

ELI Summer School on Climate

Megan Berge

July 16, 2024

CONFIDENTIAL

© Copyright Baker Botts 2024. All Rights Reserved.



States Laws Aimed at GHG Emissions

Sector	Examples of Climate-Driven Programs
Buildings	Energy efficiency codes Building emission performance standards All-electric or electric-ready building codes Gas appliance prohibitions
Vehicles	Zero emission vehicle requirements for trucks, cars, others
Power Plants	GHG emission rate standards Carbon capture requirements
Locomotives	Zero emission locomotive requirements
Electricity Service	"Clean" electricity requirements Renewable portfolio standards
Gas Service	Upstream methane requirements Gas "innovation" or "clean heat" requirements
Transportation Fuel	Low carbon fuel standards (motor vehicles & maybe planes)
Economy-wide	Cap-and-trade programs Climate "superfund" laws
Refrigeration	HFC phase out

Wrinkles for State Programs

Patchwork Nature

- Different market-based instruments
 - Renewable Thermal Credits = Reductions in carbon intensity of gas
 - Renewable Energy Credits = Reductions in carbon intensity of electricity
 - Allowances = Permit to emit 1 metric ton of CO₂
 - LCFS Credit = A metric ton reduction of GHG emissions from transportation fuel
 - Offset = Typically a metric ton reduction of GHG emissions
- Emissions leakage
- Cost to residents and businesses
- Disconnects in legal authorities

Economy Wide Example

Cap-and-Trade

2006- California passed AB32 establishing the first cap-and-trade program in the U.S; implemented in 2012

2021 - Washington passed the Climate Commitment Act establishing cap-and-trade program; implemented in 2023

2024- New York proposed regulations implementing cap-and-trade under the Climate Leadership and Community Protection Act, which passed in 2019

Question: can and should the state programs link?



Economy Wide Example

Super Fund Climate Bills	
What	Cost recovery demand for certain entities' alleged "share" of GHG-related costs in the state
Where the money goes	Climate change adaptive infrastructure projects
Who pays	"Responsible party" -Fossil fuel/crude oil entity with >1B tons of GHG emissions during the defined covered period -Must have sufficient connection to state to satisfy nexus requirements of U.S. Constitution
How the payment calculated	Proportionally among all responsible parties
Which States	Introduced in Maryland, Massachusetts, and California; passed in New York; signed into law in Vermont

Economy Wide Example

Oct. 2023, California passed broad climate disclosure laws

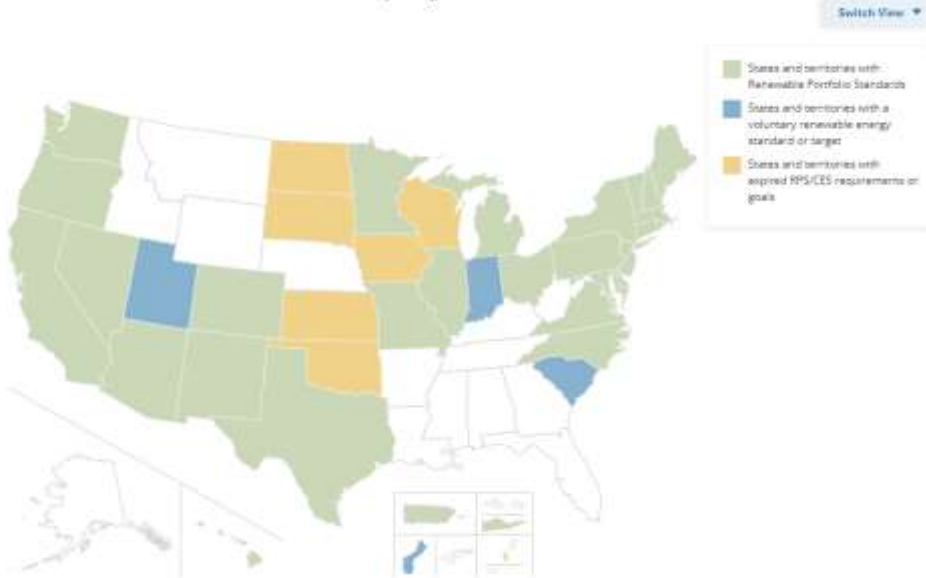
Bill	Brief Description	Who Is Affected?
SB 253 The Climate Corporate Data Accountability Act	<ul style="list-style-type: none"> Report Scope 1, Scope 2, and Scope 3 emissions using the Greenhouse Gas Protocol ("GHGP") standards for measuring emissions Third-party assurance of reports 	"Reporting entities": <ul style="list-style-type: none"> U.S. entity Revenues greater than \$1 billion "Does business in California"
SB 261 The Climate-Related Financial Risk Act	Biennial disclosures of: <ul style="list-style-type: none"> Climate-related financial risk report, aligned with the Task Force on Climate-Related Financial Disclosures ("TCFD") framework Measures adopted to reduce and adapt to climate-related financial risk 	"Covered entities": <ul style="list-style-type: none"> U.S. entity (other than insurance companies) Revenues greater than \$500 million "Does business in California"
AB 1305 Voluntary Carbon Market Disclosures Business Regulation Act	Requires annual disclosure on company website of: <ul style="list-style-type: none"> Detailed information relating to voluntary carbon offsets 	<ul style="list-style-type: none"> A "business entity" marketing or selling voluntary carbon offsets within California An "entity" operating within California that purchases or uses voluntary carbon offsets and "makes claims" An "entity" operating within California that "makes claims" about achievement of emissions reductions

Electricity Example

“Clean Energy Standards” vs “Renewable Portfolio Standards”



Renewable Portfolio Standards or Voluntary Targets

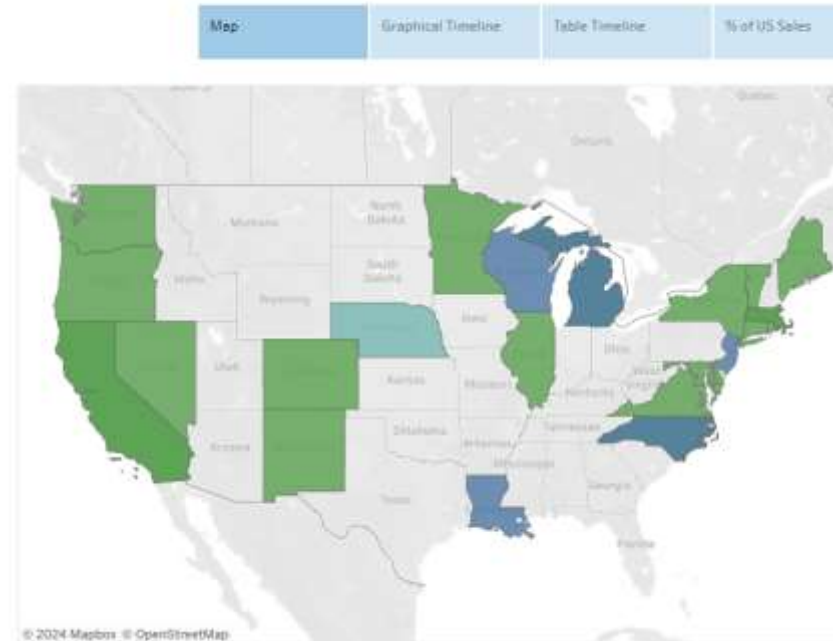


<https://www.ncsl.org/energy/state-renewable-portfolio-standards-and-goals>



100% Clean Energy States

Regions that have adopted official zero-GHG or 100% renewable energy goals for their power sector



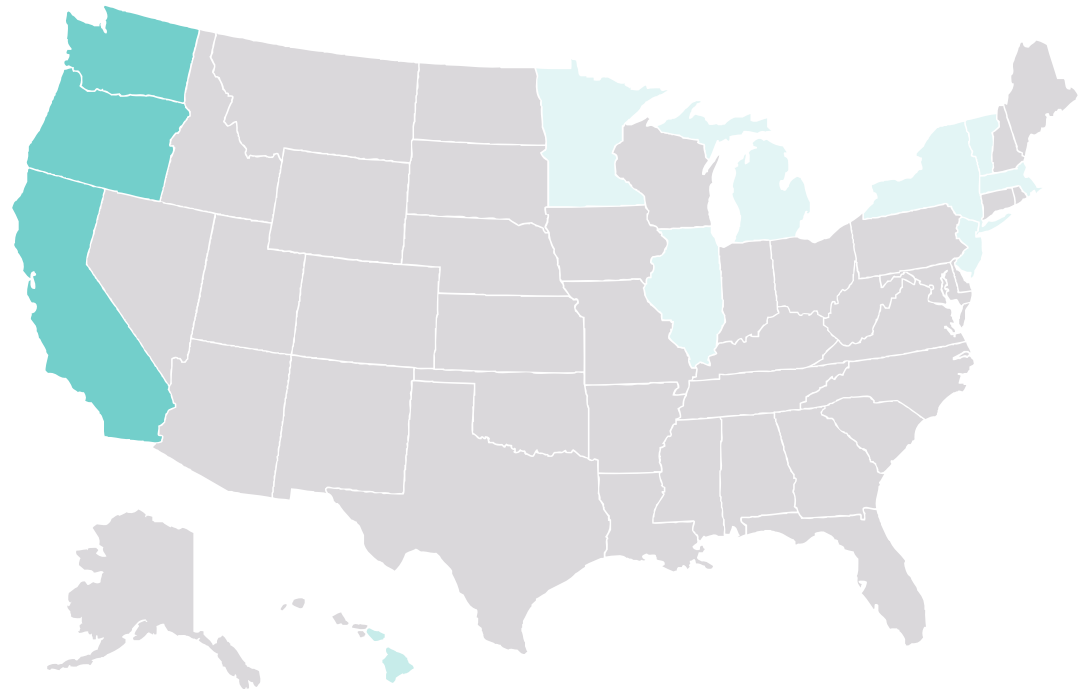
<https://www.cesa.org/projects/100-clean-energy-collaborative/guide/map-and-timelines-of-100-clean-energy-states/>

Transportation Fuel Example

Low carbon fuel standards are designed to decrease the carbon intensity of the transportation fuel pool

Trends & Issues

- Including electricity for vehicle charging as credit-generating resource
- Regulating transportation fuel for airplanes



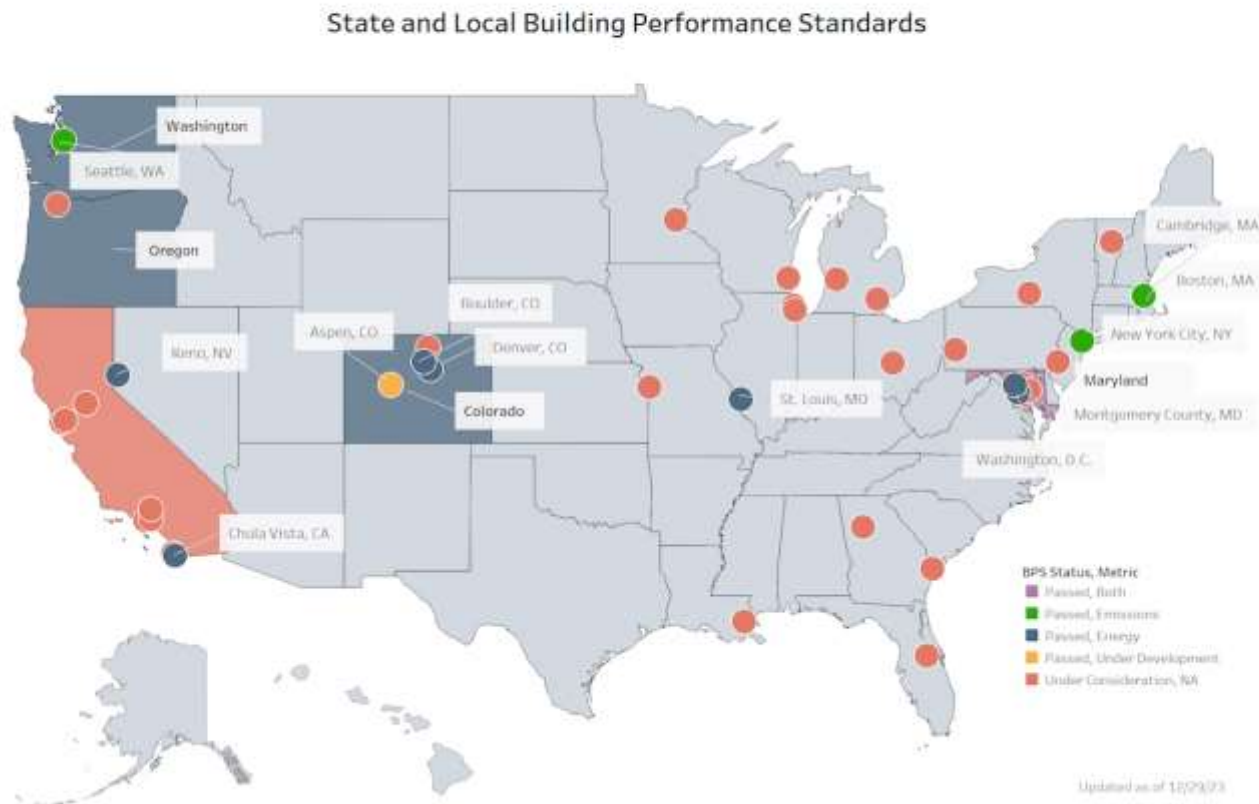
Buildings Example

There are multiple variations of laws that aim to reduce building emissions

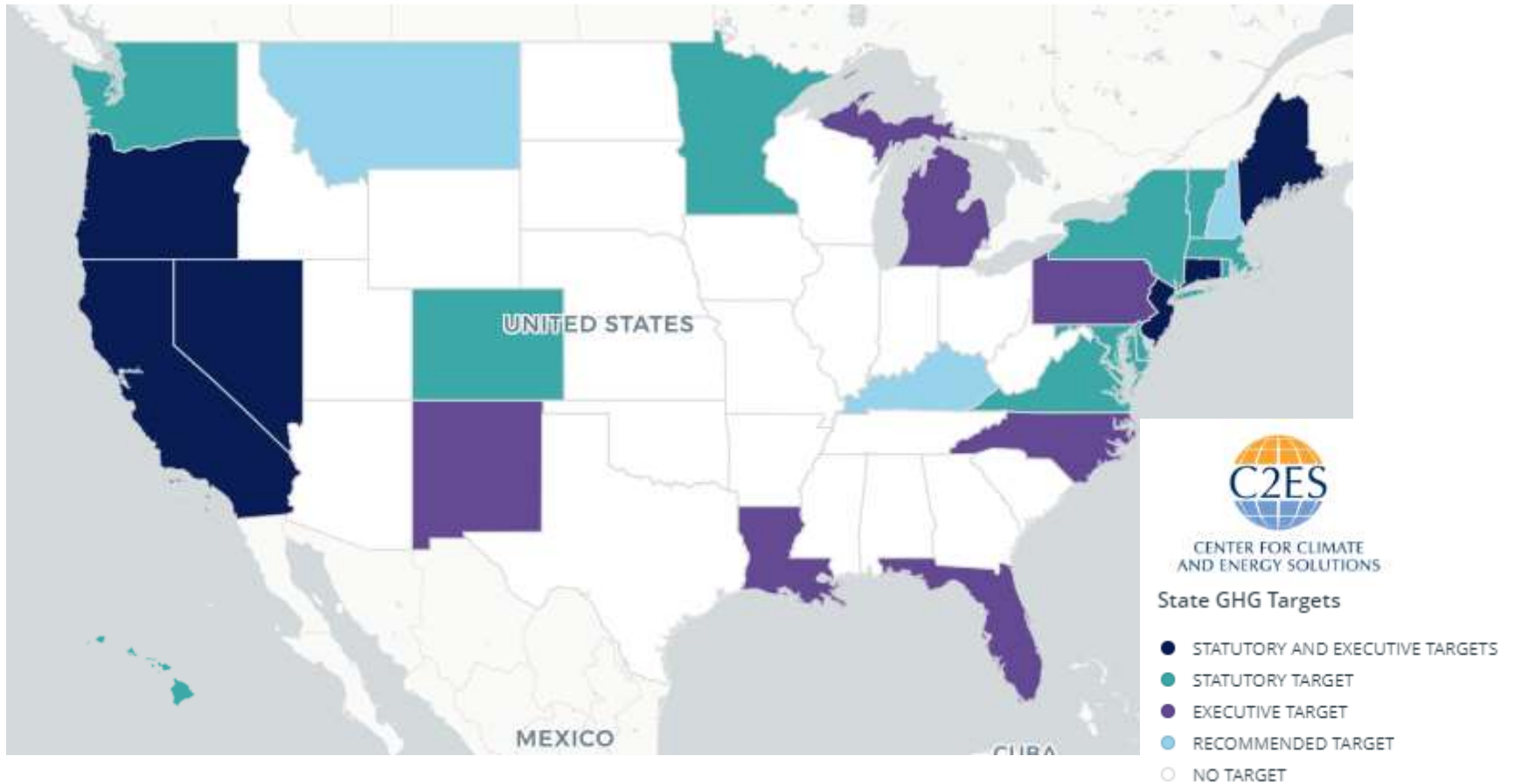


Until recently, a mechanism to regulate energy use in existing buildings did not exist. However, the introduction of Building Performance Standards (BPS), which set energy or emissions targets for existing buildings to achieve over a given time frame, changed that. Figure 9 highlights where a BPS is either in place or is being considered at the state and local levels. [Click on the map to access BECP's Tableau Public page.](#)

Figure 9: State and Local Building Performance Standards



State GHG Reduction Targets



AUSTIN

BRUSSELS

DALLAS

DUBAI

HOUSTON

LONDON

NEW YORK

PALO ALTO

RIYADH

SAN FRANCISCO

SINGAPORE

WASHINGTON

[bakerbotts.com](https://www.bakerbotts.com)

©Baker Botts L.L.P., 2024. Unauthorized use and/or duplication of this material without express and written permission from Baker Botts L.L.P. is strictly prohibited. Excerpts and links may be used, provided that full and clear credit is given with appropriate and specific direction to the original content.