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Speaking Sustainability: Policy & Regulatory Updates | September & October 2026

November 23, 2026

Reading Time : **3 min**

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Key Topics

- California's Initial Climate Disclosure Regulation Takes Effect as First Senate Bill (SB) 253 Reporting Deadline Approaches
- The Environment Protection Agency (EPA) Finalizes Repeal of 2024 Power Plant Pollution Standards
- The European Union (EU) Moves to Rate Data Center Sustainability

The Details

On November 9, 2026, a divided panel of the U.S. Court of Appeals for the Ninth Circuit ruled that Scope 1 and 2 reporting under California's corporate greenhouse gas (GHG) emissions disclosure statute, SB 253, are constitutionally permissible forms of commercial speech that may be required of entities that satisfy SB 253's reporting thresholds. The ruling follows a recent announcement by the California Air Resources Board (CARB) that its initial regulation implementing aspects of SB 253 (including an initial fee framework), became effective October 12, 2026. Inaugural reports under SB 253 were due on *November 10, 2026*. Without ruling on the merits, the Ninth Circuit continued to block enforcement of SB 253's Scope 3 GHG reporting requirements, as well as the entirety of SB 261 (i.e., California's Climate-Related Financial Risk Act), on the basis that they are likely unconstitutional on First Amendment grounds.

- SB 253 generally applies to United States-based companies with more than $1 billion in annual revenues that do business in California.

- In advance of the inaugural reporting deadline, CARB launched a **voluntary online submission platform** through which covered companies could provide contact information and submit their emission reports. Companies may alternatively submit their information by email.
- In September, CARB also published updated **reporting guidance** and issued reminder letters to potentially covered entities.
- With the first reporting deadline now past, covered companies should evaluate what worked and what may require improvement following this initial reporting cycle, including any gaps that may need to be addressed in advance of the next reporting cycle when limited assurances over emissions data will be required.

The development underscores the increasingly divergent federal and state approaches to corporate climate disclosure, reinforcing the importance of maintaining emissions reporting capabilities even as federal requirements face potential repeal. We have written extensively regarding SB 253 and SB 261, including most recently **here**.

The EPA finalized the repeal of "most provisions" of the 2024 Carbon Pollution Standards for Fossil Fuel-Fired Electric Generating Units. Specifically, EPA repealed emission guidelines for existing fossil fuel-fired steam generating units, the carbon capture and sequestration/storage (CCS)-based standards for coal-fired steam generating units, and CCS-based standards for new base load stationary combustion turbines (i.e., Phase 2 standards).

- EPA's **press release** also included a **proposed rule** to eliminate remaining federal GHG requirements for fossil fuel-fired power plants, arguing the agency does not have authority under the Clean Air Act to regulate power plant GHGs for the purpose of addressing climate change.
- The agency supported its decision by citing repeal to its 2009 endangerment finding earlier this year and the Supreme Court decision in ***Loper Bright Enterprises v. Raimondo*** that struck down the *Chevron* doctrine, which stood for the proposition that judicial deference was owed to reasonable agency interpretations of ambiguously drafted statutes.
- EPA and industry groups argue the rollback will increase the use of domestic energy and support affordable, reliable electricity amid growing demand, while environmental groups and state and local officials have opposed the changes and launched legal challenges to the repeal.

The European Commission (EC) has proposed a common sustainability rating system for EU data centers, using A–G ratings to provide greater transparency into energy and water efficiency while also reporting information on energy sources, grid flexibility and waste-heat reuse readiness. Operators, rather than owners, are responsible for making the labels available upon request, with the first labels expected to be generated by August 15, 2027.

- The initiative is part of a broader EU push to make data center sustainability performance more transparent and comparable as artificial intelligence (AI) and other digital services drive significant new power demand.
- To further support the integration of sustainable data centers, the Commission is separately consulting on minimum performance standards for data centers and released a **Call for Evidence** to solicit public feedback through December 14, 2026.

Attachments

Download the September and October recap of Speaking Sustainability: Policy and Regulatory Developments

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