

**STATE OF NEW MEXICO  
ENVIRONMENTAL IMPROVEMENT BOARD**

**IN THE MATTER OF PROPOSED NEW REGULATION,**  
20.2.88 NMAC – *Emission Standards for New Motor Vehicles*

No. EIB 21-30

**PETITION FOR REGULATORY CHANGE**

Pursuant to 20.1.1.300(A) NMAC, Petitioners Center for Civic Policy, Conservation Voters New Mexico, Natural Resources Defense Council, Plug In America, Prosperity Works, Sierra Club, Southwest Energy Efficiency Project, and 350 New Mexico (“Climate Advocates”) hereby petition the Board to adopt 20.2.88 NMAC – *Emission Standards for New Motor Vehicles* (“Clean Car Standards”). The proposed regulatory text and the Statement of Reasons are attached to this Petition, as required by 20.1.1.300.B NMAC.

**Purpose of Rulemaking.** The Clean Car Standards are needed to improve the health and welfare of New Mexico residents by reducing emissions of criteria pollutants, air toxics, and greenhouse gases resulting from new passenger motor vehicles. Mobile sources are a major contributor to New Mexico’s ozone problem, responsible for nearly a quarter of the state’s NOx emissions.<sup>1</sup> The transportation sector is also the second largest source of greenhouse gas emissions in the state, behind oil-and-gas sector and ahead of electricity generation.<sup>2</sup> Adopting the Clean Car Standards is consistent with the Governor’s direction in the *Executive Order on Addressing Climate Change and Energy Waste Prevention*, E.O. 2019-003, that state agencies consider “[a]doption of approaches to reduce greenhouse gas and criteria pollutant emissions

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<sup>1</sup> [https://www.wrapair2.org/pdf/NM\\_OAI\\_2028\\_AQTSD\\_v8.pdf](https://www.wrapair2.org/pdf/NM_OAI_2028_AQTSD_v8.pdf) at Figure 4-3.

<sup>2</sup> [https://www.climateaction.state.nm.us/documents/reports/NMClimateChangeReport\\_2020.pdf](https://www.climateaction.state.nm.us/documents/reports/NMClimateChangeReport_2020.pdf) at 6.

from light-duty vehicles sold in state, including Low Emission Vehicle (LEV) and Zero Emission Vehicle (ZEV) performance standards.”<sup>3</sup> The need to adopt Clean Car Standards was discussed in the 2020 report of the New Mexico Interagency Climate Change Task Force (“Task Force”), which explained:

In September 2019, Governor Lujan Grisham announced that New Mexico will join 14 other states in adopting low emission vehicle (LEV) standards and 11 other states adopting zero-emission vehicle (ZEV) standards. NMED will hold initial informational public meetings on these regulations starting in spring 2021 and petition the Environmental Improvement Board (EIB) in July 2021 to hold a hearing on proposed rules later in 2021. If adopted, these standards will take effect in January 2023. The LEV rules would limit greenhouse gas and other pollutants from cars and light duty trucks and the ZEV rules would require a percentage of new vehicles for sale in New Mexico to be zero-emission vehicles.<sup>4</sup>

Similar language was included in the Task Force’s 2019 report.<sup>5</sup>

**Hearing Date and Schedule.** Climate Advocates request that the Board consider the Petition at its regularly scheduled meeting on June 25, 2021. Climate Advocates further request that the Board docket this matter and schedule a public hearing to begin in October 2021. Climate Advocates respectfully request that the Board establish a schedule for considering this matter that will allow for the adoption and publication of final regulations before the end of the calendar year. Under the federal Clean Air Act, 42 U.S.C. § 7507, emission standards for new motor vehicles must be adopted “at least two years before commencement of such model year.” 42 U.S.C. § 7507. If the Board adopts the Clean Car Standards before the end of 2021, the standards can apply to model year 2025 and all subsequent model years. However, if adopted in

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<sup>3</sup> [https://www.governor.state.nm.us/wp-content/uploads/2019/01/EO\\_2019-003.pdf](https://www.governor.state.nm.us/wp-content/uploads/2019/01/EO_2019-003.pdf)

<sup>4</sup> [https://www.climateaction.state.nm.us/documents/reports/NMClimateChangeReport\\_2020.pdf](https://www.climateaction.state.nm.us/documents/reports/NMClimateChangeReport_2020.pdf) at 14.

<sup>5</sup> [https://www.climateaction.state.nm.us/documents/reports/NMClimateChange\\_2019.pdf](https://www.climateaction.state.nm.us/documents/reports/NMClimateChange_2019.pdf) at 12.

2022, the standards would not take effect until model year 2026, substantially slowing progress towards the state’s goals of reducing air pollution and addressing the climate crisis.

**Length of Hearing.** Climate Advocates expect the public hearing to last approximately one week. This rulemaking is likely to take less time than other significant rulemakings because the Board’s discretion as to how to structure the rule is limited by applicable law. Specifically, under Section 177 of the federal Clean Air Act, 42 U.S.C. § 7507, the Board may only adopt emission standards for new motor vehicles or new motor vehicle engines if “such standards are identical to the California standards.” Accordingly, while Climate Advocates intend to present evidence as to the urgent need to adopt these emission standards in order to protect New Mexicans from dangerous air pollution, extensive technical testimony about the substance of the standards is unlikely to be relevant or helpful.

**Format of Hearing.** To expedite consideration of this matter, Climate Advocates request that the Board set a schedule for pre-filed technical testimony and pre-filed rebuttal testimony. Climate Advocates further request that the Board appoint a Hearing Officer pursuant to 20.1.1.107(B) NMAC, and authorize the Hearing Officer to manage the pre-hearing process, adopt procedural orders governing the proceedings, and prepare any post-hearing recommendations for the Board at the Board’s request. A proposed *Notice of Hearing Determination and Appointment of Hearing Officer* is attached hereto.

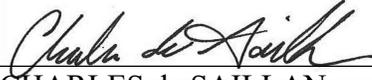
Respectfully submitted,

**Baake Law LLC**

/s/ David R. Baake

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