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Pacific Region Vice President & Regional Team Lead

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Ms. Lauren Sanchez
Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95814

RE: Notice of Public Hearing to
Consider the Proposed California
Corporate Greenhouse Gas
Reporting and Climate-Related
Financial Risk Disclosure Initial
Regulation

Dear Ms. Sanchez:

The American Waterways Operators (AWO) is the tugboat, towboat, and barge industry's advocate, resource, and united voice for safe, sustainable, and efficient transportation on America's waterways, oceans, and coasts. As the largest segment of the nation's 40,000-vessel domestic maritime fleet, our industry safely and efficiently moves 665 million tons of cargo each year and enables the flow of goods through ports on the inland and intracoastal waterways; the Atlantic, Pacific and Gulf coasts; and the Great Lakes.

On behalf of our more than 300 member companies, we appreciate the opportunity to comment on the initial regulations for the California Corporate Greenhouse Gas (GHG) Reporting and Climate-Related Financial Risk Disclosure Programs.

AWO members are proud to be an integral part of the most environmentally safe and efficient mode of freight transportation, emitting 43 percent less greenhouse gases than rail and 832 percent less than trucks. With California home to the largest and busiest ports on the West Coast, this commitment to environmental stewardship is especially meaningful to our members. At the same time, state regulations must remain operationally practical, ensuring that the marine transportation system continues to function safely and efficiently. In the spirit of our shared goals of environmental stewardship and efficiency, AWO is pleased to offer the following comments.

In 2023, California's legislature enacted the Climate Corporate Data Accountability Act (SB 253) and the Climate-Related Financial Risk Reporting Act (SB 261). These statutes require certain companies doing business in California to disclose GHG emissions and climate-related financial risks. SB 253, mandating the Corporate GHG Reporting Program, applies to entities

with over \$1 billion in annual revenue and requires annual reporting of Scope 1, Scope 2, and Scope 3 GHG emissions. SB 261 establishes the Climate-Related Financial Risk Disclosure Program and applies to entities with over \$500 million in annual revenue, requiring biennial reporting of climate-related financial risks and mitigation strategies.

Both programs require fee collection to fund program administration and implementation. CARB's proposed regulation would establish the administration fee, specify certain key definitions necessary for developing the fee, and set a first-year reporting deadline for entities regulated under SB 253. The proposed regulation also defines key terms such as "revenue" and "doing business in California," to determine which entities will be covered by these programs.

Definitions

CARB proposes that "doing business in California" means doing business and meeting either of the criteria outlined in subsections 23101(b)(1) or 23101(b)(2) of the California Revenue and Taxation Code (CTC). Subsection 23101(b)(1) regards any taxpayer as "doing business" in California if it is organized under the state's law or is commercially domiciled in the state. Subsection 23101(b)(2) treats any taxpayer as "doing business" in the state if their sales in the state exceed the lesser of \$500,000 or 25 percent of the taxpayer's total sales worldwide. This economic nexus approach could capture primarily out-of-state marine operators with few California touchpoints, such as a limited number of voyages, de minimis in-state sales, or California-sourced revenue that is small relative to overall company size, and in doing so, effectively force reporting and fees for companies with minimal activity in the state.

The regulation also equates "revenue" with "gross receipts" under section 25120(f)(2) of the CTC, defined as the gross amount of money realized from the sale or exchange of property, performance of services, or the use of property or capital. This approach could over-capture high-volume, low-profit operators, thereby triggering obligations even when California operations are small.

Fees

We ask CARB to bear in mind that excessive compliance costs will divert resources from actual emissions reduction investments on an industry and company level. The annual estimated cost for both programs is \$13.9 million, preceded by a one-time set-up cost of \$20.7 million. Per the proposed regulation for both programs, CARB will divide total program costs among the number of covered entities, resulting in a flat fee, and entities covered by both programs will have to pay both sums. There is no sliding scale for emissions or California footprint, meaning comparatively smaller and environmentally cleaner maritime operations may be required to contribute a disproportionate amount compared to larger entities that dominate statewide emissions and risks.

Emissions Reporting

Under the Corporate GHG Reporting Program, the first Scope 1 and 2 emissions reports are due by August 10, 2026. Companies with fiscal year-end dates after February 1 must generally report the previous fiscal year, unless the most recent year's data is already available. Marine operators typically need months to aggregate data from vessels and third-party service providers such as shipyards, terminals, utilities, and assurance providers. The suggested timelines are too constrained, especially given that emissions reports cannot always be reviewed and assured by qualified third parties within the specific timeframes.

Furthermore, the proposed deadline does not account for the diversity of business calendars and the time needed to finalize data and complete assurance. Many companies, particularly smaller entities, lack the systems, expertise, and infrastructure to measure and verify emissions to the required standard in such a short period. Timing of data availability and reporting varies by entity and industry. We encourage CARB to adopt a later initial deadline and allow reporting entities to use the most recently closed fiscal year for reporting purposes, with assurance grace periods. Allowing this would ease reporting for regulated parties and, in turn, increase compliance.

Maritime operators' emissions often comprise customers' Scope 3 emissions while also including operators' Scope 1 and 2 emissions. This conflation, which the program does not adequately address, risks double-counting emissions data. Without clear guidance, operators face inconsistent data disclosure that could inaccurately reflect their company's actual output. To mitigate this, we encourage CARB to promptly issue Scope 3 guidance tailored to marine transport and allow modeled factors where data is impractical or imprecise.

SB 253 does not impose a minimum emissions threshold to trigger reporting duties; rather, reporting duties are based on company revenue, not emissions levels. This approach unfairly burdens industries like ours, which emit significantly fewer greenhouse gases than other transportation modes, while potentially exempting higher-emitting companies with smaller revenues but perhaps much larger carbon footprints. This approach undermines California's climate goals because it hurts low-emitting industries while possibly exempting higher-emitting ones. AWO urges CARB to consider adjustments that align reporting obligations with actual emissions impacts.

Parent & Subsidiary Companies

The proposed regulation defines "parent" and "subsidiary" using greater than 50 percent ownership or control tests. CARB proposes to define "subsidiary" as a business entity that another business entity has ownership interest in or control over through direct corporate association. A subsidiary may operate as a separate legal entity but be under the control of the parent entity due to this direct corporate association which can influence the subsidiary's operations, management, or financial decisions. Similarly, a "parent" is a business entity that holds an ownership interest in or control over another entity through direct corporate association, implying it can influence the subsidiary's operations, management, and financial decisions, even if the subsidiary operates independently.

Maritime company structures often involve multiple levels. A 50 percent test may misrepresent operational control, creating uncertainty about which entity must report or pay fees. To enable clear delegation and reporting planning, we encourage CARB to explicitly clarify reporting duties between parent and subsidiary entities.

Penalties, Exemptions, & Data

Each day during any portion of which a violation occurs is considered a separate offense, potentially resulting in surmounting penalties. In addition, failure to pay the full amount of any fee required constitutes a single, separate violation for each day without payment. With this structure, disputes over regulated status, such as whether a firm truly “does business” in California, could expose operators to per-day penalties while their applicability remains uncertain. To ensure entities are not penalized for circumstances beyond their control, such as delayed regulation guidance, we ask that CARB establish good-faith compliance protections.

The proposed regulation excludes insurers, non-profits, government entities, and entities whose California activity is limited to payroll or telework but provides no sector-specific relief for marine operators. Maritime is a unique industry that faces specialized practices, contractual obligations, safety requirements, and data constraints, yet the proposed regulation grants no tailored compliance pathway for this sector, even as CARB acknowledges exemptions elsewhere. We ask that CARB recognize marine-sector realities and offer credit for existing climate disclosures to reduce duplicative work.

Reported data gathered under SB 253 and SB 261 will be made publicly available to provide increased transparency and support the state’s environmental planning efforts. AWO urges CARB to provide clarity on how the data collected will be used, as such disclosures could result in significant implications for the reporting entities. To avoid unintended consequences, we ask that CARB use the information to inform state emissions reduction initiatives and guide reduction strategies rather than as a punitive tool. Doing so will not only safeguard entities’ operations but also support compliance and good faith efforts to reduce emissions and report transparently.

Timeline

SB 261 is currently enjoined pending appeal, meaning the Climate-Related Financial Disclosure Program is temporarily suspended. SB 261 requires companies to publish climate-related financial risk reports by January 1, 2026. While the public docket will remain open until July 1, 2026, the January 1 deadline places significant compliance pressure and creates uncertainty. If SB 261 is not overturned on appeal, we urge CARB to consider a reporting window, rather than a fixed date, to better reflect companies’ differing fiscal years and reporting cycles.

Maritime businesses already face extensive federal environmental regulations promulgated by the Environmental Protection Agency and U.S. Coast Guard. Businesses still lack clear guidance and templates to prepare reports that meet California’s requirements, and entities

must retain records proving that they do or do not meet the revenue and doing-business thresholds for five years. We ask that CARB pursue every opportunity to streamline the reporting required under SB 261 and provide supplemental draft regulations and templates as soon as possible to avoid confusion, clarify compliance, and make recordkeeping as easy to maintain as possible. Being mindful of the excessive delays and the burdensome nature of this reporting process, we urge CARB to consider a phased-implementation approach to allow entities ample time to develop compliance tools.

Conclusion

CARB's regulatory documents confirm that the proposed regulation is preliminary and focuses on definitions, fees, and an initial reporting deadline, with broader program details to follow. As the foundational framework for the SB 261 and SB 253 programs, this initial regulation underscores the importance of CARB finalizing the definitions, fee structures, and deadlines.

Thank you again for the opportunity to comment on the California Corporate GHG Reporting and Climate-Related Financial Risk Disclosure Programs' initial regulation. We appreciate CARB's consideration of our comments and would be pleased to answer any questions or provide further information to assist with your review and decision-making.

Sincerely,



Peter Schrappen
Pacific Region Vice President & Regional Team Lead