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Environmental Alert

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California climate disclosure laws — SB 253 and SB 261 status update

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California advances SB 253 and SB 261 climate disclosure rules despite litigation, creating new reporting pressures and uncertainty for affected businesses.



What's the impact?

- CARB approved SB 253 and SB 261 regulations, solidifying emissions and climate-risk reporting despite an ongoing injunction affecting SB 261 compliance.
- SB 253 reporting moves forward for 2026–27, while SB 261 remains voluntary until the Ninth Circuit rules, leaving companies preparing amid uncertainty.

The regulations implementing California's landmark climate disclosure statutes — SB 253 (the “Climate Corporate Data Accountability Act”) and SB 261 (the “Climate-Related Financial Risk Act”) — were approved unanimously by the California Air Resources Board (“CARB”) on February 26, 2026, despite ongoing regulatory uncertainty and a pending injunction, creating ambiguity for businesses about whether, when, and how they have to report. This client alert summarizes

the current status of these laws, including the pending litigation, ongoing rulemaking process, and key compliance considerations for businesses.

Overview of SB 253 and SB 261

In October 2023, California enacted two climate disclosure statutes that impose reporting requirements on businesses “doing business” in California. As reflected in the adopted regulations, an entity is considered to be “doing business” in California if it is actively engaging in any transaction for financial gain or profit in California and is either organized or commercially domiciled in California, or has California-based sales exceeding approximately \$735,019 (as adjusted for inflation).

- / **SB 253 (Climate Corporate Data Accountability Act)** requires entities doing business in California with at least \$1 billion in annual revenue to annually disclose Scope 1 and Scope 2 emissions by August 10, 2026, and Scope 3 greenhouse gas emissions by 2027 or later.
- / **SB 261 (Climate-Related Financial Risk Act)** requires entities doing business in California with at least \$500 million in annual revenue to prepare and publicly post a climate-related financial risk report every two years. The first reports were originally due January 1, 2026; however, enforcement of this deadline is delayed due to an injunction.

Litigation status

On November 18, 2025, the US Court of Appeals for the Ninth Circuit granted an injunction in response to a legal challenge brought by the US Chamber of Commerce and other business groups, pausing enforcement of the then-imminent deadline for SB 261. On December 1, 2025, CARB opened the SB 261 public docket as promised but confirmed that reporting is voluntary until a Ninth Circuit decision is released.

The Ninth Circuit heard oral argument on January 9, 2026. The argument focused on whether SB 253 and SB 261 unconstitutionally compel protected speech by requiring companies to disclose climate-related emissions and risk data and, if so, whether the disclosures qualify as commercial speech subject to lesser scrutiny. The plaintiffs-appellants argued that the laws fail commercial speech tests and impose overbroad burdens, while the state contended that the disclosures are tied to commercial transactions and investor risk assessments, although the state acknowledged that severability analysis for Scope 3 requirements might be appropriate.

The judges questioned the state about the specific commercial transactions affected, burden of collecting Scope 3 data, and necessity of additional disclosures, given existing reporting requirements. They also said it was hard to see how the “vague and ill-defined” requirement for discussion in SB 261 disclosures would not involve an expression of normative views on policy issues.

The court did not issue a decision at argument and provided no timeline for ruling. The injunction for SB261 only remains in effect pending a decision.

Regulatory status

CARB posted [proposed regulations](#) on December 23, 2025, with written comments due February 9, 2026. At its board meeting held February 26, 2026, CARB responded to key public comments and adopted the regulation.

Comments generally fell into three categories: exemption from SB 253 for insurance agencies, reporting deadline and timeline, and litigation concerns.

EXEMPTION FROM SB 253 FOR INSURANCE AGENCIES

Several commenters, including Senators Scott Weiner and Henry Stern, opposed the exemption of insurance companies from SB 253, arguing that CARB lacks the authority to exclude an industry and that the California Department of Insurance (CDI) climate disclosure survey is voluntary and therefore cannot be relied upon to hold insurance companies accountable.

CARB responded that it has both an authority and an obligation to promulgate regulations that clarify statutes and that exempting insurers, as well as governments and nonprofits, was within its authority. CARB further stated that CDI's disclosure program is not voluntary, captures more companies than SB 253 (all companies writing \$100 million in premiums), and requires the same information that SB 253 requires, meaning that compliance with both regimes would be duplicative. However, CARB is open to adding explicit language directing coordination with CDI to ensure there are no reporting gaps.

REPORTING DEADLINE AND TIMELINE

Many commenters requested that the deadline be extended to December 31, 2026, or be rolling. CARB replied that the August 10, 2026, deadline is sufficient given its enforcement discretion approach, as communicated in its [Enforcement Notice](#) dated December 5, 2024. CARB acknowledged that it may take years to understand who is reporting, and that good faith efforts to comply are sufficient and will help CARB identify entities subject to reporting and assess fees.

LITIGATION CONCERNS

Some commenters requested that further rulemaking be deferred pending the Ninth Circuit's ruling. CARB replied that the injunction applies only to SB 261, not SB 253, and that it had issued an advisory confirming it would not enforce SB 261 while the injunction remains in effect.

In addition, according to the [Staff Report: Initial Statement of Reasons](#) dated December 9, 2025, “CARB will undertake a second rulemaking to establish future reporting dates beyond 2026 and to provide additional details for reporting contents and format, data assurance, and more.”

Next steps for companies doing business in California

SB 253 COMPLIANCE EFFORTS SHOULD CONTINUE

The Ninth Circuit injunction applies only to SB 261. Companies subject to SB 253 should continue preparing Scope 1 and Scope 2 disclosures before the August 10, 2026, deadline and should begin planning for Scope 3 reporting obligations commencing in 2027 or later.

SB 261 REPORTING IS VOLUNTARY — FOR NOW

While the injunction remains in effect, SB 261 reporting is voluntary. However, businesses should be prepared to publish SB 261 reports promptly if the injunction is lifted, because the court could rule at any time.

MONITOR THE NINTH CIRCUIT CLOSELY

The court's questions at oral argument — particularly its skepticism regarding the compelled-speech implications of SB 261 and the burden of Scope 3 data collection — suggest uncertainty about the ultimate outcome. A ruling could narrow, invalidate, or uphold all or part of the statutes, and businesses should be prepared to adapt compliance strategies accordingly.

CARB'S ENFORCEMENT DISCRETION OFFERS PRACTICAL FLEXIBILITY

CARB has signaled that good faith efforts to comply will be sufficient in the near term and that it may take years to fully identify reporting entities. Companies should document their compliance efforts, even if imperfect, to demonstrate good faith.

ASSESS THE “DOING BUSINESS IN CALIFORNIA” THRESHOLD

Both statutes apply to entities “doing business” in California, which includes entities with California-based sales exceeding approximately \$735,019. Companies that may not have traditionally considered themselves California-regulated should evaluate whether they meet this threshold.

EXPECT FURTHER REGULATORY DEVELOPMENTS

CARB has indicated it will conduct a second rulemaking to establish reporting dates beyond 2026 and address reporting content, format, and data assurance requirements. Companies should engage with the rulemaking process through public comment to shape the final rules.

CONSIDER THE BROADER LANDSCAPE

Even if portions of SB 253 or SB 261 are struck down or delayed, the trend toward mandatory climate disclosure continues internationally (EU CSRD, ISSB standards). Companies, especially those exceeding the \$1B annual revenue threshold of SB 253, are encouraged to evaluate emissions tracking and climate risk assessment infrastructure to meet evolving requirements throughout jurisdictions.

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