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Ninth Circuit Stays SB 261 as CARB Announces Numerous Company-Friendly Expectations for First-Year California Climate Reporting

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On November 18, 2025, the California Air Resources Board (CARB) held an additional virtual workshop to provide informal guidance on climate reporting under Senate Bill 253 (greenhouse gas emissions reporting) and Senate Bill 261(climate risk reporting). While this workshop was ongoing, the US Court of Appeals for the Ninth Circuit issued a temporary injunction blocking enforcement of SB 261. This decision follows an emergency application from several groups – including the US Chamber of Commerce – to the US Supreme Court seeking to halt enforcement of both SB 261 and SB 253 while their Ninth Circuit appeal proceeds. The Ninth Circuit had previously indicated that it would not hear the appeal until early January – after the January 1, 2026, reporting deadline under SB 261. The injunction will remain in effect until either the Ninth Circuit rules on the merits of the appeal from the district court or the Supreme Court acts on the emergency application. Under SB 261, companies are required to file their disclosures by January 1, 2026, and many have already made significant progress toward completing their reports. Given the uncertainty, we expect many companies will continue finalizing their reporting in the event the stay is lifted, and the original deadline is reinstated. At this time, the Ninth Circuit has allowed SB 253 to remain in effect.

The stay appears driven largely by timing, as the hearing on January 9 2026, is scheduled after the SB 261 initial reporting deadline of January 1, 2026. There is no indication in the Ninth Circuit's ruling as to the merits of the case, and the plaintiffs have been generally unsuccessful to date. Although the timing of SB 261 disclosure is now uncertain, given CARB's lax expectations for first-year disclosures (discussed below), companies may consider completing preliminary draft reports in order to be prepared to submit on a rushed basis should the stay be lifted in the coming months.

Key takeaways from CARB's latest webinar

Although overshadowed by the Ninth Circuit's injunction, CARB's November 18 workshop included several significant and consequential changes that may both reduce the number of companies covered by the climate reporting rules and further lighten reporting burdens for covered companies. As a general theme, CARB doubled-down on its prior emphasis on good-faith, best-efforts reporting for the first cycle under both statutes, indicating that companies should report on what they already have done, but suggesting that companies are not required to invest in new disclosure processes for 2026 reports.

See the slides from the workshop.

Scoping changes

In the November workshop, CARB announced that, to account for year-to-year fluctuations, the applicability of each statute will be determined based on the lesser of a company's two prior fiscal years of revenue. As a result, if a company had revenue under $500 million or $1 billion in one of the last two years, it would no longer be subject to SB 261 or SB 253, respectively. This could result in significant numbers of high-growth companies falling out of scope of climate reporting obligations for 2026.

CARB also indicated that final regulations are expected to adopt a definition of "revenue" based on the "gross receipts" concept set forth in California Revenue and Taxation Code (RTC) § 25120(f)(2),. This approach reflects a return to the definition advanced at CARB's initial public workshop in May 2025 and a departure from the alternative formulation proposed at its second public workshop in August 2025, which would have defined "revenue" as "the total global amount of money or sales a company receives from its business activities, such as selling products or providing services."

> RTC § 25120(f)(2): “Gross receipts” means the 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.

The November workshop also discussed potential refinements to the “doing business in California” test. CARB’s preliminary list of potentially covered entities published in September contained a significant number of inaccuracies and omissions, raising concerns about its reliability as an initial compliance reference point. CARB may publish a nonexhaustive list of presumptively covered entities based on a new proposed definition of revenue, California Secretary of State registration and Franchise Tax Board filings. CARB has proposed refining the definition of “doing business in California” using Revenue and Tax Code § 23101 for both SB 253 and SB 261, but omitting Section 23101(b)(3-4) relating to property holdings and payroll. These changes also have the potential to **slightly** narrow the list of companies covered by SB 261 and SB 253 in 2026.

SB 253 changes

The November workshop also announced several changes that would significantly ease first-year SB 253 emissions reporting. Overall CARB emphasized flexibility for emissions disclosures, particularly in the first cycle, allowing companies to identify and explain gaps and potentially decline to report emissions altogether.

No emissions reporting for novice companies

Of greatest impact, CARB indicated that companies that were not already collecting greenhouse gas emissions data at the time of CARB’s December 5, 2024, enforcement notice will **not** be required to report on emissions in 2026. Instead, such companies will merely be required to submit a statement on company letterhead providing that they are not publishing an emissions report because the company was not collecting or planning to collect emissions data at the time of the enforcement notice. For US companies not subject to emissions reporting regulations in international jurisdictions, SB 253 is generally the only regulatory impetus for emissions accounting. While many companies have voluntarily reported emissions in the past or may have already been in the process of measuring emissions due to non-regulatory considerations, such as investor or customer expectations, a significant number of companies had no plans to calculate emissions outside of SB 253. For such companies, CARB’s updated guidance would effectively eliminate their reporting obligations for 2026.

Delayed reporting deadline

CARB pushed back the expected deadline for SB 253 disclosures to August 10, 2026, from the June 30 deadline discussed in CARB’s previous workshop.

CARB also provided new guidance on the data required to be covered in first-year reports, with data for fiscal year 2025 required for companies with fiscal years ending between February 2 and December 31, 2026, and fiscal year 2026 data due for companies with fiscal years ending between January 1 and February 1, 2026. As a result, for companies with December 31 fiscal years, SB 253 disclosures due in August 2026 would be required to cover emissions data for the period ending December 31, 2025.

Elimination of 2026 assurance requirement

CARB announced that limited assurance will not be required for data submission in 2026 reporting. For subsequent reporting years, companies will be expected to obtain limited assurance in accordance with CARB’s anticipated phased assurance schedule. CARB also continued to reference assurance standards, such as the International Standard on Sustainability Assurance (ISSA), International Organization for Standardization (ISO), AccountAbility’s AA1000 and the American Institute of Certified Public Accountants (AICPA).

SB 261 updates

In the November workshop, CARB reiterated that all companies must report fiscal year 2025 data for their first SB 261 submission **on company websites by the statutory deadline of January 1, 2026,** though this deadline is

now in doubt following the Ninth Circuit's injunction. CARB reiterated that reporting entities will receive at least six months after fiscal year-end to file links to initial climate risk SB 261 reports to a CARB portal opening between December 1, 2025, and July 1, 2026.

As with SB 253, CARB emphasized good-faith best efforts and flexibility for SB 261 reporting, recognizing that many companies will not have undertaken substantive climate-risk analyses and may have little of substance to report. For example, CARB provided that companies in the "early stages" of considering climate risks may focus their disclosures on a discussion of "how these risks relate or may be relevant, even if no material risks have yet been identified or actions taken." CARB also provided that companies can caveat their disclosures with a "description of gaps, limitations and assumptions."

Fee updates

Both SB 253 and SB 261 authorize CARB to assess annual fees for the implementation and administration of the programs. Initial fees are expected to cover CARB's one-time set up cost of approximately $21 million, as well as annual costs of program implementation of approximately $14 million. CARB reaffirmed its intent to adopt a flat annual fee structure, based on the total program costs divided by the number of reporting entities, but left room for adjustments based on inflation and gaps in covering annual implementation. Final fee levels will be set in the December 2025 rulemaking package

Current working estimates remain approximately:

- $3,106 for SB 253
- $1,403 for SB 261

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Key Contacts

Beth Sasfai **New York**	**bsasfai@cooley.com** **+1 212 479 6081**
Michael Mencher San Francisco	mmencher@cooley.com +1 415 693 2266
Vince Flynn San Diego	vflynn@cooley.com +1 858 550 6119

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