



BACUTI

Solutions for a Cleaner Planet

BACUTI Primer

UNDERSTANDING CALIFORNIA'S SB-253 AND SB-261 REGULATIONS

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INTRODUCTION

California is currently the fifth-largest economy in the world, housing a significant portion of American businesses' operations and consumer base. Thus, the state is able to consistently influence the nature of environmental responsibility policy nationwide, pioneering environmental regulations throughout its history. In 1947, California was the first state to enact an air pollution statute, and in 1964 it created the first emission standards for motor vehicles in the world.

On October 7, 2023, California passed the Climate Corporate Data Accountability Act (CCDAA) and the Climate-Related Financial Risk Act (CRFRA), the most extensive climate disclosure laws in the United States. Now, other major states like Illinois and New York are set to follow suit with their own climate disclosure regulations.

The package is comprised of Senate Bill 253 (CCDAA) and Senate Bill 261 (CRFRA), which were signed into law as a package by Governor Gavin Newsom. These bills impose sweeping sustainability requirements on businesses operating in California which will come into effect in phases over the next several years. SB-253 is primarily concerned with mandating intensive reporting of greenhouse gas (GHG) emissions, both directly and indirectly associated with a company. SB-261 requires disclosure of climate-related financial risks. Both regulations will be administered and enforced by the California Air Resources Board (CARB).

Background

Corporate emissions and responsibility have come to the forefront of public and legislative consciousness, and California has received the brunt of many impacts of climate change including floods, wildfires, and other environmental hazards. As a result, the State of California has made it a target to heavily reduce the corporate impact on climate change and achieve a drastic reduction in statewide greenhouse gas emissions. Both of the component bills were primarily sponsored by Scott Wiener (SD-11), Henry Stern (SD-27), and Lena Gonzalez (SD-33); Josh Becker (SD-13) is an additional primary sponsor of SB-261. The bills were introduced to the State Senate on January 30, 2023. Both bills were agreed upon relatively quickly and passed by the State Assembly in September, and they were signed into law simultaneously by Governor Gavin Newsom on October 7.

SENATE BILL 253

SB-253 requires companies to conduct an annual evaluation and public disclosure of their emissions to maximize the availability of sustainability information for investors, shareholders, and customers. This bill requires CARB to finalize a full regulation by January 1, 2025, including deadlines, resources, and support.

Reporting Requirements

Affected entities will be required to report on their greenhouse gas (GHG) emissions on an annual basis in accordance with the [Greenhouse Gas Protocol](#). The bill necessitates reporting of each of the three main “scopes” of emissions, defined as the following:

- “Scope 1 emissions” means all direct greenhouse gas emissions that stem from sources that a reporting entity owns or directly controls, regardless of location, including, but not limited to, fuel combustion activities.
- “Scope 2 emissions” means indirect greenhouse gas emissions from consumed electricity, steam, heating, or cooling purchased or acquired by a reporting entity, regardless of location.
- “Scope 3 emissions” means indirect upstream and downstream greenhouse gas emissions, other than scope 2 emissions, from sources that the reporting entity does not own or directly control and may include, but are not limited to, purchased goods and services, business travel, employee commutes, and processing and use of sold products.

Failure to comply with this regulation, including but not limited to providing an incomplete report or failing to report at all, can result in a fine imposed by the state board of up to **\$500,000 per year**. Inaccurate reporting of scope 3 emissions will not incur a penalty until 2030.

Companies Affected

The terms of SB-253 apply to any company incorporated in the United States, private or public, doing business in the state of California that earns **at least \$1 billion in annual revenue**. This will affect approximately 5,300 corporations, LLCs, partnerships, and other entities. Whether a company meets the \$1 billion threshold will be determined according to total revenue gained during the prior fiscal year. The definition of “doing business” in California has yet to be explicitly defined for the purposes of this bill, however, the state’s Franchise Tax Board provides a definition which can be found [here](#).

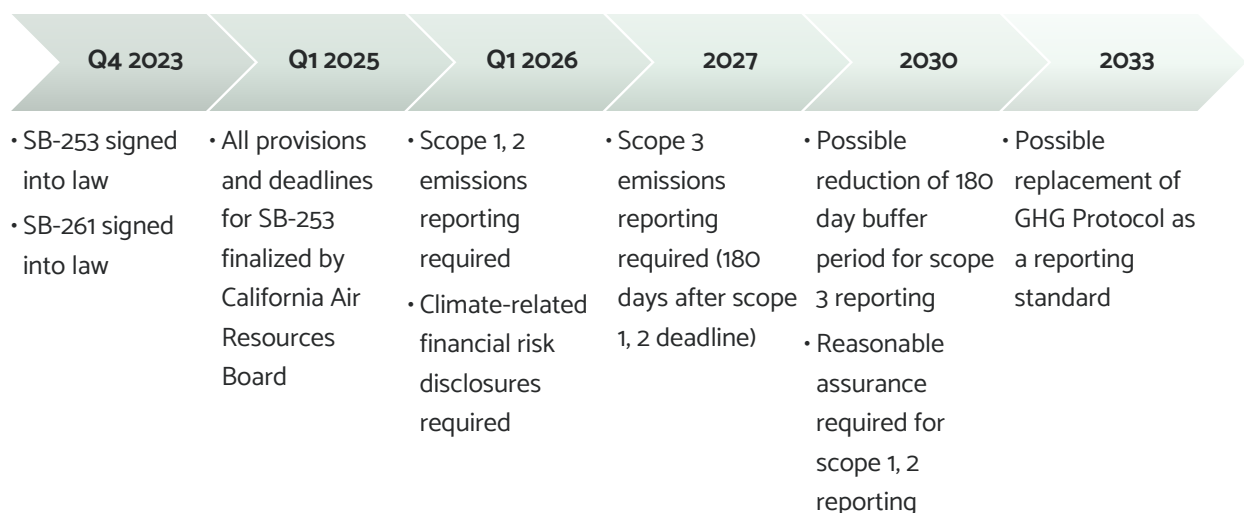
Implementation Timeline

SB-253 has yet to be fully drafted; CARB has been tasked with finalizing the specifics and methodology of the bill by **January 1, 2025**. State Senator Josh Becker's policy team has clarified that, while technical support and resources will be provided by the government, the details are unconfirmed until funding is allocated by the aforementioned deadline. SB-253 will be rolling out in two main phases.

The first phase concerns reporting of scope 1 and scope 2 emissions and will require annual reporting beginning in 2026 for the 2025 fiscal year. Currently, the exact deadline is not specified; CARB will determine the specific date shortly.

The second phase entails reporting of scope 3 emissions, referred to as the “corporate value chain.” Scope 3 emissions are substantially more difficult to quantify and the process for measuring them is more involved. To allow for adequate time for planning and preparation this phase will be implemented one year after the first: **reporting of scope 3 emissions begins annually in 2027 for the 2026 fiscal year**. Scope 3 reporting will have an additional 180 days after the initial scope 1 and 2 deadline. Scope 3 emissions reporting need to follow a unique GHG protocol standard. (Details [here](#))

Companies will be required to acquire an assurance engagement from a third-party assurance provider, which must have experience in “measuring, analyzing, reporting, or attesting to the emission of greenhouse gasses.” In 2026, scope 1 and 2 emissions reporting must be completed at a **limited assurance level** (i.e. rigorous enough to **find** no inaccuracies in reporting). Beginning in 2030, this requirement will be expanded to scope 3 emissions, and scope 1 and 2 emissions will need to be



performed at a **reasonable assurance level** (i.e. rigorous enough to **prove** no inaccuracies in reporting). Provisions for obtaining an assurance engagement will be more detailed once the bill is finalized in 2025.

SENATE BILL 261

SB-261 imposes an upcoming requirement on companies in California to conduct risk evaluation and disclose financial risk related to climate impact on a biennial basis.

Reporting Requirements

Every two years, beginning on January 1, 2026, SB-261 requires companies to publish a publicly available report on climate-related financial risk, which the bill defines as the following:

“Climate-related financial risk” means material risk of harm to immediate and long-term financial outcomes due to physical and transition risks, including, but not limited to, risks to corporate operations, provision of goods and services, supply chains, employee health and safety, capital and financial investments, institutional investments, financial standing of loan recipients and borrowers, shareholder value, consumer demand, and financial markets and economic health.

Reporting must also include an analysis of how these climate-related financial risks have the potential to impact the state of California and its residents, specifically “economically vulnerable communities,” in addition to outlining concrete measures taken to mitigate this financial risk in the previous reporting period. Reporting is to be completed using the Task Force on Climate-Related Financial Disclosures ([TCFD](#)) framework.

Failure to file a disclosure or filing an incomplete disclosure can incur a fine of up to **\$50,000** from the state board.

Companies Affected

SB-261’s scope is similar to SB-253’s scope, applying to any private or public US-based company that conducts business in California. However, the minimum annual revenue for a company to be impacted is **\$500 million**, half that of SB-253. As a result, approximately 10,000 companies will be affected.

IMPLICATIONS FOR BUSINESSES

Reception

Overall, SB-253 has received support from California businesses and the public. Many large companies such as Microsoft have endorsed SB-253, because the bill will standardize emissions reporting across the board, increasing accessibility of information to investors and allowing companies to demonstrate their role in mitigating climate impact.

The acts have received a degree of pushback both internally and externally. Governor Gavin Newsom, despite signing both bills, has not been fully supportive of their reach and may support weakening them. A lawsuit against CARB has been filed by the California Chamber of Commerce and other plaintiffs, claiming that SB-253 violates the Supremacy Clause by potentially overruling the federal Clean Air Act. The aim of the lawsuit is to reduce scope 3 reporting requirements. As of July 2024, this is still in progress.

Comparison: SB-253 vs. SB-261

Regulation	SB-253	SB-261
Implementation Date	2026 (Date Unspecified)	January 1, 2026
Reporting Requirement	Greenhouse gas emissions	Climate-related financial risk
Frequency	Annual	Biennial
Jurisdiction	Private and public companies Incorporated in the U.S. Doing business in California \$1B annual revenue	Private and public companies Incorporated in the U.S. Doing business in California \$500M annual revenue
Financial Penalty	\$500,000	\$50,000
Reporting Framework	GHG Protocol	TCFD
Companies Affected	5,300	10,000
Bill Text	link	link

Future Possibilities

In 2029, the state board will observe trends in scope 3 emissions reporting and determine if it is necessary and feasible to update SB-253 accordingly. The additional 180 days after the scope 1 and 2 deadline could be reduced or eliminated entirely beginning in 2030.

As sustainability reporting regulations standards are still in their relative infancy, **there is currently no universal system of standards in place**. Individual countries and regulations utilize distinct reporting standards from one another, which presents an inefficiency for multinational corporations. It is somewhat likely that a single standard will be adopted by many or all regulatory bodies in the future to facilitate ease of reporting. Every five years beginning in 2033, reporting standards will be evaluated by the state board, and should a viable global framework arise, SB-253 will be modified to support this new standard, replacing the GHG protocol.

SUMMARY

The Climate Corporate Data Accountability Act imposes a slew of sustainability reporting requirements on companies which will come into force soon. Medium to large businesses conducting operations in the United States must be aware of a multitude of upcoming regulations on the federal and statewide levels. Companies must be adequately prepared to disclose their climate data and product-level greenhouse gas emissions. However the calculation and reporting of product-level, scope 3 emissions pose a significant challenge that must be swiftly addressed.

Many companies affected by SB-253 and other emissions reporting regulations have an extensive number of products to evaluate, and the specificity of scope 3 emissions means that sustainability consulting is likely not sufficient moving forward. The most viable solution for this problem in the future will be **utilizing software to conduct a product-level analysis and calculation of greenhouse gas emissions**. The software should also enable efficient sharing of data and comply with scope 3 reporting regulations.

APPENDIX

About BACUTI

BACUTI offers a SaaS platform to calculate and report Product Emissions Footprint (PEF) including Scope 1, 2 and 3 accurately and cost effectively, share data securely across the entire supply chain and build realistic plans and forecasts. Certification workflow is integrated in the platform.

With BACUTI, customers get accurate emissions (Scope 1, 2 & 3) to meet their regulatory requirements (e.g., CBAM). Early adopters of CBAM compliance will have a competitive advantage serving EU customers. PEF estimation processes become cheaper & collaboration with customers improves. Furthermore, customers can grow revenue through value added services around sustainability. Overall, customers should see enhanced brand value due to better sustainability posture.

BACUTI provides

- a ML-based estimation tool to calculate product level emissions cost effectively and at scale,
- a secure enterprise platform to share fine-grained emissions data with selected partners without exposing IP,
- and a SaaS platform that automates reporting, certification, planning and forecasting makes BACUTI unique.

About the Author(s)

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