

**Contact:**

[info@carbonaccountable.org](mailto:info@carbonaccountable.org)