



Electronic Submission via CARB's Comment Portal

October 27, 2025

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

Re: CMTA Feedback – CARB's SB 253 (Wiener, 2023) Reporting Template & Memo

Dear Chair Sanchez:

On behalf of the California Manufacturers & Technology Association ("CMTA"), I appreciate your consideration of the following comments in response to the California Air Resources Board's ("CARB") SB 253 (Wiener, 2023) draft reporting template.

CMTA is a trade association dedicated to supporting and enhancing a strong business climate for California's 30,000 manufacturing, processing, and technology-based companies.

The State of California must become a more attractive destination for investment to maintain and develop its industrial base and achieve its climate objectives by addressing the barriers to growth and greater productivity. Similar to the current situation in Europe, California will miss out on investment and risks deindustrialization if businesses continue to face excessive regulatory barriers and significantly higher costs, leading to job losses, greater dependency on imports for crucial technologies and materials, and the weakening of California's economic influence and leadership on climate issues.

In this regard, we urge CARB to consider that increasing the regulatory burden on businesses (mandating excessive, inconsistent and redundant data), creating uncertainty, and raising costs - on top of an already significantly higher cost base in California will deter investment in the state. While we appreciate CARB's efforts to provide greater guidance, CMTA and its members expected a much simpler form of disclosure that aligns with existing frameworks. As you know, the statute called for "the emissions reporting [to be] structured in a way that minimizes duplication of effort and allows a reporting entity to submit to the emissions reporting organization reports prepared to meet other national and international reporting requirements," (HSC Section 38532(c)(1)(D)(i)). In this regard, CMTA and its members urge CARB to align the reporting template with the types of questions included in other emission reporting frameworks such as CDP.

Reporting Deadline Should Provide Maximum Flexibility

Due to the delay of finalized rulemaking by CARB, CMTA does not believe it is feasible for all companies to gather and assure Scope 1 and Scope 2 emissions data for reporting year 2025 and submit by June 30, 2026. Further, the statute calls for limited assurance beginning in 2026, which could be interpreted to mean for 2026 data and beyond. In this regard, we recommend eliminating the limited assurance in Year 1 of reporting.

Additionally, due to the delayed rulemaking process, the reporting deadline needs to be extended to December 31, 2026, at a minimum, with enforcement discretion also applying to companies who have submitted data in good faith even if they were not able to achieve limited assurance, should it remain a requirement, by this date. Ultimately, the statute does not dictate a specific date for final reporting but provides flexibility through 2026. To enable sufficient time for gathering and assuring the data on a schedule that is aligned with reporting entities' currently established processes and timelines, we urge CARB to reconsider the June date and instead provide flexibility for the compliance at any point during the calendar year.

As stated in our March 2025 comment submission, CMTA recommends phasing in third-party assurance. Auditing companies that already provide services for California's MRR are already short staffed, difficult to schedule and should remain focused on existing projects. Notably, the statute provides the authority for CARB to consider the "capacity for an independent assurance engagement to be performed by a third-party assurance provider⁵" in establishing reporting timelines that could support a phased in approach.

Submission Clarity Requested

CMTA and its members appreciate the flexibility to use the proposed template or not in the first year of reporting. That said, we urge CARB to provide clear expectations on the specific requirements to comply with SB 253 if companies choose not to use the CARB Draft Scope 1 and 2 GHG Reporting Template (as deemed optional by CARB - *"Reporting entities are not currently required to use the template; its use is voluntary for the 2026 reporting cycle."*) Such clarity will ensure transparency and support ongoing compliance.

Determining Applicability and Boundaries for Scope 1 and Scope 2 Reporting

CMTA supports the alignment to the GHG Protocol and the flexibility to use operational control as the approach to defining organizational boundaries within the jurisdictional boundary of California as a minimum reporting obligation. This approach reduces administrative burden and focuses efforts on the most significant emission sources. To that end, CMTA strongly urges CARB to maintain this flexibility and avoid requiring one specific approach. Doing so would require some companies to maintain multiple GHG emissions inventories or completely re-prepare their emission inventories, which would require significant effort, contravene the legislation's intent, and unnecessarily burden the regulated community with little to no benefit to stakeholders.

Simplify Emissions Data Collection

CMTA strongly urges the California Air Resources Board (CARB) to simplify emissions data collection requirements under SB 253, ensuring alignment with the statutory minimum obligations and avoiding regulatory overreach. The reporting template proposed by CARB currently requests

details that exceed the scope of SB 253, which mandates only the annual disclosure of Scope 1, Scope 2, and Scope 3 emissions, along with an assurance engagement by an independent third-party provider (SEC 2(c)(1)) beginning in 2026.

To promote legal defensibility and operational feasibility, CMTA recommends that CARB clearly identify key priority areas for simplification and amend excessively burdensome provisions that require non-value-added data collection. Specifically, CMTA recommends the following structured approach to GHG data collection:

- **Streamline the data acquisition process** to efficiently capture only a total value associated with Scope 1 emissions and a total value associated with Scope 2 emissions.
- **Explicitly identify the emissions factor methodology** utilized—whether market-based or location-based—in accordance with applicable reporting standards (e.g., GHG Protocol).
- **Attach the relevant assurance statement** issued by a qualified third-party verifier to substantiate the accuracy and completeness of the reported data.

This approach supports transparency, traceability, and defensibility in environmental disclosures and aligns with prevailing legal and compliance expectations.

Independent third-party assurance providers possess the subject matter expertise and procedural rigor necessary to verify emissions data in accordance with well-established standards such as the GHG Protocol. Requiring additional granular data entry from companies with verified emissions reports undermines the assurance process and imposes unnecessary administrative overhead on both regulated entities and CARB.

CMTA emphasizes the importance of reducing compliance costs and eliminating duplicative requirements. CARB must recognize that its authority under SB 253 does not extend to mandating disclosure of data points beyond the statutory minimum. Overreach in this area risks legal challenges and regulatory inefficiency. By aligning emissions disclosure requirements with the GHG Protocol and allowing companies already disclosing under accredited standards to comply without redundant reporting, CARB can enhance transparency, traceability, and efficiency in environmental disclosures while maintaining compliance with SB 253.

Protection of Confidential Business Information – Data Use and Intent

CMTA is concerned about the recommendations proposed by CARB to collect an unnecessarily excessive amount of data in the proposed reporting template. CMTA requests that CARB provide explicit disclosure regarding the intended use, scope, and application of data collected through SB 253 Scope 1 and Scope 2 Greenhouse Gas (GHG) Emissions Draft Reporting Template. Clarity is essential to ensure compliance obligations are necessary, clear, proportionate, transparent, nonduplicative, and consistent with statutory authority (California Government Code Title 2, Div 3, Part 1, chapter 3.5, Article 6, Section 11349 et seq.).

Failure to articulate the purpose and utilization of reported data introduces significant legal and operational risks, including:

- **Regulatory Overreach:** Without clear parameters, CARB risks exceeding its statutory mandate under SB 253, exposing the agency to potential legal challenges for imposing requirements beyond legislative intent and authority.

- **Data Misuse and Confidentiality Concerns:** Ambiguity regarding data usage raises concerns about improper disclosure or secondary use of proprietary or sensitive information, which could result in litigation under trade secret and competition laws.
- **Compliance Uncertainty and Increased Liability:** Companies cannot adequately design internal controls or allocate resources without understanding how CARB will interpret and apply reported data. This uncertainty heightens the risk of inadvertent non-compliance and associated penalties.
- **Duplication of Assurance Processes:** If CARB uses data for verification purposes without recognizing third-party assurance standards, regulated entities may face duplicative compliance burdens, increasing costs and administrative inefficiencies.

Alternatively, CMTA urges CARB to publish a formal statement of data usage, including:

- The specific regulatory objectives served by each data element.
- Limitations on secondary use or disclosure.
- Alignment with existing assurance frameworks to avoid redundant verification.
- Explanation of how this reporting is not duplicative of other emission reporting requirements.

Incorporate data governance principles ensuring confidentiality, proportionality, and adherence to statutory authority.

Recommended Data Collection Form Corrections

In addition to these high-level comments, CMTA raises the following questions and recommends proposed corrections to the draft reporting template if these questions remain in the final version:

- **Line 12-15** – Contact information for the reporting company contact creates an unreasonable privacy risk in a public document. Could this be managed through a repository registration process that makes this information available to CARB, but not to the general public?
- **Line 16** – The question “Enter the date of verification (yyyy-mm-dd)” is currently categorized under Organization Information. CMTA believes this is inaccurate and should be reclassified under Third-Party Verification, as it pertains to the assurance process rather than organizational details.
- **Lines 18-20** – Contact information for the third-party verifier creates an unreasonable privacy risk in a public document.
- **Line 23** – The question states: “Select the organizational boundary approach your company uses (Equity Share, Financial Control, Organizational Control).” The term Organizational Control is incorrect and should be revised to Operational Control to align with the terminology established under the GHG Protocol and recognized reporting standards.
- **Line 24** – The question “If you picked 'Equity Share' from above, provide a list of all obligated entities over which reporting company has equity share, financial control or operational control (separate each item in list with).” We recommend that the reporting template not require submission of a comprehensive facility list. Instead, the template should allow for a concise description of the organizational approach used to define reporting

boundaries. Further, the term “obligated entities” is not defined. We request clarity if this should instead be “reporting entities” as defined in the bill.

- **Line 26** – The question “If you did NOT pick 'Equity Share' from above, provide a list of all obligated entities or facilities over which reporting company has financial control or operational control (separate each item in list with).” We recommend that the reporting template not require submission of a comprehensive facility list. Instead, the template should allow for a concise description of the organizational approach used to define reporting boundaries. Further, the term “obligated entities” is not defined. We request clarity if this should instead be “reporting entities” as defined in the bill.
- **Line 30** – The question “If Yes, identify and provide clarification for any GHGs that exist within your current year's operations and are being excluded.” We recommend simplifying, similar to match Line 28, “If 'Yes' to the question above, provide details.”
- **Lines 31 thru 46, Lines 48 thru 50, Lines 55 thru 57 and Lines 61 thru 70** – Remove these sections from the template. The requested level of detail is unnecessary and does not provide additional value to the reporting process. Under the GHG Protocol framework, this information has already been subject to rigorous internal review and third-party assurance as part of our established verification process. That said, if these components are to be retained they should be voluntary and in lines 52 and 59 CMTA would then request CARB consider adding “at least” to recognize both levels of assurance.
 - “Please confirm that all the reported [Scope 1/Scope 2] emissions have been assured to at least the limited assurance level.”

Additionally, it should be noted that the list of emission factors called for in Line 65 and list of process-specific calculations called for in Line 68 are not required to be published under other frameworks, may be proprietary, and are unnecessary if the emissions have been assured by a third-party verifier as required.

- **Line 54** – “Enter your Scope 2 total indirect emissions (in mtCO₂e).” A separate data entry field should be added to indicate whether the reported values are based on a market-based or location-based emissions factor methodology.
- **Lines 51 & 58** – Remove these sections from the reporting template. “Enter Scope 1 emission intensity per million dollars in revenue (in mtCO₂e/millions of dollars).” & “Enter Scope 2 emission intensity per million dollars in revenue (in mtCO₂e/millions of dollars).” Requiring private companies to report emissions intensity exceeds the statutory authority of SB 253, introduces confidentiality, and constitutes regulatory overreach beyond the law’s mandate for absolute emissions disclosure.
- **Lines 72 thru 75** – Emissions Reductions. Remove this section from reporting template. Reporting emissions reduction figures exceeds the statutory requirements of SB 253. That said, if retained these elements should be voluntary. Specific to Line 74, the opportunity to include emissions reductions from energy attribute credits generated by renewable energy projects may be workable for some reporting entities. However, CMTA urges CARB to please clarify “direct contracts” as to whether it is limited to virtual power purchase agreements and market purchases of energy attribute certificates. Reporting renewable

energy consumption or emissions from all renewable energy purchases is more complicated given that most markets have mixed grids that combine renewable and nonrenewable energy sources. To this end, we urge CARB to consider revising to:

- “If you picked ‘Renewable Electricity’ from above, enter total number of energy attribute certificates retired in the reporting year.”
- **Lines 125 thru 145** – as it relates to these optional fields, it should be noted that these are not covered by other reporting frameworks and would create additional work for the reporting entity with little to no benefit to stakeholders.
- **Lines 178 thru 179** – these options fields lack clarity. How would a reporting entity rate the quality of their data? Given the number of estimates, assumptions, and calculations required to develop the emissions inventory, and especially as Scope 3 becomes reportable, the quality of the data will be difficult to rate and highly subjective. The regulated community is largely doing the best it can with the available data, which will improve as we approach 2050.

Exemptions

CMTA urges CARB to exempt entities that lack either “financial control” or “operational control” over California based assets. When drafting proposed SB 253 implementing regulations, specifically, CARB should exempt such entities, because such entities, by definition in the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard (“Protocol”), do not directly generate Scope 1 combustion or fugitive emissions or procure energy giving rise to Scope 2 emissions within the state. Imposing a reporting duty on them would therefore be ultra vires the legislative intent of California Public Resources Code (PRC) Section 38530–38535 (SB 253) to capture “own” or “operate” emissions and would contravene AB 32’s directive to avoid duplicative or inconsistent regulation (Health & Saf. Code § 38562(b)(6)). Exempting non-controlling entities also mitigates the material risk of double counting where a landlord retains financial control of a building’s energy meters, refrigerants, and capital expenditures while a tenant simply occupies leased space. Under the Protocol’s “financial control” approach the landlord must already report full-building emissions; whereas, under the “operational control” approach the tenant could be compelled to do so as well, resulting in two parties disclosing the same Scope 1 and Scope 2 inventory in contravention of CARB’s existing Mandatory Reporting Regulation’s principle of single-point accountability (Cal. Code Regs., tit. 17, § 95101 et seq.).

Alternatively, to preserve legislative breadth while ensuring clarity, CARB could insert the following sentence into the rule text:

For any leased asset located in California, the party that exercises both (a) authority to introduce and implement operating policies and has (b) responsibility for utility procurement shall be deemed the sole reporting entity for all Scope 1 and Scope 2 emissions associated with that asset; where such authorities are split, the party holding financial control shall report, and the counter-party shall exclude those emissions from its inventory.

This clear allocation harmonizes the Protocol’s dual methodologies, upholds the Legislature’s objective to deliver transparent, non-duplicative disclosures, and reinforces regulatory consistency across jurisdictions while reducing administrative burdens on California businesses.

Documentation, Recordkeeping, and Compliance Programs

The PowerPoint slides shared by CARB during its August 21, 2025 workshop also convey the importance of robust documentation, recordkeeping, and compliance processes to support defensible reporting and facilitate assurance. To this end, CMTA urges CARB to provide clear expectations for documentation and recordkeeping, including the retention of data, calculation methodologies, and supporting evidence. This will ensure transparency, facilitate verification, and support ongoing compliance.

CMTA appreciates the opportunity to provide these comments and feedback. If you would like to discuss these issues further, please feel free to reach out to me at (916) 498-3320 or eesquivel@cmta.net or to our consultant Dawn Koepke with McHugh Koepke Padron Government Relations at (916) 606-5309 or dkoopke@mchughgr.com. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'EE', with a stylized flourish.

Elizabeth Esquivel
Vice President, Government Relations
California Manufacturers and Technology Association