

## Insights

# CALIFORNIA CLIMATE REPORTING MANDATES STILL ON TRACK FOLLOWING LIMITED AMENDMENTS

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As we previously reported, in 2023 California enacted the monumental climate disclosure laws [SB 253](#) (the “Climate Corporate Data Accountability Act”) and [SB 261](#) (the “Climate-Related Financial Risk Act”), with the first disclosures due in 2026. This past summer, Governor Newsom sought to amend [SB 253](#) and [SB 261](#) to extend disclosure deadlines by two years. The California legislature rejected Governor Newsom’s proposal and passed [SB 219](#) instead, which was signed into law on September 27, 2024.

[SB 219](#) offers little in the way of substantive change, and rather than provide an extension of the reporting deadlines, only provides the California Air Resources Board (“CARB”) with an additional six months to promulgate its own regulations (now due July 1, 2025). The new law arguably makes it harder for companies to comply with the reporting requirements because they will have less time between when the regulations are published and emissions disclosures are due.

## Overview of the Requirements of [SB 253](#) and [SB 261](#), as Amended by [SB 219](#)

[SB 253](#) applies to U.S. public and private companies that do business in California with total annual revenues in excess of one billion dollars in the prior fiscal year (not limited to revenues in California). Doing business in California is interpreted broadly—selling products within the state or moving products on public roads counts. [SB 253](#) requires companies to:

- Report Scope 1 (direct) emissions and Scope 2 (indirect) emissions in 2026 by a date to-be-determined by CARB’s regulations, and annually thereafter.
- Report Scope 3 (indirect upstream and downstream) emissions in 2027 by a date to-be-determined by CARB’s regulations, and annually thereafter. Scope 3 reports are required to be “in conformance with” Greenhouse Gas Protocol standards and guidance, including the [Corporate Accounting and Reporting Standard](#) and [Corporate Value Chain \(Scope 3\) Accounting and Reporting Standard](#).
- Obtain an “assurance engagement” from an independent third-party assurance provider of the Scope 1 and 2 disclosures in 2026, and for Scope 3 disclosure by no later than 2030 (but can

be as early as 2027, depending on CARB's regulations).

SB 261 applies to U.S. public and private companies that do business in California with total annual revenues in excess of five-hundred million dollars (again, not limited to revenues generated in California). SB 261 requires to companies to:

- Publish on their public-facing websites and file a report describing climate-related financial risks in accordance with the framework recommended by the Task Force on Climate-Related Financial Disclosures ("TFCD"), and measures taken to minimize the business impacts of such risks.
- The TFCD divided climate-related risk into two categories: (1) transition risks stemming from market changes to address adaptation and mitigation requirements, and (2) physical risks, including acute risks such as extreme weather events and chronic risks such as longer-term shifts in climate patterns like sea level rise.

## **Additional Uncertainty from Legal Challenges**

This legislative activity is playing out against the backdrop of a judicial challenge to SB 253 and SB 261, *Chamber of Commerce of the United States, et al v. Randolph, et al.*, C.D. Cal. No. 2:24-cv-00801-FMO-PVC. The lawsuit, which was filed in early 2024, argues that both laws are unconstitutional as compelling speech on a controversial and non-commercial issue, failing to meet strict scrutiny, and exceeding California's jurisdictional authority. The Chamber's summary judgment motion seeking a preliminary injunction against enforcement is set for hearing on October 15, and the California Attorney General's motion to dismiss is set for the same date. The outcome of these motions may introduce further uncertainty as to the scope and timing of the disclosure requirements.

## **Conclusion:**

Despite a legal challenge by the U.S. Chamber of Commerce and an attempt to extend deadlines by Governor Newsom, California is moving forward with virtually the same requirements and due dates as before. Business should be making preparations, even if limited to preliminary technical and legal consultations, to understand the substantive requirements of the laws, their implication for company decisions, and what resources are necessary for timely compliance.

For more information about the Laws and next steps that your business can take to pursue compliance contact Tom Lee, Merrit Jones, Erin Brooks, Nora Faris, Daron Ravenborg, or any other member of BCLP's Environmental team. BCLP Fellow Karalyn Berman contributed to this article.

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