

**ALBUQUERQUE-BERNALILLO COUNTY  
AIR QUALITY CONTROL BOARD**

**IN THE MATTER OF PROPOSED NEW REGULATION,**  
20.11.105 NMAC: *Emission Standards for New Motor Vehicles—Model Year 2025 and  
Subsequent*

No. \_\_\_\_\_

**PETITION FOR REGULATORY CHANGE**

Pursuant to 20.11.82.18 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 Air Quality Control Board (“AQCB”) to adopt 20.11.105 NMAC: *Emission Standards for New Motor Vehicles—Model Year 2025 and Subsequent* (“Rulemaking”). The Statement of Reasons and proposed regulatory text are attached to this Petition. This Petition follows a similar petition that Climate Advocates filed before Environment Improvement Board (“EIB”), requesting that EIB adopt identical regulations in those areas of New Mexico subject to its jurisdiction. Together, this Rulemaking and EIB’s new regulations will comprise New Mexico’s Clean Car Standards for model year 2025 and beyond.

**Purpose of Rulemaking.** The Rulemaking is needed to update the AQCB’s Clean Car Standards to apply to model year 2025 and beyond. The standards will improve the health and welfare of Albuquerque and Bernalillo County residents by reducing emissions of criteria pollutants, air toxics, and greenhouse gases resulting from new passenger motor vehicles. Ozone pollution is a particular concern in Bernalillo County, which is currently exceeding the 2015 national ambient air quality standard (“NAAQS”) for ozone, based on the most recent three-year

design values.<sup>1</sup> Motor vehicles are a major contributor to the ozone problem in Bernalillo County. For example, on-road mobile sources are responsible for 25% of the in-state contribution to ozone exceedances at the Foothills Monitor in Bernalillo County.<sup>2</sup> Statewide, mobile sources were responsible for substantial amounts of ozone-precursor pollution—including over 75,000 tons of NOx emissions in 2014, or 23% of the state’s total.<sup>3</sup>

The transportation sector is the second largest source of greenhouse gas emissions in the state, behind the oil-and-gas sector but ahead of electricity generation.<sup>4</sup> Governor Lujan Grisham has identified implementation of Clean Car Standards as one of the most impactful steps the state can take to reduce its contribution to the climate crisis. As the New Mexico Interagency Climate Change Task Force recently 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>5</sup>

**Hearing Date and Schedule.** Climate Advocates request that the AQCB consider the Petition at its regularly scheduled meeting on July 14, 2021. Climate Advocates further request

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<sup>1</sup> <https://www.epa.gov/air-trends/air-quality-design-values> (Ozone Design Values, 2020 Report).

<sup>2</sup> [https://www.wrapair2.org/pdf/NM\\_OAI\\_2028\\_AQTSD\\_v8.pdf](https://www.wrapair2.org/pdf/NM_OAI_2028_AQTSD_v8.pdf) at 164, Figure 10-30.

<sup>3</sup> [https://www.wrapair2.org/pdf/NM\\_OAI\\_2028\\_AQTSD\\_v8.pdf](https://www.wrapair2.org/pdf/NM_OAI_2028_AQTSD_v8.pdf) at 32, Figure 4-3.

<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 6.

<sup>5</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.

that the AQCB docket this matter and schedule a public hearing to begin in October 2021.

Climate Advocates respectfully request that the AQCB 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 New Mexico adopts new emission standards before the end of 2021, they can apply to model year 2025 and all subsequent model years. However, if adopted in 2022, the standards likely 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.** This Rulemaking is not expected to take a substantial amount of time, because it simply updates the existing AQCB Clean Car Standards, which are codified at 20.11.104 NMAC, to apply to model year 2025 and subsequent vehicle. Further, the AQCB’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 AQCB may only adopt emission standards for new motor vehicles or new motor vehicle engines if “such standards are identical to the California standards.” In light of these considerations, Climate Advocates believe that **five days** would be more than sufficient to complete the hearing in this rulemaking.

**Format of Hearing.** To expedite consideration of this matter, Climate Advocates request that the AQCB set a schedule for pre-filed technical testimony and pre-filed rebuttal testimony. Climate Advocates further request that the AQCB appoint a Hearing Officer to manage the pre-hearing process, adopt procedural orders governing the proceedings, and prepare any post-hearing recommendations for the AQCB at the Board’s request.

Respectfully submitted,

**Baake Law LLC**

*/s/ David R. Baake*

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