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To the Point

Updates on proposed rulemaking and legal challenges related to California climate disclosure laws

California is the first and only US state to broadly require climate-related disclosures.

What you need to know

- The California Air Resources Board (CARB) said it would delay the initial reporting deadline for Scope 1 and Scope 2 emissions under the California Corporate Data Accountability Act (SB-253) to 10 August 2026 and said it will no longer require limited assurance for the first year of reporting.
- CARB also clarified certain definitions expected to be used in the regulations for SB-253 and the California greenhouse gases: climate-related financial risk law (SB-261), which requires in-scope entities to provide disclosures on climate-related financial risks and the measures they adopted to reduce and adapt to those risks.
- Separately, the US Court of Appeals for the Ninth Circuit issued an injunction, pending appeal, that pauses the implementation of SB-261.

Overview

CARB said at its 18 November 2025 workshop that it would delay the initial deadline for reporting Scope 1 and Scope 2 greenhouse gas (GHG) emissions as required under SB-253 to 10 August 2026 and is no longer requiring limited assurance for the first year of reporting.

Separately, the US Court of Appeals for the Ninth Circuit has paused the implementation of SB-261, which requires disclosures on climate-related financial risks and the measures used to reduce and adapt to those risks. This preliminary injunction doesn't apply to SB-253.

CARB also clarified scoping definitions and revenue thresholds for in-scope entities during the workshop and updated its frequently asked questions (FAQs)[1] on the California climate disclosure reporting requirements.

CARB and lawmakers have said that, despite delays in the proposed regulations, they expect some level of reporting by in-scope entities in 2026. However, the preliminary injunction pauses that reporting for SB-261. California is the first and only US state to broadly require climate-related disclosures.

Key considerations

Scoping definitions

SB-253 and SB-261 apply to both public and private entities that do business in California and have more than $1 billion and $500 million in annual revenue, respectively. Tax-exempt entities as defined under the Internal Revenue Code (e.g., non-profit entities, charitable organizations) and insurance entities subject to regulation in US states are expected to be exempt from these laws. Entities need to understand certain key definitions under the laws to determine whether they will be in-scope for reporting.

Revenue

The revenue thresholds apply to an entity's total revenue, not only its California revenue. CARB said at its November workshop that an entity would consider the lesser of its prior two fiscal years of revenue to determine if it is within the scope of the laws. CARB also said that the definition of revenue in the proposed regulations would be consistent with the definition of gross receipts in the California Revenue and Taxation Code.[2]

Doing business in California

CARB said doing business in California under both laws would mean that an entity engages in any transaction for the purpose of financial gain in California and either (1) is organized or commercially domiciled in California or (2) has sales in California exceeding a specified amount (i.e., $735,019 for 2024) that is adjusted annually.

This proposed definition would closely align with the definition of doing business in the California Revenue and Taxation Code, while omitting sections of the tax code relating to property holdings and payroll. CARB said that entities whose only business in California is the presence of teleworking employees would not be in the scope of the proposed definition.

How we see it

The terms in the proposed regulations, including those for revenue and doing business in California, are expected to be largely similar to those in the California Revenue and Taxation Code. Entities should consider referring to their tax filings when performing their scoping assessments.

Subsidiaries

The laws apply to US legal entities, including US subsidiaries of non-US parent entities. Under the expected proposed regulations, a business entity would be considered a subsidiary if another business entity has an ownership interest in or control of the first entity by direct corporate association, as defined in the California Code of Regulations.[3]

A subsidiary that is included in a report of a parent entity, including a non-US parent entity, does not have to provide a separate report under SB-253 or SB-261. This parent-level consolidation option is intended to reduce the burden of reporting for multiple entities under the same parent.

CARB said it plans to propose pushing the initial deadline for SB-253 reporting to 10 August 2026.

Reporting clarifications

SB-253 reporting

SB-253 requires in-scope entities to annually disclose Scope 1, Scope 2 and Scope 3 emissions in accordance with the GHG Protocol and obtain assurance over those disclosures. These requirements will be phased in and are subject to subsequent rulemaking. CARB said limited assurance on these emissions disclosures would not be required in the first year of reporting.

CARB said it plans to propose pushing the initial deadline for SB-253 reporting to 10 August 2026 from 30 June 2026. The deadline for subsequent reporting may be earlier (e.g., 30 June). The proposed initial reporting deadline would apply to all entities, regardless of their fiscal year end. CARB said entities would have at least six months after their fiscal year end to compile the necessary emissions data and submit their report. That is, entities with a fiscal year ending between 1 January 2026 and 1 February 2026 would report data from the fiscal year ending in 2026. Entities with a fiscal year ending between 2 February 2026 and 31 December 2026 would report data from the fiscal year ending in 2025.

CARB issued a draft template and memo[4] on 10 October 2025 that includes guidance on submitting Scope 1 and Scope 2 emissions data in the first year of reporting (i.e., 2026) for entities in the scope of SB-253. The template, which would be voluntary in 2026, is designed to assist entities with submitting the required information. CARB is considering the feedback it received on the draft before potentially issuing an updated template.

SB-261 reporting

SB-261 requires in-scope entities to post a report on their website by 1 January 2026 providing disclosures (1) in accordance with the recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) or an equivalent reporting standard (e.g., IFRS S2, *Climate-related Disclosures*) and (2) on the measures they adopted to reduce and adapt to identified climate-related risks. CARB will open a public docket on 1 December 2025 for entities to post the public link to their published climate-related financial risk report. The docket will remain open until 1 July 2026.

Enforcement of the 1 January 2026 reporting date has been paused following a motion for injunction, pending appeal, granted by the US Court of Appeals for the Ninth Circuit on 18 November 2025.

CARB issued an updated disclosure checklist[5] on 17 November 2025 for entities to use for their reporting under SB-261. CARB said each published report should specify the reporting framework used and list the disclosures recommended under the framework that were included or omitted. Entities should provide a reason why any recommended disclosures were not included and indicate any plans to include them in future reports. CARB said entities in the early stages of evaluating climate-related risks may disclose how these risks relate or may be relevant to the entity, even if no material risks have been identified.

Good faith efforts

CARB reiterated that it will exercise enforcement discretion for the first reporting cycle if entities demonstrate good faith efforts to comply with the law's requirements, as indicated in its 5 December 2024 enforcement notice. CARB said entities that are not collecting or planning to collect data as of the date of the enforcement notice are not required to submit Scope 1 and Scope 2 emissions data in 2026. These entities should submit a statement on their letterhead to CARB saying that they did not submit a report and were not collecting or planning to collect data at the time the enforcement notice was issued.

Implementation fees

Both laws require in-scope entities (including in-scope subsidiaries included in a parent's report) to pay an annual flat fee to CARB. The fee would be based on the total annual program costs and the number of entities required to report under SB-253 and SB-261, not the revenue or GHG emissions of each entity. An entity in the scope of both laws will have to pay both fees. CARB expects to invoice the fee assessment by 10 September 2026.

Revised timeline for proposed rulemaking

A Notice of Proposed Rulemaking and proposed regulations for SB-253 and SB-261 are expected to be released for public comment in the first quarter of 2026. CARB will review the feedback received following a 45-day comment period before issuing the final regulations. CARB said that future rulemaking would address data assurance requirements, further enforcement provisions, the recurring reporting deadline and reporting templates.

Next steps

- Entities should monitor developments related to the climate disclosure laws and consider providing feedback once the proposed regulations are issued.
- Entities should refer to the current information published for CARB's most recent workshop, including the updated FAQs, and continue preparing for compliance with California's climate disclosure laws.
- Entities should continue to monitor the ongoing legal challenges related to these laws, including the appeal being considered by the US Court of Appeals for the Ninth Circuit.

Endnotes:

1 Refer to FAQs Regarding California Climate Disclosure Requirements.
2 Refer to the California Revenue and Taxation Code Section 25120(f)(2.).
3 Refer to Title 17, California Code of Regulations, Section 95833.
4 Refer to Posted for Public Comment: Draft Reporting Template for Scope 1 and Scope 2 Greenhouse Gas Emissions Pursuant to Health and Safety Code § 38532.
5 Refer to Climate Related Financial Risk Disclosures: Checklist for minimum reporting requirements under SB-261.