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Environmental Alert

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SB 261 deadline paused: CARB updates California climate disclosure guidance

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The Ninth Circuit paused SB 261's deadline as CARB updates California climate disclosure guidance for SB 253 and SB 261. Learn how this affects compliance timelines.



What's the impact?

- The injunction pauses SB 261's Jan 1, 2026, climate risk disclosure deadline and suspends enforcement pending appeal.
- CARB's updated guidance for SB 253 and SB 261 clarifies coverage, details parent-level reporting and fee administration and previews a delayed Scope 1 and 2 reporting deadline of Aug 10, 2026.
- CARB's voluntary SB 261 reporting portal remains open until July 1, 2026.

The Ninth Circuit granted the Chamber of Commerce an early holiday present of an injunction, pending appeal, for the January 1, 2026, SB 261 climate risk disclosure deadline set by the legislature.¹ The ruling paused enforcement with an expedited argument date set for January 9, 2026. Outside of the court room, recognizing the injunction, the California Air Resources Board (CARB) issued an Enforcement Advisory on December 1, 2025, confirming it will not enforce SB 261's January 1, 2026, statutory deadline while the injunction is in effect, and simultaneously

opened the [voluntary public docket](#) for entities choosing to report anyways, which will remain open until July 1, 2026.ⁱⁱ

The Ninth Circuit's decision followed CARB's issuance of updated guidance covering both SB 253 (HSC § 38532) and SB 261 (HSC § 38533) on November 17, 2025. That guidance updates key definitions, which in part limit coverage to assure a stronger significant nexus for "doing business in California,"; clarifies parent-level consolidated reporting; outlines CARB's flat, entity level approach to program fee administration; previews an initial regulation planned for the first quarter of 2026, which proposes a further delayed August 10, 2026 deadline for Scope 1 and Scope 2 reporting for SB 253; and reiterates first-year enforcement discretion for all reporting programs.

Key developments in California climate risk compliance

- / Ninth Circuit injunction, pending appeal, pauses enforcement of SB 261's January 1, 2026, reporting deadline; CARB's December 1 Enforcement Advisory confirms that SB 261 (HSC § 38533) will not be enforced while the injunction is in place and opens a *voluntary public docket* for entities choosing to report.
- / CARB clarifies that SB 253 and SB 261 apply to US-based entities with annual "gross receipts" (under California Revenue & Taxation Code §25120(f)(2)) that exceed \$500 million for SB 261 and \$1 billion for SB 253, and that are "doing business in California" under a Revenue & Taxation Code § 23101-style test; however, now omitting the property and payroll prongs, entities may also choose applicability using the lesser of the entity's two prior full fiscal years of revenue.
- / CARB clarifies that consolidated parent-level reports are permitted under both SB 253 and SB 261. A parent entity, including a foreign parent, may report on behalf of covered US subsidiaries; however, parent/subsidiary relationships do not change coverage, and CARB will treat each entity as separate for applicability and fee-paying purposes, except when a parent company and its subsidiaries file California taxes as a unitary business—in which case, the revenue of the subsidiaries counts towards the revenue of the parent company as part of its gross receipts. To determine the gross receipts, entities should reference their corporate tax filings.
- / CARB anticipates administering a flat annual fee per program. Fees will be calculated by dividing annual program costs by the number of covered entities and invoiced after the fee regulations are adopted, anticipated in September 2026. Entities with annual revenue between \$500 million and \$1 billion pay only the SB 261 fee. Entities above \$1 billion that are covered under both programs would pay fees for SB 253 and SB 261.
- / CARB will propose, by regulation in the first quarter of 2026, a first-year Scope 1 and Scope 2 reporting deadline of August 10, 2026, with subsequent rulemaking to establish recurring

deadlines and assurance requirements.

Background

California enacted two significant climate disclosure laws, Senate Bill 253 (SB 253), the Climate Corporate Data Accountability Act, and Senate Bill 261 (SB 261), the Climate-Related Financial Risk Disclosure Act. These laws, effective in 2026, impose novel and wide-reaching disclosure and reporting obligations on large business entities “doing business” in the state.

SB 253 applies to entities “doing business in California” with annual revenues over \$1 billion and requires Scope 1 and Scope 2 greenhouse gas disclosures in 2026, with Scope 3 disclosures beginning in 2027.

SB 261 applies to entities “doing business in California” with annual revenues over \$500 million. These entities must publicly disclose climate-related financial risks and mitigation efforts every two years via a report posted on a public-facing website. Although the statute sets a January 1, 2026, deadline and CARB opened a docket on December 1, 2025, the Ninth Circuit’s injunction, pending appeal, discussed below, pauses enforcement of SB 261. CARB’s Enforcement Advisory confirms non-enforcement of the statutory deadline while the injunction remains in effect and indicates CARB will provide an alternate reporting date after the appeal is resolved.

CARB has held multiple public workshops to solicit input and feedback from the public and stakeholders as it develops guidance and regulations to support the implementation of SB 253 and SB 261. CARB’s existing SB 253 and SB 261 guidance includes (i) California Corporate Greenhouse Gas Reporting and Climate-Related Financial Risk Disclosure Programs: Frequently Asked Questions Related to Regulatory Development and Initial Reports, first issued [July 9, 2025](#), and updated [November 17, 2025](#) (FAQs); (ii) Climate Related Financial Risk Disclosures: Checklist, first issued [September 2, 2025](#), and updated [November 17, 2025](#) (SB 261 Checklist); (iii) a [Preliminary List of Reporting/Covered Entities](#), posted September 24, 2025; and (iv) a [Draft Scope 1 and 2 GHG Reporting Template](#), posted October 10, 2025.ⁱⁱⁱ

CARB’s FAQs and SB 261 Checklist were both updated by CARB on November 17, 2025 (Updated Guidance), just before CARB held its third public workshop.^{iv} Key takeaways from the Updated Guidance are described below.

Key clarifications in CARB’s updated guidance

DEFINITIONS AND COVERAGE

CARB’s Updated Guidance confirms its intent to use “gross receipts”—as defined in California Revenue and Taxation Code § 25120(f)(2)—as the basis for determining “revenue,” and, therefore, which entities are required to report. This definition was selected for being objectively

verifiable and already well established in corporate tax reporting, therefore, providing a clear and familiar framework for applying the revenue requirement. A company should determine coverage under SB 253 and SB 261 by using the lower of its two most recently completed fiscal years of revenue. If either year falls below the threshold, the company is not required to report. CARB plans to rely on Franchise Tax Board filings, if available, to verify entity revenue and California sales for coverage determinations.

CARB's Updated Guidance explains that "doing business in California" will follow the standards in California Revenue and Taxation Code § 23101 but will exclude the property and payroll tests, which CARB determined do not, on their own, demonstrate a sufficient economic connection to the state for SB 253 and SB 261 purposes. To meet the "doing business" requirement, an entity must engage in transactions for financial gain and satisfy at least one additional condition, such as being commercially domiciled in California or exceeding certain in-state sales thresholds.

PARENT VERSUS SUBSIDIARY REPORTING

CARB reaffirmed that it will allow (but not require) parent companies to file consolidated SB 253 and SB 261 reports using the same parent-subsidiary definition as in the state's Cap-and-Invest program, which requires greater than 50% ownership or control.^v While CARB reiterated that each legal entity must separately determine whether it is a covered entity based on being US-based, meeting the revenue threshold, and doing business in California, CARB introduced an exception in the FAQs of the workshop: if a parent company and its subsidiaries file California taxes as a unitary business, then the revenue of the subsidiaries counts towards the revenue of the parent company as part of its gross receipts.

Foreign parents may report on behalf of US subsidiaries, but the fees discussed below remain entity-specific. The ownership or control threshold can be determined by majority ownership of shares, voting power, and majority interests in partnerships or limited liability companies.

CONTENT EXPECTATIONS AND FLEXIBILITY

SB 261

The Updated Guidance refines CARB's SB 261 checklist language to emphasize the statutory definition of "climate-related financial risk"^{vi} and to encourage disclosures that demonstrate an effort to assess and communicate risk. Effort can be shown by describing the processes by which a reporting entity identifies, evaluates, and addresses climate-related risks through its governance, strategy, and risk management. Covered entities in early stages of evaluating climate-related risks should disclose how these risks relate or may be relevant, even if no material risks have yet been identified or actions taken. CARB explicitly permits entities new to climate risk disclosure to provide qualitative assessments, describe gaps and assumptions, and provide what is available for the initial report cycle. CARB reiterated that entities may leverage

existing voluntary reports if they meet SB 261 content requirements and are posted on the company website.

SB 253

The Updated Guidance also reiterates first-year enforcement discretion under SB 253, allowing for (i) optional use of CARB's draft Scope 1 and Scope 2 template; (ii) submission of existing GHG reports that include Scope 1 and Scope 2; (iii) no requirement for limited assurance of 2026 submissions; and (iv) no expectation that entities that were not collecting, or planning to collect, data at the time of CARB's December 2024 enforcement notice^{vii} will submit 2026 data. Entities taking advantage of this last allowance should submit a statement to CARB on company letterhead explaining their circumstance.

REPORTING FEES

CARB's initial rulemaking, planned for the first quarter of 2026, is expected to establish fee administration. CARB plans to take a flat-fee approach, with a per-entity fee charged for each program. The fee will be determined by dividing the annual program cost by the number of covered entities, utilizing the [preliminary entity list](#) to estimate per-entity fees for the initial reporting period. Going forward, CARB plans to refine those amounts using Franchise Tax Board filings for verifiable, year-to-year administration. While each covered subsidiary is assessed its own fee, parent entities may pay fees for subsidiaries in a single combined payment. Entities with annual revenue between \$500 million and \$1 billion pay only the SB 261 fee; entities with annual revenue above \$1 billion, covered under both programs, would pay fees for SB 253 and SB 261.

CARB previewed September 10, 2026, as the assessment date for fees under both programs, with invoices issued after board adoption of fee regulations.

FIRST-YEAR SUBMISSIONS UNDER SB 253

Finally, CARB's initial rulemaking planned for the first quarter of 2026 is also expected to include a first-year-only Scope 1 and Scope 2 SB 253 reporting deadline of August 10, 2026. CARB indicated that Scope 3 reporting under SB 253 would begin in 2027, with details addressed in rulemakings later in 2026.

Enforcement of SB 261 suspended

Despite CARB's Updated Guidance, the Ninth Circuit granted an injunction, pending appeal, in *U.S. Chamber of Com. v. Sanchez et al.*, that pauses enforcement of SB 261, temporarily suspending the January 1, 2026, reporting deadline, while SB 253 remains unaffected.

The court has expedited the appeal, assigned it a merits panel, and scheduled an argument for January 9, 2026. Plaintiffs filed an emergency application with the United States Supreme Court on November 14, 2025, seeking to enjoin enforcement of both SB 253 and SB 261, pending appeal.^{viii} Following the Ninth Circuit’s order enjoining SB 261 and setting an expedited argument on November 18, 2025, the Plaintiffs withdrew their emergency application to the Supreme Court, without prejudice, to renew at a later stage, if necessary.^{ix}

CARB’s December 1, 2025, Enforcement Advisory states CARB “will not enforce Health and Safety Code section 38533 against covered entities for failing to post and submit reports by the January 1, 2026, statutory deadline,” and that CARB “will provide further information—including an alternate date for reporting, as appropriate—after the appeal is resolved.” Nonetheless, CARB simultaneously opened a public docket for entities that choose to report voluntarily, consistent with statements made at CARB’s November 18 workshop.

Companies should monitor the litigation closely and defer SB 261 postings while the injunction is in effect but remain prepared to finalize and publish SB 261 reports in case the injunction is lifted.

Practical steps for legal, sustainability, and compliance teams

DETERMINE COVERAGE

For each US entity and subsidiary, determine whether the revenue, in the form of “gross receipts,” and the “doing business in California” criteria are met, using the lesser of the two prior fiscal years. Obtain Franchise Tax Board filing data to verify revenue and California sales for this entity-level analysis, and whether the potential exception of unitary business tax filings applies.

DECIDE REPORTING BOUNDARY AND SUBMITTING ENTITY

Evaluate whether the parent entity should prepare a consolidated SB 253 or SB 261 report on behalf of in-scope subsidiaries and document the basis and scope for consolidation.

PREPARE THE INITIAL SB 261 REPORT

Using CARB’s SB 261 checklist, finalized November 17, identify which existing framework will be used as a reference; disclose which framework is being used, which recommended disclosures were omitted, and why; and include governance, strategy, risk management, and metrics/targets describing gaps, assumptions, and data limitations.

PLAN FOR FEES

Budget for a per-entity SB 253 and SB 261 fees—CARB will finalize amounts in an early 2026 rulemaking and issue invoices after adoption, expected in September 2026.

MONITOR NINTH CIRCUIT LITIGATION FOR TIMING OF REPORT POSTING

Halt plans to submit SB 261 reports before the Ninth Circuit issues a ruling following the January 9, 2026, oral argument, and CARB provides further guidance. However, remain prepared to finalize and publish SB 261 reports with a quick turnaround in the event the injunction is lifted.

Looking ahead

Companies should continue to monitor the Ninth Circuit proceedings closely and be prepared to meet the tight SB 261 timelines if the injunction is lifted or modified. Companies should also be on the lookout for CARB's initial regulation, in the first quarter of 2026, addressing SB 253's first-year Scope 1 and Scope 2 reporting deadline and fee administration for both programs, followed by subsequent rulemakings in 2026 to establish recurring deadlines, assurance requirements, templates, and Scope 3 timing under SB 253. CARB's public docket for SB 261 remains open for voluntary submissions; however, an alternate date for enforceable reporting is not expected until after appellate resolution.

If you would like to discuss how these developments affect your organization's reporting obligations, entity-level exposure, or reporting strategy, please contact your Nixon Peabody attorney or:

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ⁱ [U.S. Chamber of Com. v. Sanchez et al.](#), No. 25-5327 (9th Cir. Nov. 18, 2025) (injunction pending appeal), Order re Mot. for Inj. Pending Appeal, ECF No. 44.

ⁱⁱ CARB [Enforcement Advisory, Climate-Related Financial Risk Reporting \(SB 261\)](#), December 1, 2025 (confirming non-enforcement of the January 1, 2026, statutory deadline during the pendency of the injunction and opening a voluntary docket beginning December 1, 2025).

ⁱⁱⁱ CARB held its first public workshop on [May 29, 2025](#), its second public workshop on [August 21, 2025](#), and its third public workshop on November 18, 2025. Public workshop recordings, slides, and other related materials are accessible on [CARB's website](#). See [our prior alert on CARB's July 9, 2025, guidance](#) here, and [our prior alert on CARB's August 21, 2025, workshop and September 2, 2025, guidance](#).

^{iv} CARB's [Updated FAQs](#) and [Updated Checklist](#), November 17, 2025 and [November 18 Public Workshop](#).

^v The Cap-and-Invest Program is codified at Title 17, Cal. Code of Regs. § 95833. [Additional CARB Cap-and-Invest guidance is available on CARB's website](#).

^{vi} Under California Health and Safety Code § 38533(a)(2), a "climate-related financial risk" means material risk of harm to immediate and long-term financial outcomes due to physical and transition risks, including, but not limited to, risks to corporate operations, provision of goods and services, supply chains, employee health and safety, capital and

financial investments, institutional investments, financial standing of loan recipients and borrowers, shareholder value, consumer demand, and financial markets and economic health.

^{vii} CARB [Climate Corporate Data Accountability Act Enforcement Notice](#), December 5, 2024.

^{viii} *U.S. Chamber of Com. v. Sanchez et al.*, No. 25-5327 (9th Cir. Nov. 14, 2025) (emergency application for injunction pending appeal), ECF No. 43.

^{ix} *U.S. Chamber of Com. v. Sanchez et al.*, No. 25-5327 (9th Cir. Nov. 18, 2025) (letter withdrawing emergency application), ECF No. 45.1.