Public Comments to California Climate-Disclosure Information Solicitation

3R Sustainability is a consulting firm that works at the intersection of ESG, building performance, and reporting, helping clients realize the value of sustainability across their organization and assets. Within the climate space, 3R is a leading provider of greenhouse gas (GHG) consulting services, including GHG inventory, target setting, carbon reduction strategy, climate risk and opportunity analysis, and climate-related reporting. With our expertise in carbon accounting, risk and opportunity management, and climate analysis, we provide organizations with the tools they need to confidently set and achieve their climate goals.

3R has been keeping a close eye on the climate-related reporting around the world and has been tracking the progress of California’s climate-disclosure regulations. We are excited at the opportunity to contribute to the California Air Resources Board’s implementation of these regulations and have provided the following comments/recommendations based on the suggested questions CARB published in past months.

**Should CARB adopt the interpretation of “doing business in California” found in the Revenue and Tax Code section 23101?**

3R believes that there are strong benefits to adopting the tax code’s definition of “doing business in California”, including that there is already a precedent set and understood by businesses. This provides simplification in compliance for companies who are already impacted by California’s tax regulations, as well as for regulators. Additionally, this adoption would provide broader coverage because it would include both physical and economic presence, ensuring that companies with significant operations and/or sales in California are being held accountable for their impact, even if they are headquartered elsewhere.

**Should SB 253 and 261 cover entities that are owned in part or wholly owned by a foreign government?**

3R believes that these entities should not be included in the scope of SB 253 or 261 as it could cause a number of challenges. Entities owned by a foreign government could potentially raise diplomatic concerns or other jurisdictional challenges due to a difference of sovereign rights. Additionally, foreign governments might take retaliatory measures and impose reciprocal measures on US companies operating in their countries, complicating economic or diplomatic relations. And the challenges for implementing and enforcing SB 253 and 261 with foreign governments that might not cooperate could cause unforeseen complexities.

**Should entities that sell energy, or other goods and services, into California through a separate market, like the energy imbalance market or extended day ahead market, be covered?**

3R believes that these entities should be included in the scope of SB253 and 261. This would be in keeping in alignment with climate goals, ensuring that all contributors to California’s energy mix are aligned with its climate targets, preventing “leakage” of emissions to entities operating outside of state regulations. It also promotes fair competition, having all market participants be subject to the same rules, creating a level playing field for companies both in and out of the state. These markets are contributing to California’s energy consumption and emissions, so regulating them regardless of in or out of state would create more climate accountability too.

**For private companies, what databases or datasets should CARB rely on to identify reporting entities? What is the frequency by which these data are updated and how is it verified?**

* California Secretary of State Business Registry (provides a list of companies registered to do business in CA) – updated in real time as businesses file with the state. Information is self-reported and verified through official filings
* Franchise Tax Board Records (contains financial data on companies doing business in CA) – updated annually. Information is verified through audits and reporting by the company
* EPA GHG Reporting Program (tracks emissions data for any facilities emitting more than 25,000 MT CO2e annually) – updated annually. Information is self-reported but subject to EPA audits and verification
* California Energy Commission Data (provides information on energy suppliers, consumption, and production in California) – updated annually. Information comes from regulated reporting requirements for energy companies.

**In what way(s) should CARB track parent/subsidiary relationships to assure companies doing business in California that report under a parent are clearly identified and included in any reporting requirements?**

3R believes CARB could utilize business registration and corporate filings through the California Secretary of State or other state business registries – these are used for companies to disclose their ownership structure, which would include parent and subsidiaries. This would allow CARB to cross check data against corporate tax filings or other public records. Additionally, for public companies, CARB could look at SEC filings which provide these ownership details. This could be used to trace ownership and ensure any subsidiaries operating in CA report under their parent company. CARB could also implement a reporting standard for corporate groups, adopting a standardized reporting requirement that would include disclosing these relationships.

**How could CARB ensure reporting under the laws minimizes a duplication of effort for entities that are required to report GHG emissions or financial risk under other mandatory programs and under SB 253 or 261 reporting requirements?**

There are a number of other climate-related reporting requirements, including EU Corporate Sustainability Reporting Directive (CSRD), International Sustainability Standards Board (ISSB), and the Climate Disclosure Project (CDP). Many standards are aligning with ISSB’s International Financial Reporting Standards Foundation Standard 2, including CDP being ~80% aligned with IFRS S2 as of 2024, allowing for the reporting to be standardized.

**For entities required to report under SB 253, what options exist for third-party verification or assurance for scope 3 emissions?**

There are numerous organizations that provide third-party verification or assurance of scope 3 emissions, including 3R’s sister company, Sustainability Assurance Services (SAS).

**For parties currently reporting scope 1 and 2 emissions on a voluntary basis, what frequency (annual or other) and time period (1 year or more) are currently used for reporting?**

3R believes that annual reporting, aligned with the organization’s fiscal year, should be used for GHG reporting, even on a voluntary basis. This allows for Year over Year comparisons and historical analysis, as well as having a standard reporting period for all organizations. This is the time period used by CDP reporting and IFRS, based off of the guidance of the GHG Protocol.