

**NATIONAL TECHNOLOGY & ENGINEERING SOLUTIONS OF
SANDIA, LLC**

**COMMENTS ON
PROPOSED IMPLEMENTATION OF
CALIFORNIA CLIMATE-DISCLOSURE LEGISLATION: SENATE BILLS
253 AND 261**

September 11, 2025

ABOUT SANDIA

Sandia National Laboratories is a multimission federally funded research and development center (FFRDC) sponsored by the National Nuclear Security Administration (NNSA), dedicated to advancing science, technology, and engineering solutions for the nation's most pressing security challenges, including nuclear deterrence, nonproliferation, energy security, and defense systems. Thus, the labs perform many vital activities that help keep the nation safe. The labs are managed and operated by National Technology & Engineering Solutions of Sandia, LLC (NTESS), a wholly owned subsidiary of Honeywell International, Inc., under a long-term management and operating (M&O) contract with the NNSA.

This relationship positions NTESS as a specialized contractor whose interactions with the federal government are integral and exclusive in purpose: put simply, NTESS exists solely to run Sandia on behalf of the NNSA, ensuring the labs fulfill their critical role in national security without the characteristics of typical private businesses. Unlike other private entities, NTESS does not solicit investors—in California or elsewhere—nor does it sell products or services to the public at large; its sole client is the federal government, with all operations funded and directed through this contractual framework. In the context of California's proposed implementation of climate-disclosure legislation under Senate Bills 253 and 261—laws never intended to apply to governmental entities—the potential application to NTESS remains ambiguous. While NTESS is not formally part of the federal government, NTESS' activities are focused solely on its management of the Labs for the federal government, as evidenced – for example – by their treatment as federal actions under the National Environmental Policy Act (NEPA), where environmental impact assessments for all aspects of Sandia's operations are considered and overseen by the NNSA.

GENERAL COMMENTS

At this time, NTESS takes no position regarding the scope, reasonableness, or legality of the proposed rules as applied to the business community at large. Instead, NTESS would emphasize the tremendous National Security importance of its mission, its unique legal and practical role as a steward of federal assets, and the corresponding urgent need to clarify the applicability of these rules to NTESS' operations (which are, as explained below, in truth the U.S. Government's Operations).

A. Need For Regulatory Clarification With Respect To What Constitutes A “Federal” Or “Government” Actor

Throughout this public comment process, numerous comments and discussions have taken place regarding whether SB 253 and SB 261 reporting requirements would apply to government actors – with the consensus being that these bills do not, and were never meant to, apply to the federal government.

However, while the intention to exclude government is not ambiguous, NTESS' unique relationship with the government necessitates regulatory clarification.

- 1. It makes logical sense to apply the definition of “Federal” and/or “Government” to certain federal contractors for the limited purpose of these reports.**

NTESS operates Sandia National Laboratories as a Government-Owned, Contractor-Operated (GOCO) Federally Funded Research and Development Center (FFRDC) under a management and operating (M&O) contract with the National Nuclear Security Administration (NNSA). This structure positions NTESS, emphatically, **not** as a conventional private business but as an integral extension of federal authority – i.e., performing tasks that are essential to national security. FFRDCs like Sandia are explicitly designed to address long-term technical needs that cannot be met effectively by federal agencies alone or the private sector, enabling the government

to leverage specialized expertise while maintaining direct control and ownership. Therefore, **unlike typical private entities, NTESS exists solely to manage Sandia on behalf of the NNSA, with all operations funded exclusively by federal appropriations and subject to rigorous federal oversight, including compliance with Federal Acquisition Regulation (FAR) Subpart 35.017.** This deep integration means NTESS' actions (for the specific purposes of SB 253 and SB 261) are – functionally – federal, warranting treatment as a government actor for exemptions from state disclosure requirements.

NTESS does not operate with the autonomy of a private business — it does not solicit investors, sell products or services to the public, or pursue profit-driven ventures; its sole client is the federal government. Applying SB 253 and SB 261 to NTESS would ignore this reality, imposing burdens on what is (for all practical purposes regarding the laws in question) a federal instrumentality and setting a dangerous precedent for other FFRDCs, which could undermine their ability to fulfill critical missions without the distractions of state-level compliance.

Exempting NTESS as a federal actor aligns with the legislative intent of SB 253 and SB 261, which target profit-oriented corporations contributing to climate impacts through commercial activities, not mission-driven federal extensions like FFRDCs. CARB's proposed exemptions for non-profits and entities with minimal California footprints underscore a focus on avoiding overreach, and NTESS fits this ethos—its presence in California (via the Sandia/California site) is solely for federal research/national security purposes, not for the purposes of business expansion. Treating NTESS as a regular for-profit business could chill federal-state cooperation, and invite costly litigation over preemption. But by classifying NTESS as a subcategory of federal government actor for the purposes of these bills, CARB upholds constitutional balance, safeguards national security, and ensures these laws remain

targeted at **true** private sector emitters without ensnaring vital public-interest operations.

Accordingly, NTESS respectfully requests that any waiver or exemption that would exclude governmental entities from compliance with the proposed rules should also make unambiguously clear that Federally Funded Research and Development Centers (FFRDC) – and, therefore, contractors in NTESS’ position – will also be encompassed within the scope of any such exemption or waiver.

2. NTESS Should Not Be A “Reporting Entity” or “Covered Entity” Under SB 253 and SB 261

NTESS understands that CARB has expressed that the purpose of California’s Climate Disclosure statutes is to:

- Aim to improve transparency on corporate climate-related risks and emissions; and
- Help inform consumers and investors of climate-related business considerations

(SB 253/261/219 Public Workshop: Regulation Development and Additional Guidance, dated August 21, 2025, p. 6.)

The intent of the statutes is to exclude government entities; – as CARB noted, “Government entities would not be covered and do not need an exemption because they are not formed under business entity laws as defined in HSC38532 and 38533.”

However, and critically, this definition does not take into account the unique management and operation (M&O) strategy employed by the National Nuclear Security Administration (NNSA) relevant to operation of Federally Funded Research and Development Centers (FFRDCs) or its National Laboratories under the authority of the Atomic Energy Act. Given that an M&O contracted corporation **cannot provide**

services to a general consumer nor have private investors; and is contracted solely to perform a specific federal mission, such corporations should be excluded as either a “Reporting entity” under the auspices of SB 253 or “Covered entity” per SB 261.

For reference, according to the current Sec. 38532(b)(2) (per SB 253) definition:

“‘Reporting entity’ means a partnership, corporation, limited liability company, or other business entity formed under the laws of this state, 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 with total annual revenues in excess of one billion dollars (\$1,000,000,000) and that does business in California. Applicability shall be determined based on the reporting entity’s revenue for the prior fiscal year.”

Similarly, “covered entity” within Sec 38533(a)(4) (SB 261):

“means a corporation, partnership, limited liability company, or other business entity formed under the laws of the state, 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 with total annual revenues in excess of five hundred million United States dollars (\$500,000,000) and that does business in California. Applicability shall be determined based on the business entity’s revenue for the prior fiscal year. ‘Covered entity’ does not include a business entity that is subject to regulation by the Department of Insurance in this state, or that is in the business of insurance in any other state.”

3. Suggested Regulatory Definitions

The following are suggested regulatory definitions addressing the above concerns, provided for discussion purposes.

Option 1:

“Reporting entity” means a partnership, corporation, limited liability company, or other business entity formed under the laws of this state, 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 with total annual revenues in excess of one billion

dollars (\$1,000,000,000), that does business in California, and whose sole business function does not serve the federal government. Applicability shall be determined based on the reporting entity's revenue for the prior fiscal year.

Option 2:

“Reporting entity” means a partnership, corporation, limited liability company, or other business entity formed under the laws of this state, 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 with total annual revenues in excess of one billion dollars (\$1,000,000,000) and that does business in California that is not solely restricted to a federal mission by contract. Applicability shall be determined based on the reporting entity's revenue for the prior fiscal year.

Option 3:

The definition of “Reporting entity” provided for in Section 38532(b)(2) excludes a corporation whose sole business is performing a federal agency mission and whose federal contract prohibits contracts with other entities, general consumers, or receipt of private investment.

NTESS seeks a similar regulatory clarification of this definition as proffered for SB253, to exclude Management and Operating Contractor entities (corporations) contracted under Atomic Energy Act authorities.

B. Clarification Is Necessary Regarding What Constitutes An Entity That “Does Business” In California

Although SB 253 and SB 261 do not specifically define “doing business in California,” the California Air Resources Board (CARB) has indicated in its guidance and public workshops that it may decide to rely on California Revenue and Taxation Code § 23101 or registration with the California Secretary of State to determine applicability, aligning with the Franchise Tax Board's (FTB) framework for franchise

tax purposes. Under § 23101(a), the concept of “doing business” is fundamentally tied to “actively engaging in any transaction *for the purpose of financial or pecuniary gain or profit*,” with subsection (b) providing quantitative compliance thresholds (e.g., sales, property, or compensation exceeding certain amounts or percentages).

However, National Technology & Engineering Solutions of Sandia, LLC (NTESS) does not meet this core definition because its operations in California — limited to managing the Sandia National Laboratories/California (Sandia/CA) site under a management and operating (M&O) contract with the National Nuclear Security Administration (NNSA) — are not conducted for the *primary* purpose of financial or pecuniary gain or profit in the traditional commercial sense.¹ Instead, for the purposes of SB 253 and SB 261, NTESS functions as an extension of federal authority, performing certain designated tasks essential to national security, such as nuclear deterrence and nonproliferation research, with all funding derived exclusively from federal appropriations rather than market-driven transactions. This distinguishes NTESS from typical profit-seeking private businesses targeted by SB 253 and SB 261, warranting a clarification that it is not “doing business” in California for the limited purposes of these disclosure requirements.

At its foundation, § 23101(a)’s emphasis on transactions “for the purpose of financial or pecuniary gain or profit” should exclude entities like NTESS, whose sole mission is to operate a Federally Funded Research and Development Center (FFRDC) — in the public interest and without a profit beyond the limited and strict terms of its federal contract.

¹ That is to say, unlike traditional corporations -- whose primary legal duty is maximizing value for its shareholders -- the primary duty of NTESS is instead to effectively implement its mandated national security mission on behalf of the federal government. To be clear, while NTESS does generate profit as a result of its activities, the vast majority of its “revenue” is mere cost reimbursement, with only a very small percentage constituting fee for services rendered. The profit generated by NTESS is substantially below applicable reporting thresholds under the SB 253 and SB 261 framework.

Indeed, FFRDC operators, including NTESS, **are specifically structured to avoid external commercial incentives**: they are required to adhere to rigid regulatory and ethical rules that regulate the flow of information and guard against potential conflicts of interest, preventing them from discriminating against businesses for financial gain. Further, they do not solicit investors, compete for private contracts, sell products or services to the public, or pursue external profit-driven ventures. Any management fee under the NNSA contract is comparatively nominal,² *very* tightly regulated, and represents mostly cost reimbursement rather than pure profit, aligning with federal policies that prohibit FFRDCs from competing for work or engaging in many kinds of extraneous for-profit activities.

Furthermore, treating NTESS as “doing business” would potentially conflict with the Supremacy Clause of the U.S. Constitution, as it could impose state regulatory burdens on federal activities without clear legislative intent. SB 253 and SB 261 were designed to address climate impacts from profit-oriented corporations – not to encumber national security functions performed by FFRDC operators like NTESS or similar entities such as Lawrence Livermore National Security, LLC (which manages Lawrence Livermore National Laboratory under an analogous M&O contract).

Additionally, we believe that CARB’s own guidance acknowledges exemptions for non-profits and entities with minimal commercial footprints, underscoring that the laws were never meant to apply to such actors.

Nor do NTESS’ “revenues” exceed the bills’ thresholds. It is true that Sandia’s annual budget approximates \$5.1 billion; however, these are federally appropriated funds – i.e., taxpayer dollars applied to a purpose – not commercial revenue from sales

² For context, Sandia’s portion of the fee that is not cost reimbursement but actually represents “profit” is less than 1% of the total budget, which was \$5.1 billion in FY 2024.

or services. Appropriated public funds, used for the public good, cannot possibly be within the scope of what SB 253 and SB 261 were meant to regulate.

Finally, a brief note regarding business registration: whether or not any business entity is registered with the California Secretary of State as a foreign LLC (a common formality for entities with in-state operations), this fact of registration alone should not automatically trigger “doing business” status under CARB’s “or” framework, as business registration alone in no way definitively establishes commercial profit-seeking motive.

Therefore, adopting a definition of “doing business” that includes NTESS would set a problematic precedent, potentially subjecting other FFRDCs to state mandates, disrupting intergovernmental cooperation, and inviting preemption challenges.

CARB should resolve this ambiguity by clarifying that FFRDC operators like NTESS, whose sole client is the federal government, fall outside the “doing business” scope for the limited purposes of SBs 253 and 261, preserving these laws’ focus on true private-sector emitters while upholding constitutional and practical balances.

C. Clarification Is Necessary Regarding What Constitutes “Revenue”

The funds allocated by the federal government to National Technology & Engineering Solutions of Sandia, LLC (NTESS) for operating Sandia National Laboratories are mostly reimbursements for costs incurred in fulfilling federal governmental mission under a management and operating (M&O) contract with the National Nuclear Security Administration (NNSA), rather than the kind of commercial “revenue” contemplated by SB 253 and SB 261. These laws, which require climate disclosures from business entities with “total annual revenues” exceeding \$1 billion (SB 253) or \$500 million (SB 261) that do business in California, do not define the term “revenue” explicitly, but CARB has proposed interpreting the term as “gross receipts” under the California Revenue and Taxation Code § 25120(f)(2), which encompasses

amounts realized from sales, services, or use of property in transactions producing business income.

However – and critically – NTESS’ allocations of approximately \$5.1 billion annually for Sandia's Laboratory operations do not qualify as such, as they are not derived from commercial transactions or profit-seeking activities but are instead federal appropriations designated for specific, non-commercial national security purposes. Unlike “revenue” from market-based sales or services, these funds are advanced or reimbursed solely to cover allowable costs (e.g., personnel, facilities, research), with NTESS earning only a comparatively small management fee (on the order of approximately \$43 million in FY 2023, which is well below the bills’ reporting thresholds).

Treating these advance federal contract funds as “revenue” for the current purposes would misconstrue the bills’ intent to target commercial enterprises contributing to significant climate impacts through profit-driven operations, not entities like NTESS that administer taxpayer-funded programs on behalf of the NNSA. Doing so would effectively extend state mandates to federal activities in violation of legislative purpose and constitutional principles. Instead, CARB should take the logical and clear position that NTESS’ advanced federal contact funds provide reimbursement for costs incurred in furtherance of NNSA’s federal mission, while only the fee qualifies as net income. Federal M&O contractors for national labs, including NTESS, operate under a dynamic where the bulk of funds are not “earned” in a business sense, but are stewardships of federal appropriations, with **very** strict NNSA oversight ensuring they are used exclusively for lab operations without external commercial profit motive.

Practical and policy considerations compel this interpretation, as equating advance federal contract funds – that are obligated for the purposes of reimbursing NTESS for NNSA mission-based activities – with revenue would yield absurd results

incompatible with the bills' objectives. SB 253 and SB 261 aim to enhance transparency for corporations whose commercial activities drive climate risks, not to audit federal programs where emissions are already scrutinized – and reported – under existing frameworks.

Accordingly, by classifying NTESS' allocations as non-revenue, CARB has the opportunity to uphold constitutional balance and ensure the laws target true market actors without ensnaring vital taxpayer-funded programs.

D. CARB Should Consider Delaying Enforcement Activities For A Period Of Time

Finally, CARB should consider, in its discretion, an extension and delay regarding any enforcement activities stemming from the reports associated with SB 253 and SB 261 for a reasonable time, as the regulated entities lacked significant time to prepare to comply with these bills, and yet, the current compliance deadlines remain unchanged despite ongoing lack of clear implementation guidance and/or lack of applicable regulations being in place. As a result, business entities essentially have to “gamble” that their reports will be sufficient to comply with the law.

For reporting required by SB253, CARB has previously stated that:

“CARB will exercise its enforcement discretion such that, for the first report due in 2026, reporting entities may submit scope 1 and scope 2 emissions from ‘the reporting entity’s prior fiscal year’ that can be determined from information the reporting entity already possesses or is already collecting at the time this Notice was issued. CARB will exercise enforcement discretion for the first reporting cycle, on the condition that entities demonstrate good faith efforts to comply with the requirements of the law. This enforcement discretion is aimed at supporting entities actively working toward full compliance. Thus, for the first reporting cycle, CARB will not take enforcement action for incomplete reporting against entities, as long as the companies make a good faith effort retain all data relevant to emissions reporting for the entity’s prior fiscal year.”

When this enforcement notice was issued in December 2024, that accommodation seemed adequate because it was believed that the regulations implementing SB253 would have been issued with sufficient time to guide development of a report that could meet the standards of a 3rd party verifier. However, since the regulations have not yet been issued as of the date of submission of these comments, NTESS recommends that enforcement discretion be applied to the first two (2) reports due in 2026 and 2027.

Similarly, given the lack of clarity in the applicability and scope of the climate risk reporting disclosure report required for SB261, and the absence of time to resolve those uncertainties by the rapidly approaching January 1, 2026 due date, NTESS requests that CARB also exercise enforcement discretion for this report.

Accordingly, delaying harsh enforcement activities for both programs until adequate implementation guidance has been put in place and covered entities have had a chance to clarify and get used to the new legal requirements would be a fair and equitable course of action.

E. Federal Preemption Concerns Related To Out-Of-State Sources

The Clean Air Act, 42 U.S.C. § 7401 *et seq.*, creates a comprehensive program for regulating air pollution in the United States and displaces the ability of States to regulate or manage greenhouse gas emissions beyond their borders. *City of New York v. Chevron Corp.*, 993 F.3d 81, 96 (2nd Cir. 2021). The Act improves the Nation's air quality by delegating authority to EPA to prescribe national standards for air pollutants, which States then implement. *See, e.g.*, 42 U.S.C. § 7411. In *Massachusetts v. EPA*, 549 U.S. 497 (2007), the Supreme Court concluded that greenhouse gases, such as carbon dioxide and methane, are within the Clean Air Act's unambiguous definition of "air pollutant," 42 U.S.C. § 7602(g). *Id.* at 528-29. Thus, the Clean Air Act delegates to EPA authority

to set nationwide standards for greenhouse gases. *See Am. Electric Power Co., Inc. v. Connecticut (AEP)*, 564 U.S. 410, 424-29 (2011).

For in-state stationary sources, the Clean Air Act generally preserves the ability of States to adopt and enforce air pollution control requirements and limitations on in-state sources, so long as those are at least as stringent as the corresponding federal requirements. *See* 42 U.S.C. § 7416. For out-of-state sources, however, the “Act gives states a much more limited role,” even if the pollution from those sources causes harm within their borders. *City of New York*, 993 F.3d at 88. Affected States can: (1) comment on proposed EPA rules and certain permits and plans. *See id.* *See also, e.g.*, 42 U.S.C. § 7607(d)(5), § 7475(a)(2), § 7410(a)(2)(C); 40 C.F.R. § 51.102(a); (2) seek judicial review if their concerns are not addressed, *see* 42 U.S.C. § 7607(b); and (3) petition EPA in certain instances, *see id.* § 7410(k)(5).

In this instance, California seeks to gather information from businesses regarding their out-of-state air emissions activities, inherently impacting the air emissions control scheme of the CAA and the permitting and oversight of air emissions in other states. California’s expressed purpose in seeking such information is to “inform consumers and investors” of a corporation’s climate-based impacts and financial resiliency based thereon, across the United States and potentially worldwide. California has expressed its intent to make such corporate information publicly available to impact corporate business prospects, to pseudo-regulate corporations in a manner that Congress has not elected. Because the law, as drafted, impacts principles of federal preemption, the Interstate Commerce Clause and potentially principles of foreign affairs preemption, the following statutory change is recommended; or alternatively, clarification in the State’s regulations that emission information sought is restricted to California emissions.

Suggested Statutory Changes:

(A) (i) (I) That a reporting entity, starting in 2026 on or by a date to be determined by the state board, and annually thereafter on or by that date, publicly disclose to the emissions reporting organization, if contracted for services, or the state board, the reporting entity's scope 1 emissions and scope 2 emissions in California for the reporting entity's prior fiscal year.

(II) That a reporting entity, starting in 2027 and annually thereafter, publicly disclose its scope 3 emissions in California on a schedule specified by the state board as part of the regulations developed pursuant to this subdivision for the prior fiscal year.

Alternative Suggested Regulatory language: Add a statement clarifying that scope 1, 2 and 3 emissions required to be disclosed and assessed for climate related fiscal risk, are limited to those emissions within the state of California.