Cooley

Ninth Circuit Leaves SB 253 Scope 1 and 2 Reporting in Place, Blocks Scope 3 and SB 261

November 10, 2026

On November 9, 2026, the US Court of Appeals for the Ninth Circuit significantly narrowed California's climate disclosure regime in its decision addressing challenges to Senate Bill 253 (greenhouse gas emissions reporting) and Senate Bill 261 (climate-related financial risk reporting). The court left SB 253's Scope 1 and 2 reporting requirements in place but held that SB 253's Scope 3 reporting requirement and SB 261 are likely unconstitutional under the First Amendment, and that preliminary injunctive relief is warranted as to those requirements.

For companies subject to these laws, the key implications are:

1. **SB 253 Scope 1 and 2 reporting remains on track.** The court affirmed the denial of a preliminary injunction against these requirements. Accordingly, the California Air Resources Board's November 10, 2026, first-year reporting deadline remains in effect. Companies subject to SB 253 should proceed with their planned Scope 1 and 2 submissions.

2. **SB 253 Scope 3 reporting is likely to be enjoined.** The court held that the requirement, which was scheduled to begin in 2027, is likely unconstitutional, and that preliminary injunctive relief is warranted. On remand, the district court must determine whether the Scope 3 provisions are severable from the remainder of SB 253 before entering appropriate relief. If the district court enjoins SB 253 Scope 3 reporting, companies will not be required to make these disclosures absent a change on further review.

3. **SB 261 remains enjoined.** The court likewise held that SB 261's disclosure requirements are likely unconstitutional, and that preliminary injunctive relief is warranted. Accordingly, companies are not expected to be required to comply with SB 261 absent a change on further review.

The litigation is not over, and California may seek rehearing or US Supreme Court review. For now, companies should continue complying with SB 253's Scope 1 and 2 reporting requirements. SB 253 Scope 3 reporting and SB 261 are not expected to become enforceable absent a change on further review, although the district court's severability determination could affect the future status of SB 253's remaining requirements.

Cooley's ESG and sustainability advisory attorneys are available to discuss these requirements. Reach out to your existing Cooley contact or email Cooley's ESG and sustainability advisory team.

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