



February 9, 2026

By electronic submittal

California Air Resource Board
1001 I St.
Sacramento, CA 95814

RE: Comments on the Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation

Dear CARB Staff:

I am providing comments on California Air Resource Board's ("CARB") proposed regulation implementing California's Climate Corporate Data Accountability Act ("SB 253") and Climate-Related Financial Risk Act ("SB 261") ("Proposed Regulation") on behalf of out-of-state holding companies that have one or more subsidiaries that "do business in California" when those subsidiaries, individually, are under the \$500 million/\$1 billion annual revenue thresholds.

We appreciate and support the State's commitment to corporate climate accountability and the important policy goals underlying these disclosure requirements. We are, however, concerned that certain definitions in the Proposed Regulations and related guidance create significant ambiguity regarding the requirements, particularly as applied to out-of-state holding and out-of-state indirect parent companies with no California sales, that indirectly wholly own one or more smaller California-based subsidiaries. As discussed below, we respectfully request that CARB clarify these definitions to ensure that only those entities that truly "do business in California" are covered or reporting entities.

I. 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.

B. FAQ Adds Ambiguity and Unreasonably Extends Proposed Regulation Applicability to Indirect Parent Companies

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.

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?

C. An Out-Of-State Parent Should Not be a “Covered Entity” or a “Reporting Entity” Solely Because it is Required to File California Taxes on a Unitary Basis

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.

II. Conclusion and Recommendations

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.

We welcome continued engagement on these matters through public workshops or direct dialogue with CARB.

Sincerely,

A handwritten signature in blue ink, appearing to read "Alison Torbitt". The signature is fluid and cursive, with a long horizontal stroke extending from the end of the name.

Alison Torbitt
Partner