

California's SB 261 on Hold? Why You Should Disclose Anyway.

By Douglas Hileman

California's climate disclosure laws were passed in October 2023. SB 261 requires disclosures of climate-related risks, strategy and other narrative by January 1, 2026.



Yep, you read that right. January 1, 2026 – less than a month away.

The legal landscape is messy. The 9th Circuit Court of Appeals recently granted an injunction, placing a temporary stay on the enforcement of SB 261 requirements. California Air Resources Board (CARB) is addressing content and reporting channels, the court has effectively hit the “pause” button for legal requirements. As of early December 5, 2025, the final appeal hasn't been resolved.



Disclose/ not disclose? Where/ when? What's a company to do?

I suggest companies are worrying too much about the court case, and not enough about the market – or their own risk profile. The smart move is to disclose. It's not a matter of whether companies should make disclosures, it's a matter of when and how. Here's why it's smart to make disclosures before December 31, 2025.

1. **It aligns with the global standard.** California's requirements follow the taxonomy of the Task Force for Climate-Related Financial Disclosures (TCFD): governance, strategy, risk, metrics and targets. TCFD has been widely adopted, and has now been superseded by the ISSB's global standards (IFRS S2¹), cementing this framework as the international norm. California didn't really go above and beyond.
2. **Everyone is Doing it.** CDP (formerly the Carbon Disclosure Project) is a disclosure portal used by over 24,000 companies in 2025. TCFD requirements form the foundation of the narrative segment of CDP's GHG disclosure fields. The content outlined in SB 261 is already being used by stakeholders.



¹ See <https://www.ifrs.org/issued-standards/ifrs-sustainability-standards-navigator/ifrs-s2-climate-related-disclosures/>



3. **You can't backdate "good governance." Or "What we have here is a failure to communicate."** Many of the largest fines, penalties, and damages to reputation have occurred as a result of failures to notify regulatory authorities, provide notice to stakeholders, or disclose aspects of products or services. Narrative disclosures include describing your governance structure and how you identify risks during the reporting period. You can't create a policy in February 2026 that applies to Calendar Year 2025. Similarly, you can't backdate committee meetings or risk assessments. At least, you shouldn't. Companies that don't act in 2025 (and create suitable documentation) will create a "compliance donut hole" that cannot be filled in later.



4. **Take control of the narrative.** Companies can demonstrate a good faith effort by making disclosures according to the originally-mandated timeline. "Pretty good" is better than "nothing" – even if you can't provide "perfect." Even a light touch can address an issue, and help create a blueprint for effort in 2026. By voluntarily posting disclosures on their website now, companies can control where and how researchers (including AI) find the disclosures. If not, third parties (shareholders, analysts, etc.) may draw negative conclusions.

Douglas Hileman has helped clients with compliance, risk, audit readiness, and audit efforts for over four decades. He has helped clients achieve success in climate disclosures, GHG emissions calculations and audit readiness, Sustainability reporting and disclosures, internal audits, and governance/ risk/ compliance programs. He was the senior environmental specialist on the Volkswagen Monitor Team. He is an author of the widely-acclaimed COSO document "Achieving Effective Internal Controls over Sustainability Reporting (ICSR)". The COSO ICSR document has been leveraged for assurance efforts on GHG emissions reporting and disclosures, and other Sustainability disclosures. See



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