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Education

Attended M.Sc. Program in Soil Science, 08/2003-12/2004
University of Kentucky, Lexington, KY

B.S. in Environmental Studies
University of Iowa, Iowa City, IA., conferred May 2002.

Employment Experience

08/2013 to 03/2018 - Bureau Chief, Air Quality Bureau, NMED
My responsibilities include providing leadership and supervision of the administrative, financial, compliance, permitting, operations, and planning sections of the Air Quality Bureau. I direct the overall management of resources, including staff who enforce the state and federal air quality standards; provide air quality related planning and policy, operational, permitting, and compliance and enforcement services to New Mexico employers; financial oversight of the Bureau's federal grant and state matching funds, and support services for the Bureau.

08/2013 to 03/2018 - Minor Source Section Manager, Air Quality Bureau, NMED
My responsibilities included management of the Minor Source Permitting Section and direct management of six (6) full time Environmental Scientists and Specialists. The Section reviews complex air quality permit applications for the most technically complex and diverse industrial facilities, including oil and gas, construction, manufacturing, agricultural, power generation, and chemical processing plants.

01/2013 to 08/2013 - Acting Technical Services Manager, Air Quality Bureau, NMED

05/2012 – 10/2012 - Acting Minor Source Section Manager, Air Quality Bureau, NMED

02/28/2005 to 08/2013 - Permit Specialist, Minor and Major Source Permit Section, Air Quality Bureau, NMED
My primary responsibilities involve performing technical analyses of air quality permit applications; drafting permits in accordance with federal and state regulations; accomplishing special projects in support of the section, mentoring new staff, and assisting the regulated community and concerned citizens.

08/2002-05/2003 and 08/2003-12/2004
Teaching and Research Assistant, University of Kentucky, Lexington, KY
Introduction to Soil Science, Agronomy Department

Teaching Assistant, University of Iowa, Iowa City, IA
Introduction to Earth Systems Science, Geography Department
Introduction to Environmental Science, Geoscience Department

Professional Development and Training Courses

Effective Permit Writing
Sources and Control of PM Emissions
Introduction to Hazardous Air Pollutants
Control of Gaseous Emissions
Advance PSD Permitting
Permit Practices and Procedures I and II
NSR Reform and Advanced PSD
Basic NSR/PSD
Environmental Negotiations

Ozone Advance Path Forward

Prepared by the New Mexico Environment Department
Air Quality Bureau

Submitted to United States Environmental Protection Agency, Region VI
March 2022

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Contents

Introduction

Ozone Basics

Ozone (O_3) is a highly reactive gas composed of three oxygen atoms. It is both a natural and a man-made product that occurs in the Earth's upper (stratosphere) and lower (troposphere) atmosphere. Ground level ozone, the ozone EPA sets national standards for, is both harmful to human health and damaging to the environment

Both short- and long-term exposure to ozone can lead to adverse health impacts. Short-term exposures to ozone can make it more difficult to take a full, deep breath by inflaming the airways and causing symptoms such as chest pain, coughing, wheezing and shortness of breath. These short-term exposures can also aggravate asthma and other respiratory diseases and can make people more susceptible to infections.

Long-term exposure to ozone is linked to the development and aggravation of asthma and a variety of other impacts to the respiratory system. Through continued research, scientists are finding that long-term exposure (i.e., for periods longer than eight hours) may increase the risk of early death. Anyone who spends time where ozone concentrations are high may be at risk of experiencing adverse health effects.[1]

According to the Environmental Protection Agency (EPA), ozone affects sensitive vegetation and ecosystems, including forests, parks, wildlife refuges and wilderness areas. Ozone can especially cause damage during the growing season. When enough ozone enters the leaves of a sensitive plant, it can reduce photosynthesis; slow the plant's growth; and increase sensitive plants' risk of disease, damage from insects, effects of other pollutants, and harm from severe weather. [2]

EPA Advance Program

The EPA Advance Program began in April 2012 as a collaborative effort to encourage ozone and particulate matter (PM) emission reductions in attainment areas. Participants determine goals and measures they want to implement and achieve. Although participation in the program does not guarantee an attainment designation in the future, actions taken as part of the Ozone Advance Program could better position future non-attainment areas to develop an effective State Implementation Plan (SIP).

Ozone Advance provides emissions reductions that could result in a lower nonattainment classification or be credited in a future SIP. A key benefit to participating in the program is the flexibility to voluntarily reduce air pollution through control measures chosen to suit an area’s social and economic demographics. Once designated nonattainment, the Clean Air Act affords less flexibility to select control measures

[1] From *Health effects of ozone pollution*, Environmental Protection Agency, https://www.epa.gov/ground-level-ozone-pollution/health-effects-ozone-pollution
[2] From *Ecosystem effects of ozone pollution*, Environmental Protection Agency, https://www.epa.gov/ground-level-ozone-pollution/ecosystem-effects-ozone-pollution

Geographic Scope

The New Mexico Environment Department (NMED) is participating in the Ozone Advance Program with respect to three full counties and one partial county in New Mexico to preserve or improve the air quality in these areas. These counties are San Juan (northwest NM), Lea (southeast NM), Eddy (southeast NM) and Doña Ana, excluding the Sunland Park nonattainment area (south central NM). Since our acceptance into the Ozone Advance Program in April 2019, ozone levels in Rio Arriba, Sandoval, Santa Fe, and Valencia counties either currently or recently have exceeded 95% of the 2015 8-hour Ozone NAAQS (67 ppb) and could soon violate this standard. In total, the Ozone Advance Path Forward and outreach efforts will include the following nine counties (Figure 1): Chaves, Doña Ana, Eddy, Lea, Rio Arriba, San Juan, Santa Fe, Sandoval, and Valencia.

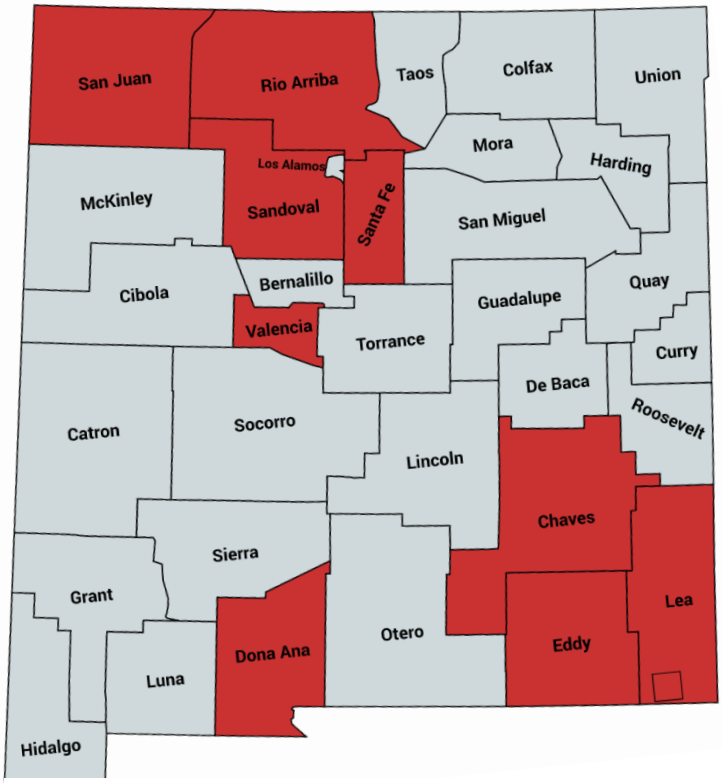

Figure 1: Map of New Mexico Counties to be included in Ozone Advance Path Forward

Although Chaves County does not have ozone monitors, the Bureau will include it in the Ozone Advance planning effort as it is part of the Permian Basin with Oil and Gas (O&G) emissions that contribute to high ozone levels in Lea and Eddy counties. NMED understands our efforts under Ozone Advance may benefit these areas by potentially (1) reducing air pollution in terms of ozone as well as other air pollutants, (2) ensuring continued healthy ozone levels,
(3) maintaining the ozone NAAQS and helping the Sunland Park Nonattainment Area attain the 2015 Ozone NAAQS, (4) helping avoid violations of the NAAQS that could lead to a future nonattainment designation, (5) increasing public awareness about ozone as an indirect air pollutant, and (6) targeting limited resources toward actions to address ozone problems quickly. NMED's goal is to implement measures and programs to reduce ozone in the near term, and ultimately to effect changes that will protect community well-being into the future. NMED agrees it is in our best interest to work together and in coordination with stakeholders and the public to proactively pursue this goal.

This path forward plan outlines several relevant strategies to realize this vision. It recommends measures that we, as a state, can and are implementing to protect air quality across New Mexico.

Background

Ground-level ozone is created by chemical reactions between nitrogen oxides (NO_X) and volatile organic compounds (VOCs), with sunlight as the driver. VOC and NO_X come in two forms: biogenic (natural), which is produced by vegetation: and anthropogenic, which is created by humans, primarily in industrial processes, and by modern transportation modes, particularly diesel and gas-driven motor vehicles. Hot, sunny days may produce unhealthy levels of ozone, especially in urban environments. Smoke from wildfires can also contribute pollutants that increase the formation of ozone.

High ozone levels in New Mexico are driven by different sources in different parts of the state. For example, NO_X and VOC emissions from the O&G industry in Eddy, Lea, Rio Arriba and San Juan counties combined with abundant desert sunshine create some of the highest ozone levels in New Mexico. Likewise, plentiful sunshine mixed with concentrated vehicle emissions in the Albuquerque metro area contribute to high ozone in the Sandoval and Valencia counties. By and large, Doña Ana County's high ozone levels are influenced by emissions from the large metropolitan area of El Paso, Texas and Juárez, Mexico.

Ozone Monitoring & Trends

The Air Quality Bureau (AQB) operates and maintains fourteen (14) continuous ozone monitors across the state. Except for a small portion of Doña Ana County near the City of Sunland Park, all of New Mexico is currently classified as "attainment" for the 2015 8-hour ozone NAAQS. The Sunland Park area's ozone levels are largely influenced by sources and emissions from outside of New Mexico.

Although the health-based ozone standard is set at .070 ppm, New Mexico law [74-2-5.3 NMSA 1978] requires that NMED develop plans to reduce ozone once monitored design values (DVs) in an area exceed 95% of the standard (i.e., 0.067 ppm). To this end, NMED has proposed the Ozone Attainment Initiative (OAI), along with this path forward plan. In Table 1, 2018-2020 Design Value data indicate ozone levels at or above 95% of the ozone NAAQS at several New Mexico air quality monitors in eight counties.

County	Monitoring Location	2018-2020 Design Value
Doña Ana	La Union	70 ppb
	Chaparral	72 ppb
	Desert View	78 ppb
	Santa Teresa	74 ppb
	Solano	70 ppb
Eddy	Carlsbad	78 ppb
Lea	Hobbs	68 ppb
Rio Arriba	Coyote Ranger Station	65 ppb
Sandoval	Bernalillo	70 ppb
San Juan	Bloomfield	66 ppb
	Navajo Lake	68 ppb
	Substation	69 ppb
Santa Fe	Santa Fe	68 ppb
Valencia	Los Lunas	69 ppb

Table 1: 2018-2020 Design Values for Monitoring Locations In New Mexico

As shown in Figure 2, DVs for Doña Ana County have consistently exceeded the 2015 NAAQS standards and have been continuing to rise since 2016-2018.

Eddy and San Juan counties' DVs remained constant from 2010-2012 through 2012-2014, dropped from 2013-2015 through 2014-2016, rose modestly from 2015-2017, then increased sharply from 2016-2018 through 2017-2019. San Juan has managed to remain just under the 2015 NAAQS standards in 2018-2020, but Eddy has shown a dramatic increase in ozone levels with a peak of 79 ppb in 2017-2019.

Sandoval County and Lea County have shown steady increases in ozone DVs between 2010-2012 and 2018-2020, rising from 61 to 70 ppb and 61 to 68 ppb, respectively. Valencia county has been steadily rising since 2014-2016.

The monitoring site at Rio Arriba first reported in 2014-2016 with an ozone DV of 64 ppb and rose to reach a peak of 70 ppb in 2017-2019, then decreased to 65 ppb for 2018-2020.

Between 2013-2015 and 2015-2017, all counties except Doña Ana showed a decrease in ozone DVs beginning to rise. Rio Arriba, Eddy, and Lea all had decreases in DV in 2018-2020, with the rest of the counties still rising.

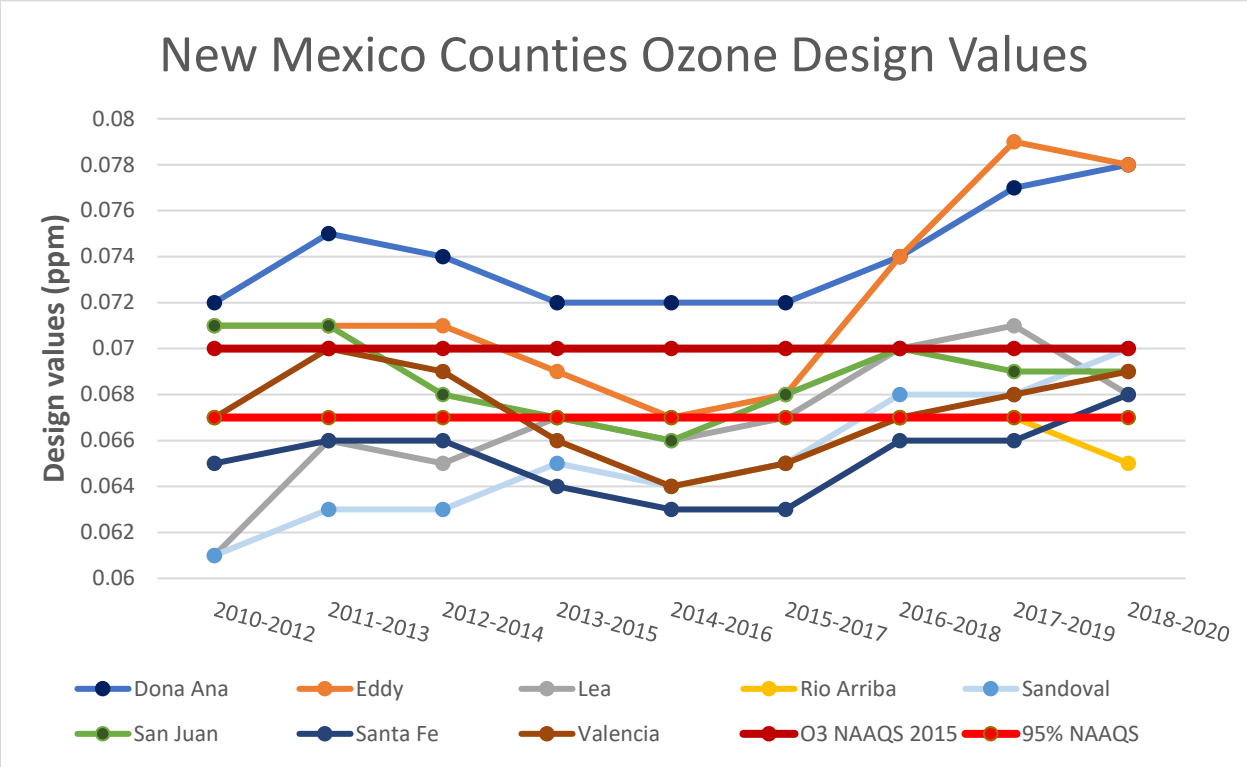

Figure 2: Design values for New Mexico Counties included in the Advance Program, 10-year trends

Key Sources of Ozone and Precursor Pollutants

In addition to historical design value trends from 2010 through 2020, the 2017 NEI data was used to identify the major source categories. The National Emissions Inventory (NEI) is a comprehensive and detailed estimate of air criteria pollutant emissions, precursors, and hazardous air pollutants from air

emissions sources.[3] Air pollution sources are separated into main source categories – point, nonpoint, on-road, and nonroad.

The point source category contains larger sources that are located at fixed, stationary locations. It includes large and certain smaller industrial facilities, (e.g., electric power plants, airports, non-industrial, and commercial facilities), onshore oil and gas operations, petroleum extraction and refining, gas plants, and mineral mining. This category also includes a small number of portable sources, such as some asphalt or rock crushing operations, aircraft engine emissions (occurring during landing and takeoff operations), airport ground support and power unit equipment, and locomotive emissions at rail yards.[4]

Nonpoint sources include sources that individually are too small in magnitude to report as point sources. Examples include oil and gas industrial processes, residential heating, commercial combustion, asphalt paving, and commercial and consumer solvent use. Non-railyard locomotive emissions, commercial marine vessel emissions (both underway and port emissions), dry cleaners, gas stations, and livestock facilities are also included as nonpoint sources.[5]

On-road sources are vehicles that use gasoline, diesel, and other fuels. These sources include light-duty and heavy-duty vehicles from operation on roads, highway ramps, and during idling.[6] Nonroad sources consist of off-road mobile sources that use gasoline, diesel, and other fuels. Source types in this category include construction equipment, lawn and garden equipment, locomotives, and commercial marine vessels.[7]

General NO_x and VOC Emission Trends

The National Emissions Inventory provides data on criteria pollutants to better understand current emissions in different areas. Several monitors are placed throughout New Mexico which collect and report data spanning multiple years. Table 2shows total emissions in tons of NO_X and VOCs reported in the 2017 NEI in the counties that are included in the Ozone Advance Program. Both NO_X and VOCs are precursors of ozone, meaning they interact with other compounds in the atmosphere to create ozone.

	Doña Ana	Chaves	Eddy	Lea	Rio Arriba	San Juan	Sandoval	Santa Fe	Valencia
VOC	28879	33767	64734	65207	71400	65161	25618	13750	7754
NOx	4791	17984	10083	15513	15143	40234	5032	5673	4596

Table 2: 2017 NEI NOx and VOC Emissions in tons for New Mexico Ozone Advance Counties

[3] From *National Emissions Inventory*, Environmental Protection Agency, https://www.epa.gov/air-emissions-inventories/national-emissions-inventory-nei
[4] Ibid.
[5] Ibid.
[6] Ibid.
[7] Ibid.

NO_X Emissions

Overall, San Juan County has the highest levels of estimated NO_X emissions at approximately 40,233 tons. Chaves has the second highest levels of NOx with 17,983 tons reported in the 2017 NEI. Lea, Rio Arriba, and Eddy counties' NO_X emission estimates are 15,513, 15,142, and 10,082, respectively. NO_X emissions for Santa Fe, Sandoval, Dona Ana, and Valencia counties are much lower at 5,672, 5,031, 4,790, and 4,595 tons, respectively.

According to 2017 NEI data shown in Figure 3 and Table 3, point source emissions were the greatest contributor of NOx in Eddy, Rio Arriba, and San Juan counties. Petroleum & related industries were by far the largest point source contributors in both Eddy and Rio Arriba, contributing over 99% of point source NOx emissions in each county, or 5,655 and 9,553 tons, respectively. Annual NOx point source emissions in San Juan County total to 30,027 tons, primarily split between fuel combustion electric utility (or EGUs) at 16,181 tons and petroleum & related industries at 13,831 tons.

On-road emissions are the predominate source of NOx emissions in Doña Ana, Sandoval, and Santa Fe counties. These emissions represent 55%, 53%, and 68% of NOx emissions in these counties, respectively.

Nonpoint source emissions are the greatest contributing source of NOx emissions in Chaves, and Lea counties. 62% of nonpoint emissions in Chaves County are from Natural Resources totaling at approximately 1192 tons of NOx. In Lea County, 5674 tons of NOx are emitted from industrial fuel combustion representing 78% of the total nonpoint NOx emissions in the county.

Non-road emissions are the predominate source of NOx emissions Valencia County, representing about 53% of the NOx emissions in Valencia.

Source Category	Chaves	Dona Ana	Eddy	Lea	Rio Arriba	San Juan	Sandoval	Santa Fe	Valencia
Nonpoint	1,915	1,309	2,887	7,320	4,504	7,276	1,585	1,478	750
Non-road	339	1,828	241	289	162	243	487	337	2,428
On-Road	1,202	4,966	1,265	1,500	916	2,688	2,675	3,842	1,396
Point	1,335	944	5,690	6,405	9,561	30,028	285	16	22
Total	4,791	9,048	10,083	15,514	15,143	40,234	5,032	5,673	4,596

Table 3: NOx TPY NEI for New Mexico Ozone Advance Counties

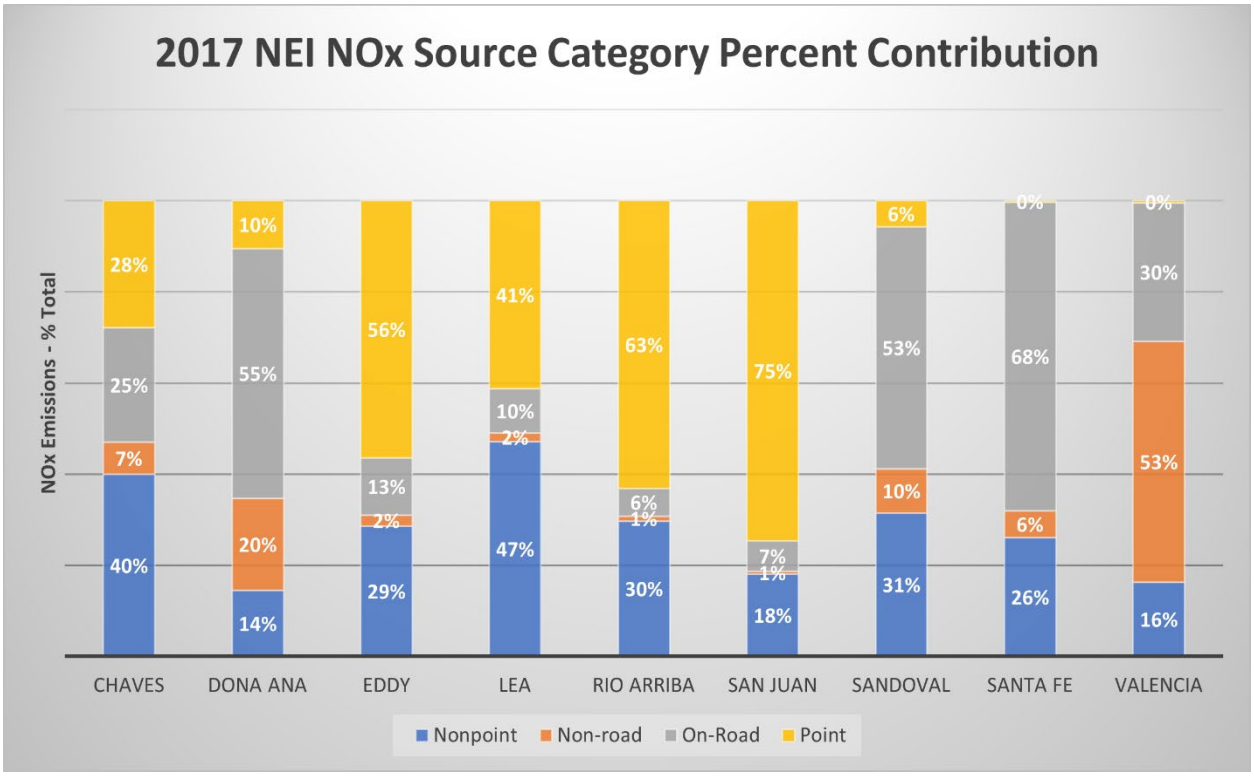

Figure 3: 2017 NEI NOx Source Categories for Counties within 95% of the Ozone Standard

VOC Emissions

According to 2017 NEI data displayed in Figure 3 and Table 4, Rio Arriba has the highest amount of VOC emissions reported in the 2017 NEI with 71,400 tons. Eddy, Lea, and San Juan are all relatively the same with 64,734, 65,207, and 65,161 tons, respectively. Doña Ana, Chaves, and Sandoval have 28,879, 33,767, and 25,618, tons respectively. Santa Fe and Valencia have the smallest amount of VOC with 13,750 and 7,754 tons, respectively.

Nonpoint sources of VOC emissions make up approximately 66% of all VOC emissions throughout the 9 Ozone Advance counties. Nonpoint VOC emissions are the predominate sources of VOCs in Doña Ana (90%), Chaves (88%), Valencia (87%), Santa Fe (83%), Sandoval (78%), and Rio Arriba (62%). In Doña Ana, natural resources produce 22,565 tons of VOC. This represents 87% of nonpoint VOC emissions and 78% of total VOC emissions in the county. Chaves, Valencia, and Sandoval VOC emissions are also predominately from natural resources. In these counties, natural resources emit between 79% and 95% of nonpoint VOC Emissions. Natural resources are responsible for 71% of VOC emissions in Santa Fe County, with 14% from solvent utilization. In Rio Arriba County, 49% of nonpoint source VOC emissions are from miscellaneous sources and 48% come from natural resources.

Point source emissions are the greatest contributors of VOC emissions in San Juan (64%), Lea (66%), and Eddy (55%) counties. Petroleum & related industries are responsible for nearly all (99%) of the point source VOC emissions in these counties.

Source Category	Chaves	Dona Ana	Eddy	Lea	Rio Arriba	San Juan	Sandoval	Santa Fe	Valencia
Nonpoint	29,557	26,014	28,341	21,124	44,013	22,307	19,930	11,402	6,724
Non-road	173	501	223	94	229	227	183	417	200
On-Road	642	2,261	603	679	439	1,203	1,251	1,804	751
Point	3,395	103	35,567	43,310	26,720	41,423	4,254	126	79
Total	33,767	28,879	64,734	65,207	71,400	65,161	25,618	13,750	7,754

Table 4: VOC TPY 2017 NEI in New Mexico Ozone Advance Counties

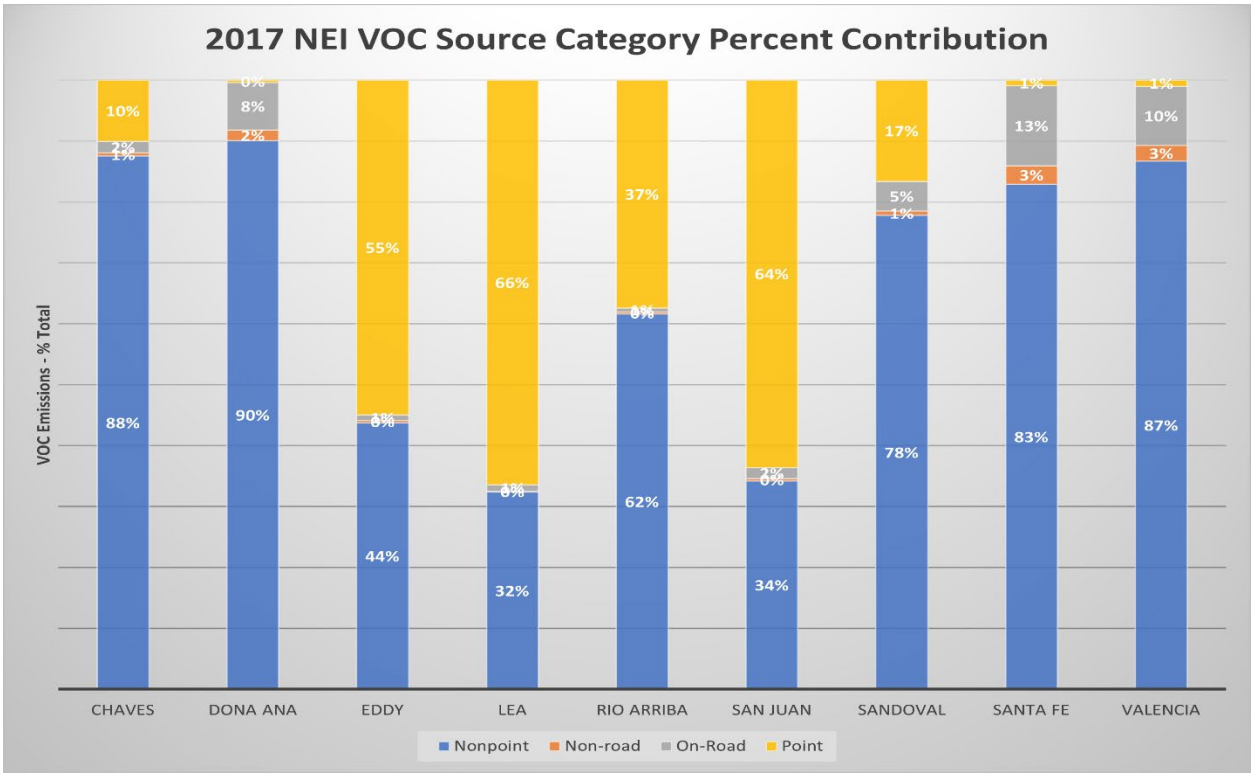

Figure 4: 2017 NEI VOC Source Categories for Ozone Advance Counties

Technical Analyses and Modeling

There are four interrelated but distinct conceptual models of ozone formation within New Mexico's airsheds: Albuquerque and surrounding areas, southcentral New Mexico, southeastern New Mexico, and northwestern New Mexico. They share the attribute that ozone transport from outside of New Mexico and/or the continental U.S. dominates ozone concentrations on all days. Days with the highest local ozone formation are typically hot summer days with slow winds and without an excessive amount of precipitation (i.e., southwestern monsoon season).[8] To study how ozone forms in the state, NMED has participated in photochemical modeling studies over the past twenty years. Most recently,

[8] New Mexico Ozone Attainment Initiative Photochemical Modeling Study – Draft Modeling Protocol, May 2020, Ramboll, https://www.wrapair2.org/pdf/NM_OAI_Modeling_Protocol_v5.pdf

photochemical modeling was completed in May of 2021 for New Mexico's ozone rule with a focus on the counties included in this path forward.

Photochemical Modeling for New Mexico

The Ozone Attainment Initiative ("OAI" or "Initiative") modeling study for the draft ozone rule leverages the 2014 Photochemical Grid Model (PGM) modeling platform developed by the Western Regional Air Partnership (WRAP) in the Western Air Quality Study (WAQS). It enhances the PGM by adding a 4-km grid resolution modeling domain over New Mexico and surrounding areas, especially the O&G production regions in the Permian and San Juan Basins. The PGM modeling consists of 2014 base year modeling and model performance evaluation as well as 2028 future year modeling. Table 3 displays the estimated percent differences in New Mexico emissions of various pollutants between 2014 and projected 2028 emissions scenarios. The results of the 2028 future year modeling, source apportionment and control measure evaluation will assist the NMED in ozone air quality planning and rule development for the state. Complete details and results of the project are available at http://wrapair2.org/NMOAI.aspx.

Category	**CO**	**NH_3**	**NO_x**	**$PM_{2.5}$**	**PMC**	**SO_2**	**VOC**
Fugitive Dust				0%	0%		
Agricultural		0%					0%
Non-point	0%	0%	0%	0%	0%	0%	0%
Non-road	-11%	17%	-51%	-56%	-41%	-37%	-49%
O&G Non-Point	38%		36%	46%	-98%	428%	-5%
On Road	-55%	-13%	-72%	-69%	13%	-43%	-61%
O&G Point	59%		40%	62%		38%	31%
EGU Point	-37%	-29%	-69%	-14%	16%	-72%	-40%
Non-EGU Point	0%	0%	8%	0%	0%	107%	0%
Rail	9%	9%	-28%	-39%	-78%	9%	-42%
RWC	0%	0%	0%	0%	0%	0%	0%
Total	-22%	-1%	-28%	-3%	0%	48%	-6%

Table 5: Percent differences in total New Mexico emissions between the 2014 and 2028 emissions scenarios as reported in the OAI Photochemical Modeling Study

Although the OAI PGM study was not part of the development of an ozone SIP, it was conducted following EPA's 2018 photochemical modeling guidance for ozone SIPs ("EPA 2018 PGM Guidance")[9]. This included preparing a modeling protocol at the outset of the study (May 2020) that provided a roadmap for how the study would be conducted and allow NMED and other interested parties to comment on the study approach prior to conducting the OAI PGM study.

The OAI PGM study used the Comprehensive Air-quality Model with extensions (CAMx[10]) PGM on a 36/12/4-km grid resolution nested modeling domains shown in Figure 2with the 4-km domain covering

[9] Environmental Protection Agency, *Modeling Guidance for Demonstrating Air Quality Goals for Ozone, PM2.5, and Regional Haze*, EPA 454/R-18-009, November 2018.
[10] https://www.camx.com/

New Mexico and nearby regions (e.g., the San Juan and Permian Basins). The CAMx 2014 36/12/4-km modeling platform was developed for the May-August 2014 base year period. The CAMx 2014 36/12/4-km modeling platform was based on the WRAP and WAQS CAMx 2014 36/12-km annual modeling platform.[11] Boundary Conditions for the OAI PGM study CAMx 36/12/4-km simulation were based on output from the WRAP-WAQS 2014 GEOS-Chem global chemistry model simulation. The OAI study conducted two Weather Research Forecast ("WRF") 2014 36/12/4-km meteorological model simulations that differed in the analysis fields used to initialize, provide BCs, and used in the four dimensional data assimilation that nudges the WRF meteorological model predictions to the observations. Details on the OAI PGM study 2014 WRF meteorological modeling are contained in Chapter 2 of the 2014v2 base case modeling report[12] and the Air Quality Technical Support Document ("AQ Technical Support Document").[13]

County	Site Name	2012-16	Projected 2028 DVF		
		DVC	Base	Control	Control - Base
Rio Arriba	Coyote Ranger District	64.0	60.8	60.0	-0.8
Sandoval	Bernalillo (E Avenida)	64.0	58.4	58.1	-0.3
San Juan	Bloomfield	64.3	61.0	60.2	-0.8
	Navajo Lake	67.0	64.8	63.3	-1.5
	Substation	63.7	60.8	59.6	-1.2
Santa Fe	Santa Fe Airport	64.3	60.6	60.4	-0.2
Bernalillo	Del Norte HS	66.3	60.9	60.7	-0.2
	Southeast Heights	68.0	62.3	62.0	-0.3
	South Valley	66.0	61.0	60.5	-0.5
	Westside	67.0	62.6	62.1	-0.5
	Foothills	65.0	59.1	58.8	-0.3
Doña Ana	La Union	66.3	60.0	59.8	-0.2
	Sunland Park City Yard	67.0	61.9	61.8	-0.1
	Chaparral	67.0	62.3	62.2	-0.1
	Desert View	72.0	67.0	66.8	-0.2
	Santa Teresa	71.3	66.1	66.0	-0.1
	Solano	65.0	60.3	60.2	-0.1
Eddy	Carlsbad	69.0	66.7	66.4	-0.3
Grant	Chino Copper Smelter	62.0	59.0	58.9	-0.1
Lea	Hobbs Jefferson	66.0	64.0	63.3	-0.7
Luna	Deming Airport	66.0	62.7	62.5	-0.2
Valencia	Los Lunas (Los Lentes)	66.3	62.2	62.0	-0.2

Table 6: 2014 centered averaged observed ozone design value and projected 2028 design values for the future year base case and O&G control scenario. All values provided in ppb

[11] https://views.cira.colostate.edu/iwdw/docs/WRAP_WAQS_2014v2_MPE.aspx
[12] https://www.wrapair2.org/pdf/NM_OAI_2014_BaseCase_MPE_v3.pdf
[13] https://www.wrapair2.org/pdf/NM_OAI_2028_AQTSD_v8.pdf

Ozone source apportionment modeling was also conducted for the 2028 O&G control strategy emissions scenario to examine source sector ozone contributions. This modeling found that sites in northern New Mexico have the highest contributions from O&G sources and Electric Generating Unit (EGU) point sources due to being in or near the San Juan Basin and near an EGU located on tribal land, that is assumed to still be operating in 2028 (Table 4). Sites in central New Mexico (e.g., Bernalillo County) tend to have higher ozone contributions associated with sources related to population (e.g., mobile sources and other anthropogenic) due to being in or within proximity of Albuquerque, New Mexico's largest city. Sites in southern New Mexico include those in southern Doña Ana County on the border with Texas that tend to have mostly small contributions from New Mexico source sectors with the exception of EGU (0.7 to 0.9 ppb), due to the proximity of the Rio Grande Power Plant to some of the sites, and on-road mobile (0.4-0.5 ppb) due to population centers along I-25, with the Solano monitor having higher ozone contributions from mobile sources due to being close to emissions from the City of Las Cruces, the second largest city in New Mexico. Finally, the Carlsbad and Hobbs monitors are within the Permian Basin so have relatively high contributions from New Mexico O&G sources.

The results of the modeling further support the previous conceptual models of ozone formation in the state and the need for targeted control strategies to ensure emissions reductions across those sectors that cause elevated ozone. New Mexico O&G emissions still had substantial contributions to ozone concentrations even when accounting for estimated emissions reductions from the draft rule. For example, O&G emissions in the New Mexico portions of the Permian and San Juan Basins contributed as much as 2.0 to 3.0 ppb to the projected 2028 ozone DVF in the 2028 O&G control strategy. Likewise, the transportation sector contributes to high ozone near transportation corridors and urban areas like Albuquerque, Santa Fe, and Las Cruces supporting the need for lower emitting vehicles in the state.

County	Site Name	DVC	DVF	O&G	EGU	NonEGU	OnRoad	NonRoad	OAnth
Rio Arriba	Coyote	64.0	60.0	-0.7	-0.5	0.0	-0.2	-0.1	0.0
Sandoval	Bernalillo	64.0	58.1	-0.3	-0.4	-0.4	-2.1	-1.5	-1.9
San Juan	Bloomfield	64.3	60.2	-2.1	-1.9	0.0	-0.4	-0.1	-0.1
	Navajo Lake	67.0	63.3	-3.0	-1.7	-0.1	-0.4	-0.2	-0.1
	Substation	63.7	59.6	-2.1	-3.1	-0.1	-0.5	-0.2	-0.2
Santa Fe	Santa Fe	64.3	60.4	-0.5	-0.2	-0.3	-1.2	-0.7	-0.8
Bernalillo	Del Norte HS	66.3	60.7	-0.5	-0.5	-1.0	-2.7	-2.0	-3.6
	Southeast Heights	68.0	62.0	-0.5	-0.5	-1.1	-2.5	-1.9	-3.2
	South Valley	66.0	60.5	-0.8	-0.5	-1.0	-2.2	-1.7	-2.4
	Westside	67.0	62.1	-0.6	-0.4	-0.4	-1.6	-1.2	-1.8
	Foothills	65.0	58.8	-0.5	-0.5	-0.7	-2.5	-2.0	-3.0
Doña Ana	La Union	66.3	59.8	-0.4	-0.7	0.0	-0.5	-0.3	-0.1
	Sunland Park City Yard	67.0	61.8	-0.4	-0.9	0.0	-0.4	-0.2	-0.2
	Chaparral	67.0	62.2	-0.2	-0.3	0.0	-0.2	-0.1	-0.1
	Desert View	72.0	66.8	-0.5	-0.9	-0.1	-0.5	-0.3	-0.2
	Santa Teresa	71.3	66.0	-0.6	-0.7	-0.1	-0.5	-0.3	-0.2
	Solano	65.0	60.2	-0.4	-0.2	-0.2	-1.2	-0.7	-0.3
Eddy	Carlsbad	69.0	66.4	-1.0	-0.2	-0.1	-0.3	-0.2	-0.1

Grant	Chino Copper Smelter	62.0	58.9	0.0	0.0	0.0	-0.1	-0.1	0.0
Lea	Hobbs Jefferson	66.0	63.3	-2.0	-0.2	0.0	-0.3	-0.2	-0.1
Luna	Deming Airport	66.0	62.5	-0.3	-0.2	0.0	-0.6	-0.4	0.0

Table 7: Source-apportionment results for the 2028 control scenario. Values in the DVC column are current design values. Values for each sector represent the drop in future year control scenario design value (DVF) when that sector is removed from the modeling (i.e., the source sector contribution). Source sectors include Oil and Gas, Electric Generating Units, Non EGU Point Sources (NonEGU), On-Road, Non-Road, and other Anthropogenic (OAnth). All values are provided in ppb.

Path Forward – Planning Measures and Emission Reduction Strategies

Ozone Attainment Initiative and Ozone Precursor Rulemaking

To address the high observed ozone concentrations in New Mexico, the NMED has embarked on the OAI[14] to protect the ozone attainment status of the state and ensure health and welfare of the residents of the state for future generations.[15] In total, the Initiative's planning and outreach efforts will include the following nine counties: Chavez, Doña Ana, Eddy, Lea, Rio Arriba, San Juan, Santa Fe, Sandoval and Valencia. This Initiative is undertaken pursuant to the Air Quality Control Act at NMSA 1978, Section 74-2-5(C), which states:

> If the environmental improvement board...determines that emissions from sources within [its] jurisdiction cause or contribute to ozone concentrations more than ninety-five percent of a national ambient air quality standard for ozone…[the] board shall adopt a plan, including rules, to control emissions of oxides of nitrogen and volatile organic compounds to provide for attainment and maintenance of the standard.

The OAI is a multi-year planning effort, beginning in the summer of 2018 and continuing indefinitely, as necessary. Three phases of implementation include: (1) an effort to educate the public and gather initial information and ideas; (2) development of appropriate rules and other programs based on scientific analysis and public input; and (3) development and implementation of the OAI plan, including rules to control sources contributing significantly to high ozone levels. NMED intends to use this Ozone Advance Path Forward document as the OAI plan required by New Mexico's Air Quality Control Act.

Ozone Precursor Rule – 20.2.50 NMAC, Oil and Gas Sector

Beyond the statutory authority provided to NMED by the Air Quality Control Act, Governor Michelle Lujan Grisham issued Executive Order ("E.O.") 2019-003, which directs NMED and the New Mexico Energy, Minerals, and Natural Resources Department ("EMNRD") to "jointly develop a statewide, enforceable regulatory framework to secure reductions in O&G sector methane emissions and to prevent waste from new and existing sources". EMNRD adopted rules effective at the beginning of 2021 that prohibits venting and limits flaring at O&G well sites to minimize methane emissions.

[14] From *Ozone Attainment Initiative*, NMED, https://www.env.nm.gov/air-quality/o3-initiative/

[15] New Mexico Ozone Attainment Initiative Photochemical Modeling Study – Draft Modeling Protocol, May 2020,Ramboll, https://www.wrapair2.org/pdf/NM_OAI_Modeling_Protocol_v5.pdf

Under the statutory authority of the OAI and E.O. 2019-003, the Department has developed its first rule to reduce emissions of ozone precursors. Regulations developed under the OAI to reduce emissions of ozone precursor pollutants will have the co-benefit of reducing methane emissions because methane is released along with volatile organic compounds in O&G operations. Methane is a potent greenhouse gas that, when unburned, can trap 25 times more heat in the atmosphere than carbon dioxide. Thus, the Department worked in close coordination with EMNRD in developing 20.2.50 NMAC, and the agencies endeavored to align their respective rules as much as possible to avoid duplicative or conflicting requirements.

Beginning in the summer of 2019, the Department began an extensive stakeholder and public outreach process for its OAI and the NMED/EMNRD joint Methane Strategy. In June through August of 2019, NMED and EMNRD held numerous meetings throughout the State to provide information regarding the need for the regulatory initiatives and the relevant authorities for the regulatory actions; to hear input from stakeholders and members of the public; and to answer questions regarding the rulemaking process.

The agencies also convened a Methane Advisory Panel ("MAP"), consisting of technical stakeholders focusing on processes and equipment associated with O&G exploration, production, gathering, and processing. The MAP was comprised of 27 members with expertise in various parts of the O&G industry and included local and national environmental nongovernmental organizations as well as major and independent industry representatives from the upstream and midstream sectors. Additional expertise was provided by representatives from Los Alamos National Laboratory, Colorado State University, and the New Mexico Institute of Mining and Technology. The MAP met every other week over a four-month period and covered technical topics related to controlling VOC and methane emissions from equipment and operations employed in the oil and natural gas sector. Draft topic reports and all meeting presentations from the MAP meetings were posted online on both agencies' websites. In December of 2019, the MAP released a technical report for public review and input, and the agencies accepted comments on the report through February 20, 2020.

On July 20, 2020, NMED released an early stakeholder engagement draft of its ozone precursor regulation for the purpose of soliciting public and stakeholder input. In August of 2020, the Department met with stakeholder groups and held a public listening session during which participants were encouraged to provide both verbal and written feedback. The Department accepted written comments on the preliminary draft through September 20, 2020. A total of 524 written comments were received during the two-month comment period. From September 2020 through May 2021, the Department reviewed the input received from stakeholders and the public and made substantial revisions to the regulation based on that input.

The proposed draft regulation is the result of this two-year process of extensive public and stakeholder outreach and engagement, all of which is in addition to the public hearing process provided for by the Board's rulemaking procedures at 20.1.1 NMAC. the Department will continue to work diligently beyond the requirements of those procedures to communicate and work with stakeholders and the public regarding the proposed regulation and the hearing process to ensure that everyone who has an interest in the rules can fully participate in the rulemaking process. NMED's proposed rule was brought before the Environmental Improvement Board ("Board") for adoption at a public hearing on September 20, 2021 and concluded on October 1, 2021. This rule is currently under deliberations by the Board.

Low Emissions/Zero Emission Vehicle Standard

In 2019, Gov. Lujan Grisham announced New Mexico will adopt clean car standards that are more stringent than the federal standards. Pollution from transportation accounts for a large portion of New Mexico's greenhouse gas emissions and contributes heavily to the area's growing ozone problem. New Mexico's rule will adopt California's Low-Emission Vehicle criteria pollutant and greenhouse gas emission regulations and Zero-Emission Vehicle regulations under Section 177 of the Clean Air Act (42 U.S.C. §7507). The timeline for New Mexico to adopt the CA standards is in development, but the standards are likely to have an impact in areas with high levels of on-road emission sources as discussed previously.

DERA Program

In 2005, the U.S. Congress passed the Diesel Emission Reduction Act (DERA) as an amendment to the Energy Policy Act. DERA was designed to reduce diesel emissions from existing diesel fleets that did not meet the recently adopted federal emission standards. The goal of the New Mexico Clean Diesel Program is to reduce the amount of air pollution created by diesel-fueled heavy-duty trucks and buses to which the residents of New Mexico are exposed.[16] Diesel-powered vehicles and equipment account for nearly half of all NO_x and more than two-thirds of all PM emissions from US transportation sources.[17] Since 2008, NMED has administered grant funds for the qualifying diesel emissions reduction projects in San Juan, McKinley, Luna, Santa Fe, Taos, and Bernalillo counties:

- School bus retrofits in Bloomfield, Central Consolidated, Farmington, and Gallup/McKinley County School District;
- Replacement of diesel vehicles with natural gas vehicles for the cities of Deming and Santa Fe, Taos County, and Albuquerque Public Schools; and
- Dock outlets for trailer refrigeration units, aerodynamic fairings, and low rolling resistance tires for New Mexico Association Food Banks.

VW Settlement

In 2015, Volkswagen admitted to purposely employing defeat devices on emissions controls for NOx on some of their Volkswagen, Audi, and Porsche diesel-fueled vehicles. In 2017, the U.S. District Court for the Northern District of California finalized Consent Decrees between Volkswagen, the United States, and the State of California, adopting revisions made by the Trustee. New Mexico was eligible to receive over $17,900,000 to be used for NO_x emission reduction projects.[18]

The NMED has had two rounds of funding for the Volkswagen Settlement Allocation. NMED approved funding for seven projects in the first funding cycle and 43 projects in the second funding cycle of New Mexico's Volkswagen Settlement Allocation.

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[16] From *Diesel Emissions Reduction Act*, NMED, https://www.env.nm.gov/air-quality/diesel/

[17] From *Smog, Soot, and Other Air Pollution from Transportation*, Environmental Protection Agency, https://www.epa.gov/transportation-air-pollution-and-climate-change/smog-soot-and-local-air-pollution

[18] From *Volkswagen Settlement Information Fact Sheet*, NMED, https://www.env.nm.gov/wp-content/uploads/sites/26/2017/03/VW_Settlement_InBrief_November2017-1.pdf

First funding cycle projects include new school buses in the Gallup-McKinley and Albuquerque School Districts; a new Public Works Vehicle for San Juan County; electric ground support equipment and associated infrastructure for Southwest Airlines and the Albuquerque International Sunport; as well as compressed natural gas-powered refuse vehicles; and replacing diesel delivery trucks for Sysco Leasing. In total, 123 vehicles in New Mexico were replaced or repowered, reducing NO_x emissions from both on-road and off-road diesel-fueled vehicles and equipment by roughly 160 tons in urban, rural, and Native communities in New Mexico.

In 2019, the Beneficiary Mitigation Plan (BMP) was revised and directed the remaining unallocated funds for future funding cycles to be used for the replacement of diesel-fueled vehicles with electric vehicles (EV), alternate-fueled vehicles, and light-duty zero emission vehicle (LDZEV) supply equipment. These projects will reduce emissions of NO_X by more than 40 tons in areas of New Mexico where residents bear a disproportionate share of NO_X pollution and in areas that are nearing the 2015 National Ambient Air Quality Standard for ground-level ozone.

The State remains committed to allocating the remaining 15% of the total funding (approximately $2.7 million) towards LDZEV infrastructure and has added a goal to focus efforts on a complete statewide electric vehicle charging network.[19]

Provisions for Public and Stakeholder Involvement

The AQB will conduct presentations for the industry, local governments, environmental groups, and school districts to garner support and participation in Ozone Advance. Also, the AQB will hold outreach and education events for businesses and private citizens to involve them in the program. This will be done through a variety of projects including the existing partnerships and air quality improvement groups that NMED participates in and the creation of the Permian Basin Air Quality Task Force. Of note, the City of Albuquerque Environmental Health Department has indicated that they intend to participate in EPA's Ozone Advance Program and NMED will work jointly to align our goals and objectives for the program.

NMED will provide additional opportunities to gather stakeholder input, hold ozone community workshops and develop voluntary ozone alert programs. Periodic update meetings will be held to keep stakeholders informed of progress and study results (e.g. rulemaking and modeling results) for all ozone advance path forward initiatives. This will allow for continuous feedback and participation as voluntary control measures, rules and programs are developed.

[19] From *Volkswagen Settlement*, NMED, https://www.env.nm.gov/vw-settlement/

Joint Advisory Committee

On May 7, 1996, the United States and Mexico included Appendix 1 to Annex V to the "La Paz Agreement" that defined the bi-national Paso del Norte Air Basin and created the Joint Advisory Committee (JAC). The JAC is a bi-national group charged with the development and recommendation of air quality improvement initiatives under the La Paz Agreement and EPA's Border Program (i.e., Border 2025). It is comprised of a mixture of federal, state, and local government officials along with private citizens, university officials, and non-governmental organizations from the United States and Mexico. The JAC is governed by operating procedures contained in their by-laws and meets triennially at a rotating location in southern Doña Ana County, New Mexico, El Paso, Texas and Cd. Juárez, Mexico. The JAC's priorities are developed from the ground up, building upon local stakeholder input and concerns. All JAC meetings are open to the public and time is set aside at the beginning and end of each meeting for public comments.

Four Corners Air Quality Group

The original purpose of the 4CAQTF was to bring together a diverse group of interested parties to learn about and discuss air quality issues in the Four Corners area. Increased development in the Four Corners area including power plants, O&G production, and population growth were contributing to air quality concerns. Ozone levels in the region were close to exceeding the health-based national ambient air quality standards. Task Force members developed a broad list of options for improving air quality in the area to aid the regulatory agencies in managing air quality impacts. These options were included in a report that was finalized in November 2007.[20]

Initial work of the 4CAQTF resulted in the implementation of one "interim" recommendation: the Bureau of Land Management required new and replacement internal combustion gas field engines to comply with more stringent emission standards in New Mexico and Colorado. These requirements apply to O&G development within the Bureau of Land Management's jurisdiction.[21] As a result of this work, the 4CAQTF continues to operate as the Four Corners Air Quality Group.

The Four Corners Air Quality Group (4CAQG) is a forum for individuals interested in air quality to meet, learn about current conditions, review progress on mitigation of air quality impacts, and generally contribute to clean air in the Four Corners Area. The 4CAQG includes NMED, Colorado Department of Public Health and Environment, US EPA, US Department of the Interior's National Park Service and Bureau of Land Management, US Department of Agriculture's Forest Service, the Southern Ute Indian Tribe, and the Navajo Nation. The Group meets at least once per year and more often if circumstances warrant it.

Permian Basin Task Force

The NMED plans to create the Permian Basin Air Quality Task Force to bring together a diverse group of interested parties to learn about and discuss air quality issues in the Permian Basin. Increased O&G well development and population growth in the Permian Basin are contributing to air quality concerns. Many

[20] From *Four Corners Air Quality Group*, NMED, https://www.env.nm.gov/air-quality/fcaqg/
[21] Four Corners Air Quality Task Force Report of Mitigation Options, November 2007, https://www.env.nm.gov/wp-content/uploads/sites/2/2016/11/4CAQTF_Report_FINAL.pdf

ozone levels in the region are close to exceeding the health-based national air quality standards, and monitors in Eddy and Sandoval counties are currently exceeding them.

The first step will be to engage the Texas Commission on Environmental Quality (TCEQ) and the U.S. EPA to join NMED as a founding task force partner. Once this trilateral commitment is established, we can engage and invite other stakeholders in the basin to become task force partners. Potential stakeholders include the O&G industry, local governments, environmental groups, and concerned citizens.

The Group will meet annually, biannually, and more often when necessary to discuss rule planning and initiatives. The Task Force members will be encouraged to develop a broad list of options that will aid the regulatory agencies in managing air quality impacts and improving air quality in the basin. These options will be included in a final report.

Gather Stakeholder Input

Understanding the concerns of impacted communities and stakeholders is an important part of creating an effective plan. As part of this initiative and in addition to the air quality groups listed above, NMED will hold meetings with various groups of stakeholders including community groups, environmental groups, tribes, the public, the regulated community, and local governments. The goal of these meetings will be to gather information about stakeholder concerns regarding ozone in their respective region and identify popular strategies that stakeholders are willing to participate in. NMED may also utilize focus groups comprised of various stakeholders to gather feedback on possible emission reduction activities. All these concerns will be taken into consideration as we assess our Ozone Advance plan in the future.

NMED understands that some people may not have the availability or means to attend these meetings. To this end, NMED will also provide options for virtual participation, as well as opportunities for these groups and individuals to submit concerns and comments electronically, over the phone, or by mail. NMED may also provide surveys and other useful materials for stakeholders to complete.

Ozone Community Workshops and Voluntary Ozone Alert Programs

Community involvement in the Ozone Advance program will include workshops and voluntary ozone alert programs. The workshops will bring together community members and various stakeholders to learn about ozone and its impacts to their health, community, and the environment. This will also include training on how to minimize these impacts, particularly health impacts, during high ozone events and what voluntary actions individuals can do to minimize their ozone contribution.

If communities choose to, they can opt to creating a Voluntary Ozone Alert Program, crafted to the needs of their community. This program can include a variety of activities and projects such as, community-based air monitoring, flag programs, alert programs, and air quality training. These programs will also raise awareness for issues surrounding ozone in these communities.

STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD

IN THE MATTER OF PROPOSED 20.2.91 NMAC
NEW MOTOR VEHICLE EMISSIONS STANDARDS **No. EIB 21-66 (R)**

DIRECT TESTIMONY OF CLAUDIA BORCHERT

I. INTRODUCTION

My name is Claudia Borchert, and I am the Climate Change Policy Coordinator for the Environmental Protection Division with the New Mexico Environment Department ("NMED"). I am presenting this written testimony on behalf of the Department in this proceeding on the Department's proposed new air quality regulation at 20.2.91 NMAC ("Part 91"). As necessary I will also discuss the proposed 20.11.104 NMAC ("Part 104").

My written testimony will cover the following:

- The actions NMED undertook to meet the statutory requirement in providing public notice of this hearing;
- NMED's public outreach activities, often conducted in conjunction with the Environmental Health Department ("EHD");
- An overview of the proposed Clean Car Rule;
- NMED's recommended final proposed Clean Car Rule (Part 91) with redlined changes to the Clean Car Rule filed in NMED's petition;
- A review of the proposed final Clean Car Rule.

II. QUALIFICATIONS

Over the past year, I have been playing a central role in coordinating the Clean Car Rule development and preparing for this joint hearing. I have been working for the department for a year and a half with the primary responsibility of coordinating and implementing the climate policies of Governor Lujan Grisham. In addition to working on the Clean Car Rule, I have been helping to bring a clean fuel standard to New Mexico and working with the Climate Change Task Force leadership team and the sector-specific climate action teams to develop the climate actions necessary to reach the necessary 2030 greenhouse gas emission reductions.

Before working at NMED, I was the sustainability manager at Santa Fe County for three years and led the County's water and wastewater utility for three previous years. My full background and qualifications are set forth in my resume, which is **NMED-EHD Exhibit 14**.

III. COMPLIANCE WITH STATUTORY RULEMAKING REQUIREMENTS- NOTICE OF HEARING

NMED complied with state requirements for public notice and hearings contained in *Rulemaking Procedures - Environmental Improvement Board* at 20.1.1 NMAC and the State Rules Act at 14-4-1, NMSA 1978. NMED provided Public Notice of Proposed Rulemaking for the proposed Clean Car Rule in English and Spanish as shown by **NMED-EHD Exhibit 15a-l**:

- 15a. Environmental Improvement Board ("EIB") website (English and Spanish), posted approximately February 22, 2022;
- 15b. Albuquerque Journal (English and Spanish), February 20, 2022;
- 15c. Las Cruces Sun News (English and Spanish), February 20, 2022;
- 15d. Santa Fe New Mexican English February 18, 2022 and Spanish February 19, 2022;

- 15e. NM Register (English and Spanish), February 22, 2022;
- 15f. List Serve (English with link to Spanish-language legal ad), February 15, 2022;
- 15g. NM Legislative Council Service, February 16, 2022;
- 15h. NM Sunshine Portal, February 16, 2022;
- 15i. Land Grants, February 16, 2022;
- 15j. NMED Field Offices February 19, 2022;
- 15k. NMED Road to Clean Cars NM website; and
- 15l. Tribal Governments, March 10, 2022.

In addition to describing the "who, what, where, when, why, and how" of the hearing, the notice provides information on how interested persons can participate in the hearing or provide written public comments. The notice describes that the EIB may make a decision on the proposed Clean Car Rule at the conclusion of the hearing or may convene at a later date to consider taking action.

NMED did not send written notice to persons to any postal addresses, because no person requested such notice.

In compliance with the Small Business Regulatory Relief Act, the Department sent notification to the Small Business Regulatory Advisory Council which concluded: "no findings were found on the proposed bill". **NMED-EHD Exhibit 16.**

IV. STAKEHOLDER AND PUBLIC OUTREACH

NMED, in partnership with EHD, developed the proposed Clean Car Rule over a one-year period, which included extensive public and stakeholder engagement. From July 2021 through April 2022, NMED and EHD engaged the public and stakeholders regarding the proposed Clean Car Rule. A press release, e-Bulletin, and webpage announced the kick-off of the rulemaking

stakeholder engagement process. Subsequently, the partners held three virtual public presentations, during which NMED and EHD encouraged the participants to provide both verbal and written feedback. Combined attendance for the public meetings was approximately 200 individuals. Both the state and EHD frequently updated the webpage to keep the public and stakeholders informed on developments in the rulemaking. Since February 2022, NMED's website was visited from 48 different IP addresses.

The petitioners, jointly or separately, issued at least 6 press releases**,** which resulted in at least 17 print, televised, and electronic news stories**.** NMED released 9 e-bulletins to the Clean Car list serve from July 1, 2021, through March 25, 2022. During this period, listserv subscribers increased from 557 to 1998. The most recent bulletin from March 25, 2022, with updates on the Clean Car hearing, had an open rate of 52% and 4% of the subscribers clicked on links within the bulletin.

The petitioners met more than 3 dozen times with stakeholders, including auto manufacturers, the Alliance for Automotive Innovation, the New Mexico Automotive Dealer Association, New Mexico dealership owners, advocates from environmental groups, tribal governments, the Coalition for Sustainable Communities New Mexico, other state agencies, the state's Transportation Working Group, electric utilities, and the California Air Resources Board (CARB), where the Clean Car Rule was either exclusively or also discussed.

NMED made two presentations on the Clean Car Rule to tribal leaders and tribal government representatives. Additionally, NMED mailed individual letters to each tribal leader beginning March 10, which included the Notice of Hearing and additional information on how the proposed Clean Car Rule might impact and benefit Indian Country. **NMED-EHD Exhibit 15l.**

NMED emailed the stakeholder discussion draft of Part 91 to Nevine Salem at EPA on 10/28/21.

NMED emailed the discussion draft of Part 91 to State Records Center and Archive for formatting review.

Soliciting Comments on the Proposed Clean Car Rule

On October 27, 2021, NMED released a stakeholder discussion draft of proposed rule 20.2.91 NMAC, with a listserv notice sent to over 1,800 potentially affected parties, other stakeholders, and members of the interested public outlining NMED and EHD's proposed Clean Car Rule and soliciting comments by Thursday, November 18, 2021. NMED received 15 individualized comments and 118 total comments on the discussion draft rule. **NMED-EHD Exhibit 17.**

On December 22, 2021, EHD released a discussion draft of the proposed replacement rule 20.11.104 NMAC to solicit additional public and stakeholder input. EHD received a total of 21 written comments during the comment period.

As part of the Notice of Hearing, NMED again solicited comments on the proposed Clean Car Rule by March 25, 2022. We received one comment letter from an auto manufacturer. **NMED-EHD Exhibit 18**.

In sum, auto dealers, auto manufacturers, the agriculture industry, community advocates, environmental organizations, and over 100 individual New Mexicans provided feedback during public comment periods, public meetings, and individual stakeholder meetings. NMED and EHD revised the proposed Clean Car Rule based on the input received.

Specific Changes Made to the Rule as a Result of Submitted Comments

In response to comments from Ken Ortiz with New Mexico Automobile Dealers Association (NMADA), NMED and EHD made these changes to the proposed Clean Car Rule:

- clarified the requirement that the "new" vehicles subject to 20.2.91 are defined as model year 2026 ("MY2026") or newer; and
- added a reference to the NM Motor Vehicle Dealers Franchising Act, NMSA 1978, Sections 57-16-1 through 16.

Other concerns from NMADA were addressed through two listening sessions and by providing the NMADA Executive Director and the dealership owners with additional information on their specific questions.

In response to the letter submitted by the New Mexico Farm and Livestock Bureau, NMED and EHD added the following phrase in Subsection M of the Section 103 Exemptions: "*Motor vehicles used exclusively in the conduct of agricultural operations, like implements of husbandry not including a vehicle whose existing design is primarily for the transportation of persons or property on a highway, or road machinery not regularly operated on public streets and highways.*" **NMED-EHD Exhibit 17.**

In response to many letters from Sierra Club members and from Western Resources Advocates, NMED and EHD added the phrase "*to the number of motor vehicles in each test group, delineated by model type, certified pursuant to CCR, Section 1961.3*" into the reporting requirement in Section 106. **NMED-EHD Exhibit 17.**

As appropriate based on the scope of the proposed Clean Car Rule, NMED and EHD will address other concerns raised by commenters in those sections of the direct testimony where it is relevant to the subject matter. Examples of concerns include:

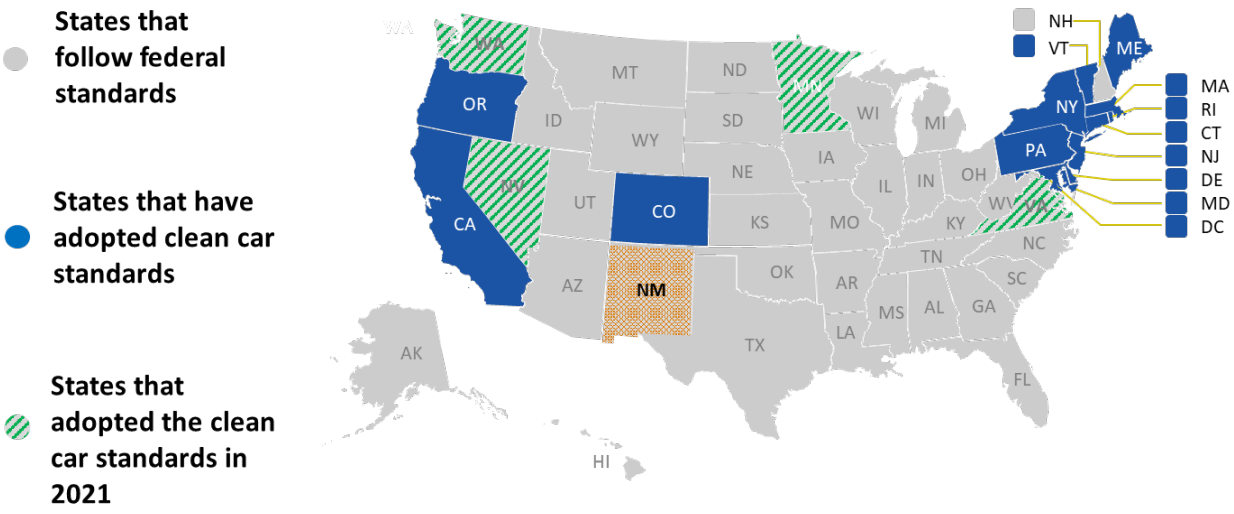
- The statutory authority of EIB to adopt the rule
- Lack of definitions in the discussion Clean Car Rule draft
- Preference for New Mexico to follow federal vehicle emission standards
- The impact of early action credits
- The impact of the onetime credits
- The availability of electric vehicle charging stations in New Mexico
- State incentive programs to support the purchase of electric vehicles, especially for low-income households
- The impact that electric vehicles may have on the gas tax which funds road improvements and maintenance
- The ability of the electricity providers and the electric grid to support the increased demand required by the Clean Car Rule.
- The availability of charging stations whose source is exclusively renewable (solar) power
- Request that the state pursues additional actions to address the emissions from the transportation sector like a Clean Fuel Standard, Advanced Clean Cars II, Advanced Clean Trucks.
- Economic impacts on low-income New Mexicans and rural New Mexico farmers and ranchers
- The lack of emissions testing on used cars throughout New Mexico

V. CLEAN CAR OVERVIEW

"Clean cars" is a term used to describe motor vehicles - passenger cars, light-duty and medium-duty trucks, sport utility vehicles, vans, and minivans - that emit less pollution than conventional internal combustion engine vehicles. Transitional plug-in hybrid electric vehicles (TZEV or PHEV) and zero-emission vehicles (ZEV) are two subsets of clean cars. As used in the Clean Car Rule ZEVs include battery electric vehicles (BEV)s and fuel cell electric vehicles (FCEV), which - as their name implies - have zero tailpipe emissions. Over 186 PHEVs and ZEVs have been available in the US since 2010 and eligible for the federal tax credit **NMED-EHD Exhibit 19**. By New Mexico's first compliance year under this rule – MY2026 – evadoption, a reliable online resource on EVs, anticipates that about 165 BEV models will be available, including a number at reasonable costs with more diversity driving down costs.

As described in greater detail in the testimony of the petitioners' technical expert, the adoption of the Clean Car Rule is projected to benefit New Mexico by reducing greenhouse gas emissions from the transportation sector, reducing the emission of smog-forming pollutants, and enhancing the options for consumers wishing to purchase the cleanest cars commercially available.

Sixteen states (mapped below) have – either wholly or partially - adopted California's LEV and ZEV rule that as a package are called "California clean cars", "Advanced Clean Cars","ACC" or "ACC I" (the "I" is sometimes appended to ACC to distinguish it from the "Advanced Clean Cars II" or "ACC II" rule currently proposed by CARB staff).



NMED proposes that the EIB adopt a regulation incorporating New Motor Vehicle Emissions Standards 20.2.91 NMAC, as stated in NMED's Petition for Regulatory Change to Adopt New Motor Vehicle Standards EIB 21-66 (R). The City of Albuquerque Environmental Health Department ("EHD") proposes that the Albuquerque-Bernalillo County Air Quality Control Board (AQCB) adopt a nearly identical regulation, 20.11.104 NMAC, to apply within the City of Albuquerque and Bernalillo County as included in AQCB Petition No. 2022-1, Exhibit C. Together the regulations would apply to all areas of the state within the jurisdictions of the EIB/NMED and AQCB/EHD, and create a statewide program and ensure statewide compliance as required under Section 177 of the Clean Air Act. I will refer to these regulations in the singular and as the Clean Car Rule in my testimony.

VI. PROPOSED CHANGES TO 20.2.91 NMAC AS FILED WITH THE PETITION

NMED is proposing changes to the Clean Car Rule as filed with the Petition on December 1, 2021, which have been submitted in redline and clean format and represent NMED's final proposed rule. **NMED-EHD Exhibit 20**. Going forward, all discussion on the Clean Car Rule will

refer to the final proposed rule and not the rule proposed in NMED's petition filed December 1, 2021. Non-substantive changes include:

- editing the citations to the style required by State Records Center and Archives;
- replacing "this part" with "20.2.91 NMAC" throughout;
- renumbering of the definitions (Section 7);
- updating the relevant dates in Section 102 for some of the California codes that are incorporated by reference. California has updated its code in connection with the heavy-duty low-NOx omnibus rulemaking. None of the changes affect the light- and medium-duty vehicle emissions regulations incorporated in the proposed Clean Car Rule; and
- In Section 105, adding (Particulate Matter Exhaust Emission Standards, Reporting and Compliance) after 20.2.91.105.

As described previously by Ken Miller in his testimony, all of these non-substantive changes have also been incorporated in the final proposed version of "Part 91."

NMED proposes the following substantive changes to Part 91:

- Changing the effective date of the rule from August 1, 2022, to July 1, 2022, throughout.
- Adding the definition for "motor vehicle engine".
- As required under the Clean Air Act, for the purposes of 20.2.91 NMAC, allowing the Clean Car Rule to apply statewide and providing the EIB authority to administer and enforce the rule statewide. Specific changes include
    - Adding "statewide" in Section 6; in subsection C, Section 104; and in subsection C, Section 106;

- adding a new subsection B to Section 101 Applicability: "In 20.2.91 NMAC, New Mexico is inclusive of the city of Albuquerque and Bernalillo County, which allows for compliance on a statewide basis., where the proposed change clarifies that Part 91 is also applicable within the City of Albuquerque and Bernalillo County."
- Adding "and shall be determined on a statewide basis" to the end of subsection A, Section 104; subsection B, Section 104; Section 105; and subsection A, Section 106;
- Adding "Accounting for the use of debits and credits shall be on a statewide basis." in subsection B of Section 104; and in subsection B of Section 106;
- Adding "Compliance shall be based on the motor vehicles subject to 20.2.91 NMAC and 20.11.104 NMAC that each manufacturer delivers for sale, offers for sale, sells, imports, delivers, or leases in New Mexico, and shall be determined on a statewide basis." to subsection B, Section 108; and
- Adding "ZEV credit accounting shall be on a statewide basis." to subsection B, Section 108.

VII. THE PROPOSED FINAL CLEAN CAR RULE

As I mentioned earlier, NMED and EHD propose nearly identical regulations that work together as the Clean Car Rule. The rules differ only in ways that are necessary to allow for the statewide administration of the rules by the state as required by the Clean Air Act ('CAA'). The regulations consist of two main parts: the motor vehicle emission standards and the provisions for administration and enforcement. According to federal law, New Mexico must adopt the

California motor vehicle emission standards ("California clean car standards" or "ACC")- the first of these two parts - without any changes, due to what is called the "identicality" requirement under the CAA.

The testimony that follows highlights keys aspects of the sections in the proposed regulations - generally in the order they appear in the proposed rule.

Scope, Applicability, and General Requirements

The proposed Clean Car Rule requires that all new passenger cars, light-duty trucks, medium-duty passenger vehicles, and medium-duty vehicles and new motor vehicle engines that are delivered for sale, offered for sale, sold, imported, delivered, rented, leased, acquired, received, or registered in the State of New Mexico meet the California clean car standards. "New" in the rule is defined as MY2026 or newer with 7,500 miles or fewer on the odometer. For dealers, the mileage at the time of sale is determined by the odometer statement when the dealer acquired the motor vehicle.

The Clean Car Rule primarily applies to car manufacturers but also includes dealers, rental car agencies, the United States, state or local governments, or other persons. The Clean Car Rule also applies to each person registering a motor vehicle in New Mexico.

In addition to complying with the low-emission vehicle (LEV) standards and ZEV performance requirements, manufacturers must comply with the reporting, warranty, labeling, and recall campaign incorporated in the California clean car standards.

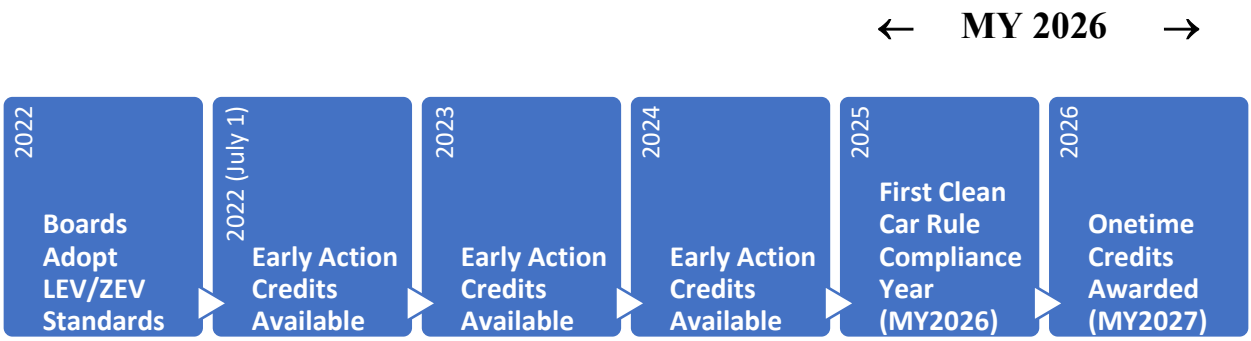
Statutory Authority

As previous testimony described and included in Section 3, Paragraph (4) of Subsection A of the Environmental Improvement Act, NMSA 1978, Section 74-1-8, and the Air Quality Control

Act, NMSA 1978, Sections 74-2-1 through 74-2-17 grant the EIB the statutory authority to adopt the proposed Clean Car Rule. EHD's regulation would apply within the City of Albuquerque and Bernalillo County, while NMED's Clean Car Rule allows NMED to administer and enforce the Clean Car Rule statewide.

Effective Date

The proposed effective date of the Clean Car Rule is July 1, 2022. The first year of compliance, because of the mandatory 2-year waiting period in the Clean Air Act, is MY2026, which begins on January 2nd, 2025, and extends through December 31, 2026. The waiting period allows auto manufacturers time to adjust their product and sales planning and take other steps to meet the requirement. Model years for motor vehicles do not coincide with the calendar year. Model years are based on production periods, so manufacturers can introduce a next-model-year vehicle for public sale as early as January 2 of the preceding calendar year. The timeline shows how other parts of the rule are included in the timeline.



To achieve a July 1, 2022 effective date, NMED and EHD would file the approved Clean Car Rule with the State Records Center and Archives no later than 15 days following a decision by the Boards and request the Clean Car Rule be published in the New Mexico Register in June 2022.

Our technical expert will discuss the history and current landscape for clean car regulation

in more depth following my testimony, including a discussion of the California Air Resource Board's efforts to update their rule with the more stringent ACC II. Should CARB adopt the ACC II rule in the timeline anticipated with the first compliance year of MY2026 and if ACC II becomes effective (*e.g.*, it is not stayed by a court), the proposed Clean Car Rule will no longer be enforceable in New Mexico. NMED and EHD's proposed solution to this dilemma would be the adoption of ACC II by the Boards as expediently as possible while seeking manufacturers' voluntary compliance with ACC regulations for MY2026. Adopting this proposed Clean Car Rule now, though, allows New Mexico to set up the framework for the regulation of clean cars and would incentive manufacturers to voluntarily comply with rewards of credits for use once ACC II is adopted.

Definitions

To ensure 'identicality' with those portions of the California clean car standards that apply, the two departments propose to adopt most of the definitions in the Clean Car Rule from the California code of regulations (CCR) and the California health and safety code (CHSC), specifically those regulations that are incorporated by reference in Section 102. To convert California clean car standard regulation language into comparable New Mexico regulatory language, the Clean Car Rule allows certain terms or phrases to be assigned – where appropriate – to the applicable term or phrase for the New Mexico context. This reassignment includes:

- "California" shall mean "New Mexico";
- "California Air Resources Board", "CARB", "state board", or "board" shall mean the "environmental improvement board", "department", "environment department", "air quality control board", or "environmental health department"; and

- "Executive Officer" shall mean "secretary" or "director";

The definition for "motor vehicle" has one meaning for general purposes and a different meaning when used in the context of registration, where the definition in the Motor Vehicle Code, NMSA 1978, Articles 1 through 8 of Chapter 66, controls.

Incorporation by Reference

NMED and EHD have determined that the most efficient approach, and the one most likely to minimize claims that the administration and enforcement provisions create an "undue burden" on the manufacturers, is to incorporate by reference fifty-four (54) sections of the CCR and the CHSC. **NMED-EHD Exhibit 21** includes a Table with hyperlinks to the CCR and CHSC references. These provisions include the emission standards, as well as provisions for extended warranties, recalls, non-combustion emissions, and credit accrual. This approach is consistent with the practice and regulations in other states that have adopted the California clean car standards ("Section 177 states") and ensures a consistent regulatory framework for automobile manufacturers.

Incorporating these CCR provisions does not cede New Mexico's authority to California. Rather, these provisions become part of the New Mexico Administrative Code and are implemented and enforced under New Mexico law. The incorporation approach avoids the burden of rewriting hundreds of pages of regulatory text. The respective Boards already routinely use this approach for federal air quality regulations, such as federal New Source Performance Standards (20.2.77 NMAC) and Emission Standards for Hazardous Air Pollutants (20.2.78 NMAC).

NMED and EHD acknowledge that if California adopts new or different provisions in the future, additional rulemaking proceedings would be required in New Mexico, including a public

hearing for the Boards, as required by the Air Quality Control Act. Nevertheless, as with other Section 177 states, incorporating CCR provisions allows New Mexico to reap the benefit of CARB's extensive experience with the clean car standards.

In the proposed Clean Car Rule, NMED and EHD propose that NMED assume primary responsibility for the administration, compliance, and enforcement of the statewide program.

Exemptions

The Clean Car Rule does not apply to all motorized vehicles. As detailed in Section 103 of the Clean Car Rule, the Rule does not apply to used vehicles (more than 7,500 miles); heavy-duty vehicles, such as long-haul trucks; military tactical vehicles; construction equipment; buses; vehicles that are sold to be wrecked or dismantled; custom and assembled vehicles for exhibitions, parades, and tours; and vehicles used exclusively for agricultural operations. The Clean Car Rule also does not apply to a vehicle that will be registered outside of New Mexico; a vehicle that is transferred to another person because of death, inheritance, divorce, seizure, or other court procedures; a vehicle that replaces a vehicle that was acquired out-of-state because of theft, or the vehicle was damaged beyond repair; or a vehicle that was acquired by a person moving to New Mexico from out-of-state before establishing residency. These exemptions are consistent with those adopted by California and other states.

Low-Emission Vehicle Exhaust Emission Standards for Non-Methane Organic Gases, Oxides of Nitrogen, Carbon Monoxide, Formaldehyde, and Particulate Matter

California clean car standards set maximum exhaust emission standards for the pollutants noted above by requiring that vehicles meet the emissions of the criteria and hazardous air pollutants based on the vehicle's classification or "bin." Auto manufacturers may choose to

classify their larger or heavier vehicles into a bin with a higher exhaust limit and their more compact vehicles into a bin with a lower, or more stringent, limit. California's LEV emission standards for these pollutants have 18 different bins. CARB identifies vehicles as "California-certified" only after it tests and verifies that each vehicle model meets the California emissions standards for the appropriate bin.

For example, the label from a MY2020 Hyundai below demonstrates its compliance with the ULEV70, light-duty truck bin, which requires a maximum of 0.070 grams/mile of non-methane organic gas plus oxides of nitrogen (NMOG+ NOx); 1.70 grams/mile of carbon monoxide; 4 milligrams/mile of formaldehyde and 0.01 grams/mile of particulates. Every California-certified vehicle has a sticker indicating its compliance, placed in the engine compartment often under the hood. Since the adoption of EPA's 2012 car emission standards, <u>virtually all vehicles certify to both California and EPA standards</u>.

Under the proposed Clean Car Rule, manufacturers must deliver for sale and a person may register <u>only</u> California-certified vehicles unless they qualify for the exemptions described previously.

For the Clean Car Rule, manufacturers must also meet California's fleet average NMOG+ NOx exhaust emission standard of 0.03 grams/mile (Section 104). The section has provisions that

require each manufacturer to accrue and use credits and debits from the delivery of vehicles to New Mexico to meet the requirement. Under the reporting standards of CARB, the manufacturers must submit annual reports to NMED to demonstrate compliance with the NMOG+ NOx fleet average requirement.

Section 105 of the proposed Clean Car Rule requires that manufacturers must meet California's particulate emission standard which, beginning with MY2025, shifts the percentage of vehicles certified in California from 3 grams/mile down to 1 gram/mile. By MY2026, half of the California-certified vehicles must meet the more stringent 1 gram/mile standard. In MY2027 three-quarters of the manufacturers' fleet must meet the more stringent standard and by MY2028, all California-certified vehicles must meet that more stringent standard.

Particulate matter is one standard where, beginning in MY2025, the particulate matter tailpipe emissions from a California-certified vehicle may be more stringent than the federal standards. Thus, by adopting the proposed Clean Car Rule, the Boards would be choosing a more health-protective standard for New Mexicans.

Low-Emission Vehicle Exhaust Emission Standards for Greenhouse Gases

California's greenhouse gas (GHG) exhaust standards included in the Clean Car Rule are a fleet average based on actual vehicle sales - so it is the sales-weighted average of GHG emissions. Manufacturers demonstrate compliance with these GHG standards after delivery, not before. After the model year closes, a manufacturer calculates its average GHG emissions. These standards may not apply in New Mexico if the Board adopts the proposed Clean Car Rule. This is because the federal sales-weighted average GHG exhaust standard adopted in February 2022 is more stringent than the related California GHG standard in Section 106 of the Clean Car Rule.

Zero-Emission Vehicle Credit Requirements

Per California's ACC regulations, Section 108 of the Clean Car Rule requires that each manufacturer delivers for sale a combination of BEV, FCEV, and TZEVs that reach the 22% ZEV credit requirement for MY2026 and beyond. Qualifying vehicles earn different credits, ranging from 1 credit for a BEV with a one-charge battery range of fewer than 50 miles to 4 credits for a one-charge battery range greater than 200 miles. This means the actual number of ZEVs delivered by each manufacturer is approximately 1/3 of the 22% credit requirement. Assuming 80,540 new vehicle sales in MY2026, the requirement would bring approximately 3,600 additional ZEVs to New Mexico above the 1,800 ZEVs projected without the Clean Car Rule.

The proposed Clean Car Rule establishes a bank where manufacturers accumulate credits for determining compliance with the ZEV obligation. To report and track ZEV credits, each state that has adopted the California clean car standards - so-called "Section 177 states" - has a separate state-specific ZEV credit bank in the software platform developed by CARB. The ZEV bank allows the manufacturers to accumulate extra ZEV credits based on their New Mexico sales and market them to manufacturers who need additional credits to reach the compliance mark as allowed in Subsection E of Section 108.

First adopted in 1990, California designed the ZEV credit requirements to encourage the development and sale of cleaner advanced technologies vehicles. The auto manufacturers' number of different MY2020 and MY2021 BEV models, 13 and 34 respectively, and their commitment to produce over 165 BEV models by 2025 is evidence of the success of California's ZEV performance requirement.

One concern raised during stakeholder meetings was that the New Mexico BEV charging infrastructure network is not adequate for the ZEV requirement intended under this section of the Clean Car Rule. It is important to note that 80% of EV charging occurs at home. According to the Federal Highway Administration's 2019 Highway Statistics Series, motorists in the U.S. drive an average of 39 miles per day, which is well within the charging range of most BEVs. For those who cannot charge at home or are traveling, as of April 1, 2022, New Mexico is home to 180 charging stations with 437 individual charging ports according to the Alternative Fuels Data Center. Of the 180 charging stations, thirty-three (33) are direct current (DC) fast chargers that allow vehicles to recharge their batteries in approximately 20-40 minutes.

Importantly, efforts are underway to continue to build out the public EV charging infrastructure in New Mexico. In 2020, NMED awarded $4.6 million from the Volkswagen settlement fund toward the development of approximately 115 EV charging stations throughout the state, of which about 50 will be DC fast charging. The projects are focused on federally designated Alternative Fuel Corridors. More EV charging infrastructure is planned using $10 million of American Rescue Plan Act funding awarded to the New Mexico Department of Transportation (NMDOT) during the 2021 New Mexico special legislative session. Fast chargers

are already in development in Las Vegas, Deming, and Roswell with an estimated completion date of summer 2022, where each site will have 8 individual car charging ports.

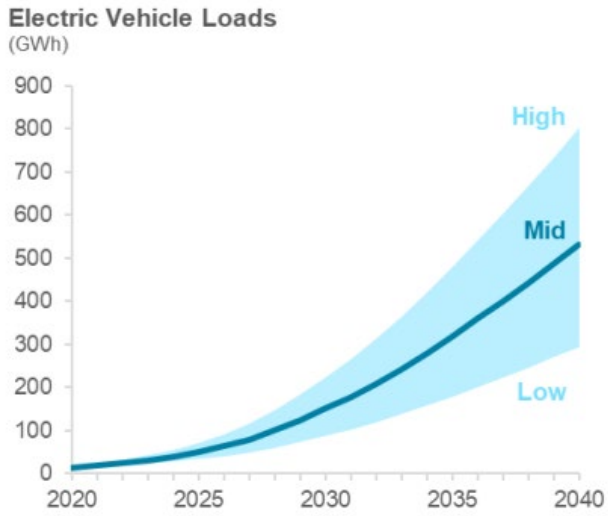
Furthermore, according to the filed transportation electrification plans., each of the three investor-owned utilities (which combined cover approximately 75% of the state's population) are going to offer EV charging incentives for residential and commercial customers, in addition to other incentives to encourage the electrification of transportation. **NMED-EHD Exhibit 22.**

Per email communication from Jerry Valdez, NMDOT Executive Director, the NMDOT is also currently working on preliminary scoping to continue the build-out of fast chargers along Alternative Fuel Corridors using New Mexico's $38 million EV infrastructure apportionment in the Infrastructure Investment and Jobs Act (IIJA). An additional $2.5 billion of IIJA funding provides an opportunity for metropolitan planning organizations, regional transportation organizations, tribal governments, and other local governments to receive, under a competitive process, a share of a Discretionary Grant Program for Charging and Fueling Infrastructure to install publicly accessible EV infrastructure. Priority for the discretionary funding is for rural areas, low-and moderate-income neighborhoods, and communities with low ratios of private parking.

Another comment raised during NMED's outreach questioned the affordability of EVs and asked whether the state has plans to incentivize the purchase of the ZEVs to help manufacturers meet the ZEV credit requirement. The NM State legislature has considered and failed to pass, an electric vehicle tax incentive for the past four years (House Bill 185 in 2019, House Bill 217 in 2020, Senate Bill 58 in 2021, and Senate Bill 21 in 2022). The more recent bills included provisions

for larger tax incentives for low-income qualified New Mexicans. Another comment expressed concerns that the state's electric utilities will not be prepared to support the increased demand needed to charge EVs. Utilities are planning for the increased load from EVs, as demonstrated in the Public Service Company of New Mexico's (PNM) inclusion of the demand for transportation electrification in Figure 38 of their 2020-2040 Integrated Resource Plan

Figure 38. Range of electric vehicle loads considered in IRP



(https://www.pnm.com/documents/28767612/31146374/PNM-2020-2040-IRP-REPORT-corrected-Nov-4-2021.pdf/7f2f46c4-f0a9-b936-715c-4b02e3586ce9?t=1648479305606). Short-term generation shortages possible for the summer of 2022 - as recently reported in the news - are expected to be ameliorated by 2025, the beginning of the first compliance year under the Clean Car Rule.

Some public commenters questioned the solvency of the state's road construction and maintenance fund should the Clean Car Rule be adopted. A per gallon gasoline tax collected at the pump currently supports the fund. NMDOT, working with RUC-West, has been studying alternative ways to collect the needed road maintenance funds including adding a fee to the annual registration of ZEVs or through a road usage charge.

NMADA dealers serving rural areas expressed concerns about adequate consumer demand

at their dealership to meet the 22% ZEV credit requirement of Section 108, which equals approximately 7% of the vehicles delivered for sale. They are concerned that manufacturers will deliver BEVs to them, which they will not be able to sell. Because the ZEV credit requirement applies statewide, and because the manufacturers are interested in the deployment of their ZEVs, NMED expects the manufacturers to deliver a larger proportion of ZEVs to those dealers with demonstrated consumer demand – for example in the urbanized areas along the Rio Grande corridor.

Despite the current strong commitment from manufacturers to the production of electric vehicles, as demonstrated by the past decades, federal rules and business choices shift significantly over time. The Clean Car Rule assures that New Mexicans will benefit from reductions in air pollution and more affordable ZEV choices. Right now, without the Clean Car Rule, New Mexico is, in a sense, receiving the hand-me-downs of the auto industry.

Early Action Credit

Section 109 of the Clean Car Rule proposes to allow manufacturers to receive early action credits for delivering qualifying ZEVs beginning July 1, 2022, for MY2023, MY2024, and MY2025, before the first compliance period of MY2026. This incentivizes manufacturers to deliver ZEVs to New Mexicans sooner and eases their path of compliance from the current sales rate of 1-2% to the ~7% proposed requirement. Under Section 109, after manufacturers report early ZEV deliveries to NMED, NMED will track early compliance and deposit early action credits into the manufacturers' ZEV credit bank.

Some stakeholders have expressed concern that if ACC II is adopted by CARB and goes into effect for MY2026, credits earned in New Mexico under the early action incentive will not be of

value. However, based on the proposed ACC II rule currently proposed by CARB staff, and should New Mexico adopt ACC II regulations, ZEV credits earned in the Clean Car Rule through early action or over compliance would be available for use in New Mexico's ACC II. Such incentives are important to encourage manufacturers to voluntarily comply with the New Mexico Clean Cars Rule even if it is invalidated by operation of law until replaced with ACC II.

Onetime Credits

The proposed Clean Car Rule includes the same compromise agreement regarding onetime credits that environmental advocates and the auto manufacturers reached during the Nevada clean car rulemaking process last year. **NMED-EHD Exhibit 23**. The proposed onetime credits allow manufacturers to earn credits in New Mexico for MY2027 based on their ZEV credit balance in California in MY2025 scaled to their total vehicle sales in New Mexico.

Under the rule currently proposed by CARB staff, the onetime credits will have value under the ACC II, should New Mexico adopt ACC II regulations. The onetime credits incentivize the manufacturers to support ACC II rule in New Mexico by reducing the compliance stringency in the early years by creating a use for the onetime credits. Some stakeholders disagree with the allocation of onetime credits because they argue it will decrease the amount of ZEVs delivered to New Mexico under ACC II and creates a credit without a corresponding ZEV-on-the-ground. This concern must be balanced against the need to provide a smooth, feasible ramp for manufacturer compliance. **NMED-EHD Exhibit 18.**

COMPLIANCE AND ENFORCEMENT

The second part of the Clean Car Rule contains the requirements needed to successfully implement the proposed rule. Since at least 12 states have already implemented ACC

regulations, resources and networks that exist to help newer Section 177 states administer their state programs. CARB, the US Climate Alliance, NESCAUM, and Atlas Public Policy are examples of willing partners seeking to help Section 177 states with the successful implementation of the California clean car standards. Compliance and enforcement will primarily be the responsibility of NMED with some authorities reserved for EHD. This is to ensure uniform statewide applicability.

Compliance Reporting and Remediating Non-compliance

To show compliance under the Clean Car Rule, manufacturers are required to report under the fleet average NMOG+ NOx exhaust emission standard (Section 104) and the ZEV requirement (Section 108). Should manufacturers not meet the NMOG+ NOx exhaust emission standard requirement, NMED can request a Remediation Report as described in Section 107. This provision permits NMED to require a manufacturer to submit a fleet-averaging remediation report within 60 days of notice with more specific information and a description of how the manufacturer intends to comply with fleet averaging requirements of the NMOG+ NOx exhaust emission standard. The same provisions are available for the fleet average greenhouse gas exhaust emission standards, should the federal rules cease being more stringent than the California clean car standards.

Under Section 110 of the proposed Clean Car Rule, NMED and EHD may request additional documentation from the manufacturers. Current Section 177 states have used this section to request vehicle identification numbers (VINs) from manufacturers to compare the list of ZEVs the manufacturers' have delivered to their state with the VINs of ZEVs registered in the state.

Warranties, Labels, and Recall Campaigns

Sections 111, 112, and 113 require that manufacturers that deliver to New Mexico vehicles subject to the Clean Car Rule maintain the same warranties, labels, and recall provisions included in the California ACC regulations. Other requirements - included in the Clean Car Rule by incorporation - include EV charging specifications, onboard diagnostic systems, evaporative and refueling emission standards, and compliance testing. These protections assure that the vehicles subject to the Clean Car Rule perform as anticipated and may help alleviate consumer concerns as they adopt ZEVs with often new-to-them technologies.

Registration and Fees

The proposed Clean Car Rule requires manufacturers subject to the rule to obtain a registration from NMED. Under Section 114, the registration is valid for 10 years and subject to an annual fee. NMED shall allocate the total annual $200,000 registration fee proportionally among the registered manufacturers based on sales reported for the previous year. NMED will use the annual registration fee to fund the administration of the program, estimated to require two full-time staff and contractual resources to build reporting, tracking, and compliance systems. Manufacturers seeking early action credits will pay an annual fee of $10,000 in the years before the annual registration fee is due.

Inspections, Information Requests, and Recordkeeping

NMED and EHD may inspect motor vehicles and copy relevant records, as needed to administer the Clean Car Rule. Manufacturers, dealers, rental car agencies, and federal, state, and local governments are required to maintain records regarding the Clean Car Rule

compliance.

VIII. CONCLUSION

In conclusion, I would like to remind the Boards that NMED and EHD have provided adequate notice to the public of the Clean Car Rule, conducted thorough outreach to the stakeholders and the interested public, and improved the Clean Car Rule based on the comments we received. The proposed Clean Car Rule is a measured and doable step that New Mexico can take to reduce the public health and environmental impacts from light- and medium-duty passenger cars in New Mexico.

CLAUDIA BORCHERT

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EDUCATION

Master of Science Degree, Earth and Planetary Sciences Department
University of New Mexico – conferred December 2002; hydrogeology, sedimentology

Bachelors of Arts, cum laude
Amherst College (Amherst, Massachusetts) – conferred December 1989; geology, German (emphasis)

PROFESSIONAL EXPERIENCE

Climate Change Policy Coordinator, **November 2020 – present, New Mexico Environment Department**

- Coordinate the team on Clean Car rulemaking process including development of rules, public and stakeholder outreach, coordinating with NMED management, and collaboration with the Albuquerque's Environmental Health Department
- Using the assistance of a professional facilitator, soliciting review and input from a stakeholder group, the technical advisory group, on the state's proposed five-year climate actions
- With NMED leadership, building a coalition to bring a clean fuel standard to New Mexico by seeking legislative approval of the Clean Fuel Standard Act.
- As part of the governor's Climate Change Task Force leadership team, implement actions identified in the Executive Order 2019-003 Addressing Climate Change and Energy Waste Prevention and initiate additional climate actions to reduce New Mexico's greenhouse gases by at least 45% by 2030 from 2005 levels
- With hired facilitator, co-led the climate equity working group to develop the climate equity guiding principles.

Sustainability Manager, **December 2016 – October 2020, Santa Fe County**

- Led County toward 100% renewable electric energy by 2023 by installing behind-the-meter photovoltaic systems in seven County facilities, getting approval to purchase 50% of the County's energy as renewable, and increasing energy efficiency in 15 County buildings.
- Developed County fleet management policies to include electric vehicles (EV) and infrastructure, increase fuel efficiency increases, a reduction in fleet vehicles, and the creation of a EV motor pool.
- Inventoried County 2017 and 2018 operational greenhouse gas emissions from 2005 baseline to reach to meet Paris Agreement goals, establish targets, and roadmap actions.
- Developed County policy to support State climate initiatives; advocated for bills on pricing greenhouse gas emissions, community solar, renewable energy transition, energy efficiency/renewable energy tax incentive, and healthy soils.

Utilities Division Director, **March 2013 – November 2016, Santa Fe County**

- Managed the daily operations of the 21-employee, 10,000-customer water and wastewater utilities, analyzing and strategically addressing business and operational concerns, large and small.
- Conducted water supply gap analysis, comparing current gallons-per-capita per day demand and future County water commitments against available supply.

- Develop and balanced annual $4.5M operational budget; developed and proposed revised water rate schedule to address shortfalls; directed infrastructure capital projects with a budget of >$25M.
- Managed implementation of County responsibilities in the 50-year, Native American Aamodt water rights settlement and the resulting $250M Pojoaque Valley regional water system.

***Water Resources Coordinator,* 2003 –2013, City Water Division, Santa Fe, New Mexico**

- Initiated and completed City-County-Bureau of Reclamation analysis, the Santa Fe Basin Study using downscaled temperature and precipitation data from 112 global climate models to projected climate change impacts on Santa Fe's water supplies.
- Led interdepartmental and collaborative team in the Living River Initiative, the first municipality in the West to voluntarily provide environmental flow to the river from municipal reservoirs and water supply.
- Advanced and then implemented the City's first long-range, sustainable, water supply plan.
- Authored Reclaimed Wastewater Resource Plan to analyze alternatives to reuse reclaimed water.
- Provided technical expertise on water conservation, including in developing City's residential green building code.
- Routinely provided technical expert testimony to governing body, Office of the State Engineer hearing officer, state legislative committees, or the public on water resource management, sustainability, climate change, Santa Fe River, water rights, drought, and conjunctive use.
- Provided regulatory compliance for City's diverse water rights portfolio with the Office of the State Engineer, Environment Department, Rio Grande Compact, and San Juan-Chama contract.

Previous professional employers: Souder, Miller and Associates, US Geological Survey (EDMAP Program), and Glorieta Geoscience, Inc.

HONORS, RECOGNITIONS, AND TRAINING

Strategic Facilitation Skills for Complex Conversations - ILR Scheinman Institute through the US Climate Alliance, August 2021
Diversity Equity and Inclusion Training - Environmental Leadership Program through the US Climate Alliance, April 2021
2019 Global Sustainability Summer School - Santa Fe Institute
Certified Public Official 2016; Certified Public Supervisor, 2018 - NM Education Designed to Generate Excellence
Awarded "Women as Game Changes" November 2013 - Sage Magazine

Docketed Matters

MENU

Environment Department Cabinet Secretary

Environmental Improvement Board

EIB 22-02 – New Mexico Environment Department's Submission of Periodic Review of 2021

EIB 22-03 – In the Matter of The Petition for Hearing Regarding Air Quality GCP Registration No, 0001M10 for the Dagger Draw Gas Plant – Frontier Field Services, LLC

EIB 21-66 (R) – In the Matter of Proposed 20.2.91 NMAC – New Motor Vehicle Emissions Standards

Petition for Regulatory Change to Adopt New Motor Vehicle Emission Standards 12/01/2021
Public Notice – English
Public Notice – Spanish
Order of Hearing Determination and Appointment of Hearing Officer 02/18/2022
Pre-Hearing Order 03/09/2022
Service List 03/15/2022
Entry of Appearance 03/28/2022
Amended Service List 03/28/2022
Click Here to Comment on this Hearing

EIB 21-48 Appeal Petition – Permit No. 8585 Associated Asphalt and Materials, LLC

On the Docket

For matters currently before boards, commissions and the Environment Department Secretary, visit our Docketed Matters page.

Information about how to join hearings and when they are scheduled is available on the Department's calendar.

Contact Us

Office of Public Facilitation

Ph: 505-660-4305
Fax: 505-827-1628

Hearing Officer
Paralegal
Hearing Clerk

Watch Later

Video recordings of hearings before the Secretary and boards and commissions, as well as boards and commissions meetings, are available on our YouTube channel.

NEW MEXICO ENVIRONMENTAL IMPROVEMENT BOARD
NOTICE OF RULEMAKING HEARING TO CONSIDER
ADOPTION OF PROPOSED 20.2.91 NMAC
EIB 21-66 (R)

The New Mexico Environmental Improvement Board ("EIB") will hold a joint public hearing with the Albuquerque-Bernalillo County Air Quality Control Board ("AQCB") on May 4, 2022, beginning at 9:00 am and continuing through May 6, 2022, to consider EIB 21-66 (R) - In the Matter of Proposed 20.2.91 NMAC – New Motor Vehicle Emissions Standards ("20.2.91 NMAC") via the web application WebEx. The hearing will last as long as required to hear all testimony, evidence, and public comment, and is expected to last approximately two days with the third day to be reserved for deliberations.

The hearing is being held via WebEx due to restrictions currently in place by Governor Lujan Grisham's Executive Orders and various emergency public health orders designed to protect the public and prevent the spread of COVID-19. The hearing location may change before the hearing date, and the Board may hold the hearing in person if circumstances allow. Even if the Board holds the hearing in person, the Board Administrator will provide teleconference or virtual access to those wishing to participate without being at the hearing in person. Those interested in attending should contact the Board Administrator at (505) 660-4305 or visit the New Mexico Environment Department ("NMED") calendar at https://www.env.nm.gov/events-calendar/. Meeting and access details will be available on the calendar entry corresponding to the hearing start date no later than April 22, 2022. The calendar entry will also inform the public if the hearing will also be held in person. All interested persons may submit comments to Board Administrator through the conclusion of the hearing.

The purpose of the public hearing is for the EIB to consider and take possible action on a petition by NMED requesting the EIB to adopt a new regulation, 20.2.91 NMAC (https://www.env.nm.gov/opf/wp-content/uploads/sites/13/2021/12/2021-12-01-EIB-21-66R-Petition-New-Vehicle-Emission-Stds-pj.pdf), which will set standards for low-emission and zero-emission light- and medium-duty vehicles delivered for sale in New Mexico. This regulation is part of a broader state effort to address greenhouse gas emissions and is being proposed in accordance with Governor Lujan Grisham's Executive Order on Addressing Climate Change and Energy Waste Prevention (EO 2019-003).

The proposed regulation is similar to 20.2.88 NMAC Emissions Standards for New Motor Vehicles that the EIB adopted during a joint hearing with the AQCB in 2007 and which was later repealed by the EIB. These proposed standards also relate to a rulemaking petition filed with the EIB by Climate Advocates in June 2021. To assure that the rule applies to the jurisdictions of both the EIB and of the AQCB and meets the identicality requirements of Section 177 of the Clean Air Act, the EIB and the AQCB will hold a joint hearing and deliberation to consider

20.2.91 NMAC and 20.11.104 NMAC (https://www.cabq.gov/airquality/regulation-development/clean-cars-i-regulation-documents), respectively. The EIB and the AQCB may independently decide on the proposed rule for their jurisdiction at the conclusion of the hearing or may convene later meetings for that purpose.

The Petition and related documents may be viewed on NMED's docketed matters website under the Environmental Improvement Board dropdown, in the section for EIB 21-66 (R) - In the Matter of Proposed 20.2.91 NMAC – New Motor Vehicle Emissions Standards. NMED's docketed matters website is at https://www.env.nm.gov/opf/docketed-matters/. Additional information is available on the Clean Cars webpage at https://www.env.nm.gov/the-road-to-clean-cars-new-mexico/. Interested persons may contact Claudia Borchert at (505) 699-8489 or cleancarsnm@state.nm.us with questions and comments concerning the proposed rule. The deadline for stakeholders and the public to submit written comments to NMED is 5 p.m., March 25, 2022.

The hearing will be conducted in accordance with: 20.1.1 NMAC, *Rulemaking Procedures – Environmental Improvement Board*; the *Environmental Improvement Act*, Section 74-1-9 NMSA 1978; the *Air Quality Control Act*, Section 74-2-6 NMSA 1978; and other applicable procedures.

Hearings and meetings of the Boards are open to the public and all interested persons are encouraged to participate. All interested persons will be given a reasonable opportunity at the hearing to submit relevant evidence, data, views, and arguments, orally and in writing; to introduce exhibits; and to examine witnesses. Any person wishing to submit a non-technical written statement for the record in lieu of oral testimony must file such a statement prior to the close of the hearing.

TECHNICAL TESTIMONY

Any person who wishes to present technical evidence at the hearing shall file a notice of intent at least 20 days prior to the hearing date to the Board Administrator including the docket number and the name of the regulation, EIB 21-66 (R)- In the Matter of Proposed 20.2.91 NMAC – New Motor Vehicle Emissions Standards. The notice of intent to present technical testimony shall: (1) identify the person for whom the witness(es) will testify; (2) identify each technical witness the person intends to present and state the qualifications of that witness, including a description of their educational and work background; (3) if the hearing will be conducted at multiple locations, indicate the location or locations at which the witnesses will be present; (4) include a copy of the direct testimony of each technical witness in narrative form; (5) include the text of any recommended modifications to the proposed regulatory change; and (6) list and attach all exhibits anticipated to be offered by that person at the hearing, including any proposed statement of reasons for adoption of rules.

ENTRY OF APPEARANCE

Any person who wishes to be treated as an interested participant and to cross-examine witnesses at the hearing shall file and serve upon all parties an entry of appearance at least 20 days prior to the hearing date. A timely notice of intent shall be considered an entry of appearance. The entry of appearance must identify the person wishing to be treated as an interested participant and any individual who may appear on behalf of that person.

Those wishing to submit non-technical testimony prior to the hearing may submit relevant evidence, data, views, and arguments to the Board Administrator: pamela.jones@state.nm.us, telephone (505) 660-4305, or Environmental Improvement Board Administrator, New Mexico Environment Department- Harold Runnels Building, P.O. Box 5469, Santa Fe, NM 87502. Those submitting non-technical public comment at the hearing or a non-technical written statement in lieu of oral testimony at or before the hearing should reference docket number EIB 21-66 (R).

If any person requires assistance, an interpreter, or an auxiliary aid to participate in this process, please contact the Board Administrator at least 14 days prior to the hearing date at 1190 St. Francis Drive, P.O. Box 5469, Santa Fe, NM 87502, telephone (505) 660-4305, or email pamela.jones@state.nm.us (TDD or TTY users please access the number via the New Mexico Relay Network, 1-800-659-1779 (voice); TTY users: 1-800-659-8331).

Notice of Nondiscrimination

NMED does not discriminate on the basis of race, color, national origin, disability, age or sex in the administration of its programs or activities, as required by applicable laws and regulations. NMED is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements implemented by 40 C.F.R. Part 7, including Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972. If you have any questions about this notice or any of NMED's non-discrimination programs, policies or procedures, you may contact: Kathryn Becker, Non-Discrimination Coordinator, New Mexico Environment Department, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. If you believe that you have been discriminated against with respect to a NMED program or activity, you may contact the Non-Discrimination Coordinator identified above. You may also visit NMED' s website at https://www.env.nm.gov/non-employee-discrimination-complaint-page/ to learn how and where to file a complaint of discrimination.

JUNTA DE MEJORA AMBIENTAL DE NUEVO MÉXICO
AVISO DE AUDIENCIA DE ELABORACIÓN DE NORMAS PARA CONSIDERAR
LA ADOPCIÓN DE LA PROPUESTA 20.2.91 NMAC
EIB 21-66 (R)

La Junta de Mejora Ambiental de Nuevo México ("EIB" por sus siglas en inglés) celebrará una audiencia pública conjunta con la Junta de Control de la Calidad del Aire del Condado de Bernalillo-Albuquerque ("AQCB" por sus siglas en inglés) el 4 de mayo de 2022, a partir de las 9:00 a.m. y hasta el 6 de mayo de 2022, para considerar la EIB 21-66 (R) - En el Asunto de la Propuesta 20.2.91 NMAC – Nuevos Estándares de Emisiones de Vehículos Motorizados ("20.2.91 NMAC") a través de la aplicación WebEx. La audiencia durará el tiempo necesario para escuchar todos los testimonios, las pruebas y los comentarios del público, y se espera que dure aproximadamente dos días y que el tercer día se reserve para las deliberaciones.

La audiencia se celebra a través de WebEx debido a las restricciones en vigor por las Órdenes Ejecutivas de la Gobernadora Lujan Grisham y varias órdenes de salud pública de emergencia diseñadas para proteger al público y prevenir la propagación del COVID-19. La ubicación de la audiencia puede cambiar antes de la fecha de la audiencia y la Junta puede celebrar la audiencia en persona si las circunstancias lo permiten. Incluso si la Junta celebra la audiencia en persona, la administradora de la Junta proporcionará acceso por teleconferencia o acceso virtual a quienes deseen participar sin tener que acudir a la audiencia en persona. Los interesados en asistir deben comunicase con la administradora de la Junta llamando al (505) 660-4305 o visitar el calendario del Departamento de Medio Ambiente de Nuevo México ("NMED" por sus siglas en inglés) por https://www.env.nm.gov/events-calendar/. Los detalles de la reunión y de acceso estarán disponibles en la entrada del calendario correspondiente a la fecha de inicio de la audiencia a más tardar el 22 de abril de 2022. La entrada del calendario también informará al público si la audiencia se celebrará en persona. Todas las personas interesadas podrán presentar sus comentarios a la administradora de la Junta hasta la conclusión de la audiencia.

El propósito de la audiencia pública es que la EIB considere y tome una posible acción sobre una petición de NMED que solicita a la EIB que adopte una nueva regulación, 20.2.91 NMAC (https://www.env.nm.gov/opf/wp-content/uploads/sites/13/2021/12/2021-12-01-EIB-21-66R-Petition-New-Vehicle-Emission-Stds-pj.pdf), que establecerá normas para los estándares de bajas emisiones y cero emisiones para los vehículos ligeros y medianos entregados para la venta en Nuevo México. Esta regulación es parte de un esfuerzo estatal más amplio para abordar las emisiones de gases de efecto invernadero y se propone de acuerdo con la Orden Ejecutiva de la Gobernadora Lujan Grisham para abordar el cambio climático y la prevención de desperdicio energético (EO 2019-003).

La regulación propuesta es similar a los estándares de emisiones 20.2.88 NMAC para Vehículos Motorizados Nuevos que la EIB adoptó durante una audiencia conjunta con la AQCB en 2007 y que posteriormente fue derogada por la EIB. Estas normas propuestas también están relacionadas con una petición de elaboración de normas presentada a la EIB por Climate Advocates en junio de 2021. Para garantizar que la norma se aplique a las jurisdicciones tanto de la EIB como de la AQCB y se cumpla igualmente los requisitos de la Sección 177 de la Ley del Aire Limpio, la EIB y la AQCB celebrarán una audiencia y deliberación conjuntas para considerar 20.2.91 NMAC y 20.11.104 NMAC (https://www.cabq.gov/airquality/regulation-development/clean-cars-i-regulation-documents), respectivamente. La EIB y la AQCB podrán decidir de forma independiente sobre la norma propuesta para su jurisdicción al término de la audiencia o podrán convocar reuniones después a tal efecto.

La Petición y los documentos relacionados pueden verse en el sitio web de *docketed matters* de NMED, en el menú desplegable de la Junta de Mejora Ambiental, en la sección de EIB 21-66 (R) - En el Asunto de la Propuesta 20.2.91 NMAC – Nuevos Estándares de Emisiones de Vehículos Motorizados. El sitio web de *docketed matters* de NMED se encuentra en https://www.env.nm.gov/opf/docketed-matters/. Hay disponible información adicional en la página web de Clean Cars en https://www.env.nm.gov/the-road-to-clean-cars-new-mexico/. Las personas interesadas pueden comunicarse con Claudia Borchert llamando al (505) 699-8489 o cleancarsnm@state.nm.us con preguntas y comentarios sobre la norma propuesta. La fecha límite para presentar comentarios por escrito de personas interesado a NMED es el 25 de marzo de 2022 hasta las 5:00 p.m.

La audiencia se llevará a cabo de acuerdo con: 20.1.1 NMAC*, Procedimientos de Elaboración de Normas – Junta de Mejora Ambiental; la Ley de Mejora Ambiental*, Sección 74-1-9 NMSA 1978; la *Ley de Control de la Calidad del Aire*, Sección 74-2-6 NMSA 1978; y otros procedimientos aplicables.

Las audiencias y reuniones de las Juntas están abiertas al público y se anima a todas las personas interesadas a que participen. Todas las personas interesadas tendrán una oportunidad razonable en la audiencia para presentar pruebas, datos, puntos de vista y argumentos pertinentes, oralmente y por escrito; presentar pruebas instrumentales y para interrogar a los testigos. Toda persona que desee presentar por escrito una declaración no técnica para que conste en acta en lugar de un testimonio oral deberá presentar dicha declaración antes del cierre de la audiencia.

TESTIMONIO TÉCNICO

Toda persona que desee presentar pruebas técnicas en la audiencia deberá presentar un aviso de intención al menos 20 días antes de la fecha de la audiencia a la administradora de la Junta, incluyendo el número de expediente y el nombre de la regulación, EIB 21-66 (R)- en el Asunto de la Propuesta 20.2.91 NMAC – Nuevos Estándares de Emisiones de Vehículos Motorizados. El

aviso de la intención de presentar testimonio técnicas deberá incluir: (1) identificar a la persona para la que testificará el testigo o testigos; (2) identificar a cada testigo técnico que la persona pretenda presentar e indicar las cualificaciones de dicho testigo, incluida una descripción de su historial académico y laboral; (3) si la audiencia se lleva a cabo en varios lugares, indicar el lugar o lugares en los que estarán presentes los testigos; (4) incluir una copia del testimonio directo de cada testigo técnico en forma narrativa; (5) incluir el texto de cualquier modificación recomendada del cambio regulatorio propuesto; y (6) enumerar y adjuntar todas las pruebas instrumentales que se prevé que ofrezca esa persona en la audiencia, incluida cualquier declaración propuesta de los motivos para la adopción de las normas.

REGISTRO DE COMPARECENCIA

Toda persona que desee ser tratada como parte interesada y desea interrogar a los testigos en la audiencia deberá presentar y entregar a todas las partes un registro de comparecencia al menos 20 días antes de la fecha de la audiencia. Un aviso de intención presentado a tiempo se considerará un registro de comparecencia. El registro de comparecencia deberá identificar a la persona que desea ser tratada como parte interesada y a cualquier persona que pueda comparecer en nombre de dicha persona.

Las personas que deseen enviar un testimonio no técnico antes de la audiencia pueden enviar las pruebas, datos, opiniones y argumentos pertinentes a la administradora de la Junta: pamela.jones@state.nm.us, teléfono (505) 660-4305, o a la dirección postal Environmental Improvement Board Administrator, New Mexico Environment Department- Harold Runnels Building, P.O. Box 5469, Santa Fe, NM 87502. Las personas que presenten comentarios públicos no técnicos en la audiencia o una declaración no técnica por escrito en lugar de un testimonio oral en la audiencia o antes de ella deben hacer referencia al número de expediente EIB 21-66 (R).

Si alguna persona necesita asistencia, un intérprete o un dispositivo auxiliar para participar en este proceso, comuníquese con la administradora de la Junta al menos 14 días antes de la fecha de la audiencia en 1190 St. Francis Drive, P.O. Box 5469, Santa Fe, NM 87502, teléfono (505) 660-4305, o correo electrónico pamela.jones@state.nm.us (los usuarios de TDD o TTY pueden acceder al número a través de la Red de Retransmisión de Nuevo México, 1-800-659-1779 (voz); usuarios de TTY: 1-800-659-8331).

Aviso de no discriminación

NMED no discrimina por motivos de raza, color, nacionalidad, discapacidad, edad o sexo en la administración de sus programas o actividades, como lo exigen las leyes y reglamentos aplicables. El NMED es responsable de la coordinación de los esfuerzos de cumplimiento y la recepción de las consultas relativas a los requisitos de no discriminación implementados por 40 C.F.R. Partes 5 y 7, incluyendo el Título VI de la Ley de Derechos Civiles de 1964, con sus enmiendas; la Sección 504 de la

Ley de Rehabilitación de 1973; la Ley de Discriminación por Edad de 1975, el Título IX de las Enmiendas de Educación de 1972, y la Sección 13 de las Enmiendas de la Ley Federal de Control de Contaminación del Agua de 1972. Si tiene alguna pregunta sobre este aviso o cualquiera de los programas, políticas o procedimientos de no discriminación del NMED, o si cree que ha sido discriminado con respecto a un programa o actividad del NMED, puede ponerse en contacto con: Kathryn Becker, coordinadora de no discriminación, NMED, 1190 St. Francis Dr., Suite N4050, P.O. Box 5469, Santa Fe, NM 87502, (505) 827-2855, nd.coordinator@state.nm.us. También puede visitar el sitio web de NMED en https://www.env.nm.gov/non-employee-discrimination-complaint-page/ para saber cómo y dónde presentar una queja por discriminación.