

SB 253/261 update: CARB workshop on August 2026 reporting, proposed rules for 2027 reporting

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With the August 10, 2026 compliance deadline for initial Scope 1 and 2 emissions disclosures under SB 253 approaching, CARB held a public workshop on March 23 reiterating the enforcement discretion it plans to apply to initial reports and introducing proposals for the next rulemaking, which will cover 2027 reporting (including Scope 3 emissions). While CARB emphasized compliance flexibility, significant ambiguities remain, and a pending legal challenge poses uncertainty for the entire program.

Key developments at CARB's March workshop

On March 23, 2026, the California Air Resources Board (CARB) convened a virtual public workshop on SB 253 (March Workshop) covering the August 10, 2026 deadline for Scope 1 and Scope 2 greenhouse gas (GHG) emissions reporting under the rules approved by CARB in February 2026 and proposed initial rulemaking for 2027 reporting (including Scope 3 GHG emissions). In general, CARB emphasized a flexible approach to compliance, presenting companies with options in key respects. However, ambiguities regarding the applicability of SB 253 under the rules approved by CARB in February 2026 continue to present challenges to companies trying to determine whether they are in scope. In addition, the Ninth Circuit is poised to decide on the district court's denial of the plaintiffs' preliminary injunction motion in the federal lawsuit challenging SB 253 and SB 261.

August 10 deadline for initial SB 253 disclosures

At the March Workshop, CARB reaffirmed that its approach to 2026 Scope 1 and 2 GHG emissions reporting, due August 10, will reflect its December 2024 enforcement notice (CARB Notice). As a reminder, under the CARB Notice and subsequent guidance, CARB will exercise enforcement discretion as follows:

- reporting entities may report Scope 1 and 2 GHG emissions data in 2026 based on information they were already collecting or possessed as of December 2024;
- limited assurance for emissions reporting will not be required;
- in-scope entities that were not collecting Scope 1 and Scope 2 GHG emissions data as of December 2024 (the date of the CARB Notice) will not be expected to submit data for 2026, but rather should submit a statement on company letterhead to CARB stating that they did not submit a report, and indicating that in accordance with the CARB Notice, the company was not collecting data or planning to collect data at the time the CARB Notice was issued; and
- CARB will not take enforcement action against entities making a good-faith effort to comply.

CARB also reiterated that under the rules approved in February 2026, reporting entities with fiscal years ending on or before February 1, 2026 would report FY25-26 data and those with fiscal years ending after February 1, 2026 would

report FY24–25 data.

CARB stated that it expects to publish additional guidance on 2026 reporting in the next few weeks covering:

- reporting format;
- timing of availability of a submission portal; and
- standards for consideration of extension requests of the August 10 deadline.

At the March Workshop, CARB stated that such guidance may also cover more substantive issues such as calculating GHG emissions.

Pre-rulemaking for 2027 and beyond

The bulk of the workshop focused on concepts for the full rulemaking that will govern annual Scope 1, 2 and 3 GHG emissions reporting starting in 2027, as well as standards for limited assurance required for Scope 1 and 2. CARB emphasized that the concepts presented are preliminary, pre-rulemaking proposals, and invited written public comment through April 13, 2026, although they will be open to receive “informal comment” until June 1.

Process and timeline

CARB is currently in the pre-rulemaking phase for the 2027 requirements. After incorporating feedback from this workshop, CARB will prepare a formal Notice of Proposed Rulemaking with draft regulatory text, a staff report, and an economic analysis, followed by a 45-day public comment period before board consideration.

Organizational boundaries

Consistent with the proposed Scope 1 and Scope 2 GHG emissions reporting templates issued in 2025, CARB proposed giving companies flexibility in how they define their “organizational boundary,” that is, the determination of which operations are considered part of the organization for reporting purposes. Under the proposal, an entity can select between the following methods for setting this boundary (and must provide an explanation regarding its choice of method):

- **Equity share approach:** Emissions are attributed in proportion to a company’s ownership stake in an operation (e.g., 10% ownership ? 10% of that operation’s emissions).
- **Control-based approach:** Emissions are attributed based on financial control (ability to direct financial and operating policies) or operational control (authority to implement operating policies). Under a control approach, a company would not attribute to itself the emissions of entities it does not control.

Note that this optionality is important for financial firms that make investments in public or private companies. Following industry guidance published by the Partnership for Carbon Accounting Financials (PCAF), such firms typically follow the control-based approach for investee companies and therefore do not consider such companies to be within their organizational boundaries (because they typically do not make investments to exercise control over investee companies). Under this approach, an investment fund would not consider the Scope 1 or 2 emissions of its investee company as its own Scope 1 or 2 emissions.¹ Under CARB’s proposal, this approach would be consistent with SB 253.

Scope 1 and 2 reporting templates

CARB published draft Scope 1 and 2 reporting templates in October 2025 and received public feedback on issues including emissions intensity metrics, the degree of organizational boundary flexibility, and the use of different global warming potential values. CARB expects to publish updated templates for public comment in the summer of 2026. These templates will not be required for 2026 reporting but will become mandatory beginning with 2027 filings.

Scope 3 reporting

- **Accounting methods.** CARB proposed allowing companies the flexibility to calculate Scope 3 GHG emissions using either (a) publicly-available emissions factors multiplied by the cost of goods or services (spend-based), or by physical measures, such as miles traveled (activity-based), or (b) emissions or activity data collected directly from suppliers (supplier-specific). A hybrid approach that combines supplier-specific data with spend-based or activity-based data

would be permitted as well. CARB is seeking feedback on, among other things, what sort of explanation or documents should be disclosed regarding the use of emissions factors.

- **Phase-in options.** CARB is actively seeking stakeholder input on three options for how Scope 3 GHG emissions reporting should be phased in:
 - **Option 1: No phase-in:** All reporting entities would be required to report on all relevant Scope 3 categories starting in 2027. Companies may exclude categories they determine to be “de minimis.” CARB suggested a range of options for public feedback as to what would be considered “de minimis,” including a quantity-based threshold, feasibility to measure, or a standard based on the category’s relevance or materiality to a company’s operations. CARB is also seeking feedback on what kind of disclosure should be required for a company’s determination that a category is “de minimis.”
 - **Option 2: Sectoral phase-in.** Scope 3 GHG emissions reporting in 2027 would be limited to entities in sectors determined to contribute the most to Scope 3 GHG emissions. The initial focus would cover transportation, technology and energy, cement production, and other manufacturing and industrial activities. Other sectors would be phased in through subsequent rulemaking.
 - **Option 3: Category phase-in:** Scope 3 reporting starting in 2027 would be limited to the five most widely reported categories: Category 1 (purchased goods and services), Category 3 (fuel and energy-related activities), Category 5 (waste generated in operations), Category 6 (business travel), and Category 7 (employee commuting). Additional categories would be phased in over time.

Limited assurance standards for Scope 1 and 2 reporting

As discussed in a prior [client update](#), in November 2025, CARB announced that, in an exercise of its enforcement discretion, limited assurance of Scope 1 and Scope 2 emissions would not be required for the initial 2026 reporting period. As such, the requirement that companies obtain assurance for Scope 1 and 2 begins in 2027. At the March Workshop, CARB proposed recognizing a number of assurance standards, including:

- AA1000 Assurance Standard v3
- AICPA AT-C §§ 205 and 210 (reasonable and limited assurance)
- ISAE 3000 and ISAE 3410 (applicable until December 2026)
- ISSA 5000 (effective December 2026; primary standard going forward)
- ISO 14064-3:2019

Among other things, CARB is seeking feedback on whether additional standards should be included in its list.

Estimated compliance costs

California law requires a Standardized Regulatory Impact Assessment (SRIA) for regulations with an estimated economic impact on state businesses and individuals exceeding \$50 million in any 12-month period after adoption. At the March Workshop, CARB presented estimated average annual compliance costs per reporting entity, based in part on the SEC’s 2024 federal climate disclosure rulemaking analysis (adjusted to 2025 dollars):

- Scope 1 and 2 reporting: ~\$82,000
- Scope 3 reporting (incremental): ~\$9,000–\$26,000
- Limited assurance for Scope 1 and 2: ~\$44,000
- **Total: ~\$135,000–\$152,000 per entity per year**

Several commenters challenged these estimates as significantly understated, pointing to selection bias in the underlying survey (which covered only 39 early-adopter companies), expected cost inflation as large numbers of companies enter the market simultaneously, and anticipated competition for a limited pool of qualified assurance providers.

CARB’s February 2026 regulations

Defining “revenues” in the context of a “unitary” business. As we have noted previously, CARB’s initial rulemaking left lingering ambiguities regarding how concepts like “revenue” and “doing business in California” are to be applied in the

context of affiliated corporate entities. During the Q&A portion of the March Workshop, CARB staff touched on one of these ambiguities stating that corporate groups that file taxes as a unitary business should aggregate their revenues in determining whether they meet the relevant thresholds under SB 253 and SB 261. This approach had been mentioned at the November 2025 workshop but did not appear in the rules approved by CARB in February 2026. The statement by CARB staff at the March Workshop suggests that CARB has not abandoned the interpretation it proposed at the November 2025 workshop.

Next steps. At the March Workshop, CARB stated it would issue a “Final Statement of Reasons” addressing comments to the rules approved by CARB in February 2026. CARB also invited comments on any aspects of those rules that should be revisited as part of the current rulemaking.

Takeaways and next steps

- **Prepare for August 10.** Despite lingering ambiguities regarding the scope of SB 253 discussed in our earlier client updates, companies that are potentially in scope should be preparing for the August 10 deadline. As noted above, under the CARB Notice and subsequent CARB guidance, CARB’s expectations for 2026 reporting are fairly limited: companies need only report Scope 1 and 2 GHG emissions data they already possessed or were collecting as of December 2024. Companies should also be on the lookout for additional CARB guidance on procedures for August 10 reporting.
- **CARB’s emphasis on regulatory flexibility is welcome.** CARB’s initial proposals for 2027 reporting provide a wide berth for companies on a number of issues, including organizational boundary definitions and Scope 3 accounting methods. These approaches reflect the current practices of many companies for GHG emissions accounting and reporting, and if finalized, would allow those companies to maintain those practices. However, it remains to be seen whether CARB maintains this approach as the rulemaking process continues; CARB’s position on key issues shifted dramatically during the first rulemaking process.
- **Significant uncertainty regarding Scope 3.** While the wide variety of compliance options CARB is considering for Scope 3 GHG emissions indicates that CARB is thinking creatively about how to balance compliance burdens on companies with statutory requirements, this variety leaves companies with little signal as to what they should be doing now to make sure that they are in a position to comply in 2027. For example, will the “de minimis” exception under Option 1 be defined broadly enough to give companies the leeway to exclude categories deemed non-material or not feasible to collect? Or will reporting for entire categories or sectors be deferred entirely under Option 2 or 3? Companies are advised to continue to monitor CARB’s rulemaking as it proceeds.
- **Federal litigation remains a wild card.** The federal lawsuit challenging SB 253 and SB 261 under the First Amendment remains pending, with an appeal from the district court’s denial of the challengers’ preliminary injunction motion fully briefed and argued. A decision from the Ninth Circuit could come at any time and could either remove the existing stay of SB 261 or enjoin SB 253, potentially putting the entire program on hold. Companies should continue monitoring the litigation while preparing for compliance.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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- ¹ Under PCAF guidance, the investment fund would typically consider the emissions of its investee company of any scope as the fund's Scope 3 financed emissions under Category 15. CARB's approach to financed emissions will depend on how it addresses Scope 3 emissions, discussed below.