Simpson Thacher

CARB Issues Proposed Regulations Implementing SB 253 and SB 261

December 10, 2025

On December 9, the California Air Resources Board ("CARB") published proposed regulations to implement SB 253 (the Climate Corporate Data Accountability Act) and SB 261 (the Climate-Related Financial Risk Act) and a staff report outlining CARB's rationale for the regulations, and issued a notice of public hearing to consider approving for adoption the regulations on February 26, 2026. The proposed regulations are expected to be published by the California Office of Administrative Law on December 26, 2025, at which time the 45-day comment period will open (closing February 9, 2026), but given strong interest and timing concerns, CARB has made the regulations available to the public in advance of that date.

The proposed regulations are being issued in the midst of legal uncertainty about the future of the laws. Mandatory reporting under SB 261, which was subject to a statutory reporting deadline of January 1, 2026, is currently paused by CARB in light of a temporary injunction issued by the Ninth Circuit Court of Appeals on November 19, and pending oral arguments set for January 9, 2026 (see Enforcement Advisory issued by CARB on December 1). Litigation against SB 253 is also proceeding, though the Court has declined to enjoin the law during the pendancy.

The proposed regulations made available by CARB largely align with guidance issued by the agency at its most recent public workshop on November 19 (the "November Public Workshop") and are responsive to certain questions and concerns raised at that Workshop, addressing definitions, fee calculations and other administrative matters. The regulations by and large do not incorporate the informal guidance provided by the agency in the "Climate Related Financial Risk Disclosures: Checklist" updated by CARB on November 17, or the "SB 253 Scope 1 and Scope 2 Greenhouse Gas (GHG) Emissions Draft Reporting Template" posted on October 10.

Key Components of the Proposed Regulatory Text

- Scoping Definitions: Under the statutes, a U.S.-formed business entity is generally in scope of the climate reporting laws SB 253 and SB 261 if it has total annual revenues in excess of $1 billion (with respect to SB 253) or $500 million (with respect to SB 261) and is "doing business in California."
    - "Revenue." Revenue is defined in the regulations to have the same meaning as "gross receipts" as set forth in the California Revenue and Taxation Code ("RTC") Section 25120(f)(2). For both SB 253 and SB 261, the regulations note that, when testing for whether the revenue threshold is met, an entity should use the **lesser** of the entity's previous two fiscal years of revenue.

- “Doing business in California.” An entity is doing business in California if it is (a) actively engaging in any transaction for the purpose of financial or pecuniary gain or profit (RTC Section 23101(a)) (noting that wholesale sales of electricity are excluded); **and** (b) during any part of the reporting year, is either (i) organized or domiciled in the state (RTC Section 23101(b)(1)), or (ii) has sales in the state above the inflation-adjusted thresholds of approximately $735,000 (2024), or 25% of the taxpayer’s total sales (RTC Section 23101(b)(2)).

- Parent-Subsidiary Relationship: The regulations establish that a “subsidiary” is a business entity that another business entity has ownership interest in or control of by direct corporate association (Title 17 of the California Code of Regulations Section 95833). The following list determines ownership or control:
    - Greater than 50% of ownership of any class of listed shares, the right to acquire such shares, or any option to purchase such shares of the other entity;
    - Greater than 50% of common owners, directors, or officers of the other entity;
    - Greater than 50% of the voting power of the other entity;
    - For a partnership, greater than 50% of the interests of the partnership;
    - For a limited partnership, greater than 50% of control over the general partner or greater than 50% of the voting rights to select the general partner; and
    - For a limited liability corporation, greater than 50% of ownership in the other entity regardless of how the interest is held.

- SB 253 Reporting Deadline: As proposed in the November Public Workshop, entities must report their Scope 1 and Scope 2 GHG emissions for the applicable preceding fiscal year by **August 10, 2026**.[1]

- Penalty Enforcement: The regulations call for penalties to be assessed in accordance with the statutes, which may not exceed $500,000 for violation of SB 253 and $50,000 for violation of SB 261 for each reporting entity.

- Reporting Fee Calculation: The proposed regulations create a formula for calculating the periodic reporting fee under each law based on (i) the amount of funds necessary to recover costs of implementing SB 253 and SB 261 each year and (ii) the repayment of loans obtained by CARB to carry out the regulations.

- Fee Payment and Collection: The regulations indicate that affected entities will be subject to a flat fee under SB 253 and SB 261 (as applicable). Beginning in 2026, every year on or by September 10, affected entities will have 60 days to submit payment following the fee determination notice. Late payments will be assessed as a penalty separate from noncompliance penalties.

- Recordkeeping: Reporting entities must maintain a record for five years demonstrating that they meet the revenue and doing business in California thresholds for SB 253 and SB 261 and provide these records to CARB if requested.

---

[1] For reporting entities with a fiscal year ending on or before February 1, 2026, the entity must report data from the fiscal year ending in 2026. For reporting entities with a fiscal year ending between February 2 and December 31, 2026, the entity must report data from the fiscal year ending in 2025. However, reporting entities may choose to report their Scope 1 and Scope 2 emissions from their most recent preceding fiscal year notwithstanding their fiscal year ending after February 1, where that data is available.

- Exempted Organizations: The regulations identify several entities that are exempt from reporting, including:
    - Non-profit or charitable organizations that are tax-exempt under the U.S. Internal Revenue Code;
    - A business entity that is subject to regulation by the Department of Insurance in the state, or that is in the business of insurance in any other state;
    - Federal, State and local government entities and companies that are majority-owned by government entities (>50.00%);
    - A business entity whose only activity within California consists of wholesale electricity transactions; and
    - A business entity whose only business in California is employee compensation or payroll expenses, including teleworking employees.

Next Steps

CARB announced that it will conduct a public hearing on February 26, 2026, offering an in-person and remote option, to consider approving for adoption the proposed SB 253 and SB 261 regulations. CARB will provide a public agenda ten days before the date of the public hearing. CARB noted on its website that if it makes any revisions or updates to any of the documents in this rulemaking package prior to the formal publication on December 26, 2025, it will update its rulemaking webpage and notify stakeholders.

Prior to the public hearing on February 26, companies expecting to be in scope of the laws should continue efforts to prepare for compliance. To prepare for emissions reporting under SB 253, companies already collecting data to support Scope 1 and Scope 2 emissions as of December 31, 2024 should continue to collect that information. Entities in scope of SB 261 should also continue to prepare for reporting in the event that the injunction is lifted by the Ninth Circuit and reporting obligations are reinstated.

Companies that wish to stay engaged and notified of future updates can sign up here. For further background information and previous developments on California's climate reporting laws SB 261 and SB 253, see our prior Alert here.

Simpson Thacher

For further information regarding this Alert, please contact one of the following authors:

NEW YORK CITY

Leah Malone
+1-212-455-3560
leah.malone@stblaw.com

Chayla S. Sherrod
+1-212-455-2779
chayla.sherrod@stblaw.com

Taylor J. Cowan
+1-212-455-2393
taylor.cowan@stblaw.com

WASHINGTON, D.C.

Emily B. Holland
+1-202-636-5987
emily.holland@stblaw.com

** In April 2025, Simpson Thacher announced plans to expand its Bay Area presence with an office in San Francisco.*