

1 **TITLE 20 ENVIRONMENTAL PROTECTION**
 2 **CHAPTER 11 ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY**
 3 **CONTROL BOARD**
 4 **PART 105 EMISSION STANDARDS FOR NEW MOTOR VEHICLES—**
 5 **MODEL YEAR 2025 AND SUBSEQUENT**
 6

7 **20.11.105.1 ISSUING AGENCY:** Albuquerque-Bernalillo County Air Quality Control
 8 Board.
 9 [20.11.105.1 NMAC – N, xx/xx/2021]
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11 **20.11.105.2 SCOPE:** This part applies to any person who transfers a new motor vehicle for
 12 titling or registration within the jurisdiction of the Albuquerque-Bernalillo County Air Quality
 13 Control Board. [20.11.105.2 NMAC – N, xx/xx/2021]
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15 **20.11.105.3 STATUTORY AUTHORITY:** Environmental Improvement Act, NMSA 1978,
 16 Section 74-1- 8(A)(4), and Air Quality Control Act, NMSA 1978, Sections 74-2-1 et seq., the
 17 Joint Air Quality Control Board Ordinance, Bernalillo County Ordinance 94-5 Sections 3, 4 and
 18 5; and the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994
 19 Sections 9-5-1-3, 9-5-1-4, and 9-5-1-5.
 20 [20.11.105.3 NMAC – N, xx/xx/2021]
 21

22 **20.11.105.4 DURATION:** Permanent.
 23 [20.11.105.4 NMAC – N, xx/xx/2021]
 24

25 **20.11.105.5 EFFECTIVE DATE:** January 1, 2022.
 26 [20.11.105.5 NMAC – N, xx/xx/2021]
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28 **20.11.105.6 OBJECTIVE:** The objective of this part is to improve the health and welfare of
 29 Albuquerque-Bernalillo County residents by reducing emissions of criteria pollutants, air toxics,
 30 and greenhouse gases resulting from new passenger motor vehicles.
 31 [20.11.105.6 NMAC – N, xx/xx/2021]
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33 **20.11.105.7 DEFINITIONS:** In addition to the terms defined in 20.2.2 NMAC – Definitions,
 34 as used in this Part, the following definitions apply:

- 35 **A. “CARB”** means the California Air Resources Board.
- 36 **B. “California Standards”** means those emission standards and requirements for motor
 37 vehicles and new motor vehicle engines that the State of California has adopted for
 38 Model Years 2025 and all subsequent model years, and for which it has received a
 39 waiver from the U.S. Environmental Protection Agency pursuant to 42 U.S.C.
 40 § 7543(b) as of the effective date of this rulemaking.
- 41 **C. “Department”** means the Albuquerque Environment Health Department.

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

- 6 **E.** The terms “**light-duty truck**,” “**LTD1**,” and “**LTD2**” shall have the same meaning in
7 this part as in California Code of Regulations, title 13, section 1900(b)(11).

- 8 **F. “Military tactical vehicle”** shall have the same meaning in this part as in California
9 Code of Regulations, title 13, section 1905.

- 10 **G. “Motor vehicle”** means any self-propelled vehicle designed for transporting persons
11 or property on a street or highway, other than motorized bicycles.

- 12 **H. “NMOG”** means non-methane organic gas.

- 13 **I. “New motor vehicle”** means a motor vehicle with 7,500 miles or fewer on its
14 odometer.

- 15 **J. “Passenger car”** means any motor vehicle designed primarily for transportation of
16 persons and having a design capacity of twelve persons or less.

- 17 **K. “Test group”** means a grouping of vehicles as defined by 40 C.F.R. section 86.1827-
18 01.

- 19 **L. “Transfer”** means to sell, import, deliver, purchase, lease, rent, acquire, or receive a
20 motor vehicle for titling or registration in New Mexico.

- 21 **M. “Zero emission vehicle”** or “**ZEV**” means a vehicle that produces zero exhaust
22 emissions of any criteria pollutant (or precursor pollutant) or greenhouse gas under
23 any possible operational modes or conditions.

24 [20.11.105.7 NMAC – N, xx/xx/2021]

25 **20.11.105.8 SUMMARY OF REQUIREMENTS IMPOSED BY THIS PART:** Effective
26 model year 2025 and each model year thereafter:

- 27 **A.** No person may transfer a new motor vehicle in Albuquerque-Bernalillo County
28 unless that vehicle (1) has been certified by CARB to comply with the California
29 Standards applicable, as of the effective date of this rulemaking, to model year 2025
30 and all subsequent model years or (2) is subject to an exemption set forth in
31 20.11.105.**Error! Reference source not found.** NMAC.

- 32 **B.** Each manufacturer subject to this part shall comply with all the applicable
33 requirements of this part, including the fleet average emission standards, the ZEV
34 requirement, and the warranty, recall, reporting, and registration requirements.

1 C. Each motor vehicle dealer and rental car agency shall comply with any inspection and
2 information requests issued under this part.

3 [20.11.105.8 NMAC – N, xx/xx/2021]

4 **20.11.105.9 EXEMPTIONS:** Effective model year 2025 and each model year thereafter:

5 The following vehicles are not subject to this part:

6 (a) Military tactical vehicles.

7 (b) A vehicle sold for registration and use in a state that has not adopted California's
8 vehicle emission standards.

9 (c) Previously registered vehicles with more than 7,500 miles, provided that for
10 vehicle dealers, the mileage at the time of sale is determined by the odometer
11 statement when the dealer acquired the vehicle.

12 (d) A vehicle transferred by inheritance or as a result of divorce, dissolution, or legal
13 separation.

14 (e) Emergency vehicles when a public safety agency has demonstrated to the
15 department's satisfaction that a vehicle that meets the agency's needs is not
16 otherwise available.

17 (f) A vehicle acquired by an Albuquerque-Bernalillo County resident to replace a
18 vehicle registered to such resident that was stolen, damaged, or failed beyond
19 reasonable repair while out of state, provided that such replacement vehicle is
20 acquired before the owner returns to the State of New Mexico.

21 (g) A vehicle with a right-hand drive configuration that is not available in a
22 California-certified model which vehicle is purchased by a rural route postal
23 carrier and used primarily for work.

24 (h) A vehicle sold for the purpose of being wrecked or dismantled.

25 (i) A vehicle purchased by a nonresident before establishing residency in New
26 Mexico, regardless of the mileage of the vehicle.

27 [20.11.105.9 NMAC – N, xx/xx/2021]

28 **20.11.105.10 FLEET AVERAGE EMISSION REQUIREMENTS**

29 Effective model year 2025 and each model year thereafter:

30 A. Each manufacturer must comply with the fleet average NMOG plus oxides of
31 nitrogen emission values set forth in California Code of Regulations, title 13, section

- 1 1961.2. Each manufacturer may accrue and use credits and debits based upon the
2 manufacturer's sales of vehicles subject to this part in Albuquerque-Bernalillo
3 County, in accordance with the procedures set forth at California Code of
4 Regulations, title 13, section 1961.2.
- 5 **B.** Each manufacturer of a Passenger Car, Light-Duty Truck, or Medium-Duty Passenger
6 Vehicle produced and delivered for sale or lease in Albuquerque-Bernalillo County
7 shall comply with the fleet average greenhouse gas exhaust emission standards set
8 forth in California Code of Regulations, title 13, section 1961.3. Manufacturers of
9 Medium-Duty Vehicles produced and delivered for sale or lease in Albuquerque-
10 Bernalillo County shall comply with the CO₂ emission standards set forth in
11 California Code of Regulations, title 13, section 1956.8(h)(6). Credits and debits may
12 be accrued and utilized based upon each manufacturer's sales of vehicles subject to
13 this part in Albuquerque-Bernalillo County, in accordance with the procedures set
14 forth in California Code of Regulations, title 13, section 1961.3.

15 [20.11.105.10 NMAC – N, xx/xx/2021]

16 **20.11.105.11 ZEV REQUIREMENT**

- 17
- 18 **A.** Beginning with model year 2025, all ZEVs must be certified by the Executive
19 Officer of CARB in accordance with section 1962.2(a) of Title 13 of the
20 California Code of Regulations.
- 21 **B.** Effective model year 2025 and each model year thereafter, each manufacturer
22 shall produce and deliver at least the minimum number of ZEV credits required
23 by this section. The minimum number of ZEV credits required for each
24 manufacturer is equal to the “applicable ZEV percentage” multiplied by the
25 “manufacturer’s production volume.” For purposes of this provision, the
26 “applicable ZEV percentage” means the relevant percentage set forth in California
27 Code of Regulations, title 13, section 1962.2(b)(1). The “manufacturer’s
28 production volume” means the number of passenger cars and light-duty trucks
29 delivered in Albuquerque-Bernalillo County by the manufacturer, which number
30 shall be determined in accordance with California Code of Regulations, title 13,
31 section 1962.2(b)(1)(B), substituting “Albuquerque-Bernalillo County” for
32 “California” wherever it appears.
- 33 **C.** Beginning with model year 2025, a manufacturer shall open an account in the
34 California ZEV Credit System for banking credits generated in this State. The
35 manufacturer may deposit and earn ZEV credits for each qualifying vehicle
36 delivered for sale in this State in accordance with this section and sections
37 1962.2(c), (d) and (g) of Title 13 of the California Code of Regulations.
- 38 **D.** A manufacturer may earn early action credits for any 2023 and 2024 model year
39 range extended battery electric vehicles, neighborhood electric vehicles,
40 transitional zero emission vehicles and zero emission vehicles the manufacturer

1 produces and delivers for sale in Albuquerque-Bernalillo County by reporting the
2 total production and delivery of such vehicles to the Department at the end of the
3 2023 and 2024 model years. Any early action credits earned for model years
4 2023 and 2024 earned pursuant to this section will be deposited into the
5 manufacturer's account in the California ZEV Credit System for model year 2025
6 in addition to the credits deposited pursuant to 20.11.105.12 NMAC.

7 E. A manufacturer may deposit into the account a number of credits equal to the
8 manufacturer's 2025 model year starting California credit balance multiplied by
9 the number of new passenger cars and light-duty trucks the manufacturer
10 produced and delivered for sale in Albuquerque-Bernalillo County in model year
11 2025 and divided by the number of new passenger cars and light-duty trucks that
12 the manufacturer produced and delivered for sale in California in model year
13 2025.

14 F. A manufacturer may not make a deposit pursuant to this section until all credit
15 obligations for model years 2024 and earlier have been satisfied in California.

16 G. Credits awarded under subsection E:

- 17 1. May not be traded, sold, or used to satisfy a manufacturer's credit obligation in
18 any model year unless and until the regulations in this Part are superseded by new
19 regulations updating New Mexico's Clean Car Program, and
- 20 2. May only be traded, sold, or used in model years for which the credit obligation
21 has been modified by such new regulations.

22 H. On or before September 1 of each year, following the close of the model year,
23 each manufacturer must submit to the Department a report detailing the credits
24 generated or credits transferred to or from any another manufacturer for each
25 qualifying vehicle sold or delivered for sale in this State during the previous
26 model year. The report must be prepared in the same format as the report
27 submitted to CARB.

28 [20.11.105.11 NMAC – N, xx/xx/2021]

29 **20.11.105.12 CREDIT PROVISIONS APPLICABLE IN THE EVENT NEW MEXICO'S**
30 **CLEAN CAR STANDARDS ARE AMENDED.**

31 A. As part of any update to the regulations in this Part, the updated regulations:

- 32 1. Shall allow manufacturers to trade, sell, and use credits awarded under Section
33 20.11.105.11(E) in a manner consistent with the California Advanced Clean Cars
34 program;
- 35 2. Shall result in a total ZEV credit percentage required from ZEVs delivered for
36 sale in Albuquerque-Bernalillo County that is equivalent to the total ZEV credit

1 percentage required from ZEVs delivered for sale in California for the same
2 compliance year;

3 3. Shall adjust the Albuquerque-Bernalillo County ZEV credit bank balances under
4 the new regulations referenced in 20.11.105.12(D) to mirror changes made to the
5 California ZEV credit banks including but not limited to discounting of credits in
6 the credit bank and/or to mirror restrictions or limitations on use of the credits;
7 and

8 4. Must take into account only existing ZEV credit banks, any changes in or
9 restrictions on use of ZEV credits, and the new regulatory requirements, and not
10 external factors such as the availability of infrastructure, incentives, or other
11 supporting measures.

12 [20.11.105.12 NMAC – N, xx/xx/2021]

13 **20.11.105.13 REPORTING**

14 A. The Department may require a manufacturer to submit any documentation that the
15 Department deems necessary to effective administration and enforcement of this part,
16 including any material submitted, or required to be submitted, to CARB under California
17 law.

18 B. Effective model year 2025 and each model year thereafter, each manufacturer shall
19 submit annually to the Department, no later than March 31 following the close of the
20 model year, a report documenting (1) the total deliveries for sale to Albuquerque-
21 Bernalillo County of vehicles in each test group during the prior model year, (2) the
22 average greenhouse gas emissions of the fleet of vehicles delivered by the manufacturer
23 to Albuquerque-Bernalillo County during the prior model year, and (3) the average
24 NMOG exhaust emissions of the fleet of vehicles delivered by the manufacturer to
25 Albuquerque-Bernalillo County during the prior model year. The report shall be in the
26 same format, and be prepared in accordance with the same procedures, as the
27 manufacturer uses when reporting similar information to CARB.

28 C. If the “Pooling Provision” option number two in the California Code of Regulations, title
29 13, section 1961.2 is chosen, or the “Calculation of Fleet Average Carbon Dioxide
30 Value” option number two in California Code of Regulations, title 13, section 1961.3
31 (5)(D) is chosen, or if the Department otherwise requires it, manufacturers must report
32 the data for the entire pool as well as the Albuquerque-Bernalillo County specific portion.

33 [20.11.105.13 NMAC – N, xx/xx/2021]

34 **20.11.105.14 EMISSION CONTROL SYSTEM WARRANTIES**

35 Any manufacturer of a vehicle subject to this part shall comply with all applicable emission
36 control system warranties under California law, including those found in California Code of

1 Regulations, title 13, article 6. Reports generated by or for CARB and associated findings made
2 by CARB shall be acceptable for demonstrating compliance with this section.

3 [20.11.105.14 NMAC – N, xx/xx/2021]

4 **20.11.105.15 RECALLS**

5 Any order issued or enforcement action taken by CARB that results in the recall of a vehicle
6 pursuant to California Code of Regulations, title 13, Article 2.1 or Article 2.2, shall be prima
7 facie evidence that the vehicle is non-compliant with this part. If the manufacturer demonstrates
8 to the Department’s satisfaction that a recall of the vehicle in Albuquerque-Bernalillo County is
9 not appropriate because the vehicles sold in Albuquerque-Bernalillo County are compliant with
10 this part, the Department shall not pursue a recall. Otherwise, the Department shall pursue a
11 recall of the non-compliant vehicle, following the procedures set forth in procedures set forth in
12 California Code of Regulations, title 13, Article 2.1 or Article 2.2, which are hereby incorporated
13 by reference.

14 [20.11.105.15 NMAC – N, xx/xx/2021]

15 **20.11.105.16 REGISTRATION AND FEES**

16 A. After January 1, 2022, no affected manufacturer shall transfer a motor vehicle potentially
17 subject to this part without first obtaining a registration from the Department.

18 B. The registration shall have a term of no more than 10 years and shall be subject to an
19 annual fee.

20 C. The Department shall assess an annual registration fee of \$10,000 to each affected
21 manufacturer for the period beginning July 1 and ending June 30 of the next year.

22 D. Each affected manufacturer shall remit the specified amount payable to the Department
23 by April 1, annually.

24 E. The term “affected manufacturer” as used in this section means any manufacturer that
25 qualifies as a “large-volume manufacturer” or “intermediate volume manufacturer” as
26 those terms are defined in 13 California Code of Regulations, title 13, section 1900.

27 [20.11.105.16 NMAC – N, xx/xx/2021]

28 **20.11.105.17 INSPECTIONS AND INFORMATION REQUESTS**

29 A. For the purpose of determining compliance with this part, the Department may inspect
30 any new or used motor vehicle, and may inspect and copy relevant, non-financial records,
31 including records documenting vehicle origin, certification, delivery, or sales, and any
32 record of emission-related part repairs performed under warranty.

1 **B.** For the purpose of determining compliance with this part, the Department may require a
2 vehicle dealer or rental car agency to submit relevant, non-financial documentation
3 related to a motor vehicle subject or potentially subject to this part.

4 **C.** A vehicle dealer or rental car agency may assert a claim, pursuant to 20.2.1.115 NMAC,
5 to have a record subject to protections applicable to confidential information.

6 [20.11.105.17 NMAC – N, xx/xx/2021]

7 **20.11.105.18 SEVERABILITY**

8 If any provision of this part, or the application of such provision to any person or circumstance,
9 is held invalid, the remainder of this part, or the application of such provision to persons or
10 circumstances other than those as to which it is held invalid, shall not be affected thereby.

11 [20.11.105.18 NMAC – N, xx/xx/2021]

12 **20.11.105.19 CONSTRUCTION**

13 This part shall be liberally construed to carry out its purpose of improving the health and welfare
14 of Albuquerque-Bernalillo County residents by reducing emissions of criteria pollutants, air
15 toxics, and greenhouse gases.

16 [20.11.105.19 NMAC – N, xx/xx/2021]

17 **20.11.105.20 OTHER REGULATIONS NOT AFFECTED**

18 Compliance with this part does not relieve a person from the responsibility to comply with any
19 other applicable federal, state, or local regulations.

20 [20.11.105.20 NMAC – N, xx/xx/2021]