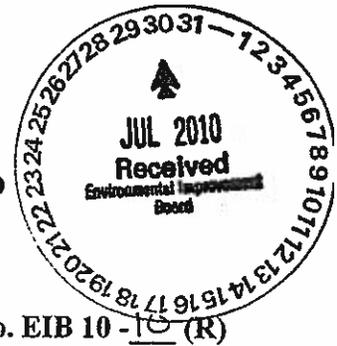


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STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD

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

No. EIB 10 - 10 (R)

PETITION FOR REGULATORY CHANGE

The New Mexico Environment Department (“Department”), pursuant to 20.1.1 NMAC – *Rulemaking Procedures*, hereby petitions the Environmental Improvement Board (“Board”) to adopt amendments to 20.2.88 NMAC – *Emission Standards for New Motor Vehicles*. The proposed amendments and statement of reasons are attached.

The Department requests that the Board accept the petition at its regularly scheduled meeting on August 16, 2010, and adopt the following schedule:

1. The Department shall submit its notice of intent to present direct technical testimony, including full written testimony and exhibits, on August 31, 2010.
2. Other interested persons desiring to present technical testimony shall submit their notices of intent to present technical testimony, including full written testimony and exhibits, on October 1, 2010.
3. The Department shall submit its notice of intent to present rebuttal technical testimony, including full written testimony and exhibits, on October 15, 2010.
4. The hearing shall commence on November 1, 2010 and continue day-to-day until completed.

The Department also requests that the Board assign as hearing officer to manage the proceedings.

The Department anticipates that its testimony will require approximately one (1) hour and that the hearing will require approximately 4 hours.

Respectfully submitted,

NEW MEXICO ENVIRONMENT DEPARTMENT
OFFICE OF GENERAL COUNSEL



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**STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD**

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

No. EIB 10 - ___ (R)

STATEMENT OF REASONS

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The New Mexico Environment Department (Department) submits this Statement of Reasons in support of proposed amendments to 20.2.88 NMAC – *Emission Standards for New Motor Vehicles Operating Permits*.

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I. STATUTORY AUTHORITY

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1. The Federal Clean Air Act (CAA), 42 U.S.C. §7401 *et seq.*, authorizes New Mexico to adopt and enforce California's new motor vehicle emission standards, provided the U.S. Environmental Protection Agency ("EPA") grants a waiver for the standards, the state does not deviate from the standards, and the state adopts reasonable provisions for administering and enforcing the standards. The amendment and resulting regulation fall within this authority because New Mexico is not compelled to enforce the California standards if it determines that compliance with the federal standards would be appropriate during the relevant period.

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2. The New Mexico Air Quality Control Act (AQCA), NMSA 1978 §74-2-5(B)(1) & (D), authorizes the Environmental Improvement Board to adopt regulations to "attain and maintain national ambient air quality standards" and "prevent or abate air pollution," provided the regulations are consistent with federal law. The amendment and resulting regulation fall within this authority because the federal standards attain and maintain national ambient air quality standards established by EPA, prevent and abate air pollution resulting from the emission

1 of criteria pollutants and greenhouse gases, and are consistent with federal law governing New
2 Mexico's adoption of motor vehicle emission standards.

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4 **II. PROPOSED AMENDMENTS**

5 3. In May 2009, the Obama Administration, the State of California, and the
6 automobile manufacturers entered into a historic agreement to improve motor vehicle emission
7 and fuel economy standards across the nation. As part of the agreement, in April of this year, the
8 federal government issued new greenhouse gas emission standards for motor vehicles in model
9 years 2012-2016, while California amended its standards to allow the manufacturers to
10 demonstrate compliance in model year 2011 by calculating fleet averages across the fourteen
11 states, including New Mexico, that have adopted California's standards, and to demonstrate
12 compliance with the federal standards in lieu of California's standards in model years 2012-2016.

13 4. This amendment waives all state motor vehicle emission standards for model
14 years 2011-2016. The Department believes that the federal motor vehicle emission standards are
15 essentially equivalent to the current state standards, and therefore a waiver during this period is a
16 more efficient use of the Department's time and resources. Specifically, because the federal and
17 California standards for greenhouse gases reach the same goal by the model year 2016, and are
18 not substantially different with respect to criteria pollutants, the waiver avoids the expenditure of
19 limited resources to track compliance and enforce the state's standards. The Department would
20 resume tracking compliance and enforcement of the state's standards after model year 2016.

21 5. The amendment and resulting regulation are economically and technically
22 practicable because they ensure that the manufacturers comply with a single set of existing motor
23 vehicle standards.

**STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD**

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

No. EIB 10 - ____ (R)

SCHEDULING ORDER

The Environmental Improvement Board (Board), having considered the New Mexico Environment Department's (Department) request to set the schedule for this proceeding, and being fully advised in the premises, hereby ORDERS as follows:

1. The Department shall submit its notice of intent to present direct technical testimony, including full written testimony and exhibits, on August 31, 2010.
2. Other interested persons desiring to present technical testimony shall submit their notices of intent to present technical testimony, including full written testimony and exhibits, on October 1, 2010.
3. The Department shall submit its notice of intent to present rebuttal technical testimony, including full written testimony and exhibits, on October 15, 2010.
4. The hearing shall commence on November 1, 2010 and continue day-to-day until completed.
5. The Board assigns _____ to serve as hearing officer in this matter.

For the Board