



February 9, 2026

Courtney Prideaux Smith

Principal Deputy Executive Officer
Clerks' Office
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Comments in Response to Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation

Dear Ms. Smith:

The American Coatings Association (ACA) submits the following comments to the California Air Resources Board (CARB or Board) regarding the agency's Proposed California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Initial Regulation (Proposed Regulation) for the Climate Corporate Data Accountability Act (SB 253) and the Climate-Related Financial Risk Act (SB 261). ACA is a voluntary, nonprofit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory, and judicial issues, and provides forums for the advancement and promotion of the industry and coatings science. ACA appreciates the opportunity to comment and looks forward to working with CARB throughout the rulemaking process.

ACA provides the following recommendations to alleviate any undue burden imposed on the paint and coatings industry.

1. Businesses within the paint and coatings industry should be exempt from the reporting requirements of SB 253 and SB 261.

Under section 96071(b) of the Proposed Regulation, CARB has proposed that the following entities be exempt from SB 253's and SB 261's reporting requirements: (1) non-profit or charitable, tax-exempt organizations; (2) businesses subject to regulation by California's Department of Insurance, and insurance businesses in other states; (3) government bodies as well as companies that are majority-owned by government bodies; (4) businesses whose activity in the state of California consists solely of wholesale electricity transactions; and (5) businesses whose activity in the state of California derives solely from employee compensation or payroll expenses, including teleworking employees.

Businesses in the paint and coatings industry should be exempt from the reporting requirements of SB 253 and SB 261 as they are already subject to a plethora of reporting requirements in air quality and toxics regulations in the state. Regulations governing the industry include statewide requirements under the Board as well as the



Office of Environmental Health Hazard Assessment, the Department of Toxic Substances Control, and the state's thirty-five local Air Districts (e.g., South Coast Air Quality Management District (SCAQMD), Bay Area Air Quality Management District, etc.). For instance, the Board imposes fees on certain architectural coatings manufacturers and consumer product manufacturers for volatile organic compound emissions in the state of California. Many of the same companies are also subject to fees assessed by the SCAQMD. The Proposed Regulation's reporting requirements and fee assessments will negatively impact the paint and coatings industry by piling on additional reporting obligations and fees to companies operating in California. Accordingly, given CARB's existing oversight of the paint and coatings industry in California, ACA urges the Board to exempt businesses within the paint and coatings industry.

2. The proposed definition for the term 'doing business in California' should clearly indicate that it refers to either the sales of a parent company or a subsidiary company.

Under section 96072(a)(8) of the Proposed Regulation, CARB has proposed that the term 'doing business in California' refer to entities that meet certain criteria within the state's Revenue and Taxation Code. Section 23101(b)(2) of California's Revenue and Taxation Code provides that an entity does business in the state of California if the taxpayer's sales in the state exceed the lesser of five hundred thousand dollars or twenty-five percent of the taxpayer's total sales. CARB's proposal fails to clarify whether the term 'doing business in California' refers to either the sales of a parent company or a subsidiary company. Without clarification, there is no certainty as to the meaning of this provision and how it applies to specific corporate relationships and structures. Companies in the paint and coatings industry utilize many different corporate structures and application of this provision may determine whether certain entities are covered and must report. Accordingly, ACA urges CARB to clarify its proposed definition of 'doing business in California' so that companies with varying structures understand the scope of the requirements.

3. Revise CARB's proposed definition for the term 'parent.'

Section 96072(a)(10) of the Proposed Regulation contains CARB's proposed definition for the term 'parent.' Currently, section 96072(a)(10) provides that factors to be used when determining ownership or control of another business entity can be found in section 96072(a)(6) of the Proposed Regulation. ACA believes that reference to section 96072(a)(6) is an inadvertent error. The factors that will be considered when determining ownership or control of another business entity are listed in section 96072(a)(16). ACA appreciates CARB's thoroughness in drafting the Proposed Regulation, and recommends that the text be revised to provide the following: "[t]he indicia determining ownership or control are set forth in section 96072(a)(16)."

4. The proposed definition for the term 'revenue' should clearly indicate that it refers to revenue generated in the state of California.

Under section 96072(a)(13) of the Proposed Regulation, CARB has proposed that the term 'revenue' have the same meaning as the term 'gross receipts.' California's Revenue and Taxation Code defines the term 'gross receipts' as the following:

[T]he gross amounts realized (the sum of money and the fair market value of other property or services received) on the sale or exchange of property, the performance of services, or the

use of property or capital (including rents, royalties, interest, and dividends) in a transaction that produces business income, in which the income, gain, or loss is recognized (or would be recognized if the transaction were in the United States) under the Internal Revenue Code, as applicable for purposes of this part. Amounts realized on the sale or exchange of property shall not be reduced by the cost of goods sold or the basis of property sold.

CARB's proposal unfairly burdens members of the paint and coatings industry by failing to clarify whether the term 'gross receipts' refers to a company's global gross income or state gross income. Without clarification, the term 'gross receipts' refers to a company's global gross income. Companies with over \$1 billion or \$500 million in gross receipts, no matter the actual size of the entity's business activities in California, will be forced to comply with SB 253's and SB 261's reporting requirements and fee assessments. Accordingly, ACA urges CARB to revise its proposed definition for the term 'revenue' and clarify that only entities' state gross income will be considered.

5. Scope 3 greenhouse gas emissions should not be included in any reporting requirements.

Under SB 253, companies with over \$1 billion in annual revenue that are doing business in California are required to report their Scope 1, Scope 2, and Scope 3 greenhouse gas (GHG) emissions. Section 96072(a) of the Proposed Regulation does not contain a definition for the term 'Scope 3 Emissions,' and ACA believes that the Scope 3 GHG emissions reporting requirement under SB 253 should be disregarded entirely. As generally understood, Scope 3 GHG emissions are generated by upstream and downstream partners in the chain of manufacturing, and ACA members do not have access to this information. Extraordinary efforts are required to obtain such information from upstream and downstream partners, which significantly increases costs for the industry. California should eliminate the requirement to report Scope 3 GHG emissions since this information will be obtained directly from the upstream and downstream partners in their Scope 1 and Scope 2 GHG emissions reports. Not only does this requirement significantly increase the cost of compliance, it will likely lead to GHG emissions being double reported by submitters. Accordingly, ACA recommends that CARB not enforce SB 253's reporting requirement for Scope 3 GHG emissions.

6. CARB's data collection process has not been properly utilized to calculate the proposed fee assessment.

SB 253 and SB 261 authorize CARB to assess an annual fee to reporting and covered entities for the implementation and administration of the Climate Corporate Data Accountability Act and the Climate-Related Financial Risk Act. Under section 96073(c) and (d), CARB has proposed issuing a flat fee per entity, which means that an entity's annual fees under SB 253 and SB 261 will be calculated by dividing the annual program cost by the total number of reporting and covered entities.

ACA is concerned that CARB's proposed fee assessment will require members of the paint and coatings industry to pay an annual fee that is disproportionate to the company's actual performance in the state of California (e.g., based off the company's GHG emissions, etc.). It does not appear that the Board's standard data collection process is being implemented appropriately in the rulemaking for SB 253 and SB 261. Accordingly, ACA recommends that CARB

take the necessary steps to conduct an evaluation or survey of reporting and covered entities' activities in the state of California prior to assessing any annual fee requirements.

7. Extend CARB's proposed reporting deadline under SB 253 to December 31, 2026, at the earliest.

Under section 96076(a) of the Proposed Regulation, CARB has proposed an August 10, 2026 reporting deadline. Given the rulemaking schedule, an August deadline for reporting does not provide enough time for paint and coatings companies to develop the necessary report. The deadline should be extended to December 31, 2026, at the earliest.

A public hearing on the Proposed Regulation will be held on February 26, 2026. Upon Board approval, the Proposed Regulation will be sent to the state's Office of Administrative Law (OAL) for review.¹ The OAL will have thirty working days to approve or disapprove the Proposed Regulation. Consequently, the final regulations for SB 253 could come as late as April 2026. Without any relevant existing guidance or final regulations for SB 253 in place, ACA is concerned that members of the paint and coatings industry will be forced to hastily develop their Scope 1 and Scope 2 GHG emissions report by the August 10, 2026 deadline. Accordingly, ACA urges CARB to extend the proposed reporting deadline under section 96076(a) of the Proposed Regulation to December 31, 2026, at the earliest.

8. Provide that a company's climate-related financial risk report under SB 261 can use either calendar year or fiscal year data.

SB 261 does not specify whether a company submitting a climate-related financial risk report must use calendar year or fiscal year data. Rather, covered entities have been instructed to use the "most recent/best available data." CARB's failure to specify whether using calendar year or fiscal year data is acceptable for a company's report under SB 261 unduly burdens members of the paint and coatings industry by requiring businesses to ascertain whether calendar year or fiscal year data constitutes the most recent/best available data. Given that many of the reporting requirements in state air quality and toxics regulations already require or permit the use of calendar year data, businesses in the paint and coatings industry should have the option to decide whether they use calendar year or fiscal year data for their climate-related financial risk reports. Accordingly, ACA recommends that CARB provide that a company's climate-related financial risk report under SB 261 can use either calendar year or fiscal year data if it comports with standard company operating procedures.

Thank you for your consideration of ACA's comments. Please do not hesitate to contact me should you have any questions and/or require further clarification.

Sincerely,

¹ If, however, the Board approves and substantially modifies the Proposed Regulation's text, then another public comment period will open and the OAL's review of the regulations for SB 253 will be further delayed.

A handwritten signature in black ink, appearing to read "Annebelle Klein". The signature is fluid and cursive, with a large initial "A" and a long, sweeping underline.

Annebelle Klein

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