

## Would Jerry Brown's climate change law go too easy on Big Oil?

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JULY 13, 2017 11:14 AM

Drive to the Bay Area from Sacramento, cross the Carquinez Bridge, and you might see it on your right – the Phillips 66 oil refinery in Rodeo, churning out millions of gallons of gasoline.

This facility and other oil refineries in the state have become the flash point in a potentially combustible political fight in Sacramento over the future of California's war against climate change.

Gov. Jerry Brown and top Democratic legislators this week unveiled a pair of bills, AB 398 and AB 617, to extend for another decade the cap-and-trade system aimed at limiting carbon emissions from a whole host of pollution sources. The current system, which has forced industrial firms to spend billions on emissions permits, is set to expire in 2020.

Brown has acknowledged [his proposal might not pass](#), and in a scramble for votes he testified before the Senate on Thursday. "You have an incredible mechanism that protects our economy and reduces greenhouse gases," he told the Senate Environmental Quality Committee. "Don't throw this thing out." If cap-and-trade expires, it would be replaced by an "intrusive regulatory burden" that would be more costly, Brown said.

The committee approved both bills Thursday on 5-2 party-line votes.

The legislation, which would extend cap-and-trade through 2030, still has a big hill to climb. Brown is seeking a two-thirds supermajority vote, the same threshold needed to approve tax hikes, to ward off lawsuits challenging the sale of emissions permits. The existing system passed with only a simple majority and [barely survived a legal challenge](#) led by the California Chamber of Commerce.

At the same time, Brown's plan is struggling to gain favor with many legislative Democrats. A big reason is the proposed treatment of Phillips 66 in Rodeo and the other 18 oil refineries in California.

Some environmentalists say Brown's proposals treat the oil industry too leniently. Specifically, they're furious about a provision that would forbid the California Air Resources Board and regional air-quality agencies from imposing additional restrictions on greenhouse-gas emissions from oil refineries.

"I think it's the big one," said Diane Takvorian, an environmentalist and CARB board member who's critical of the governor's proposal.

The state air board has been planning to order refiners to reduce their carbon emissions by an extra 20 percent over the next decade, according to an agency planning document. Separately, the Bay Area Air Quality Management District is close to implementing its own greenhouse-gas curbs on each of the [Bay Area's five refineries](#).

Both of those plans would be prohibited under the legislation pending in Sacramento.

"Obviously we don't like to have our authority restricted," said Greg Nudd, the Bay Area district's rule development manager. All four of the state's major regional air quality districts, including Sacramento's, have told Brown they oppose the cap-and-trade legislation because of the proposed limits on their power.

While some environmentalists are challenging the governor, [no Republican lawmaker](#) has supported the legislation publicly. The Western States Petroleum Association, which represents oil refiners, hasn't taken a position on the bills.

Cap and trade is one of the centerpieces of California's efforts to curb greenhouse gases. The program requires hundreds of industrial polluters to obtain emissions allowances to release carbon into the air.

Most of the permits are handed out for free, but the companies have to purchase some as well, at quarterly auctions run by the state Air Resources Board or from other polluters that have permits to spare. The total volume of permits in circulation (the "cap") declines slightly each year, reducing overall greenhouse-gas emissions.

Companies have spent more than \$5 billion on permits since the program began in 2012, and the effects have rippled through practically every sector of the economy. Experts say the cost to the oil industry, for instance, has added an estimated 11 cents a gallon to the price of gasoline. A lesser-known rule, known as the low carbon fuel standard, has probably added another 4 cents a gallon, for a total cost of 15 cents.

The Air Resources Board says total carbon emissions in California [fell by 1.5 percent in 2015](#), the last year for which figures were available. That's the equivalent of taking 300,000 cars off the road for a year and provides evidence that the system is working, the air board says.

But some critics on the left say cap and trade doesn't reduce carbon emissions evenhandedly, and leaves poorer communities vulnerable to excessive and often dangerous air pollutants.

The problem, critics say, is that the program doesn't actually force individual companies to curb their greenhouse-gas emissions. Instead, the companies can simply purchase more emissions allowances if they need to pollute more. They can also "offset" a portion of their emissions by making investments in forestry programs or other green projects approved by the state air board. They're complying with the law, but still polluting.

And because many of the largest smokestack industries in California are located in disadvantaged communities, a disproportionate share of greenhouse gases are spewed in those neighborhoods, critics say.

Carbon emissions by themselves aren't necessarily dangerous, but experts say the same smokestacks that release greenhouse gases usually spew other, more harmful, pollutants into the air at the same time. That includes oil refineries.

"The areas where refineries are (located) are low-income communities of color," said Takvorian, the CARB board member and executive director of the Environmental Health Coalition. "Their emissions are contributing to environmental pollution and public health concerns."

Which explains why Takvorian and the regional air-quality agencies have come out against Brown's proposal to extend cap and trade. While they believe the overall mechanism has been helpful in reducing greenhouse gases, they want a system that cracks down on individual companies that are still polluting.

"We want to see less flexibility for industries; we want to close those loopholes," said Amy Vanderwarker of the California Environmental Justice Alliance in Oakland.

The four regional air-quality districts also came out in opposition to the governor's plan.

“Taking authority away from the districts ... is not a good thing in my opinion,” said Larry Greene, the outgoing executive director of the [Sacramento Metropolitan Air Quality Management District](#).

In an effort to mollify local officials, Brown’s companion legislation, AB 617, would require industrial firms in heavily polluted communities to install the “best available retrofit control technology” by December 2023. The bill also would require regional air districts to ramp up pollution-monitoring activities.

Brown said the bill “will clean up the air like no other bill, and it will clean it up where it’s the worst, in vulnerable hot spots where poor people are suffering the most.”

Officials with the regional air districts, however, said the bill is seriously flawed. It would force them to spend hundreds of millions of dollars on new air-monitoring equipment, and it wouldn’t address what they believe is one of the biggest problems they’re facing: pollution from aging diesel trucks.

It’s “a glaring omission,” said Seyed Sadredin of the San Joaquin Valley Air Pollution Control District.