American Property Casualty Insurance Association
INSURING AMERICA apci.org

March 20, 2025

California Air Resources Board
1001 I Street, Sacramento, CA 95814

Re: Senate Bill 253 Implementation Questions

Dear California Air Resources Board Members:

The American Property Casualty Insurance Association (APCIA)[1] appreciates the opportunity to provide input in response to the California Air Resources Board's questions soliciting feedback regarding the implementation of Senate Bills 253 and 261. Our responses generally focus on SB 253 because – in recognition of the fact that insurers are already subject to similar climate-related risk disclosures by the California Department of Insurance – insurance companies are excluded from the definition of "covered entity" under SB 261.

APCIA's principal recommendations are as follows:

- To avoid requiring conflicting assumptions or calculations, insurers that are already reporting greenhouse gas (GHG) emissions should be able to report the same values when reporting their emissions for purposes of SB 253.
- Insurance-associated emissions should not be required to be included within an insurer's scope 3 emissions disclosures, as these emissions are not required to be included under the GHG Protocol.

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Question 3(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?

The introduction of new standards or methodologies into global reporting frameworks should not be assumed to be relevant to California's needs and automatically incorporated into CARB's regulations. In our view it would be too costly and burdensome to require reporting companies to track, adopt, and comply with constantly evolving external standards and protocols. We also believe that such an approach would be inconsistent with Section 38532(c)(2)(A)(iv).[2] CARB should instead consider periodically reviewing, in accordance with Section 38532(c)(2)(A)(iv), the regulation's alignment with external standards and protocols and include industry in determining whether changes or updates to current methodologies are necessary. This would allow CARB to take into account the substantial costs involved before imposing new requirements on reporting companies. While CARB should not require compliance with changes to standards and

[1] APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.
[2] All section references are to the California Health and Safety Code unless otherwise specified.

protocols over time (and should expressly state in its regulations that such compliance is not required), it should allow reporting companies to voluntarily choose to adopt such changes, so long as they include a narrative explanation of any such changes in their reporting. This would be particularly beneficial to reporting companies to the extent that any such changes reduce costs or otherwise allow for increases in efficiencies.

> *Question 3(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?*

To minimize duplication of effort in addition to aligning the regulation with external standards, it would be useful to allow cross-referencing against other disclosures, such as the reports aligned with the Task Force on Climate-related Financial Disclosures (TCFD) framework, the CDP questionnaire, and the National Association of Insurance Commissioners (NAIC) Climate Risk Disclosure Survey (NAIC Survey). The NAIC Survey, first adopted in 2010, collects information related to climate-related risks from insurers on an annual basis. In 2022, the NAIC Survey was updated to align with recommendations from the TCFD. The NAIC Survey is applicable to insurance companies with countrywide annual premium written of at least $100 million. Currently, over 80 percent of the property casualty insurance market makes climate-related disclosures through the annual NAIC Survey, and all company responses are available publicly on the California Department of Insurance's website.[3] The success of this existing disclosure framework is why insurers are exempt from the requirements of SB 261. We also encourage CARB to clearly state in their regulation that parent companies and subsidiaries of entities subject to regulation by the Department of Insurance are excluded from the definition of a covered entity under SB 261.

As part of the NAIC Survey, insurers are asked to disclose scope 1, scope 2, and if appropriate, scope 3 GHG emissions, as well as the related risks. To avoid requiring conflicting assumptions or calculations and to minimize a duplication of effort, insurers that are already reporting GHG emissions for purposes of the NAIC Survey should be permitted to report the same values when reporting their emissions for purposes of SB 253.

Additionally, to reduce duplication of efforts, any regulations should make clear that covered entities are permitted to disclose their emissions at the parent-company level. Companies that are already disclosing emissions at the parent-company level should not be required to re-calculate their emissions at the subsidiary level as long as the covered entity's emissions are already being reported at the parent level. For example, companies that are already disclosing emissions at the group level consistent with existing frameworks, such as the GHG Protocol and International Sustainability Standards Board (ISSB) standards, should not be required to recalculate emissions for purposes of SB 253.

> *Question 3(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?*

[3] https://interactive.web.insurance.ca.gov/apex_extprd/f?p=201:1 (last accessed March 20, 2025)

Section 38532(c)(2)(A)(ii) provides that the applicable standard pursuant to which reporting companies must comply is the GHG Protocol. We respectfully submit that to the extent the GHG Protocol allows reporting companies to change reporting methods from one year to another, such change is necessarily allowed under Section 38532(c)(2)(A)(ii) unless and until the applicable standard is changed in accordance with Section 38532(c)(2)(A)(iv). In our view, allowing reporting companies to change reporting methods from one year to another reflects both the objective and the reality that reporting companies' reporting methods will improve over time. We suggest allowing companies to include a narrative explanation of year-to-year changes in reporting to provide context.

> *Question 4. To inform CARB's regulatory processes, are there any public datasets that identify the costs for voluntary reporting already being submitted by companies? What factors affect the cost or anticipated cost for entities to comply with either legislation? What data should CARB rely on when assessing the fiscal impacts of either regulation?*

We are not aware of public datasets that identify the costs for climate-related reporting. To accurately identify these costs, we believe that CARB should issue periodic voluntary data calls to reporting companies, which would allow reporting entities to report their own costs. CARB should then publish this data on an aggregate basis for public information.

We believe the cost for complying with CARB's regulations will be extremely high, given the lack of available and reliable data at the scale contemplated by these regulations. Additionally, many companies may not have the internal expertise or available resources to gather and analyze climate-related data and will need to bring on additional staff or rely on the services of outside consultants. Many companies will also need to hire a third-party assurance provider to provide attestation of their GHG emissions data. Further, the increased demand for climate-related expertise is likely to drive the cost of these services up considerably.

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

We believe it is important to prevent potential conflicts of interest when deciding on the appropriate method for reporting. Emissions or climate reporting organizations may have incentives that impact the services they provide. For example, many such organizations sell software and/or consulting services for emissions or climate reporting purposes, and they may be incentivized to provide their services to CARB in a way that increases sales of such software or consulting services. Additionally, such organizations would receive access to data that would allow them to perform analyses on individual reporting companies without such companies' knowledge or ability to review the reasonableness of any conclusions reached by the organizations. As a result, we believe it would be most appropriate to require reporting directly to CARB.

> *Question 7. Entities must measure and report their emissions of greenhouse gases in conformance with the GHG Protocol,1 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?

Section 38532(c)(2)(A)(ii) provides that the applicable standard pursuant to which reporting companies must comply is the GHG Protocol. We respectfully submit that to the extent the GHG Protocol allows for flexibility in some areas, such flexibility is necessarily allowed under Section 38532(c)(2)(A)(ii) unless and until the applicable standard is changed in accordance with Section 38532(c)(2)(A)(iv). In our view limiting or restricting such flexibility would be inconsistent with SB 253.

In addition, as described above, insurers that are already reporting GHG emissions for purposes of the NAIC Survey should be permitted to report the same amounts for purposes of complying with SB 253.

Question 8. SB 253 requires that reporting entities obtain "assurance providers." An assurance provider is required to be third-party, independent, and have significant experience in measuring, analyzing, reporting, or attesting in accordance with professional standards and applicable legal and regulatory requirements.
a. For entities required to report under SB 253, what options exist for third-party verification or assurance for scope 3 emissions?
b. For purposes of implementing SB 253, what standards should be used to define limited assurance and reasonable level of assurance? Should the existing definition for "reasonable assurance" in MRR be utilized, and if not why?

CARB should follow the example provided by the Securities and Exchange Commission (SEC) in its Final Rule, "The Enhancement and Standardization of Climate-Related Disclosures for Investors." Instead of prescribing specific attestation standards, the SEC decided to permit registrants to follow any attestation standards that are (i) publicly available at no cost or that are widely used for GHG emissions assurance; and (ii) established by a body or group that has followed due process procedures, including the broad distribution of the framework for public comment. The SEC noted that the Public Company Accounting Oversight Board, American Institute of Certified Public Accountants, International Auditing and Assurance Standards Board, and International Organization for Standardization standards related to the attestation of GHG emissions disclosures would all meet these requirements. In our view this approach is most appropriate because it provides a degree of flexibility to reporting companies given the emerging nature of GHG assurance services, while also ensuring that any standards used for GHG assurance services are sufficiently developed to provide meaningful protection benefits.

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?
d. When are data available from the prior year to support reporting?
e. What software systems are commonly used for voluntary reporting?

The companies that are currently voluntarily reporting their emissions typically report on an annual basis. Depending on the complexity of their business model, some companies may use third parties to assist in their GHG emissions reporting, and some may perform the reporting in house. The companies currently voluntarily reporting their GHG emissions have noted that this data is typically not available until at least four months after year-end.

APCIA believes disclosures under SB 253 should not be required before August 31 annually (for prior-year emissions data). We believe August 31 is an appropriate annual deadline for SB 253 reporting, as this aligns with the deadline for insurers' disclosures under the NAIC Survey.

Thank you for considering the points addressed in this letter, and please do not hesitate to contact us if you have any questions.