

October 27, 2025

Jordan Ramalingam
Branch Chief, Corporate Greenhouse Gas
Reporting and Climate Related Financial Risk
Disclosure Programs
California Air Resources Board
1001 I Street
Sacramento, CA 95814

Re: Comments on SB 253 Scope 1 and Scope 2 Emissions Draft Reporting Template and Guidance Memorandum

Mr. Ramalingam:

Thank you for the opportunity to provide comments on the Scope 1 and Scope 2 Emissions Draft Reporting Template and Guidance Memorandum posted October 10, 2025.

The California Chamber of Commerce (CalChamber) is currently a party to a lawsuit filed in federal court against the California Air Resources Board (CARB) challenging the constitutionality of SB 253 and SB 261.¹ While the comments below do not cure any of the defects at issue in the CalChamber lawsuit, they are provided by the undersigned in the hopes of reducing the burden on reporting entities in the event CARB implements the Climate Corporate Data Accountability Act.

I. The Draft Template and Guidance Do Not Adhere to the Statutory Mandate to Minimize Duplication of Effort

Under the Climate Corporate Data Accountability Act, CARB is required to ensure that “emissions reporting is structured in a way that minimizes duplication of effort and allows a reporting entity to submit... reports prepared to meet other national and international reporting requirements, including any reports required by the federal government, as long as those reports satisfy all of the requirements of [Section 38532 of the Health and Safety Code].”²

The draft template and accompanying draft guidance memorandum fail to adhere to this statutory mandate in several key respects.

First, the draft memorandum states that “[r]eporting entities are not currently required to use the template; its use is voluntary for the 2026 reporting cycle.”³ This language is troubling because it

¹ As we explain in *Chamber of Commerce of the United States of America et al. v. Randolph*, No. 2:24-cv-00801- ODW-PVC (C.D. Cal.), SB 253 and 261 unconstitutionally compel companies to speak on a controversial topic, in clear violation of their First Amendment rights, impermissibly burden interstate commerce, and further violate constitutional and statutory limitations on California’s ability to regulate beyond its borders. No “implementing” regulations can fix these and other fundamental flaws in SB 253 and 261.

² Health and Safety Code Section 38532(c)(2)(D)(i).

³ “California Corporate Greenhouse Gas Reporting Program: Scope 1 and Scope 2 Emissions Draft Reporting Template” posted October 10, 2025, (Draft Memo), p. 1, available at:

implies that CARB intends to make the template mandatory in future years. Doing so would be contrary to the Legislature's express directive that reporting entities be permitted to submit reports prepared for other national or international frameworks, provided those reports meet the substantive requirements of the Climate Corporate Data Accountability Act. **CARB should clarify that use of the template will remain entirely optional in all future reporting years and that reporting entities may satisfy their obligations by submitting reports prepared for other jurisdictions in accordance with the Greenhouse Gas Protocol.**

Second, the template requires the use of global warming potential (GWP) values from the Intergovernmental Panel on Climate Change's (IPCC) 4th Assessment Report (AR4), published in 2007, to calculate carbon dioxide equivalent (CO₂e) emissions. Two subsequent IPCC reports, AR5 (2013) and AR6 (2023) provided updated GWP values that are now in wide use for reporting. By mandating the use of AR4 values, CARB would create a California-specific reporting standard inconsistent with SB 253's directive to minimize duplication of effort. For entities already reporting in other jurisdictions using AR5 or AR6 values, this requirement would necessitate recalculating emissions solely for California and obtaining separate third-party assurance, resulting in inconsistent totals across jurisdictions. Such discrepancies risk confusing investors, regulators, and the public and expose reporting entities to potential legal and reputational risks over divergent reported totals. The draft template approach therefore creates substantial additional burdens and confusion. **Rather than mandate a specific standard, CARB should simply require reporting entities to identify which GWP value standards they used to calculate their emissions totals.**

II. The Draft Template Is Unduly Burdensome and Seeks Information Beyond the Scope of Statutory Requirements

The draft guidance memorandum states that "[t]he template is intended to streamline reporting, especially for entities disclosing GHG emissions for the very first time."⁴ Unfortunately, the current draft template appears to move in the opposite direction by requiring reporting of information that far exceeds the statutory scope of the Climate Corporate Data Accountability Act.

The Climate Corporate Data Accountability Act merely requires reporting entities to report total Scope 1, Scope 2, and Scope 3 emissions in accordance with the Greenhouse Gas Protocol. Nothing in the statute authorizes CARB to compel reporting of additional disaggregated or derivative data beyond those totals. Yet the draft template includes numerous fields that are either not required by, or are explicitly optional under, the GHG Protocol, including emissions intensity ratios, source-specific disaggregation for each emissions category, emissions reductions strategies, quantity of excluded *de minimis* emissions (thereby requiring companies to report emissions they are permitted to exclude pursuant to the GHG Protocol), and specific identification of all facilities and entities a reporting entity has financial or operational control over. Requiring additional reporting or converting optional GHG Protocol elements into

https://ww2.arb.ca.gov/sites/default/files/2025-10/Draft%20Memo_Scope1%262TemplatePublicRelease.pdf.

⁴ Draft Memo at p.1.

mandatory fields is directly at odds with the statutory limitation in Health and Safety Code § 38532(c)(6) , which states that “[the Act] does not require additional reporting of emissions of greenhouse gases beyond the reporting of scope 1 emissions, scope 2 emissions, and scope 3 emissions **required** pursuant to the Greenhouse Gas Protocol standards [or any post-2033 standard adopted by CARB].”⁵

By embedding additional requirements and optional data points as mandatory fields in the draft template, CARB is effectively creating a state-specific reporting regime rather than a pathway aligned with existing national and global standards as intended by the Legislature. In doing so, CARB undermines its own stated goal of “streamlining reporting.” **CARB should revise the draft template to eliminate, or clearly make voluntary, all data fields that exceed the minimum reporting required under the Climate Corporate Data Accountability Act.**

III. CARB Should Clarify What Information Reported into the Template Will Be Publicly Available

SB 253 requires CARB to make reported Scope 1, Scope 2, and Scope 3 emissions total data publicly accessible, but it does not authorize the agency to compel disclosure of proprietary or commercially sensitive information that companies would not otherwise make public. Many of the fields included in the draft reporting template, such as those that request detailed operational data, contact information, and entity- or facility-specific identifiers, fall outside the scope of what is typically disclosed under existing reporting frameworks. For privately held entities, which are not subject to SEC or other securities-based transparency regimes, compelled public disclosure of sensitive business information would constitute a new and significant invasion of privacy.

Facility lists, ownership structures, and internal contact details reveal competitive insights into corporate organization, asset footprint, and business strategies. For privately held companies, especially those with complex partnership or joint-venture structures, public release of such information could expose proprietary business relationships, production locations, or operational scale to competitors.⁶ Moreover, in addition to the ambiguities associated with determining what constitutes a reportable “facility,” requiring the public disclosure of facilities by utilities, telecommunications companies, other critical infrastructure companies, and defense contractors raises potential national security concerns.

CARB appears to be aware of such concerns by asking whether the report contains trade secret information, but the template does not clearly differentiate between data that will be published verbatim on CARB’s public website and information collected only for administrative or verification purposes. **CARB should therefore clearly specify which fields will be made publicly available and which will remain confidential. CARB should further commit to**

⁵ Health and Safety Code Section 38532(c)(6).

⁶ For example, the reporting of emissions intensity measured as total emissions / million dollars of revenue makes it easy for competitors to reverse engineer a privately-held companies annual revenues and potentially even the number of units sold. Additionally, emissions per revenue may be a misleading metric with high degrees of variation based on emissions factors used, degree of vertical integration, and whether the reporting entity is focused in one industrial area or many.

exclude and protect from disclosure any personally identifiable information, internal contact information, confidential business information (CBI), trade secrets, and national security information from any public database and to protect such information from public disclosure.

IV. CARB Should Preserve the Flexibility Provided by the GHG Protocol in Boundary Reporting

The Greenhouse Gas Protocol allows companies flexibility in selecting and defining their organizational boundaries for GHG accounting, recognizing that different structures such as equity share, financial control, or operational control⁷ can yield accurate but distinct representations of responsibility. This flexibility is central to the Protocol's design and is one of the key reasons it has become the global standard. By permitting entities to choose the boundary approach that best aligns with their governance, accounting systems, and data availability, the GHG Protocol minimizes administrative burden.

The draft reporting template preserves the flexibility provided by the GHG Protocol. The draft memorandum, however, asks whether CARB should require a single approach to defining organizational boundaries. For entities that already have verified inventories based on one approach, being compelled to recalculate emissions under a different boundary methodology for California compliance violates that mandate to minimize duplication of effort. **CARB should therefore explicitly affirm that reporting entities may continue to select any organizational boundary approach authorized under the Greenhouse Gas Protocol. Preserving this flexibility is essential to maintaining alignment with the Greenhouse Gas Protocol and other regulatory reporting regimes and upholding the Legislature's directive to minimize duplication of effort.**

V. CARB Should Reassess the Definition of Materiality Threshold Used in the Draft Template

The draft template, citing the GHG Protocol, defines the materiality threshold as “a rule you set to decide which emission sources are so small (immaterial) that they do not need to be included in the inventory because their exclusion will not significantly affect the accuracy of the report.” This definition appears to contradict the GHG Protocol, however, which states that “[a] materiality threshold is not the same as de minimis emissions, or a permissible quantity of emissions that a company can leave out of its inventory.”⁸ Instead, the GHG Protocol provides the guidance that “[i]nformation is considered to be material if, by its inclusion or exclusion, it can be seen to influence any decisions or actions taken by users of it.”⁹

CARB's proposed “accuracy-based” materiality threshold not only differs from the GHG Protocol guidance on materiality, but it also differs significantly from long-established standards of

⁷ The template uses the term “organizational control” but we assume this is intended to be “operational control” boundary under the GHG protocol. CARB should align its terminology with the GHG protocol to avoid confusion.

⁸ The Greenhouse Gas Protocol: A Corporate Accounting and Reporting Standard, Revised Edition, at p.70.

⁹ Ibid. at p. 69.

materiality in the accounting and federal disclosure realm. For example, the standard applied by the SEC regarding public company financial disclosures is that information is material if there is a substantial likelihood that a reasonable investor would consider it important when making an investment decision. **CARB should align its approach with SEC's materiality definition given that one of the purposes of the Climate Corporate Data Accountability Act is to help investors, consumers, and other stakeholders to better understand emissions data.**¹⁰

VI. CARB Should Use the Guidance Memorandum to Clarify Safe Harbors and Assurance Expectations

CARB recently announced a delay to its initial SB 253 rulemaking. This has left potential reporting entities with significant uncertainty as to whether they need to report, when they need to report, how parent-subsidary relationships will be treated, what safe harbors may apply, how CARB will apply enforcement discretion in the first year, and what specifically needs to be assured by independent third parties. **CalChamber recommends that the final version of the guidance memorandum provide written clarification on these issues.**

If you have any questions or would like to discuss the above comments, please feel free to reach out to me at jonathan.kendrick@calchamber.com.

Sincerely,

A handwritten signature in blue ink that reads "Jonathan Kendrick".

Jon Kendrick
Policy Advocate,
California Chamber of Commerce

JK:nr

¹⁰ See Health and Safety Code Section 38532(c)(2)(B).