

November 20, 2025

Climate Disclosure Whiplash: 30+ Questions on the California Corporate Greenhouse Gas Reporting Program (SB 253) and Climate-Related Financial Risk Disclosure Program (SB 261)

Entities preparing to comply with new California climate disclosure requirements face looming deadlines amid uncertainty. The compliance deadline for climate-related financial risk reports specified in California Senate Bill 261 is **January 1, 2026**, but enforcement of that deadline has been stayed pending an appeal. Scope 1 and Scope 2 greenhouse gas (“GHG”) emissions disclosures are due **August 10, 2026**, with Scope 3 disclosures due in 2027 (as required by California Senate Bill 253). SB 253 and SB 261 (each as amended in September 2024 by [California Senate Bill 219](#)) are codified in California Health & Safety Code [§ 38532](#) and [§ 38533](#), respectively.

This alert sets forth questions and answers on climate-related disclosures required under SB 253 and SB 261, and reflects guidance from the California Air Resources Board (“CARB”) staff including in CARB’s [FAQs About Regulatory Development and Initial Reports](#) (“CARB FAQs”), [SB 261 disclosure checklist](#) (“CARB Checklist”), [draft Scope 1 and Scope 2 emissions reporting template](#) and [enforcement notice](#), and as discussed in three half-day public workshops hosted by CARB staff on November 18, 2025 (“November Workshop”), August 21, 2025 (“August Workshop”) and May 29, 2025 (“May Workshop”) (slides and recordings available [here](#)).

Status of Court Challenges

1. What is the status of the constitutional challenges to SB 253 and SB 261?

On November 18, 2025, in a proceeding challenging SB 261 and SB 253, the U.S. Court of Appeals for the Ninth Circuit issued an [order](#) temporarily enjoining CARB enforcement of SB 261 (*U.S. Chamber of Commerce et al. v. Randolph et al.*, Case No. 25-5327 (9th Cir.)). This order grants in part a motion filed by the U.S. Chamber of Commerce and other business groups seeking an injunction pending appeal as to enforcement of SB 261 and SB 253. The U.S. Court of Appeals for the Ninth Circuit also denied the business groups’ request to enjoin enforcement of SB 253, and scheduled an expedited oral argument for January 9, 2026. In this proceeding, the business groups argue that SB 253 and SB 261 violate the First Amendment and are appealing an August 2025 U.S. District Court for the Central District of California order that denied a request for a preliminary injunction to enjoin SB 261 and SB 253 (*U.S. Chamber of Commerce et al. v. Randolph et al.*, Case No. 2:24-cv-00801-ODW-PVC (C.D. Cal.)). The appellants in the Ninth Circuit case are led by the U.S. Chamber of Commerce, who had also filed – and [withdrew](#) on November 18, 2025 – an emergency application to the U.S. Supreme Court requesting an injunction against both laws pending appeal to the Ninth Circuit. Other challenges on First Amendment grounds, [including](#) in the U.S. District Court for the Eastern District of California, are also continuing. CARB staff did not comment on the Ninth Circuit’s order during the November Workshop and no related guidance appears on its website as of the time of writing.

2. Should entities continue to prepare for compliance with SB 253 and/or SB 261?

Entities should continue to prepare for compliance with SB 253 and SB 261. The proceedings challenging SB 261 and SB 253 are unlikely to conclude prior to the SB 253 compliance deadline of August 10, 2026.

Entities that are well-advanced in their preparations for compliance with SB 261—including entities that have previously made disclosures aligned with the [Final Report of the Task Force for Climate-related Financial Disclosures](#) (“TCFD”) or [standards issued by the International Sustainability Standards Board](#) (“ISSB”) (or other acceptable framework under SB 261)—may wish to consider continuing with those efforts as the litigation proceeds. Compliance processes that are well-underway, such as the scenario analysis and risk identification

and assessment, could also be completed. For entities that are still trying to determine if they are in scope, it is reasonable to proceed with that analysis including determining if exemptions apply and/or the entity is in or out of scope based on current CARB guidance. Entities that are in scope but are in preliminary stages of preparing a SB 261 report, do not have processes well-underway and/or do not otherwise report in alignment with the TCFD or ISSB standards should be prepared to work quickly on these if required.

Reporting Entities and Exemptions

3. Which companies are required to comply with SB 253 and SB 261?

Both SB 253 and SB 261 apply to entities (corporations, partnerships, limited liability companies and other business entities) formed in the U.S. that do business in California and that have “total annual revenues” exceeding \$1 billion (SB 253) or exceeding \$500 million (SB 261). Under both statutes, disclosure will be required by public and private entities. Entities formed outside the U.S. are out of scope. CARB [slides](#) for the November Workshop included flowcharts for determining which entities are in or out of scope of SB 253 and SB 261.

4. Which entities will be exempt from compliance with SB 253 and/or SB 261?

As discussed in the CARB FAQs and at the November Workshop, the following entities will be exempt from compliance with SB 253 and SB 261. In response to Q&A, CARB staff emphasized that entities can rely on this guidance and not report, and do not need to wait for CARB regulations (even though the CARB FAQs do not have the force of law).

- Non-profit or charitable organizations that are tax-exempt under the Internal Revenue Code.
- Entities whose only business in California is the presence of teleworking employees.
- A business entity that is subject to regulation by the Department of Insurance in California, or that is in the business of insurance in any other state. Such entities are exempt under SB 261 by its terms and CARB staff propose to also exempt them from SB 253.
- Federal, State, and local government entities (which as discussed by CARB staff would be excluded in any case because they are not formed under business entity laws), as well as companies that are majority-owned by government entities (more than 50%).

5. What does “revenue” mean for purposes of SB 253 and SB 261?

SB 253 and SB 261 do not define what is meant by “total annual revenues,” which is included in the definition of “reporting entity.” At the November Workshop, CARB staff discussed the current proposed definition, which is included in the CARB FAQs and is derived from California Revenue and Taxation Code (“RTC”) [§ 25120\(f\)\(2\)](#):

The gross amounts realized (the sum of money and the fair market value of other property or services received) on the sale or exchange of property, the performance of services, or the use of property or capital (including rents, royalties, interest, and dividends) in a transaction that produces business income, in which the income, gain, or loss is recognized (or would be recognized if the transaction were in the United States) under the Internal Revenue Code, as applicable for purposes of this part. Amounts realized on the sale or exchange of property shall not be reduced by the cost of goods sold or the basis of property sold.

Gross receipts can be verified using an entity’s filings with the California Franchise Tax Board. As described in the CARB FAQs, total annual revenues includes all of an entity’s revenues regardless of whether the revenues were generated in California.

The CARB FAQs note that several organizations may not have a reporting obligation under SB 253 and SB 261 based on the definitions of revenue and doing business in California (described below). For example, holding companies and mutual funds do not report gross receipts in their California corporate tax filings, and would not meet the revenue thresholds as a result.

As set forth in the CARB FAQs and discussed at the November Workshop, applicability would be determined by the lesser of the entity's two previous fiscal years of revenue, such that companies only need to report if their revenues exceed the statutory threshold for two consecutive fiscal years.

At the November Workshop and in the CARB FAQs, CARB staff clarified that revenues are to be calculated on an entity-by-entity basis, and not on a consolidated basis (but see below where a parent company and subsidiaries file California taxes on a unitary basis).

6. What does “doing business in California” mean for purposes of SB 253 and SB 261?

SB 253 and SB 261 do not define when an entity “does business in California,” which is included in the definition of “reporting entity.” At the November Workshop, CARB staff discussed the current proposed definition, which focuses on place of organization or domicile, and/or sales in California, and is included in the CARB FAQs and derived from [RTC § 23101\(a\) and \(b\)\(1\)-\(2\)](#):

(a) “Doing business” means actively engaging in any transaction for the purpose of financial or pecuniary gain or profit.

(b) An entity is doing business in California if the entity is doing business (as defined in (a) above), and any of the following conditions is met during any part of a reporting year:

(1) The entity is organized or commercially domiciled in California.

(2) Sales, as defined in RTC § 25120(e) or (f) as applicable for the reporting year, of the entity in California exceed the inflation adjusted threshold of \$735,019 (2024) or 25% of the taxpayer's total sales. For purposes of this paragraph, sales of the entity include sales by an agent or independent contractor of the entity.

This definition is different to the proposal discussed by CARB staff at the August Workshop, and is similar to that discussed at the May Workshop. If adopted as proposed, this definition omits RTC § 23101(b)(3)-(4) relating to property holdings and payroll. As discussed in the CARB FAQs, property or payroll presence alone may not demonstrate a sufficient economic connection to California to constitute “doing business.”

CARB staff stated in the November Workshop that California sales can be verified using an entity's filings with the California Franchise Tax Board. If an entity does not file with the California Franchise Tax Board, it will not be in scope of SB 253 or SB 261.

As noted in the CARB FAQs, the sales of the taxpayer include the taxpayer's pro rata or distributive share of pass-through entities. For purposes of this subdivision, “pass-through entities” means a partnership or an “S” corporation.

7. My entity was not included in the [preliminary list](#) of SB 253 and SB 261 reporting entities published by CARB on September 24, 2025, but our revenues exceed the thresholds and we do business in California. Does this mean we don't have to report?

No, the preliminary list is not a definitive list of reporting entities and is not a compliance tool. It is up to each entity to determine for itself whether it is in scope of SB 253 and/or SB 261. If the entity is formed in the U.S., does business in California and meets the revenue thresholds, it will be a reporting entity under SB 253 and/or SB 261 as applicable.

As described in the CARB FAQs and discussed in the November Workshop, the preliminary list of reporting entities was prepared by CARB staff for purposes of calculating the potential fees (discussed below), and was developed using third party proprietary data and the California Secretary of State database.

Parent and Subsidiary Issues

8. Will a parent holding company automatically be in-scope of SB 253 and/or SB 261 if it has one or more in-scope subsidiaries?

No. As discussed in the CARB FAQs and by CARB staff during the November Workshop, having an in-scope subsidiary by itself will not automatically bring a parent holding company in scope as applicability to each entity is required to be considered separately and revenues are not consolidated for purposes of applying the revenue tests.

The parent holding company will only be in scope of SB 253 and/or SB 261 if the parent is formed in the U.S., the parent does business in California and the parent meets the applicable revenue threshold(s).

However, as discussed in the CARB FAQs, if a parent company and its subsidiaries file California taxes as a unitary business, then the revenue of the subsidiaries counts towards the revenue of the parent company as part of its gross receipts. To determine the gross receipts, entities should reference their corporate tax filings.

9. Can an in-scope parent and subsidiary entity prepare consolidated reports for SB 253 and SB 261?

Yes. Consolidated reporting is permitted under each of SB 253 and SB 261 pursuant to the terms of those statutes.

10. Can a consolidated report under SB 253 and/or SB 261 include information for entities that are not in scope?

Yes. As discussed in the CARB FAQs and by CARB staff during the November Workshop, a consolidated report can include information for entities that are not in scope (e.g., a consolidated group's entire worldwide Scope 1 and Scope 2 emissions including for out-of-scope subsidiaries). This includes where the parent entity is not in scope (e.g., because it is foreign).

11. How is "subsidiary" defined for purposes of SB 253 and SB 261?

As set forth in the CARB FAQs and discussed in the November Workshop, an entity will be a "subsidiary" if another business entity has ownership interest in or control of the first entity by "direct corporate association." This definition is derived from [Title 17, California Code of Regulations, § 95833](#). A "corporate association" exists when one entity has an ownership interest in or control over a second entity, with indicators of ownership or control including more than 50% ownership of shares or voting power, or more than 50% of common owners, directors or officers of the other entity.

Filing Deadlines

12. When are the first and subsequent SB 253 reports due?

As discussed by CARB staff at the November Workshop and described in the CARB FAQs, the first SB 253 reports (Scope 1 and Scope 2 emissions) will be due August 10, 2026 for all entities. CARB staff will issue regulations that set forth the deadline for subsequent Scope 1 and Scope 2 reports, as well as Scope 3 reports that reporting entities will need to file beginning in 2027.

13. When are the first and subsequent SB 261 reports due?

The first SB 261 reports are due January 1, 2026 (as set forth in the statute), but enforcement of that deadline has been stayed pending an appeal to the preliminary injunction (discussed above). Subsequent reports will be due biennially thereafter (i.e., January 1, 2028, January 1, 2030, etc.).

Disclosure Requirements Under SB 253

14. Which emissions of a reporting entity must be disclosed?

Scope 1 and Scope 2 emissions are required to be disclosed annually, with first reports due August 10, 2026. Scope 3 emissions are required to be disclosed beginning in 2027, with the exact date to be determined by CARB in subsequent rulemaking.

Limited assurance by an independent third-party assurance provider is required for Scope 1 and Scope 2 emissions disclosures beginning in 2027 (with reasonable assurance beginning in 2030) and for Scope 3 emissions disclosures beginning in 2030.

Emissions are defined as follows in SB 253:

- Scope 1 emissions: 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: Indirect greenhouse gas emissions from consumed electricity, steam, heating, or cooling purchased or acquired by a reporting entity, regardless of location.
- Scope 3 emissions: 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.

15. Is it just the entity's emissions in California or all of the entity's emissions that must be disclosed?

At the November Workshop, CARB staff clarified a reporting entity is required to disclose all of that entity's emissions, not just California emissions.

16. Which fiscal year's data is required to be included in the first SB 253 report?

By its terms, SB 253 requires reporting entities to disclose in 2026 Scope 1 and Scope 2 emissions for the reporting entity's "prior fiscal year." As discussed in the CARB FAQs and at the November Workshop, for the first SB 253 reports due in 2026:

- If a reporting entity's fiscal year ends between January 1 and February 1, 2026, the entity will report data from the fiscal year ending in 2026.
- If a reporting entity's fiscal year ends between February 2 and December 31, 2026, the entity will report data from the fiscal year ending in 2025. CARB staff also indicated in the November Workshop that if such an entity has data for the fiscal year ending in 2026, that would also be acceptable.

In the first SB 253 report, calendar year companies will therefore disclose Scope 1 and Scope 2 emissions for the fiscal year ending December 31, 2025. Each entity will have at least six months after the end of their fiscal year to submit their report. CARB staff will issue regulations that explain which fiscal year to cover in subsequent reports, including disclosures of Scope 3 emissions for the "prior fiscal year" beginning in 2027.

17. What standards should entities use to report Scope 1, Scope 2 and Scope 3 emissions?

By its terms, SB 253 requires entities to disclose emissions in a manner consistent with the Greenhouse Gas Protocol standards and guidance.

18. Do entities have to use CARB's Scope 1 and Scope 2 emissions template for reporting?

Not for the first year of reporting in 2026. As discussed by CARB staff at the November Workshop, use of the template is optional for 2026 reports. The draft template posted October 10, 2025 is likely to undergo revisions in response to public comments.

19. Is any relief available for SB 253 reports in 2026?

As discussed by CARB staff at the November Workshop and as set forth in the CARB FAQs, reporting entities that were not collecting emissions data or planning to collect such data as of December 5, 2024 (the date of CARB's enforcement notice) are not required to submit emissions data for SB 253 reports in 2026. Such entities are required to submit a statement on company letterhead to CARB, stating that they did not submit a report, and indicating that in accordance with the enforcement notice, the company was not collecting data or planning to collect data at the time that notice was issued. CARB will open a public docket near the first year 2026 reporting deadline, to which these statements will be uploaded.

20. Is independent third party assurance required for SB 253 reporting in 2026?

While SB 253 by its terms requires independent third-party limited assurance of Scope 1 and Scope 2 reports beginning in 2026 (and reasonable assurance beginning in 2030), CARB staff stated at the November Workshop that such assurance is only required for SB 253 reporting in 2026 if the company has already obtained such assurance. As noted in the CARB FAQs, “[f]or 2026 reporting under HSC § 38532, CARB will exercise enforcement discretion for the first report due in 2026, allowing reporting entities to submit Scope 1 and Scope 2 emissions for their prior fiscal year based on information they already have or were collecting when this Notice was issued, whether or not the data received limited assurance.”

21. Do entities only need to disclose emissions where material?

SB 253 by its terms does not include a materiality qualifier. Scope 1 and Scope 2 emissions are therefore required to be disclosed irrespective of materiality to the reporting entity. At the November Workshop, CARB staff invited feedback on which of the fifteen Scope 3 categories “are most used by companies today and/or most helpful for investors and consumers,” so it is possible that materiality concepts could potentially influence the Scope 3-related rulemaking.

Disclosure Requirements Under SB 261

22. Should entities use fiscal year or calendar year data for the SB 261 report?

SB 261 by its terms does not specify calendar year or fiscal year data. As discussed in the CARB FAQs and CARB Checklist, reporting entities should use the most recent/best available data for the first report under SB 261.

23. What needs to be included in the first reports under SB 261?

The CARB Checklist sets forth the minimum CARB requirements for disclosure for the first reports; this is mandatory notwithstanding the “recommendation” terminology used in the TCFD disclosure framework. The minimum requirements for the first year of disclosure are:

- Framework:
 - Which reporting framework is being applied.
 - Which recommendations and disclosures have been compiled and which have not, together with a summary of the reasons why recommendations/disclosures have not been included and any plans for future disclosures.
- Governance:
 - Description of the entity's governance structure, if any, for identifying, assessing, and managing climate-related financial risks, including any management and Board oversight of climate-related risks.
- Strategy:
 - Where such information is **material**, description of actual and potential climate related risks on the entity's operations, strategy and financial planning, including risks identified over the short, medium and long-term, impact of climate-related risks on the entity's operations, strategy and

financial planning, and the resilience of the entity's strategy, if any, taking into consideration the future impacts of climate change under various climate scenarios.

- Where a qualitative scenario-based assessment is feasible and relevant for a particular company, CARB encourages its inclusion.
- Risk Management:
 - Description of how the entity identifies, assesses, and manages climate-related risks including the process the entity uses for identifying, managing and assessing climate-related risks, and how those considerations and processes are integrated into the entity's overall risk management.
- Metrics and Targets:
 - Where such information is **material**, the metrics and targets used to assess and manage relevant climate-related risks adopted to reduce and adapt to climate-related risk.

CARB FAQs and the CARB Checklist clarify that reporting entities in the early stages of evaluating climate-related risks may begin by disclosing how these risks relate or may be relevant, even if no material risks have yet been identified or actions taken. CARB encourages reporting entities to include in their disclosures a description of gaps, limitations, and assumptions made as part of their assessment of climate-related issues. Entities in early stages or with less experience in evaluating climate-related risks can therefore still disclose relevant and best available data.

Additional disclosures will be required under the applicable framework in future reports, for example, Scope 1, 2 and 3 emissions where material.

The CARB Checklist notes that if industry-specific guidance exists under the chosen framework (e.g., ISSB), covered entities should follow the guidance, as applicable, to ensure that the disclosed information is relevant.

CARB staff stated during the November Workshop that CARB rulemaking relating to SB 261 reports is not required by the terms of SB 261 and is not expected. Entities should therefore be able to rely on the CARB Checklist and other CARB guidance as appropriate although the CARB Checklist does not have the force of law.

24. Do entities only need to disclose climate-related risk information where material?

The concept of materiality is incorporated into SB 261 through the definition of "climate-related financial risk" and in various line item requirements of TCFD (see above, under the Strategy and Metrics and Targets pillars) and ISSB standards.

"Climate-related financial risk" is defined to mean "material risk of harm to immediate and long-term financial outcomes due to physical and transition risks, including, but not limited to, risks to corporate operations, provision of goods and services, supply chains, employee health and safety, capital and financial investments, institutional investments, financial standing of loan recipients and borrowers, shareholder value, consumer demand, and financial markets and economic health."

25. Do SB 261 reports need to cover climate-related opportunities?

No. SB 261 requires disclosure of climate-related financial risks (as defined), but not climate-related opportunities. While the CARB Checklist includes climate-related opportunities in the minimum CARB requirements for disclosure, CARB staff clarified at the November Workshop (in response to a question from us) that climate-related opportunities disclosure is optional.

26. Where do SB 261 reports need to be posted?

SB 261 reports need to be posted on the reporting entity's own website. A link to that report must be submitted to the CARB docket, which will be open starting December 1, 2025 until July 1, 2026.

Fees

27. What fees will be payable to CARB, who will have to pay fees and when will they be payable?

CARB's rulemaking due to be considered by CARB in Q1 2026 is expected to establish the fee component. At the November Workshop and the August Workshop, CARB staff discussed that fees for each of SB 253 and SB 261 are currently proposed to be the same per reporting entity and will be calculated based on the expected cost of administrating and implementing each of those programs, divided by the expected number of in-scope entities (a "flat fee" structure). Each reporting entity would be required to pay the fee, irrespective of whether that entity's report is consolidated with that of another entity's. Parent entities can pay the fees of all in-scope subsidiaries in a single combined payment.

CARB staff indicated during the November Workshop that the first fees under SB 253 and SB 261 are proposed to be assessed **September 10, 2026**.

Fees would be due annually under each of SB 253 and SB 261 (even though SB 261 reports are due biennially).

Future CARB Rulemaking

28. What is CARB's rulemaking timeline?

As discussed during the November Workshop and in line with CARB website disclosures, CARB staff expect to present to CARB for approval an initial regulation in Q1 2026, which is expected to establish the reporting deadline for SB 253 reports for the first year only (proposed to be August 10, 2026) and the administration fee calculation, collection and penalties. The proposed regulation will be published to allow for a 45 day comment period. CARB staff did not provide additional information on when the proposed regulation might become available. CARB staff assured participants in the November Workshop that they could rely on CARB guidance as to topics such as which entities are in and out of scope, exemptions and enforcement advice, and do not need to wait for formal rulemaking.

CARB staff also discussed at the November Workshop that it expects to engage in subsequent rulemaking to establish other SB 253-related requirements including but not limited to:

- Data assurance requirements (including accreditation standards for assurance providers)
- Further enforcement provisions
- Recurring reporting deadline beyond 2026
- Reporting templates

Enforcement and Penalties

29. What are the penalties for non-compliance with SB 253 and SB 261?

Administrative penalties shall not exceed \$500,000 in a reporting year (SB 253) or \$50,000 in a reporting year (SB 261). Under both SB 253 and SB 261, in imposing penalties, CARB must consider all relevant circumstances including the violator's past and present compliance with the relevant requirement and whether the violator took "good faith measures to comply" and when those measures were taken. SB 253 and SB 261 require CARB to adopt regulations that authorize it to seek administrative penalties for nonfiling and late filing (under SB 253) and other failures to provide sufficient required disclosures (under SB 253 and/or SB 261).

Under SB 253, a reporting entity shall not be subject to an administrative penalty for any misstatements with regard to Scope 3 emissions disclosures made with a reasonable basis and disclosed in good faith. SB 253 also provides that between 2027 and 2030, penalties assessed on Scope 3 reporting shall only occur for nonfiling.

SB 261 includes a provision that contemplates incomplete reporting with a detailed explanation for any reporting gaps and steps the entity will take to prepare complete disclosures.

30. What goes “good faith” compliance mean?

CARB’s enforcement notice issued in December 2024 relates to SB 253 reporting in 2026 only and does not cover SB 261. Reporting entities should refer to the CARB Checklist and the TCFD report, ISSB standards or other chosen framework when determining what CARB expects in the first year of SB 261 reports.

As discussed in the enforcement notice and most recently during the November Workshop, CARB will exercise its enforcement discretion such that, for the first SB 253 reports due in 2026, reporting entities may submit Scope 1 and Scope 2 emissions from the reporting entity’s prior fiscal year “that can be determined from information the reporting entity already possesses or is already collecting” as of December 5, 2024. This means that entities that were not collecting emissions data or were not planning to collect data as of December 5, 2024 are not expected to disclose Scope 1 and Scope 2 emissions data in 2026. Such entities should submit a statement on entity letterhead stating that they did not submit a report and that the entity was not collecting data or planning to collect data as of December 5, 2024. Similarly, assurance of emissions data is not required for the first year unless the entity already has such assurance (discussed above). To paraphrase CARB staff, entities should “give CARB what they have” in 2026.

31. Where can I provide feedback to CARB?

CARB is maintaining a public email inbox (ClimateDisclosure@arb.ca.gov) for stakeholders to ask questions about SB 253 and SB 261.

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If you have questions concerning the contents of this alert, or would like more information about Weil’s Sustainability & ESG Group, please speak to your regular contact at Weil, or to the authors listed below:

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