

Cooper A. Karras; Blog Post:

The New Legislative Steps Towards a Zero Emission Roadway

Federal and State governments commonly set a variety of goals to address the volume of carbon emissions produced by gas-powered vehicles. One goal typically found in executive orders and legislative initiatives is to curb the sale of gas-powered vehicles and to promote the purchase of electric or zero-emission vehicles.¹ Until late August 2022, many initiatives were just that, goals. Taking a key step forward to reduce auto emissions, California has codified an effective ban on the selling of gas-powered cars by 2035, and the seventeen states that typically adopt California's auto-emissions standards are expected to follow suit.²

The goals for California's new ban on gas-powered vehicles originated from an executive order by California Governor Gavin Newsom in September 2020.³ Governor Newsom set the goal to have 100 percent of California's in-state sales of passenger vehicles and trucks by 2035 be electric, zero-emission vehicles.⁴ However, Governor Newsom's executive order was just an initial step and was just a goal. The California Air Resources Board (CARB) is the government entity in California responsible for air quality-related rulemaking and regulation under the direction and authority of the California Legislature.⁵ The CARB passed the Advanced Clean Cars II on August 25, 2022, turning Governor Newsom's goals into regulation.⁶

There are seventeen states that have adopted California's vehicle standards under section 177 of the Federal Clean Air Act.⁷ Each state has its own plans in addition to addressing carbon emissions related to transportation. For example, Massachusetts had already signed a trigger law, *An Act driving climate policy forward*, which binds the state's vehicle rules to California's.⁸

¹ Exec. Dep't of Cal., Executive Order N-79-20 (Sept. 23, 2020), <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-Climate.pdf>; *FACT SHEET: President Biden Signs Executive Order Catalyzing America's Clean Energy Economy Through Federal Sustainability*, WH.GOV (Dec. 8, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/08/fact-sheet-president-biden-signs-executive-order-catalyzing-americas-clean-energy-economy-through-federal-sustainability/>.

² Zach Bright, *States Ride Shotgun With California to Rev Up Clean Cars Rules*, BLOOMBERG LAW (Sept. 2, 2022, 6:00 AM), <https://news.bloomberglaw.com/environment-and-energy/states-ride-shotgun-with-california-to-rev-up-clean-cars-rules>; Zach Bright, *California Approves Ban on Gas-Powered Car Sales by 2035*, BLOOMBERG LAW (Aug. 25, 2022, 4:59 PM), https://www.bloomberglaw.com/bloomberglawnews/environment-and-energy/X7SEP1CS000000?bna_news_filter=environment-and-energy#jcite.

³ *Id.*; Exec. Dep't of Cal., Executive Order N-79-20 (Sept. 23, 2020), <https://www.gov.ca.gov/wp-content/uploads/2020/09/9.23.20-EO-N-79-20-Climate.pdf>.

⁴ *Id.*

⁵ *Rulemaking Activity*, CALIFORNIA AIR RESOURCES BOARD (Sept. 6, 2022, 7:30 PM), <https://ww2.arb.ca.gov/rulemaking-activity>; *Rulemaking*, CALIFORNIA AIR RESOURCES BOARD (Sept. 6, 2022, 7:30 PM), <https://ww2.arb.ca.gov/rulemaking>.

⁶ Zach Bright, *California Approves Ban on Gas-Powered Car Sales by 2035*, BLOOMBERG LAW (Aug. 25, 2022, 4:59 PM), https://www.bloomberglaw.com/bloomberglawnews/environment-and-energy/X7SEP1CS000000?bna_news_filter=environment-and-energy#jcite; *Advanced Clean Cars II*, CALIFORNIA AIR RESOURCES BOARD (Sept. 6, 2022, 8:46 PM), <https://ww2.arb.ca.gov/rulemaking/2022/advanced-clean-cars-ii>.

⁷ *States that have Adopted California's Vehicle Standards under Section 177 of the Federal Clean Air Act*, CALIFORNIA AIR RESOURCES BOARD (2022), https://ww2.arb.ca.gov/sites/default/files/2022-05/%C2%A7177_states_05132022_NADA_sales_r2_ac.pdf.

⁸ Zach Bright, *States Ride Shotgun With California to Rev Up Clean Cars Rules*, BLOOMBERG LAW (Sept. 2, 2022, 6:00 AM), <https://news.bloomberglaw.com/environment-and-energy/states-ride-shotgun-with-california-to-rev-up->

Massachusetts's bill also considers many other carbon contributing factors to transportation such as promoting new offshore wind and other clean energy projects, developing energy storage systems, improving energy efficiency in buildings, as well as addressing other electric vehicle initiatives and charging infrastructure.⁹

A primary concern many critics have is what the initial cost for individuals and families to purchase electric vehicles will be in 2035. The Biden Administration, by way of Executive Order, also set an ambitious goal for the federal government to have “100 percent zero-emission vehicle (ZEV) acquisitions by 2035, including 100 percent zero-emission light-duty vehicle acquisitions by 2027.”¹⁰ To help achieve this goal of lowering vehicle emissions, the federal government has enacted some new incentives of its own. In addition to whatever state-by-state initiatives may exist to alleviate this cost burden, the recently enacted Inflation Reduction Act of 2022 updated IRS tax benefits for purchasing electric vehicles.¹¹ Qualifying individuals may receive a tax credit for as much as \$7,500 depending on qualifying vehicles.¹²

It is difficult to speculate how other states will react to California and their cohort of following states 2035 gas-powered vehicle ban. Will other states enact more aggressive zero-emission goals like the White House? Will other states follow California's example and enact similar regulations to promote zero-emission transportation? One thing is certain, California's new regulation is a large initial step from governments enacting auto emission goals to enacting auto emission regulations.

[clean-cars-rules](#); Colleen McGlynn et al., *Significant New Clean Energy and Climate Act becomes law in Massachusetts*, JDSUPRA (Aug. 12, 2022), <https://www.jdsupra.com/legalnews/significant-new-clean-energy-and-4885628/>.

⁹ *Id.*

¹⁰ *FACT SHEET: President Biden Signs Executive Order Catalyzing America's Clean Energy Economy Through Federal Sustainability*, WH.GOV (Dec. 8, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/12/08/fact-sheet-president-biden-signs-executive-order-catalyzing-americas-clean-energy-economy-through-federal-sustainability/>.

¹¹ *Inflation Reduction Act of 2022*, U.S. DEPARTMENT OF ENERGY (Sept. 6, 2022, 7:47 PM), <https://afdc.energy.gov/laws/inflation-reduction-act>.

¹² *Plug-in Electric Drive Vehicle Credit (IRC 30D)*, IRS (Sept. 6, 2022, 7:53 PM), <https://www.irs.gov/businesses/plug-in-electric-vehicle-credit-irc-30-and-irc-30d>.