

NINTH CIR. HALTS CA CLIMATE-RELATED FINANCIAL RISK LAW; EMISSIONS REPORTING LAW REMAINS IN FORCE

Nov 20, 2025

On November 18, 2025, the Ninth Circuit Court of Appeals in a [two-sentence order](#) enjoined the enforcement of California Senate Bill 261 (the California Climate-Related Financial Risk Act) pending the appeal of the U.S. Chamber of Commerce's constitutional challenge of the law and its companion, California Senate Bill 253—the Climate Corporate Data Accountability Act.

In light of the Nov. 18 order, the previous deadline (January 1, 2026) for covered entities to report their material climate-related financial risks to the California Air Resources Board ("CARB") is no longer operative. However, given the uncertainty surrounding the pending litigation and the present lack of direction from CARB, reporting entities should continue to develop their climate-related financial risk reports in anticipation of a future (albeit delayed) disclosure deadline.

SB 253 was **not** enjoined by the Ninth Circuit's order. In a [public workshop](#) held the same day the Ninth Circuit's injunction order was issued, CARB announced that it will be proposing an initial reporting deadline under SB 253 of August 10, 2026. CARB further clarified the following with respect to SB 253 and the agency's planned approach to administering and enforcing the California climate disclosure laws.

REPORTING PERIOD

The applicable preceding fiscal year for which emissions must be reported is to be determined based on the reporting entity's fiscal year cycle. If a reporting entity's fiscal year ends between January 1 and February 1, 2026, the entity should report data from the fiscal year ending in 2026. If a reporting entity's fiscal year ends between February 2 and December 31, 2026, the entity should report data from the fiscal year ending in 2025.

REQUIRED LEVEL OF REPORTING & ASSURANCE FOR 2026

In December 2024, CARB issued an [Enforcement Notice](#) indicating that the agency will exercise enforcement discretion with respect to 2026 SB 253 reporting, meaning reporting entities may submit Scope 1 and Scope 2 emissions data that they already possessed or were already collecting at the time the Notice was issued. In the Notice, CARB indicated that it would not take

enforcement action for incomplete reporting against entities as long as the entities made a good faith effort to retain all data relevant to emissions reporting for the relevant fiscal year.

During the workshop, CARB confirmed that if a company was not collecting Scope 1 or Scope 2 data or planning to collect such data when the Enforcement Notice was issued in December 2024, the company need not submit its Scope 1 and 2 reporting data for 2026. These entities are instead expected to submit a statement on company letterhead to CARB stating that they did not submit a report under SB 253 and indicating that, in accordance with the Enforcement Notice, the company was not collecting data or planning to collect data at the time the notice was issued.

REPORTING FEES

CARB is proposing a flat fee structure where program costs to administer the climate disclosure laws (anticipated \$13.9M annual cost, plus \$20.7M in start-up costs) are divided by the total number of regulated entities submitting reports. Each covered reporting entity will be assessed a separate fee, although a parent company may pay all fees for itself and its subsidiaries in a lump sum. CARB has proposed that fees will be assessed on September 10, 2026 (a month after the proposed SB 253 reporting deadline).

APPLICABILITY THRESHOLDS

An entity is subject to SB 253 if its annual revenues exceed \$1 billion (and to SB 261 if its annual revenues exceed \$500 million). In addition, to be subject to either law, an entity must also: (1) be a US-formed entity; and (2) “do business in California.”

- **Revenue Thresholds:** To account for annual changes in revenue, CARB proposes that applicability of the California climate disclosure laws will be determined by the lesser of an entity’s two previous fiscal years of revenue. “Revenue” is proposed to be defined as it is in the California Revenue and Taxation Code: “the gross amounts realized (the sum of money and the fair market value of other property or services received) on the sale or exchange of property, the performance of services, or the use of property or capital (including rents, royalties, interest, and dividends) in a transaction that produces business income, in which the income, gain, or loss is recognized (or would be recognized if the transaction were in the United States) under the Internal Revenue Code, as applicable for purposes of this part. Amounts realized on the sale or exchange of property shall not be reduced by the cost of goods sold or the basis of property sold.”
- **Doing Business in California Threshold:** CARB proposes that a company will be “doing business” in California if it:
 - Is actively engaging in any transaction for the purpose of financial or pecuniary gain or profit in California AND

- The entity is organized or commercially domiciled in California OR
- Sales in California in the reporting year exceeded \$735,019. (Sales figures include the entity's pro rata or distributive share of pass-through entities — i.e., partnerships or S corporations.)
- CARB has proposed to remove criteria related to a company's in-state property holdings or payroll as determining factors for whether a company is "doing business" in California for purposes of the climate reporting laws.

To confirm applicability or to develop a data collection, reporting, and compliance strategy under California's climate reporting laws, please reach out to Erin Brooks, Merrit Jones, Nora Faris, Daron Ravenborg, or another member of your BCLP team.

RELATED CAPABILITIES

- Environment

MEET THE TEAM



Erin L. Brooks

Chicago / St. Louis

erin.brooks@bclplaw.com

[+1 312 602 5093](tel:+13126025093)



Merrit M. Jones

San Francisco

merrit.jones@bclplaw.com

[+1 415 675 3435](tel:+14156753435)



Nora J. Faris

Denver / St. Louis

nora.faris@bclplaw.com

[+1 314 259 2209](tel:+13142592209)



Daron Ravenborg

San Francisco

daron.ravenborg@bclplaw.com

+1 415 675 3465

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