

California & Federal Environmental Update

CUPA

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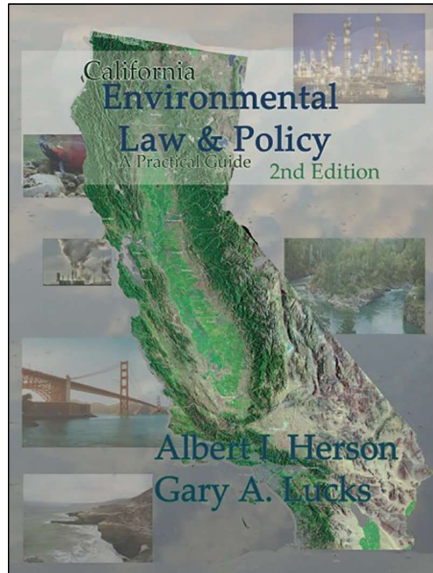
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- Certified Professional Environmental Auditor
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- Policy Advisor: Newsom & Feinstein
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- Institute of Internal Auditors
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THE 2023 ENVIRONMENTAL LEGISLATIVE SESSION: GOING GREEN ON INFRASTRUCTURE

INTRODUCTION

The 2023 legislative session—encompassing bills introduced and signed between January 4, 2023–September 14, 2023—is noteworthy for advancing a major package of policies designed to rapidly procure federal funds promoting clean and green energy and infrastructure while accelerating project approvals. The Governor also signed a considerable number of laws to remove barriers to building new housing units. Other noteworthy legislation includes the Climate Corporate Data Accountability Act which requires large companies to disclose their carbon footprints while another law requires large companies to share business risks associated with the climate crisis. In addition, the Governor signed a climate law requiring sellers of voluntary carbon credits to provide empirical support for the validity of the credits including third-party verification. Other legislation codifies a prior executive order mandating conservation of 30% of California's land and coastal resources. The Legislature also served up several new laws regulating the oil and gas industry including Senator Skinner's SBX-2 which aims to rein in windfall profits from the oil industry. Finally, the Governor signed two seminal laws focused on accelerating emerging green projects to ease the transition from natural gas to electricity.

Of the 3,286 bills introduced at the beginning of the legislative session, Governor Newsom signed 900 (also law: 11% fewer than 2022 and vetoed 156, approximately the same percentage as 2022–246). Except for budget-related urgency laws that passed by a supermajority, (which took effect on the date of their signing), enacted laws became effective on January 1, 2024.

ACCELERATING AND FUNDING GREEN INFRASTRUCTURE

The Governor and Legislature aligned to advance budget-implementing legislation to deploy billions of dollars in federal funds for clean energy and green infrastructure in California. Midway through the legislative session, Governor Newsom announced a package of bills to assist California in accessing approximately \$229 billion from the Inflation Reduction Act for energy and climate change projects. \$280 billion from the CHPS Act (Creating Helpful Incentives to Produce Semiconductors and Science Act of 2022), and over \$36 billion from the Bipartisan Infrastructure Law Infrastructure Investment and Jobs Act of 2021 (IIJA). Newsom created a Green Bank program to assist in further leveraging federal resources that prioritizes developments to serve low-income and disadvantaged communities.

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Trump 1.0 Legacy Is Past Prologue?



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Trump 1.0 Environmental Record



1. **A nuanced, partial retreat pivoting to a wholesale reversal**
2. **Federal Regulatory Drivers:** Remained largely intact
3. **EPA Staff and funding:** Still largely intact
4. **EPA Morale:** Suffering at the federal level
5. **Enforcement:**
 1. **Federal:** Relaxed but Yates Memo and still relatively heavy enforcement in targeted OECA areas
 2. **State:** Blue and Green States: Robust enforcement
 - CA AG brought 120 suits (2/3 were environmental actions)
 3. **NGOs:** Winning 95% of their cases
6. **Courts:** Largely served as a backstop

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Reality: The Trump Administration Is Reversing 100 Environmental Rules. Here's the Full List

	Completed	In progress	Total
Air pollution and emissions	19	8	27
Drilling and extraction	12	8	20
Infrastructure and planning	11	1	12
Animals	9	2	11
Toxic substances and safety	6	2	8
Water pollution	4	7	11
Other	5	6	11
All	66	34	100

<https://www.nytimes.com/interactive/2020/climate/trump-environment-rollbacks.html?smid=fb-nytimes&smtyp=cur>

Deregulatory Push Moving Quicker than 1.0

- **Trump 2.0:** 10-for-1 Rule Repeal Initiative
- **Trump 1.0:**
 - 2 – for -1 Rule Repeal approach in Trump 1.0 was not considered successful
 - Return to centralized enforcement deemphasizing EPA regional offices

Trump EPA Staff Priorities (1.0 & 2.0)

Narrow Focus:

1.0 Superfund:

- High priority
- Identified list of sites with significant redevelopment potential

TSCA: Shifting staff to implement TSCA updating and streamlined risk reviews for “new” chemicals

- Approximately 40,000 chemicals in commerce
- Targeting backlog of 600 chemicals:
- Reduced to 300 new cases for review
- Challenge to meet strict regulatory deadlines

Safe Drinking Water Act

2.0 Safe Drinking Water Act Enforcement including focus on new PFAS MCL

Trump 2.0 Project 2025: the Environment

• Project 2025:

- Remove GHG Reporting Program
- Update the Clean Air Act Endangerment Finding
- Dismantle NOAA, Climate & Fisheries Science agency
- Eliminate DOE offices that manage renewable energy, climate technology & energy technology research
- Eliminate energy efficiency standards for household appliances

Trump 2.0 Rollback of 80 Executive Orders

- **Personnel:** Schedule F returns:
 - Converting 50,000 career civil servants to “at-will” political employees
 - Will lead to loss of agency institutional knowledge
- **Paris Agreement:** Removed US from Paris Agreement on Climate Change (with the goal of global warming “well below” 2 degrees Celsius)
- **Energy Efficiency:** Weakening energy and water efficiency rules for lightbulbs, showerheads, washing machines and dishwashers.
- **Drill Baby Drill:** Opens up new tracts of federal land for drilling (e.g., Alaska National Wildlife Refuge) (Heatmap: oil companies not likely to rush due to costs)
- **LNG Exporting:** Ended Biden’s pause on liquefied natural gas export permits
- **GHG Enabling Authority:** “National energy emergency” EO ordering EPA to study whether GHGs are dangerous air pollutants (i.e., the “endangerment finding in CAA). If successful, could open the door to open the door to an onslaught of tort litigation & uncertainty for industry



Trump 2.0 Rollback of 80 Executive Orders

- **Easing Refinery Permitting:** Rescinded environmental and permitting rules governing new oil and gas pipelines and refineries.
- **Wind Energy:** Broad freeze on federal wind energy permits (but not solar!)
- **Halting Renewable Projects:** Dept. of Interior 60-day suspension of permitting for all renewable projects on federal lands (e.g., wind farms & offshore wind)
- **Green Infrastructure:** Ordered a freeze on the IRA and Bipartisan Infrastructure Law (for 90 days) & subject to future approval to OMB approval
- **Tailpipe Emissions:** Targets EPA;s waiver for CA to set its own tailpipe emissions standards under the CAA, indirectly impacting EVs

Zeldin's Deregulatory Agenda

EPA regulations up for reconsideration are:

- Emission limits on power plants
- Tailpipe pollution standards for cars and trucks
- Mandatory greenhouse gas reporting for large oil and gas operations
- Methane regulations for oil and a gas operations
- Limits on mercury and other toxic pollutants from power plants
- Air quality standards that limit harmful particle and soot pollution
- Wastewater pollution rules for power plants
- A program to limit haze
- The "Good Neighbor Rule," which protects Americans from air pollution from other states

California Tailpipe Preemption in Play

The Biden EPA granted preemption for:

CA's Advanced Clean Cars II (ACCI) vehicle emissions program Includes:

100% ZEV mandate by 2036

Heavy truck "omnibus" nitrogen oxides rule

SCOTUS will review EPA's preemption waiver for California vehicle standards out to model year 2025



EPA to Eliminate Research Department

- EPA's Office of Research and Development is the largest department
- Has studied everything from fine particle pollution air pollution to health risks of fracking & forever chemicals.
- Because the office was created by congressional statute and cannot just be dissolved.

Inflation Reduction Act: Climate Progress

- ❖ \$375 B (spent over 10 years) aimed at reducing carbon emissions by at least 40% by 2030 (2005 Baseline)
- ❖ Paris Compared: 50% - 52% by 2030 (2005 Baseline)
- ❖ Funding Allocation:
 - Renewables & Energy Efficiency
 - EVs
 - Carbon capture & Sequestration,
 - Agriculture
 - Land conversion
 - GHG Reduction Fund
 - EPA Climate & Air Pollution programs
- ❖ GHGs are "air pollutants" Amended Clean Air Act to explicitly define GHGs as an "air pollutant" shoring up EPA's GHG regulatory authority



Build Back Better: \$1.2 Trillion Infrastructure Investment & Jobs Act

- ❖ \$1 B for 49 Superfund sites
- ❖ \$4.7 B: to cap and plug orphaned oil & gas wells
- ❖ **EV Infrastructure:** National network of 500K EV chargers
- ❖ \$7.4 B: Upgrading aging water infrastructure including lead pipe & paint action plan
- ❖ \$20 B: Office of Clean Energy Demonstrations: to scale up clean energy



Most Climate Insiders do not expect IRA Repeal

- Unscientific poll by Heatmap: > 30 climate insiders across policy, science, technology, & economics, including high-profile energy entrepreneurs, high-rolling “climate tech” venture capitalists, & some high-ranking Biden officials.
- Repeal would impact the \$7,500 EV subsidy.
- Governor Newsom promises to back fill
- Note: Average EV cost was \$56,902 compared with \$48,623 of ICE vehicles as of 10/24)
- Musk would benefit by hurting Tesla competition

Heatmap Daily 1/18/25



District Judge Blocks EPA Grant Pull back

- Trump froze & is now trying to claw back congressionally appropriated, contractually obligated funds.
- US district judge issued a temporary restraining order blocking EPA \$20 billion in IRA grants
 - Threatened criminal contempt if his order is violated
- Will philanthropists fill the gap?

DOT Pausing Green Infrastructure Funding

- DOT is pausing green infrastructure project grants as they determine whether they “advance climate, equity, and other priorities counter to the administration's executive orders.”
- The review will identify for cancellation any projects aimed at “equity analysis, green infrastructure, bicycle infrastructure & EV and/or EV-charging infrastructure.”

Breakthrough Energy Closing Policy/Advocacy Arm

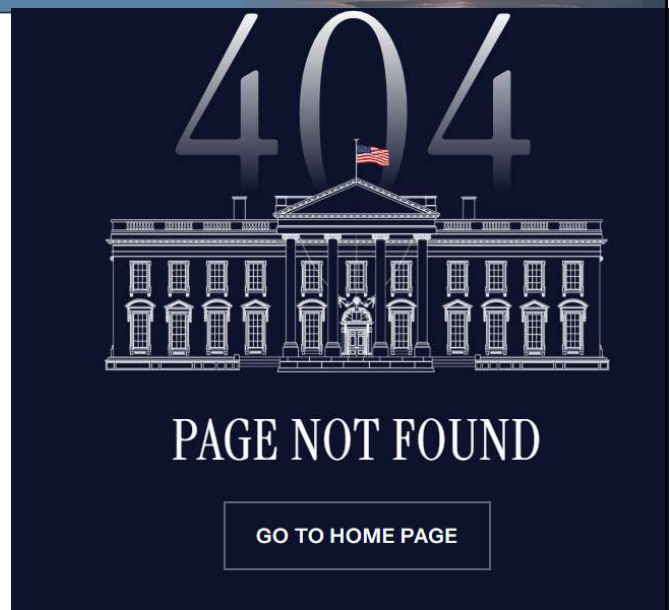
Breakthrough Energy:

- Gate's climate philanthropy organization closing its policy and advocacy office
- This environmental nonprofit supported nuclear energy, direct air capture, & other new zero-carbon energy innovations.

The White House Climate Website has gone Dark

- Though, the DOD's Climate Resilience Portal remains up
- As the site reads, "The changing climate is one of many threat multipliers to National Security, which adds complexity to Department of Defense decisions."

Heatmap 1.27.25



Solar expected to lead U.S. power additions through 2026

- **Solar Projections:** U.S. power generation growth will be led mostly by new solar power additions in the next 2 years (Energy Information Agency)
 - 26 gigawatts expected by 2025
- **Wind Projections:** Expected to increase by ~ 8 GW in 2025 (could be less)
- **Coal Plant Retirements :** 6% of coal generating capacity will be removed in 2025.
- Energy consumption predicted grow at ~ 2% per year through 2026
 - First 3 years of consecutive growth since the early 2000s.



Heat Map 1/25

▪ EPA Budget in Cross-hairs of DOGE

- The “Depart. Of Government Efficiency” will be taking aim at EPA’s budget
- EPA’s largest employee union is better positioned to withstand personnel impacts due to its labor-focused collective bargaining agreement
- Federal just imposed indefinite block on personnel buyout offer (impacting 2 million federal employees)



EPA Career Staff Losing Worker Protections

- EO strips federal employees of civil service protections
- EO freezes new hiring
- EO ends work-from-home allowances
- Leads to a repeat of Trump 1.0: Distrust between political appointees and EPA career staff



Trump 1.0 Failed to Cut EPA Budget

- **Rhetoric:** Sought 30 percent Budget for 4 years
- **Reality:**
 - Budgets flat lined and went up one year
 - EPA budget (in real dollars) declined 45% from 2004
- **Zeldin:** Aiming to cut 65% of EPA budget
 - 35% reduction from core spending
 - The rest: One time IRA fund cuts
- **White House:** Planning to move EPA staff from D.C. & adjust EPA regional offices



DOE's Carbon Removal Team Terminated

- DOE's carbon removal team fired

EPA Inspector General Fired

- Many of those fired were appointed in Trump 1.0
- The President must notify Congress 30 days prior to removal and provide: "substantive rationale, including detailed & case-specific reasons" for removal

Trump 2.0 Congressional Review Act:

Trump 1.0 Revoked 4 rules promulgated during ~ last 6 months of Biden
Only Need Simple majority of both houses

- Preemption waiver of CA's 2035 100% ZEV mandate (Biden team argued is an "adjudicatory order" not a "rule")
- CA's Advanced Clean Cars II program
- CA's Heavy truck nitrogen emissions rule
- Air toxic Source reclassification Rule
- Methane fee rule: natural gas companies to pay a fee when emitting methane above specified levels via venting or flaring
- NAAQS for NOx, SOx, Particulate Matter & perchloroethylene
- Lead & Copper Rule Improvements
- Energy Efficiency standards for freezers & water heaters
- TSCA: dust-lead, TCE, PCE, & carbon tetrachloride



Manufacturing Process Unit Exemption

- ❖ Hazardous waste generated in a Manufacturing Process Unit (MPU) is exempt from RCRA.
- ❖ Exemption applies to hazardous waste which is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit or an associated non-waste-treatment manufacturing unit until it exits the unit in which it was generated.
- ❖ **Recent ALJ Ruling in EPA Region 1:**
 - Distillate receiver tanks are integral to the manufacturing process and not separate units
 - Tanks comprised a trio of elements (a reactor, condenser and receiver tank)
 - Thus, distillate receiver tanks are exempt under MPU exemption

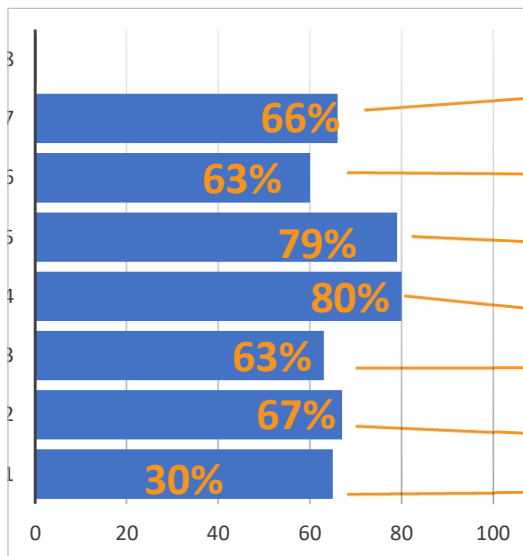
Public Sentiment



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Environmental & Climate Polls

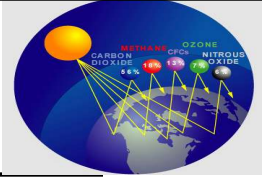


- Federal government should act more aggressively to combat climate change (Pew Research Center June 2020)
- Climate change is a major threat (Pew Research Center October 2023)
- Country should prioritize alternative forms of energy (Pew Research Center June 2020)
- Human activity is fueling climate change (Source: 2019 Washington Post & Kaiser Family Foundation)
- The Green New Deal is a good idea to address climate change (NPR/PBS 2019)
- The US needs to do more to address climate change (Quinnipiac 2019)
- Americans seriously considering purchasing an EV (Pew9)

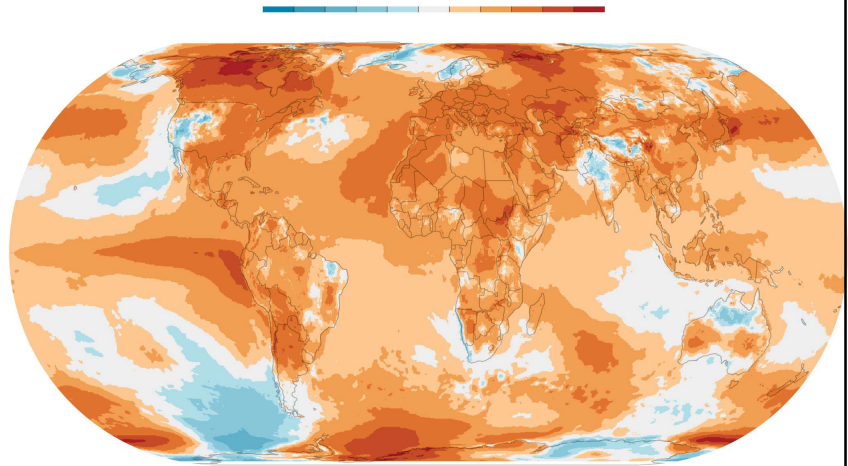


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2024: Warmest Year on Record



- ❖ World temperatures exceeded 1.5 degrees Celsius (1.55 C or 2.79 F)
 - 1.5-degree ceiling is Centerpiece of Paris Agreement
 - ❖ Warmest in 1> 125,000 years
 - ❖ 2023: Warmest for Oceans
 - ❖ 151 “unprecedented” extreme weather events (2024)
 - ❖ Glaciers lost more mass in past 3 years than any 3-year period on record
- Heatmap 3/19/25

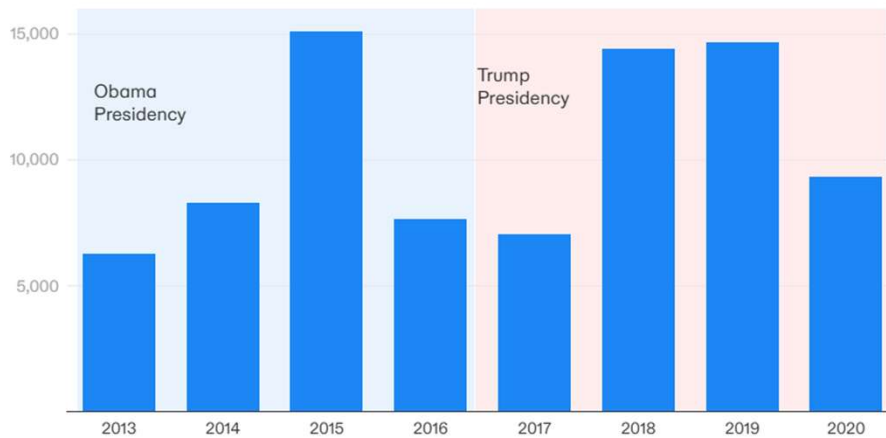


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The War on Coal, Continued

Coal plant retirements during Obama's second term and Trump's first, in megawatts



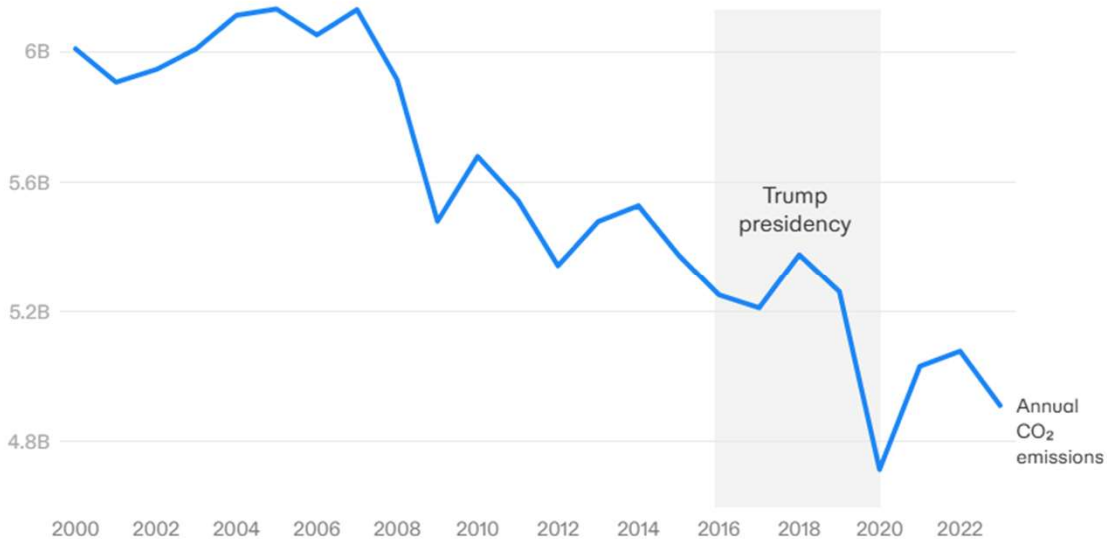
Source: Energy Information Administration • Embed • Download image



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Carbon Emissions Kept Falling

U.S. carbon dioxide emissions, in metric tons



Source: Global Carbon Budget (2024) – with major processing by Our World in Data • Embed • Download image



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GHG Emissions Won't likely Drop

- 1.0: Emissions dropped 4% despite attack on climate policy (withdrawal from Paris Agreement, rejecting the Clean Power Plan, opening public lands for oil & gas Cooperative & ever-cheaper renewables)
- 2.0 Factors: development, increasing solar tariffs, cost of coal & the availability of natural
 - Rising electricity demand with coal benefiting
- Load growth will put pressure on renewables and other non-carbon sources to keep up, while natural gas will be the big winner.
- The Global Carbon Project estimates that the 1.5 degrees Celsius target will be breached in six years.

Heatmap 11.19.24 & 11.13.24

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COP29 Climate Summit

- **New climate finance goal:** Developed countries pledged to give at least \$300 billion annually by 2035 to help poorer countries adapt to climate change & transition away from fossil fuels.
- Well below the \$1 trillion economists say is needed.
- No clear plan for how:
 - Countries will transition away from fossil fuels, as pledged at last year's COP28
 - To triple renewable energy capacity.



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Domestic Fossil Fuel Development

- Trump declared a national energy emergency
- For drilling & fracking to pick up substantially, oil & natural gas prices would have to rise which would increase inflation
- Oil companies won't spend money on production, which is already near record levels if they are not confident that they can make money from the extra fuel they churn out.
- Trump's pledged to make it easier to build pipelines, & would
 - Likely take years requiring new legislation
 - Face court challenge by opponents
- NYT 1.27.25



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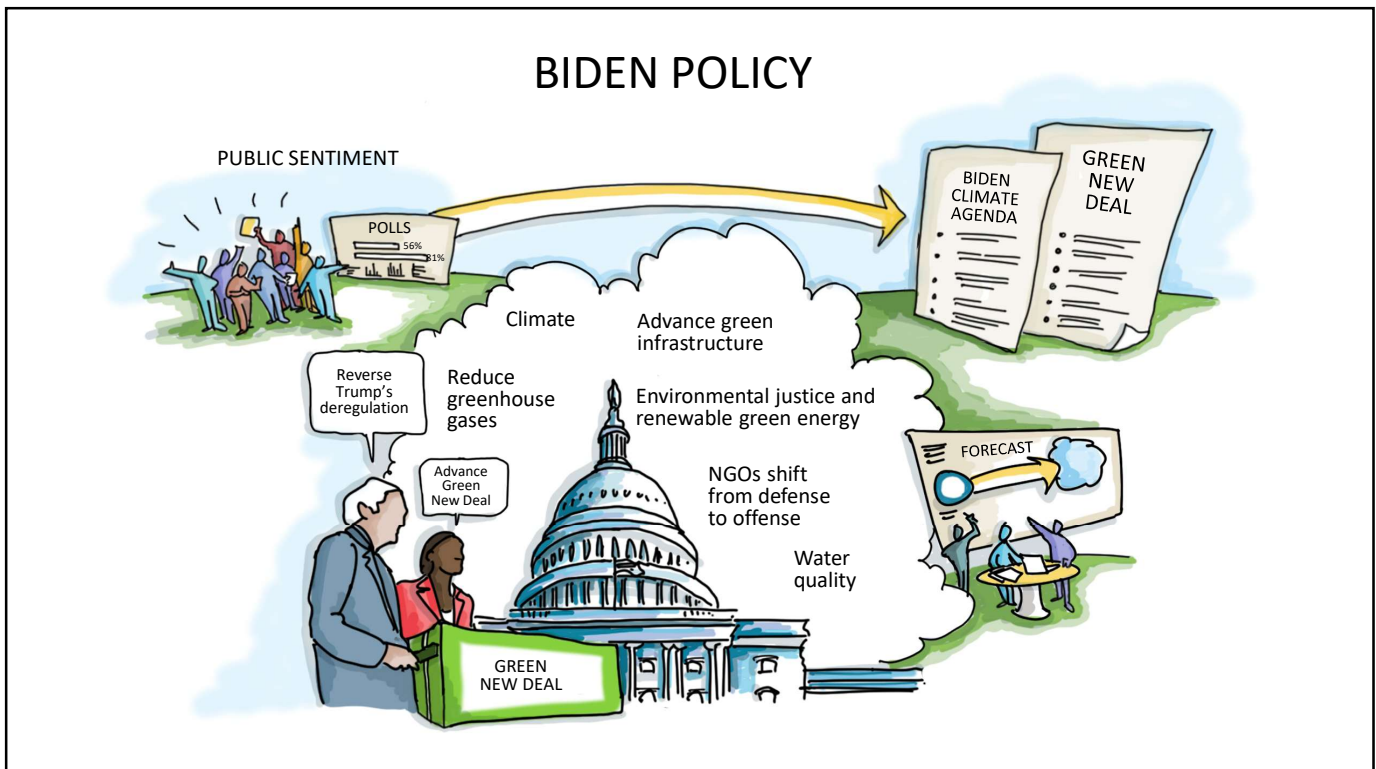
The Energy Transition is Irreversible

- The economics of clean energy will likely define our future
- “Clean energy is cheaper, more widely available, and more efficient” *Bloomberg*
- The economics of solar & wind are outcompeting new coal and gas-fired power plants
- Solar panel & battery costs have plummeted by 90% the past decade
- EVs remain popular & automakers are committed to the EV transition
- Businesses take the long view & know that “whipsawing” from administration to administration is not good for business (Daniel Sperling, Director of Institute of Transportation Studies, UC Davis)
- Chevron CEO “recent drastic changes in U.S. energy policy: “Swinging from one extreme to another is not the right policy approach. We have allocated capital that’s out there for decades, and so we really need consistent and durable policy. We need to see some of this in legislation so it’s more durable and not at risk of being swung back in another direction by a future administration.”

Heatmap 1.28.25 &

3.11.25
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Biden Agenda vs. Green New Deal

GND	Biden	
Net-zero GHG Emissions by 2030	2035	Conservation focus on agriculture industry <ul style="list-style-type: none"> • Emphasizes green infrastructure • Energy efficiency in buildings & houses • Promoting production of EVs <ul style="list-style-type: none"> • EJ • Clean energy • Conservation in agriculture & industry
Abolish fracking?	Not abolishing fracking	Market forces: oil/gas companies are transitioning to renewables adding pressure to replace jobs with green jobs
Carbon Free Electricity	Yes \$2 trillion pledge	40% earmarked for legacy pollution & investments in disadvantaged communities
Building energy efficiency	Yes	
Green Transportation	Promoting EVs	Could see climate friendly policies in infrastructure & stimulus bills
Meet Paris Agreements limit to below 2C	Rejoined Paris Climate Agreement	

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Biden EJ Focus

❖ “Justice 40”: 40% of federal funding to benefit underserved & overburdened communities:

- Office of Environmental Justice in:
 - DOJ **AND**
 - Dept. of Health & Human Services

❖ OECA EJ Focus:

- Increased inspections, early relief, protective remedies, increased engagement & enforcement
- Issued several Emergency Orders under SDWA & Clean Air Act



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Trump 2.0 To Slash EJ Initiatives

- Expected to eliminate EPA's Office of Environmental Justice & External Civil Rights
- Will return EPA's EJ functions to the EPA Administrator's office

West Virginia v. EPA

- ❖ USSC: 6-3 ruling curtailed EPA's authority to regulate emissions from coal-fired power plants under the "Major Questions" doctrine:
 - EPA lacks explicit congressional authority to mandate require cleaner sources of electric power under CAA Section 111
 - Congress must issue "clear" statutory authority when granting an agency new power with vast political and economic consequences
- ❖ EPA air quality rulemaking underway to reduce criteria pollutants which will indirectly cut carbon
- ❖ Proposed rule to regulate methane from oil & gas operations
- ❖ Forthcoming Executive Orders



Coal Plants to Capture Carbon

- EPA rules require coal plants to capture emissions or shut down
- Plants that plan to stay open after 2039 would have to cut or capture 90% of their carbon pollution by 2032
- Aligns with Biden's pledge to eliminate carbon pollution from the electricity sector by 2035 & economy wide by 2050

Chevron Doctrine Overruled

- **Chevron doctrine:** When a federal statute is silent or ambiguous about a regulatory issue, courts must defer to the implementing agency's reasonable interpretation
- USSCT Super majority ruling in ***Loper Bright Enterprises v Raimondo & Relentless Inc.***
 - Judges, not federal agencies are responsible for resolving statutory ambiguities
 - Holding leaves in place prior agency determinations adjudicated & upheld under Chevron



Forever Chemicals: PFAS Policies

- ❖ **RCRA:** Proposed Rule listing PFOA, PFOS, PFBS, and GenX as RCRA hazardous constituents for purposes of RCRA Corrective Action cleanup
- ❖ **Drinking water limits** (using emergency powers to establish)
 - Drinking water of ~110 M Americans may be contaminated by PFAS (per & polyfluoroalkyl substances)
 - PFAS found in over 20% of drinking water systems so far
 - Final rule covering 6 PFAS chemicals
- ❖ **Superfund:**
 - Setting PFAS Superfund hazardous substances designation
 - All Appropriate Inquiry Defense: New ASTM standard E 157021 calls for addressing PFAS contamination
- ❖ **CWA:** Effluent guidelines under development
- ❖ **TSCA (almost final):**
 - ❖ Businesses must notify EPA before using 329 PFAS chemicals.
 - ❖ EPA to perform review of health & safety information to determine if the new use may present an unreasonable risk to human health or the environment & possibly impose restrictions
 - ❖ Companies must investigate & report across its enterprise (upstream supply chains & downstream end-users)
- ❖ **TRI:** Biden rule eliminates Trump TRI reporting exemption for *de minimis* amounts of PFAS

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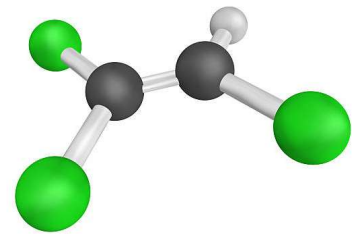
TSCA Rule Bans most Uses of PCE & TCE

TSCA now restricts uses of trichloroethylene solvent & perchloroethylene (12/24)

These solvents are toxic to the nervous system, cancer, & reproductive health

Note: PERC can biodegrade to TCE

Could be challenged under the Congressional Review Act, though most companies do not want to gut TSCA, preferring a well functioning TSCA



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Eliminating NPL Cleanup Backlog

- ❖ **Bipartisan Infrastructure law will fund:**
 - 44 of “orphan” Superfund National Priorities Listed sites
 - 22 new sites
- ❖ **Inflation Reduction Act:** Reinstates the long-expired Superfund taxes on chemicals including oil

Personnel is Policy

-
- ❖ **White House Office of Climate Policy:** likely to be eliminated
 - ❖ **International Climate Envoy:** likely to be eliminated
 - ❖ **Dept. of Energy:** Chris Wright (Fracking executive), proponent of geothermal & nuclear power
 - ❖ **DOT:** Sean Duffy
 - ❖ **EPA:** Lee Zeldin (Republican congressman with no experience with environmental management or bureaucracy)
 - ❖ **CEQ:** TBD
 - ❖ **Dept. of Interior:** Governor Doug Burgum (N. Dakota)

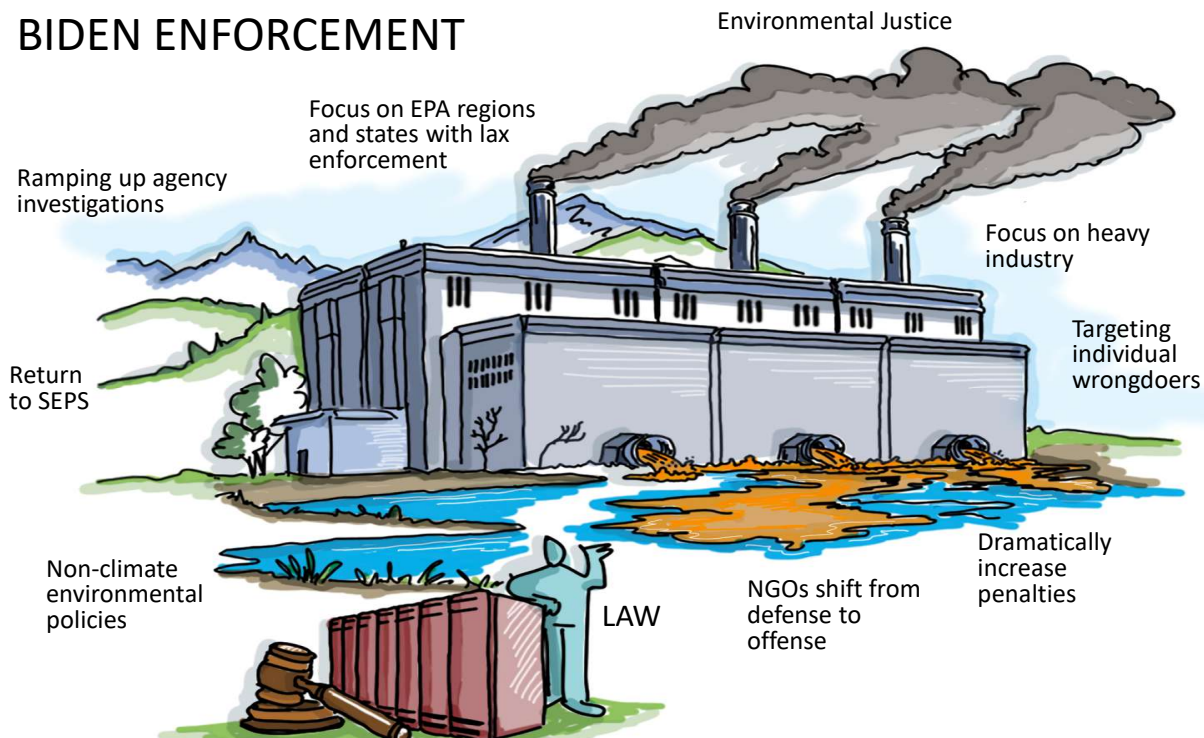
Personnel is Policy

- ❖ **White House Office of Climate Policy:** John Podesta replaced Gina McCarthy in coordinating domestic policy
- ❖ **International Climate Envoy:** John Kerry
- ❖ **Dept. of Energy:** Jennifer Granholm
- ❖ **DOT:** Pete Buttigieg focusing on green infrastructure
- ❖ **EPA:** Michael Regan
- ❖ **CEQ:** Brenda Mallory: Experienced former environmental lawyer who spent 15 years at EPA
- ❖ **Dept. of Interior:** Deb Haaland expected to curtail oil & gas leasing on federal lands

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BIDEN ENFORCEMENT



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Strongest EPA Enforcement Since 2017

- Office of Enforcement & Compliance Assurance (OECA):
 - 1,805 civil cases
 - 120 criminal defendants charged
 - Reduced > 225 millions pounds of pollution in overburdened neighborhoods
 - Emphasis:
 - - Super GHG pollutant reductions

OECA Enforcement for 2023

- ❖ Significant increase in on-site inspections, new criminal investigations, civil settlements & cleanup enforcement
- ❖ Record level of enforcement in EJ communities
(60% more than since before pandemic)
- ❖ 77% increase in criminal investigations
- ❖ 57% increase (from prior year) in collective fines/penalties & restitution

Environmental Civil Penalties Rise Significantly

❖ **Federal Civil Penalties Inflation Adjustment Improvement Act of 2015**

❖ **EPA Civil Penalties rose with inflation in 2020**

❖ **3.2% COLA on top of 2020 Increases (2023)**

Federal Law	Penalty per/day per violation
RCRA	\$121,275
Clean Air Act	\$121,275
Clean Water Act	\$66,712
EPCRA	\$69,733
CERCLA	\$69,733
SDWA	\$69,733
TSCA	\$48,512
FIFRA	\$24,255

New DOJ Self-Disclosure Policy for Corporate Crimes

- ❖ US Attorney's Office set out new standards defining whether a voluntary self-disclosure of criminal misconduct
- ❖ Company considered to have made a voluntary disclosure if it becomes aware of misconduct and then publicly reports it to DOJ in a timely fashion and prior to an imminent threat of disclosure of government information
- ❖ **Benefit:** May be exempt from criminal penalty or fined below 50% of the fine range if:
 1. Misconduct poses grave threat to national security, public health or environment
 2. It is deeply pervasive throughout the company
 3. It involved the current executive management of the company

Individual Liability for Corporate Wrongdoing

Focus on prosecuting Corporate fraud & other misconduct as deterrence

Yates Memo Guidance:

- Corporate Cooperation Credit: corporations must provide all relevant facts to DOJ regarding individual responsible for misconduct
- Investigations: focus on individual from inception of investigation
- DOJ will not release culpable individuals for liability when resolving corporate matter
- DOJ attorneys should not resolve corporate matter without clear plan to resolve related individual cases
- Civil attorneys should consistently focus on individuals AND the company regardless of individual's ability to pay

Litigation Reset



Pivot To Defense

- AG Bonta with \$50 Million war chest to fight Trump 2.0
 - Half earmarked for climate change and environmental protection
- **Blue State AGs and NGO shifting to Defense**
- **Red States likely to go on Offense**



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California Environmental Regulatory Developments & Enforcement



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California's Preoccupied by Climate, Drought & Wildfire

- ❖ **~60% of Californians:** Housing, homelessness, & economic conditions are top 3 most important issues
 - ❖ 70%: lack of affordable housing is the cause
 - ❖ Majorities across parties favor policies to help homeless community members
- ❖ **Governor Newsom: 52% approval**
- ❖ **Legislature: < 50% approval**
- ❖ **Biden: 53% approval**
- ❖ **US Congress: 20% approval**
- ❖ **Wrong Direction: a Majority belief**

Public Policy Institute of CA Poll (12/23)

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California's Preoccupied by Climate, Drought & Wildfire

- ❖ **~90% of likely CA Voters:** Environment is important
- ❖ **Governor Sentiments:**
 - 45% of likely CA Voters: Environment is Very Important in voting for Governor
 - 59% of likely CA Voters approve of Newsom's handling the environment
- ❖ **Top 2 issues:**
 - #1: Water supply & Drought: 68%
 - #2: Wildfires & Climate
- ❖ **Climate & Drought:** 77% say climate change has contributed to current drought
- ❖ **Climate change effects are here:** 69%:
 - 80%: climate change is very or somewhat serious threat to future economy & quality of life
- ❖ **Oceans/Beaches:** 58% oceans and beaches are very important to California's future economy & quality of life



Public Policy Institute of CA Poll (7/22)

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2023 CALIFORNIA ENVIRONMENTAL SCORECARD



GOVERNOR

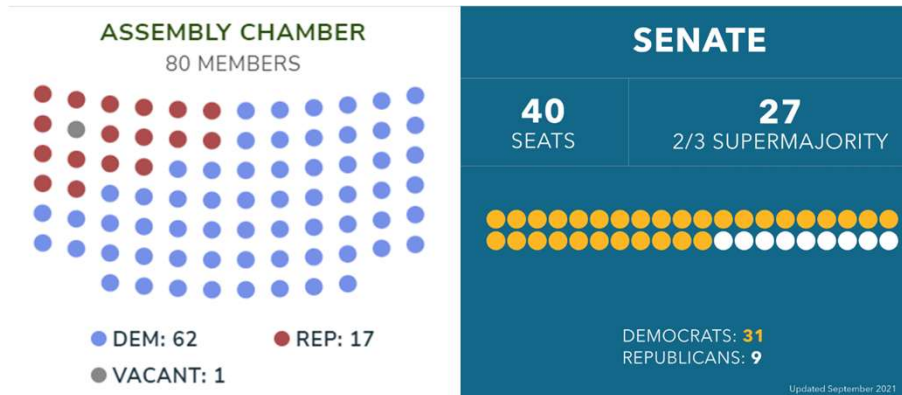
Gavin Newsom (D)



Position: **Governor since 2019**

<https://www.gov.ca.gov/>

- ❖ Historic ultra-supermajority in both houses with a Democratic governor
- ❖ Both houses led by members who have a deep interest in environmental issues
- ❖ **Source:** California Budget & Policy Center



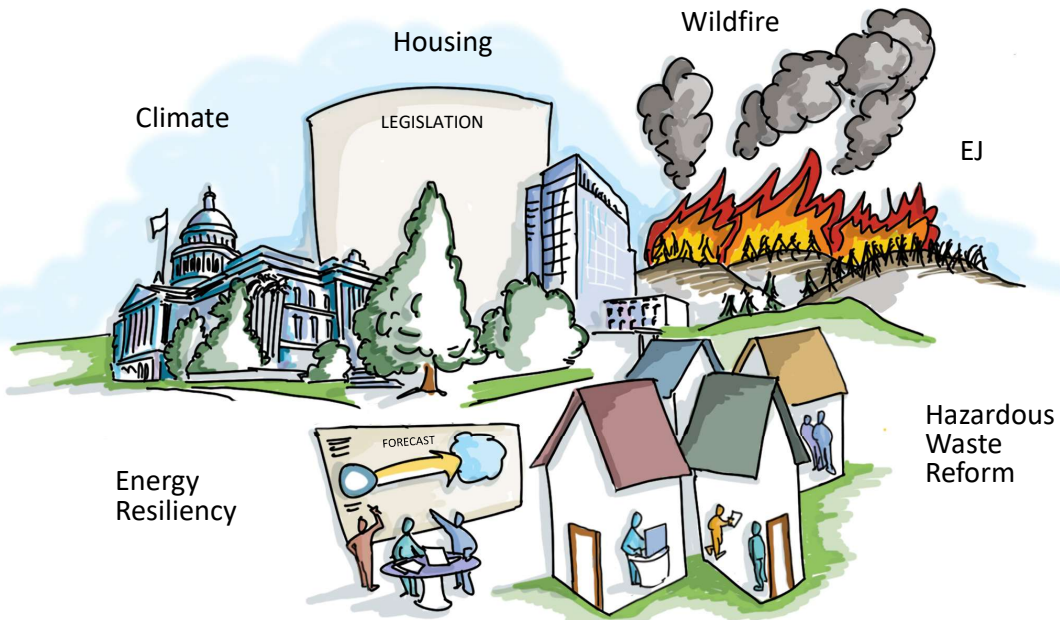


California Budget & Policy Center



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CALIFORNIA POLICY



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Only Selected Topics Today

- Climate Change
- Air Quality
- Hazardous Waste
- Hazardous Materials
- Green Chemistry
- Water Quality
- Sustainability
- Health & Safety
- Enforcement
- Forecast



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Decarbonizing California

- ❖ Reduce GHG emissions:
 - 40% below 1990 levels by 2030
 - 80% below 1990 levels by 2050
- ❖ Carbon neutral by 2035 (Now 2045)
- ❖ 60% Renewable energy by 2030
- ❖ 100% Renewable energy by 2045
- ❖ 1.5 million ZEVs by 2025, 5 million ZEVs by 2030
- ❖ 100% EV by 2035
- ❖ 50% of all trucks sold must be EV by 2035
- ❖ Half petroleum use by 2030
- ❖ 100% electric appliances by 2030/2035

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Newsom Executive Orders

❖ Phasing out hydraulic fracking

❖ CA must:

- Stop issuing hydraulic fracking permits by 2024
- End all fossil-fuel drilling by 2045
- Pending SB 467 would ban offshore oil drilling

❖ Conserving 30% of land & coastal water by 2030: To offset loss of biodiversity

❖ Storing Storm Flood Water: Making it easier for water suppliers and farmers to divert water, temporarily suspending regulations including CEQA reviews allowing users to divert without water rights permits.

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Climate Change Disclosures

“Climate Accountability Package”

- **SB 253 (Wiener) - Climate Corporate Accountability Act:** Public/Private corporations with annual revenues above \$1B doing business in CA must publicly report total annual GHG emissions:

- Scope 1: Direct emissions (2026)
- Scope 2: Indirect emissions (2026)
- Scope 3: Supply chain emissions (2027) **Shifting date**
- **SEC compared:** Only covers public companies

- **SB 219 (Weiner):**

- Delays ARB rulemaking to 7/1/25
- Reporting entities must now make annual disclosures to either the emissions reporting organization or ARB
- Scope 3 disclosures due on a schedule specified by ARB instead of “no later than 180 days after its scope 1 emissions and scope 2 emissions are publicly disclosed.”

Transparency



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Climate Risk Disclosures

- **SB 261 (Stern) - Climate-related Financial Risk Act:** companies doing business in CA with gross annual revenues > \$500 M (except insurance firms) must report climate-related financial risks around the world

Constitutional Challenges to Climate Disclosure Laws

CA Chamber/others seeking injunction contending these laws arguing:

- “Unconstitutionally compel speech” violating 1st Amendment
- Seek regulating outside CA jurisdiction contrary to CAA with exclusive federal jurisdiction
- Violate Interstate Commerce

Climate Change: Voluntary carbon offsets

❖ AB 1305 (Gabriel) - Buyer and seller information: Companies marketing or selling voluntary carbon offsets within CA must disclose on its website details of the carbon offset projects including:

- The specific protocol used to estimate emission reductions or removal benefits
- Location of the offset project site
- Project timeline
- Date when the project started or will start
- Dates and quantities “when a specified quantity of emission reductions or removals started or will start or was modified or reversed.
- Whether offsets are from carbon removal or avoided emission or the breakdown of each category
- The durability period
- Whether there is an independent expert or third-party validation or verification of the project attributes.

Promoting Carbon Capture, Removal, Utilization & Sequestration --Carbon Drawdown

SB 905 requires ARB to develop/implement regulatory framework to streamline safe deployment of Carbon Capture, Removal, Utilization & Sequestration technologies.

- Prohibits injecting concentrated CO2 fluid produced by a CO2 project for enhanced oil recovery in SDWA Class II well
- State Geologist to monitor seismic activity or leakage from a CO2 to help ensure public health & environmental safety
- ARB to monitor & mitigate air emissions from CO2 project

SB 1314: Prohibits injecting concentrated CO2 fluid from a CO2 capture or CO2 capture & sequestration project from use as an injection fluid for enhanced oil recovery

2022 Scoping Plan

Focus on achieving Carbon Neutrality by 2045 (as per AB 1279)

- Expected to reduce demand for liquid petroleum fuels by 94%, & reduce GHG by 89 from oil/gas extraction by 2045
- **Carbon Sequestration strategies:**
 - Carbon Capture
 - Natural & Working Lands
 - CO2 Removal (Direct Air Capture)
- **Key Sectors:**
 - Transportation Sustainability
 - Clean Electricity Grid
 - Sustainable Manufacturing & Buildings
 - CO2 Removal
 - Short-lived Climate Pollutants
 - Natural & Working Lands

Sustainable Aviation Fuel in CA

- ARB partnered with over 10 major airlines (“Airlines for America”) to
 - increase availability of Sustainable Aviation Fuel within CA and use 200 million gallons by 2035
- Will meet 40% of intrastate travel demand & 10-fold increase from current levels

Permit Streamlining Bill Package

- Objective: To assist in accessing federal funds:
 - Infrastructure & Investment Jobs Act (IIJA)
 - Inflation Reduction Act (~ \$239 billion for energy & climate change projects)
 - CHIPS Act (Creating Helpful Incentives to Produce Semiconductors & Science Act (\$280 billion)
- Streamlining CEQA & CESA
- Incorporating labor standards
- Provisions to speed procurement process to reduce timeframes & cost.
- To maximize Federal Dollars, establishes a Green Bank Financing Program
- Infrastructure Strike Team to coordinate among California agencies to:
 - “facilitate coordinate and streamline project review and permitting processes”
 - by identifying priority infrastructure projects
 - supporting governmental coordination on review, permitting, & approvals
 - Creating working groups focused on specific project categories (e.g., transportation, energy, hydrogen, environmental remediation, broadband, water, & zero-emission vehicles. Executive Order

N-8-23

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Oil & Gas Well Buffers

SB 1137: ~ 5.5 million Californians live within one mile of oil & gas wells

- Over 2 million Californians living within 3,200 ft. of an existing oil well
- Mandates 3,200-ft. health & safety buffer zone between new & reworked oil and gas wells and sensitive land uses (i.e., schools, childcare centers, community resource centers, residential homes and live-in housing, and hospitals.
- Oil & gas facility operators in protection zones must implement strict air & water pollution controls & develop response plans

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Natural & Working Lands Climate Smart Strategy

- ❖ **AB 2278 Land Conservation Target:** Establishes priorities for the implementation of the 30x30 conservation goal established in Executive Order N-82-20 and requires an annual report to the Legislature on progress made toward achieving this goal.
- ❖ **AB 1757** Requires ARB, with NRA, CalEPA, and CDFA, to determine an ambitious range of targets for natural carbon sequestration, & for nature-based climate solutions, that reduce GHGs for 2030, 2038, and 2045 to support state goals to achieve carbon neutrality & foster climate adaptation and resilience.
- ❖ **SB 27** addresses concerns about negative emission technologies (NETs) that arguably prolong the use of polluting technologies
 - SB 27 establishes Carbon Sequestration & Resilience and Project Registry:
 - To maintain list of eligible but unfunded projects, which then may be funded to mitigate GHG emissions
 - Maximizes carbon capture in soil, grasslands, farmland, wetlands, forests
 - Prohibits registry projects from offsetting emission reduction obligations or being involved in market-based compliance mechanisms,
 - Requires ARB to add carbon sequestration targets to the state's climate change scoping plan.

Tesla Demand Drops

- California, Tesla registrations fell by about 12% last year
- Tesla stock dropped 30% year to date & down 50% from post-election high

- In the European Union, Tesla registrations fell 13% last year,
- Dropped 41% in Germany, the bloc's biggest BEV market.
- In December 2024, registrations dropped by:
 - 63% in France
 - 44% in Sweden
 - 38% in Norway

Heat Map 2.4.25

Electric Vehicles & Infrastructure

AB 970: Sets permit approval time frames & reduces the number of required parking spaces to accommodate the EV charging stations

AB 1236: Local government must administratively approve an applications for EV charging stations via building permit or similar nondiscretionary permit

Review is limited to the building official's review of whether it meets all health and safety requirements

AB 2427 Requires local governments to develop a permitting checklist in the public right-of-way to advance EV permitting to promote curbside charging to serve multi-family dwellings

SB 347 provides an exemption from the Subdivision Map Act for EV charging stations for projects subject to discretionary action by the city/county legislative body



Bidirectional Charging on EVs--Vehicle to Grid (V2G)

- SB 59 Authorizes CEC to require EVs to be cable of bidirectional charging
- Offers EV owners ability to power a home during an outage or other emergency & send electricity back to the grid

ARB's Advanced Clean Truck Rule:

- ❖ **Beginning 2024**, Automakers must sell a minimum number of zero-emission big rigs, delivery vans, and large pickups weighing more than 8,500 lbs.)
- ❖ **By 2035**, most new trucks in California will be zero emission



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Hydrogen Fueling Permit Expediting

- **SB 1291** Establishes expedited local agency approval of hydrogen fueling incorporating identical approach as AB 1236 for EV permitting
- **SB 347** provides an exemption from the Subdivision Map Act for hydrogen fueling stations for projects subject to discretionary action by the city/county legislative body
- **SB 1418** Requires municipalities to adopt an ordinance to expedite & streamlining permitting for certain hydrogen-fueling stations

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EV Infrastructure Funding

- \$1.4 B investment plan by California Energy Commission to accelerate EV charging & hydrogen refueling deployment over 4 years
- Includes billions from the Biden-Harris Administration for clean transportation.
- The funds approved today will result in nearly 17,000 new chargers for passenger vehicles statewide.
- At least 50% targeted to benefit lower-income and disadvantaged communities.
- Currently: 152K chargers
- Expecting 250K total
- \$102 million to install charging stations and hydrogen fueling stations for zero-emission trucks along Interstate 5 and other key freight corridors.

SCAQMD Indirect Source Rule

- US EPA approved the South Coasts Indirect Source Rule (ISR)
- ISR establishes a menu-based approach requiring warehouses to earn minimum number of points including:
 - Near Zero Emissions and or Zero Emissions on-road trucks
 - Zero Emission cargo handling equipment
 - Zero Emission charging/fueling infrastructure
 - Solar panels
 - Particulate filters for nearby sensitive land uses
- Enforcement by SCAQMD and citizen suits

Planning Logistics And Neighborhood Standards Act (PLANS)

- AB 98 establishes standards to manage air quality impacts from logistics industry impacting sensitive receptors (schools, homes, & daycare)
- Requires:
 - Minimum setbacks (100 feet) between sensitive receptors & warehouse
 - Warehouses to incorporate renewable energy
 - Update truck routes:
 - To reduce idling
 - Prevent cutting through local neighborhoods
 - Warehouse developments eliminating housing due to logistics projects must replace the housing 2:1 ratio6ppd

Smog Check for Heavy-duty Diesel Trucks

Smog check program for heavy-duty diesel trucks

- Beginning in 2023:
- Biannual emissions testing
- Registration blocked upon failure
 - Quarterly testing for trucks with on-board diagnostic systems
 - Out-of-state trucks required certificates demonstrating compliance.

Electrification of Off-road Engines

- ❖ **AB 1346:** Requires zero emissions for small off-road engines (SORE)
- ❖ **What's covered:** Spark-ignition engines rated at or below 19 kilowatts. Engines in this category are used in lawn and garden equipment as well as other outdoor power equipment and specialty vehicles.
- ❖ **Schedule:**
 - Small off-road engines Lawn & other outdoor equipment (2024)
 - New portable generators & specified commercial pressure washers (by 2028)
 - Remote emissions monitoring devices to be used to ID high-emitting vehicles subject to follow-up compliance testing



Air Quality Penalties

AB 1465 Allows civil penalties to be multiplied by a factor of not more than 3 if the violation results from an emission from a stationary source required by federal law to be included in an operating permit program & the emission contains or includes one or more air contaminants.

Hazardous Waste Developments



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Hazardous Waste Injunction Authority

- ❖ Before SB 642 Hazardous waste & CUPA enforcement was limited to the city attorney, district attorney, & Attorney General (at the request of DTSC or CUPA)
- ❖ County counsel is authorized to seek injunction

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Treated Waste Wood

- ❖ AB 332 permanently authorizes TWW to be managed under alternative management standards instead of managed as hazardous waste.
- ❖ Variances granted by DTSC before AB 332 are inoperative
- ❖ **Storage of TWW in “normal course of business”:** off ground (on blocks, concrete surfaces, or containers):
 - Store up to 90 days (block and tarp)
 - Store up to 180 days (containment pad)
 - Store up to 1 year (container and storage building)
- ❖ Cover during inclement weather
- ❖ Accumulate away from public access
- ❖ Do not burn
- ❖ Segregate from other wastes

Revised the Mercury Thermostat Collection

AB 707 requires thermostat manufacturers to:

- Fully fund program costs to collect, transport, & recycle mercury thermostats including education and outreach campaign
- Develop & implement a convenient, cost-effective, and efficient program for the collection, transportation, recycling, & disposal of out-of-service mercury-added thermostats.
- Collection locations must be convenient & accessible statewide, including in rural, disadvantaged, & low-income communities.

Consolidated Manifesting Retail Hazardous Waste

- ❖ **AB 2920** Retail hazardous waste eligible for consolidated manifesting for California-only HW (i.e., unsold consumer products in its original retail sales packaging that is determined by the retailer to be a hazardous waste).
- ❖ **Original list:** household bleach/cleaning products, light bulbs, pool chemicals, laundry detergent, cat litter, potting soil, and fertilizers, used oil, brake fluid, antifreeze, "paint-related" wastes, and drycleaning solvents.
- ❖ Waste streams no longer have to be individually listed on the manifest and in its own container, saving extra vehicle
- ❖ ****Under consolidated manifesting procedures, the generator is exempt from filling out a hazardous waste manifest, and instead the transporter completes both the generator and transporter section of the manifest.**

Hazardous Materials Developments



Green Chemistry & Tires

- ❖ Tires are listed as a “priority product” under the Safer Consumer Products Green Chemistry Program.
- ❖ 6PPD –quinone (N-(1,3-dimethylbutyl)-N-phenyl-p-phenylenediamine) helps prevent tires from degrading/cracking) reacts with ozone in the air forming 6PPD-quinone that kills coho salmon (killing at least half of coho in laboratory studies)
- ❖ Manufacturers would need to replace the chemical or provide an alternative.

Battery Recycling

SB 1215 & AB 2440:

- ❖ Responds to an estimated 75-92% of lithium-ion batteries are disposed of improperly.
- ❖ Adds battery-embedded products to the Electric Waste Recycling Act
- ❖ CalRecycle, in collaboration with DTSC, to establish more than one covered electronic waste recycling fee for covered battery-embedded products based on categories of those products.

PFAS Prohibitions

AB 652

- ❖ Prohibits the sale or distribution of any juvenile products containing PFAS, on or after July 1, 2023
- ❖ Manufacturers must use the least toxic alternative when replacing PFAS chemicals in a juvenile product

AB 1200

- ❖ Prohibits selling food packaging containing PFAS beginning 1/1/23
- ❖ Cookware manufacturers must label product if it contains an intentionally added chemical on specified lists (1/1/24)
- ❖ Manufacturers must use the least toxic alternative when replacing PFAS chemicals for cookware

Cosmetic Chemical Ban

- ❖ **AB 496 follows** EU's Annex II of regulation No 1223/2009, which bans 1,600 carcinogens & endocrine disrupter chemicals
- ❖ Beginning January 1, 2027, bans manufacture, sale, delivery cosmetic products containing any of the 26 intentionally added ingredients (specified in the bill)

Banning PFAS in Menstrual Products

- AB 2515 Prohibits the manufacturing, distribution or sale of menstrual products containing regulated PFAS

Ban on Fire Fighting Foams with PFAS

SB 1044 bans firefighting foam from containing per- and polyfluoroalkyl substances (PFAS)

Chemical Releases

AB 480 authorizes UPAs & CUPAs to respond to HW releases if it “reasonably determines poses an imminent and substantial endangerment to public health”

- ❖ **Prior:** CUPAs needed to persuade a local district attorney to go to court to seek an injunction against the offending business, even while the dangerous conditions persist.
- ❖ **Note:** Recent incidents involved releases of hexavalent chrome in Paramount and Long Beach, a large fire and magnesium release in Maywood and releases from a chemical facility in Richmond
- ❖ Clarifies that “unregulated” facilities must report a release “upon discovery of an actual release resulting in an emergency response”

Emergency Response Plan Lithium-ion Battery Systems

- ❖ SB 38 responded to 3 recent safety incidents involving lithium-ion battery energy systems involving a battery short circuiting, a battery fire, and a overheating at separately owned battery energy storage facilities located at the Moss Landing.
- ❖ SB 38 intended to improve communication and notification to the surrounding community. Specifically, owners and operators
- ❖ Requires battery energy storage facilities to implement an emergency response plan and emergency action plan that covers the premises of the battery energy storage facility.
- ❖ Must submit the plan to the county &, if applicable, the city where the facility is located.

Labeling Sodium Nitrite

- ❖ AB 1210 responds to the chemicals increasing use of sodium nitrite in suicides. AB 1210 prohibits sale of sodium nitrite at a purity level that exceeds 10% unless clearly labeled as fatal if ingested and to also include the statement that "the recommended treatment for ingestion of sodium nitrite is intravenous methylene blue."
- ❖ Identify sodium nitrite ingestion & antidote administration are time sensitive.

UST Cleanup Extended

- ❖ AB 1115 postpones the repeal of the Barry Keene Underground Storage Tank Cleanup Trust Fund Act of 1989 to January 1, 2036, instead of 2026.
- ❖ Existing Law authorizes the SWRCB to fund up to \$1,000,000 to remediate an unauthorized release from an underground storage tank and for the cleanup and oversight of unauthorized releases at abandoned tank sites.
- ❖ AB 1115 authorizes claimants missing copies of the required permits, to demonstrate compliance by certifying that the required permits had been obtained and by providing other relevant documents (e.g., approved permit applications, payment records for permit fees, and inspection reports).

California Hazardous Substances/Cleanup



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Sea-Level Rise & Site Cleanup

- ❖ DTSC draft guidance assessing vulnerabilities of contaminated site to sea level
- ❖ Recommends approaches to evaluate climate resilience for remedy selections
- ❖ Requires Vulnerability Assessments for each stage of remediation process to evaluate resilience of the remedy
- ❖ Phased construction of remedies must include 30 years of protection against sea level rise.
- ❖ Could require an Adaption Plan

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Remediation Oversight AB 304

- ❖ Strengthens oversight of cleanups overseen by local health officers helping ensure they have the necessary expertise, knowledge, & resources to carry out remediation responsibilities to protect public health.
- ❖ Requires local health officers to conduct a public notification process & provide documents outlining the remedial action & certification of cleanup goals to the responsible party and to the public via GeoTracker.
- ❖ Setting certain requirements for local health officers overseeing contaminated site cleanup including electronic reporting, public notification, & written notice to DTSC & SWRCB detailing technical resources available for the cleanup.

Potentially Responsible Parties Liability

4th Circuit Ct. of Appeals (*68th St. Site Work Group v. Alban*) held:

- Superfund law does not require “arrangers” to have knowledge that disposed-of waste is hazardous

California Solid Waste Developments



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International Treaty to End Plastic Pollution Stalled

Draft Treaty would limit how much plastic is manufactured globally

Research: Without a treaty, plastic pollution will double by 2050.

Currently half a billion tons produced with most discarded

Trump not likely to support the treaty

The International Energy Agency: oil and gas producers see the plastics market as a “Plan B” considering world’s energy transformation



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Exxon Accused of Greenwashing

- Attorney General Bonta sued Exxon/Mobil alleging they falsely claimed plastic waste is recycled:
 - “decades-long campaign asserting that single-use plastics trash is harmless and can be disposed of easily and safely...”
- ExxonMobil is the largest producer of plastic polymers used to make single-use plastics
- ExxonMobil countered with allegations of defamation and “business disparagement”

Extended Producer Responsibility

SB 54

- ❖ The Plastic Pollution Prevention and Packaging Producer Responsibility Act Major EPR program for single use plastics with extended producer responsibility model step by significantly reducing California’s reliance on single-use packaging and products.
- ❖ Covers certain single-use packaging & plastic single-use food service ware & requires producers, through a producer responsibility organization, to:
 - Source reduce plastic covered material,
 - Ensure covered material sold, offered for sale, distributed, or imported after January 1, 2032, is recyclable or compostable,
 - Ensure that plastic covered material offered for sale, distributed, or imported in or into the state meets specified recycling rates.

Solid Waste & Recycling

SB 343

- ❖ Tightens the requirements around the permissible use of the “chasing arrows” recycling symbol and when claims regarding recyclability
- ❖ CalRecycle must publish the types and forms of recyclable products and packaging
- ❖ Greenwashing: Adds symbols & language associated with recycling, which are often associated with being eco-friendly, to the list of labels that are specifically regulated

AB 881 reclassifies the export of mixed plastic waste as disposal, while allowing truly recyclable plastic to continue to be counted towards our recycling goals.

Solid Waste & Composting

AB 1201

- ❖ Updates California's environmental advertising laws regarding independent, third-party certification of compliance with degradability requirements
- ❖ Prohibits products with PFAS ("forever chemicals") from being labeled as compostable.
- ❖ CalRecycle must develop labeling requirements for compostable products to ensure that they are readily identifiable by both consumers and composting facilities

Plastic Bottle Minimum Recycled Content

- ❖ AB 793 sets a minimum recycled content standard for plastic bottles in California.
- ❖ Requires producers of plastic beverage containers to incorporate postconsumer recycled content
- ❖ Requires the total number of plastic beverage containers to contain, on average, no less than 50% postconsumer recycled plastic content per year on and after January 1, 2030

Solid Waste Management

AB 1857 (C. Garcia): Incineration ≠ recycling (for local jurisdiction diversion requirements)

Water Quality/Supply Developments



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Water

- ❖ Water rights – SB 389
- ❖ Sustainable Groundwater Management Act/ groundwater adjudication – AB 779
- ❖ Groundwater recharge – SB 659
- ❖ Water shutoff protections – SB 3
- ❖ Water conservation – AB 1572
- ❖ Flood control/ levee upgrades – AB 876

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Treaty Protecting Ocean's Biodiversity

- ❖ Governs the international water, past the 200-mile jurisdiction of countries establishing marine protections
- ❖ Subject to ratification by 190 countries

Water Efficiency

SB 1157 (Hertzberg)

- **Prior Law:** 52.5 gallons per capital daily (GPCD) by 2025 & 50 GPCD by 2030
- Current median water use of 48 GPCD is well below the 2020 standard in statute.
- Changes the standards for indoor residential water use beginning 2025 to:
 - 47 gallons per capita daily beginning 2030 to 42 GPCD

“Waters of the United States” Sackett v EPA



USSCt Adopted Rapanos

- ❖ **Wetlands:** Wetlands must be adjacent to traditionally navigable water AND have a continuous surface connection with that water
- ❖ **Streams:** While not addressed, ephemeral streams & other water bodies that are not relatively permanent also not be jurisdictional
- ❖ **Upshot:**
 - USSCT struck down 2023 WOTUS rule
 - Limits CWA authority to wetlands and streams that are isolated, ephemeral or not obviously connected to a navigable lake or stream.
- ❖ **Biden responsive Rule:**
 - Eliminates “significant nexus” test & excludes “adjacent” wetlands & “interstate waters” from jurisdiction

Looking forward...



2025 Proposed Legislation

- **2024 Climate Bond** passed (\$10 B for climate resiliency clean Air, Water, Energy, extreme heat, agriculture, and forestry)
 - CA Pushback is less forceful, more nuanced compared to 1.0:
 - Fiscal dependence (LA fire complications) on environmental/energy issues
 - **Response to LA fires:**
 - Homeowner's insurance
 - Vegetative management
 - Rebuilding in burn scars/CEQA
 - **Note:** EO suspended most environmental/coastal laws due to wildfire
 - **SB 326:** Omnibus Long- range plan to prevent wildfire
- Cost of Living/Affordability:** Energy, drinking water, homeowner's insurance, housing, work force development:
- Early review of Cap-&-trade program that yields up to \$3B annually
 - CEQA Reform/Housing (CEQA to favor mitigated Negative Declarations)
- **Polluter Pays:**
 - SB 684: Fossil fuel industry to pay for damages caused by climate change (creating a "Superfund")
 - SB 222: Allowing insurance companies to subrogate damages

2025 Proposed Legislation

- **PFAS:**
 - **Congressional Review Act (CRA):** Could undo the EPA PFAS regulations addressing 6 MCLs:
 - Legislative pushback could bypass Public Health Goal process
 - **SB 903 Redux:** Ban PFAS in most products (vs. product by product currently)
 - **SB 454** would create PFAS cleanup
- **CRA:** more stringent federal lead/copper regulations at risk
- **Clean Water Act:** Establish a private right of action
- **Microbeads:** Prohibition in line with EU ban
- **Producer Responsibility:** to include solar panels, used oil, lithium batteries, & entire class of household hazardous waste

2025 Proposed Legislation

- **AB 601:** Response to EPA v. Sackett decision:
 - Keep standards prior to decision
 - CA no longer receiving federal funds since this decision
- **SB 285** would set standards to ensure “scientific integrity” of carbon dioxide removal strategies

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THE 2023 ENVIRONMENTAL LEGISLATIVE SESSION: GOING GREEN ON INFRASTRUCTURE

INTRODUCTION

The 2023 legislative session—encompassing bills introduced and signed between January 4, 2023-September 14, 2023—is noteworthy for advancing a major package of policies designed to rapidly procure federal funds promoting clean and green energy and infrastructure while accelerating project approvals. The Governor also signed a considerable number of laws to remove barriers to building new housing units. Other noteworthy legislation includes the Climate Corporate Data Accountability Act which requires large companies to disclose their carbon footprints while another law requires large companies to share business risks associated with the climate crisis. In addition, the Governor signed a climate law requiring sellers of voluntary carbon credits to provide empirical support for the validity of the credits including third-party verification. Other legislation codifies a prior executive order mandating cooperation of 20% of California's land and coastal resources. The Legislature also served up several new laws regarding the oil and gas industry including Senator Skinner's SBX1-2 which aims to reign in windfall profits from the oil industry. Finally, the Governor signed two seminal laws focused on accelerating emerging green projects to ease the transition from natural gas to electricity.

Of the 3,286 bills introduced at the beginning of the legislative session, Governor Newsom signed 890 into law, 11% fewer than 2022 (and vetted 156, approximately the same percentage as 2022–24%). Except for budget-related urgency laws that passed by a supermajority, which took effect on the date of their signing, enacted laws became effective on January 1, 2024.

ACCELERATING AND FUNDING GREEN INFRASTRUCTURE

The Governor and Legislature aligned to advance budget-implementing legislation to deploy billions of dollars in federal funds for clean energy and green infrastructure in California. Midway through the legislative session, Governor Newsom advanced a package of bills to assist California in accessing approximately \$239 billion from the Inflation Reduction Act (for energy and climate change projects), \$280 billion from the CHIPS Act (Creating Helpful Incentives to Produce Semiconductors and Science Act of 2022), and over \$36 billion from the Bipartisan Infrastructure Law (Infrastructure Investment and Jobs Act of 2021 (IIJA)). Newsom created a Green Bank program to assist in further leveraging federal resources to serve low-income and disadvantaged communities.

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