

California Offers Enforcement Relief on GHG Disclosures

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On December 5, 2024 the California Air Resources Board (CARB) issued an [Enforcement Notice](#) regarding the Climate Corporate Data Accountability Act ([SB 253](#)), which will require companies “doing business” in California to report their Scope 1, 2, and 3 greenhouse gas emissions (GHG), with reporting for 2025 Scope 1 and 2 emissions beginning in 2026 (see our previous discussion of the law’s requirements [here](#)).

The Enforcement Notice does not extend any compliance deadlines under SB 253 or impact any of the law’s requirements, but indicates that CARB “has decided to exercise its enforcement discretion” in recognition of the lead time some companies may need “to implement new data collection processes to allow for fully complete scope 1 and scope 2 emissions reporting, to the extent they do not currently possess or collect the relevant information.”

Specifically, the Enforcement Notice provides that:

For the first report due in 2026, reporting entities may submit scope 1 and scope 2 emissions from ‘the reporting entity’s prior fiscal year’ that can be determined from information the reporting entity already possesses or is already collecting at the time this [Enforcement] Notice was issued. CARB will exercise enforcement discretion for the first reporting cycle, on the condition that entities demonstrate good faith efforts to comply with the requirements of the law.

The Enforcement Notice will be welcome news to companies that may have to report their 2025 Scope 1 and 2 emissions beginning in 2026, given that CARB is not required to finalize implementing regulations detailing how companies should comply with the law until July 2025 (see our report on [SB 219](#), which delayed the rulemaking deadline [here](#)). As of the date of this alert, CARB still has not announced when it will issue draft regulations for public review and comment. As such, companies potentially subject to the law have yet to see any rules that would allow them to further assess the law’s applicability and reporting requirements and may have just six months to collect highly technical information and prepare reports detailing GHG emissions for the entire calendar year.

In response to CARB’s Enforcement Notice, State Senator Scott Wiener (SB 253’s legislative sponsor) and Senator Henry Stern wrote a [letter](#) to CARB on December 11, 2024, expressing their dismay and frustration with the lack of progress CARB has made to implement the legislation. The senators noted that CARB has yet to hire staff to craft the implementing regulations, leaving the regulated community to wonder whether CARB can realistically adopt implementing regulations by the extended July 1, 2025, deadline. Additionally, the senators cited the importance of the law in preserving “California’s role as a leader and backstop in the fight against the climate

crisis” in the face of “a new federal Administration that has expressed open hostility to climate action in general and corporate emissions disclosure requirements specifically,” and threatened legislative hearings if CARB does not make expeditious progress on the new regulations.

While the 2024 elections will surely bring a shift away from climate policy and ESG matters at the federal level, CARB’s Enforcement Notice indicates the state is moving full speed ahead with its own climate and ESG-related requirements, even while providing companies affected by SB 253 some breathing room to develop more robust processes to account for their GHG emissions, at least for the first reporting cycle. (The Enforcement Notice does not mention SB 261, which will require affected companies to begin disclosing climate-related financial risks beginning in 2026). Given these upcoming requirements and the complexity of climate-related disclosures, we continue to recommend that companies prepare to comply with California’s climate-related reporting and disclosure obligations (see a list of recommended steps [here](#)), while closely monitoring developments with the CARB rulemaking process and the ongoing legal challenge to SB 253 and 261.

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