

Law & Policy Drivers

RILA Sustainable Fleets Webinar: Transportation + Sustainability Series

Brook Detterman, Principal

June 30, 2021



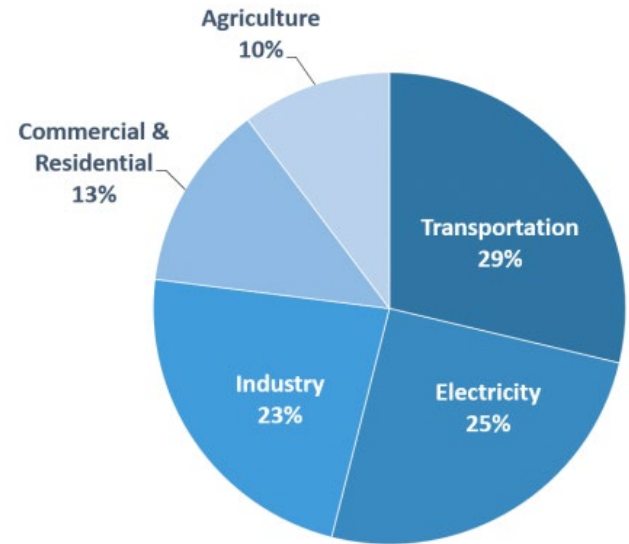
Roadmap



Where does the law fit in?

- Challenges
 - Transportation GHGs = “sticky” problem
 - Requires many tools & approaches
- Many Legal Solutions Emerging
 - Mandates: both old tools and new ones
 - Supports: incentives, purchasing, infrastructure, research
 - Standard-setting
 - Transparency: disclosure & ESG

Total U.S. Greenhouse Gas Emissions
by Economic Sector in 2019



Legal Case Study: Renewable Power

- Y2K: Limited penetration, expensive, uncertainty
- 2000-2020: Combination of mandates, incentives, infrastructure, and voluntary action drive growth
 - Tax credits (ITC and PTC) drive down cost of wind and solar
 - State renewable portfolio requirements drive adoption
 - Government policies begin to facilitate transmission, storage, net metering, etc.
 - Companies & homeowners buy solar, wind, and RECs
- Results:
 - Solar panels now about 90% cheaper
 - Wind power now cheaper than natural gas power
 - U.S. building offshore wind farms
 - Grid is beginning to shift

A similar scenario could play out in the transportation sector, but it takes good policy and time



President Biden

“This is the decade we must make decisions that will avoid the worst consequences of a climate crisis.”

- US rejoins Paris Agreement
→ *Transportation key in meeting Paris goals*
- Michael Regan, EPA Administrator places a “high priority” on reducing GHGs from heavy-duty vehicles
- EPA’s 2022 budget states that EPA will “take action to reduce GHG emissions from highway heavy trucks”
- NGOs pressing for earlier action
- Infrastructure spending package contains EV elements

State GHG Targets Proliferate

State	Target	Year	Status
California	Net-Zero	2045	In force
Hawaii	Net-Zero	2045	In force
Virginia	Net-Zero	2045	In force
New York	Net-Zero	2050	In force
Massachusetts	Net-Zero	2050	In force
Nevada	Net-Zero (or "near-zero")	2050	In force
Washington	95% below 1990 levels (Net-Zero goal)	2050	In force
Maine	80% below 1990 levels	2050	In force
Colorado	90% below 2005 levels	2050	In force
Pennsylvania	80% below 2005 levels	2050	In force
Oregon	80% below 1990 levels	2050	In force
Minnesota	80% below 2005 levels	2050	In force
Rhode Island	80% below 1990 levels	2050	In force
Vermont	80% below 1990 levels	2050	In force
Louisiana	Net Zero	2050	In force, non-binding
Montana	Net Zero	2045-50	In force, non-binding
Michigan	Net-Zero	2050	In force, non-binding

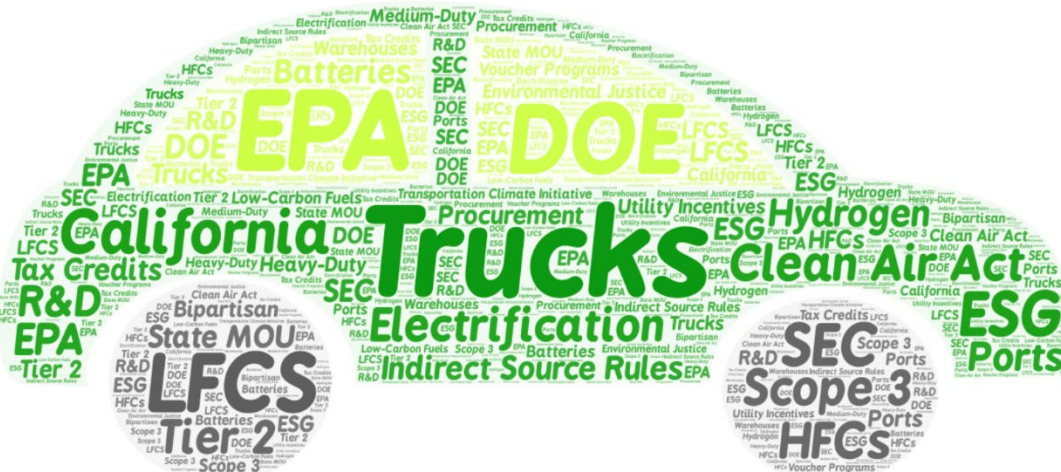
What Are the Legal Tools?

Historic focus: generally limited to

- Vehicle efficiency standards (CAFE, Tier 2, California)
- Biofuels

Current focus: **everything**

- EV & clean truck mandates
- Market-based programs (LCFS, TCI)
- Warehouses/indirect sources
- Environmental justice
- Tax credits/incentives
- Voucher/credit programs (NY)
- Hydrogen R&D
- Government spending
- Overlay with NOx, PM



Emerging Legal Trends

Market Based
Programs

Infrastructure

Environmental
Justice

Clean Truck
Rules

Hydrogen

Indirect
Source Rules

What Comes Next

Mandates

- EPA revisions to Tier 2 likely
- More states adopt clean-truck rules (like CA rules)
- Expansion of Indirect Source Rules

Incentives

- Tax credits / rebates (maybe tech neutral, maybe not)
- Government spending (infrastructure) & procurement
- Market based fuel programs (LCFS, TCI, maybe others)

Standards

- Consistency in footprint analysis across technologies
- ESG disclosure requirements
- Laws to standardize charging/infrastructure?

A word on **ESG**

- Today: **90%** of S&P 500 companies are publishing a corporate sustainability report (versus 20% in 2011).
- Gathering complete, accurate, credible and consistent ESG data
 - How to calculate and track Scope 3 emissions accurately?
 - Transportation emissions are key aspect of this: and they are “within reach” domestically
- Regulators also beginning to focus more on ESG and disclosure
 - May see efforts to create consistency/transparency in reporting
 - May also see enforcement from SEC, FTC for misleading claims
- Corporate ESG efforts have and will continue to lead the way on decarbonization, working in parallel with legal structures

Questions?



Brook Detterman

Principal

Boston

+1.617.419.2345

bdetterman@bdlaw.com

This presentation is not intended as, nor is it a substitute for, legal advice. You should consult with legal counsel for advice specific to your circumstances. This presentation may be considered lawyer advertising under applicable laws regarding electronic communications.