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Unanswered Questions Remain Following Recent CARB Updates on California Climate Reporting

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In the absence of formal regulations, the California Air Resources Board (CARB) has published numerous forms of informal guidance over recent months, which provide some helpful clarifications for companies, while also leaving open a number of important questions regarding both Senate Bill 253 (greenhouse gas emissions reporting) and Senate Bill 261(climate risk reporting).

Notice of delayed SB 253 regulations

Under SB 219 adopted in 2024, CARB was tasked with adopting implementing regulations for SB 253. In its August 21 virtual public workshop, CARB previewed an October timeframe for publishing these regulations; however on October 14, CARB posted a website update announcing that, given the large volume of public comments received, it now expects to issue regulations in Q1 2026, including the regulations setting the reporting fees owed by companies subject to SB 261 and SB 253.

SB 261 guidance

Following CARB's August 21 workshop, on September 2, CARB published a draft checklist for SB 261 disclosures that put in writing much of the guidance provided at earlier presentations. Among the most consequential items included in this document are "minimum disclosure requirements" for first-year SB 261 reports. CARB reiterated that companies are not required to provide quantitative scenario analysis, and that qualitative scenario-based assessments are encouraged if "feasible and relevant for a particular company," but they are not required. Similarly, the September checklist repeated that greenhouse gas emissions disclosure is not required for SB 261 reports.

SB 253 updates

Following the publication of SB 261 guidance, on October 10, CARB published a draft template for submitting SB 253 emissions disclosures, as well as an explanatory memo. The template is voluntary for the 2026 reporting cycle and is a preliminary format subject to ongoing public feedback. CARB has not provided guidance to date on minimum formatting and other requirements for SB 253 submissions not using this template. While the template does not address basic substantive questions, such as the reporting period to be used for 2026 reports or when the $1 billion revenue scoping test is applied, it does provide useful insight into the level of methodological disclosures companies are expected to include in their submissions – such as details on assurance providers, approaches to defining reporting boundaries (e.g., financial or operational control), emissions intensity measures, immaterial emissions sources not included in the report, information on emissions factors used, and disclosure of emissions reductions associated with renewable electricity and gas contracts.

Covered entities list

In addition to substantive guidance on SB 261 and SB 253, on September 24, CARB published a preliminary list of entities that CARB has identified as potentially subject to each statute. CARB has emphasized that this list is provided for illustrative purposes only, and that companies must make an independent determination of whether they meet the "doing business in California" and revenue tests ($500 million for SB 261 and $1 billion for SB 253). This list reflects limited information available to CARB regarding both California activities and company revenue and appears to be highly incomplete, excluding numerous prominent California companies with publicly disclosed revenue in the tens or hundreds of billions of dollars.

Open questions for companies

Despite the flurry of guidance documents, significant uncertainties remain for companies potentially subject to the California climate reporting statutes.

Covered entities

While the publication of a preliminary covered entities list provided some insights, consequential questions remain for companies hoping to determine whether they are covered by the climate reporting statutes. Although CARB has provided some suggestions in its workshops, firm guidance regarding parent-subsidiary relationships, measurement of revenue and the doing-business in California test, these and other key topics have not been covered in detail or subject to any definitive statements. CARB also has not provided definitive statements on the measurement dates for revenue tests (e.g., should companies use fiscal year 2024 or 2025, and how this applies to companies with non-December 31 fiscal years).

SB 253 deadline

CARB had suggested a June 2026 deadline for SB 253 reports in the August workshop, but with regulations delayed several months, it is possible that this deadline will be extended an equivalent amount of time (i.e., into Q3 or Q4 2026). Although companies will likely have many months to work on SB 253 reports following the publication of regulations, companies are anxious to resolve gating items, such as determining if they meet the scoping tests and determining the periods required to be covered by emissions reports.

SB 261 deadline

CARB has also not indicated how the rulemaking delay may impact SB 261. The deadline for initial SB 261 reports (January 1, 2026) is set in the statute, unlike SB 253, which only provides that initial reports are due in 2026. Also, unlike SB 253, the statutory text of SB 261 does not explicitly contemplate that CARB must publish implementing regulations. As a result, it appears likely that the January 1 deadline for SB 261 remains in place, and that companies should not expect any formal regulations prior to this deadline, forcing companies potentially subject to SB 261 to proceed based on substantive guesswork.

Given that CARB has repeatedly emphasized flexibility and a good faith standard for year one reporting, the lack of regulations will also undoubtedly motivate some companies to take a lighter approach to SB 261 disclosures. With CARB having indicated that scenario analysis and emissions disclosure are not required for SB 261, many companies are primarily focusing their SB 261 disclosure preparations on high-level qualitative disclosure describing their current, often very minimal, climate activities and assessments. For companies in less climate-exposed industries, we expect these disclosures often will be limited to descriptions of general enterprise risk management processes lacking substantive dedicated climate risk governance, identification and mitigation processes.

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