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HOT TOPIC

Climate in the US

Focus on 2026 reporting for California climate laws

January 2025

CARB announces enforcement relief and public consultation as implementation nears for California climate disclosures.

Source and applicability

- US business entities (including US subsidiaries of non-US companies): Climate Corporate Data Accountability Act (SB-253), Greenhouse gases: climate-related financial risk Act (SB-261), as amended by SB-219, Greenhouse gases: climate corporate accountability: climate-related financial risk
- All companies with specified activities in California: Voluntary Carbon Market Disclosures Act (AB-1305) and proposed amendments (AB-2331)

Fast facts, impacts

SB-253 and SB-261 apply to US businesses that meet specified revenue thresholds and do business in California; amendments to these laws were signed into law by the Governor in September 2024. AB-1305 applies to US and international companies that undertake specified activities in California or make certain claims; amendments to this law – including a proposal to delay the effective date to July 1, 2025 – remain under discussion.

	SB-253 (GHG emissions)	SB-261 (climate risks)	AB-1305 (carbon offsets)
Revenue:	> $1 billion annually	> $500 million annually	No threshold
Disclosures:	Scopes 1, 2, 3 GHG emissions	Climate-related financial risks, response	Information about carbon offsets, GHG emissions associated with claims
Effective:	Scopes 1, 2: 2026; Scope 3: 2027	On or before Jan 1, 2026	Jan 1, 2024
Assurance:	Scopes 1, 2: limited assurance from 2026; reasonable assurance from 2030	No requirement	No requirement

This Hot Topic was updated in January 2025 to incorporate the latest developments from the California Air Resources Board (CARB).

Background

In the movement to improve transparency and standardize climate-related disclosures, California passed the following laws, signed by the Governor in October 2023.

- **GHG emissions law.** SB-253, the *Climate Corporate Data Accountability Act*, mandates the disclosure of GHG emissions.
- **Climate risks law.** SB-261, the *Greenhouse gases: climate-related financial risk Act*, mandates the disclosure of climate-related financial risks and measures adopted to reduce and adapt to such risks.

  The above laws were amended by SB-219, which was signed into law by the Governor in late September 2024. Contrary to earlier proposals, these amendments do not delay the reporting effective dates for SB-253 and SB-261, but they do defer by six months (to July 1, 2025) the date for CARB to develop and adopt regulations that implement SB-253.

- **Carbon offset law**. AB-1305, the *Voluntary carbon market disclosures Act*, mandates disclosures about voluntary carbon offsets and emissions reduction claims. Proposed AB-2331 would delay the effective date for reporting to July 1, 2025 but failed to pass before the end of California's 2024 legislative session.

Latest developments

The following actions by CARB in December 2024 are discussed in this Hot Topic.

- It issued an enforcement notice related to penalties under SB-253 (see Penalties).
- It announced a public consultation that aims to clarify definitions, identify reporting entities and establish data standards within a feedback period ending on March 21, 2025 (see Future developments).

A broad scope

GHG emissions and climate risks

SB-253 and SB-261 apply to both public and private US companies (and other business entities) that do business in California – whether or not they are physically present in the state. There are four elements to the respective scopes, which are partially aligned.

	SB-253 (GHG emissions)	SB-261 (climate risks)
Types of entities:	Corporation, partnership, limited liability company or other business entity formed under the laws of California, any other US state or the District of Columbia, or under an act of Congress	
Exclusions:	None	Insurance companies
Revenue:	> $1 billion annually	> $500 million annually
Nexus to California:	Doing business in California	

Revenue is calculated as 'total revenue' and not simply the revenue attributable to California. And while it is not specified whether revenue is the amount recorded for financial reporting, many are currently using total revenue as reported in a company's financial statements to evaluate the law's applicability.

The phrase 'doing business in California' is similarly not explained, but there may be precedent set by the California Franchise Tax Board, which defines 'doing business' in California as actively engaging in any transaction in the state for the purpose of financial or pecuniary gain or profit.

We expect CARB to resolve these questions and others as it develops regulations to support implementation. See Future developments.

Carbon offsets

AB-1305 applies to both public and private companies – both US and non-US, and regardless of size – that undertake specified activities in California:

- business entities marketing or selling voluntary carbon offsets in California;
- entities operating in California that purchase or use voluntary carbon offsets sold within the state and make certain claims (e.g. achievement of net-zero emissions); and
- entities operating in California that make certain claims within the state (e.g. achievement of net-zero emissions, significant reductions in GHG emissions).

Targeted disclosures

The SB-253 and SB-261 disclosures leverage existing frameworks with additional reliefs for companies already reporting climate risk information.

	SB-253 (GHG emissions)	SB-261 (climate risks)	AB-1305 (carbon offsets)
Disclosures:	Scopes 1, 2 and 3 GHG emissions	Climate-related financial risks and measures adopted to reduce and adapt to such risks	Granular disclosures about carbon offset projects and programs, and GHG emissions related to claims made
Framework:	GHG Protocol	Task Force on Climate-related Financial Disclosures (TCFD)	None
Framework relief:	None	Application of equivalent frameworks permitted	N/A
Reporting relief:	Using other prepared reports; reporting at the parent level permitted	Reporting at the parent level permitted	None
Penalties:	Non-filing, late filing or other failure to meet requirements – up to $500,000 per year	Failure to make report publicly available or publishing an inadequate or insufficient report – up to $50,000 per year	For each day information is not available or is inaccurate, $2,500 per violation – up to $500,000 in total

GHG emissions

SB-253 requires companies (and other business entities) to report GHG emissions in accordance with the GHG Protocol, including the Corporate Accounting and Reporting Standard and the Corporate Value Chain (Scope 3) Accounting and Reporting Standard, developed by the World Resources Institute and the World Business Council for Sustainability Development. That Act allows companies to meet their reporting obligation using reports prepared under other national or international reporting requirements, as long as those reports satisfy all of the Act's requirements. The following definitions are relevant to GHG emissions reporting.

- **Scope 1.** All direct GHG emissions that stem from sources that a reporting entity owns or directly controls, regardless of location, including but not limited to fuel combustion activities.

- **Scope 2.** All indirect GHG emissions from consumed electricity, steam, heating, cooling purchased or acquired by a reporting entity, regardless of location.
- **Scope 3.** Indirect upstream and downstream GHG emissions other than scope 2 emissions, from sources that the reporting entity does not own or directly control and may include, but are not limited to, purchased goods and services, business travel, employee commutes, and processing and use of sold products.

These concepts and the accounting under the GHG Protocol are explained in our Handbook, GHG emissions reporting.

If the disclosures are made at a parent level, a subsidiary in scope of SB-253 need not make its own separate disclosures.

Climate risks

SB-261 requires entities to report under the recommendations of the TCFD or successor body. The TCFD framework includes recommended disclosures within four core pillars: governance, strategy, risk management, and metrics and targets.

Regarding a successor body, the TCFD's monitoring activities have been taken over by the IFRS® Foundation, which governs the activities of the International Sustainability Standards Board (ISSB). The Act specifically refers to compliance with the ISSB™ Standards as an acceptable alternative, but does not rule out other laws and regulations. In particular, European Sustainability Reporting Standards leverage the TCFD framework.

If the disclosures are made at a parent level, a subsidiary in scope of SB-261 need not make its own separate disclosures.

Penalties related to GHG emissions and climate risks

Penalties for violations will be imposed and recovered by CARB in administrative hearings. In imposing penalties, it will consider all relevant circumstances, including:

- the company's past and present compliance with the requirements; and
- whether the company took good faith measures to comply with the law and when those measures were taken.

Related to GHG emissions, there will be no penalty for any misstatements with regard to scope 3 emissions disclosures made on a reasonable basis and disclosed in good faith. In addition, penalties assessed on scope 3 reporting between 2027 and 2030 will occur only for non-filing.

On December 5, 2024 CARB issued an enforcement notice recognizing that companies may need time to implement new data collection processes. As a result, it indicated that for the first SB-253 reporting cycle (i.e. 2026), it will not take enforcement action for incomplete reporting, as long as companies demonstrate good faith efforts. Senators Wiener and Stern have formally expressed disapproval for the notice, indicating that further discussions may be forthcoming.

Carbon offsets

AB-1305 applies to voluntary arrangements (e.g. carbon offset, offset credit, retail offset) related to any product sold or marketed in California that makes claims that "connote that the product represents or corresponds to a reduction in the amount of greenhouse gases present in the atmosphere or that prevents the emission of greenhouse gases into the atmosphere that would have otherwise been emitted." The law does not apply to offsets under compliance programs – e.g. California's Cap-and-Trade Program.

For companies in scope of any of the three parts of AB-1305, detailed disclosures are required.

Scoping	Summary of disclosures
Business entities **marketing or selling voluntary carbon offsets** in California	• Details of the carbon offset project – e.g. protocol used to estimate emissions reductions or removal benefits, project timeline, whether there is independent third-party verification. • Details of the accountability measures if the project is not completed or does not meet the projected emissions reductions or removal benefits – e.g. actions the entity will take if carbon storage projects are reversed. • Relevant data and calculation methods to independently reproduce and verify the emissions reduction credits.
Entities operating in California that **purchase or use voluntary carbon offsets** sold within the state and make certain claims	Information about each project or program – e.g. name of business entity selling the offset, offset project type, whether there is independent third-party verification.
Entities operating in California that **make certain claims** within the state	Information about the GHG emissions associated with the claims – e.g. how the claim was determined to be accurate, how interim progress is measured, whether there is independent third-party verification.

Penalties for reporting violations will be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by a district attorney, county counsel or city attorney in a court of competent jurisdiction.

Effective dates are coming soon

Following an unsuccessful attempt to delay the effective dates, GHG emissions and climate risk reporting is set to start in 2026.

	SB-253 (GHG emissions)	SB-261 (climate risks)	AB-1305 (carbon offsets)
Effective dates:	• Scopes 1, 2: 2026 • Scope 3: 2027	On or before Jan 1, 2026	Jan 1, 2024 [Proposed: July 1, 2025]
Reporting frequency:	Annual	Biennial	At least annually
Reporting location:	Digital reporting platform	Company website	Company website

CARB is expected to clarify the filing date in 2026 from which GHG emissions will need to be reported and the period to which the reporting will relate (see Future developments). In setting the reporting timelines, CARB is required to consider both the typical period for receiving emissions data (e.g. from suppliers) and the capacity for independent assurance engagements (see Assurance required from the outset).

Reporting of scope 3 GHG emissions will begin one year later, in 2027, on a schedule (i.e. reporting lag from scopes 1 and 2) to be determined by CARB.

The first report on climate risks is due on or before January 1, 2026 (as enacted) – i.e. before the first reporting of GHG emissions.

A proposed amendment would delay the effective date of AB-1305 until July 1, 2025.

Assurance required from the outset

Assurance over GHG emissions is graduated, starting with limited assurance and scopes 1 and 2 GHG emissions.

	SB-253 (GHG emissions)	SB-261 (climate risks)	AB-1305 (carbon offsets)
Assurance:	• Scopes 1 and 2: limited assurance from 2026; reasonable assurance from 2030 • Scope 3: TBD	No requirement	No requirement

Although assurance over scope 3 GHG emissions is not immediately required, SB-253 instructs CARB to decide by January 1, 2027 whether to require it. If CARB decides that scope 3 GHG emissions should be assured, a requirement for limited assurance would begin in 2030.

SB-253 requires the assurance provider to be an independent third party, and to have "significant experience in measuring, analyzing, reporting, or attesting to the emission of greenhouse gasses and sufficient competence and capabilities necessary to perform engagements in accordance with professional standards and applicable legal and regulatory requirements." However, the Act does not mandate the use of specific assurance standards.

CARB is required to review the qualifications for third-party assurance providers during 2029, and to implement any updates by January 1, 2030.

Future developments: CARB consultation

As noted above, CARB is required to build out regulations that will operationalize the climate laws by July 1, 2025 (extended from January 1, 2025). To facilitate its process, CARB is seeking stakeholder feedback to guide California climate law implementation, Public Comments to California Climate-Disclosure Information Solicitation. The public consultation aims to clarify definitions, identify reporting entities and establish data standards within a feedback period ending on March 21, 2025. The original date of February 14 was extended due to the Southern California wildfires.

CARB is interested in challenges and opportunities related to the new reporting requirements, feasibility of different methodologies and streamlining the process. This feedback will shape future regulatory frameworks and compliance for businesses in California. CARB stated that additional comments on SB-253 and SB-261 implementation are also welcome.

Other US states progressing similar laws

Some states – like New York, Illinois and Washington – are also considering climate-related disclosure laws, and other states may follow. These laws are in the early stages of the proposal process and we recommend watching closely as this area continues to develop.

It's all about the value chain

These California climate laws add to the growing body of ESG reporting standards that are affecting US companies – either directly by virtue of being in scope, or indirectly via a company's value chain. The latter is particularly important because customers are requesting information from suppliers to help them meet their own obligations.

The following Hot Topics focus on international developments and how US companies can be affected:

- Impact of EU ESG reporting on US companies
- Global implications of due diligence acts

This growing interconnectedness between business needs and reporting is putting increased pressure on interoperability between reporting standards or frameworks. The California climate laws take this into consideration in using the GHG Protocol as a basis for GHG emissions and allowing climate risk disclosure frameworks equivalent to the TCFD (see Targeted disclosures).

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