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The ESG Collaborative

ESG Collaborative Update

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New Deadline Set for California Climate Disclosure Rules

On September 27, California Governor Gavin Newsom yielded to political pressure to provide workable frameworks for the Climate Corporate Data Accountability Act (SB 253) and the Climate-Related Financial Risk Act (SB 261) when he signed into law a bill amending both provisions, SB 219. We summarized the impact of the California climate disclosure legislation package in a previous issue of *ESG Collaborative Update*. SB 219 is a moderate version of the amendments Governor Newsom proposed in June 2024, which were rejected by the California legislature. Whether his efforts to keep the legislation package on track will be successful remains unclear, as litigation challenges against both SB 253 and SB 261 continue in the U.S. District Court for the Central District of California (*U.S. Chamber, et al.*, C.D. Cal., Case 2:24-cv-00801 (Jan. 30, 2024). Later this month, the court will hear oral argument on dispositive motions in the case.

Despite the litigation uncertainty, the key takeaway is that the first reporting deadlines will still begin in 2026. Entities that do business and sell products in California would be wise to begin preparing now to comply with the nation's most extensive mandatory disclosure reporting requirements on greenhouse gas emissions.

The following tables summarize the key changes implemented by SB 219.

Requirement	SB 253	As Amended by SB 219
Deadline for promulgation of CARB regulations	Original deadline was January 1, 2025	CARB will now have until July 1, 2025
Reporting of Scope 1 and 2 emissions	Set to begin in 2026 on or by a date to be determined by CARB, then annually thereafter	No change
Reporting of Scope 3 emissions	Set to begin in 2027 and annually thereafter; no later than 180 days after an entity's reporting of Scope 1 and 2 emissions	Reporting will still begin in 2027, but CARB is now tasked with developing a phased-in schedule
Consolidated disclosures	N/A	Exempts subsidiaries of covered entities from separate reporting; can file a consolidated report at the parent company level
Limited/reasonable assurances for Scope 1 and 2 emissions	Beginning in 2026 and 2030, respectively	No change
Payment of filing fee	Amount undisclosed, but due at time of filing disclosure	Amount still undisclosed, but no longer due at time of filing; no deadline is specified

Requirement	SB 261	As Amended by SB 219
Publication of climate-related financial risk report	Must be published on the covered entity's website, on or before January 1, 2026, and biennially thereafter	No change
Consolidated disclosures	Allows subsidiaries of regulated entities to submit consolidated reporting at parent company level	No change
Climate reporting organization	CARB will contract with a climate reporting organization to prepare reports on climate-related financial risk disclosures	CARB can choose to assume these duties or engage a third party to perform them
Payment of fee	Due on or before January 1, 2026, and biennially thereafter, upon filing disclosure	No longer due at time of filing of disclosure, but due on or before January 1, 2026, and biennially thereafter

To comply with these requirements, covered entities will need to assess and develop internal controls around accounting, planning, operations, and governance practices to ensure successful and accurate disclosures. We previously provided some practical suggestions for ensuring ESG disclosures are specific and accurate. Careful planning and review of ESG disclosures will be central to minimizing compliance and litigation risks associated with ESG-related litigation.

Members of our ESG Collaborative will continue to follow developments in the California climate disclosure litigation and legislative developments related to pending climate accountability legislation in other states.

FOR MORE INFORMATION

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