



Dairy Institute of California represents milk processors and dairy product manufacturers based in California. Our organization's goal is to support our members' ability to operate sustainably, innovate and achieve efficiency in their own companies as they provide the highest quality dairy products to domestic and international markets.

Thank you for the opportunity to provide comment to your pre-rulemaking questions for SB 253 and 261.

General: Applicability

1. **SB 253 and 261 both require an entity that “does business in California” to provide specified information to CARB. This terminology is not defined in the statutes.**

- a. **Should CARB adopt the interpretation of “doing business in California” found in the Revenue and Tax Code section 23101?**

The definition of “doing business in California” found in the Revenue and Tax Code section 23101 is incredibly broad and includes many businesses that do minimal business in California with marginal climate impacts. If such a company does find itself under the definition of “doing business in California”, the cost of administration and compliance could far exceed the revenue they make in the state.

Instead of utilizing an existing definition, CARB should create its own definition of “doing business in California” to provide greater clarity to the types of companies who need to comply with SB 253 and 261 reporting requirements. CARB should take into consideration significant factors, including revenue, income, number of in-state employees, in-state emissions, and other criteria that indicate a significant and ongoing connection to the State of California.

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

Government activities at both federal and state levels are significant drivers of emissions. The state and federal government 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 would further expose the laws’ inconsistencies, lack of justification, and risk of arbitrary enforcement.

- c. Should SB 253 and 261 cover entities that are owned in part or wholly owned by a foreign government?** No comment.

- d. Should entities that sell energy, or other goods and services, into California through a separate market, like the energy imbalance market or extended day ahead market, be covered?** No comment.

- 2. What are your recommendations on a cost-effective manner to identify all businesses covered by the laws (i.e., that exceed the annual revenue thresholds in the statutes and do business in California)?**

- a. For private companies, what databases or datasets should CARB rely on to identify reporting entities? What is the frequency by which these datasets are updated and how is it verified?**

Various third-party sources including the Circular Action Alliance could have datasets or databases to help identify reporting entities. The Board of Equalization and the State Franchise Tax Board also have strong datasets. Multiple datasets will likely have to be analyzed and referenced to identify all reporting entities.

- b. In what way(s) should CARB track parent/subsidiary relationships to assure companies doing business in California that report under a parent are clearly identified and included in any reporting requirements?**

A registration process that asks identifying questions beforehand could be helpful (e.g. parent/subsidiary questions). However, companies typically report emissions on a parent level, not a subsidiary level. For a more straightforward compliance process, allow the business to determine whether to comply at either the subsidiary or parent level. If a company does

business in California but is a part of a larger parent company, the larger parent company's report should satisfy the requirement from the subsidiary.

General: Standards in Regulation

3. **CARB is tasked with implementing both SB 253 and 261 in ways that would rely on protocols or standards published by external and potentially non-governmental entities.**

- a. **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?**

CARB should align its regulations as consistently as possible with the external standards referenced in SB 253 and SB 261. It is important to maintain alignment in this area with existing reporting protocols. SB 253 requires companies to report emissions in accordance with the Greenhouse Gas Protocol. SB 261 requires risk disclosures to be made based on the framework and disclosures contained in the June 2017 Final Report of the Task Force on Climate-related Financial Disclosures, respectively. CARB's regulations should remain consistent with these standards as they exist at the time each law takes effect.

The simplest would be to align with the California Greenhouse Gas Reporting Rule, which is already a well-established process.

To minimize unnecessary burdens, CARB should avoid creating additional reporting requirements that are specific to California. It would force companies to spend extra resources creating multiple different emissions reports. As reporting standards evolve over time, entities should have the option to report under updated standards if they choose, which would help prevent duplicative reporting.

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

- c. **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? See (a)**

General: Data Reporting

4. **To inform CARB's regulatory processes, are there any public datasets that identify the costs for voluntary reporting already being submitted by companies? What factors affect the cost or anticipated cost for entities to comply with either legislation? What data should CARB rely on when assessing the fiscal impacts of either legislation?**

The current California Greenhouse Gas Reporting rules require an external verification requirement and there are costs associated with needing to utilize an approved consultant to conduct the audit. Entities will be impacted by costs factors with regards to the accounting piece and the assurance piece.

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

We recommend reporting directly to CARB. Requiring reporting through a third-party organization raises significant concerns.

6. **If contracting out for reporting services, are there non-profits or private companies that already provide these services? See comment above.**

SB 253: Climate Corporate Data Accountability Act

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?**

CARB should consider promoting flexibility and transparency within reporting. In some ways, standardization is easier for compliance, however, the data usage is of concern for dairy processors. We should avoid standardization requirements that

can lead to a “score card” with arbitrary data to compare companies and shame them, which does little to achieve the goals of SB 253.

8. **SB 253 requires that reporting entities obtain “assurance providers.” An assurance provider is required to be third-party, independent, and have significant experience in measuring, analyzing, reporting, or attesting in accordance with professional standards and applicable legal and regulatory requirements.**

- a. **For entities required to report under SB 253, what options exist for third-party verification or assurance for Scope 3 emissions?**

There are currently not enough providers to choose from when it comes to third-party verification for assurance for Scope 3 emissions. Scope 3 emissions reporting also has a lot more ambiguity and no clear definitions. This is a specialist space, and if a lot of companies need to report, there might be a shortage of available and qualified assurance providers. This issue brings up the other issue of if there are not enough providers, people with little experience will start to enter the market and this can degrade the quality of work done and end up being harmful to the company in the long run. We recommend CARB look to accreditation entities to certify third-party verifiers. Additional definition is needed around assurance and verification and the specific function of third-party verifiers. We recommend against limiting businesses to a specific approved list of third-party providers.

- b. **For purposes of implementing SB 253, what standards should be used to define limited assurance and reasonable level of assurance? Should the existing definition for “reasonable assurance” in MRR be utilized? And if not why?**

No comment.

9. **How should voluntary emissions reporting inform CARB’s approach to implementing SB 253 requirements? For those parties currently reporting scopes 1 and 2 emissions on a voluntary basis:**

- c. **What frequency (annual or other) and time period (1 year or more) are currently used for reporting?**

Companies are currently reporting scopes 1 and 2 emissions annually on the calendar year in accordance with the EPA mandatory reporting rules and current California reporting requirements.

d. When are data available from the prior year to support reporting?

We recommend the timeline from the California Greenhouse Gas Reporting Rule.

e. What software systems are commonly used for voluntary reporting?

CARB should allow for flexibility and allow companies to use already established software systems or preferred platforms in current use.

SB 261: Climate Related Financial Risk Disclosure

10. For SB 261, if the data needed to develop each biennial report are the prior year's data, what is the appropriate timeframe within a reporting year to ensure data are available, reporting is complete, and the necessary assurance review is completed?

Companies will need plenty of time to determine what is involved with reporting and the needed reporting period. This is the first time companies have been required to report this data, and we need to allow for maximum flexibility to ensure accurate reporting.

11. Should CARB require a standard reporting year (i.e., 2027, 2029, 2031, etc.), or allow for reporting any time in a two-year period (2026-2027, 2028-2029, etc.)?

Flexibility is needed to allow the businesses to report any time in a two-year period.

12. SB 261 requires entities to prepare a climate-related financial risk report biennially. What, if any, disclosures should be required by an entity that qualifies as a reporting entity (because it exceeds the revenue threshold) for the first time during the two years before a reporting year? No comment.

13. Many entities that are potentially subject to reporting requirements under SB 261 are already providing other types of climate financial risk disclosures.

f. What other types of existing climate financial risk disclosures are entities already preparing?

CARB should allow for SB 261 implementation to recognize and credit existing climate risk disclosures, such as portions of CSRD that apply under SB 261.

However, we stress the need for CARB to pay attention to the reporting costs required with existing climate risk disclosures such as CSRD and stress the need for harmonization across existing reporting structures.

- g. For covered entities that already report climate-related financial risk, what approaches do entities use?**

Entities tend to use a scenario analysis with set areas of transition risk that cover your approach.

- h. In what areas, if any, is current reporting typically different than the guidance provided by the Final Report of Recommendations of the Task Force on Climate-related Financial Disclosures?** No comment.

- i. If not consistent with the Final Report of Recommendations of the Task Force on Climate-related Financial Disclosures, are there other laws, regulations, or listing requirements issued by any regulated exchange, national government, or other governmental entity that is guiding the development of these reports?** No comment.