

CARB issues preliminary list of companies deemed to be in scope under SB 253/261

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As previewed at its August workshop, on September 24, CARB issued a “preliminary list of reporting/covered entities” under SB 253 and SB 261. Given CARB’s statement that the list is not exhaustive, limitations of CARB’s data sources and inconsistencies and errors in the list, companies should continue to independently assess whether they are in scope for SB 253 and SB 261. In particular, companies that believe they are listed in error should consider providing feedback via CARB’s survey tool.

Background

On September 24, the California Air Resources Board (CARB) issued a “[preliminary list of reporting/covered entities](#)” under California’s climate disclosure laws, SB 253 and SB 261 (the CARB List). The CARB List was previewed by CARB at its August 21, 2025 public workshop (the August Workshop), where it proposed a definition of the phrase “doing business in California” – an applicability criterion common to both laws – based on whether a company is listed in the Secretary of State’s business entity database, which includes California entities and out-of-state entities qualified to do business in the state. CARB announced that it planned on leveraging the business entity database and overlaying that data with available revenue data to publish a list of entities likely to be in scope.

Observations regarding the CARB List

- **Issues regarding CARB’s data**
 - **Entity data is over three years old.** According to CARB, the Secretary of State dataset used for determining whether an entity meets CARB’s “doing business in California” definition is dated as of March 2022.
 - **Source of revenue data is unclear.** It is unclear what available revenue data CARB used to prepare the CARB List as the material accompanying the CARB List refers obliquely to a “proprietary dataset.” In addition, there is no way to ascertain from the CARB List or other CARB statements whether CARB is calculating revenue on an entity-by-entity basis or aggregating revenue among affiliates.
- **Duplication and conflicting information.** The CARB List contains numerous duplicate and inconsistent listings for single entities. For example, one entity is listed 13 times, with several of the entries indicating that this entity is subject to SB 261 only and others indicating that it is subject to SB 253 as well. Notably, after duplicate entries are removed, the number of in-scope entities on the CARB List is significantly lower than the estimates provided at the August Workshop – only 3,127 entities are listed as subject to SB 261 compared to 4,160 estimated at the August Workshop, and only 2,054 entities are listed as subject to SB 253 compared to 2,596 estimated at the August Workshop.¹
- **CARB cautions against relying on the CARB List.** Perhaps in recognition of the above issues with the CARB List, CARB included a disclaimer in the spreadsheet regarding relying on the list: “[e]ach potentially-regulated entity remains responsible for compliance with statutory requirements, regardless of whether it was included in staff’s preliminary list or outreach.” CARB also noted that the exemptions discussed at the August Workshop (e.g., remote

workers, non-profits, etc.) are not reflected in the CARB List.

Key takeaways

- **Companies should assess applicability independent of the CARB List.** In light of the above, companies should not rely on the CARB List to assess whether they are in scope. Companies that are not on the CARB List should not assume they are out of scope for SB 253 and SB 261, and instead should assess scope based on the statutory text and the limited guidance provided by CARB to date. Unfortunately, as discussed in our prior [client update](#), there are several key unanswered questions regarding the meaning of “revenues” and “doing business in California” and how to apply these criteria in the context of affiliated corporate entities, and the CARB List does little to provide clarity on these points. At the August Workshop, CARB suggested that it will release draft regulations by mid-October, but whether these questions will be clearly addressed by the draft is unknown.
- **Companies listed in error should consider providing feedback to CARB.** That said, companies on the CARB List that have determined that they are not in scope should consider completing the [survey tool](#) posted by CARB.² However, it remains unclear whether CARB plans on using the survey tool to engage with companies on an individual basis.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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- ¹ Interestingly, the August Workshop estimates match the number of entities on the CARB List without the duplicates removed.
- ² Note that the survey does not provide a way for companies to indicate they satisfy any of the exemptions proposed at the August Workshop.