Grant Thornton

Snapshot

UPDATED OCTOBER 1, 2024
SNAPSHOT 2023-11

California climate reporting bills

SB 219

On September 27, 2024, California Governor Gavin Newsom signed Senate Bill (SB) 219, *Greenhouse gases: climate corporate accountability: climate-related financial risk*, which updates certain items included in SB 253, *Climate Corporate Data Accountability Act,* and in SB 261, *Greenhouse gases: climate-related financial risk*. SB 219 does not update California Assembly Bill 1305, *Voluntary carbon market disclosures* (see Snapshot 2023-12).

Key changes in SB 219 include the following:

- Extends the deadline for the California State Air Resources Board (state board) to develop and adopt the greenhouse gas (GHG) reporting regulations from January 1, 2025 to July 1, 2025. However, compliance dates remain the same, which means that 2025 data will be reported starting in 2026.
- Requires reporting entity (as defined below) to disclose scope 3 GHG emissions on a schedule specified by the state board instead of 180 days after the disclosure of scope 1 and scope 2 GHG emissions.
- Clarifies that if a subsidiary, on its own, qualifies as a reporting entity based on revenue and doing business in California, the subsidiary is not required to prepare a separate report for the purposes of reporting GHG emissions.
- Stipulates that a reporting entity need no longer pay the fee established by the state board upon filing its GHG emissions/climate-related financial risk report.

A "Frequently asked questions" section below includes additional guidance related to SB 219.

While the bill applies only to entities doing business in California that meet applicable revenue thresholds, entities subject to the new reporting requirements are likely to implement various policies and procedures across their value chains. As such, even entities who are not subject to the reporting requirements will benefit from being familiar with the new requirements.

SB 253

SB 253 requires the state board to develop and adopt regulations requiring "reporting entities," as defined, to publicly disclose annually their scope 1, scope 2, and scope 3 GHG emissions based on the Greenhouse Gas Protocol's Corporate Accounting and Reporting Standard and Corporate Value Chain (Scope 3) Accounting and Reporting Standard. For purposes of SB 253, "reporting entities" comprise any "partnership, corporation, limited liability company, or other business entity formed under the laws of this state, the laws of any other state of the United States or the District of Columbia, or under an act of the Congress of the United States" that is doing business in California with total annual revenues exceeding $1 billion. While the bill does not include non-U.S. entities that transact

business in California in the definition of a “reporting entity,” the emission disclosure requirements will likely apply to foreign companies that have legal entities organized in the United States who collectively meet the revenue thresholds and do business in California.

SB 253 requires these reporting entities to annually disclose, beginning in 2026 (on or by a date determined by the state board), their scope 1 and scope 2 GHG emissions for fiscal years beginning in 2025, with limited assurance beginning in 2026. Starting in 2027, reporting entities will be required to disclose scope 3 GHG emissions on a schedule specified by the state board for fiscal years beginning in 2026, with limited assurance beginning in 2030, but the state board may establish an earlier assurance requirement.

SB 253 allows reporting entities to submit these reports based on other national or international reporting requirements if the reports satisfy the requirements of SB 253 in order to avoid any duplication of efforts. Examples of such reporting include reports filed for the European Union’s Corporate Sustainability Reporting Directive or potential climate reporting required by the U.S. Securities and Exchange Commission.

Reporting entities are required to submit their reports to the state board’s digital platform, which will be accessible to the public. Additionally, the state board will adopt penalties for non-filing, late filing, or other failures to meet the requirements of SB 253.

SB 261

SB 261 requires “covered entities” to biennially disclose publicly a “climate-related financial risk report,” which should include the covered entity’s climate-related financial risks as well as measures to mitigate such risks. “Covered entities” are defined as any “corporation, partnership, limited liability company, or other business entity formed under the laws of this state, the laws of any other state of the United States or the District of Columbia, or under an act of the Congress of the United States” that do business in California with total annual revenues exceeding $500 million. The definition of “covered entity” specifically excludes entities that are in the business of insurance. While the bill does not include non-U.S. entities that transact business in California in the definition of a “covered entity,” the climate risk disclosure requirements will likely apply to foreign companies with legal entities organized in the United States who collectively meet the revenue thresholds and do business in California.

SB 261 requires covered entities to prepare on or before January 1, 2026 a climate-related financial risk report, which should include disclosure of

- Climate-related financial risks based on the Final Report of Recommendations of the Task Force on Climate-related Financial Disclosures (TCFD) or on an equivalent standard, such as the International Sustainability Standards Board’s sustainability standards
- Measures to mitigate climate-related financial risk

The bill allows entities with multiple locations to file a consolidated report at the parent level or to comply by preparing a publicly accessible report that includes financial risk disclosures required by other regulations or laws, such as the EU Corporate Sustainability Reporting Directive. Additionally, the state board will adopt regulations to seek penalties for failures to publicly report the necessary information.

Doing business in California

SB 219 includes a requirement for an entity that “does business in California” to comply with the new reporting requirements. This phrase is not defined in the bill, but California’s Franchise Tax Board does include the following guidance on its website:

“We consider you to be ‘doing business’ if you meet any of the following:

- Engage in any transaction for the purpose of financial gain within California
- Are organized or commercially domiciled in California
- Your California sales, property or payroll exceed the following amounts for 2023:
  - California sales tax $711,538
  - California real and tangible personal property exceed $71,154
  - California payroll compensation exceeds $71,154.”

Next steps

Entities meeting the revenue thresholds are encouraged to determine whether they “do business in California” to understand how both bills will impact their reporting requirements. Additionally, all entities, even those without a business in California, are encouraged to inventory their GHG emissions because they may need to provide GHG emissions data to a reporting entity as part of their scope 3 GHG emissions calculation.

	SB 253	SB 261
Applicability	"Reporting entity" • Doing business in California • Annual revenues in excess of $1 billion • Partnership, corporation, limited liability company, or other business entity formed under laws of California, another U.S. state, District of Columbia, or an act of U.S. Congress	"Covered entity" • Doing business in California • Annual revenues in excess of $500 million • Partnership, corporation, limited liability company, or business entity formed under laws of California, another U.S. state, District of Columbia, or an act of U.S. Congress
Report	Scope 1, scope 2, and scope 3 GHG emissions	Climate-related financial risks and measures to mitigate such risks
Beginning periods	Fiscal years 2025 (scope 1 and scope 2 GHG emissions) and 2026 (scope 3 GHG emissions)	On or before January 1, 2026
Assurance	*Scope 1 and scope 2*: limited assurance beginning in 2026 and reasonable assurance beginning in 2030. *Scope 3:* limited assurance beginning in 2030, with possibility as soon as 2027	None
Frequency	Annually	Biennially

Grant Thornton insight

This regulation is another example of the increasing climate reporting requirements being proposed in numerous jurisdictions. For others, refer to our Snapshot 2022-17 covering proposed disclosures for federal suppliers and Snapshot 2022-19 discussing the European Union's Corporate Sustainability Reporting Directive. With the increased climate reporting requirements, we encourage all entities to establish a comprehensive climate reporting program that will allow you to comply with regulatory requirements, meet stakeholder expectations, and foster resilience by understanding your risks and opportunities.

Our service offerings around climate reporting can assist with meeting your regulatory reporting obligations, including

- Materiality assessments to aid in identifying material topics that require disclosure;
- Climate risk assessments to facilitate disclosure of the impact of climate on your business;
- GHG emissions inventory management plan to gather your GHG emissions data;
- Reporting and gap assessment to identify and assess gaps within the processes, controls, and data against the relevant disclosure requirements; and
- Assurance over the reported information.

Frequently asked questions

What happens next now that SB 219 has passed?

As noted in SB 219, the bill requires the state board to "develop and adopt regulations" that an entity will follow when disclosing its GHG emissions. The bills do not include the specific details around how or where an entity will disclose this information, but instead instruct the state board to determine the reporting program.

Entities meeting the revenue thresholds are encouraged to determine whether they "do business in California" to understand how these bills will impact their reporting requirements. Additionally, all entities, even those not "doing business in California," are encouraged to inventory their GHG emissions because they may need to provide GHG emissions data to another reporting entity as part of that entity's scope 3 GHG emissions calculation. Note that other states, including Illinois, New York, and Washington, have similar reporting legislation in process.

By giving the state board an additional six months and not adjusting the reporting dates, do entities have different compliance dates?

SB 219 does not change the compliance dates for entities. Scope 1 and scope 2 GHG emission reporting begins in 2026 using 2025 data, with limited assurance over the 2025 data. Climate-related financial risk reporting begins on or before January 1, 2026.

Do subsidiaries that meet the requirements of a reporting or covered entity need to submit their own reports?

SB 219 permits a consolidated entity with subsidiaries that individually qualify for reporting to provide a consolidated report.

Where does an entity submit the GHG emissions report?

The state board will determine where and how an entity submits the GHG emissions report as part of the GHG emissions process it is responsible for developing by July 1, 2025. SB 219 allows the state board to either contract with an emissions reporting organization or designate itself as the reporting mechanism.

Where does an entity submit the climate-related financial risk report?

A reporting entity posts the climate-related financial risk report on its publicly available website.

The bill references the TCFD, but hasn't that been superseded?

SB 261 notes that the climate-related financial risk report needs to be prepared in accordance with the recommendations of the TCFD. The bill continues to allow entities to comply with the TCFD's successor or an equivalent reporting requirement, such as those required by a regulator or a listing requirement issued by a regulated exchange or governmental entity. For example, an entity would comply with the bills if it prepares a climate-related report following the International Financial Reporting Standards (IFRS) Sustainability Disclosure Standards issued by the International Sustainability Standards Board (ISSB).

Do not-for-profit entities need to comply with the bill?

The bill does not specifically exclude not-for-profit entities. Based on the available information, it appears that not-for-profit entities will need to comply if they meet the criteria established.

Can an entity's financial statement auditor also provide the limited and reasonable assurance over GHG emissions stipulated by the bill?

A financial statement auditor is an independent third-party assurance provider and can provide assurance over both the financial statements and the GHG emissions.

How does an acquisition impact a reporting entity's GHG emissions report?

The bill states that acquisitions (and other changes like divestments and mergers) should be disclosed consistent with the Greenhouse Gas Protocol standards and guidance.

What are the implications of not submitting a GHG emissions report?

The state board will develop the administrative penalties for non-filing, late filing, or other failure to meet the GHG emissions reporting requirements. The penalty is not to exceed $500,000.

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