Carbon Direct

2023 California Legislative Session

Summary and commentary on new laws addressing climate change



Notable Climate Laws from the 2023 California Legislative Session

During the 2023 session of the California State Legislature, several new bills addressing climate change were passed and signed into law. Below is a brief overview of these new laws and their implications for various stakeholders.

SB-253 Climate Corporate Data Accountability Act

Summary: Requires companies that do business in California with total annual revenues in excess of $1 billion to publicly disclose their scope 1, scope 2, and scope 3 greenhouse gas emissions annually. The California Air Resources Board (CARB) will develop the associated regulations by 2025, with reporting requirements set to start in 2026.

Commentary: An estimated 5,000 large companies will be directly affected by this law, but the inclusion requirements must still be set by CARB. While SB-253 does not directly require small firms to track and report emissions, the law's scope 3 requirements will likely pull smaller suppliers into the fold. Large companies are likely to ask or require suppliers to report scope 1 and 2 emissions, develop mitigation plans, or set greenhouse gas reduction targets as part of their own scope 3 emissions reporting and reduction strategies.

For more information on SB-253, please see our blog and webinar.

SB-261 Greenhouse Gases: climate-related financial risk

Summary: Requires companies that do business in California with total annual revenues in excess of $500 million to prepare a report disclosing their climate-related financial risks and measures adopted to reduce and adapt to these risks. The law requires those companies to make a copy of their report available to the public on their company website. Companies will need to post this information on their websites on or before January 1, 2026, and update it at least every two years thereafter.

Commentary: An estimated 10,000 companies will be directly affected by this law, but the inclusion requirements must still be set by CARB. Like SB-253, this law does not directly require small firms to track and report climate-related financial risks. However, it might be wise for suppliers to large firms, and for mid-size firms that may grow to the $500 million revenue disclosure threshold, to start the process of assessing risk now.

For more information on SB-261, please see our blog and webinar.

AB-1305 Voluntary Carbon Market Disclosures

Summary: Requires a business that is marketing or selling voluntary carbon offsets in California to annually disclose certain information on its website about the applicable carbon offset project(s). The information required to be disclosed includes details regarding the project; details regarding accountability measures if a project is not completed or does not meet the projected emissions reductions or removal benefits; and data and calculation methods needed to independently reproduce and verify the number of emissions reduction or removal credits issued using the project's protocol. The law also requires an entity that makes claims of achieving "net-zero emissions," sells a product it claims is "carbon-neutral," or makes other similar claims through the purchase or use of voluntary carbon offsets to disclose how a claim was determined to be accurate or actually accomplished; how interim progress toward that goal is being measured; and whether there is independent third-party verification of the company data and claims listed. The law goes into effect on January 1, 2024, and companies will need to update these disclosures annually thereafter.

Commentary: This law requires both buyers and sellers of carbon offsets to meet disclosure requirements. This legislation does not require that buyers or sellers go through a third party in order to collect the required information. However, these entities must disclose if a third party is responsible for the assessment of the required information. Sellers, marketers, and businesses who claim carbon or greenhouse gas neutrality due to the purchase of carbon offsets will be subject to fines for improper disclosure on their websites.

SB-410 Powering Up Californians Act

Summary: Requires the California Public Utilities Commission (CPUC) to establish average and maximum timelines for utilities to connect new electrical equipment to the grid and sets utility reporting requirements so that electrical corporation performance can be tracked and improved. The deadline for the CPUC to publish these timelines is September 30, 2024. The bill also requires utilities to train and hire the workforce necessary to electrify the transportation and building sectors and requires utilities' annual grid planning and investment to align with federal, state, regional, and local decarbonization and air quality goals, standards, and regulations, starting January 1, 2024.

Commentary: According to the bill's author, Senator Josh Becker, interconnection backlogs for these distribution improvements can range from six months to a year, and have been a roadblock in the deployment of electrification efforts like electric vehicle chargers.[1] Speeding up interconnection timelines for new electric infrastructure will help to accelerate the energy transition and allow more customers to enjoy the benefits of an electrified economy, like charging an electric vehicle or switching to an electric heat pump.

AB-1373 Energy

Summary: Directs the CPUC to determine if there is need for the procurement of electricity from offshore wind, geothermal, or other non-fossil sources on or before September 1, 2024. Authorizes the Department of Water Resources, within six months of that determination, to begin the process of procuring electricity from those sources in order to provide a steady offtaker and incentivize development. Directs the State Energy Resources Conservation and Development Commission, starting in 2025, in consultation with the CPUC, to assess barriers to electricity interconnection and energization and provide recommendations on how to accelerate those processes, as appropriate. The new law will also devote more resources to workforce development to support the development of offshore wind facilities.

Commentary: Large-scale clean energy projects often face funding challenges during the development phase. Without a utility or other energy purchaser stepping forward to agree to pay for the energy, the project may not be built. AB-1373 is designed to provide support for these projects by allowing the state government to sign procurement contracts for power from sources like offshore wind and geothermal, as well as for energy storage systems like pumped

[1] California Legislature Approves Senator Becker's Legislation to Hold Utilities Like PG&E Accountable. 2023 Sep 14. Senator Josh Becker. [accessed 2023 Nov 17].

hydropower. California's grid is already dominated by solar, and while the zero-emissions power it provides is useful, there are times when solar saturates the grid to the point where additional solar won't always mean further emissions reductions. By focusing on bringing other zero-emissions resources into service that have different timing dynamics, the grid can reduce its reliance on fossil generation during times when solar output is low. This will have the additional benefit of helping reduce a company's scope 2 emissions, even if they use the same amount of electricity, since the grid will be cleaner overall.

AB-3 Offshore Wind Energy: reports

Summary: Requires the State Energy Resources Conservation and Development Commission to develop a plan and strategy for seaport readiness to prepare California's ports for offshore wind power on or before December 31, 2026. The bill also requires the commission, in consultation with the California Workforce Development Board, to conduct a study on the feasibility of increasing in-state assembly and manufacturing of offshore wind energy projects; to build off of the Inflation Reduction Act's domestic content thresholds[2] for offshore wind energy projects; and to increase in-state assembly and manufacturing to at least 50%. The study is due on or before December 31, 2027.

Commentary: In contrast to onshore wind, offshore wind power requires an entirely separate set of infrastructure to deploy and connect to the grid. By ensuring ports are able to facilitate the deployment of offshore wind energy, the state will be on its way to achieving its goal of supplying 25 gigawatts of offshore wind power by 2045.

AB-1167 Oil and Gas: acquisition: bonding requirements

Summary: Reduces the likelihood of orphaned wells by making it harder for big oil and gas companies to pass off old wells to smaller companies that cannot afford to clean them up. The bill requires the purchaser of an oil and gas well or production facility to submit a bond to the state that is sufficient to cover all costs of plugging and abandonment, decommissioning of the facility, and site restoration. The law goes into effect on January 1, 2024.

Commentary: The US Department of the Interior reports more than 126,000 documented orphan wells across the country,[3] and other estimates from the US Environmental Protection Agency

[2] Part III—Administrative, Procedural, and Miscellaneous Domestic Content Bonus Credit Guidance under Sections 45, 45Y, 48, and 48E Notice 2023-38 SECTION 1. PURPOSE. www.irs.gov. https://www.irs.gov/pub/irs-drop/n-23-38.pdf. [accessed 2023 Dec 6].

[3] US Department of the Interior. 2023. Bipartisan Infrastructure Law Section 40601 Prepared by the Orphaned Wells Program Office ORPHANED WELLS PROGRAM ANNUAL REPORT TO CONGRESS. [accessed 2023 Dec 6].

indicate that there are more than three million orphaned wells across the country.[4] They pose a climate risk through the methane they leak, and also pose a risk to groundwater and local environments. Owners of idle and marginally producing wells will often transfer them to smaller firms which lack the liquidity to fully service these wells at the end of their lives. In many cases, the owner will abandon the well without cleaning it up, leaving what is known as an "orphaned" well. Without proper bonding requirements, such transfers increase the likelihood that public funds will be needed to pay for plugging and abandonment of these wells.

SB-704 Coastal Resources: California Coastal Act of 1976: industrial developments: oil and gas developments: refineries: petrochemical facilities: offshore wind

Summary: Enhances environmental requirements for proposed oil and gas developments, including drilling and refining operations, along the California coast. Eases restrictions on other coastal-dependent industrial facilities, including offshore wind projects. The law goes into effect on January 1, 2024.

Commentary: Since the passage of the California Coastal Act of 1976, oil and gas developments have enjoyed a special status through an override provision of the bill that allows them to sidestep certain permitting requirements. Under SB-704, new or expanded oil and gas developments—including refineries and petrochemical facilities—will face oversight under policies meant to protect California's ocean and coast. Offshore wind facilities will now be granted lower permitting thresholds, similar to those the oil and gas industry previously enjoyed.

AB-631 Oil and Gas: enforcement: penalties

Summary: Grants the California Department of Conservation and the State Oil and Gas Supervisor further authority to enforce environmental laws and collect fines for pollution and other rule breaking. The law goes into effect on January 1, 2024.

Commentary: The law increases penalties to as much as $70,000 per day for continuing violations. It gives state regulators new authority to refer cases to local prosecutors and ask a Superior Court judge to compel operators to correct violations that might threaten public health, safety, and the environment.

[4] US Environmental Protection Agency. 2022. Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990–2020. www.epa.gov. [accessed 2023 Dec 6].

AB-579 Schoolbuses: zero-emission vehicles

Summary: Requires 100% of newly-purchased or contracted schoolbuses in the state to be zero-emission vehicles, starting in 2035. However, the law includes a waiver provision allowing local educational agencies to request an extension of up to five years if they determine that the purchase or contracting of a zero-emission school bus is not feasible due to terrain and route constraints.

Commentary: In addition to the climate benefit of eliminating greenhouse gas emissions, children will have a significant reduction in exposure to harmful pollutants that result from diesel engine use, like particulate matter and nitrogen oxides. This mandate pairs well with federal incentives to deploy zero-emission schoolbuses, including $5 billion allocated as part of the Infrastructure Investment and Jobs Act, also known as the Bipartisan Infrastructure Law.

SB-48 Building Energy Savings Act

Summary: Directs the California Energy Resources Conservation and Development Commission to develop a strategy to improve energy efficiency and reduce greenhouse gas emissions in commercial buildings of more than 50,000 square feet. The California Energy Commission will leverage data that utility companies already collect to devise this strategy, which must be developed on or before July 1, 2026.

Commentary: Reducing energy usage in buildings is a key part of reaching climate goals. California began requiring owners of large buildings to report their energy consumption in 2018, and this law will leverage the data that has been collected under that "building benchmarking" law. Better management of energy consumption by buildings through energy efficiency renovations ("retrofits") and upgrades will lower utility bills, reduce greenhouse gas emissions, and benefit the broader grid by reducing electricity demand during peak usage times. The law also includes important protections for tenants in buildings that are intended to prevent rental increases, evictions or other negative impacts from mandated efficiency upgrades.

Vetoed Bills

The bills listed below were passed by both chambers of the California Legislature, but vetoed by Governor Newsom. The last time the California legislature overrode a veto was in 1980 and it remains unclear whether any of these vetoes will be overridden.

SB-390 Voluntary Carbon Offsets: business regulation

Summary: Amends California's false advertising laws to make it unlawful for a person to market, make available, offer for sale, or sell a voluntary carbon offset if the person knows, or should know, that the durability of the offset's greenhouse gas reductions or gas removal enhancements is less than the atmospheric lifetime of carbon dioxide emissions, with specified exceptions.

Outcome: SB-390 passed both the Assembly and Senate of the legislature before being vetoed by Governor Newsom on Oct 7, 2023. The bill's author, Senator Monique Limón, has not indicated whether she will push for the legislature to override the veto.

Commentary: In Governor Newsom's veto message on the bill, he says that he supports the intent of the bill but fears the bill "could inadvertently capture well-intentioned sellers and verifiers of voluntary offsets, and risks creating significant turmoil in the market for carbon offsets, potentially even beyond California."[5] While the governor did not elaborate on specifics about his concerns with the bill, phrases like a seller or broker of offsets "knows or should know" that an offset is "unlikely to be quantifiable, real, and additional" might have seemed unclear and potentially invited litigation. Ultimately, this bill would have protected many purchasers of offsets from legal action if their credits turned out to be faulty while putting more of an onus on sellers and marketers to ensure the credits were valid.

SB-842 Energy: petroleum refinery turnaround and maintenance

Summary: Earlier this year, California passed a bill into law[6] that aimed at reducing gasoline prices by taking actions like authorizing the California Energy Commission (CEC) to set a maximum gross gasoline refining margin[7] and a penalty for refiners that exceed it. That bill also required refiners to report maintenance activities, both planned and unplanned, to the CEC and gave the

[5] Governor Gavin Newsom. 2023. Letter to the California State Senate Vetoing Senate Bill 390. [accessed 2023 Dec 6].

[6] Bill Text—SBX1-2 Energy: transportation fuels: supply and pricing: maximum gross gasoline refining margin. leginfo.legislature.ca.gov. [accessed 2023 Dec 6]

[7] Commission CE. current-date. Senate Bill X1-2 Implementation. California Energy Commission. [accessed 2023 Nov 17].

CEC oversight over such maintenance. SB-842 would have required the CEC to also consult with the Department of Industrial Relations when considering ways to manage necessary refinery turnarounds and maintenance.

Outcome: SB-842 passed both the Assembly and the Senate before being vetoed by Governor Newsom on Oct 7, 2023.

Commentary: In Governor Newsom's veto message on the bill, he noted the reduction in gasoline prices since the passage of SB X1-2 and said it would be "imprudent" to sign SB-842 into law "before the CEC has fully contemplated implementation of the refinery maintenance portions of that law."[8]

SB-664 Energy: reliability planning assessment: integrated energy policy report

Summary: Requires the California Energy Commission and the CPUC to include status updates on transmission projects, energy infrastructure projects, and the use of fossil fuels as part of the Strategic Reliability Reserve in their quarterly Joint Reliability Planning Assessment, and to post this information online.

Outcome: SB-664 passed both the Assembly and the Senate before being vetoed by Governor Newsom on Oct 8, 2023.

Commentary: In Governor Newsom's veto message on the bill, he claimed the bill is "redundant of existing efforts and duplicates requirements in other bills"[9] he recently signed.

SB-619 State Energy Resources Conservation and Development Commission: certification of facilities: electrical transmission projects

Summary: Expands the facilities eligible to be certified as "environmental leadership development projects" by the California Energy Commission to include electrical transmission projects. This law speeds up the permitting of new transmission lines, and sets a goal of reducing turnaround times to less than 270 days. The law also requires an applicant applying for certification of an electrical transmission project to take certain actions including to avoid or minimize significant environmental impacts on any disinvested community.

[8] Governor Gavin Newsom. 2023. Letter to the California State Senate Vetoing Senate Bill 842. [accessed 2023 Dec 6].

[9] Governor Gavin Newsom. 2023. Letter to the California State Senate Vetoing Senate Bill 664. [accessed 2023 Dec 6].

Outcome: SB-619 passed both the Assembly and the Senate before being vetoed by Governor Newsom on Oct 7, 2023.

Commentary: One of the biggest constraints on clean electricity deployment is a lack of transmission capacity. To bring power from where it is generated (generally rural areas) to load centers (generally urban areas), this capacity needs to increase. The bill aimed to reduce barriers to transmission construction while prioritizing the protection of disinvested communities. However, in Governor Newsom's veto message,[10] he noted the coordination problems that would arise if a duplicative, parallel system were to be put into place with both the Energy Commission and the Public Utilities Commission. Instead, he's instructing his Infrastructure Strike Team (established by Executive Order N-8-23) to work with stakeholders to accelerate the development of needed electric infrastructure.

[10] Governor Gavin Newsom. 2023. Letter to the California State Senate Vetoing Senate Bill 619. [accessed 2023 Dec 6].

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About Carbon Direct

Carbon Direct helps organizations go from climate goal to climate action. We combine technology with deep expertise in climate science, policy, and carbon markets to deliver carbon emission footprints, actionable reduction strategies, and high-quality carbon dioxide removal. With Carbon Direct, clients can set and equitably deliver on their climate commitments, streamline compliance, and manage risk through transparency and scientific credibility.

Our expertise is trusted by global climate leaders including Microsoft, American Express, and Alaska Airlines, as well as by the World Economic Forum, which selected Carbon Direct as an Implementation Partner for the First Movers Coalition. To learn more, visit www.carbon-direct.com.

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