

Liane M. Randolph
Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Comments on CARB's August 22, 2025 Workshop – Implementation of SB 253 and SB 261

Dear Chair Randolph:

Thank you for the opportunity to provide feedback following the California Air Resources Board's (CARB) August 22, 2025, public workshop on the implementation of SB 253 and SB 261. The August workshop was helpful in outlining CARB's current thinking and draft regulatory concepts. However, a number of significant questions remain unresolved. Addressing these questions before finalizing the implementing regulations will be essential to ensuring the program is both workable and durable, while avoiding unnecessary compliance complexity or unintended consequences.

Definition of “Doing Business in California”

A foundational issue remains the definition of “doing business in California.” Using the Revenue and Tax Code definition risks capturing entities with minimal or incidental connections to the state. Such an approach could impose disproportionate compliance obligations on entities without substantial operational ties and raise jurisdictional concerns.

Outstanding Question: How will CARB ensure that the final definition of “doing business in California” reflects only entities with a substantial and ongoing operational presence, rather than remote or incidental activities?

Scope 3 Boundaries and Materiality

The workshop materials indicated reliance on the Greenhouse Gas Protocol for Scope 3 emissions, which provides flexibility in boundary-setting and materiality determinations. Without further clarity, reporting entities remain uncertain about how CARB will assess adequacy or completeness.

Outstanding Question: Will CARB provide specific criteria for determining Scope 3 materiality, or will entities retain discretion so long as they transparently disclose the basis for their determinations and any exclusions?

Assurance Requirements and Feasibility

Stakeholders raised concerns about the availability of qualified verifiers and the feasibility of meeting assurance requirements—particularly for Scope 3 disclosures. The December 2024 enforcement notice suggested that CARB may exercise discretion for companies making good-faith efforts, but the parameters of that discretion remain unclear.

Outstanding Questions:

- Who will be deemed acceptable assurance providers, and when will CARB publish relevant criteria?
- Will CARB permit phased or flexible assurance approaches, especially for Scope 3 reporting?
- Will enforcement discretion apply where an entity has submitted timely disclosures but has not yet secured assurance by mid-year deadlines?

Reporting Timelines and Implementation Challenges

The statutory deadline of June 30, 2026 for reporting 2025 Scope 1 and 2 emissions creates operational and logistical challenges. Existing financial reporting cycles, auditor availability, and internal data processes are generally aligned to year-end rather than mid-year schedules.

Outstanding Question: If the June 30 deadline is enforced, will CARB allow entities to provide assurance later in the year (e.g., by December 31, 2026) to better align with financial reporting and verification cycles?

Parent–Subsidiary Reporting Dynamics

The scope of obligations for parent companies, subsidiaries, and affiliates remains unsettled. While workshop discussions suggested potential alignment with Cap-and-Trade corporate reporting structures, the statutory language provides flexibility and does not require extraterritorial reporting.

Outstanding Question: How will CARB delineate reporting obligations between parent companies and subsidiaries, particularly where only one legal entity has operational ties to California? Will reporting at the legal entity level satisfy compliance requirements?

Conclusion

Resolving these outstanding questions will be essential to ensure CARB’s regulations are legally sound, operationally feasible, and aligned with broader disclosure frameworks. Addressing these areas of uncertainty will reduce compliance risk, avoid duplication with other reporting mandates, and ultimately strengthen the credibility and effectiveness of the program. ACC encourages CARB to continue engaging directly with affected industries and experts as these rules are finalized.

Thank you for your consideration of these comments. Should you have any questions please contact me at Trevor_Balough@americanchemistry.com.

Respectfully,

Trevor Balough

Trevor Balough
Associate Director, Energy & Climate