

ALBUQUERQUE-BERNALILLO COUNTY
AIR QUALITY CONTROL BOARD

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IN THE MATTER OF THE PETITION TO
AMEND 20.11. 104 NMAC
EMISSION STANDARDS
FOR NEW MOTOR VEHICLES

AQCB Petition No. 2008- 5

Air Quality Division,
Environmental Health Department,
City of Albuquerque, Petitioner

**Petition to Amend 20.11.104 NMAC, *Emission Standards for New Motor Vehicles*
By Making Minor Language Modifications, and Request for a
Hearing on the Matter.**

The Environmental Health Department of the City of Albuquerque (Department), by and through the Air Quality Division (AQD) asks the Albuquerque-Bernalillo County Air Quality Control Board (Board) for a hearing at which the Board will hear AQD's request that the Board adopt minor and limited language amendments to 20.11.104 NMAC, *Emission Standards for New Motor Vehicles*, as discussed in detail below. As grounds, Petitioner states the following:

1. The New Mexico Air Quality Control Act (Air Act), NMSA 1978, Sections 74-2-4 and 74-2-5.B(1) (1967 as amended through 2007) (Air Act) authorizes and requires the Board to adopt, amend and replace regulations regarding air pollution within the Board's jurisdiction of Bernalillo County.

2. The New Mexico Air Quality Control Act (Air Act), NMSA 1978, Sections 74-1-8, Section 74-2-3 and 74-2-5.B(1) (1967 as amended through 2007) (Air Act) authorizes and requires the Environmental Improvement Board (EIB) to adopt, amend and replace regulations regarding air pollution in the jurisdiction of the state of New Mexico outside Bernalillo County.

3. On August 8, 2007 the Department asked the Board to hold a hearing to hear a proposal to adopt 20.11.104 NMAC, *Emissions Standards For New Motor Vehicles*.

4. The Department's proposed *Emission Standards for New Motor Vehicles* (20.11.104 NMAC) to the Board were drafted in conjunction with the New Mexico Environmental Department's (NMED) proposed *Emissions Standards for New Motor Vehicles* (20.2.88 NMAC), which NMED had submitted to the EIB.

5. The two sets of regulations on emissions standards for new motor vehicles were intended to authorize identical standards across both jurisdictions so that there could be a seamless statewide program requiring cleaner cars in Bernalillo County and elsewhere in the State, with regulatory authority shared between the two agencies, the Department and NMED.

6. In a joint hearing of the Board and the EIB, held on November 26 and 27, 2007, the Department and NMED proposed the two sets of regulations, one set of regulations each to their respective Boards. The regulations were adopted on November 27, 2007 and subsequently filed with the State Record Center

7. Both the State's *Emission Standards for New Motor Vehicles* and the Albuquerque - Bernalillo County's *Emission Standards for New Motor Vehicles* include some fleet wide averaging accounting requirements. The regulations were prepared by drafting identical language except for portions of the regulation describing respective jurisdictional areas. When AQD prepared the mirror regulations, the unintended result was that the regulatory language, on its face, appears to require two separate fleet averaging programs – one for vehicles delivered for sale inside Bernalillo County and one for vehicles delivered for sale outside Bernalillo County. That is incorrect and has caused much concern for stakeholders.

8. Therefore, the AQD is petitioning the Board to adopt minor modifications to the language of its *Emission Standards for New Motor Vehicles* (20.11.104 NMAC) to clarify that certain program requirements are to be accomplished on a statewide basis, with NMED being the point of contact for the manufacturers. Specifically, the changes are:

- a. Amending the definition of State (20.11.104.7 DD NMAC);

- b. Substituting the word "State" for the word "Department" or "Bernalillo County" or adding the word "State" generally throughout the regulation, except when not applicable;
- c. Proposing minor changes to Fleet Average Non-Methane Organic Gas Exhaust Emission Requirements and Reporting (20.11.104.104);
- d. Proposing minor changes to Fleet Average Greenhouse Gas Exhaust Emissions and Reporting (20.11.104.107); and,
- e. Proposing minor changes to Recalls (20.11.104.110).

9. Proposed language to clarify the Albuquerque regulations is shown in the attached exhibit (Albuquerque Exhibit 1) and is provided in legislative-edit format, with strikeouts and underlines as appropriate.

10. The hearing on this matter is anticipated to take one hour or less.

Respectfully submitted,



Isreal Tavares, Environmental Health Engineering Mgr.
Air Quality Division
City of Albuquerque, Environmental Health Department
11850 Sunset Gardens
Albuquerque, New Mexico 87121
(505) 768-1965

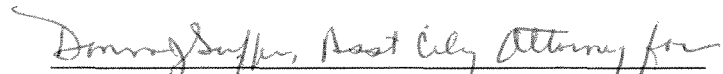
CERTIFICATION

I hereby certify that on November 24, 2008, an original and nine copies of this Petition to Amend 20.11.104 NMAC, *Emission Standards for New Motor Vehicles By Making Minor Language Modifications*, and Request for a Hearing on the Matter, with a copy of the public review draft (PRD) of the proposed amended regulation, were delivered to the following person for filing:

Janice Amend
Air Quality Control Board Liaison
Environmental Health Department
One Civic Plaza, NW, Room 3023
Albuquerque, New Mexico 87103

and that on November 24, 2008, a copy of the Petition, with proposed amended regulation, was sent to the Board attorney at the following email address:

Bill Grantham, Attorney for the Board
bill.grantham@state.nm.us.


Isreal Tavares, Env. Health Engineering Manager
Air Quality Division

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1 **TITLE 20 ENVIRONMENTAL PROTECTION**
2 **CHAPTER 11 ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD**
3 **PART 104 EMISSION STANDARDS FOR NEW MOTOR VEHICLES**

4
5 **20.11.104.1 ISSUING AGENCY:** Albuquerque-Bernalillo County Air Quality Control Board, c/o
6 Environmental Health Department, P.O. Box 1293, Albuquerque, NM 87103. Telephone: (505) 768-2738.
7 [20.11.104.1 NMAC - N, 1/1/08]

8
9 **20.11.104.2 SCOPE:** 20.11.104 NMAC applies to all persons who deliver for sale, offer for sale,
10 sell, import, deliver, purchase, offer for rent, offer for lease, acquire, receive or register new passenger cars,
11 light-duty trucks, medium-duty passenger vehicles, and medium-duty motor vehicles within the jurisdiction
12 of the Albuquerque-Bernalillo county air quality control board.
13 [20.11.104.2 NMAC - N, 1/1/08]

14
15 **20.11.104.3 STATUTORY AUTHORITY:** The New Mexico Air Quality Control Act, NMSA 1978
16 Sections 74-2-4 and 74-2-5(B); the Joint Air Quality Control Board Ordinance, Bernalillo County
17 Ordinance 94-5 Sections 3, 4 and 5; and the Joint Air Quality Control Board Ordinance, Revised
18 Ordinances of Albuquerque 1994 Sections 9-5-1-3, 9-5-1-4, and 9-5-1-5.
19 [20.11.104.3 NMAC - N, 1/1/08]

20
21 **20.11.104.4 DURATION:** Permanent.
22 [20.11.104.4 NMAC - N, 1/1/08]

23
24 **20.11.104.5 EFFECTIVE DATE:** 1/1/08 unless a later date is cited at the end of a section
25 [20.11.104.5 NMAC - N, 1/1/08]

26
27 **20.11.104.6 OBJECTIVE:** The objective of 20.11.104 NMAC is to establish emission standards for
28 new motor vehicles subject to 20.11.104 NMAC.
29 [20.11.104.6 NMAC - N, 1/1/08]

30
31 **20.11.104.7 DEFINITIONS:** In addition to the terms defined in 20.11.104.7 NMAC, *Definitions*, the
32 definitions in California code of regulations ("CCR"), Title 13, sections of which are incorporated by
33 reference in 20.11.104 NMAC, and the definitions in 20.11.1 NMAC apply, except that "California" shall
34 mean "Bernalillo county" or "State", as applicable unless otherwise specified or clearly inappropriate. If
35 there is a conflict between a term defined in 20.11.104.7 NMAC, and CCR, Title 13, Section 1900, or
36 20.11.1 NMAC, the definition in 20.11.104.7 NMAC shall apply.

37 **A. "Air contaminant emission control system"** means the equipment designed for
38 installation on a motor vehicle or motor vehicle engine for the purpose of reducing the air contaminants
39 emitted from the motor vehicle or motor vehicle engine or a system or engine modification on a motor
40 vehicle which causes a reduction of air contaminants emitted from the motor vehicle engine, including but
41 not limited to exhaust control systems, fuel evaporative control systems and crankcase ventilating systems.

42 **B. "Business"** means an occupation, profession or trade; a person or partnership or
43 corporation engaged in commerce, manufacturing, or a service; or a profit-seeking enterprise or concern.

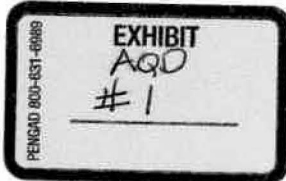
44 **C. "CARB"** means California air resources board.

45 **D. "CCR"** means California code of regulations, Title 13.

46 **E. "California-certified"** means a vehicle having a valid executive order stating that the
47 vehicle meets all applicable requirements of the applicable sections of CCR and is approved for sale in
48 California by CARB.

49 **F. "California standards"** means the emission standards for motor vehicles and new motor
50 vehicle engines that the state of California has adopted and for which California has received a waiver from
51 the United States environmental protection agency (EPA) pursuant to 42 U.S.C. Section 7543 and which
52 other states are authorized to adopt pursuant to 42 U.S.C. Section 7507.

53 **G. "Certification"** means a finding by CARB that a motor vehicle, motor vehicle engine, or
54 air contaminant emission control system satisfies the criteria adopted by CARB for the control of specified
55 air contaminants from motor vehicles.



1 **H.** “**Clean Air Act**” or “**CAA**” means the federal Clean Air Act, 42 U.S.C. Sections 7401 et
2 seq.

3 **I.** “**Dealer**” means any person actively engaged in the business of offering to sell, solicit or
4 advertise the sale, purchase, transfer, lease, sale or exchange of a new motor vehicle and who has an
5 established place of business.

6 **J.** “**Department**” means the Albuquerque environmental health department.

7 **K.** “**Emergency vehicle**” means any publicly-owned vehicle operated by a peace officer in
8 the performance of his duties, any authorized emergency vehicle used for fighting fires or responding to
9 emergency fire calls, any publicly-owned authorized emergency vehicle used by an emergency medical
10 technician or paramedic, or any ambulance used by a private entity under contract with a public agency.

11 **L.** “**Emission standards**” means specified limitations on the discharge of air contaminants
12 into the atmosphere.

13 **M.** “**Executive order**” means a document issued by CARB certifying that a specified test
14 group or model year vehicle has met all applicable requirements adopted by CARB pursuant to the
15 applicable sections of CCR for the control of specified air contaminants from motor vehicles.

16 **N.** “**Fleet average greenhouse gas emission requirement**” means the limitations on
17 greenhouse gas exhaust mass emission values from passenger cars, light-duty trucks and medium-duty
18 passenger vehicles as set forth in CCR, Section 1961.1.

19 **O.** “**Fleet-wide average non-methane organic gas exhaust emission requirement**” means,
20 based on the calculation in CCR, Section 1960.1(g)(2), a motor vehicle manufacturer’s average vehicle
21 emissions of all non-methane organic gases from all vehicles subject to this regulation and sold in
22 Bernalillo county the State in any model year.

23 **P.** “**Gross vehicle weight rating**” means the value specified by the manufacturer as the
24 maximum loaded weight of a single vehicle.

25 **Q.** “**Light-duty truck**” means any model year 2000 and subsequent motor vehicle certified
26 to the standards in CCR, section 1961(a)(1) rated at 8,500 pounds gross vehicle weight or less, and any
27 other motor vehicle rated at 6,000 pounds or less, which is designed primarily for the purposes of
28 transportation of property, is a derivative of such vehicles, or is available with special features enabling off-
29 street or off-highway operation and use.

30 **R.** “**Low-emission vehicle**” or “**LEV**” means a motor vehicle which has been certified by
31 CARB.

32 **S.** “**Medium-duty passenger vehicle**” or “**MDPV**” means any medium-duty vehicle with a
33 gross vehicle weight rating of less than 10,000 pounds that is designed primarily for the transportation of
34 persons. The medium-duty passenger vehicle definition does not include any vehicle which:

35 (1) is an “incomplete truck”, i.e., a truck that does not have primary load-carrying device or
36 container attached;

37 (2) has a seating capacity of more than 12 persons;

38 (3) is designed for more than nine persons in seating rearward of the drivers seat; or

39 (4) is equipped with an open cargo area of 72.0 inches in interior length or more; a covered,
40 box not readily accessible from the passenger compartment shall be considered an open cargo area for the
41 purpose of this definition.

42 **T.** “**Medium-duty vehicle**” means any pre-1995 model year heavy-duty vehicle with a
43 manufacturer’s gross vehicle weight rating of 8,500 pounds or less, any 1992 through 2006 model year
44 heavy-duty low-emission, ultra-low emission, super-ultra-low-emission or zero-emission vehicle certified
45 to the standards in CCR, Section 1960.1(h)(2) having a manufacturer’s gross vehicle weight rating of
46 14,000 pounds or less; and any 2000 and subsequent model heavy-duty low-emission, ultra-low-emission,
47 super-ultra-low-emission or zero-emission vehicle certified to the standards in CCR, Sections 1961(a)(1) or
48 1962 having a manufacturer’s gross weight rating between 8,501 and 14,000 pounds.

49 **U.** “**Model year**” means the manufacturer’s annual production period which includes
50 January 1, or, if the manufacturer has no annual production period, the calendar year. In the case of any
51 vehicle manufactured in two or more stages, the time of manufacture shall be the date of completion of the
52 chassis.

53 **V.** “**Motor vehicle**” or “**vehicle**” means every device in, upon, or by which a person or
54 property is or may be transported otherwise than by muscular power, except motorized bicycles and
55 devices that run only on rails or tracks.

56 **W.** “**Motor vehicle engine**” means an engine that is used to propel a motor vehicle.

1 **X.** “**New vehicle**” means any vehicle with 7,500 miles or fewer on its odometer.
2 **Y.** “**Non-methane organic gas**” or “**NMOG**” means the sum of non-oxygenated and
3 oxygenated hydrocarbons contained in a gas sample as measured in accordance with the “California non-
4 methane organic gas test procedures”, which is incorporated herein by reference.
5 **Z.** “**Passenger car**” means any motor vehicle designed primarily for transportation of
6 persons and having a design capacity equal to or less than 12 individuals;
7 **AA.** “**Person**” means an individual, public or private corporation, company, partnership, firm,
8 association, society or joint stock company, municipality, state, interstate body, the United States, or any
9 board, commission, employee, agent, officer or political subdivision, or a state, an interstate body or the
10 United States;
11 **BB.** “**Placed in service**” means having been sold to an ultimate purchaser and not to a dealer
12 or other entity in the distribution chain, and having been individually registered for on-road use by the New
13 Mexico Motor vehicle division.
14 **CC.** “**Sale**” or “**sell**” means the transfer of equitable or legal title to a motor vehicle or motor
15 vehicle engine to the ultimate purchaser.
16 **DD.** “**State**” means:
17 **(1)** for purposes of referring to a governing entity, the ~~municipality of Albuquerque and the~~
18 ~~county of Bernalillo~~ New Mexico Environment Department; or
19 **(2)** for purposes of referring to a geographic area, all geographic areas within the jurisdiction
20 of the Albuquerque-Bernalillo county air quality control board and the Environmental Improvement Board.
21 **EE.** “**Test group**” means a grouping of vehicles as defined by 40 CFR 86.1827-01.
22 **FF.** “**Ultimate purchaser**” means, with respect to any new motor vehicle or new motor
23 vehicle engine, the first person whom in good faith purchases a new motor vehicle or new motor vehicle
24 engine for a purpose other than resale.
25 **GG.** “**Vehicle identification number**” or “**VIN**” means a unique, 17 digit, alphanumeric code
26 that the vehicle manufacturer assigns to a vehicle.
27 **HH.** “**ZEV credit bank**” means a system designated by the ~~department~~ State that records and
28 tracks the generation, verification, transfer, voluntary retirement, use, and invalidation of vehicle credits.
29 [20.11.104.7 NMAC - N, 1/1/08]
30
31 **20.11.104.8 VARIANCES:** No person can obtain a variance from the requirements of 20.11.104
32 NMAC.
33 [20.11.104.8 NMAC - N, 1/1/08]
34
35 **20.11.104.9 SEVERABILITY:** If for any reason any section, subsection, sentence, phrase, clause or
36 wording of 20.11.104 NMAC, or the application of the provision to any person or circumstance, is held to
37 be unconstitutional or otherwise invalid by any court or the United States environmental protection agency,
38 the decision shall not affect the validity of the remaining portions of 20.11.104 NMAC.
39 [20.11.104.9 NMAC - N, 1/1/08]
40
41 **20.11.104.10 CONSTRUCTION:** 20.11.104 NMAC shall be liberally construed to carry out its
42 purpose.
43 [20.11.104.10 NMAC - N, 1/1/08]
44
45 **20.11.104.11 SAVINGS CLAUSE:** The filing of 20.11.104 NMAC, *Emission Standards For New*
46 *Motor Vehicles*, and the filing of any amendment to 20.11.104 NMAC with the state records center and
47 archives shall not affect any action pending for violation of a city or county ordinance, a board regulation,
48 or a permit.
49 [20.11.104.11 NMAC - N, 1/1/08]
50
51 **20.11.104.12 COMPLIANCE WITH OTHER REGULATIONS:** Compliance with 20.11.104
52 NMAC does not relieve a person from responsibility for complying with any other applicable federal, state,
53 or local regulations.
54 [20.11.104.12 NMAC - N, 1/1/08]
55

1 **20.11.104.13 LIMITATION OF DEFENSE:** The existence of a valid registration under 20.11.104
2 NMAC shall not constitute a defense to a violation of any section of 20.11.104 NMAC, except the
3 requirement for obtaining a registration.
4 [20.11.104.13 NMAC - N, 1/1/08]
5

6 **20.11.104.14 DOCUMENTS:** Documents incorporated and cited in 20.11.104 NMAC may be viewed
7 at the Albuquerque environmental health department, Suite 3023, One Civic Plaza, 400 Marquette NW,
8 Albuquerque, New Mexico.
9 [20.11.104.14 NMAC - N, 1/1/08]
10

11 **20.11.104.15 to 20.11.104.99** [Reserved]
12

13 **20.11.104.100 APPLICABILITY:** Except as provided in 20.11.104.103 NMAC, *Exemptions*, no
14 motor vehicle manufacturer, dealer, or other person shall deliver for sale, offer for sale, sell, import,
15 deliver, purchase, offer for rent, offer for lease, acquire, receive, or register a new model year 2011 or
16 subsequent model year passenger car, light-duty truck, medium-duty passenger vehicle, or medium-duty
17 vehicle unless the vehicle has been certified by CARB and received a CARB executive order.
18 [20.11.104.100 NMAC - N, 1/1/08]
19

20 **20.11.104.101 REQUIREMENTS TO MEET CALIFORNIA STANDARDS:**

21 **A.** Starting with model year 2011 and each model year thereafter, no motor vehicle
22 manufacturer, dealer, or other person shall deliver for sale, offer for sale, sell, import, deliver, purchase,
23 offer for rent, offer for lease, acquire, receive, or register new passenger car, light-duty truck, or medium-
24 duty passenger vehicle, or medium-duty vehicle unless the vehicle is certified to the California standards.

25 **B.** Each motor vehicle manufacturer shall comply with the fleet average emission
26 requirements and the warranty, recall, reporting, and other applicable requirements contained in 20.11.104
27 NMAC.

28 **C.** Each motor vehicle dealer shall comply with the department's inspection and information
29 requests issued pursuant to 20.11.104.112, *Inspections and Information Requests*.
30 [20.11.104.101 NMAC - N, 1/1/08]
31

32 **20.11.104.102 INCORPORATION BY REFERENCE:**

33 **A.** For the purpose of applying the incorporated sections of CCR, "California" means the
34 municipality of Albuquerque and the county of Bernalillo, or the State, as applicable, and "CARB" means
35 Albuquerque-Bernalillo county air quality control board or New Mexico Environment Department, as
36 applicable, unless otherwise specified or clearly inappropriate.

37 **B.** Each manufacturer of a new model year 2011 and subsequent model year passenger car,
38 light-duty truck, medium-duty passenger vehicle, or medium-duty vehicle must comply with each
39 applicable standard in the CCR as incorporated by reference in 20.11.104 NMAC. The department shall
40 maintain copies of these sections for public inspection. The following sections of are incorporated in
41 20.11.104 NMAC:

42 (1) **Section 1900: Definitions.** CCR effective date 1/1/2006.

43 (2) **Section 1956.8(g) and (h): Exhaust Emission Standards and Test Procedures - 1985**
44 **and Subsequent Model Heavy Duty Engines and Vehicles.** CCR effective date 11/15/06.

45 (3) **Section 1960.1: Exhaust Emission Standards and Test Procedures - 1981 and**
46 **through 2006 Model Passenger Cars, Light-Duty and Medium-Duty Vehicles.** CCR effective date
47 3/26/04.

48 (4) **Section 1961: Exhaust Emission Standards and Test Procedures - 2004 and**
49 **Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.** CCR effective
50 date 2/17/2007.

51 (5) **Section 1961.1: Greenhouse Gas Exhaust Emission Standards and Test Procedures**
52 **- 2009 and Subsequent Model Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.** CCR
53 effective date 01/01/06.

54 (6) **Section 1962: Zero-Emission Vehicle Standards for 2005 and Subsequent Model**
55 **Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.** CCR effective date 3/26/04.

- 1 (7) **Section 1962.1: Electric Vehicle Charging Requirements.** CCR effective date
2 7/24/02.
- 3 (8) **Section 1965: Emission Control and Smog Index Labels - 1979 and Subsequent**
4 **Model Year Vehicles.** CCR effective date 12/04/03.
- 5 (9) **Section 1968.2: Malfunction and Diagnostic System Requirements - 2004 and**
6 **Subsequent Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles.** CCR
7 effective date 04/21/03.
- 8 (10) **Section 1968.5: Enforcement of Malfunction and Diagnostic System Requirements**
9 **for 2004 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty**
10 **Vehicles and Engines.** CCR effective date 04/21/03.
- 11 (11) **Section 1976: Standards and Test Procedures for Motor Vehicle Fuel Evaporative**
12 **Emissions.** CCR effective date 2/17/07.
- 13 (12) **Section 1978: Standards and Test Procedures for Vehicle Refueling Emissions.**
14 CCR effective date 2/17/07.
- 15 (13) **Section 2035: Purpose, Applicability and Definitions.** CCR effective date 12/26/90.
- 16 (14) **Section 2037: Defects Warranty Requirements for 1990 and Subsequent Model**
17 **Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle Engines**
18 **Used in Such Vehicles.** CCR effective date 11/27/99.
- 19 (15) **Section 2038: Performance Warranty Requirements for 1990 and Subsequent**
20 **Model Year Passenger Cars, Light-Duty Trucks and Medium-Duty Vehicles and Motor Vehicle**
21 **Engines Used in Such.** CCR effective date 11/27/99.
- 22 (16) **Section 2039: Emission Control System Warranty Statement.** CCR effective date
23 12/26/90.
- 24 (17) **Section 2040: Vehicle Owner Obligations.** CCR effective date 12/26/90.
- 25 (18) **Section 2041: Mediation; Finding of Warrantable Condition.** CCR effective date
26 12/26/90.
- 27 (19) **Section 2046: Defective Catalyst.** CCR effective date 2/15/79.
- 28 (20) **Section 2109: New Vehicle Recall Provisions.** CCR effective date 12/30/83.
- 29 (21) **Section 2111: Applicability.** CCR effective date 12/13/06.
- 30 (22) **Section 2112: Definitions.** CCR effective date 11/15/03.
- 31 (23) **Section 2113: Initiation and Approval of Voluntary and Influenced Recalls.** CCR
32 effective date 1/26/95.
- 33 (24) **Section 2114: Voluntary and Influenced Recall Plans.** CCR effective date 11/27/99.
- 34 (25) **Section 2115: Eligibility for Repair.** CCR effective date 1/26/95.
- 35 (26) **Section 2116: Repair Label.** CCR effective date 1/26/95.
- 36 (27) **Section 2117: Proof of Correction Certificate.** CCR effective date 1/26/95.
- 37 (28) **Section 2118: Notification.** CCR effective date 1/26/95.
- 38 (29) **Section 2119: Record keeping and Reporting Requirements.** CCR effective date
39 11/27/99.
- 40 (30) **Section 2120: Other Requirements Not Waived.** CCR effective date 1/26/95.
- 41 (31) **Section 2121: Penalties.**
- 42 (32) **Section 2122: General Provisions.** CCR effective date 1/26/95.
- 43 (33) **Section 2123: Initiation and Notification of Ordered Emission-Related Recalls.**
44 CCR effective date 1/26/95.
- 45 (34) **Section 2124: Availability of Public Hearing.** CCR effective date 1/26/95.
- 46 (35) **Section 2125: Ordered Recall Plan.** CCR effective date 1/26/95.
- 47 (36) **Section 2126: Approval and Implementation of Recall Plan.** CCR effective date
48 1/26/95.
- 49 (37) **Section 2127: Notification of Owners.** CCR effective date 1/26/95.
- 50 (38) **Section 2128: Repair Label.** CCR effective date 1/26/95.
- 51 (39) **Section 2129: Proof of Correction Certificate.** CCR effective date 1/26/95.
- 52 (40) **Section 2130: Capture Rates and Alternative Measures.** CCR effective date
53 11/27/99.
- 54 (41) **Section 2131: Preliminary Tests.** CCR effective date 1/26/95.
- 55 (42) **Section 2132: Communication with Repair Personnel.** CCR effective date 1/26/95.

- 1 (43) Section 2133: Record keeping and Reporting Requirements. CCR effective date
2 1/26/95.
3 (44) Section 2135: Extension of Time. CCR effective date 1/26/95.
4 (45) Section 2137: Vehicle and Engine Selection. CCR effective date 12/28/2000.
5 (46) Section 2138: Restorative Maintenance. CCR effective date 11/27/99.
6 (47) Section 2139: Testing. CCR effective date 8/21/2002.
7 (48) Section 2140: Notification and Use of Test Results. CCR effective date 8/21/2002.
8 (49) Section 2141: General Provisions. CCR effective date 12/28/00.
9 (50) Section 2142: Alternative Procedures. CCR effective date 2/23/90.
10 (51) Section 2143: Failure Levels Triggering Recall. CCR effective date 11/27/99.
11 (52) Section 2144: Emission Warranty Information Report. CCR effective date
12 11/27/99.
13 (53) Section 2145: Field Information Report. CCR effective date 11/27/99.
14 (54) Section 2146: Emissions Information Report. CCR effective date 11/27/99.
15 (55) Section 2147: Demonstration of Compliance with Emission Standards. CCR
16 effective date 8/21/02
17 (56) Section 2148: Evaluation of Need for Recall. CCR effective date 11/27/99.
18 (57) Section 2149: Notification of Subsequent Action. CCR effective date 2/23/90
19 (58) Section 2151: New Motor Vehicle Dealer Surveillance. CCR effective date
20 12/13/83.
21 (59) Section 2235: Requirements. CCR effective date 9/17/91.
22 [20.11.104.102 NMAC - N, 1/1/08]

23
24 **20.11.104.103 EXEMPTIONS:** The following vehicles are not subject to 20.11.104 NMAC.

- 25 A. Military tactical vehicles.
26 B. Vehicles sold for registration and use in a state that is not subject to the California vehicle
27 emission standards.
28 C. Previously registered vehicles with more than 7,500 miles, provided that for vehicle
29 dealers, the mileage at the time of sale is determined by the odometer statement when the dealer acquired
30 the vehicle.
31 D. Vehicles available only for rent to a final destination in a state that is not subject to the
32 California vehicle emission standards.
33 E. Vehicles transferred by inheritance or as a result of divorce, dissolution, or legal
34 separation;
35 F. Emergency vehicles if a public safety agency has demonstrated to the department's
36 satisfaction that a vehicle that meets the agency's needs is not otherwise reasonably available.
37 G. A vehicle acquired by a New Mexico resident to replace a vehicle registered to such
38 resident that was stolen, damaged or failed beyond reasonable repair while out of state, provided that such
39 replacement vehicle is acquired out of state when the previously-owned vehicle was stolen, damaged, or
40 failed beyond reasonable repair.
41 H. A vehicle with a right-hand drive configuration that is not available in a California-
42 certified model, purchased by a rural route postal carrier and used primarily for work.
43 I. Vehicles purchased by a nonresident before establishing residency in New Mexico,
44 regardless of the mileage on the vehicle.

45 [20.11.104.103 NMAC - N, 1/1/08]

46
47 **20.11.104.104 FLEET AVERAGE NON-METHANE ORGANIC GAS EXHAUST EMISSION**
48 **REQUIREMENTS AND REPORTING:**

49 A. **Fleet average requirement.** Effective model year 2011 and each model year thereafter,
50 each motor vehicle manufacturer's NMOG fleet average emissions from passenger cars, light-duty trucks
51 and medium-duty vehicles delivered for sale in Bernalillo county shall not exceed the Fleet Average
52 NMOG Exhaust Emission Requirement set forth in CCR, Section 1961. ~~Compliance shall be based on the~~
53 ~~number of averaging on a statewide basis is authorized, including~~ vehicles that are subject to 20.11.104
54 NMAC and are delivered for sale in Bernalillo county.

55 B. **Fleet average NMOG exhaust emission credits and debits.** Effective model year 2011
56 and each model year thereafter, each motor vehicle manufacturer may accrue NMOG emission credits and

1 debits and use credits in accordance with the procedures in CCR Section 1961. Debits and credits accrued
2 and used ~~shall be based on the number of~~ are authorized for vehicles subject to 20.11.104 NMAC that are
3 delivered for sale in Bernalillo county.

4 **C. Reporting.** Effective model year 2011 and for each model year thereafter, each motor
5 vehicle manufacturer shall submit a report to the ~~department~~ State no later than March 1, that follows the
6 procedures in CCR, Section 1961 and in the same format used to report such information to CARB.
7 [20.11.104.104 NMAC - N, 1/1/08]
8

9 **20.11.104.105 ZEV SALES:**

10 **A.** Effective model year 2011 and each model year thereafter, manufacturers subject to
11 20.11.104 NMAC shall produce and deliver for sale in ~~Bernalillo county~~ the State vehicles that comply
12 with the ZEV sales requirement set forth in, Section 1962.

13 **B.** An intermediate volume or large volume manufacturer of ZEVs, ATPZEVs or PZEVs
14 may use previously earned credits in accordance with CCR, Section 1962 to offset the ZEV sales
15 requirement in Subsection A of 20.11.104.105 NMAC.
16 [20.11.104.105 NMAC - N, 1/1/08]
17

18 **20.11.104.106 ZEV CREDIT BANK AND REPORTING:**

19 **A.** Manufacturers shall establish a ZEV credit bank with the ~~department~~ State on or before
20 January 1, 2011, and establish reporting procedures to report additions and deletions to that bank in
21 accordance with CARB manufacturers advisory correspondence (MAC) #06-03 zero emission vehicle
22 (ZEV) credit reporting and tracking system and Subsections B, C, D, E and F of 20.11.104.106 NMAC.

23 **B.** The ~~department~~ State shall set aside a number of New Mexico ZEV credits proportionally
24 equivalent to the number of ZEV credits possessed by the requesting manufacturer for use in the state of
25 California at the beginning of the 2011 model year. This transfer shall be performed only after all credit
26 obligations for model years 2010 and earlier have been satisfied in California. Each manufacturer's
27 California credit balances shall be multiplied by the ratio of the average number of PCs and LDT1s
28 produced and delivered for sale in New Mexico to the combined average number of PCs and LDT1s
29 produced and delivered for sale in California in model years 2003 through 2005, or, alternatively, by the
30 ratio of PCs and LDT1s produced and delivered for sale in New Mexico to the combined number of PCs
31 and LDT1s produced and delivered for sale in California in model year 2011. In either case, the time
32 period used to determine the credit transfer ratio shall be used to determine model year 2011 ZEV sales
33 requirements in New Mexico. The ~~department~~ State shall establish ZEV compliance accounts for each
34 manufacturer and allocate the credits calculated under this subsection to such compliance accounts,
35 including separate accounts for PZEV, AT-PZEV, NEV, Type 0 ZEVs, Type I ZEVs, Type II ZEVs, Type
36 III ZEVs, transportation system, and extended service. The ~~department~~ State shall notify each
37 manufacturer of the number of ZEV credits available for use by July 31, 2011. Credits issued pursuant to
38 this subsection may only be used in New Mexico for compliance with the ZEV provisions subject to the
39 same requirements and limitations on credit use set forth in CCR, Section 1962, adjusted for New Mexico
40 specific vehicle numbers. Each manufacturer operating in accordance with this subsection shall do the
41 following.

42 **(1)** By May 1, 2011, provide the ~~department~~ State with the total number of PC and LDT1
43 vehicles produced and delivered for sale in New Mexico and California for 2003 through 2005 model
44 years.

45 **(2)** Alternatively, by May 1, 2011, provide the ~~department~~ State with the total number of PC
46 and LDT1 vehicles to be produced and delivered for sale in New Mexico and California in model year
47 2011. By March 1, 2012, provide the ~~department~~ State with actual model year 2011 PC and LDT1 vehicles
48 produced and delivered for sale in New Mexico and California. By May 31, 2012, the ~~department~~ State
49 shall adjust and notify each manufacturer of the number of ZEV credits established based on actual model
50 year 2011.

51 **(3)** By May 1, 2011, provide the ~~department~~ State with the total number of banked
52 California credits after all model year 2010 and earlier obligations have been met.

53 **C.** In addition to the credits transferred in accordance with Subsection B of 20.11.104.106
54 NMAC, manufacturers may also generate and deposit credits for vehicles delivered for sale within
55 ~~Bernalillo county~~ the State during the 2009 through 2010 model years, a manufacturer shall open an

1 account with the ZEV credit bank and submit an appropriate notice of credit generation to the department
2 State by the time such vehicles are delivered.

3 **D.** A manufacturer shall be entitled to full credit for each type III ZEV placed in service
4 prior to model year 2012 in any state that has adopted the California ZEV regulations contained in CCR,
5 section 1962.

6 **E.** A manufacturer with an account in the ZEV credit bank may acquire credits from another
7 manufacturer with an account in the ZEV credit bank, provided that if the credits are to be used for future
8 compliance with the ZEV sales requirement in 20.11.104.105 NMAC, *ZEV Sales*, the transaction shall be
9 recorded in the ZEV credit bank and certified by both parties to the transaction.

10 **F.** A vehicle equivalent credit shall not constitute or convey a property right.
11 [20.11.104.106 NMAC - N, 1/1/08]

12
13 **20.11.104.107 FLEET AVERAGE GREENHOUSE GAS EXHAUST EMISSIONS AND**
14 **REPORTING:**

15 **A.** Effective model year 2011 and each model year thereafter, each manufacturer subject to
16 20.11.104 NMAC shall comply with greenhouse gas emissions standards, ~~fleet average greenhouse gas~~
17 ~~exhaust mass emission requirements~~ for passenger car, light-duty truck, medium-duty passenger vehicle
18 weight classes, and other requirements of CCR Section 1961.1, for vehicles delivered for sale in Bernalillo
19 county

20 **B. Requirements for large volume manufacturers.** The fleet average greenhouse gas
21 exhaust emission standards for passenger cars, light-duty trucks, and medium-duty passenger vehicles
22 delivered for sale within ~~Bernalillo county~~ the State by a large volume manufacturer for model year 2011
23 and each model year thereafter are set forth in CCR, Section 1961.1.

24 **C. Requirements for small, intermediate, and independent manufacturers.** The fleet
25 average greenhouse gas exhaust emission requirements for passenger cars, light-duty trucks, and medium-
26 duty passenger vehicles delivered for sale within ~~Bernalillo county~~ the State by small volume, intermediate
27 volume and independent low volume manufacturers for model year 2016 and each model year thereafter
28 are set forth in CCR, Section 1961.1.

29 **D. Greenhouse gas emission credits and debits.** Greenhouse gas credits and debits may be
30 accrued and used based on each manufacturer's sale of vehicles within ~~Bernalillo county~~ the State as set
31 forth in CCR, Section 1961.1.

32 **E. Optional alternative compliance with greenhouse gas emission standards.**
33 Greenhouse gas vehicle test groups that are certified pursuant to CCR, Section 1961.1(a)(1)(B)2 in the state
34 of California may obtain equivalent credit if delivered for sale and use within Bernalillo county.

35 **F. Alternative compliance credit.** To receive the credit authorized by subsection E of
36 20.11.104.107 NMAC, a manufacturer shall submit to the department State the data set forth in CCR,
37 Section 1961.1(a)(1)(B)2.a.i ~~for Bernalillo county specific sale and use.~~

38 **G. Reporting on greenhouse gas requirements.** Beginning model year 2011 and for each
39 model year thereafter, each manufacturer shall submit a report to the department State that includes end-of-
40 model year data that calculates the fleet average greenhouse gas emissions for the model year just ended;
41 the report shall include the number of greenhouse gas vehicle test groups, delineated by model type,
42 certified pursuant to CCR Section 1961; the report shall follow the procedures in CCR, Section 1961.1 and
43 be in the same format used to report such information to CARB.

44 [20.11.104.107 NMAC - N, 1/1/08]

45
46 **20.11.104.108 ADDITIONAL REPORTING:**

47 **A.** To determine compliance with 20.11.104 NMAC, the department may require a motor
48 vehicle manufacturer to submit any documentation that the department deems necessary to the effective
49 administration and enforcement of 20.11.104 NMAC, including all certification materials submitted to
50 CARB.

51 **B.** In addition to the reporting requirements in 20.11.104.106 NMAC, *ZEV Credit Bank and*
52 *Reporting*, and NMAC 20.11.104.111, *Registration and Fees*, beginning with the 2011 model year and
53 each model year thereafter, each manufacturer of a vehicle subject to 20.11.104.100 NMAC, *Applicability*,
54 shall submit annually to the department State, no later than March 31 following the close of the model year,
55 a report documenting the total deliveries for sale within ~~Bernalillo county~~ the State of vehicles in each test
56 group during that model year.

1 [20.11.104.108 NMAC - N, 1/1/08]

2
3 **20.11.104.109 WARRANTIES:**

4 A. For model year 2011 and each model year thereafter, each manufacturer of a vehicle
5 subject to 20.11.104.100 NMAC, *Applicability*, shall warrant to the ultimate purchaser and each subsequent
6 purchaser that the vehicle shall comply over its period of warranty coverage with all requirements of CCR
7 Sections 2035 through 2038, 2040, and 2041.

8 B. For model year 2011 and each model year thereafter, a manufacturer of a vehicle subject
9 to 20.11.104 NMAC shall include an emission control system warranty statement that complies with the
10 requirements in CCR, Section 2039, except that a manufacturer may modify the statement for the sole
11 purposes of informing the owner of the warranty's applicability and including a telephone number for
12 owners to obtain answers to questions regarding the warranty.

13 C. Upon the department's request, a manufacturer of a vehicle subject to 20.11.104 NMAC
14 shall submit to the department a failure of emission-related component report, or copy of the report
15 submitted to CARB, as required by CCR, Section 2144.

16 [20.11.104.109 NMAC - N, 1/1/08]

17
18 **20.11.104.110 RECALLS:**

19 A. Any order issued or enforcement action taken by CARB to correct noncompliance with
20 any section of CCR, Title 13, that results in the recall of a vehicle pursuant to CCR, Sections 2109 through
21 2135, shall be prima facie evidence of noncompliance of a vehicle registered in Bernalillo county. In such
22 cases, recalls may be initiated by the State unless If the manufacturer demonstrates to the ~~department~~ State's
23 satisfaction that the order or action is not applicable to a vehicle registered in Bernalillo county, ~~the~~
24 ~~department shall not pursue a recall of that vehicle.~~

25 B. A voluntary or influenced emission-related recall campaign initiated by a manufacturer
26 pursuant to CCR Sections 2113 through 2121 shall include all affected vehicles registered in Bernalillo
27 county.

28 C. For any vehicle subject to an order or action under Subsection A of 20.11.104.110
29 NMAC, each manufacturer shall send to each owner of a vehicle registered in Bernalillo county a notice
30 that complies with the requirements in CCR Sections 2118 or 2127, including a telephone number for
31 owners to obtain answers to questions regarding the recall.

32 [20.11.104.110 NMAC - N, 1/1/08]

33
34 **20.11.104.111 REGISTRATION AND FEES:**

35 A. After January 1, 2010, no large-volume or intermediate-volume vehicle manufacturer
36 shall deliver for sale, offer for sale, sell, import, deliver, purchase, offer for rent, offer for lease, acquire,
37 receive, or register a motor vehicle subject or potentially subject to 20.11.104 NMAC without first
38 obtaining a registration from the department.

39 B. The registration shall have a term no more than 10 years and each large and intermediate-
40 volume manufacturer shall pay an annual registration fee to the ~~department~~ the State.

41 C. The ~~department~~ State shall assess an annual registration fee of \$10,000 to each large and
42 intermediate-volume manufacturer for the period beginning July 1 and ending June 30 of the subsequent
43 year.

44 D. By April 1 each year, each large and intermediate-volume manufacturer shall pay the
45 annual registration fee to the ~~department~~ State.

46 [20.11.104.111 NMAC - N, 1/1/08]

47
48 **20.11.104.112 INSPECTIONS AND INFORMATION REQUESTS:**

49 A. For the purpose of determining compliance with 20.11.104 NMAC, the department may
50 inspect any new and used motor vehicle, and may inspect and copy relevant, non-financial records,
51 including records documenting vehicle origin, certification, delivery, or sales, and any record of emission-
52 related part repairs performed under warranty.

53 B. For the purpose of determining compliance with 20.11.104 NMAC, the department may
54 require a vehicle dealer or rental car agency to submit relevant, non-financial documentation related to a
55 motor vehicle subject or potentially subject to 20.11.104 NMAC, except this subsection shall not be
56 construed to require the creation of a new record.

1 C. A vehicle dealer or rental car agency may assert a claim for a record or documentation
2 requested pursuant to this section in accordance with 20.2.1.115 NMAC, Confidential Information
3 Protection.
4 [20.11.104.112 NMAC - N, 1/1/08