Ceres
Sustainability is the bottom line.

A Guide for Businesses: California's New Climate Disclosure Legislation

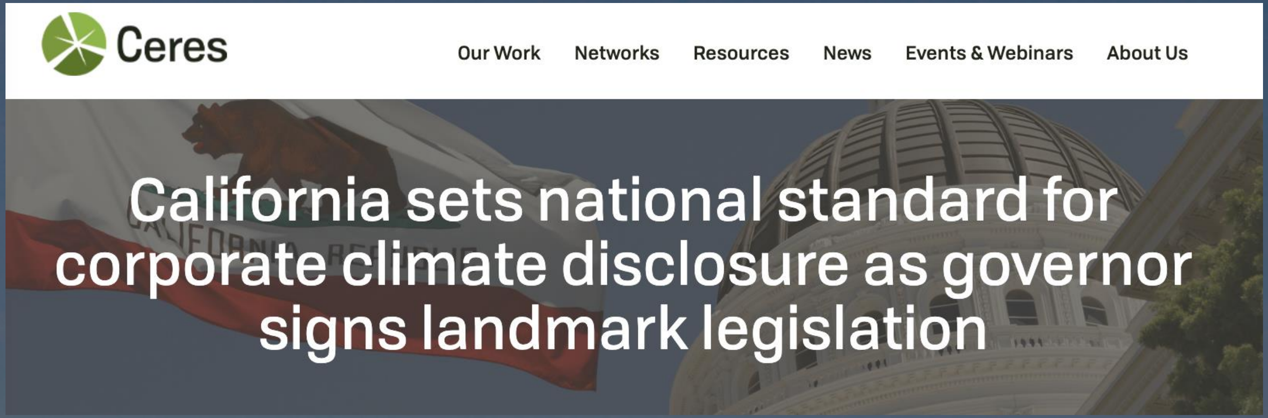
Oct. 31, 2023

Alli Gold Roberts
Senior Director, State Policy
goldroberts@ceres.org

Antitrust Guidelines

Competition and antitrust law prohibits agreements and concerted practices that have the object or effect of preventing, restricting or distorting competition. The most serious breaches of competition law often involve the exchange of competitively sensitive information or coordination of strategic behavior between competitors.

Ceres does not require or seek collective decision-making or action with respect to production, operations, or other activities. Participants are independent entities responsible for their own operational decisions and must always act completely independently to set their own strategies, policies and practices based on their own best interests. Ceres facilitates the exchange of public information, but participants must not share or exchange non-public, competitively sensitive information. Participants may not condition behavior on the actions of other participants. Participants must avoid coordination of strategic behavior that impacts competition.


Ceres
Our Work
Networks
Resources
News
Events & Webinars
About Us
California sets national standard for corporate climate disclosure as governor signs landmark legislation

Microsoft · VF Corporation · patagonia · REI co-op
Grove Collaborative · Avocado Green Brands · alter eco · seventh generation · Abacus
Bonterra Organic Estates · Eileen Fisher · Everlane · paloalto networks
Atlassian · Sierra Nevada · Levi Strauss & Co. · Cultivating Capital Reimagining Business for the 21st Century
peak design · DSM Bright Science. Brighter Living. · Kay Chesterfield · Verdani Partners · Vert Asset Management

September 15, 2023

The Honorable Gavin Newsom
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

RE: 261 (Stern) Greenhouse Gases: Climate-Related Financial Risk – Request for Signature

IKEA · Adobe · Microsoft · REI co-op · Avocado Green Brands
patagonia · Atlassian · Bonterra Organic Estates · Eileen Fisher
Kay Chesterfield · Recology Waste Zero · Sierra Nevada · Everlane · seventh generation
Vert Asset Management · Verdani Partners · Grove Collaborative · Dignity Health · Levi Strauss & Co.
peak design · Cultivating Capital Reimagining Business for the 21st Century · paloalto networks · Abacus

September 15, 2023

The Honorable Gavin Newsom
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

RE: SB 253 (Wiener) The Climate Corporate Data Accountability Act – Request for Signature

Ceres

Businesses Push for Swift Passage of Nation-Leading Climate Disclosure Bills in California

The message of both climate disclosure bills (SB 253 and SB 261) is clear: **climate risk is financial risk.**

Lawmakers must make sure California remains a leader in the clean energy economy.

PASS CLIMATE DISCLOSURE BILLS NOW!

Microsoft · seventh generation · Grove Collaborative
Avocado Green Brands · peak design · DSM
Eileen Fisher · patagonia · REI co-op
Levi Strauss & Co. · Vert Asset Management · Everlane
AC Accessories Council · American Apparel & Footwear Association

Google California
@GoogleInCA

Corporate GHG emissions and climate-risk disclosures are a key element to combating climate change. We've been reporting our own emissions for over a decade, and we're pleased to support SB253 and SB261, which will help create a robust climate-disclosure framework in California.

Senator Scott Wiener
@Scott_Wiener

Huge new endorsement — @Apple — of our groundbreaking climate bill to require large corporations to disclose their carbon footprint (SB 253).

Thank you, Apple, for making clear that this is doable & a critically important piece of climate action.

The Honorable Scott Wiener
State Senator
1021 O Street, Suite 8620
Sacramento, CA 95014-4900

SB 253 (Wiener) - Climate Corporate Data Accountability Act - Support

Dear Senator Wiener:

We are writing to lend Apple's support to your SB 253, which requires large businesses in California to annually disclose their greenhouse gas emissions.

Fighting climate change remains one of Apple's most urgent priorities. Apple is already carbon neutral for our corporate footprint, and we have set an ambitious goal to be carbon neutral across our global supply chain and the lifecycle of every product we make by 2030.

Throughout our environmental journey, we've emphasized the importance of measurement and reporting to help us understand our impact. We're strongly supportive of climate disclosures to improve transparency and drive progress in the fight against climate change, and we're grateful for your leadership to drive comprehensive emissions disclosure.

For the last decade, Apple has modeled, measured, and voluntarily reported our carbon emissions, working to improve the accuracy of our footprint and raise the ambition of our goals. Our efforts over the years appear in a comprehensive annual environmental report that outlines our environmental efforts, including our work to reduce our carbon footprint, strategies to address our climate impact, and progress towards reaching our carbon neutrality goal.

Laudable Measures

The approach proposed in SB 253 aligns with many of the lessons Apple has learned during our journey, and we'd like to commend a few aspects in particular:

Inclusion of Scope 3 emissions

To ensure accuracy and transparency, we strongly believe that companies' carbon emissions disclosures should include their scope 3 emissions. While these emissions can be challenging to measure, they are essential to understanding the full range of a company's climate impacts.

We acknowledge that there is inherent uncertainty in modeling carbon emissions, primarily due to data limitations. Scope 3 emissions, in particular, involve making educated assumptions and complex modeling. We believe, however, that our reports attest to the feasibility of reasonably modeling, measuring and reporting on all three scopes of emissions, including scope 3 emissions, which represent the overwhelming majority of most companies' carbon footprint and are therefore critical to include.

Third party assurance

We have found that engaging third-party experts can help ensure the desired quality, consistency, comparability and reliability of the information we report. We support the

the quality and appropriateness of third party assurances.

Harmonization and efficiency

Given the likely proliferation of mandatory disclosures at the international, national, and sub-national level, we appreciate the provisions for the state board to minimize the need for reporting entities to prepare duplicative reports or engage multiple assurance providers. We would welcome further efforts to promote convergence at a national and international level.

Opportunities

While we are in strong support of the bill overall, we see a few opportunities to improve implementation:

Standards

We align with reporting frameworks such as the Global Reporting Initiative and the Task Force on Climate-related Financial Disclosures (TCFD) in measuring and reporting our global carbon footprint, including direct emissions (scope 1), indirect emissions (scope 2), and relevant emissions across our corporate value chain (scope 3), including the full life cycle of our products. We account for our comprehensive emissions in accordance with the Greenhouse Gas Protocol, and have developed detailed life cycle assessment models to account for relevant scope 3 emissions for our products in accordance with ISO 14040/14044 and based on a combination of Apple-specific and industry-average datasets for material production, manufacturing processes, electricity generation, and transportation.

While the Greenhouse Gas Protocol is certainly an appropriate and widely used international standard, the legislation should contemplate the use of additional and equivalent, internationally recognized standards for organizational greenhouse gas reporting, such as those developed by the International Organization for Standardization, sooner than 2033. The state board should have the ability to review and confirm additional accounting and reporting standards on a more frequent basis.

Timelines

The legislation currently leaves open the date by which Scope 1 and Scope 2 disclosures must be made. In setting the reporting deadlines, we encourage the state board to consider leaving sufficient time for data collection, quality control, and third party review.

Summary of our support

Your bill would encourage others to speed up their efforts towards carbon neutrality, and push them to work with their supply chains, just as Apple is doing. We thank you for your efforts to maintain California as a leader in fighting climate change.

Very Truly Yours,

D. Michael Foulkes
Director
State and Local Government Affairs

Agenda

1. Welcome and Introductions
2. Remarks by Senator Scott Wiener and Senator Henry Stern
3. Remarks by Leading Companies and Industry Associations
4. Technical Overview of SB 253 and SB 261
5. Harmonization and Comparison with Draft SEC Rule and Other International Requirements
6. Next Steps
7. Q&A

Senator Scott Wiener
CA 11
Author, SB 253

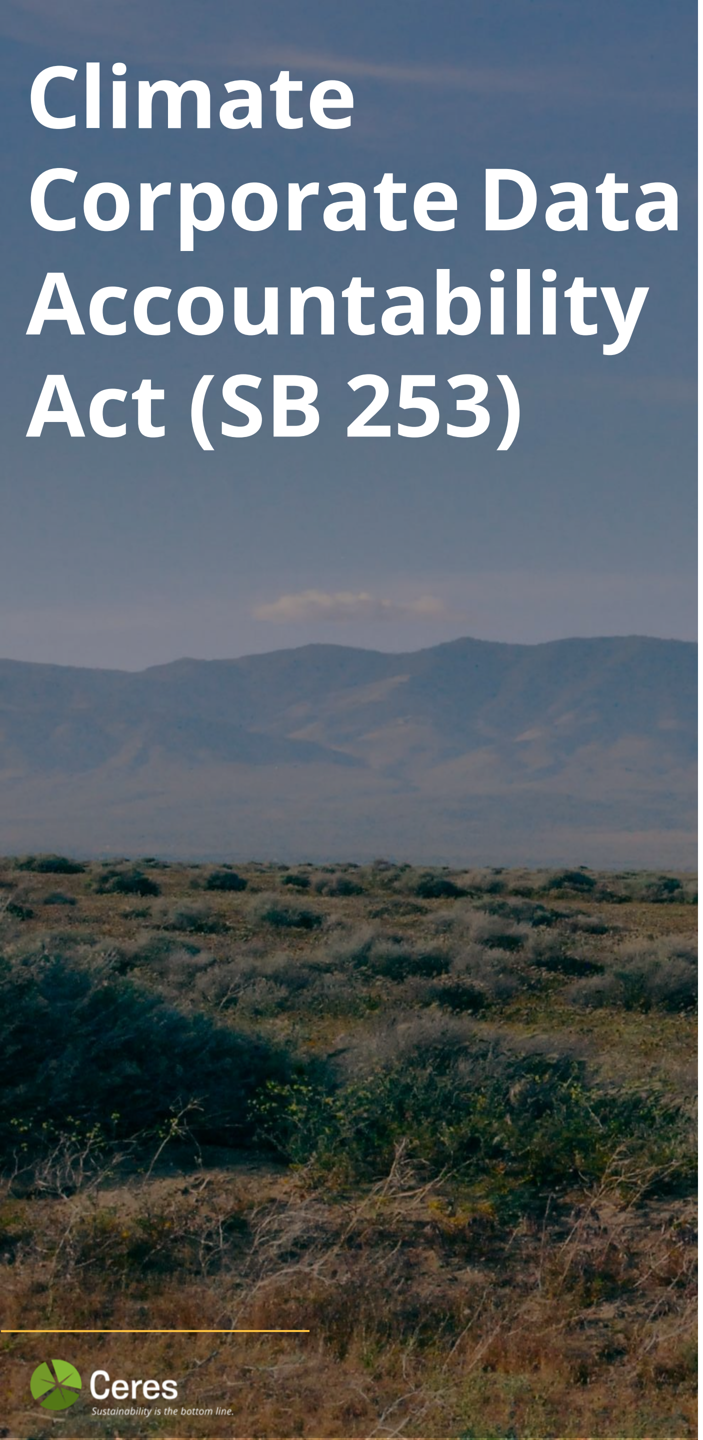
Senator Henry Stern
CA 27
Author, SB 261

Chelsea Murtha
Director of Sustainability
American Apparel and Footwear Association

Technical Overview of SB 253 and SB 261

Sarah Sachs
Manager, State Policy West
ssachs@ceres.org

Climate Corporate Data Accountability Act (SB 253)



WHAT: The Climate Corporate Data Accountability Act (SB 253) will require U.S. and multinational companies doing business in California with revenues of at least $1 billion to annually report their complete greenhouse gas (GHG) emissions—scopes 1, 2, and 3—to a third-party emissions reporting organization contracted by the California Air Resources Board (CARB).

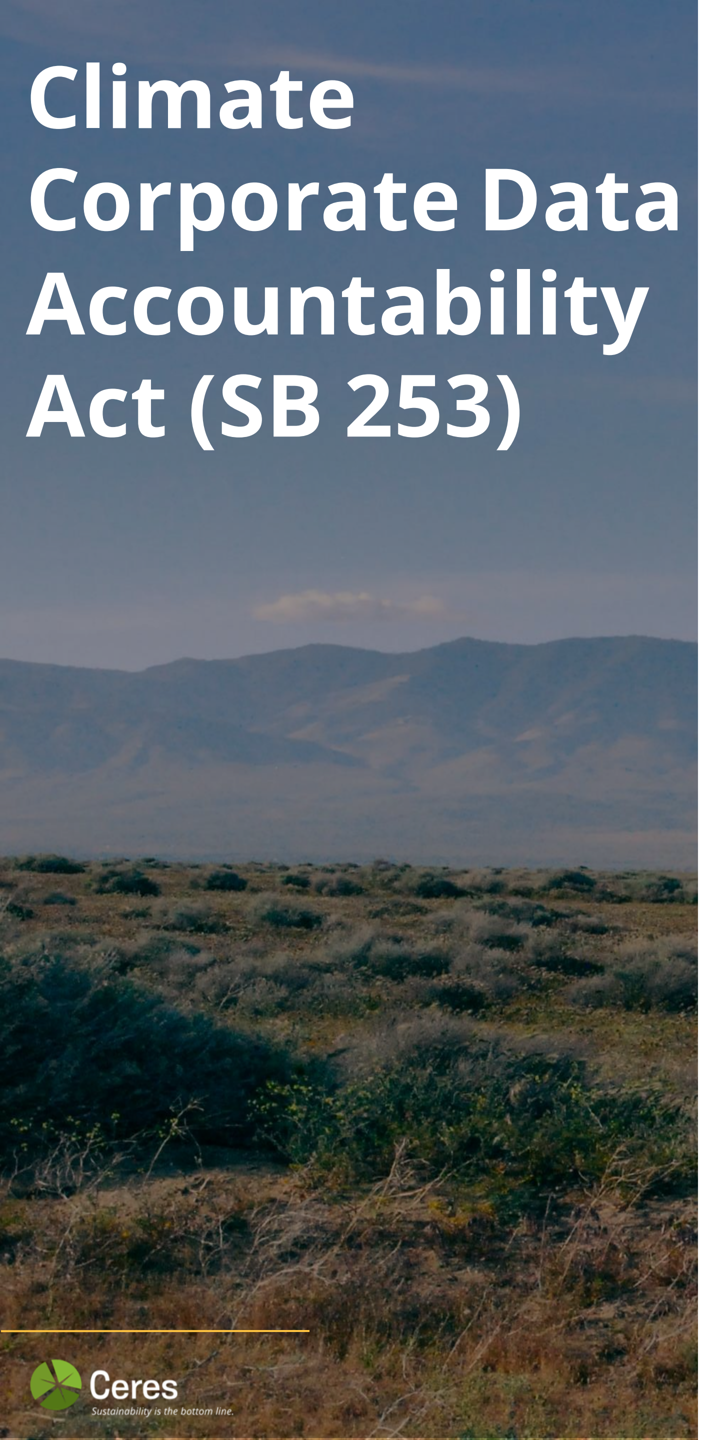
WHO: The law will apply to an estimated 5,300 U.S. and multinational companies—including publicly and privately held corporations, LLCs, and partnerships—that meet the $1 billion revenue threshold and are "doing business in California."

HOW: SB 253 identifies the GHG Protocol—the most widely adopted GHG emissions reporting framework—as the standard for disclosures. Emissions data must be verified by a third-party assurance provider. CARB will finalize reporting regulations by Jan. 1, 2025.

WHEN: Scope 1 and 2 emissions data will be required beginning in 2026 on a date to be set by CARB. Scope 3 emissions data will be required beginning in 2027 on a date to be set by CARB.

Ceres
Sustainability is the bottom line.

Climate Corporate Data Accountability Act (SB 253)



WHAT ELSE?

- **Annual Filing Fee:** To support CARB's administration and implementation of this regulation, covered companies are required to pay an annual filing fee to the state.
- **Administrative Penalties:** CARB will develop regulations that authorize it to seek administrative penalties for nonfiling, late filing, or other failure to meet the requirements of SB 253.
    - **Fee Cap:** Administrative penalties may not exceed $500,000 in a reporting year
    - **Good Faith Considerations:** When considering a penalty, CARB will assess the entity's past and present compliance with the regulation and whether they took good faith measures to comply with the regulation.
    - **Scope 3 Safe Harbor:** Covered entities will not be subject to an administrative penalty for any scope 3 data misstatements made under a reasonable basis and disclosed in good faith.
    - **On Ramp For Scope 3 Penalties:** Between 2027 and 2030, penalties regarding scope 3 data will only occur for nonfiling.
- **Assessment of Global Emissions Reporting Best Practices:** Beginning in 2033, CARB will assess best practices in greenhouse gas accounting and reporting standards every five years.

Climate-Related Financial Risk Disclosure Act (SB 261)

WHAT: The Climate-Related Risk Disclosure Act (SB 261) will require U.S. and multinational companies doing business in California with revenues of at least $500 million to biennially prepare and publish a climate-related financial risk report.

WHO: The law will apply to an estimated 10,000 U.S. and multinational companies—including publicly and privately held corporations, LLCs, and partnerships—that meet the $500 million revenue threshold and are "doing business in California."

HOW: SB 261 identifies the International Task Force on Climate-Related Financial Disclosures' (TCFD) framework as the standard to be used for disclosures. The TCFD framework is also expected to be used by the SEC for their pending climate disclosure rule and is incorporated in the CDP's climate change questionnaire.

WHEN: The first disclosures will be required by Jan. 1, 2026.

Ceres

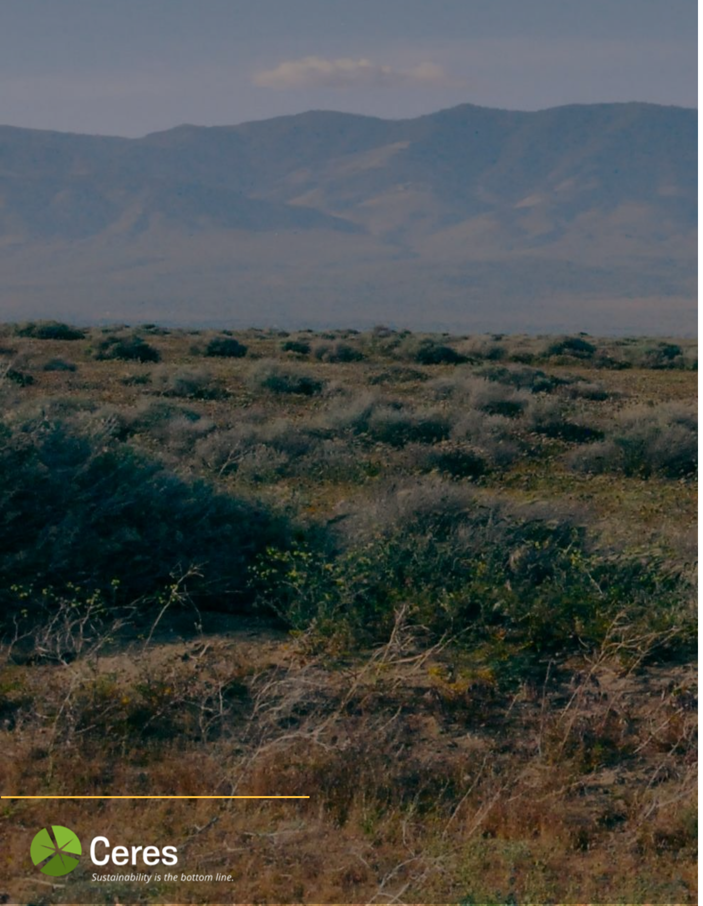
Sustainability is the bottom line.

Climate-Related Financial Risk Disclosure Act (SB 261)

WHAT ELSE?

- **Annual Filing Fee:** To support CARB's administration and implementation of this regulation, covered companies are required to pay an annual filing fee to the state.
- **Administrative Penalties:** CARB will develop regulations that authorize it to seek administrative penalties for failing to make the required disclosures publicly available on their website or publishing an inadequate or insufficient report.
  - **Fee Cap:** Administrative penalties may not exceed $50,000 in a reporting year.
  - **Good Faith Considerations:** When considering a penalty, CARB will assess the entity's past and present compliance with the regulation and whether they took good faith measures to comply with the regulation.
- **Third-Party Climate Reporting Organization:** As the implementing state agency, CARB will contract with a third-party organization to support the implementation of this regulation.
  - **Biennial Summary Report:** The contracted organization will prepare a biennial report on the disclosures required by this regulation.
  - **Stakeholder Convenings:** The contracted organization will regularly convene relevant stakeholders to offer input on climate-related risk disclosure best practices.
  - **Monitoring of Federal Actions on Climate-Related Risk Disclosure:** The contracted organization will also monitor federal regulatory actions among agency members of the federal Financial Stability Oversight Council and non-independent regulators overseen by the White House.

Defining "Doing Business in California"



California's Revenue and Taxation Code Law defines doing business in California as:

- Engaging in any transaction for the purpose of financial gain within California;
- Being organized or commercially domiciled in California or;
- Having California sales, property, or payroll exceed $690,144, $69,015, and $69,015, respectively, as of 2022.

CARB will finalize definition during regulation development for SB 253 and SB 261

Provisions to Reduce Duplicative Reporting

SB 253 Provision:

(D) (i) That the emissions reporting is structured in a way that minimizes duplication of effort and allows a reporting entity to submit to the emissions reporting organization reports prepared to meet other national and international reporting requirements, including any reports required by the federal government, as long as those reports satisfy all of the requirements of this section.

SB 261 Provision:

(4) Notwithstanding paragraph (1), a covered entity satisfies the requirements of paragraph (1) if it prepares a publicly accessible biennial report that includes climate-related financial risk disclosure information by any of the following methods:

(A) Pursuant to a law, regulation, or listing requirement issued by any regulated exchange, national government, or other governmental entity, including a law or regulation issued by the United States government, incorporating disclosure requirements consistent with clause (i) of subparagraph (A) of paragraph (1), including the International Financial Reporting Standards Sustainability Disclosure Standards, as issued by the International Sustainability Standards Board.

(B) Voluntarily using a framework that meets the requirements of clause (i) of subparagraph (A) of paragraph (1) or the International Financial Reporting Standards Sustainability Disclosure Standards, as issued by the International Sustainability Standards Board.

Ceres
Sustainability is the bottom line.

Harmonization and Comparison with Draft SEC Rule and Other International Requirements

Jake Rascoff
Director, Ceres Accelerator for Sustainable Capital Markets
jrascoff@ceres.org

Global Mandatory Disclosure Landscape

	California Disclosure Laws	SEC Proposed Climate Disclosure Rule	EU CSRD
Scope of Coverage	Public & private companies (including LLCs and partnerships) organized in the United States and "doing business in California" **SB 261**: >$500 million revenue (~10,000 companies) **SB 253**: >$1 billion revenue (~5,000 companies)	SEC registrants (mostly companies with U.S. public equity listings, including foreign private issuers) ~8,000 companies	1) Companies listed on EU-regulated markets; 2) large EU companies, both listed and unlisted, including large subsidiaries of non-EU companies; 3) SMEs listed in the EU; 4) non-EU parent companies with more than €150 million in annual EU revenue ~50,000 EU companies and ~10,000 non-EU companies (1/3 of those U.S. co.'s)
Information Required	**SB 261**: Biennial preparation and publication of a TCFD-aligned risk report **SB 253**: Annual Scope 1-3 emissions data Emissions data required regardless of materiality determination	Climate-related risks, primarily through the lens of traditional financial materiality Scope 1-2 emissions; Scope 3 if material or if the company has set a target	Broad range of sustainability topics—not just climate, but also environment, social, and governance. Unique double materiality threshold Emissions reporting subject to (double) materiality determination
Status	Signed by Governor Newsom; pending regulatory implementation	Pending finalization and adoption	Implementation ongoing; first round of companies will report on 2024 data
Key Questions	CARB implementation; scope of anticipated follow-up legislation	Some key issues in question (e.g., Scope 3, financial statement footnotes); political landscape; litigation anticipated	Multinational companies must determine reporting entities; double materiality assessments must begin; some ESRS topical standards may present challenges

SEC Climate Disclosure Rulemaking

Overlap with California laws and impact on economic baseline

- At least 75% of Fortune 1000 companies covered by SB 253; 73% covered by both SB 253 and SB 261.

Key outstanding questions for final rule

- Emissions disclosure
- Financial statement footnote disclosure of climate metrics
- Materiality

Political landscape

- Controversy over Scope 3

Litigation outlook

- Who will sue?
- Major Questions Doctrine
- First Amendment challenges


Next Steps

Implementation Process

Implementation Guidance and Timeline:

- **SB 253:**
  - CARB is required to develop and adopt regulations for corporate emissions disclosures, contract with a climate organization, and adopt regulations for administrative penalties.
  - Regulations must be finalized by January 1, 2025.
- **SB 261:**
  - CARB is required to contract with a climate organization and adopt regulations for administrative penalties.
  - No timeline specified for the regulatory process.

Governor Newsom's Concerns and "Clean Up" Legislation:

- In his signing messages for both bills, the Governor expressed concern that "the implementation deadlines fall short in providing the California Air Resources Board (CARB) will sufficient time to adequately carry out the requirements" for each bill.
- He also noted that he was directing his Administration to work to address this with Senator Stern and Senator Wiener in 2024.

Future Corporate Engagement Opportunities

Continued business engagement will be critical for successful implementation of SB 253 and SB 261

- CARB will rely on stakeholder input throughout the implementation process, especially from businesses

Engagement Opportunities Will Include:

- **CARB Implementation Process in 2024**
  - Public comment periods
  - Public hearings
  - Meetings with CARB board members and staff
- **2024 Legislative Session**
  - Budget advocacy for implementation funding
  - Clean up legislation (TBD)
- **Newsom Administration Engagement**
  - Budget advocacy for implementation funding
  - Clean up legislation (TBD)
  - Reinforcement of implementation process priorities

Ceres
Sustainability is the bottom line.

Q&A

We Value Your Feedback

Please scan the QR code to access the survey

Protect the

Freedom to Invest

Join leading investors and companies to call on policymakers to protect the freedom to invest responsibly.

Reaffirm your commitment to factoring all material financial risks into decision-making.

Sign the Freedom to Invest statement
at: freedomtoinvest.org or scan QR code to learn more.


Ceres
THE INVESTOR GUIDE TO CLIMATE TRANSITION PLANS IN THE U.S. FOOD SECTOR
May 2022
Ceres
Ceres Accelerator for Sustainable Capital Markets
DERIVATIVES & BANK CLIMATE RISK
Financing a Net Zero Economy
SEPTEMBER 2022
Benchmarking Methane and Other GHG Emissions
Of Oil & Natural Gas Production in the United States
May 2023
Data downloads at: www.sustainability.com
Read the latest sustainability research.
CERES.ORG/REPORTS
Responsible Policy Engagement Analysis 2022
How companies are—and are not—leading on U.S. climate policy
November 2022
Ceres
Ceres Accelerator
Climate Transition Plans in the U.S. Food Sector
Addressing Risks to Farmers and Farmworkers
Ceres
January 2023
Ceres
Global Institute for Water Security
USASK
GLOBAL ASSESSMENT OF PRIVATE SECTOR IMPACTS ON WATER
April 2022

Thank you!

Additional questions? Please reach out!

CARB Implementation: Jake Rascoff (jrascoff@ceres.org)
Legislative Engagement: Sarah Sachs (ssachs@ceres.org)

Learn more about the Ceres Policy Network:
https://www.ceres.org/networks/ceres-policy-network

Ceres
Sustainability is the bottom line.