



**CALPINE
CORPORATION**

1215 K Street #2210
Sacramento, CA 95814
916-443-2500

March 21, 2025

Submitted Electronically

Rajinder Sahota, Deputy Executive Officer
California Air Resources Board
1001 I Street
Sacramento, California 95814

**Re: Information Solicitation to Inform Implementation of California Climate-Disclosure
Legislation: Senate Bills 253 and 261, as amended by SB 219**

Dear Deputy Executive Officer Sahota,

Calpine Corporation (“Calpine”) submits these comments in response to the California Air Resources Board’s (“CARB’s”) December 16, 2024 solicitation of feedback to inform its work implementing Senate Bill 253 (“SB 253,” the “Climate Corporate Data Accountability Act”) and Senate Bill 261 (“SB 261,” the “Climate Related Financial Risk Act”).¹

Calpine operates the largest fleet of natural gas combined-cycle (“NGCC”) and combined heat and power (“CHP”) facilities in the United States, and is developing multiple pathbreaking California CCS projects to reduce greenhouse gas (“GHG”) emissions while preserving reliability of the grid. For instance, the Sutter Decarbonization Project is expected to capture up to 1.75 million metric tons of CO₂ each year from the Sutter Energy Center near Yuba City, California.² Calpine also has two pilot projects underway at Los Medanos Energy Center, a cogeneration plant in Pittsburg, California, and is exploring full-scale CCS retrofits at several other sites across the country.

Part I of this letter responds to CARB’s request for any information important to assist staff work implementing the laws by encouraging CARB to ensure its regulations provide for appropriate treatment of carbon that is captured and permanently stored instead of being emitted. Part II responds to several of the specific questions that CARB raised in its information request.

¹ See CARB, Information Solicitation to Inform Implementation of California Climate-Disclosure Legislation: Senate Bills 253 and 261, as amended by SB 219 (Dec. 16, 2024).

² Calpine, Press Release: Calpine Announces Execution of Full-Scale CCS Demonstration Project Cost Sharing Agreement with the Department of Energy for Sutter Decarbonization Project (Aug. 7, 2024), <https://www.calpine.com/calpine-announces-execution-of-full-scale-ccs-demonstration-project-cost-sharing-agreement-with-the-department-of-energy-for-sutter-decarbonization-project/>.

I. CARB implementing regulations should make clear that captured and securely stored carbon is not counted as part of a reporting entity's reported emissions.

Calpine encourages CARB to ensure that its regulations, particularly those related to SB 253, appropriately recognize the role of CCS technologies in reducing GHG emissions.

In implementing SB 253, CARB should clarify that GHG emissions that are captured and stored through CCS technology are not considered a part of an entity's emissions for reporting purposes. This is the commonsense and scientifically appropriate way to treat these reductions, because GHGs captured and sequestered through CCS are not emitted into the atmosphere. Instead, these GHGs are securely, permanently stored. Recognizing this reality, the European Union ("EU") has clarified that carbon that is captured and stored in accordance with EU policy does not count as emissions under its Emissions Trading System ("ETS") and thus does not incur ETS compliance obligations.³ The Greenhouse Gas Protocol ("GHG Protocol")⁴ currently does not directly address accounting for emissions that are prevented due to implementation of CCS,⁵ although an effort is ongoing to develop Land Sector and Removals Guidance, which promises to address CO2 removals and storage through both biogenic and technological means.⁶

Correctly treating CCS reductions is key as California works to implement a comprehensive Carbon Capture, Removal, Utilization, and Storage ("CCRUS") Program,⁷ and as more carbon capture projects are developed to help the state meet its climate goals while maintaining reliability. Calpine would encourage CARB to coordinate its rulemaking pursuant to SB 253 with its rulemaking pursuant to SB 905 to ensure that the requirements for reporting of emissions under SB 253 appropriately reflect the requirements of the CCRUS Program developed under SB 905.

³ "Greenhouse gases that are not directly released into the atmosphere should be considered emissions under the EU ETS and allowances should be surrendered for those emissions *unless they are stored in a storage site* in accordance with Directive 2009/31/EC of the European Parliament and of the Council." EU Directive 2023/959 (May 10, 2023), <https://eur-lex.europa.eu/eli/dir/2023/959/oj> (emphasis added) (citing directive on geological storage of carbon dioxide).

⁴ SB 253 requires that a reporting entity "measure and report its emissions of greenhouse gases in conformance with the Greenhouse Gas Protocol standards and guidance." Cal. Health & Safety Code § 38532(c)(2)(A)(ii).

⁵ See generally WORLD RES. INST. & WORLD BUS. COUNCIL FOR SUSTAINABLE DEV., THE GREENHOUSE GAS PROTOCOL: A CORPORATE ACCOUNTING AND REPORTING STANDARD (rev. ed. 2004), <https://ghgprotocol.org/sites/default/files/standards/ghg-protocol-revised.pdf>; WORLD RES. INST. & WORLD BUS. COUNCIL FOR SUSTAINABLE DEV., THE GREENHOUSE GAS PROTOCOL: SCOPE 2 GUIDANCE (2015), <https://ghgprotocol.org/sites/default/files/2023-03/Scope%20%20Guidance.pdf>.

⁶ According the GHG Protocol, "[t]he Land Sector and Removals Standard and accompanying Guidance will be published in Q4 2025." GHG Protocol, "Land Sector and Removals Guidance," <https://ghgprotocol.org/land-sector-and-removals-guidance>.

⁷ See SB 905 (Caballero, Chapter 359, Statutes of 2022).

Moreover, CARB should ensure the treatment of CCS in its SB 253 implementing regulations aligns with the treatment of CCS in the anticipated amendments to the Cap-and-Trade Regulation.⁸ The Cap-and-Trade Regulation must be amended to incorporate CCS into the Program⁹ and thereby leverage the economic incentive provided by the Program to further the deployment of technology needed to achieve Assembly Bill (AB) 1279's goals to achieve carbon neutrality no later than 2045 and reduce anthropogenic emissions to 85 percent below 1990 levels by 2045.

It is important for reporting entities and consumers alike that CARB correctly treats CCS-related emissions reductions. For power generators such as Calpine, implementing CCS technology is a critical way to make non-duration limited, reliable electricity generation less carbon intensive, and thereby reduce reported Scope 1 emissions. For reporting entities that purchase electricity, CCS promises to reduce the emissions associated with consuming power, and thereby reduce those entities' reported Scope 2 emissions, while allowing them to access non-duration limited energy. Clarifying that GHGs captured and permanently stored through CCS are not included in Scope 1, 2, and 3 emissions reporting will ensure that reporting accurately reflects the real-world emissions associated with power generation and consumption. It would also affirm the leadership role the Legislature expected California to play in establishing mandatory emissions accounting requirements when it enacted SB 253.

II. Calpine responses to CARB solicitation questions.

Calpine has responded below to select CARB questions on which Calpine has expertise and views that could assist in staff implementation of SB 253 and SB 261. The relevant questions are reproduced in italics, followed by Calpine's responses in roman text.

***Question 3:** CARB is tasked with implementing both SB 253 and 261 in ways that would rely on protocols or standards published by external and potentially non-governmental entities.*

a. How do we ensure that CARB's regulations address California-specific needs and are also kept current and stay in alignment with standards incorporated into the statute as these external standards and protocols evolve?

As explained in Part I, one key California-specific need that CARB should address in implementing regulations is ensuring that reporting appropriately treats CCS-related emissions reductions. CARB should ensure its implementing regulations for SB 253 and SB 261 handle CCS in a manner that is in coordination and alignment with treatment of CCS under SB 905 implementing regulations and any Cap-and-Trade amendments.

⁸ See CARB, Cap-and-Trade Program, <https://ww2.arb.ca.gov/our-work/programs/cap-and-trade-program> (accessed March 19, 2025) (providing update stating that CARB is "still working through the regulatory package" and expects to move forward on potential amendments in 2025).

⁹ See, e.g., 17 C.C.R. § 95852(g) (a "Board-approved quantification methodology must be incorporated into the Cap-and-Trade Regulation before [quantified, geologically sequestered CO₂] can be used to reduce a CO₂ supplier's compliance obligation.").

More generally, Calpine encourages CARB to ensure its regulations conform to the extent possible to the referenced external standards and frameworks, and to avoid excessive California-specific requirements that could threaten interoperability. The strength of the standards and protocols incorporated into the statutes is that they offer enough flexibility for a reporting entity to analyze and report emissions and climate-related financial risk in a way that makes best sense for its operations, while still ensuring enough standardization that emissions and risk reports can be compared across entities and over time. An approach to emissions accounting that the GHG Protocol allows (but does not require) might be logical in one industry, but a poor fit in another. The GHG Protocol and other frameworks seek to recognize and ensure flexibilities for this reason. CARB should avoid inadvertently eliminating these flexibilities, which make the incorporated standards workable.

Calpine further encourages CARB to ensure its regulations provide for emissions reporting pursuant to SB 253 to evolve as external standards and guidance evolve. Otherwise, reporting entities in California could be required to report under outdated standards, or could lack clarity as to which version of a standard to use.

b. 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?

CARB can ensure reporting in California does not result in needless duplication by incorporating the flexibilities of the external standards and protocols that are specifically referenced in the laws.

If CARB imposes onerous state-specific requirements, it risks undermining or eliminating the cross-jurisdiction standardization that frameworks like the GHG Protocol provide. Protocols and frameworks such as the GHG Protocol and the Task Force on Climate-related Financial Disclosures (“TCFD”) themselves ensure disclosure of information sufficient to accomplish the goals of SB 253 and SB 261. The fact that each statute expressly incorporates these frameworks and protocols reinforces that CARB should ensure its regulations do not deviate from their standardized yet flexible approaches.¹⁰ The best strategy to minimize duplication, as the laws require,¹¹ is thus to hew as closely to these standards and protocols as possible.

¹⁰ See, e.g., SB 261 requirement that climate-related financial risk reports be completed “in accordance with the recommended framework and disclosures” of “the Task Force on Climate-related Financial Disclosures, or any successor thereto.” Cal. Health & Safety Code § 38533(b)(1)(A)(i); SB 253 requirement that emissions be reported in accordance with the GHG Protocol. *Id.* § 38532(c)(2)(A)(ii).

¹¹ See, e.g., *id.* § 38532(c)(2)(D)(i) (“emissions reporting [must be] 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 . . . as long as those reports satisfy all of the requirements of this section.”). See also *id.* § 38533(b)(3) (“a covered entity satisfies

c. To the extent the standards and protocols incorporated into the statute provide flexibility in reporting methods, should reporting entities be required to pick a specific reporting method and consistently use it year-to-year?

Entities should be encouraged, but not required, to be consistent in reporting from year to year.

California regulations implementing the state's disclosure laws should maintain any and all flexibilities incorporated into external protocols and standards. Entities should, and voluntarily do, select and consistently use specific methods over time. Year-to-year consistency facilitates comparison and measurement of progress. However, reporting methods are not so dissimilar as to make comparison impossible if methods change. Equally important, there are valid reasons to adjust reporting methods. Were CARB to constrain such changes, it could prevent companies from responding to changing business circumstances by reporting in more fitting methods. In sum, where standards offer flexibilities, CARB should not limit them.

Question 5. *Should the state require reporting directly to CARB or contract out to an “emissions” and/or “climate” reporting organization?*

California should require direct reporting to CARB instead of reporting to an external reporting organization. CARB has developed significant expertise in data collection through its management of the state's Mandatory Reporting Regulation, among others. Moreover, reporting directly to CARB, rather than through a contracted third-party organization, would ensure data collection and management are as cost-effective, centralized, and secure as possible.

Question 7. *Entities must measure and report their emissions of greenhouse gases in conformance with the GHG Protocol, which allows for flexibility in some areas (i.e. boundary setting, apportioning emissions in multiple ownerships, GHGs subject to reporting, reporting by sector vs business unit, or others). Are there specific aspects of scopes 1, 2, or 3 reporting that CARB should consider standardizing?*

CARB should maintain the flexibilities in Scope 1, 2, and 3 reporting that exist in the GHG Protocol, rather than seeking to “standardize” aspects of reporting in ways that could undermine harmonization of standards and guidance across jurisdictions. If CARB were to “standardize” an aspect of GHG reporting in an area where the GHG Protocol provides flexibility, this would undercut the standardization the Protocol promises, because reporting in one jurisdiction in accordance with the GHG Protocol would not necessarily be sufficient for California compliance. This is an outcome the California climate disclosure laws specifically seek to avoid.¹² Calpine thus

the requirements of [SB 261] if it prepares a publicly accessible biennial report that includes climate-related financial risk disclosure information . . . [p]ursuant to a law, regulation, or listing requirement issued by any regulated exchange, national government, or other governmental entity, including a law or regulation issued by the United States government, incorporating disclosure requirements consistent with [SB 261], including the International Financial Reporting Standards Sustainability Disclosure Standards.”).

¹² See *id.* §§ 38532(c)(2)(D)(i), 38533(b)(3).

encourages CARB to maintain all flexibilities in the GHG Protocol, in keeping with the statutes' explicit aim to ensure interoperability with other jurisdictions' requirements.

However, one area where CARB could provide clarity and standardization is with regard to SB 253 reporting obligations for first-time reporting entities and for entities that are newly consolidated due to a merger, acquisition, or similar transformation. CARB and its implementing regulations should provide flexibility for first-time reporters and for entities involved in mergers or acquisitions, in recognition of the uncertainties and challenges related to first-time reporting and reporting on a newly-formed entity. For instance, CARB could refrain from taking enforcement action against such entities in their first reporting cycle, provided such entities exercise good faith in efforts to comply with the requirements of the law.¹³ CARB should also consider allowing merged entities to report separately for the first year of combination. CARB would still receive all relevant information from each entity, meaning the goals of SB 253 would be achieved while also alleviating the administrative burden on entities during periods of change.

Question 9. *How should voluntary emissions reporting inform CARB's approach to implementing SB 253 requirements? For those parties currently reporting scopes 1 and 2 emissions on a voluntary basis:*

c. What frequency (annual or other) and time period (1 year or more) are currently used for reporting?

Annual reporting for a one-year time period is currently used.

d. When are data available from the prior year to support reporting?

Prior-year emissions data are available in quarter two ("Q2") of the following year, but due to the assurance requirements, reporting deadlines should not be set prior to quarter four ("Q4").

First, because applicability of SB 253 is determined based on revenue in the prior year, an entity may not be certain it is in scope until after financial reporting is complete. Emissions reporting should therefore be later than financial reporting.

Second, prior-year emissions data are not gathered and processed until late Q2 of the following year. Thus, the earliest time reporting should be required is the third or fourth quarter of the following year. While timely reporting is important, it is also important to receive the best quality

¹³ CARB has taken a similar approach for all reporting entities for the first year of SB 253 disclosures, "recogniz[ing] that companies may need some lead time to implement new data collection processes to allow for fully complete scope 1 and scope 2 emissions reporting, to the extent they do not currently possess or collect the relevant information." This is the same challenge that future first-time filers and newly-formed entities will face. Similar leeway should be provided. *See* CARB, Enforcement Notice: The Climate Corporate Data Accountability Act (Dec. 5, 2024), <https://ww2.arb.ca.gov/sites/default/files/2024-12/The%20Climate%20Corporate%20Data%20Accountability%20Act%20Enforcement%20Notice%20Dec%202024.pdf>.

data, and this information gathering and analysis takes time. Further, because assurances must be obtained, Calpine recommends CARB not require reporting until Q4 of the following year to ensure the most accurate reporting.

Question 10. *For SB 261, if the data needed to develop each biennial report are the prior year's data, what is the appropriate timeframe within a reporting year to ensure data are available, reporting is complete, and the necessary assurance review is completed?*

See response to Question 9.d. above. Here, too, Calpine recommends reporting not be required until Q4 of the following year to ensure covered entities submit the best possible reports.

Question 11. *Should CARB require a standardized reporting year (i.e., 2027, 2029, 2031, etc.), or allow for reporting any time in a two-year period (2026-2027, 2028-2029, etc.)?*

No, CARB should not require a standardized reporting year. The statute only specifies biennial completion of a report. Further, maintaining timing flexibility across the two-year period, rather than imposing a rigid schedule, could help ensure interoperability as other states and jurisdictions consider and implement similar disclosure requirements.

Question 12. *SB 261 requires entities to prepare a climate-related financial risk report biennially. What, if any, disclosures should be required by an entity that qualifies as a reporting entity (because it exceeds the revenue threshold) for the first time during the two years before a reporting year?*

Calpine recommends a phase-in period for first-time reporters that includes standards that are easier to meet and less onerous assurance requirements. Relatedly, Calpine encourages CARB to provide flexibilities for reporting entities that have undergone or are undergoing a merger or acquisition, in recognition of the fact that these entities may face logistical challenges in reporting similar to those of first-time reporters.

Allowing first-time reporters more leeway would be in accordance with the approach that the International Sustainability Standards Board (“ISSB”), the successor to TCFD, has adopted in its standards on climate-related disclosures.¹⁴ Namely, entities reporting for the first time may benefit from transition relief under the ISSB climate-related disclosure standards—for instance, not having to make comparative disclosures or Scope 3 emissions disclosures in the first year.¹⁵ We encourage CARB to include similar transition relief in the California regulations, and to extend transitional relief and flexibilities to entities involved in mergers and acquisitions.

¹⁴ See IFRS Foundation, IFRS S2: Climate Related Disclosures, <https://www.ifrs.org/issued-standards/ifrs-sustainability-standards-navigator/ifrs-s2-climate-related-disclosures/#about> (accessed March 4, 2025).

¹⁵ IFRS Foundation, *Voluntarily Applying ISSB Standards: A Guide for Preparers 2* (Sept. 2024), <https://www.ifrs.org/content/dam/ifrs/supporting-implementation/issb-standards/issbvvoluntary-application-preparers.pdf> (detailing “transition reliefs”).

Regardless of the specifics of transitional relief, there needs to be clarity from CARB regarding what is required of first-time reporters and entities involved in mergers and acquisitions. CARB should be mindful of the fact that, while entities that know they are reporting entities track and compile emissions data throughout a given year, that might not be the case for entities that were not reporting entities in previous years. The same could be true of entities that, through merger, acquisition, or otherwise, become part of a larger entity and are thus subject to consolidated reporting duties.

Question 13. *Many entities that are potentially subject to reporting requirements under SB 261 are already providing other types of climate financial risk disclosures.*

h. In what areas, if any, is current reporting typically different than the guidance provided by the Final Report of Recommendations of the Task Force on Climate-related Financial Disclosures?

Current reporting is not typically different from TCFD guidance, and we discourage CARB from creating inconsistencies. However, Calpine notes that TCFD has been superseded by ISSB, so CARB and its implementing regulations might consider referencing ISSB instead, as the statute contemplates.¹⁶

i. If not consistent with the Final Report of Recommendations of the Task Force on Climate-related Financial Disclosures, are there other laws, regulations, or listing requirements issued by any regulated exchange, national government, or other governmental entity that is guiding the development of these reports?

We note that the New York state legislature is considering climate-related financial risk disclosure requirements that would also be keyed to the TCFD and its successor framework.¹⁷ California should adhere as close as possible to uniform external standards so that any future laws that are also linked to those external standards harmonize as seamlessly as possible with California's approach.

* * * *

Calpine appreciates the opportunity to respond to CARB's questions to assist in implementation of SB 253 and SB 261. In particular, Calpine encourages CARB to ensure its implementing regulations appropriately account for emissions reductions related to CCS in emissions reporting, as explained in Part I. While this topic was not raised in the CARB comment solicitation, it is an outstanding issue that should be resolved as the state implements CCS to achieve its climate goals.

Please contact me at 916.491.3366 or Kassandra.Gough@calpine.com with any questions

¹⁶ See Cal. Health & Safety Code § 38533(b)(1)(A)(i) (providing that climate-related financial risk reports be in accordance with the TCFD framework, "or any successor thereto.").

¹⁷ See generally S.B. 3697 (N.Y. 2025), <https://www.nysenate.gov/legislation/bills/2025/S3697>.

March 21, 2025

Page 9

regarding these comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kassandra Gough", with a stylized flourish at the end.

Kassandra Gough
Vice President,
Government and Regulatory Affairs