Columbia Law School | COLUMBIA CLIMATE SCHOOL
SABIN CENTER FOR CLIMATE CHANGE LAW

April 13, 2026

Clerk of the Board, California Air Resources Board
1001 I Street
Sacramento, California 95814

Re: Development of Reporting Requirements for 2027-2030, Under HSC § 38532

To Whom it May Concern:

Columbia Law School's Sabin Center for Climate Change Law ("Sabin Center") respectfully submits this comment in response to the March 23, 2026 Virtual Public Hearing providing an overview by the California Air Resources Board ("CARB") of its development of greenhouse gas ("GHG") reporting requirements for 2027-2030, under HSC § 38532.[1]

The Sabin Center develops legal techniques to fight climate change and advance climate justice, trains students and lawyers in their use, and provides the public with resources on key topics in climate law and regulation.

Introduction

We commend CARB's expeditious implementation of SB-253's disclosure mandate. We respect CARB's efforts to design feasible reporting requirements, and to promote inter-jurisdictional harmonization. Yet we also appreciate CARB's focus, during its March 23 workshop, on providing stakeholders with "decision-useful" information, via disclosures characterized by "transparency" and "comparability."[2] With these latter goals in mind, we write to caution CARB against overemphasizing feasibility and regime harmonization, to the detriment of comparability, and ultimately of public accountability.

In SB-253, California's legislature declared as its statutory impetus that "[t]he people, communities, and other stakeholders in California, facing the existential threat of climate change, have a right to know about the sources of carbon pollution, as measured by the comprehensive GHG emissions data of those companies benefiting from doing business in the state, in order to make informed decisions."[3] In developing regulations to facilitate stakeholders' right to know, CARB should not cede excess discretion to covered corporations regarding what data to report.

[1] CARB Virtual Public Workshop on California Corporate Greenhouse Gas Reporting (Mar. 23, 2026).
[2] CARB Virtual Public Workshop on SB253 (Mar. 23, 2026).
[3] SB-253 Climate Corporate Data Accountability Act (Oct. 7, 2023).

Along these lines, one linguistically ambiguous passage from the March workshop's description of Regulatory Option 1 merits clarification. CARB's proposal to provide covered corporations "flexibility to not report categories that they deem de minimis, with appropriate explanation" leaves unclear whether this regulatory option would allow reporting entities to make a subjective de minimis determination, or to apply an objective analytic metric in making such a determination. CARB's subsequent reference to "specific thresholds, definitions, or decision frameworks" extends this ambiguity, since while "specific thresholds [or] definitions" suggest an objective external metric, a "decision framework" could rely on the reporting entities' subjective discretion.

Should CARB opt for Regulatory Option 1, or for any combination of the three proposed regulatory options that includes a de minimis exemption, we encourage CARB not to provide reporting entities with subjective discretion to make a de minimis determination. Instead, we ask CARB to recognize prevailing social-science findings that effective disclosure regimes balance feasibility for disclosers against actionability for disclosees (the users of these data). Whether CARB determines that a quantitative or qualitative standard can better synthesize feasibility, harmonization, and actionability needs, the metric should provide sufficiently objective avenues of accountability.

In addition, we renew our call on CARB to remove its recent exemption of insurers from emissions-reporting obligations under SB-253, which it could accomplish with minimal disruption as a "substantial and sufficiently related" change under California's rulemaking process.[4] The academic literature on corporate GHG disclosures explains what makes a mandatory reporting regime crucial to reducing industry-wide emissions.[5] Yet more than 80% of a typical insurer's emissions (via Scope 3 activities such as investment and underwriting) need not be disclosed under current industry self-regulation.[6] Moreover, the legislature's decision to expressly exempt insurers from SB-261 coverage, but not from SB-253, underscores CARB's obligation to include insurers in its emissions-disclosure regulations.

I. Effective Disclosure Regimes Rely on Disclosees Receiving Actionable Data

Empirical studies of emissions-disclosure regimes in the U.S.,[7] the U.K.,[8] and France[9] show that these reporting programs can prompt meaningful GHG reductions. Yet proper program design,

---

[4] About the Regular Rulemaking Process, California Office of Administrative Law (n.d.).
[5] Cynthia A. Williams, Does Climate Disclosure Work to Reduce Greenhouse Gas Emissions? Emerging Evidence Suggests Cautious Optimism, 48 SEATTLE U. L. REV. 571, 577 (2025).
[6] *The Measurement Gap: A Deep Dive into Climate Risk Reporting in the U.S. Insurance Sector*, CERES (Aug. 12, 2025), https://www.ceres.org/resources/reports/the-measurement-gap-a-deep-dive-into-climate-risk-reporting-in-the-us-insurance-sector.
[7] Sorabh Tomar, Greenhouse Gas Disclosure and Emissions Benchmarking, 61 JOURNAL OF ACCOUNTING RESEARCH, 451, 467 (2023).
[8] Benedikt Downar, Jürgen Ernstberger, Hannes Rettenbacher, Sebastian Schwenen, and Aleksandar Zaklan, Fighting Climate Change with Disclosure? The Real Effects of Mandatory Greenhouse Gas Emission Disclosure, 1795 DIW BERLIN DISCUSSION PAPER 1, 2 (2019), https://ssrn.com/abstract=3352390.
[9] Jean-Stéphane Mésonnier and Benoît Nguyen, Showing off Cleaner Hands: Mandatory Climate-Related Disclosure by Financial Institutions and the Financing of Fossil Energy, 2 (2022),

balancing disclosers' burdens in reporting data against recipients' capacity to make effective use of these data, proves essential. Absent a transparent and readily comparable data stream, realistically attuned to the recipient's decision-making process, emissions-reporting regimes can become a vector for corporate greenwashing, and/or can lead to increased bureaucracy without decreased emissions.

In recent decades, economists have characterized effective disclosure processes as an ongoing exchange of "double-sided" decision-making inputs both by disclosers (such as corporate polluters) and disclosees (such as consumers, investors, government officials, and concerned public citizens).[10] Effective disclosure policies follow what scholars David Weil et al. describe as a "demanding 'action cycle' of information provision, use, and response":

> Consumers must see and comprehend new information and integrate it into choices of products and services; target companies must perceive and act on consumers' responses in ways that reduce risks, improve services…or otherwise further a policy goal. Third parties may play critical roles, translating complex information into a form more readily used by individuals in market settings.[11]

A virtuous cycle gets established as disclosed data prompt disclosees to signal back to the disclosing company how it should modify its behavior in order to maintain stakeholder approval. In this virtuous cycle, the disclosing firm's resulting behavioral changes lead to its enhanced market performance, and thus to more overall transparency within the firm's industry, which leads to better-informed decision-making by disclosees, and so on.

Scholar Paula Dalley further clarifies basic functional elements of this discloser-disclosee fulcrum:

> The information must be directed at the appropriate decision-maker and the appropriate decision. Furthermore, it must be provided in a form accessible to and usable by the appropriate decision-maker, and the decision-maker must be able respond to the information.[12]

Dalley also notes a disclosure regime's potential to impose "significant costs" both on disclosers generating these data, and on disclosees, if the data set proves unwieldy.[13] Accordingly, standardization, comparability, and interoperability across jurisdictions prove critical.

For all of these reasons, mandatory, uniform, and quantitative disclosures tend to better inform disclosees, improve disclosee decision-making, enrich decision-making environments, and reinforce intended policy impacts. This two-sided disclosure mechanism continually recalibrates based on each participant's inputs, so that disclosure does not become a stale or pointless

---

https://ssrn.com/abstract=3733781.

[10] David Weil, Archon Fung, Mary Graham, and Elena Fagotto, The Effectiveness of Regulatory Disclosure Policies, 25 JOURNAL OF POLICY ANALYSIS AND MANAGEMENT, 155 (2006).

[11] David Weil, Mary Graham, and Archon Fung, Targeting Transparency, 340 SCIENCE, 1410 (June 21, 2013).

[12] Paula J. Dalley, *The Use and Misuse of Disclosure as a Regulatory System*, 34 FLA. ST. U. L. REV. 1089, 1091 (Summer 2007).

[13] *Id.* at 1115.

compliance burden. Instead, effective disclosure mechanisms can help to unleash competitive marketplace dynamics that catalyze pro-social business innovations across the broader economy.

A contrasting example offers a useful illustration: consider a marketplace that requires posted prices, yet allows vendors to select any currency they choose, and to exclude cost components they consider di minimis. This framework would provide for optimal harmonization with other marketplace regimes in which the vendors operate, and its flexibility would reduce reporting burdens (allowing a subjective internal process, rather than verifiable calculation, to inform vendors' di minimis determinations). But this framework does not diminish the disclosure regime's complexity, nor its analytic burdens. It simply shifts those costs to consumers seeking their best option by comparing the disclosed data (prices). If anything, this framework exacerbates overall complexity burdens, because it leaves consumers guessing at information vendors did not disclose (the extent to which a de minimis determination has concealed true costs). In the end, this overly discretionary posted-price requirement could worsen consumer decision-making, while rewarding vendors who provide the most misleading data.

II. Any De Minimis Exclusions Should Rely on Objective, Rather than Subjective, Standards

In legal terms, a subjective standard requires analysis of a party's internal mindset (i.e., does this particular discloser consider a certain emissions output relevant?), whereas an objective standard anchors its analysis in external circumstances (i.e., would a particular emissions profile, within a given reporting framework, indicate relevance to a reasonable person?). In effective disclosure regimes, as described above, reported information acquires relevance depending on its actionability (i.e., where a consumer can reward a low-emitting firm by selecting its products over those of a high-emitting firm).

Accordingly, if CARB allows di minimis exclusions under SB-253 reporting, we encourage CARB to articulate a clear objective standard by which disclosers would determine whether an emissions source qualifies as di minimis. This objective standard should allow for a straightforward accountability analysis. The standard should focus on whether a discloser reasonably determined that disclosees would not consider particular emissions relevant in light of stakeholders' "right to know about the sources of carbon pollution, as measured by the comprehensive GHG emissions data of those companies benefiting from doing business in the state, in order to make informed decisions."[14]

Here it is worth repeating that the California legislature framed its SB-253 mandate for "comprehensive GHG emissions data" as enabling California stakeholders "to make informed decisions."[15] SB-253 further mandates "conformance with the Greenhouse Gas Protocol standards and guidance,"[16] which defines "relevant" emissions data as serving "the decision-making needs of users—both internal and external to the company."[17]

---

[14] SB-253 Climate Corporate Data Accountability Act, *supra* note 3.
[15] *Id*.
[16] *Id*.
[17] Corporate Value Chain (Scope 3) Accounting and Reporting Standard, World Resources Institute and World Business Council for Sustainable Development (2011).

An objective de minimis standard provides a proactive mechanism for both internalized and externalized accountability, and properly places the burden on the reporting entity to conduct sufficient due diligence to verify de minimis status. Whether or not the reporting entity considers it "appropriate" to decline disclosing certain emissions should have little bearing on the public's "right to know…comprehensive GHG emissions data of…companies benefiting from doing business in the state"[18] What matters here is whether the public itself would foreseeably consider those emissions de minimis.

III. CARB Should Remove Its Exemption of Insurers from SB-253 Reporting

Again, we commend CARB for its prompt and rigorous implementation of SB-253. But as it prepares a finalized initial regulation for Office of Administrative Law (OAL) approval, we encourage CARB to remove its proposed exemption of insurers from emissions-reporting obligations under SB-253, which it could accomplish with minimal disruption as a "substantial and sufficiently related" change under California's rulemaking process.[19]

The relevant academic literature calls for mandatory insurance-industry emissions disclosure. Empirical research confirms that insurers' climate disclosures prompt statistically significant reductions. Jiang Cheng et al. use states' incremental adoption of the National Association of Insurance Commissioners' Climate Risk Disclosure Survey (CRDS) to examine the impacts of mandatory disclosures on insurers' investment portfolios. Finding that CRDS-compliant insurers decreased their fossil-fuel investments by an average of 13.1%, this study concludes that, when required to disclose their climate vulnerabilities, insurers "significantly adjust…investment strategies toward more environmentally responsible investments."[20] As noted above, mandatory, quantitative, and uniform disclosures (of the type that the CRDS requires for Scopes 1 and 2, but not for Scope 3) tend to yield more meaningful reductions than voluntary, qualitative, or open-ended disclosures.[21]

Mandatory Scope 3 reporting would fill a critical gap in insurance-industry self-reporting. Given the U.S. insurance industry's roughly $9 trillion in invested assets, insurers' vast Scope 3 profile has direct bearing on climate-risk outcomes for the state's economy and its social well-being.[22] Yet voluntary reporting has not provided sufficient disclosure of these emissions. A 2025 Ceres publication finds that the insurance industry's reporting performance "remains extremely limited;

---

[18] SB-253 Climate Corporate Data Accountability Act, *supra* note 3.

[19] Cynthia Hanawalt and Andy Fitch, Comment Letter on Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation (Feb. 5, 2026), https://climate.law.columbia.edu/sites/climate.law.columbia.edu/files/content/Sabin%20Center%20Comment%20on%20Proposed%20Climate%20Data%20and%20Financial%20Risk%20Reporting%20Fee%20Regulation%20%2802.05.26%29.pdf.

[20] Jiang Cheng, Jia Guo, Jeffrey Ng, and Tjomme Rusticus, The Effect of Mandatory Climate Risk Disclosure on Environmentally Responsible Investing: Evidence from the U.S. Insurance Industry, HKU JOCKEY CLUB ENTERPRISE SUSTAINABILITY GLOBAL RESEARCH INSTITUTE PAPER SERIES, 1 (2024), https://ssrn.com/abstract=4771738.

[21] Cynthia A. Williams, *supra* note 5.

[22] Michelle Wong, *U.S. Insurance Industry's Cash and Invested Assets Rise Over 5% to Close in on $9 Trillion as of Year-End 2024*, NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS (May, 2025), https://content.naic.org/sites/default/files/capital-markets-special-reports-asset-mix-ye2024.pdf.

with near-zero compliance…for financed emissions targets and negligible response rates for most other scope 3 categories."[23] Ceres further explains that Scope 3 sources represent "simultaneously the greatest challenge and…most significant opportunity," given that emissions from investing and underwriting practices account for 80-90% of a typical insurers' GHG footprint.

Within this context, proposed California Department of Insurance ("CDI") reporting requirements fulfill neither the letter nor the spirit of SB-253. In its December 2025 Statement of Reasons, CARB noted that since SB-261 already excludes from coverage business entities subject to regulation by CDI, CARB now proposes to exclude such entities from SB-253 coverage as well, "for continuity."[24] But preserving SB-253's broad statutory scope provides a more fitting means of maintaining "continuity" in implementing the state's legislative mandate, rather than imposing SB-261's express exemption for insurers onto SB-253, which declined to offer any such exemption. Most notably, CDI's present reliance on insurance-industry standards means that insurers most report Scopes 1 and 2 data, but not Scope 3.

CARB is still empowered to change its initial proposed regulation "either in response to public comments or on its own."[25] Removing the recently added insurers' exemption likely amounts to a "substantial and sufficiently related change," since it alters the regulation's meaning in reasonably foreseeable ways. CARB could accomplish this lawful change by providing notice and a 15-day comment period, without need for another public hearing.

Conclusion

Theorists of effective disclosure mechanisms have clarified for more than a generation the importance of ongoing, multi-directional discloser-disclosee exchanges. CARB cannot fulfill its mandate under SB-253 without designing disclosure processes that sufficiently inform all relevant stakeholders. Accordingly, if CARB allows de minimis Scope 3 exemptions, it should provide an objective standard for reporting entities to reach a de minimis determination. Such an objective standard could adopt either quantitative or qualitative metrics, but it should not permit disclosers to "deem" an emissions output de minimis, based solely on the discloser's subjective understanding of what is "appropriate." CARB should also remove its categorical exemption for the insurance industry, as inconsistent with SB-253's stated purpose.

[23] *The Measurement Gap*, *supra* note 6.
[24] CARB Staff Report: Initial Statement of Reasons (Dec. 9, 2025).
[25] About the Regular Rulemaking Process, *supra* note 4.