



MICHELLE LUJAN GRISHAM  
GOVERNOR

JAMES C. KENNEY  
CABINET SECRETARY

February 22, 2024

U.S. Environmental Protection Agency  
EPA Docket Center - Air Docket  
Mail Code 28221T  
1200 Pennsylvania Avenue NW, Washington, DC 20460

Submitted electronically to: <https://www.regulations.gov/>

RE: California State Motor Vehicle Pollution Control Standards; Advanced Clean Cars II Regulations; Docket ID No. EPA-HQ-OAR-2023-0292

Dear Administrator Regan,

The New Mexico Environment Department (NMED) appreciates the opportunity to submit comments to the U.S. Environmental Protection Agency (U.S. EPA) on the California State Motor Vehicle Pollution Control Standards; Advanced Clean Cars II (ACC II) Regulations. U.S. EPA published the notice in the Federal Register on December 26, 2023, Docket ID No. EPA-HQ-OAR-2023-0292.

NMED strongly supports federal approval of the Clean Air Act Section 177 waiver for California's ACC II regulations. Recognizing the significant environmental and economic benefits, New Mexico adopted ACC II, along with California's Advanced Clean Trucks (ACT) and Heavy-Duty Low NO<sub>x</sub> Omnibus (HDO) rules, into the New Mexico Administrative Code (NMAC). These stricter new motor vehicle emission standards will bring tangible benefits to New Mexicans by:

- Accelerating the arrival of electric vehicles (EVs) and essential charging infrastructure.
- Aligning with New Mexico's ambitious climate goals, reducing greenhouse gas emissions and air pollution for a healthier future.
- Delivering direct health benefits to New Mexicans by improving air quality, especially in vulnerable communities disproportionately impacted by vehicle emissions.
- Sparking economic growth through investments in EV manufacturing, jobs in clean energy sectors, and overall cost savings for consumers.

NMED believes that California's motor vehicle pollution control standards benefit New Mexicans in ways that current federal standards cannot. On behalf of NMED, please find our comments attached in support of this waiver.

Sincerely,

A handwritten signature in blue ink that reads "James C. Kenney".

James C. Kenney  
Cabinet Secretary

Cc: Courtney Kerster, Senior Advisor, Office of Governor Michelle Lujan Grisham  
Sydney Lienemann, Deputy Cabinet Secretary of Administration, NMED  
Zachary Ogaz, General Counsel, NMED  
Michelle Miano, Director, Environmental Protection Division, NMED  
Claudia Borchert, Chief, Climate Change Bureau, NMED

**Attachment:**

**California State Motor Vehicle Pollution Control Standards; Advanced Clean Cars II Regulations  
Docket ID No. EPA-HQ-OAR-2023-0292  
December 26, 2023**

**Introduction**

In November of 2023, after a nearly 40-hour public hearing, the New Mexico Environmental Improvement Board and the Albuquerque Bernalillo County Air Quality Control Board adopted the Advanced Clean Cars II (ACC II), Advanced Clean Trucks (ACT), and Heavy-duty Low NO<sub>x</sub> Omnibus (HDO) into the New Mexico Administrative Code. The Boards found that these rules are in the public interest of New Mexicans, protecting environmental health and public welfare. The first regulatory compliance year for New Mexico's New Motor Vehicle Emission Standards ([20.2.91 NMAC](#)) is model year 2027.

However, New Mexico is waiting for the U.S. Environmental Protection Agency (EPA) to approve the proposed waiver for ACC II to implement these rules. If the EPA declines to approve the waiver, New Mexico will fall back to the federal tailpipe emission standards. The current federal standards are less protective of human health and the environment than the California standards. Additionally, the federally-averaged standards do not provide the local benefits to New Mexicans outlined below.

**Comment 1: ACC II Will Bring Electric Vehicles and Electric Vehicle Infrastructure to New Mexico**

The transition to zero emission vehicles (ZEVs) is already well underway. California and Section 177 states account for [40% of U.S. car and light truck sales and 25% of heavy-duty truck sales](#) and several other countries, including Canada, have adopted aggressive ZEV requirements as well. The inevitability of this global transition has led automakers to proactively set their own timelines for transitioning to an all-electric fleet, including trucks, and many have invested billions of dollars in private capital to facilitate the transition.

The increasing ZEV delivery requirement contained in ACC II requires that manufacturers deliver ZEVs to New Mexico, making sure that New Mexicans will have access to limited ZEVs. The requirement provides certainty to New Mexicans that clean vehicles will be available when they want to buy in New Mexico.

Charging infrastructure must be developed in parallel with the growing EV market. ACC II provides certainty to investors and builders of charging infrastructure that there will be demand for their services. New Mexico is already making impressive headway in developing its charging infrastructure. The New Mexico Department of Transportation (NMDOT), local governments, and private companies are rapidly building charging infrastructure across the state. There are 308 charging stations with more than 736 chargers in the State. Of those 736 chargers, 55 opened in three months (October 23, 2023 – January 20, 2024). Through the National Electric Vehicle Infrastructure program, American Rescue Plan Act, Charging and Fueling Infrastructure Grant Program, and state appropriations, the New Mexico Department of Transportation (NMDOT) will receive up to \$127.2 million dollars over the next five years to build EV charging infrastructure in the state. NMDOT's first target is to have fast charging stations fully built out along New Mexico's interstate corridors by the end of 2024. The 2023 state appropriation will result in 40 charging locations with 80 charge points throughout rural New Mexico. Santa Fe County and the town of Taos also received over \$3.8 million dollars for passenger vehicle charging infrastructure through the

Charging and Fueling Infrastructure Grant program. NMED invested nearly \$2.7 million dollars of its portion of the Volkswagen (VW) settlement fund towards 35 electric vehicle charging stations.

Utilities in New Mexico are also in the process of preparing for electric vehicle charging, primarily by revising and implementing their Transportation Electrification Plans. The Public Service Company of New Mexico (PNM), which services the Albuquerque and Santa Fe areas, offers rebates to businesses and residents who invest in Level 2 charging systems and offers EV owners reduced night-time rates of [\\$0.03 per kilowatt-hour](#). Xcel Energy, whose service area is the southeastern part of New Mexico, also offers the installation of a home Level 2 charger with rebates for the home wiring needed to support EV charging. Through their EV Dealer Network, PNM and Xcel also offer education and training for dealers in their territory.

The State of New Mexico is leading the transition to electric vehicles by example. In October of 2023, New Mexico Governor Lujan Grisham signed [Executive Order 2023-0138](#), transitioning the State of New Mexico's vehicle fleet to net zero emissions. This executive order recognizes that the State of New Mexico has the opportunity to directly reduce greenhouse gas emissions, and that the transition to a fully zero emission vehicle fleet is viable by 2035. The executive order also directs state agencies that all vehicle purchases, beginning in October of 2023, should be ZEVs. The increase in electric vehicles on the road will provide demand, increase awareness, and demonstrate the State's willingness to tackle the transition.

#### **Comment 2: ACC II Supports New Mexico's Climate Change Goals**

In January 2019, during her first month in office, New Mexico Governor Lujan Grisham signed [Executive Order 2019-03](#), Addressing Climate Change and Energy Waste Prevention. The Executive Order recognizes that human activity is changing the global climate by increasing the concentration of carbon dioxide, methane, and other greenhouse gases in the atmosphere, which trap heat near the earth's surface, and acknowledges that the planet has little time remaining to take meaningful climate action in order to limit the increase in global average temperature to 1.5 degrees Celsius – the level necessary to forestall extreme and dramatic climate changes.

The Executive Order directed the state to support the 2015 Paris Agreement Goals by joining the U.S. Climate Alliance (USCA) and established an aggressive statewide emissions reduction goal of at least 45% below 2005 levels by 2030. The USCA is a bipartisan coalition of 25 governors working together to advance state-led, high-impact climate actions. Subsequently, Governor Lujan Grisham publicly announced the added target of reaching net-zero emissions by 2050.

The Executive Order also established an interagency Climate Change Task Force ("Task Force") consisting of Secretaries from each state agency, with the Secretaries from the New Mexico Environment Department and the Energy, Minerals and Natural Resources Department as Co-Chairs. The purpose of the Task Force is to provide strategic direction for achieving the 2030 emission reduction goal.

The Executive Order directed the Task Force to evaluate policies and regulatory strategies to meet the emission reduction target, including, but not limited, to the "adoption of approaches to reduce greenhouse gas and criteria pollutant emissions from light-duty vehicles sold in the state, including Low Emission Vehicle (LEV) emission standards and Zero Emissions Vehicle (ZEV) performance standards." The approval of New Mexico's New Motor Vehicle Emission Standards (20.2.91 NMAC), by the Environmental

Improvement Board and Albuquerque Bernalillo County Air Quality Board accomplished the directive in the Executive Order.

The Task Force has set emission reduction targets for each major sector in New Mexico. The transportation sector is the second largest source of greenhouse gases (GHGs) in New Mexico, and in 2018 the transportation sector was responsible for 15.8 MMT of CO<sub>2</sub>e. Together, ACC II, ACT, and HDO reduce transportation sector GHG emissions by 11.6 MMT per year by 2050, significantly reducing emissions from the transportation sector in New Mexico.

### **Comment 3: ACC II Has Local Health and Air Quality Benefits for New Mexicans**

Although New Mexico only has one small ozone nonattainment area in Doña Ana County, much of the state is approaching or exceeding the National Ambient Air Quality Standard (NAAQS) for ozone. The American Lung Association’s “State of the Air 2023” report card gives [four New Mexico counties “F” grades, and two counties “D” grades](#). Improving air quality in New Mexico is required under state and federal law to improve public health. Improving air quality is not only required by state and federal law but is also culturally and ethically imperative. Approximately [1 in 7](#) New Mexicans have asthma or chronic obstructive pulmonary disease (COPD), and more of New Mexico’s children have asthma problems than the national average ([9% compared to 7%](#)). The improvements in air quality from the adoption of New Mexico’s New Motor Vehicle Emission Standards (20.2.91 NMAC) will avoid at least \$27.5 million of health impacts in 2050. Cleaner air means not only healthier New Mexicans but also healthier neighbors.

While NO<sub>x</sub> and VOCs are both precursors to ozone, in most of New Mexico, NO<sub>x</sub> drives ozone formation. The National Emissions Inventory (NEI) shows that on-road vehicles are the largest source of NO<sub>x</sub> in New Mexico, contributing 25% in 2017<sup>1</sup>. Mobile source NO<sub>x</sub> reductions are the most effective way to reduce ozone and ozone-related health problems in New Mexico. When electric vehicles and plug-in hybrid electric vehicles reach 82% of new light- and medium- duty vehicles in New Mexico, as required by New Mexico’s New Motor Vehicle Emission Standards (20.2.91 NMAC), NO<sub>x</sub> transportation sector emissions will be reduced by 43% in 2050.

New Mexico is not currently in danger of violating NAAQS for PM<sub>2.5</sub>, and on road vehicles contributed to just 2.5% of the state’s PM<sub>2.5</sub> emissions in 2017. However, exhaust from on road vehicles is particularly dangerous. Diesel exhaust, a dominant source of transportation related PM<sub>2.5</sub>, has been classified by the International Agency for Research on Cancer as a carcinogen. Even exposure to low levels of fine particles elevates the risk of premature death in older adults. The scientific community is also raising alarm bells about the acute effects of direct exposure to traffic exhaust. Several studies report that people who live, work, or go to school near major roadways have higher rates of respiratory and cardiovascular illness. New Mexicans living in urban areas or near major freeways are at increased risk for serious health problems and even premature death from car and truck pollution and can be helped the most by New Mexico’s New Motor Vehicle Emission Standards (20.2.91 NMAC). When electric vehicles and plug-in

---

<sup>1</sup> U.S. EPA 2017 National Emissions Inventory (NEI) <https://www.epa.gov/air-emissions-inventories/2017-national-emissions-inventory-nei-data> (accessed January 23, 2024). Note: 2017 is used for this analysis because it is the latest pre-COVID NEI and thus considered more representative of typical conditions. The most recent NEI, 2020, is acknowledged by U.S. EPA as “atypical” for use mainly to study the effects of COVID on emissions (<https://www.epa.gov/air-emissions-inventories/what-are-epas-plans-2020-national-emissions-inventory-given-atypical>)

hybrid electric vehicles reach 82% of new light- and medium-duty vehicles in New Mexico, as required by New Mexico's New Motor Vehicle Emission Standards (20.2.91 NMAC), PM2.5 transportation sector emissions will be reduced by 24% in 2050.

#### **Comment 4: ACC II Has Economic Benefits for New Mexico and New Mexicans**

While some electric and plug-in hybrid electric vehicles have a larger upfront purchase price, they have significant savings over the course of a vehicle's useful life. Accounting for the vehicle purchase price, insurance, financing, charging/gas purchases, repairs, and maintenance costs an electric vehicle will save the owner \$7,383 over 10 years of ownership. In New Mexico, most people keep their cars for much longer, on average 19 years, and these saving benefits increase as time of ownership goes on. In addition to savings due to lower fueling and maintenance costs, owners may be eligible for the current \$7,500 federal rebate provided by the Inflation Reduction Act and up to \$3,000 in a refundable New Mexico income tax credit. After a small and temporary initial increase, NMED projects net cost savings in GDP by 2035, and projects that the ACC II rule will save New Mexican consumers a total of \$289 million annually by 2050 (in 2023 dollars; not adjusted for inflation).

#### **Conclusion**

In conclusion, the New Mexico Environment Department strongly urges the U.S. EPA to approve California's ACC II waiver. Waiver approval will bring significant environmental and economic benefits to New Mexicans by accelerating the arrival of electric vehicles and essential charging infrastructure, aligning with the state's ambitious climate goals, delivering direct health benefits through improved air quality, and sparking economic growth through investments in clean energy sectors and overall cost savings for consumers. Implementing ACC II is not only crucial for protecting public health and the environment, but also aligns with Governor Lujan Grisham's executive orders addressing climate change and the state's long-term goals for a cleaner and more prosperous future.