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

The California Air Resources Board (CARB or Board) is soliciting feedback to help inform its work to implement Senate Bills (SB) 253 (Wiener, Statutes of 2023) and 261 (Stern, Statutes of 2023), both as amended by SB 219 (Wiener, Statutes of 2024). This early solicitation step allows CARB to gather important information, from a wide range of stakeholders, relating to developing approaches to implementation.

SB 253 and SB 261, both enacted in 2023, require business entities formed under the laws of California, 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 ("US-based entities") to report specified greenhouse gas (GHG) emissions and climate related financial risks. The disclosures required under these laws will, among other things, improve transparency from companies regarding their GHG emissions and climate-related risk management practices to better inform the decision-making of California consumers, investors, and members of the public. The legislation will improve access to consistent, standardized information from the largest companies doing business in California about their GHG emissions, and the risks they face from the impacts of climate change.

SB 253, the Climate Corporate Data Accountability Act, requires US-based entities with more than $1 billion in annual revenue doing business in California to annually report all direct GHG emissions (scope 1), indirect GHG emissions from consumed energy (scope 2) and indirect upstream and downstream GHG emissions (scope 3). SB 219 amends parts of SB 253 regarding regulatory timelines, and the timing of scope 3 emissions reporting, fee payment, and other provisions.

SB 261, the Climate Related Financial Risk Act, requires US-based entities with more than $500 million in annual revenue doing business in California to biennially report any climate-related financial risks they have identified and any measures they have adopted to reduce and adapt to those risks. SB 219 amends parts of SB 261 on the timing of fee payment, among other provisions.

CARB is conducting this solicitation step to gather information that will aid in implementing SB 253 and SB 261. The solicitation for feedback on the questions below will be open for 60 days. We also welcome any additional feedback that respondents feel is important for staff to consider regarding the implementation of SB 253 and SB 261. In responding to the questions below, it is most helpful to staff if respondents reference the question number with their response. Submittals will be publicly posted for transparency.

CARB is already in the process of hiring staff.

Submit Comments: https://ww2.arb.ca.gov/public-comments/public-comments-california-climate-disclosure-information-solicitation

Comment deadline: February 14, 2025

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?
    b. Should federal and state government entities that generate revenue be included in the definition of a "business entity" that "does business in California?"
    c. Should SB 253 and 261 cover entities that are owned in part or wholly owned by a foreign government?
    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?

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 data are updated and how is it verified?
    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?

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?
    b. 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?
    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?

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 regulation?

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

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

SB 253: Climate Corporate Data Accountability Act

7. Entities must measure and report their emissions of greenhouse gases in conformance with the GHG Protocol,[1] 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?

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?
    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[2]" in MRR be utilized, and if not why?

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?
    d. When are data available from the prior year to support reporting?
    e. What software systems are commonly used for voluntary reporting?

[1] https://ghgprotocol.org/
[2] "Reasonable Assurance" under MRR means a "high degree of confidence that submitted data and statements are valid."

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?

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

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?

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

Respondents may also provide any additional information they feel is important to inform staff's work to implement the statutes.