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A First Look at California's Executive Order Banning Fuel-Burning Vehicles and Imposing Other Greenhouse Gas Reducing Restrictions

Potential wide-ranging impacts on Engines, Energy, Infrastructure and Shipping

California Governor Gavin Newsom's [Executive Order N-79-20](#) seeks to address climate change concerns and significantly reduce greenhouse gas emissions. By banning the sale of new gasoline-powered vehicles in the state by 2035 and imposing other restrictions, the Order will reignite the debate over California's position as a leader in fighting climate change. While the Order has received significant attention because of its potential effect on the automotive industry, it reaches well beyond that industry and will impact energy production, infrastructure, and shipping. And with the world's sixth largest economy, California may encourage other nations and states to take similar action.

Light-, Medium-, and Heavy-Duty and Off-Road Vehicle and Equipment

The Order requires the California Air Resources Board (CARB) develop regulations that: (1) require all in-state sales of new passenger cars and trucks be zero-emission by 2035; (2) require all medium- and heavy-duty vehicles, "where feasible," be zero emission by 2045; and (3) work to make all off-road vehicles and equipment zero emissions by 2035.

The Order accelerates zero emission light-duty vehicle requirements discussed at a [recent CARB workshop](#) and could affect ongoing rulemaking processes to impose additional zero-emission requirements for [heavy-duty vehicles](#) and [small off-road engines](#). More regulation is likely. For example, given the breadth of CARB's current emissions regulations, the Order may impact regulation of other mobile sources,



such as motorcycles and ATVs. Moreover, notwithstanding its historically minimal regulation of zero emission vehicles, CARB has publicly stated that it is considering increased regulation of zero emission vehicles, including “standardiz[ing]” battery state of health (SoH) representations, extending right to repair rules to information about the powertrain of all-electric vehicles, and regulating range or battery efficiency. Compliance costs associated with zero emission vehicles will likely rise.

Whether California can adopt its own zero emission vehicle mandate almost certainly will be challenged given the ongoing litigation over the National Highway Traffic Safety Administration’s One National Program rule, which determined only the federal government may set fuel economy standards or zero emission vehicle mandates.

Energy Production and Maintenance of Oil Production Sites

The Order also promotes transitioning California away from fossil fuel by “working to end the issuance of new hydraulic fracturing permits by 2024” and closing oil producing sites.

The announcement that California will end the issuance of new hydraulic fracturing permits is not described in detail. That policy may require a change to the Public Resources Code, under which the California Geologic Energy Management Division issues well stimulation treatment permits.

Regarding oil production sites, the Order requires state agencies, in consultation with other State, local and federal agencies, to (1) “expedite regulatory processes to repurpose and transition upstream and downstream oil production facilities, while supporting community participation, labor standards, and protection of public health, safety and the environment”; (2) provide “recommendations and actions . . . to manage and expedite the responsible closure and remediation of former oil extraction sites”; and (3) develop “science-based health and safety” rules that protect communities during the closures of oil extraction activities. Given the focus on the health and safety of communities near oil production sites and the fact the state will be studying many of these sites, the Order may lead to additional environmental justice-related inquiries or investigations by the Bureau of Environmental Justice.

The Order also will impact the Low Carbon Fuel Standard (LCFS). While a transition to electric vehicles could lower demand for fuel, the Order requires CARB to “reduce the carbon intensity of fuels beyond 2030 with consideration of the full life cycle of carbon.” Therefore, the Order should strengthen demand for renewable low carbon fuels imported under the LCFS, including renewable natural gas (RNG), and carbon capture and sequestration (CCS) projects that generate LCFS credits and federal 45Q tax credits. Companies invested in low carbon fuel projects should consider how the Order will affect demand and how future rulemaking could further affect LCFS credits.

Infrastructure and Utilities

Incentivizing zero emission vehicle sales and building vehicle charging infrastructure has been a key component of the LCFS. Under the Order, California will promote adoption of zero emission vehicles and accelerate deployment of affordable zero-emission fueling and charging options.

The Order also requires the state to identify actions to improve “clean transportation,” including an “integrated, statewide rail and transit network.” The Governor’s commitment to additional rail or other clean infrastructure in the state is notable, despite the recent setbacks for high-speed rail in the state.

Shipping and Logistics

California will identify actions to improve “sustainable freight and transit options,” and CARB must develop regulations requiring “all drayage trucks to be zero-emission by 2035.” Shipping and logistics companies will have to plan for how they will transport goods in the future.



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The Order is intended to have a wide-ranging impact, and likely will influence other states to act. Oregon Governor Kate Brown already issued a [statement](#) that she would look into policies like those in the Executive Order. Washington and other states also may follow suit.

King & Spalding has a national Environmental, Health & Safety practice with attorneys experienced with California's climate change regulations and California regulators. King & Spalding also assists clients engaged in clean energy and energy infrastructure projects. If you have questions about the potential impacts of the Executive Order on your business, please contact our lawyers noted in the contact section.

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