

insights

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California's New Environmental Disclosure Laws Mandate Corporate Transparency

California, one of the world's five largest economies, just enacted two groundbreaking laws that will impose environmental disclosure requirements on large corporations doing business in the state.

The Climate Corporate Data Accountability Act (SB-253) requires companies with annual revenues exceeding \$1 billion to disclose their direct, indirect, and supply chain greenhouse gas (GHG) emissions data. The Climate-Related Financial Risk Act (SB-261) requires companies with over \$500 million in annual revenue to disclose climate-related financial risks. Both were signed into law on October 7, 2023.

The laws aim to enhance transparency regarding how major businesses contribute to climate change. Introduced by California State Senators Scott Wiener and Henry Stern, the bills were additionally supported by environmental lobbyist groups including EnviroVoters, Ceres, and Carbon Accountable. By requiring public disclosure of emissions data, California seeks to encourage large companies to evaluate and potentially reduce their environmental footprints. The measures apply to public and privately held companies and would require reporting as early as January 2026.

SB-253 Summary

- **Applicability:** SB-253 applies to companies doing business in California with annual revenues (based on global sales) in the prior fiscal year exceeding \$1 billion. The law applies to privately held and public companies and currently affects about 5,300 companies.
- **Reporting Requirements:** Starting in 2026, covered entities must publicly disclose Scope 1 and Scope 2 GHG emissions for the prior fiscal year, in conformance with the Greenhouse Gas Protocol standards and guidance. Scope 1 emissions include all direct GHG emissions from sources the reporting entity owns or directly controls, while Scope 2 emissions include indirect GHG emissions from consumed electricity, steam, heating or cooling. Starting in 2027, covered entities must publicly disclose their Scope 3 emissions. Scope 3 emissions include emissions from the company's "full value chain," upstream and downstream, including GHG emissions from purchased goods and services, business travel, employee commute, and customer use and disposition of the company's products.
- **Reporting Procedures:** The law contemplates that annual reporting will be made through a nonprofit emissions reporting organization contracted by the state board. Additionally, reporting entities will be required to obtain third-party assurance to confirm the accuracy of the reporting entity's emissions data. Reporting entities must also pay an annual administrative fee to the state.

SB-261 Summary

- **Applicability:** SB-261 applies to companies doing business in California with annual revenues (based on global sales) in the prior fiscal year exceeding \$500 million. The law applies to privately held and public companies, although insurance companies are excluded.
- **Reporting Requirements:** Covered businesses must prepare a climate-related financial risk report that discloses (a) a description of climate-related financial risks, and (b) any measures the company has adopted to reduce and adapt to such climate-related financial risks. The law defines "climate-related financial risk" as "material risk of harm to immediate and long-term financial outcomes due to physical and transition risks." Initial reporting is due by January 1, 2026, with subsequent reporting every two years.

- Reporting Procedures: The reports must be made available on the company's website, and failure to comply could result in an administrative penalty of up to \$50,000 per reporting year. Additionally, covered entities must pay an annual administration fee to the state.

Legal Risks

Non-compliance creates legal risks for public and private entities and can result in steep civil penalties, determined by the California Air Resources Board (CARB). Failure to comply with SB-261 could result in penalties of up to \$50,000, while the penalties under SB-253 can reach up to \$500,000.

Many large businesses already engage in some of the reporting requirements, including the Scope 3 reporting under SB-253. Even these entities must be careful, as both of these laws make disclosures mandatory and create specific procedures that must be followed to avoid legal consequences.

Importantly, neither of the bills create a private right of action for citizens or groups to sue for noncompliance.

Controversy

While advocates celebrate the new laws for their lofty environmental goals, the laws face opposition from various quarters, including the California Chamber of Commerce, agricultural groups, and oil companies. Critics argue that the laws impose unreasonable reporting burdens on companies particularly given the challenges of reporting indirect emissions. Environmental advocates believe this law serves as a catalyst for private sector engagement in addressing climate change.

Upon signing the bills, Gov. Gavin Newsom also stated his concerns about the overall financial impact of the new laws on business, instructing the CARB "to closely monitor the cost impacts as it implements this new bill and to make recommendations to streamline the program."

Implementation Timeline

SB-253

- CARB is tasked with developing rules for implementation by 2025
- Starting in 2026, affected companies must annually disclose their direct emissions and emissions related to powering, heating, and cooling their facilities (Scope 1 and 2 emissions)
- By 2027, companies must report indirect emissions from their "full value chain" (Scope 3 emissions)

SB-261

- First climate-related financial risk disclosures are due January 1, 2026, and must be made available on the company's website
- Subsequent climate-related financial risk disclosures are due every two years

Conclusion

SB-253 and SB-261 impose significant disclosure obligations for large businesses operating in California. Covered businesses will need to adapt to these new reporting requirements, posing potential challenges for companies that lack the infrastructure for comprehensive emissions reporting.

Our legal team is prepared to help you navigate the implications of SB-253 and SB-261 to ensure compliance. If you have questions or need assistance in understanding how this legislation affects your business, please do not hesitate to contact us.



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