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California Air Resources Board  
1001 I Street  
Sacramento, CA 95814

Submitted online at <https://ww2.arb.ca.gov/public-comments/public-comments-california-climate-disclosure-information-solicitation>

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

Dear Members of the California Air Resources Board,

The National Electrical Manufacturers Association (“NEMA”) welcomes this opportunity to submit comments in response to the California Air Resources Board (“CARB”) information solicitation regarding implementation of Senate Bills 253 and 261, as amended by SB 219 (“SB 253 and 261”).

NEMA represents over 300 electrical equipment manufacturers that make safe, reliable, and efficient products and systems. Together, our members contribute 1% of U.S. GDP and directly provide nearly 460,000 American jobs, contributing more than \$250 billion to the U.S. economy. Our members produce goods for the grid, industrial, built environment, and mobility sectors. The electroindustry is a key driver of infrastructure development and future economic growth. In addition, NEMA members manufacture many of the products that can help reduce greenhouse gas (GHG) emissions, including products necessary to provide electricity efficiently to California consumers and business, equipment that powers electric vehicles, and products that make buildings and homes more energy efficient.<sup>1</sup>

NEMA members are committed to environmental protection and compliance with environmental regulations, and we support CARB’s efforts to establish a clear, consistent, and cost-effective reporting framework for the implementation of SB 253 and 261. NEMA members also have experience participating in both market-based and mandatory frameworks for GHG reporting and climate-related disclosures. In general, we strongly encourage CARB to use its leadership role to drive efforts toward standardized reporting that will reduce duplicative and inconsistent reporting requirements and lower the administrative burdens for both reporting entities and entities that receive reports.

Below, in bold, we respond to the questions that CARB presented in the information solicitation, with a focus on NEMA’s recommendations to reduce unnecessary administrative burdens.

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<sup>1</sup> Additional information about NEMA may be found at <https://www.nema.org/>.

### **General: Applicability**

1. SB 253 and 261 both require an entity that “does business in California” to provide specified information to CARB. This terminology is not defined in the statutes.

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

**CARB should provide a definition that is aligned with widely accepted legal and regulatory definitions to ensure clarity and predictability for reporting entities and reduce administrative burdens associated with reporting.**

- b. Should federal and state government entities that generate revenue be included in the definition of a “business entity” that “does business in California?”

**CARB should include federal and state government entities that generate revenue in the definition of a “business entity” that “does business in California.” Exclusion of these entities would produce an information gap in a significant portion of the economy. Exclusion would also result in an uneven playing field between public and private entities that participate in the same markets.**

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

**CARB should include entities that are owned in part or wholly by foreign governments if they meet the jurisdictional requirements for inclusion under SB 253 and 261. Such entities largely act like non-governmental entities, so their inclusion will promote a level playing field across market participants and provide significant useful data.**

- d. 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?

**CARB should include entities that sell energy or other goods and services into California through separate markets if they meet the jurisdictional requirements for inclusion under SB 253 and 261. Their inclusion will promote a level playing field across market participants and provide significant useful data while limiting opportunities for entities to avoid reporting by moving activity outside of California.**

2. What are your recommendations on a cost-effective manner to identify all businesses covered by the laws (i.e., that exceed the annual revenue thresholds in the statutes and do business in California)?

- a. 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?

**CARB should consider existing public and private databases that track business activity, to the extent such databases are established, verifiable, and regularly updated. For publicly traded companies, one such option would be disclosures to the U.S. Securities and Exchange Commission.**

- b. 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?

**CARB should allow reporting entities to self-disclose their corporate structure, including parent and subsidiary relationships, during the registration process. Self-disclosure, along with the potential for enforcement regarding intentionally inaccurate disclosures, can effectively ensure accuracy without imposing excessive administrative burdens on reporting entities. In addition, to ensure consistent information across reporting entities, CARB should also provide clear guidance about what information needs to be reported and how it should be reported.**

**NEMA also strongly encourages CARB to consolidate reporting obligations at the parent company level to the greatest extent possible, as is explicitly permitted in SB 261. Such consolidation should include allowing reporting by a parent company that is a business entity established outside of the United States under the laws of a foreign jurisdiction. Doing so would reduce the number of reports that must be created and submitted, while providing equally complete data and limiting the administrative burden for reporting entities and CARB.**

#### **General: Standards in Regulation**

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?

**CARB should adopt widely recognized reporting standards, such as the GHG Protocol and recommendations from the Task Force on Climate-Related Financial Disclosures. CARB should not, however, impose additional state-specific requirements. Instead, CARB should use its leadership role to drive efforts toward standardized reporting.**

**Divergent standards already create significant burdens among reporting entities and cause confusion for stakeholders that seek to compare entities.**

**CARB should also conduct periodic reviews and stakeholder engagement to ensure that reporting requirements remain current and aligned with evolving external standards.**

- 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, CARB should ensure that its reporting framework is consistent with existing reporting structures. In addition, CARB should allow entities to submit reports prepared for other mandatory programs if they meet the substantive requirements of SB 253 or SB 261, provide clear guidance on how entities can leverage existing data from other reporting programs, and allow entities to use existing verification processes to satisfy assurance requirements. CARB should also actively engage with industry stakeholders to identify areas of overlap and clarify compliance pathways that minimize redundant effort.**

- 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?

**CARB should require that reporting entities pick specific reporting methods to promote comparability and consistency, but CARB should also establish mechanisms that allow for updates to the chosen methods based on various factors, including business and market needs and revisions to other reporting standards and protocols. If a revision to a reporting standard requires that reporting entities expend significant time and money to conform, CARB should allow for additional time to ensure that those entities have sufficient opportunity to meet the compliance requirements.**

#### **General: Data Reporting**

- 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?

**Many factors affect the cost of compliance, including burdens associated with inconsistent requirements among different reporting frameworks, the cost of new technology infrastructure needed for reporting, the volume of data that must be collected and reported, the level of granularity required for reporting, and the cost of**

**retaining assurance providers. In particular, the cost of assurance for GHG inventory data can be quite burdensome for certain companies. CARB should consider these factors among others when assessing fiscal impacts.**

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

**CARB should consider whether contracting with external organizations would leverage those organizations’ unique technical or administrative capabilities. CARB should also ensure that sensitive data is protected, that the reporting organization can accept data in a form that is currently used by reporting entities, and that ultimate decision-making authority is retained by entities that primarily serve the public interest.**

**CARB should strongly consider using a third-party reporting organization if, as currently under consideration, other states adopt requirements for reporting GHG emissions. The time and expense for reporting entities to submit multiple disclosures could be significant if various states have separate reporting requirements. A third-party reporting organization could synchronize with other states’ disclosures and allow reporting entities to provide a singular submission to the third party.**

6. If contracting out for reporting services, are there non-profits or private companies that already provide these services?

**There are a variety of nonprofit and private entities that provide reporting services, but NEMA does not have specific recommendations at this time.**

#### **SB 253: Climate Corporate Data Accountability Act**

7. Entities must measure and report their emissions of GHGs in conformance with the GHG Protocol,<sup>[1]</sup> 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 standardize Scope 1, 2, and 3 emissions reporting through clear and specific guidance, consistent with existing reporting frameworks, to ensure consistency and comparability across reporting entities while recognizing the need for flexibility to accommodate diverse business operations. Standardization of Scope 3 reporting is especially critical due to its complexity.**

**Specific areas that would benefit from standardization include: for Scope 1 reporting, operational boundaries and emissions factors for common industrial processes; for**

**Scope 2 reporting, consistent use of market-based vs. location-based accounting; and for Scope 3 reporting, materiality thresholds.**

**In addition, CARB should make clear that reporting entities need not report Scope 1, 2, and 3 emissions that are reported by others. Duplicative reporting can lead to unnecessary compliance costs, inaccurate emissions reporting statewide, and reports that are not comparable between entities.**

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?

**CARB should require that reporting entities use reputable third-party assurance providers while allowing for flexibility if there is a limited market for such providers. CARB should also provide clear guidance about the characteristics that are required for an acceptable third-party assurance provider, including guidance that reporting entities may use foreign third-party assurance providers for all Scope 1, 2, and 3 emissions.**

**To drive consistency with current practices, CARB should consider requiring compliance with existing recognized international standards for GHG accounting and verification such as ISO 14064.**

- 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<sup>[1]</sup>” in MRR be utilized, and if not why?

**NEMA supports the statutory phased-in approach to assurance, including the delayed implementation of assurance for Scope 3 emissions. As assurance requirements come into effect, the definitions of “reasonable assurance” and “limited assurance” must reflect the challenges associated with emissions reporting, especially the inherent uncertainties associated with obtaining upstream and downstream information for Scope 3 reporting.**

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?

**CARB should standardize reporting across entities and align reporting with existing frameworks to drive uniformity across entities and reduce administrative burdens. An annual frequency is likely appropriate, as it would align with common reporting periods.**

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

**CARB should allow sufficient time for data collection, verification, and reporting. A reporting deadline of nine months or more after the end of a reporting entity's fiscal year should provide adequate time for accurate data submission.**

- e. What software systems are commonly used for voluntary reporting?

**There are a variety of software systems available for tracking, calculating, and reporting Scope 1 and 2 emissions, and a reporting entity's choice of system can depend on the needs of the specific entity. Accordingly, CARB should give reporting entities flexibility in choosing from reliable software systems for reporting, provide clear guidance on what systems are acceptable, and ensure that CARB is able to accept data from those systems to reduce administrative burdens for both CARB and reporting entities.**

#### **SB 261: Climate Related Financial Risk Disclosure**

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?

**CARB should establish a reasonable timeframe for data collection, reporting, and assurance review, ensuring companies have adequate time to meet compliance obligations. A reporting deadline of nine months or more after the end of the reporting period should provide adequate time for accurate data submission.**

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.)?

**Many companies are likely to elect a standardized reporting year, although CARB should allow flexibility within a two-year period to ensure that reporting entities can align reporting to California with reporting to other programs.**

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?

**CARB should not require that entities qualifying for reporting for the first time submit disclosures until the next reporting year. This approach will ensure that newly qualified entities have adequate time to assess risks, gather data, and prepare adequate reports. It will also avoid imposing reporting requirements on entities that exceed the revenue threshold temporarily during a reporting period.**

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

- f. What other types of existing climate financial risk disclosures are entities already preparing?

**Many entities already report under existing frameworks, including the EU Corporate Sustainability Reporting Directive (CSRD), CDP, and the Final Report of Recommendations of the Task Force on Climate-related Financial Disclosures (the “TCFD recommendations”). To minimize duplication of effort, CARB should ensure that its reporting framework is consistent with these frameworks or otherwise allow reporting entities to use their existing climate risk disclosures to satisfy reporting under SB 261. CARB should also confirm that a reporting entity satisfies its SB 261 disclosure obligations by making its compliant report publicly available on its website.**

- g. For covered entities that already report climate related financial risk, what approaches do entities use?

**As discussed above, CARB should ensure that its reporting framework is consistent with existing frameworks and allow reporting entities to use their existing disclosures. In addition, CARB should also allow for flexibility in initial compliance periods.**

- 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?

**The TCFD recommendations, and the successor framework under IFRS S2, are a widely adopted framework for climate-related risk reporting, but disclosures may differ from the guidance due to regulatory variations, data availability challenges, and differences in materiality assessments.**



**In addition, CARB should take steps to recognize that California and SB 261 present unique circumstances with respect to climate-related risk reporting:**

- **CARB should make clear that reporting entities may choose to satisfy SB 261 obligations by disclosing only California-related financial risks. By allowing this option, CARB would align with the legislature’s intent as stated in SB 261’s statement of findings, which focuses on impacts to California, and ensure disclosures that are meaningful to CARB and Californians.**
  - **CARB should specify the minimum disclosure requirements necessary for a reporting entity to avoid enforcement action or penalties under SB 261. Such information will promote a fair compliance process, reduce uncertainty for reporting entities, and ensure that reports include needed information.**
  - **CARB should provide clarifying guidance regarding Section 38533(b)(5) of the Health and Safety Code. Among other things, CARB should make clear that reporting entities are not required to obtain third-party independent verification for statements about GHGs or voluntary mitigation of GHGs. Reporting entities should not be discouraged from providing potentially useful information to CARB and the public solely due to a lack of independent verification.**
- 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?

**As noted above, the TCFD recommendations are a widely adopted framework for climate-related risk reporting, although some other frameworks require the disclosure of additional or supplementary information.**

**NEMA acknowledges that TCFD has been disbanded and will continue under IFRS S2. CARB should clarify whether reporting companies will be required to comply with industry-specific guidance under IFRS S2 in the future.**

NEMA’s members are dedicated to manufacturing products that will support continued emissions reductions consistent with the State of California’s goals, and we appreciate CARB’s commitment to engaging stakeholders as it implements SB 253 and 261. In general, NEMA urges CARB to take steps to establish requirements that are consistent with and leverage existing reporting frameworks and practices, limit unnecessary administrative burdens for reporting entities and CARB, and provide appropriate flexibility due to the complex data collection and assessments that these laws will require.

Should you have any questions about the information provided above or about NEMA and its members, please contact me at [matt.haynie@nema.org](mailto:matt.haynie@nema.org).

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March 21, 2025

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Respectfully,

A handwritten signature in black ink, appearing to read "Matt Haynie", with a stylized flourish at the end.

Matt Haynie

Vice President, Regulatory and Industry Affairs