



## How Clean Cars 2030 Supports ACC II

August 25, 2022

### I. Introduction

Campaigns advancing California’s ACC II regulation and Clean Cars 2030 are launching in multiple states. In this memorandum we explore the political and legal interactions of the two campaigns. We find that the two initiatives are complementary and recommend they be pursued in tandem.

### II. Clean Cars 2030 Overview

**Summary:** Clean Cars 2030 is a state policy that sets a 2030 target for all new cars registered in a state to be electric and which requires the state to plan to achieve the 2030 target. It can be enacted by legislation, regulation or executive order. It is designed as a 2030 target instead of an enforceable mandate in order to avoid federal preemption challenges.

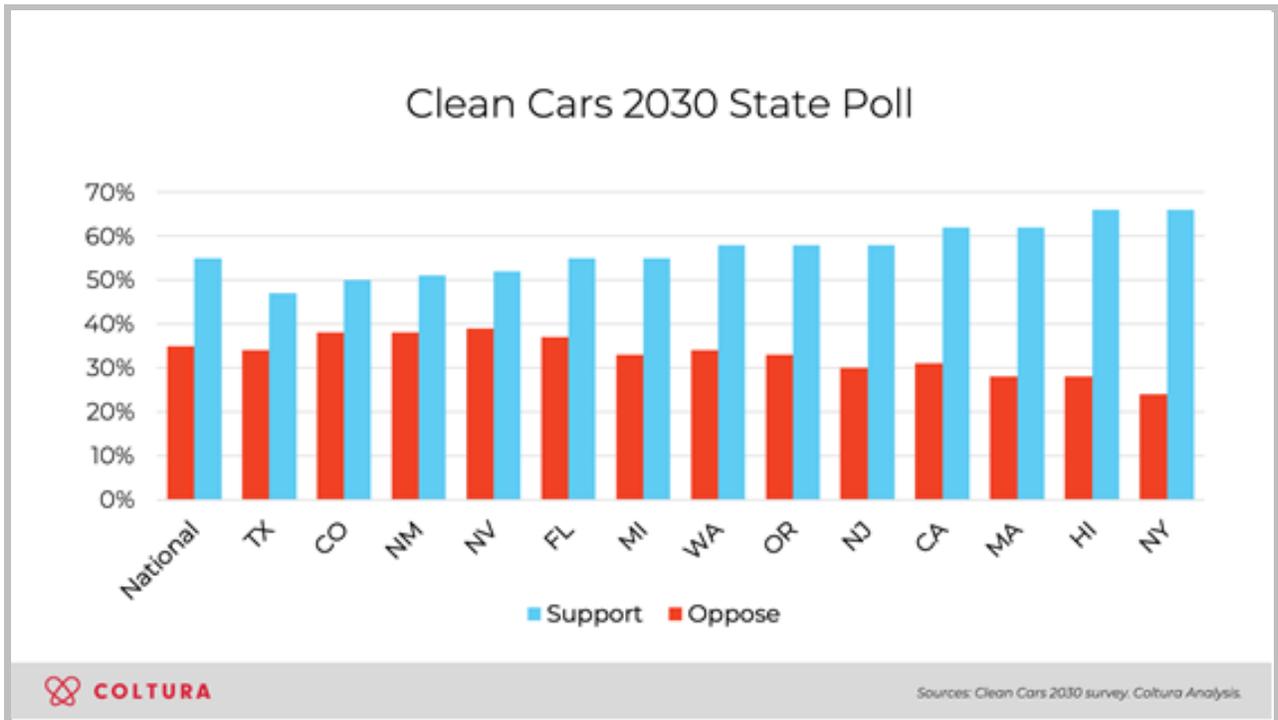
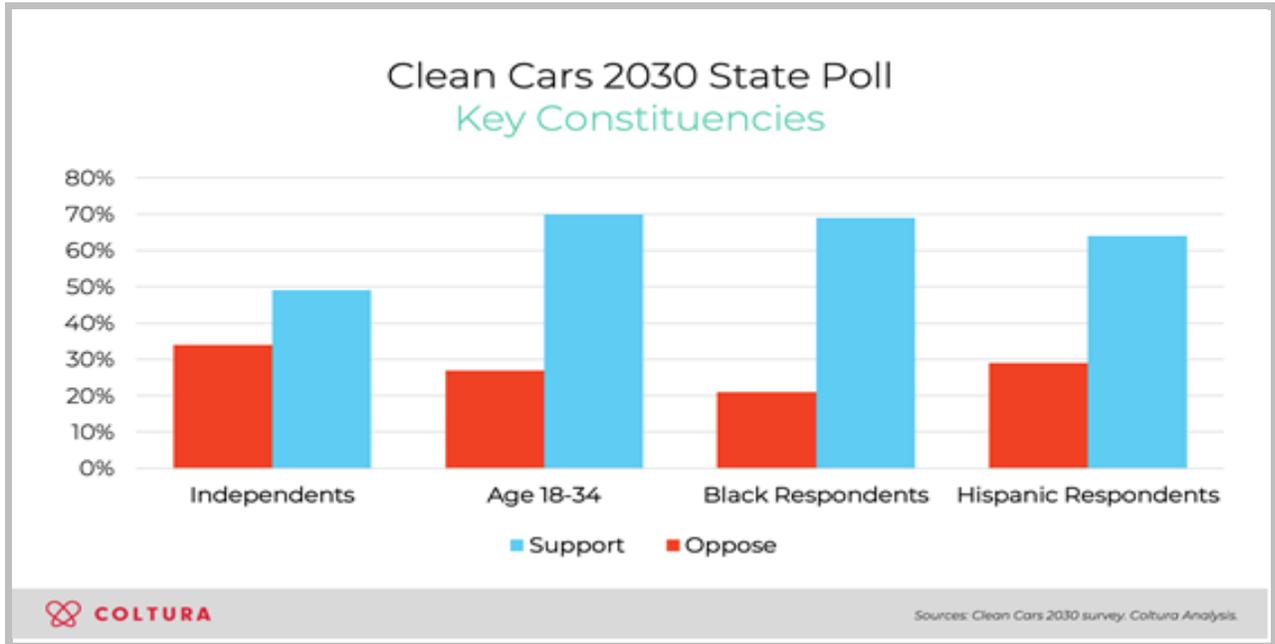
**Public Support:** [Polling](#) in October 2021 found that across the U.S., voters support by a 55-35 margin a requirement that all new cars be electric by 2030.<sup>1</sup> Graphs on the following page illustrate the poll results.

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<sup>1</sup> Polling was conducted by Climate Nexus, the Yale Program on Climate Change Communication and the George Mason University Center for Climate Change Communication. Results presented are in response to the following question: “There’s currently a policy under consideration in your state requiring all new cars sold in your state to be electric starting in 2030 to reduce air pollution, combat climate change, create jobs, and keep energy dollars in the state. The policy would require all cars and trucks manufactured in 2030 or later be electric. Individuals would still be able to drive, buy, and sell gas-powered cars manufactured before 2030. Do you support or oppose this policy?” See [Coltura.org/polling](http://Coltura.org/polling) for further details.



**2021 National Poll on Public Support for EVs**



## Washington State Success:

Clean Cars 2030 passed the Washington state legislature in 2021 and 2022 and was signed by Gov. Inslee into law in 2022.

Environmental, EV, faith, and green business coalitions were the nucleus of Clean Cars 2030 support. The International Brotherhood of Electrical Workers and the Washington State Auto Dealers Association both supported Clean Cars 2030, and all the legislators in the Members of Color Caucus voted for it.

Persons testifying in favor or signing in favor of Clean Cars 2030 outnumbered opponents by 485-6, making it the third most-supported of the 500 bills considered in the Washington House in 2021.

Clean Cars 2030's passage generated more than 100 articles in national and international media, sending a market signal of impending state action towards 100% vehicle electrification.



*2021 Washington State Clean Car Rally in Seattle*

**Implementation:** Clean Cars 2030 requires that states develop and implement scoping plans for achieving the 2030 new vehicle electrification target. This planning process will give states a head start in identifying and resolving charging, grid, equity and other issues impeding 100% electrification, and will guide other vehicle, power, and climate policies and planning at state and local levels.

## Outcomes:

1. The 2030 target for 100% new vehicle electrification would, if achieved, result in enormous carbon savings as compared to the 2035 gas car phaseout date in the proposed ACC II regulation. At the federal level, a 2030 gas car phaseout would save 1 GT of CO<sub>2</sub> emissions relative to ACC II – an amount roughly equivalent to one year of the combined carbon emissions of France and Germany.<sup>2</sup>
2. Clean Cars 2030 will reinforce the market signal and political momentum produced by [policies](#) to phase out sales of new gas cars by 2030 or sooner in countries including Denmark, Netherlands, Norway, Slovenia, Sweden, and the UK.
3. States adopting Clean Cars 2030 will move forward on 100% new vehicle electrification planning and will identify early pathways and best practices for other states to get to high levels of vehicle electrification.

### III. ACC II ZEV Overview

The Zero Emission Vehicles (ZEV) portion of the ACC II is a rule promulgated by the California Air Resources Board and adopted on August 25, 2022 that would make more stringent the existing ZEV credit system that currently requires automakers to provide an increasing percent of ZEVs for sale in the state through 2025.

ACC II's ZEV provision requires automakers earn ZEV credits representing 35% of new car sales by 2026, increasing to 68% by 2030, and 100% by 2035.

It sets enforceable standards for the rate at which automakers must convert their offerings to electric and provides certainty for other EV market players concerning the timing of electrification.

States that adopt the ZEV portion of the ACC II regulation ("ZEV states") must do so in strict accordance with California regulations to avoid federal preemption under the Clean Air Act.

### IV. How Clean Cars 2030 Bolsters ACC II

#### A. The Clean Cars 2030 Campaign Will Provide Momentum for States to Enact ACC II

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<sup>2</sup> The [Coltura Report](#) on drivers using the most gasoline ("superusers") indicates that these drivers will be the last to switch to EVs if current trends continue. A 2030 gas car phaseout policy would prevent gasoline superusers from buying new ICE vehicles made in the 2030-2035 time frame, thereby mitigating the substantial emissions tail they would otherwise cause by driving those vehicles into the late 2040s and early 2050s.

Strong polling across the nation and the legislative success in Washington state demonstrate that Clean Cars 2030 is popular and that it can serve as the rallying cry of a public campaign to move rapidly to an all-EV future. The coalitions supporting the Clean Cars 2030 campaign can be mobilized to advocate adoption of ACC II.

Advancing Clean Cars 2030 legislation can also serve as a “left flank” for ACC II, giving ACC II proponents a bargaining chip in negotiations they would not otherwise have.

## **B. Clean Cars 2030 Increases the Impact of ACC II**

States enacting Clean Cars 2030 must start planning for 100% new vehicle electrification by 2030, including plans for charging infrastructure and grid upgrades. Planning requirements are absent from ACC II, and yet planning is critical to achieve the ACC II ZEV standards. Enacting Clean Cars 2030 with its readiness requirements makes it more likely a state will take the actions necessary to adopt ACC II.

## **C. Clean Cars 2030 Backstops ACC II Risks**

### **1. Backstop to ACC II Political Risks**

ACC II faces strong pushback. Industries (and some unions) benefiting from the gasoline status quo are likely to fight hard against the existential threat posed by ACC II. They will seek to exploit popular fears about EVs and raise concerns about whether there will be sufficient EV charging and grid capacity to maintain the convenience of today’s automobile experience.

It will be difficult for advocates to overcome opposing narratives with ACC II alone. It is a complex credit system difficult to campaign on. Its name has little meaning to the public and the rulemaking procedures required for its adoption are abstruse. Most states have not yet started to address the problems that will need to be solved to reach high levels of electrification. Compromise on stringency is not possible because ACC II must be adopted by ZEV states on a cookie-cutter basis.

Clean Cars 2030 can help alleviate these political challenges by building a broad base of support for an all-EV future, and by providing assurances that the necessary planning will occur on a timely basis.

Clean Cars 2030 can also provide a pathway forward towards 100% vehicle electrification in the event that a state is unable or unwilling to adopt ACC II, or if a state that has adopted it withdraws from it because of concerns that it won’t be ready to meet the ACC II standard.

### **2. Backstop to ACC II Risks of Legal Invalidation, Delays or Cancellation by a Hostile Administration**

ACC II faces an uncertain future in the courts. Attorneys General in 17 states have filed suit to block it. California's authority to issue the regulation could be invalidated pursuant to a case now pending in the DC Circuit challenging California's authority to issue regulations "relating to" fuel economy under the Energy Policy and Conservation Act (EPCA). It is unclear how challenges to ACC II would be decided by a Supreme Court with a 6-3 conservative majority and a reduced deference to precedent. There is also uncertainty over the legality of adoption of ACC II by states prior to issuance of a federal EPA waiver.

Even if President Biden grants ACC II a waiver, a future administration could revoke California's authority and invalidate the waiver as was done under the last president, leaving California and the ZEV states without a 100% ZEV requirement.

In the event of judicial or administrative invalidation of ACC II, Clean Cars 2030 can maintain momentum towards 100% vehicle electrification in the states.

ACC II could be also delayed by a number of factors, including judicial stays and injunctions, and resulting delays in the EPA issuing a waiver. While ACC II is clearing these hurdles, Clean Cars 2030 can start the planning process and generate forward momentum towards 100% electrification in states waiting to adopt ACC II.

## **V. Managing Potential Conflict Between ACC II and Clean Cars 2030**

### **A. 2030 v. 2035 Date**

The 2030 100% electrification target of Clean Cars 2030 is not in conflict with the 2035 100% vehicle electrification mandate of ACC II. States can aim and plan for 100% new vehicle electrification by 2030 even if a full mandate is not in effect until 2035. For states adopting both Clean Cars 2030 and ACC II, ACC II can serve as a floor for EV adoption, while Clean Cars 2030 can be a stretch goal.

### **B. Multiple Clean Car Policies**

Some might argue that the Clean Cars community should push only one policy at a time. That argument is belied by several factors:

1. Clean Cars 2030 will primarily be a legislative campaign, and the ACC II campaign will aim principally at the executive branch.
2. Clean Cars 2030's early planning for high levels of EV adoption will support ACC II implementation.
3. ACC II, while indispensable, is far from sufficient to achieve the carbon reductions required by climate science and by the Biden Administration's goal to cut emissions 50% by 2030. If the

opportunity to advance Clean Cars 2030 is not seized now, the window of opportunity for 100% EVs by 2030 will likely be closed forever, given that 2030 is just eight years away, and the runway for later efforts will be too short.

4. Putting all the clean car eggs in the ACC II basket is risky, given the formidable political and legal obstacles it faces. Clean Cars 2030 provides a Plan B if ACC II falters.

## **VI. Conclusion**

Clean Cars 2030 and ACC II are complementary policies which should be pursued together. Clean Cars 2030 has a track record of generating strong public support and will increase the emissions reductions ACC II can achieve. A strong Clean Cars 2030 campaign will provide momentum for states to enact ACC II and will backstop ACC II in the event of political or legal setbacks. It is the last, best chance to achieve 100% electrification of all new vehicles by 2030.