



PERSPECTIVES

Crosscurrents: California's Senate Bill 253 Mandates Carbon Reporting for Large Companies

Our perspectives feature the viewpoints of our subject matter experts on current topics and emerging trends.

UNDERSTANDING CALIFORNIA'S SENATE BILL 253: CLIMATE CORPORATE DATA ACCOUNTABILITY ACT

California Senate Bill 253, the Climate Corporate Data Accountability Act, was enrolled on September 14, 2023, after passing in the California Assembly on September 11th and the California Senate on September 12th. The bill was originally introduced January 30, 2023, for the 2023-2024 Regular Session. However, it is important to remember that essentially the same bill was originally considered in the prior session, passed the Senate, and failed to pass the Assembly by a single vote. Governor Gavin Newsom, during his address at the Opening Ceremony of Climate Week NYC, announced his intention to sign Senate Bill 253.

While US companies have nervously awaited to see how the Securities and Exchange Commission would address carbon accounting and reporting requirements, now pending for months and months, California has continued to lead the way on the environmental front with the passage of Senate Bill 253. Beginning in 2026, companies with revenues of more than \$1 billion that do business in California will be required to annually disclose Scope 1, 2, and, beginning in 2027, Scope 3 emissions.

DEFINING SCOPE 1, 2, AND 3 EMISSIONS: WHAT COMPANIES NEED TO KNOW

It is first important to note what is meant by disclosure of Scope 1, 2, and 3 emissions:

“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.

The reporting entity will have to comport to Greenhouse Gas Protocol standards and be subject to third party assurance at increasing levels of assurance over time.

A reporting entity will be required to:

“[...]measure and report its emissions of greenhouse gases in conformance with the Greenhouse Gas Protocol standards and guidance, including the Greenhouse Gas Protocol Corporate Accounting and Reporting Standard and the Greenhouse Gas Protocol Corporate Value Chain (Scope 3) Accounting and Reporting Standard developed by the World Resources Institute and the World Business Council for Sustainable Development, including guidance for scope 3 emissions calculations that detail acceptable use of both primary and secondary data sources, including the use of industry average data, proxy data, and other generic data in its scope 3 emissions calculations.

KEY REPORTING REQUIREMENTS AND REGULATORY OVERSIGHT

As part of the reporting, the public disclosure must be made in a form that “maximizes access to consumers, investors, and other stakeholders” to the data and is made in an easily understood fashion. In addition to the formal name of the reporting entity, the reporting must include “any fictitious names, trade names, assumed names, and logos used by

the reporting entity.” Bill 253 directs the California State Air Resources Board (“State Board”) to create the regulatory requirements in such a way that reporting required by Bill 253 can be met by other reports required by other national and international reporting requirements. The State Board is required to create the regulatory program envisioned by Bill 253 on or before January 1, 2025.

ENSURING COMPLIANCE: PENALTIES, ASSURANCE, AND REGULATORY SAFEGUARDS

To ensure that the reporting is accurate, Bill 253 requires independent third-party assurance. As part of the disclosure, the reporting entity must include a copy of the complete assurance report. Beginning in 2026, limited assurance is required for Scope 1 and Scope 2 emissions with reasonable assurance required by 2030. Scope 3 emissions will be subject to limited assurance beginning in 2030.

The State Board is also directed to include in the regulatory program a system of administrative penalties for non-filing, late filing, or other failures to meet the requirements of Bill 253 and the State Board regulatory program. Penalties may not exceed \$500,000 per reporting year. Scope 3 emissions disclosures made with a reasonable basis and disclosed in good faith will not be subject to administrative penalty for misstatements. Between 2027 and 2030, Scope 3 penalties shall be limited to non-filing.

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CONCLUSION

With Governor Newsom’s commitment to sign Senate Bill 253, large companies are now facing climate disclosure requirements for Scope 1, 2, and 3 emissions. While Europe has led carbon reporting through the EU’s Corporate Sustainability Reporting Directive, the United States is now getting into the act. Bill 253’s allowance for common reporting when required by other regulatory programs may benefit large companies by providing a means to harmonize climate disclosure requirements.

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