



September 7, 2023

The Honorable Gavin Newsom
Governor, State of California
1021 O St., Room 9000
Sacramento, CA 95814

RE: Support Zero-Emission New Construction Building Standards Statewide

Dear Governor Newsom,

Thank you for your leadership responding to climate change and long-standing partnership with local governments to help safeguard Californians against the worsening extremes of the climate crisis.

In light of your commitment to clean energy, we urge you to take swift action to ensure California can meet its climate goals by encouraging the adoption of a zero-emission building standard statewide.

A recent decision by the 9th Circuit Court of Appeals, in the case of the California Restaurant Association vs. Berkeley, is creating significant challenges for local governments as they pursue strategies to ensure all new buildings run on clean energy. This decision could impact many of the more than 75 municipalities in California that have adopted some form of building electrification requirement through their local codes.¹ Not only do these municipalities wish to stay the course on creating healthier homes and buildings that can withstand the challenges of the climate crisis, other local governments across the state wish to pursue similar efforts. The best path forward in light of recent legal challenges is to follow the lead of local jurisdictions and pursue statewide implementation of common-sense clean emission measures for buildings.

We simply cannot wait any longer for a unified state standard that ensures our homes and buildings are powered by clean energy and efficient, electric appliances. California gave birth to the zero-emission buildings movement out of necessity. Homes and buildings are California's second largest source of climate pollution, and one of our state's most overlooked pollution problems. While as a state, we've made tremendous progress lowering emissions from other sectors, pollution from residential buildings has fallen only 3% in the past 20 years, while emissions from the commercial building sector have increased dramatically.

California cannot hit its 2030 climate targets without ambitious reductions from this sector – including the targets your administration has set – and there is simply no excuse for continuing to construct buildings with outdated equipment that rely on fossil fuels in the 2020s.

While the California Energy Commission (CEC) has been pushing towards full electrification within their policy boundaries, they are equally limited. This delay in eliminating combustion in new construction is resulting in significant risk that fossil fuel use and infrastructure will continue

¹<https://www.sierraclub.org/articles/2021/07/californias-cities-lead-way-pollution-free-homes-and-buildings>

to expand in California in coming years. We need to urgently align local and state policies around our clean energy goals and ensure everyone is rowing in the right direction. The California Air Resources Board (CARB) is working diligently on statewide air quality implementation for later this decade, but we need continued local action and a statewide solution to advance building decarbonization work well ahead of that timeline to ensure market readiness.

One such solution was cited in the 2022 CARB Scoping Plan, in which CARB explicitly notes the opportunity the State has to move forward with a new construction building decarbonization strategy through the CALGreen Code. As stated:

“California also has an opportunity to adopt zero-emission building standards for new construction as part of the CALGreen Code. The CALGreen Code improves public health, safety, and general welfare through standards that promote sustainable design and construction of buildings. Based on the significant emission reduction potential, cost-savings, and public health benefits, California could adopt zero-emission building standards for new construction in CALGreen.”²

CalGreen is an important and appropriate vehicle to launch a statewide construction standard that will improve air quality and cut toxic pollution – indoors and out; that will benefit public safety by eliminating the practice of needlessly expanding fossil fuel infrastructure in new buildings; and that will benefit equity by ensuring new construction does not require extensive retrofits in the next 10-15 years in order to deliver on California’s carbon emission commitments.

Without your administration stepping in, local governments and Californians more generally will be stuck with polluting buildings and infrastructure we do not want or need – and many municipalities will be forced to backtrack on progress cutting emissions from buildings, due to insufficient resources to fight frivolous and opportunistic lawsuits. Even though legal pathways still exist for local jurisdictions to act and many are confident that *CRA v Berkeley* will eventually be overturned due to its extremely broad ruling, that could take years — but as we all know, our state and climate do not have years to waste.

Taking action on CARB’s recommendation to require zero-emission new construction will build on demonstrated local leadership in adopting electrification requirements. In addition, a zero-emission new construction requirement will enable local governments to continue to complement and reinforce the implementation timeline for regulating appliances in existing buildings adopted by the Bay Area Air Quality Management District (BAAQMD) and CARB’s stated intent to take similar action.

New York City and the State of New York provide precedent; California should act promptly both to meet our responsibility to present and future generations, and to regain California’s climate

² CARB Scoping Plan, Appendix F
<https://ww2.arb.ca.gov/sites/default/files/2022-11/2022-sp-appendix-f-building-decarbonization.pdf>

policy leadership.³ Please direct your agencies to take this action and create a mandatory zero-emission new construction requirement.

Thank you,

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³<https://legistar.council.nyc.gov/LegislationDetail.aspx?ID=4966519&GUID=714F1B3D-876F-4C4F-A1BC-A2849D60D55A&Options=ID%7cText%7c&Search=2317>

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