

STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD AND THE
ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

IN THE MATTERS OF PROPOSED 20.2.91 NMAC -
NEW MOTOR VEHICLE EMISSION STANDARDS, EIB No. 21-66(R)
AND
THE PETITION TO REPEAL EXISTING RULE
20.11.104 NMAC AND ADOPT PROPOSED AQCB No. 2022-01
REPLACEMENT RULE 20.11.104 NMAC

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that on the 4th day of May, 2022, the
above-entitled matter came on for hearing before the New
Mexico Environmental Improvement Board and the
Albuquerque-Bernalillo County Air Quality Control Board,
taken at the Albuquerque Convention Center, 401 Second
Street, Northwest, Rooms 215 and 235 and through Cisco
WebEx Video Conference, commencing at 9:00 a.m.

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1 HEARING OFFICER ORTH: Good morning, everyone.
2 My name is Felicia Orth. I'm the Hearing Officer
3 appointed by the two Boards that I am flanked by here on
4 the dais, with some Board members joining virtually.

5 Over here, we have the Albuquerque-Bernalillo
6 County Air Quality Control Board, and here we have the
7 Environmental Improvement Board. We are doing our second
8 ever joint hearing under the Air Quality Act to address
9 new motor vehicles emission standards. The Act
10 effectively requires that the Boards make their decisions
11 in the same time frame and a joint hearing was the best
12 way to do that.

13 The petitions we are taking up today come from
14 the Albuquerque-Bernalillo County Board, from the City of
15 Albuquerque Environmental Health Department, and that
16 petition was docketed as AQCB 2022-01. The petition
17 before the state Board, the EIB was filed by the New
18 Mexico Environment Department, and that petition was
19 docketed as EIB 21-66. Each of those petitioners,
20 obviously, and we have representatives from each of the
21 petitioners there at the table are parties in the matter.

22 We have a third party as well: The Clean Air
23 Advocates, which includes Conservation Voters of New
24 Mexico, the Natural Resources Defense Council, Prosperity
25 Works, Sierra Club, Southwest Energy Efficiency Project,

1 Western Resource Advocates, New Mexico Voices for
2 Children, New Mexico Environmental Public Health Network
3 and the Center for Civic Policy.

4 Please if you -- I believe most of you in the
5 room have already been part of this discussion that we had
6 right before going on the record, but there was a message
7 pinned for about an hour on the platform, noting that if
8 in fact you're joining us with a computer, you need to go
9 to small image of a globe in the lower left-hand of your
10 screen, and change it off of the words "audio floor,
11 original floor," and choose either English or Spanish,
12 whichever language you're more comfortable in.

13 We have interpretation provided during most of
14 the hearing, and that interpretation is being provided
15 simultaneously. So you will be able to hear that if
16 you're on the platform, between English and Spanish. No
17 requests were made for Vietnamese interpretation.

18 In the event we have a Spanish speaker with us in
19 the room, not on the platform, we will switch briefly to
20 consecutive interpretation, but we'll talk about that if
21 that occurs.

22 The two Board rulemaking rules, EIB 20.1.1 of the
23 New Mexico Administrative Code and AQCB 20.11.82 of the
24 New Mexico Administrative Code, include very similar
25 provisions for the procedures we'll follow in this

1 rulemaking. We'll hear opening statements from the three
2 parties. The petitioners will make their presentations,
3 presenting testimony and documentary evidence. Then, the
4 Clean Air Advocates will present its testimony and
5 documentary evidence.

6 Both Board rules call for all testimony to be
7 given under oath and to be subject to cross-examination.
8 And as to cross-examination, let me offer that I call
9 first on the other parties to cross-examine any witnesses;
10 then I call on the Board members, and I will call on you
11 individually so that we have a clear record, and then I
12 invite questions from the public.

13 Now, if you are in the room with us, it's easy
14 enough to raise your hand if you're a member of public,
15 and have a question of a witness. If you are on the
16 platform, please reach out to me through Chat and say, you
17 know, this is my question. And I'll convey the question
18 to the witness and we'll get your questions answered.

19 Some of the witnesses will be testifying as part
20 of a panel, which means we'll hear their direct testimony,
21 each and all of them, before questions are posed to all of
22 them collectively. We find that that is the best way
23 really for people to get their questions answered, without
24 necessarily being able to distinguish between or among the
25 expertise of each witness. You're going to get your

1 question answered by the person who is best able to answer
2 it.

3 In addition to the technical testimony we'll
4 hear, we will have public comment. Public comment
5 sessions are today at 1 p.m. and 7 p.m., and tomorrow at
6 9 a.m. and 1 p.m. Now, some folks have already sent an
7 email to either Stephanie Apodaca, who is the City Board
8 Administrator, or Pam Jones, who is the state Board
9 Administrator, to identify the session that they want to
10 speak at. I have their names. I will call on them
11 expressly. We will unmute you. Video is not a part of
12 public comment, but I will call on you expressly.

13 If you haven't sent your name, that's perfectly
14 fine. I will issue an open invitation and you just have
15 to let me know through Chat that you would like to offer
16 comment. Please collect your thoughts. Public comment is
17 given only once and there's a five-minute time limit. To
18 the extent you have more to say than can fit in five
19 minutes, I invite you to join the hundreds of other folks
20 who have submitted written public comment, again, to
21 either Stephanie Apodaca or Pam Jones. Please send an
22 email to either one of them, you will find their contact
23 information on the respective web pages.

24 Speaking of the web pages, we have tried to have
25 a complete overlap of all of the documents: common

1 testimony, Notices of Intent, all of the exhibits on both
2 web pages. Although the City Board will be taking up the
3 City Petition and the state Board will be taking up the
4 state Petition, we have tried to make it as easy as
5 possible for folks to find all of the information relating
6 to this matter on each web page.

7 Let's see here. Chat, you'll notice on the
8 virtual platform that everyone is limited to chatting with
9 the host. And please know that Chat is not a way to
10 provide public comment. If you want to provide public
11 comment, it would be through email to one of the Board
12 Administrators. Chat, really, is only for, if you will,
13 technical challenges.

14 Let's see here. The hearing is being recorded
15 and transcribed by Theresa DuBois, of Albuquerque Court
16 Reporters. And we are also hopefully recording it on the
17 platform. The recording does not always work, though, so
18 please understand that you may or may not be able to rely
19 on that.

20 Earlier this morning, we had live mics, mics that
21 were live at all times. They have reconfigured them now
22 so that -- in order to make it live, you press the --
23 press the button that says "Push." And then to turn it
24 off, press that button again. The City has provided us
25 with coffee and water there against the wall in the room.

1 We will take both a lunch break and a dinner break. Those
2 breaks will be at least an hour so that folks can navigate
3 downtown Albuquerque if they need to leave the Convention
4 Center for lunch and breakfast.

5 Let's see here. I believe Ms. Apodaca has some
6 extra copies of the Notices of Intent to present technical
7 testimony. So if you'd like to follow along, please
8 approach her. We also have FAQ sheets that were provided
9 for both the rulemaking, and at least the folks of the
10 dais and other folks will find common acronyms.
11 Environmental law is an acronym-heavy endeavor.

12 So, let me ask if the Board members would be
13 willing to introduce themselves. And I'll start with the
14 folks in the room and I'll start here, Madam Chair,
15 Ms. Meiklejohn.

16 MS. MEIKLEJOHN: Good morning. I'm Chair
17 Meiklejohn; I would like to thank everyone who has put so
18 much work into making this happen. I would like to
19 acknowledge my fellow Board members who volunteer. Their
20 time has really helped us get here today. I'd like to
21 thank all of the public who are participating remotely.
22 It's very nice to see everyone, and I look forward to
23 proceeding on this matter.

24 VICE-CHAIR PAUL: Good morning, everyone. I'm
25 Vice-Chair for the Albuquerque-Bernalillo County Air

1 Quality Control Board. My name is Maxine Paul. In my day
2 job I administer environmental programs for the pueblo of
3 Santa Ana. Thank you for being here.

4 BOARD MEMBER RICHARDS: Good morning. My name is
5 Kitty Richards. And thank you so much for participating
6 in this hearing.

7 BOARD MEMBER CALMAN: Good morning. My name is
8 Judy Calman. That was scary. What happened?

9 let me try this again. Good morning. My name is
10 Judy Calman. I'm an Air Board member representing the
11 county.

12 MS. SEDILLO-LOPEZ: Good morning. My name is
13 Antoinette Sedillo-Lopez. I'm the Air Quality Control
14 Board attorney.

15 HEARING OFFICER ORTH: Do I understand, Madam
16 Chair, that we have Member Reitzel on the virtual
17 platform?

18 CHAIRPERSON MEIKLEJOHN: Yes.

19 HEARING OFFICER ORTH: All right. Member
20 Reitzel, can you hear me?

21 BOARD MEMBER REITZEL: Yes. Yes, I can. Can you
22 hear me?

23 HEARING OFFICER ORTH: Yes.

24 BOARD MEMBER REITZEL: Okay. My name is
25 Elizabeth Reitzel; I'm representing the City of

1 Albuquerque here today at Air Quality Control Board this
2 morning.

3 HEARING OFFICER ORTH: Thank you very much. We
4 certainly appreciate your hospitality here.

5 I turn now to the state Board members. We'll do
6 the folks in person first. Vice-Chair.

7 VICE-CHAIR TRUJILLO-DAVIS: Good afternoon. My
8 name is Amanda Trujillo-Davis. I am the Vice-Chair for
9 the Environmental Improvement Board. And thank you all
10 for being here.

11 BOARD MEMBER GARCIA: Hello, my name is Karen
12 Garcia. I'm with the Environmental Improvement Board. I
13 come from Santa Fe.

14 HEARING OFFICER ORTH: Ms. Soloria.

15 MS. SOLORIA: Good morning. My name is Karla
16 Soloria. I'm an Assistant Attorney General and I have the
17 pleasure of serving as the Administrative Board counsel.

18 HEARING OFFICER ORTH: Okay. Thank you all.
19 Let's have appearances from the parties then.

20 Ms. Sona, would you like to start?

21 MS. SONA: Good morning. Thank you. Madam
22 Hearing Officer, Madam Chairs and members of the Boards,
23 my name is Kelsea Sona; I am the Assistant City Attorney
24 representing the Environmental Health Department this
25 morning. And with me today are my witnesses: Director

1 Martinez, Kelsey Rader and Ken Miller. Thank you.

2 HEARING OFFICER ORTH: Thank you.

3 Mr. Knight.

4 MR. KNIGHT: Good morning. Madam Hearing
5 Officer, should we introduce the other Board members?

6 HEARING OFFICER ORTH: I realized I had moved to
7 the in-person element. So thank you for that.

8 Madam Chair Suina, I know you're on the platform.

9 CHAIRPERSON SUINA: Yes. Good morning,
10 everybody. I hope everybody is doing well today. My name
11 is Phoebe Suina, and I appreciate everybody that's here
12 today and the Boards here for deliberation.

13 HEARING OFFICER ORTH: Thank you very much.

14 Member Bitzer. Member Bitzer, I see you on the
15 screen.

16 BOARD MEMBER BITZER: Yeah. This is Barry
17 Bitzer. I'm with the Board also and I hail from Corrales.

18 HEARING OFFICER ORTH: Thank you.

19 And Member Cates, I see you on the screen. But I
20 cannot hear you.

21 BOARD MEMBER CATES: Good afternoon.

22 (Unintelligible and/or inaudible.)

23 BOARD MEMBER CATES: Is that better?

24 HEARING OFFICER ORTH: There seems to be a delay.

25 Can you speak up one more time?

1 BOARD MEMBER CATES: Yes.

2 (Unintelligible and/or inaudible.) So -- for the
3 country. I just want to say good morning to everyone.
4 Thank you.

5 HEARING OFFICER ORTH: Thank you, Member Cates.
6 Other than the delay your voice is coming through clearly.

7 I believe that's all of the state Board members
8 we have present. So let me return to you.

9 BOARD MEMBER CATES: A question -- Hearing
10 Officer Orth, may I ask a quick question?

11 HEARING OFFICER ORTH: Yes, sir.

12 BOARD MEMBER CATES: You mentioned a dinner
13 break. I was under the impression that this has been
14 noticed as a 9 to 5 hearing; is that incorrect?

15 HEARING OFFICER ORTH: That's incorrect, Member
16 Cates. We have a 7 p.m. public comment session. At the
17 moment we have no one signed up to offer comment, but we
18 will still be accepting whatever public comment there is
19 to be given at that time.

20 BOARD MEMBER CATES: Okay. Thank you.

21 HEARING OFFICER ORTH: Let me see. So, now,
22 we're going back to Mr. Knight.

23 MR. KNIGHT: Thank you. Madam Hearing Officer,
24 Madam Chairs, Board members, my name is Andrew Knight. I
25 am Assistant General Counsel for the New Mexico

1 Environment Department. And with me today are my
2 witnesses: Rebecca Roose, Liz Bisbey-Kuehn, Claudia
3 Borchert and Mr. Chuck Shulock.

4 HEARING OFFICER ORTH: Thank you very much.
5 And I see Mr. de Saillan on the screen.

6 MR. DE SAILLAN: Thank you, Madam Chairs, Madam
7 Hearing Officer. Good morning. Good morning to the Board
8 members of both Boards and to the other parties that are
9 present. My name is Charles de Saillan and I am here
10 along with David Baake, representing the Clean Air
11 Advocates.

12 HEARING OFFICER ORTH: Thank you. And Mr. Baake.

13 MR. BAAKE: Yes. Good morning, Madam Hearing
14 Officer. Good morning Board members and fellow parties.
15 I am here also on behalf of Clean Air Advocates. And I
16 see my -- one of my witnesses Kathy Harris is also on the
17 line. We'll have two other witnesses, I'm not sure if
18 they were able to join yet: Matthew Campen and JoAnna
19 Strother. So thank you -- I thank everyone very much.
20 We're very excited to be here.

21 HEARING OFFICER ORTH: Thank you very much.

22 Are there any other preliminary administrative
23 matters before I invite opening statements from the
24 parties? Other than just a reminder, to turn off your
25 microphone if you are not actively speaking. Nothing

1 else? All right, then.

2 In that case, Mr. Knight, will you be starting us
3 off?

4 MR. KNIGHT: Yes. Thank you.

5 OPENING STATEMENT BY MR. KNIGHT

6 MR. KNIGHT: We are before you here today in an
7 unusual joint hearing to adopt so-called clean cars
8 automobile emission standards; one set of standards for
9 both the Albuquerque-Bernalillo County jurisdiction and
10 the rest of the state. This will be for all new motor
11 vehicles sold in both jurisdictions beginning with model
12 year 2026. A joint hearing is necessary in this case
13 because the federal Clean Air Act requires that the
14 standards adopted by each jurisdiction be identical.

15 Under federal law, California is the only state
16 that is allowed to make its own automobile emissions
17 standards, and states can either follow the federal
18 standard, as we currently do, or adopt the California
19 standard, which a number of other states have already
20 done, and which is what we are proposing here today.

21 The current California standards are also known
22 as Advanced Clean Cars 1 or ACC 1. Historically, the
23 California standard has been more stringent than the
24 federal standard, and manufacturers used to make two
25 variants of each car model; one to be sold in California

1 and one for the rest of the country. However, this is no
2 longer the case. At the moment, the federal standard and
3 the California standard are very closely aligned and
4 virtually all new cars sold in the U.S. are now "50 state
5 cars," because it is simply easier for the manufacturers
6 to make one version of each car model that can be sold
7 anywhere in the U.S. As a result, we can adopt the
8 California standard now with very little impact to
9 manufacturers or the dealers.

10 Right now, the main effect of this proposed rule
11 is that it will incentivize manufacturers to send more
12 battery electric fuel cell and plug-in hybrid vehicles to
13 New Mexico. Currently, we are missing out on a lot of
14 these vehicles that are being preferentially shipped to
15 California and the other so-called "Section 177 states."
16 The proposed rule will also act as a backstop in case the
17 current federal standards are either rolled back in the
18 future or overturned by a Court.

19 As the state and city witnesses will describe,
20 motor vehicle emissions are causing injury to public
21 health and welfare, as motor vehicles emit pollutants in
22 areas that are close to nonattainment for ozone and fine
23 particulate matter. And automobiles are the largest
24 source of greenhouse gases in the City of Albuquerque.
25 Reducing this pollution is, therefore, in the public

1 interest.

2 California has fully explored the technical
3 practicability and economic reasonableness of these
4 standards when it adopted them years ago. And the U.S.
5 EPA approved that analysis when it granted the necessary
6 waivers under federal law. You will hear several
7 witnesses describe how the standards are technically and
8 economically feasible and how they have real benefits in
9 terms of lower emissions, especially over time.

10 My witnesses today include NMED Deputy Secretary
11 Rebecca Roose; Liz Bisbey-Kuehn, our Air Quality Bureau
12 Chief; the Department's Climate Change Policy Coordinator,
13 Claudia Borchert. And Chuck Shulock is our consultant and
14 technical expert on the California regulations. Our
15 witnesses will be testifying in panels, as indicated
16 today, so please hold your questions if you can until each
17 member of a particular panel has testified. Thank you.

18 HEARING OFFICER ORTH: Thank you, Mr. Knight.

19 Ms. Sona?

20 OPENING STATEMENT BY MS. SONA

21 MS. SONA: Good morning, everyone. I'm really
22 excited to be here today with all of you for our clean
23 cars hearing. As I listed earlier, my name is Kelsea
24 Sona. And I represent the City of Albuquerque regarding
25 the public notice of this hearing today, and for an

1 inclusion in the record, EHD offers our composite Exhibits
2 46a to 46c, which include the public notices made by the
3 Air Board in the Albuquerque Journal and the New Mexico
4 Register, as well as those sent by electronic means.
5 These notices were made in accordance with the regulation
6 20.11.82.19 NMAC.

7 Today, we're requesting that the Air Board take
8 two actions: First, to repeal the existing rule 20.11.104
9 NMAC, and to adopt the new proposed replacement rule for
10 20.11.104 NMAC. The existing rule is outdated. It's
11 legally invalid and it's not an enforceable regulation
12 right now. It has to be repealed before it can be
13 replaced.

14 Testimony today will explain the history of how
15 this came to be, as well as you can find more details in
16 our Statement of Reasons. Like the Environment
17 Department's proposal, EHD's rule also adopts the State of
18 California's current motor vehicle standards for model
19 year 2026 and subsequent model years. The proposed local
20 rule is merely identical to the State's. Together, the
21 rules will create a statewide program for statewide
22 compliance.

23 This joint hearing today is appropriate because
24 the two Boards operate under the same statutory authority;
25 they have the same standards for adopting rules, and both

1 of the rules are supported by a common set of evidence. I
2 want to touch briefly -- and I promise briefly, on the
3 most recently amendments to the State's Air Quality
4 Control Act, through last year's passage of Senate Bill 8,
5 which became effective on July 1st, 2021. The amendment
6 set federal law as the floor on the standards that the
7 Boards may set for the control of motor vehicle emissions.
8 While allowing more stringent standard, as long as they
9 are shown to be more protective of human health and the
10 environment.

11 The federal Clean Air Act has three options for
12 motor vehicles emissions standards, two of which apply
13 here in New Mexico. First, there's the authority for the
14 EPA to set federal motor vehicle emissions standards, and
15 these are the standards that apply in New Mexico right
16 now. You will hear more about these from the witnesses
17 today.

18 Second, the Clean Air Act has special authority
19 for only California, to adopt standards that are stricter
20 than the federal ones. Third, and lastly, Section 177 of
21 the Clean Air Act authorizes states like New Mexico to
22 adopt the stricter California standards. So, by adopting
23 California standards through the proposed Clean Car Rule,
24 it is an action directly authorized by federal law. The
25 proposed Clean Car Rule comports with the Clean Air Act

1 and is not more stringent than what federal law
2 authorizes.

3 This means that the new additional text adopted
4 by SBA for more stringent standards does not apply to the
5 proposed Clean Car Rule, which is not more stringent than
6 the Clean Air Act. However, even if the Boards do decide
7 to apply this text, the proposed rule is more protective
8 of public health and the environment than the motor
9 vehicle standards promulgated under federal law.

10 As I mentioned in my introduction, our witnesses
11 today for the Environmental Health Department will be
12 Angel Martinez, Jr., the Director of EHD; Kelsey Rader,
13 the City's Sustainability Officer; and Ken Miller, the Air
14 Quality Regulation Development Coordinator for the Control
15 Strategies Division of EHD. Thank you.

16 HEARING OFFICER ORTH: Thank you, Ms. Sona.

17 Mr. De Saillan or Mr. Baake?

18 OPENING STATEMENT BY MR. BAAKE

19 MR. BAAKE: Just quickly, Madam Hearing Officer.
20 Thank you so much for the opportunity to present today.
21 Thank you, members of the Board as well. We are -- our
22 position represents thousands of New Mexicans of various
23 groups that I think most of the Board members may be
24 familiar with: NRDC, the Sierra Club, Prosperity Works,
25 and for the full list here.

1 And why we are -- we are here to support the
2 rulemaking. We believe it's very important both in terms
3 of the benefits of air quality in the Albuquerque area as
4 well as other parts of New Mexico that are experiencing
5 ozone exceedances, as well as helping us get on track to
6 achieve our planet goals.

7 And we also believe they will provide many
8 benefits for New Mexico consumers and we'll be presenting
9 some testimony on that by including consumers who we
10 believe this rule will greatly benefit from the greater
11 availability of battery and electric vehicles, plug-in
12 hybrids and fuel cell vehicles in our state, in terms of
13 fuel savings and in terms of the local environmental
14 benefits as well.

15 So, again, thank you very much. And we look
16 forward to presenting our testimony and hearing the
17 testimony of the other parties.

18 HEARING OFFICER ORTH: Thank you very much,
19 Mr. Baake.

20 Mr. Knight, are you ready to call your first
21 witnesses?

22 And while I'm at it, let me just point to the
23 witness table. This is the table from which witnesses
24 will be speaking -- the technical witnesses. And the
25 podium; the podium can be used by counsel calling their

1 witnesses. The podium can also be used by those asking
2 questions of the witnesses from the public, and, of
3 course, the podium can be used to offer public comment
4 unless you're more comfortable sitting, in which case,
5 commenters can sit at this table as well.

6 Mr. Knight.

7 MR. KNIGHT: Yes. I'd like to call my first
8 witness, Rebecca Roose.

9 HEARING OFFICER ORTH: Ms. Roose, if you would
10 please. Do you swear or affirm to tell the truth?

11 REBECCA ROOSE,
12 having been first duly sworn, was examined and
13 testified as follows:

14 DIRECT EXAMINATION

15 BY MR. KNIGHT:

16 Q. Please state your full name and spell it for the
17 court reporter.

18 A. My name is Rebecca Roose. First name is
19 R-E-B-E-C-C-A. Last name is Roose, R-O-O-S-E.

20 Q. And how long have you been with the Environment
21 Department?

22 A. Approximately, three years.

23 Q. And what is your current position there?

24 A. Deputy Cabinet Secretary of Administration.

25 Q. Before joining the Environment Department, did

1 you work for the U.S. EPA?

2 A. I did.

3 Q. And for how long was that?

4 A. I worked for U.S. EPA for approximately 13 years.

5 HEARING OFFICER ORTH: Just one moment.

6 A. I got it, I think. Sorry about that.

7 Let me repeat that last answer because my mic
8 wasn't on. Thank you. I worked for U.S. EPA for 13
9 years.

10 Q. (BY MR. KNIGHT) And did you submit written
11 testimony in this matter?

12 A. Yes, I did.

13 Q. And is that Exhibit 1 in our Notice of Intent?

14 A. Yes.

15 Q. And do you have any corrections or changes that
16 you would like to make to that testimony at this time?

17 A. No, I do not.

18 Q. Okay. With that, do you adopt that written
19 testimony as your testimony here today?

20 A. Yes.

21 Q. And could you now provide us with a summary of
22 your written testimony?

23 A. Yes. It would be my pleasure.

24 Chairs, members of the Board, good morning. My
25 written testimony covers several important points. I

1 explain Governor Michelle Lujan Grisham's support for the
2 clean car standards. I explain how the standards fit into
3 the broader context of New Mexico's effort to control
4 greenhouse gas emissions and I explain how the standards
5 fit into the state's Ozone Attainment Initiative.

6 The standards proposed today are an important
7 part of New Mexico's overall effort to address climate
8 change by reducing greenhouse gas emissions in the
9 transportation sector. These standards are also the
10 second part of the state's Ozone Attainment Initiative,
11 following the ozone precursor rules recently adopted by
12 the Environmental Improvement Board.

13 This is not the first time the Department has
14 been before these Boards with a proposal to adopt clean
15 car standards. The last time was in 2007, when, like,
16 today, the Board held a joint hearing to adopt nearly
17 identical clean car standards for both jurisdictions.

18 HEARING OFFICER ORTH: Ms. Roose, slow down just
19 a little bit.

20 THE WITNESS: Okay. Thank you.

21 A. The EIB subsequently rescinded their part of the
22 rules in 2013. At that point the operative vehicle
23 standards for the state became the federal standards and
24 this remains the case today.

25 New Mexico is already experiencing the impacts of

1 climate change and credible forecasts call for more
2 significant adverse impacts if we do not act now. The
3 economic costs of inaction in this area are high, while
4 the benefits associated with reduced emissions are very
5 real.

6 A 2020 study from the Energy and Environmental
7 Economics, Inc. analyzed New Mexico's 2018 greenhouse gas
8 emissions in detail, giving us the best estimates to date
9 of our recently and rejected emissions, as shown in the
10 Department's Exhibit 5. The study found that while the
11 oil and gas sector was the largest source of greenhouse
12 gas emissions, transportation is the second largest source
13 in New Mexico, followed by electricity generation.

14 In January of 2019, during her first month in
15 office, Governor Lujan Grisham signed Executive Order
16 2019-03 on addressing climate change and energy waste
17 prevention, which is Exhibit 6 in our Notice of Intent.

18 The Executive Order establishes an aggressive
19 statewide emissions reduction goal of at least 45 percent
20 below 2005 levels by the year 2030. The Executive Order
21 established a task force and directed it to evaluate
22 policies and regulatory strategies to meet the emission
23 reduction target, including "adoption of approaches to
24 reduce greenhouse gas and criteria pollutant emissions
25 from light duty vehicles sold in the state, including Low

1 Emission Vehicle or LEV emission standards and Zero
2 Emission Vehicles or ZEV performance standards."

3 The Environment Department is before you today to
4 follow through on the Executive Order directives related
5 to the adoption of low emission and zero emission vehicles
6 standards. These standards will reduce emissions of
7 greenhouse gases while increasing the availability of zero
8 emission vehicles in our state. These rules are a first
9 step in aligning New Mexico's regulatory framework with
10 the course set by the Biden administration and the auto
11 manufacturers. Collectively, the auto industry has
12 committed to investing more than 330 billion dollars to
13 bring new electric vehicles to the global market by 2025.
14 This includes plug-in hybrids, battery and fuel cell
15 electric vehicles.

16 Beyond the standards we are proposing today, the
17 Department and the City of Albuquerque are also looking
18 down the road and considering additional strategies for
19 reducing emissions in New Mexico's transportation sector.
20 After the current rulemaking proceeding concludes, the
21 next step for New Mexico is to consider the rules that the
22 California Air Resources Board, known as CARB, will hear
23 this summer, and that CARB plans to finalize by the end of
24 this year. Those are known as Advanced Clean Cars II.
25 The Department is also evaluating California's Advanced

1 Clean Truck Regulation to determine if it is suitable for
2 New Mexico.

3 The rule before the Board today and future
4 actions it will take to further reduce emissions from the
5 transportation sector are important for the health of our
6 families and fellow New Mexicans. Low income and
7 disproportionately impacted communities are hit the
8 hardest by both air pollution and climate change. These
9 communities bear the brunt of the adverse impacts to
10 health, food and security, and economic upheaval, with
11 fewer resources to adopt. By increasing availability and
12 reducing prices of electric vehicles and by reducing
13 health impacts from air pollution, adoption of the
14 proposed Clean Car Rule will advance climate justice in
15 New Mexico.

16 The Air Quality Control Act requires that the EIB
17 adopt regulations as part of its plan to address rising
18 ozone concentrations. The Ozone Precursor rule for the
19 oil and gas sector and Part 50 was the first step in that
20 direction. Because on-road vehicles, and in particular,
21 light duty cars and trucks are also a major source of
22 harmful ozone forming pollutants, the proposed Clean Car
23 Rule is positioned to be the next step in our statewide
24 efforts to reduce ground level ozone.

25 The standards are one of several measures being

1 implemented in New Mexico to combat climate change and
2 rising ozone concentrations, and New Mexico is one of many
3 states adopting these same standards. The Clean Car Rule
4 is an important part of the solution and offers a
5 practical and cost effective method to curb these
6 emissions.

7 Thank you. I appreciate the opportunity to
8 provide testimony this morning.

9 MR. KNIGHT: Thank you.

10 And now, Madam Hearing Officer, we would like to
11 offer the City the chance to call their first witness.

12 HEARING OFFICER ORTH: Thank you very much. And
13 these are part of a witness panel?

14 MR. KNIGHT: Yes.

15 HEARING OFFICER ORTH: Thank you.

16 You can stay there, Ms. Roose.

17 MS. SONA: Thank you. I would like to call
18 director Angel Martinez, Jr.

19 HEARING OFFICER ORTH: Mr. Martinez, do you swear
20 or affirm to tell the truth?

21 THE WITNESS: Yes.

22 ANGEL MARTINEZ, JR.,
23 having been first duly sworn, was examined and
24 testified as follows:

25 DIRECT EXAMINATION

1 BY MS. SONA:

2 Q. Good morning, Director Martinez. Could you
3 please state and spell your name for the record.

4 A. Angel Martinez, Jr. A-N-G-E-L, M-A-R-T-I-N-E-Z,
5 J-R.

6 Q. Thank you. And is your mic on?

7 A. No.

8 Q. Okay. Thank you. And where do you work and what
9 is your position?

10 A. I'm the director of the Environmental Health
11 Department for the City of Albuquerque.

12 Q. And what does that role entail?

13 A. On a relevant day, my role includes overseeing
14 the Albuquerque-Bernalillo County joint Air Quality
15 Control Program, which administers and enforces local air
16 quality laws for the City and the County on behalf of the
17 Department.

18 Q. Thank you. And have you worked for the City
19 previously?

20 A. Yes. I worked for the City as the first
21 environmental regulatory compliance specialist with the
22 Solid Waste Department, later moved to the Environmental
23 Health Division -- Department, rather, where I served in
24 several capacities, to include regulatory development,
25 permitting, enforcement and then, ultimately, the

1 environmental health manager for the air quality program.

2 Q. And did you submit written testimony in this
3 matter?

4 A. Yes, it is included as NMED/EHD Exhibit 27, which
5 references NMED/EHD Exhibits 28, 33 and 34.

6 Q. And do you have any corrections to that testimony
7 today?

8 A. No.

9 Q. With that, do you adopt the written testimony as
10 your testimony here today?

11 A. Yes.

12 Q. And could you please provide a summary of that?

13 A. Yes.

14 Q. Thank you.

15 A. Good morning, Madam Hearing Officer, Board Chairs
16 and members of the Board. My name is Angel Martinez, Jr.,
17 and I'm the director of the City -- the City's
18 Environmental Health Department for the City of
19 Albuquerque. And I'm pleased to be here this morning to
20 testify in support of EHD's clean cars petition, which my
21 Department filed pursuant to its role to propose
22 regulations to the Air Quality Control Board, that
23 constitutes a plan for controlling air pollution.

24 We are coming to you today because we are
25 concerned about the health of the citizens of

1 Albuquerque-Bernalillo County and also the health of our
2 environment. Minorities and low income residents are more
3 likely to reside near major roadways or in areas where
4 there is more traffic than not.

5 Since the proposed Clean Car Rule is all about
6 lowering emissions of the air pollution from vehicles, I
7 will -- it will benefit those sectors of our society
8 living and working near major roadways and areas with high
9 traffic, as well as improve air quality for all who enjoy
10 the many natural wonders of our state.

11 How exactly the proposed regulations will work
12 and what the resulting program will look like will be
13 explained in detail later in this hearing. But broadly
14 speaking, the proposed Clean Car Rule will help address
15 three important concerns: Number 1, the long-term impacts
16 of climate change; number 2, the effects of elevated
17 ground-level ozone concentrations; and number 3, the
18 effects of exposure to particulate matter, especially fine
19 particles.

20 Adopting the proposed Clean Car Rule will reduce
21 greenhouse emissions from motor vehicles. The effect of
22 climate change are becoming impossible to ignore,
23 particularly here in the western United States. This is
24 an issue of utmost importance to my boss, Mayor Keller,
25 who, in 2018, signed a pledge joining the Climate Mayors,

1 committing Albuquerque to the goals of the Paris Climate
2 Agreement, and vowing to intensify the City's efforts to
3 meet them and to work together with other cities and
4 states to create a clean energy economy.

5 The Albuquerque City Council has also recognized
6 the existential nature of the threat posed by climate
7 change. In 2019, the City Council voted unanimously to
8 adopt a resolution declaring a climate emergency,
9 committing the City to its own transition and climate
10 emergency mobilization effort, and calling on governments
11 and people worldwide to initiate a just transition and
12 climate emergency mobilization effort to reverse global
13 warming and create high-quality jobs for those impacted by
14 the transition to a sustainable economy.

15 In response to the City Council's declaration and
16 the City's commitment to the goals of the Paris Climate
17 Agreement, in 2021, the City updated its 2009 Climate
18 Action Plan. Kelsey Rader, the City's Sustainability
19 Officer, will address this plan in more detail and
20 highlight additional commitments by the City to reduce its
21 contributions to climate change.

22 EHD is also concerned for the immediate future
23 because Bernalillo County's ambient air quality levels
24 from ground-level ozone and fine particulate matter make
25 us vulnerable to being designated nonattainment for these

1 pollutants by the EPA and put the quality of life of
2 County residents at risk.

3 Adopting clean car standards will help the City
4 achieve its goals related to ozone. You will hear more
5 about Bernalillo County's ozone levels in later testimony
6 by Ken Miller, Air Quality Regulation Development
7 Coordinator. But the bottom line is that the levels are
8 not where we want them to be. In fact, if we do not have
9 a lot of -- actually, let me make a correction there on
10 that. In fact, we do not have a lot of levers we can pull
11 to bring them down at this juncture, and that is why
12 adopting the proposed Clean Car Rule is so important. If
13 we want to tackle our ozone problem, we are going to have
14 to do something about vehicle emissions. We are
15 responsible -- which are responsible for the significant
16 share of locally-generated ozone.

17 Another significant concern from an air quality
18 perspective is particulate matter, or better known as PM,
19 which is particularly harmful from an air pollution
20 standpoint. Bernalillo County is currently in attainment
21 with the national ambient air quality standards for both
22 coarse and fine PM. However, Bernalillo County's annual
23 fine PM design value has been trending upward over the
24 past decade. Although motor vehicles are not a major
25 source of primary PM in Bernalillo County, according to

1 the 2017 NEI, which is the National Emissions Inventory,
2 dust and woodsmoke are larger sources here. They do
3 impact PM concentrations, especially near roadways. The
4 proposed Clean Car Rule is well-suited to help mitigate
5 that problem.

6 Adopting the proposed Clean Car Rule will not be
7 a panacea for these problems in Bernalillo County, but it
8 will help address them by reducing emissions of
9 ozone-forming precursor pollutants and particulate matter
10 from new cars, trucks and SUVs.

11 Clean car standards are not new for New Mexico;
12 we have been here before when the Air Board adopted its
13 existing rule during a joint hearing with EIB in 2007.
14 Both rules adopted California's then new motor vehicle
15 emissions standards for models 2011 and subsequent model
16 years. In 2013, the Air Board's existing rule became
17 legally invalid and unenforceable because the EIB repealed
18 its rule and California has since adopted new standards --
19 nullifying the federal Clean Air Act identical
20 requirements. Thus, the clean car program was never
21 implemented in New Mexico.

22 This leads us to why NMED and EHD are here today
23 seeking to repeal and replace the Air Board's rule. EHD's
24 proposed replacement local rule adopts California's
25 current new motor vehicle emissions standards for model

1 year 2026 and subsequent model years. Under federal law
2 model year 2026 is the earliest that the proposed Clean
3 Car Rule can take effect because the federal Clean Air Act
4 requires states adopting California's new motor vehicle
5 emission standards to do so at least two years before
6 commencement of the model year in which they take effect.

7 Additionally, the proposed replacement local rule
8 is nearly identical to NMED's proposed rule. EHD and NMED
9 have been working together for a year and are coming to
10 the Boards jointly because the federal Clean Air Act bars
11 political subdivisions from adopting or enforcing their
12 own vehicle emission standards when not part of a
13 statewide program, and the New Mexico Air Quality Control
14 Act authorizes separate jurisdictions, so we must work
15 together for statewide rules. The Boards have the
16 statutory authority to adopt the standards and that
17 authority has been fully laid out in the Statement of
18 Reasons accompanying each petition.

19 In conclusion, the rulemaking is a priority for
20 the Keller Administration, and the mayor -- and Mayor
21 Keller's priorities closely align with Governor Lujan
22 Grisham's priorities. This is a great opportunity that
23 these Boards have to meet together and take definitive
24 action together for a betterment of public health and the
25 environment. We need to do what we can to address air

1 pollution coming from on-road transportation.

2 Thank you for coming together as a group and for
3 giving this rulemaking your most serious consideration. I
4 encourage the Board here to demonstrate their leadership
5 again and adopt the proposed Clean Car Rule. Thank you.

6 HEARING OFFICER ORTH: Thank you, Mr. Martinez.

7 MS. SONA: Thank you. I would like to call our
8 next witness, Kelsey Rader.

9 HEARING OFFICER ORTH: Do you swear or affirm to
10 tell the truth?

11 MS. RADER: I do.

12 HEARING OFFICER ORTH: Just make sure your mic is
13 on, please.

14 Go ahead, Ms. Sona.

15 MS. SONA: Thank you.

16 KELSEY RADER,
17 having been first duly sworn, was examined and
18 testified as follows:

19 DIRECT EXAMINATION

20 BY MS. SONA:

21 Q. And just a reminder, Ms. Rader, to speak slowly
22 for our court reporter. Can you please state and spell
23 your name for the record?

24 A. My name is Kelsey Rader. K-E-L-S-E-Y, R-A-D-E-R.

25 Q. Thank you. And what is your position and where

1 do you work?

2 A. I am the Sustainability Officer for the City of
3 Albuquerque.

4 Q. And what does that role entail?

5 A. So my role includes leading the sustainability
6 office, which focuses on deploying projects and policies
7 that focus on City efforts to reduce greenhouse gases and
8 also preparing for changing climate conditions.
9 Additionally, my staff and I focus on coordinating with
10 community and City departments to support deploying and
11 developing equitable long-term environmental solutions for
12 Albuquerque.

13 Q. And did you submit written testimony in this
14 matter?

15 A. Yes, it is included in NMED/EHD Exhibit 29, which
16 references NMED/EHD Exhibits 30 and 33 to 40.

17 Q. And do you have any corrections to that testimony
18 today?

19 A. No.

20 Q. With that, do you adopt the written testimony as
21 your testimony today?

22 A. Yes.

23 Q. Could you please provide a summary of that
24 written testimony for us?

25 A. Yes. Hearing Officer Orth, Madam Chairs, members

1 of the Board, my name is Kelsey Rader. And I am the
2 City's first Sustainability Officer. I'm very delighted
3 to be here with you all today. And I hope that my
4 testimony can provide and demonstrate the City of
5 Albuquerque is committed to mitigating climate change and
6 through transportation emissions, and that, really,
7 Albuquerque is prepared for the updated standards that you
8 are considering today.

9 I again am very happy to be here. I am the
10 Sustainability Officer and manage the EHD sustainability
11 office. Essentially, the office supports the government
12 and community in reducing greenhouse gases while also
13 growing our local economy and protecting resident health.
14 Since the building and transportation sectors account for
15 the majority of Albuquerque's greenhouse gas emissions,
16 approximately 80 percent, projects in the Sustainability
17 Office include reducing building energy consumption,
18 achieving 100 percent renewable energy use for municipal
19 government operations, advancing the adoption of low- and
20 zero-emission vehicles, and implementing the objectives of
21 the City's 2021 Climate Action Plan.

22 The effects of climate change are becoming
23 impossible to ignore, particularly here in the western
24 United States. With wildfires, rising urban heat and
25 drought becoming ever more extreme, they are threatening

1 the lives and livelihood of our residents like never
2 before.

3 Director Martinez spoke of Mayor Tim Keller's
4 pledge to uphold the goals enshrined in the Paris Climate
5 Agreement, and the City of Albuquerque Council's
6 recognition of the existential threat proposed by climate
7 change. To further the goals of the City leadership, in
8 2021, my office updated the City's 2009 Climate Action
9 Plan with significant input from frontline communities.
10 The plan is the City's roadmap for advancing its
11 sustainability goals and recognizes the need to reduce
12 transportation-related greenhouse gas emissions, which
13 make up a significant share of Albuquerque's total
14 emissions. This plan also includes several
15 recommendations for reducing vehicle emissions.

16 The recommendations -- excuse me. The
17 recommendations focus on a myriad of strategies to reduce
18 Albuquerque's contributions to climate change, with a
19 special focus on supporting public transit and phasing out
20 gas-powered vehicles, adopting clean vehicle standards
21 consistent with the Climate Action Plan's goals, including
22 the recommended strategies for reducing vehicle emissions.
23 I believe that the proposed Clean Car Rule compliments the
24 Climate Action Plan and will assist the City in achieving
25 its climate goals.

1 The City has made many steps and is truly
2 committed and ready for the expansion of clean cars.
3 Recognizing that decarbonizing the transportation sector
4 is vital to resident health, the City has taken major
5 steps over the last several years to encourage the
6 comprehensive adoption of low- and zero-emission vehicles
7 across Albuquerque.

8 The City is leading by example in the conversion
9 of clean -- to clean vehicles by converting its sizable
10 fleet to low- and zero-emissions vehicles. It is
11 currently City policy that vehicles purchased must be
12 fuel-efficient, with the lowest emissions possible within
13 the vehicle class and type, and they must be a
14 zero-emission vehicle or hybrid when available and cost
15 effective. This is known as a zero-emissions first
16 policy, and this policy ensures the City remains committed
17 to taking additional -- additional eligible gas-powered
18 vehicles off the road as they come up for replacement or
19 when new vehicles are purchased.

20 The City now has over 60 hybrid and electric
21 light-duty vehicles in its fleet and it's also pursuing
22 opportunities to bring on electric and alternative fuel
23 heavy-duty vehicles and buses. For example, in 2020, the
24 City leased our first electric bus and purchased two more
25 this spring, with three more expected to join the fleet

1 this upcoming summer.

2 By electrifying and reducing the emissions of the
3 City's fleet, the City is aiming to save taxpayer money on
4 fuel and maintenance, while reducing its contribution of
5 greenhouse gases and improving its air quality.

6 Additionally, the City anticipates an influx of
7 electric vehicles due to market demand in the coming
8 years, and has taken steps over the last several years to
9 greatly expand the publicly-accessible EV charging
10 infrastructure on City properties. This is important
11 because under the proposed Clean Car Rule, manufacturers
12 will be required to deliver more zero-emission vehicles
13 for sale in New Mexico. All electric vehicles have an
14 electric motor instead of internal combustion engine. And
15 because -- because of this lack of tailpipe and typical
16 fuel system components, electric vehicles use a large
17 battery to power the electric motor and must be plugged
18 into a charging station or wall outlet to charge.

19 Beginning in 2019, the City took steps to expand
20 its own contribution to the greater Albuquerque electric
21 vehicle charging network. First, the City assessed its
22 facilities for their ability to support public EV charging
23 and then applied and received funding from the VW --
24 Volkswagen Trust administered by the New Mexico
25 Environment Department, to support an increase in charging

1 stations across the city.

2 Having started out with only two Level 2 charging
3 stations in 2018, the City now owns and operates 20
4 charging -- electric vehicle charging stations, with 36
5 charging ports available to the public. Across the
6 Albuquerque metro area, the private sector has also had a
7 very strong role in expanding the EV charging network.
8 Currently, there are 63 charging station locations, 32 of
9 which are free and 7 are fast-charging -- or are EV fast
10 charge.

11 The City has also executed a number of programs
12 to support local businesses, the public and low-income
13 communities in the adoption of electric vehicles. First,
14 the City Parking Division offers special parking permits
15 to the public at a discounted rate for electric vehicles
16 and certain hybrid vehicles in City-owned parking spaces.

17 Second, the City offers local dealerships the
18 opportunity to participate in the Electrified Dealer
19 Program. This offers them specialized electric vehicle
20 training and educational materials to improve the customer
21 experience when purchasing electric vehicles.

22 Third, the Albuquerque Sustainability Office is
23 actively working on opportunities for low-income
24 communities to access the benefits of electric vehicles
25 and bring transportation equity to residents. This is

1 through a potential model called an electric vehicle ride
2 share program. The City has recently been approved to
3 receive federal funding for such a program, which will
4 provide electric vehicles and EV charging stations to
5 low-income multifamily housing complexes. This will allow
6 the users to check out electric vehicles for a brief
7 period of time to run errands, attend appointments, et
8 cetera, for a low hourly rate.

9 Lastly, the City has undertaken multiple efforts
10 to form long-term clean transportation policies and
11 provide education on clean vehicles to the public. The
12 Sustainability Office is working to further share
13 education on EV adoption and other clean transportation
14 modes through social media campaigns, speaking engagements
15 at local and regional meetings, and attendance at
16 community events such as EV car shows.

17 Hearing Officer Orth, Madam Chairs, and members
18 of the Boards, thank you allowing -- for allowing me to
19 share the City's sustainability efforts with you today.
20 Clean cars is an important element to our progress, and I
21 urge you to adopt the proposed Clean Car Rule.

22 That is the end of my testimony. Thank you very
23 much.

24 HEARING OFFICER ORTH: Thank you, Ms. Rader.

25 Ms. Sona, is the witness panel ready to be

1 questioned?

2 MS. SONA: Yes, it is.

3 HEARING OFFICER ORTH: Thank you very much.

4 We'll start with Mr. de Saillan or Mr. Baake.

5 I assume, Mr. Knight, because you joined the
6 panel, you don't have other questions.

7 MR. KNIGHT: I have no questions.

8 HEARING OFFICER ORTH: All right. So let's start
9 with Mr. De Saillan or Mr. Baake.

10 MR. DE SAILLAN: I have no questions for this
11 witness. Thank you.

12 HEARING OFFICER ORTH: Thank you, Mr. De Saillan.

13 MR. BAAKE: No questions, Madam Hearing Officer.
14 Just thank you very much for the testimony today.

15 HEARING OFFICER ORTH: Thank you, Mr. Baake.

16 EXAMINATION BY THE BOARDS

17 HEARING OFFICER ORTH: Let me start with the City
18 Board, and I'll just run right along the table. Madam
19 Chair Meiklejohn, do you have questions of this panel?

20 CHAIRPERSON MEIKLEJOHN: Good morning. I would
21 like to thank the panel for their presentations. I do not
22 have questions at this time, but I may have a question
23 that comes up as other Board members are asking their
24 questions. I'll pass it to them.

25 HEARING OFFICER ORTH: Thank you. Madam

1 Vice-Chair?

2 VICE-CHAIR PAUL: Thank you. I just had one
3 question for Director Martinez. I thought you might
4 clarify -- you mentioned that not many -- we don't have
5 many levers to address ozone in Albuquerque. My
6 understanding is that's because we have high background
7 levels of ozone due to altitude, and then, of course,
8 climate change impacts over time. I thought you might
9 clarify that a little bit, and make the public aware of
10 why we feel that we only have a few levers.

11 MR. MARTINEZ: Madam Hearing Officer, Madam
12 Chair, Board members, yes, it's Albuquerque-Bernalillo
13 County, we're -- we're somewhat in a unique situation when
14 it comes to ozone. You know, when you look at,
15 essentially, the trends -- and I've been going back like
16 almost 20 years, one of the interesting aspects of, you
17 know, our rising ozone levels was that during the peak of
18 COVID, you know, when we looked at essentially our vehicle
19 miles traveled, essentially, our activity from motor
20 vehicles and our output from industry, we were at the
21 lowest in many decades. You know, our VMTs were about,
22 you know, 40 percent lower than normal. So we had a lot
23 less cars, and again, our output from the industry was
24 low, but, yet, we continued to climb steadily, you know,
25 on those ozone levels through those years. And it wasn't

1 a matter of spikes or anything like that, but it was
2 very -- you know, there's a trend there.

3 And so that's what I'm basing my statement
4 primarily on. You know, so we're looking into that, but,
5 yeah, that's an unique situation that we're facing right
6 now.

7 VICE-CHAIR PAUL: If I may follow-up?

8 HEARING OFFICER ORTH: Yes.

9 VICE-CHAIR PAUL: Thank you, Madam Hearing
10 Officer.

11 Do you have an estimate just off the top of your
12 head, in a general range of parts per billion, that went
13 down from that 40 percent decrease in vehicle miles
14 traveled over the COVID time?

15 MR. MARTINEZ: No, it actually went up during
16 that time.

17 VICE-CHAIR PAUL: Oh, ozone went up then?

18 MR. MARTINEZ: Yeah. That's -- that's what my
19 statement is, you know, that while we saw the VMTs, or
20 vehicle miles traveled, go down then, you know, and the
21 industrial output go down, our ozone levels kept climbing,
22 basically, at the same steady rate as over, like, the last
23 decade.

24 VICE-CHAIR PAUL: Which exemplifies the --

25 MR. MARTINEZ: Right.

1 VICE-CHAIR PAUL: -- problem, right?

2 MR. MARTINEZ: Correct.

3 VICE-CHAIR PAUL: Thank you so much.

4 HEARING OFFICER ORTH: Thank you.

5 Member Richards, do you have questions of the
6 panel?

7 BOARD MEMBER RICHARDS. I do. And I just want to
8 ask if -- you may not know the answers to these questions
9 so maybe waiting for other expert witnesses will answer
10 them. But just from what you've all talked about, I had
11 several questions.

12 One was, I know there was reference by the legal
13 counsel that we're able to adopt California rules because
14 of an exceedance, or I read that in the -- in the
15 documents as well. Can you clarify, or maybe further
16 explain what these exceedances were that enabled us to use
17 the California standards rather than the federal
18 standards?

19 MS. SONA: Madam Hearing Officer Orth, I'm not
20 sure if that question is to me or to our panelists.

21 HEARING OFFICER ORTH: Right. To the extent it
22 implicates a legal analysis, that might be better posed to
23 the lawyers.

24 BOARD MEMBER RICHARDS: Great. Thank you.

25 MS. SONA: Chair Richards, thank you for your

1 question. I'm not sure exactly what you're asking.

2 BOARD MEMBER RICHARDS: Okay. Let me --

3 MS. SONA: If you could rephrase it, please.

4 BOARD MEMBER RICHARDS: Absolutely. So I know
5 that we -- there's an ability for us, it sounds like, to
6 adopt California, the new emissions standards -- I forget
7 the exact term. And I'm wondering why we're able to do
8 that, rather than just going with the federal standards.
9 It sounds like there was something that allowed the City
10 and the State to do that regarding ozone or exceedance.
11 And I'm just wondering if one of you -- one of the legal
12 counsels can respond to that question.

13 MS. SONA: Yes. Thank you, Chair Richards, for
14 that question. Members of the Board, so the authority for
15 adopting the California standards comes from the federal
16 Clean Air Act and it's Section 177. And that section
17 allows states other than California to choose to adopt the
18 more stringent California standards if they meet a couple
19 of requirements.

20 And I think, Chair Richards, the requirement that
21 you may be referring to is that we have a nonattainment
22 designation here in the state, which we do.

23 BOARD MEMBER RICHARDS: What -- if I can
24 follow-up, Madam Hearing Officer?

25 HEARING OFFICER ORTH: Yes.

1 BOARD MEMBER RICHARDS: What is that
2 nonattainment standard?

3 MS. SONA: So I believe -- Mr. Knight, can you?

4 MR. KNIGHT: Board members, the -- there are --
5 we have as our witness, Liz Bisbey-Kuehn, to most
6 adequately answer that question. I, obviously, am not an
7 expert on air quality, but there are areas of the state,
8 as was discussed in the ozone precursor hearing before the
9 Environmental Improvement Board, there are several
10 counties in the state with areas that exceed the national
11 ambient air quality standard for ground-level ozone. And
12 she can explain that better than I can, but that's my
13 understanding. And you can feel free to ask her, as she
14 will be testifying after this panel.

15 MR. BAAKE: Madam Hearing Officer, would I be
16 able to speak on this matter?

17 HEARING OFFICER ORTH: Yes, Mr. Baake. If you
18 can add something helpful, go ahead.

19 MR. BAAKE: I believe I can. We've looked at
20 this issue. So there is a federally designated ozone
21 nonattainment area in Sunland Park, New Mexico. But, in
22 fact, our -- if you look at the language of Section 177 of
23 the Clean Air Act, it actually says, "Any state which has
24 planned provisions approved under this part of the Clean
25 Air Act may adopt under and enforce California standards."

1 And, in fact, both the City of Albuquerque,
2 Bernalillo County, and the State have planned provisions
3 approved under the relevant part of the Clean Air Act.
4 So, it's at least our understanding that that is minimally
5 impacting those prior regulations is a sufficient basis,
6 but there is a federally-designated nonattainment ozone
7 area as well, Sunland Park, as well as many areas that are
8 probably -- that are exceeding the national ambient air
9 quality standards for ozone and may soon be designated.

10 HEARING OFFICER ORTH: Thank you very much.

11 Member Richards, I think before Ms. Bisbey-Kuehn
12 testifies, that's the best we're going to -- we're going
13 to get right now.

14 BOARD MEMBER RICHARDS: Great. Thank you very
15 much.

16 The other question -- and maybe this is also for
17 another expert witness. I know that Ms. Roose, you and
18 also -- you had talked, Director Martinez, about ensuring
19 that our low-income population has access to low- or
20 zero-emission vehicles. It sounds like you've implemented
21 an effort to provide those vehicles at multifamily
22 structures, which is a great idea.

23 I'm just wondering, for low-income households
24 that may not be tied to multifamily structures, it seems
25 that the zero-emission or low-emission vehicles, the

1 demand will go very, very high very quickly, as more and
2 more states implement the clean -- these clean car rules.
3 And I'm just wondering, how do we assure that the demand
4 doesn't just really increase the price so it becomes
5 nonattainable for low-income residents to afford?

6 MS. SONA: Hearing Officer Orth?

7 HEARING OFFICER ORTH: Ms. Sona.

8 MS. SONA: I believe that our technical expert,
9 Chuck Shulock, who is going to be testifying this
10 afternoon, would be best suited to answer that question.
11 That's in his testimony.

12 HEARING OFFICER ORTH: All right. Thank you very
13 much.

14 BOARD MEMBER RICHARDS: Thank you.

15 HEARING OFFICER ORTH: Other questions, Member
16 Richards?

17 BOARD MEMBER RICHARDS: That's all I have.

18 HEARING OFFICER ORTH: All right. Thank you.
19 Member Calman, do you have questions of this
20 panel?

21 BOARD MEMBER CALMAN: I don't have questions at
22 this time. Thank you.

23 HEARING OFFICER ORTH: Thank you. And Member
24 Reitzel online, do you have questions of this panel?

25 BOARD MEMBER REITZEL: I don't have questions at

1 this time. Thank you.

2 HEARING OFFICER ORTH: All right. Thank you.

3 Madam Chair Suina, do you have questions of this
4 panel?

5 CHAIRPERSON SUINA: At this time, Madam Hearing
6 Officer, I don't have any questions. Thank you.

7 HEARING OFFICER ORTH: All right. Thank you.
8 Vice-Chair Trujillo-Davis.

9 VICE-CHAIR TRUJILLO-DAVIS: Yes, thank you.
10 Can the court reporter hear me okay?

11 I have a couple of questions, and they're just
12 clarifying questions. I'm curious, what regulatory body
13 is overseeing the Sunland Park area, that is, as I
14 understand it, is designated nonattainment as well?

15 MS. ROOSE: Thank you. Madam Chair, Vice-Chair
16 Trujillo-Davis. I can't speak in detail to that. I think
17 other panelists later today, or witnesses rather, will be
18 able to do so. But Sunland Park air quality is under the
19 jurisdiction of the New Mexico Environment Department.

20 VICE-CHAIR TRUJILLO-DAVIS: Okay. Thank you for
21 clarifying that for me.

22 And again, my questions are more just clarifying,
23 making sure I understand all of the aspects of this. I
24 had some questions about kind of the big picture. And
25 these might be questions more for Deputy Director Roose

1 and Ms. Rader. Did I say that correctly?

2 MS. RADER: Yes. Thank you.

3 VICE-CHAIR TRUJILLO-DAVIS: So, as I understand
4 it, more EV stations will be constructed and put into
5 service. And I'm wondering, is there plans for making
6 sure that there are plenty of stations in rural areas of
7 New Mexico, and what that kind of looks like.

8 MS. ROOSE: Thank you, Vice-Chair Trujillo-Davis.
9 I really appreciate that question. And in the -- in the
10 years to come after, hopefully, the Boards adopt the Clean
11 Car Rule this week or whenever you finish your
12 deliberations, there is significant opportunity that we
13 have in the state to increase electric vehicle charging
14 infrastructure across the state. The federal bipartisan
15 infrastructure law that was signed last fall is going to
16 be infusing significant investments for EV charging
17 infrastructure across the country, with a huge emphasis on
18 rural areas. And while the New Mexico Environment
19 Department isn't directly in the lead of obtaining those
20 funds and implementing those funds, we will be
21 coordinating with the New Mexico Department of
22 Transportation and communities across the state to make
23 sure that all communities, rural and urban, have the
24 opportunity to benefit from the investments that are in
25 front of us.

1 VICE-CHAIR TRUJILLO-DAVIS: And is that plan
2 already in motion? Is there some sort of work going on
3 between NMED and Department of Transportation as of now?

4 MS. ROOSE: Thank you for that question,
5 Vice-Chair Trujillo-Davis. There is a start of
6 coordination and a plan, yes. The amount of new federal
7 program, policies, guidance and the flow of the funds
8 associated with the federal infrastructure bill are still
9 unfolding. And in the meantime, we at the State, with
10 coordination from the Governor's office, are working
11 together to get ready and to start putting plans in place.

12 I can't speak to any specifics of where our
13 Department of Transportation is on those plans, but I know
14 that there is going to be a lot more to come and more
15 information shared publicly as plans take shape.

16 VICE-CHAIR TRUJILLO-DAVIS: Thank you for that.
17 One last follow-up question. As these stations are being
18 constructed and put into service, I was also wondering if
19 there has been -- and we may see this later on, but if
20 there's been consultation with PNM or Excel on grid
21 matters. I see a lot that have in the news, so I'm
22 curious, what kind of impacts we're looking at and if that
23 has been considered.

24 MS. ROOSE: I'll start with that question,
25 Vice-Chair Trujillo-Davis, and then turn it over to my

1 fellow panelists. Statewide, it's beyond the scope of my
2 testimony today to get into great detail on that question.
3 It's a great question, in terms of the important
4 collaborations that are needed to ensure that the
5 electricity supply is available for our increased EV
6 infrastructure, and that it aligns with our clean energy
7 transition in the State. So, broadly speaking, the type
8 of coordination that you're -- that you're asking about is
9 essential, and going to continue to be part of the way
10 that we both move through the energy transition in the
11 state, working with the local leaders and tribal leaders
12 and the private sector to put all of the pieces together.

13 MS. RADER: Member Trujillo-Davis, again, very
14 similar to Deputy Secretary Roose, I cannot go too deep
15 down the rabbithole of sort of the ins and outs of
16 consulting on the upgrading electrical infrastructure for
17 EV charging stations, but I can speak to that the City of
18 Albuquerque experience that we work very closely with PNM
19 in consulting before we implement charging stations,
20 especially DC Level 3 charging stations, which at times
21 can require some grid -- some electrical infrastructure
22 upgrades. I can say that PNM, of course, is formalizing
23 this process more, leading up to the deployment of their
24 new EV rates and EV charging rebates that should become
25 available as -- potentially as soon as February of 2023,

1 of this upcoming year. And so we work, again, very
2 closely.

3 And I know part of that upcoming process will be
4 to ensure we are submitting all of our plans that will
5 be -- that any entity that is going to be constructing EV
6 charging, especially at commercial spaces, must submit
7 plans to PNM for approval ahead of time, to qualify for
8 rates and to ensure that no additional infrastructure is
9 needed, or to adjust that infrastructure as needed.

10 VICE-CHAIR TRUJILLO-DAVIS: Thank you both very
11 much. I don't have any more questions.

12 HEARING OFFICER ORTH: Thank you, Vice-Chair.

13 Member Garcia, do you have questions of this
14 panel?

15 BOARD MEMBER GARCIA: Yes. I just have one, sort
16 of follow-up question to Vice-Chair's questions regarding
17 the accessibility of the EV charging stations. I'm
18 wondering what kind of coordination and partnering is
19 happening with tribal governments in New Mexico.

20 MS. ROOSE: Thank you for that question, Member
21 Garcia. Again, it's beyond the scope of my testimony this
22 morning to go into too much detail about coordination
23 around expanding our electric vehicle charging
24 infrastructure in the state.

25 What I'll offer more broadly, is that from a

1 State perspective, and our role as the State government,
2 the role that we have, to support investments in greater
3 EV infrastructure, we take very seriously our opportunity
4 and responsibilities to work directly with tribal
5 government. There is also funding available to tribal
6 governments for those investments on tribal land.

7 We can coordinate there, but also as funds come
8 in and move through State agencies, that are available to
9 tribes to take advantage of those funds, we'll actively be
10 working to do that for the EV infrastructure investment
11 and all of the other types of infrastructure investments
12 that we're going to receive as a State in the coming
13 years.

14 BOARD MEMBER GARCIA: Thank you very much and
15 thank you all for your testimony. That's all I have.

16 HEARING OFFICER ORTH: All right. Thank you.
17 Let's turn to the EIB members on the platform.

18 Member Bitzer, do you have questions of this
19 panel?

20 BOARD MEMBER BITZER: I do not at this time.
21 Thank you.

22 HEARING OFFICER ORTH: Thank you.

23 And Member Cates.

24 Member Cates may have stepped away briefly. All
25 right. Well, is there any follow-up from any Board

1 member? Please just wave your hand.

2 Any follow-up from counsel?

3 MR. KNIGHT: Madam Hearing Officer, I would just
4 like to note that our later witnesses will be testifying
5 about both coordination with PNM and with tribes and
6 pueblos and nations on the two questions that the Board
7 members had.

8 HEARING OFFICER ORTH: Thank you very much,
9 Mr. Knight.

10 Ms. Sona, anything further?

11 MS. SONA: No. Thank you.

12 HEARING OFFICER ORTH: All right. Thank you.

13 And will there be a stipulation as to exhibits
14 later?

15 MR. KNIGHT: Madam Hearing Officer, I think -- if
16 it is appropriate, we would like to offer the -- all of
17 our exhibits filed with our Notice of Intent be admitted
18 to the record without objection.

19 HEARING OFFICER ORTH: All right. As I
20 understand it, Counsel did, in fact, stipulate to the
21 admission of all exhibits by both petitioners.

22 MS. SONA: Yes.

23 HEARING OFFICER ORTH: All right. Thank you very
24 much. In that case, all of the petitioners exhibits are
25 admitted. And we can -- we can -- I believe you have all

1 of those, Theresa. Okay. Thank you.

2 (NMED/EHD Exhibits 1-48 received into evidence at
3 this time.)

4 HEARING OFFICER ORTH: All right. I think at
5 this time, unless there's some reason not to, we'll excuse
6 the panel. Thank you very much, panelists. And we do
7 need a break. Let's take 15 minutes, which brings us back
8 at 10 of 11. Thank you, all.

9 (Recess taken from 10:37 a.m. to 10:52 a.m.)

10 HEARING OFFICER ORTH: All right. We're back
11 after a break. We will resume with the petitioners'
12 presentations. Did I lose Mr. Knight?

13 So let me just mention a few things while we wait
14 for Mr. Knight to return. There has been a message during
15 the break about choosing the language channel that's right
16 for you. You do that by pressing on the globe image in
17 the lower left hand side of your screen. We do have
18 simultaneous interpretation between English and Spanish,
19 which is how you get to it, by clicking on the globe.

20 If you're on the platform to offer public
21 comment, I will invite your comment at 1:00 p.m., and also
22 again at 7 p.m.

23 Has anything been raised during the break that we
24 need to address before we go to the next set of witnesses?
25 No? I'm not seeing anyone waving their arms on the

1 platform either.

2 So, Mr. Knight and Ms. Sona, please introduce
3 your next witnesses.

4 MS. SONA: Hearing Officer Orth, if I may?

5 HEARING OFFICER ORTH: Yes, please.

6 MS. SONA: We noticed that there wasn't an
7 opportunity for the public to ask questions of the first
8 panel. Do we need to call them back up?

9 HEARING OFFICER ORTH: Let me just check for a
10 moment. I had mentioned that folks should put their
11 questions in the Chat if they had them. So let me -- and
12 I hadn't -- no one reached out through the Chat, so let me
13 do that again.

14 In the event you are in the room and have a
15 question of that first panel, please raise your hand. I'm
16 not seeing any hand. In the event you are on the platform
17 as a member of the public, and have a question of that
18 first panel, which included Ms. Roose, Ms. Rader and
19 Mr. Martinez, please reach out through the Chat with your
20 question. I'm not seeing any questions posted through
21 Chat.

22 Okay. Anything else? Thank you very much,
23 Ms. Sona, for that.

24 MS. SONA: No, that's all. Thank you.

25 HEARING OFFICER ORTH: All right. Mr. Knight,

1 will you be introducing the next witness?

2 MR. KNIGHT: I will. Thank you, Madam Hearing
3 Officer. I would like to call Ms. Bisbey-Kuehn as my next
4 witness.

5 HEARING OFFICER ORTH: Ms. Bisbey-Kuehn -- and by
6 the way, this is a reminder for everyone, not just
7 Ms. Bisbey-Kuehn. If you would, please make sure that the
8 green light is on and also that your mouth is reasonably
9 close to the business end of the microphone, if you would,
10 please.

11 Would you raise your right hand. Do you swear or
12 affirm to tell the truth?

13 THE WITNESS: I do.

14 HEARING OFFICER ORTH: Thank you very much.

15 ELIZABETH BISBEY-KUEHN,
16 having been first duly sworn, was examined and
17 testified as follows:

18 DIRECT EXAMINATION

19 BY MR. KNIGHT:

20 Q. Please state your full name and spell it for the
21 court reporter.

22 A. Hi. My name is Liz Bisbey-Kuehn, L-I-Z,
23 B-I-S-B-E-Y - K-U-E-H-N.

24 Q. And how long have you been with the Environment
25 Department?

1 A. I've been with the Environment Department for
2 over 18 years.

3 Q. And what is your current position there?

4 A. My current position is Bureau Chief of the Air
5 Quality Bureau.

6 Q. And how long have you had that position?

7 A. I've held that position for over four years.

8 Q. And did you submit written testimony for this
9 matter?

10 A. I did.

11 Q. And is that Exhibit 10 in our Notice of Intent?

12 A. Yes.

13 Q. Do you have any corrections or additions you
14 would like to make to that written testimony at this time?

15 A. I do not.

16 Q. Do you, therefore, adopt that written testimony
17 as your testimony here today?

18 A. I do.

19 Q. And would you provide us with a short summary of
20 that written testimony?

21 A. I will. Thank you.

22 Good afternoon, Madam Hearing Officer, Madam
23 Chairs, members of the Boards. I'm excited to be with you
24 here today. My name is Liz Bisbey-Kuehn and I'm the
25 Bureau Chief of the Air Quality Bureau within the New

1 Mexico Environment Department. And I am presenting this
2 testimony on behalf of the Department in this proceeding
3 on the Department's proposed new air quality regulation at
4 20.2.91 of New Mexico Administrative Code, or otherwise
5 known as Part 91.

6 This part of my direct testimony will address the
7 Department's enabling statutory authority, New Mexico's
8 ambient air quality and monitoring data and the
9 Department's Ozone Attainment Initiative. As the Air
10 Quality Bureau Chief, I am charged with overseeing the air
11 program and ensuring that the program is administered in
12 accordance with the Department's statutory, and the
13 Board's regulations and with the requirements of the
14 federal Clean Air Act and regulations promulgated by the
15 United States Environmental Protection Agency pursuant to
16 the Clean Air Act.

17 I direct the overall management of the Air
18 Quality Bureau, including the bureau's resources; staff
19 who enforce state and federal air quality standards and
20 regulations; air quality related planning and policy,
21 operational, permitting and compliance and enforcement
22 services, financial oversight of the bureau's federal
23 grant and state match funds, and support services for the
24 Bureau. And my full background and qualifications are set
25 forth in my resume, which is marked as NMED/EHD Exhibit

1 11.

2 The statutory authority of the Environmental
3 Improvement Board to adopt new motor vehicle standards,
4 including standards for greenhouse gases is found in the
5 New Mexico Air Quality Control Act at 74-2-5.B, which
6 authorizes the Board to adopt regulations to prevent or
7 abate air pollution.

8 And as you've already heard this morning, Section
9 177 of the federal Clean Air Act allows any state with a
10 nonattainment plan provision in its EPA-approved State
11 Implementation Plan to adopt and enforce its own motor
12 vehicle emission standards, provided that such standards
13 are, (i), identical to the California motor vehicle
14 emissions standards, for which a waiver has been granted;
15 and (ii), that those standards are adopted at least two
16 years before the start of the model year to which they
17 apply. Therefore, under this provision a state may only
18 adopt California's motor vehicle emission standards. It
19 may not set its own independent standards. The proposal
20 before you today meet these requirements.

21 The proposed rule, Part 91, complies with the
22 requirements of the Air Quality Control Act. Proposed
23 Part 91 is at least as stringent as federal laws related
24 to the control of motor vehicle emissions and is,
25 therefore, in compliance with the New Mexico's Air Quality

1 Control Act.

2 The federal Clean Air Act requires the EPA to set
3 national ambient air quality standards for pollutants that
4 determine -- that EPA determines are harmful to public
5 health and the environment. And these standards are in
6 the form of a maximum allowable concentration in the
7 ambient air during a specified period of time, and are
8 designed to protect the most sensitive individuals from
9 harm from airborne pollutants.

10 And the Clean Air Act identifies two sets of
11 national ambient air quality standards to accomplish this:
12 primary standards are meant to protect public health,
13 including the protection of the health of vulnerable
14 populations, such as asthmatic children and the elderly.
15 And the secondary standards provide public welfare
16 protection, including protection against decreased
17 visibility and damage to animals, crops, vegetation and
18 buildings.

19 As you may recall from previous rulemakings
20 addressing ozone pollution, the EPA established a national
21 ambient air quality standard for ozone in 2015 and set
22 that standard at 70 parts per million. And I'm sorry,
23 it's 70 parts per billion.

24 Ozone monitoring data for 2018 to 2020 indicates
25 that there are areas of the state that are approaching or

1 violating the 2015 ozone standard; and in particular, Eddy
2 County and sites in southern Doña Ana County are
3 monitoring levels in violation of the ozone standard,
4 while San Juan, Lea, Santa Fe, Sandoval, Valencia County
5 are within 95 percent of the standard, and as you may
6 recall from the Ozone Precursor rulemaking, the oil and
7 gas sources also located in Rio Arriba and Chaves County
8 contribute to elevated ozone concentrations in the San
9 Juan and Permian Basins, respectively.

10 The New Mexico Air Quality Control Act
11 requires the Board to adopt a plan to address rising ozone
12 concentrations in the areas of the state that are
13 exceeding 95 percent of the ozone standard. And NMED is
14 addressing those rising ozone concentrations via the Ozone
15 Attainment Initiative.

16 The proposed Part 91 supports the Department's
17 Ozone Attainment Initiative. As I mentioned, currently,
18 nine counties under the Boards' jurisdiction are
19 registering or contributing to ozone design values
20 exceeding 95 percent of the standard. Part 91 will
21 support the efforts of the Ozone Attainment Initiative and
22 reduce the rising ozone concentrations by targeting
23 nitrogen oxides and volatile organic compounds.

24 And that concludes my testimony.

25 MR. KNIGHT: Thank you very much.

1 And as before, I believe the City is going to add
2 to our panel with their next witness now.

3 HEARING OFFICER ORTH: Thank you very much,
4 Mr. Knight and Ms. Bisbey-Kuehn.

5 Ms. Sona.

6 MS. SONA: Thank you. I'd like to call Ken
7 Miller as our next witness.

8 HEARING OFFICER ORTH: Thank you.

9 Mr. Miller, please raise your right hand. Do you
10 swear or affirm to tell the truth?

11 THE WITNESS: I do.

12 HEARING OFFICER ORTH: Thank you very much.

13 KEN MILLER,
14 having been first duly sworn, was examined and
15 testified as follows:

16 DIRECT EXAMINATION

17 BY MS. SONA:

18 Q. Thank you, Mr. Miller. Just a reminder to speak
19 slow for our court reporter. Can you start with please
20 stating and spelling your name for the record?

21 A. Yes. My name is Ken Miller, spelled K-E-N,
22 M-I-L-L-E-R.

23 Q. And Mr. Miller, where do you work and what is
24 your position?

25 A. I currently work for the City of Albuquerque

1 Environmental Health Department as an Air Quality
2 Regulation Development Coordinator in the Air Quality
3 Programs Control Strategies Division.

4 Q. And what does that role entail?

5 A. I'm involved in the development of air quality
6 plans. I'm also the primary drafter of air quality
7 regulations and am responsible for all phases of
8 promulgation of such rules. And I provide general support
9 to both the local Albuquerque-Bernalillo County Air
10 Quality Control Board as well as the Environmental Health
11 Department on local air quality issues.

12 Q. Thank you. Where did you work before taking your
13 current position at EHD?

14 A. I worked for approximately nine years as a
15 clinical faculty member at Washington University in
16 St. Louis School of Law, where I taught in the
17 environmental law clinic and worked on air quality issues
18 primarily related to ozone and sulfur dioxide, as well as
19 other environmental issues. And prior to that, I was an
20 environmental consultant for about a dozen years.

21 Q. Thank you.

22 Did you submit written testimony in this matter?

23 A. I did. I believe it's identified as NMED/EHD
24 Exhibit 31, which references Exhibits 17, 18, 21, 26, 32,
25 and 41 through 48.

1 Q. Do you have any corrections or changes to that
2 testimony?

3 A. No, I do not.

4 Q. And with that, do you adopt the written testimony
5 as your testimony today?

6 A. Yes, I do.

7 Q. Thank you.

8 Will you be providing a written -- or I'm
9 sorry -- a summary of your written testimony with a
10 PowerPoint today?

11 A. I would be happy to.

12 Q. Thank you. Please proceed.

13 A. Thank you.

14 Good morning, Madam Hearing Officer, Madam Chair
15 Meiklejohn, Chair Suina out there in cyber space, whom I
16 can't see, members of the Boards. Again, my name is Ken
17 Miller. I'm an Air Quality Regulation Development
18 Coordinator with the EHD's Air Quality Program. I'm happy
19 to be here to testify in support of EHD's petition to
20 repeal and replace 20.11.104 NMAC.

21 My testimony is going to address the following:
22 first, EHD's concerning air quality in Bernalillo County
23 with respect to ozone and particulate matter; second, the
24 nexus between those concerns and the proposed Clean Car
25 Rule that's before you today; third, vehicle emission

1 mitigation strategies; fourth, EHD's public notice,
2 outreach and public comment opportunities; and, finally,
3 changes to EHD's proposed rule.

4 I only have a few slides here. So I want to
5 begin by talking about ozone; perhaps the greatest concern
6 EHD has from air quality perspective is ground-level
7 ozone. Ground-level ozone is found in the lower
8 atmosphere at ground level, which is to say in the air
9 that we all breathe, and is often referred to as "bad"
10 ozone because of its deleterious effects on people and the
11 environment.

12 It is different from most air pollutants, in that
13 it is not emitted directly, for example, from a smokestack
14 or a tailpipe. Rather, it is created by chemical
15 reactions in the atmosphere, involving nitrogen oxides, or
16 NOx, and volatile organic compounds, or VOCs, which are
17 known as precursor pollutants. Motor vehicles are one of
18 the many sources of specifically ozone precursor
19 pollutants.

20 Ground-level ozone is a concern because it has
21 negative health effects and environmental effects. Ozone
22 affects the lungs, causing a variety of negative
23 respiratory health effects. It is often described as like
24 a sunburn on the lungs, causing the lining of the lungs to
25 become irritated and inflamed, which results in symptoms

1 like coughing and wheezing and shortness of breath. It
2 can also aggravate asthma and other respiratory
3 conditions, decrease lung function and cause permanent
4 lung damage. Children, older adults and people with
5 asthma or other respiratory diseases are at the highest
6 risk from ozone exposure, but even healthy adults who work
7 or exercise outdoors can be susceptible to the effects of
8 ozone. Believe it or not, I'm one of those healthy
9 adults -- at least that's what my doctor tells me; I ride
10 my bike about 20 miles a day, to and from work, so this is
11 an issue that affects me personally.

12 Given the negative health effects of ground-level
13 ozone, EHD is very concerned about the county residents
14 being exposed to potentially unhealthy levels of ozone in
15 the air that we breathe. Ground-level ozone
16 concentrations in Bernalillo County have ticked up a
17 little bit in the last few years.

18 I believe Director Martinez talked about that a
19 little bit. If you look at the longer-term trend, they
20 haven't really changed too much over the last 15 years.
21 So I have a chart here showing our ozone values going back
22 to about 2002, I think, so it goes back about 20 years.

23 So, since about 2006, Bernalillo County's ozone
24 design value, which is a multiyear statistic that's used
25 to determine compliance with the national ambient air

1 quality standard, or NAAQS, for ozone, has hovered around
2 70 parts per billion. So it's gone up and down a little
3 bit during that time, as you can see, but the long-term
4 trend has been relatively flat.

5 However, EPA revised the ozone standard twice
6 during that time, from 80 to 75 parts per billion in 2008,
7 and from 75 to 70 parts per billion in 2015. As a result,
8 our ozone design value is now very close to the standard.
9 In fact, you can see, we're currently sitting a little bit
10 above the standard, which makes us vulnerable to being
11 redesignated -- redesignated nonattainment for ozone by
12 EPA.

13 Now, complicating matters further, the Clean Air
14 Act requires that EPA review the NAAQS every five years to
15 determine whether changes are necessary to protect public
16 health, including the health of vulnerable populations,
17 with an adequate margin of safety. The Biden EPA recently
18 determined that the most recently 2020 ozone NAAQS
19 reviewed by the Trump EPA did not meet the requisite
20 standards of scientific integrity. EPA announced late
21 last year that it would re -- it would reconsider the 2020
22 decision to retain the current ozone standard, and is
23 targeting the end of 2023 to complete the reconsideration.

24 If it decides to lower the standard again, the
25 decision will trigger an entirely new round of ozone

1 designations for the entire country. This would certainly
2 increase the odds of Bernalillo County being designated or
3 redesignated nonattainment for ozone. But regardless of
4 what EPA decides, it's important that we take steps to
5 reduce our ozone levels now.

6 The proposed Clean Car Rule is a regulatory
7 strategy to do just that -- reduce ground-level ozone in
8 Bernalillo County and in other parts of the state with
9 elevated ozone levels. This is important for the health
10 of Bernalillo County residents, regardless of our
11 designation status, but may also help us remain in
12 compliance with the ozones standards and avoid some of the
13 consequences of a nonattainment designation.

14 Shifting now to particulate matter, another
15 significant -- significant concern from an air quality
16 perspective is particulate matter or "PM," which is a
17 particularly harmful form of area pollution. PM is a
18 mixture of solid particles and liquid droplets in air,
19 which are classified according to their size. So, coarse
20 particles, or PM10, consist of particles with a diameter
21 between 2.5 and 10 micrometers. Fine particles, or PM
22 2.5, consist of particles with a diameter of less than 2.5
23 micrometers. Now, to give you a point of reference, human
24 hair has an average diameter of about 70 micrometers, so
25 that's seven times larger than the largest coarse

1 particles and 30 times larger than the largest fine
2 particles. PM is directly emitted by sources such as
3 motor vehicles, and is also formed in the atmosphere from
4 chemical reactions in the same way that ozone is formed.

5 Now, as far as health effects are concerned,
6 exposure to PM can irritate the eyes, nose and throat.
7 Particles can also get into the lungs and cause
8 respiratory symptoms similar to those caused by ozone,
9 including coughing and difficulty breathing; with fine
10 particles being more likely to travel into and deposit on
11 the areas deeper into the lungs. They can even get into
12 the bloodstream, resulting in negative cardiovascular
13 effects. Particle pollution has been linked to heart
14 attacks, and heart attack-like symptoms, such as chest
15 pain, and has even been linked to premature death in
16 people with heart or lung disease.

17 Like all of the NAAQS, the PM NAAQS are intended
18 to provide public health protection. EPA recently
19 determined that the current standards may not be adequate
20 to protect public health and is reconsidering the previous
21 administration's 2020 decision to retain the current PM
22 standards, similar to how it's currently reconsidering the
23 decision in 2020 to retain the current ozone standards.
24 The EPA's 2021 Draft Policy Assessment, which is an
25 important document in the NAAQS review process, concluded

1 that the evidence and information support revising the
2 annual PM 2.5 standard to below the current level of 12
3 micrograms per cubic meter, and that a level as low as 8
4 micrograms could be supported based on the available
5 evidence.

6 The Clean Air Scientific Advisory Committee, or
7 CASAC, which is an independent body that provides advice
8 or information, recommendations to EPA regarding the
9 NAAQS, recently reviewed that Draft Policy Assessment, and
10 all members agreed that the current level of the annual PM
11 2.5 standard is not sufficiently protective of public
12 health and should be lowered. The majority of members
13 believe that an annual average in the range of 8 to 10
14 micrograms per cubic meter would be appropriate.

15 So, Bernalillo County is currently in attainment
16 with all PM NAAQS. However, our PM 2.5 -- annual PM 2.5
17 design value has been turning upward for about a decade
18 now, and is currently approaching 10 micrograms per cubic
19 meter, which you can see in the slide here. That puts us
20 right in the, sort of the middle of that range that the
21 CASAC has suggested would be appropriate for a revised
22 annual PM 2.5 standard, should EPA decide to lower the
23 standard.

24 Now, the EHD already has a fugitive dust program
25 to help control PM from construction, landscaping and road

1 work operations. The proposed Clean Car Rule is another
2 PM control strategy, and it's one that's particularly
3 well-suited to address PM 2.5, given that on-road
4 transportation is, generally speaking, one of the primary
5 sources of PM 2.5 emissions. This will be increasingly
6 more important, should the EPA decide to lower the current
7 annual PM 2.5 standard when it completes its
8 reconsideration next spring.

9 So, moving now to how these concerns I've just
10 described about air quality relate to the proposed Clean
11 Car Rule. Motor vehicles are sources of NOx and VOC,
12 which, as I mentioned previously, are ozone precursor
13 pollutants. And here in Bernalillo County, they are major
14 sources of those pollutants. So, according to the latest
15 National Emissions Inventory, which is what this chart
16 here shows, the on-road mobile source category, which is
17 the blue category at the bottom of both of those bar
18 charts, is responsible for -- and this is -- this includes
19 emissions -- excuse me -- for motor vehicles that are
20 normally operated on public roadways. So, cars, trucks,
21 SUVs, et cetera. That is the single largest source of
22 anthropogenic NOx emissions in Bernalillo County,
23 accounting for over half -- or I realize it's hard to read
24 there -- but about 55 percent of all of our NOx
25 emissions -- anthropogenic NOx emissions.

1 And I say "anthropogenic" specifically, because
2 those are emissions that are caused by human activity, and
3 those are the only emissions that we really have any
4 control over. The alternative or the corollary is
5 biogenic emissions, and those come from natural sources.
6 We can't do too much about those.

7 Motor vehicles are also the second largest source
8 of anthropogenic VOC emissions in Bernalillo County.
9 That's shown in the bar chart on the right there. They
10 account for just under a third, or about 29 percent of our
11 anthropogenic VOC emissions. And there was a modeling
12 study conducted for EHD in 2018, which determined that
13 half of our locally generated ozone comes from motor
14 vehicle emissions.

15 Motor vehicles are also a major source of
16 greenhouse gas emissions. So you heard Director Martinez
17 and Kelsey Rader speak earlier about the City's commitment
18 to reducing its contributions to climate change, including
19 through strategies aimed at reducing transportation
20 emissions. The City's 2020 Greenhouse Gas Emissions
21 Inventory, explains pretty clearly why such strategies are
22 needed to help the City meet its climate goals.
23 According to that inventory, which is on the screen here,
24 on-road mobile sources are the single largest source of
25 greenhouse gas emissions in Albuquerque, accounting for

1 about a third of all greenhouse gas emissions. So that's
2 the large blue splice in the upper right-hand corner.

3 So, what to do? Well, if we want to reduce the
4 air quality control and climate impacts of motor vehicles
5 in Bernalillo County, there are a couple of things that we
6 can do. We can try to reduce what is known as "vehicle
7 miles traveled" or VMT, per capita, which is the average
8 number of miles driven per person per day in our region.
9 Obviously, less vehicle miles traveled means less vehicle
10 emissions; we can implement a vehicle inspection and
11 maintenance program to ensure that every vehicle's
12 emissions controls are working properly, and that no
13 vehicle is emitting more pollution or pollutants than it
14 was designed to; or we can require that manufacturers
15 deliver to our state and dealers sell cleaner vehicles
16 that have lower emissions.

17 Now, unfortunately, our VMT trends are heading in
18 entirely the wrong direction. VMTs in the Albuquerque
19 metro area is projected to rise, roughly, 15 percent over
20 the next two decades, based on current policies and
21 land-use plans and things of that nature. And EHD has
22 already implemented a vehicle inspection and maintenance
23 program, as many of you probably are aware. That program
24 was implemented almost three decades ago, when Bernalillo
25 county was a nonattainment area for carbon monoxide. And

1 it was shifted in 2004, to focus more on ozone precursor
2 pollutants.

3 So, the best mitigation strategy for vehicle
4 emissions that is still available to EHD is the one that
5 EHD and NMED are proposing today in the proposed Clean Car
6 Rule. It requires manufacturers to deliver and dealers to
7 sell cleaner vehicles, including a minimum number of
8 zero-emission vehicles, to reduce transportation emissions
9 and their associated air quality and climate impacts.
10 Adopting the proposed Clean Car Rule means New Mexico will
11 receive the best categories of reduced-pollution vehicles,
12 giving our residents greater access to vehicles that have
13 the lowest emissions.

14 So, I'll turn now briefly to my last two topics.
15 EHD made a substantial effort to inform the public about
16 this rulemaking process and provide opportunities for
17 public comment. These activities are fully described in
18 my written testimony, and you will hear a little bit more
19 about them from NMED's Claudia Borchert here in just a few
20 minutes.

21 And then, lastly, EHD is proposing only minimal
22 changes to the rule that was filed on January 25th, 2022,
23 as Exhibit B to EHD's petition. The nonsubstantive
24 changes that we were proposing merely correct the
25 effective date of certain provisions of the California

1 Code of Regulations that are incorporated by reference in
2 the proposed rule, and also clarify in one particular
3 section, that the term Executive Order refers to an
4 Executive Order from the California Air Resources Board,
5 not an Executive Order that's been issued by the governor
6 of New Mexico.

7 Madam Hearing Officer, Chairs -- Board Chairs,
8 members, that concludes my testimony.

9 HEARING OFFICER ORTH: Thank you very much,
10 Mr. Miller.

11 Ms. Sona.

12 MS. SONA: Thank you. I believe this concludes
13 our panel. So this panel can stand for questions.

14 HEARING OFFICER ORTH: Thank you very much,
15 Mr. Knight and Ms. Sona.

16 While I am inviting questions from other counsel
17 and Board members, if you are a member of the public on
18 the platform and have a question for this panel, please
19 put it in the Chat. And I'll access that after the
20 counsel and Board members.

21 Mr. De Saillan or Mr. Baake, do you have
22 questions of Ms. Bisbey-Kuehn or Mr. Miller?

23 MR. DE SAILLAN: No, Madam Hearing Officer.

24 MR. BAAKE: No.

25 HEARING OFFICER ORTH: Thank you very much. That

1 was a negative from both counsel.

2 Let me turn to the State Board first this time.

3 EXAMINATION BY THE BOARDS

4 HEARING OFFICER ORTH: Madam Chair Suina, do you
5 have questions of Ms. Bisbey-Kuehn or Mr. Miller?

6 CHAIRPERSON SUINA: Good morning again, Madam
7 Hearing Officer. At this point I don't have any
8 questions.

9 HEARING OFFICER ORTH: All right. Thank you.
10 Vice-Chair Trujillo-Davis.

11 VICE-CHAIR TRUJILLO-DAVIS: Yes. Thank you. I
12 have a question for Mr. Miller and I just wanted to -- I
13 was hoping you could expand on something that you
14 mentioned. And I've heard this, I believe, from the last
15 panel as well, about emission -- emission levels that
16 continue to rise even through the pandemic. And that they
17 are continuing to rise despite the current inspection
18 standards for vehicles in Bernalillo County. So I'm
19 curious, if you can kind of expand on why that's
20 happening. If the current program is maybe -- why it's
21 not sufficient.

22 MR. MILLER: Well, I wish I knew the answer to
23 that question. And I'm not sure anybody knows the answer
24 to that question. One thing I can say is, you know, we
25 know that the ozone situation in Bernalillo County is

1 complicated. And it's clear that the sort of mitigation
2 strategies, control strategies that are typically used to
3 control ozone, whether that's, you know, ratcheting down
4 on emissions from permanent sources, regulating vehicle
5 emissions, whatever it might be, are in and of themselves
6 not going to be sufficient to tackle the problem here
7 because we do have other elements that are contributing to
8 the problem, some of which we somewhat understand and some
9 of which we probably do not.

10 So I can say, you know, locally, you know, we do
11 have at least at certain times of years, or we can have
12 significant ozone transported in, so then you're talking
13 about high ozone levels that are not necessarily related
14 in any way to emissions in the county. And that's a
15 tricky problem to deal with, you know, obviously.

16 Let's see what else. You know, our topography
17 and the terrain around here creates some sort of unique
18 conditions when it comes to ozone formation and the
19 ability of ozone and other pollutants to sort of disperse.
20 So I don't -- I don't have a good answer as to, you know,
21 why.

22 I don't think there's anything specific that's
23 wrong with our current vehicle emissions testing program.
24 I mean, it's basically operated according to the EPA rules
25 that all such programs, you know, operate under. You

1 know, it could be improved in a couple of ways and that is
2 something that we're looking at, to potentially expanding
3 the universe of vehicles that are tested. That's going to
4 require further rulemaking and it's certainly something
5 that we're considering internally, but, you know, I don't
6 know that the issues, that there are problems with what
7 we're doing now; the issue is that we have some kind of
8 unique circumstances which we don't fully understand, but,
9 you know, it certainly has our attention and we hope to be
10 figuring that out in the coming months.

11 VICE-CHAIR TRUJILLO-DAVIS: Okay. Thank you.
12 Thank you.

13 And just to kind of follow-up with
14 Ms. Bisbey-Kuehn, I'm curious if there's any other cities
15 that potentially have similar issues throughout the state:
16 Santa Fe or Carlsbad or Hobbs is looking at some of the
17 same issues that Bernalillo County might be looking at,
18 given Mr. Miller's answers?

19 MS. KUEHN: Thank you, Vice-Chair. Madam Hearing
20 Officer, members of the Board, certainly topography is not
21 going to be a really distinction issue in the southeast
22 part of the state, in Hobbs and Carlsbad. Those are the
23 cities where we are seeing very high design values of
24 ozone, well in excess of the standard. And so, but there
25 are going to be complicating factors about ozone as a

1 regional pollutant that is transported over long
2 distances; transported from other countries, came from out
3 of state, and certainly those -- those impacts from those
4 other sources impact our monitors within New Mexico as
5 well.

6 We are obligated under the Act, under our open
7 statute, our Air Quality Control Act, to take action on
8 those sources of emissions that are under our regulatory
9 jurisdiction and are under our authority to control. And
10 so we are going after the largest source of emissions in
11 terms of anthropogenic caused ozone emissions in the
12 state.

13 VICE-CHAIR TRUJILLO-DAVIS: Thank you. I don't
14 have any more questions.

15 HEARING OFFICER ORTH: Thank you, Vice-Chair.

16 Member Garcia, do you have any questions of this
17 panel?

18 BOARD MEMBER GARCIA: I don't have any questions.
19 Thank you.

20 HEARING OFFICER ORTH: Thank you.

21 I see Member Cates on the screen. Member Cates,
22 do you have questions?

23 BOARD MEMBER CATES: No questions either.

24 HEARING OFFICER ORTH: Thank you.

25 And Member Bitzer.

1 BOARD MEMBER BITZER: I don't have any questions.

2 Thank you.

3 HEARING OFFICER ORTH: All right. Thank you.

4 Let me turn then to members of the City Board.

5 Madam Chair Meiklejohn, do you have questions of this
6 panel?

7 BOARD MEMBER MEIKLEJOHN: Thank you. I have no
8 questions -- no questions at this time.

9 HEARING OFFICER ORTH: All right. Vice-Chair
10 Paul.

11 VICE-CHAIR PAUL: Thank you, Madam Hearing
12 Officer. I'll just start, I'll try to be quick here.
13 Thank you. Mr. Miller, I just wanted to expand a little
14 bit on -- go a little big picture on biogenic versus
15 anthropogenic versus source emissions. You know, we've
16 had pretty devastating wildfires across the state this
17 week and previously in previous years, and it's my
18 understanding that wildfires are also a large source of
19 particulate matter emissions and among other emissions
20 this is considered a biogenic source of emissions. Is
21 that correct?

22 MR. MILLER: Well, I think it depends on what
23 caused the fire.

24 VICE-CHAIR PAUL: Sure. I suppose I mean within
25 the legal framework of what we have, you know, control

1 over in terms of the City.

2 MR. MILLER: Yes, we certainly have no control
3 over PM or other emissions coming from wildfires
4 regardless of whether they were naturally caused or
5 started.

6 VICE-CHAIR PAUL: Yes.

7 MR. MILLER: Yeah, I guess. I mean, usually when
8 people talk about biogenic emissions, they're talking
9 about emissions from plants and vegetations and things
10 like that, that actually give off volatile organic
11 compounds, which is an ozone precursor, so they can have a
12 significant impact on ozone levels.

13 VICE-CHAIR PAUL: Okay. So specifically related
14 to ozone and not related to PM?

15 MR. MILLER: Yeah, well, I mean except for your
16 example, fires; I mean, if a -- I honestly don't know if
17 those would be considered biogenic or not, given that
18 they're kind of -- they're kind of unique. And EPA, in
19 their tracking of these things, in like the National
20 Emissions Inventory, you know, they have a completely
21 separate category for emissions from fires. And I
22 honestly don't know if they break things out into biogenic
23 versus anthropogenic within that category. They do do so
24 in some of the other categories, though.

25 VICE-CHAIR PAUL: At any rate, I would just posit

1 that, you know, if the goal of this regulation is to both
2 decrease pollutants that are contributing to health
3 effects and pollutants that are contributing to climate
4 change effects, that indirectly and incrementally it may
5 also have some influence on increasing effects of climate
6 change, very incrementally, I -- you know, I understand,
7 but would you say it's fair to say that, you know, this
8 kind of regulation in multiple jurisdictions is something
9 that contributes to, you know, potential decreases coming
10 from biogenic sources such as wildfires that are really
11 impacting us as well?

12 MR. MILLER: Yes, I think so.

13 VICE-CHAIR PAUL: Thank you.

14 Ms. Bisbey-Kuehn, I had just a brief question
15 about expanding a little bit about the Ozone Attainment
16 Initiative. I know that's a statewide program, correct?
17 I assume it's a statewide program, correct?

18 MS. BISBEY-KUEHN: Yes.

19 VICE-CHAIR PAUL: I just wanted to ask if you
20 could summarize -- you summarized it a bit in your
21 testimony, but you might summarize it briefly here, in
22 terms of how it works -- how it might -- how this -- this
23 section of the initiative, in combination with the
24 previous rules that were passed by EIB, sort of how
25 this -- how clean cars here contributes. You know, I

1 don't necessarily need a percentage number, but is it an
2 important part of that initiative, sort of anything you
3 want to say about that. Thanks.

4 MS. BISBEY-KUEHN: Yeah. Thank you, Vice-Chair
5 Paul. Members of the Board, Madam Hearing Officer, when
6 we conducted the photochemical modeling to support the
7 Ozone Attainment Initiative, we did have to evaluate
8 emissions inventories and document the types of on-road
9 and off-road mobile traffic that's responsible for ozone
10 creation in New Mexico.

11 And so we know those portions of emissions that
12 contribute to anthropogenic or human-caused ozone within
13 our state. And that's why we specifically identify
14 transportation sector as the next rulemaking effort that
15 we would undergo to support the Ozone Attainment
16 Initiative. Our first major rulemaking was going after
17 the oil and gas sector. They were, by far, the largest
18 contributor of New Mexico anthropogenic ozone formation
19 within the state, and then the transportation was second.
20 And although this rulemaking effort is -- the authority
21 for this rulemaking effort is in -- can be found in other
22 places, in other parts of the New Mexico Air Quality
23 Control Act, and within the Clean Air Act, the rulemaking
24 effort supports and compliments the Ozone Precursor rule.

25 VICE-CHAIR PAUL: Great. So it would be safe to

1 say the -- that this is the second most important element
2 of the Ozone Attainment Initiative, after the oil and gas
3 sector?

4 MS. BISBEY-KUEHN: Yes.

5 VICE-CHAIR PAUL: Great. Thank you.

6 HEARING OFFICER ORTH: Thank you.

7 Member Richards?

8 BOARD MEMBER RICHARDS: Hi. I just had a few
9 questions. I'll just start with Mr. Miller first. So we
10 had -- the Board had a presentation on ozone attainment
11 versus nonattainment probably about eight or nine months
12 ago. And it seemed like it was inconclusive, some of the
13 presentations pointing to us being in nonattainment. It
14 sounds like you're saying we are in attainment, but there
15 is a redesignated nonattainment by EPA. Can you just tell
16 me what the timeline for that is, and whether we are
17 currently in attainment or nonattainment for ozone?

18 MR. MILLER: Sure. That meeting must have
19 occurred right before I joined the Department.

20 BOARD MEMBER RICHARDS: I think so.

21 MR. MILLER: So to answer your question, Member
22 Richards, so we are current in attainment for ozone.
23 Attainment is a formal -- it's a status, it's a formal
24 designation made by EPA. It's actually done through
25 federal rulemaking. And so we were designated attainment

1 when the ozone standard was revised to 70 parts per
2 billion back in 2015.

3 So, there's -- there's no ifs ands or buts about
4 that. We are currently an attainment area for ozone.
5 Now, you know, as you noticed in the chart that I showed
6 you, our ozone levels are currently a little bit above the
7 standard. And, you know, sometimes that can create some
8 confusion because people see that and they assume as soon
9 as you go above the standard, you're in nonattainment, but
10 that's not how it works. It's up to the EPA. They have
11 to go through the process to redesignate you from, in this
12 case, potentially, attainment, to nonattainment.

13 They have not done that thus far, you know, and
14 there's probably any number of reasons why. I think that
15 sort of the simple answer is, they don't only look at your
16 monitored values; that's, obviously, a key piece of it, an
17 important component, but they look at more than just what
18 are the levels. You know, EPA does an analysis of our --
19 to be clear, they're very well aware of what our ozone
20 levels are. So the fact that they have not redesignated
21 us to nonattainment is not because they don't know what's
22 going on.

23 They do an analysis every year. They look at a
24 broad range of factors. Certainly they look at the
25 levels, they look at meteorology, they look at other

1 things. And so they kind of look at the situation in
2 totality to make a decision as to whether or not it makes
3 sense to redesignate an area or not. And thus far, they
4 have not done that for Bernalillo County.

5 BOARD MEMBER RICHARDS: Great. Thank you very
6 much for that clarification. It's really helpful.

7 My other question is, is there any kind of plan,
8 provision -- I know that Ms. Bisbey-Kuehn had talked
9 about -- or Kuehn had talked about the state's
10 nonattainment plan, so, but we're in attainment, but
11 potentially we could be in nonattainment, depending,
12 pretty quickly. Is there any kind of strategy that the
13 City of Albuquerque and Bernalillo County have for in the
14 event something like that happens outside of the current
15 Clean Cars Rule?

16 MR. MILLER: That's -- so just to make sure I
17 understand the question: do we have a plan for if we are
18 redesignated nonattainment? Is that it, what happens
19 next?

20 BOARD MEMBER RICHARDS: Yes. Thank you.

21 MR. MILLER: Yeah. Well, our plan is to come up
22 with a plan, but the Clean Air Act requires if an area is
23 designated or redesignated to nonattainment, the EPA
24 requires you to submit a formal plan, a State
25 Implementation Plan or SIP. And, you know, federal

1 regulations outline what the requirements are for that.
2 And so we would have to come up with a plan that meets
3 those requirements. And then, depending on whether the
4 initial plan got the job done, a couple of years down the
5 road, if we were still above the standard then we would be
6 reclassified to a higher level of nonattainment and then
7 we would have to kind of revisit that plan and add some
8 additional elements to it.

9 So it could be a somewhat lengthy process once
10 you cross that threshold, to pull back. Now, I will say,
11 what we're doing in the meantime, I want to be clear,
12 we're not sitting back and waiting to see what happens.
13 The City actually has -- we call ours the Ozone Reduction
14 Initiative. So it's kind of analogous to the State's
15 Ozone Attainment Initiative.

16 And so that involves a number of things that, you
17 know, are intended to, and we hope will help with our
18 local ozone levels. And I believe if we can get things in
19 place and start seeing the benefits of those before we are
20 redesignated nonattainment, maybe we won't actually be
21 redesignated nonattainment, which would be far preferable.
22 Right?

23 So the Clean Cars Rule -- the proposed Clean Cars
24 Rule that's before you is part of that initiative. We
25 were looking at the image in my testimony, we're looking

1 at potential changes to our vehicle emissions testing
2 program, to try and bring in a wider universe of vehicles.
3 So we're kind of keeping an eye on more of the vehicles
4 that are out on our roads, to make sure that they're not
5 polluting more than they should be.

6 The City also joined -- EPA has a program called
7 Ozone Advance, which is a voluntary program only for areas
8 that are in attainment of the standard, but then maybe
9 getting close, or for other reasons want to take some
10 voluntary steps to reduce their ozone levels. So we
11 joined that program, I think in January of 2021. And the
12 first -- the first sort of milestone in that program is
13 you submit what they call a -- what do they call it? It's
14 a plan -- an ozone advanced plan to the EPA, which sort of
15 details the various measures that you're going to
16 implement within your jurisdiction to try and help improve
17 your ozone levels. So the Department is working on that
18 plan currently. Progress is slow, but we are working on
19 it.

20 And the last projection I heard, or the last goal
21 I heard, was hopefully by maybe the end of the year to
22 have a plan ready to submit to EPA.

23 BOARD MEMBER RICHARDS: Great. Thank you very
24 much. I just had two other questions. So I know the
25 State has the Ozone Precursor Rule. And I don't know, is

1 there any oil and gas production activities in Bernalillo
2 County-Albuquerque? And is there any thought about doing
3 a similar rule, a rule for Albuquerque-Bernalillo County?

4 MR. MILLER: Right, there's no oil and gas
5 activity in Bernalillo County to speak of, that I'm aware
6 of. Although, to be perfectly honest, it's not an area
7 that I've really looked into, but I don't believe that
8 there's, you know, there's certainly no significant
9 activity. So the benefit of adopting something similar to
10 the oil and gas rule here would be highly questionable, I
11 think.

12 One thing that, you know, our Department
13 supported the State's Ozone Precursor Rule, because, you
14 know, I was talking about, sort of the complicated ozone
15 situation we have and the fact that, you know, a part of
16 that problem is the fact that we get ozone transferred in
17 from other places. I believe some of the modeling that's
18 been done has indicated that we are impacted by emissions
19 from oil and gas activities in places like the Permian
20 Basin. So that rule, even though it's not in effect
21 within Bernalillo County, potentially will improve -- help
22 improve our local situation.

23 BOARD MEMBER RICHARDS: Great. Thank you. I
24 just have one more question. So I'm wondering about
25 diesel emissions, which I know are a huge impact in terms

1 of particulate matter and public health. And it seems
2 like that sort of has not been addressed here. And I'm
3 wondering, given that we have the railroad and many at
4 risk communities along the railroad, as well as, you know,
5 off-road vehicles, is there any thought to considering
6 that, because it is such a huge contributor to things like
7 cancer and respiratory illness in Bernalillo County?

8 MR. MILLER: So, yes, two things: one is with
9 respect to railroads specifically, that's -- we have some
10 ideas pertaining to that for --

11 MS. SONA: Madam Hearing Officer?

12 HEARING OFFICER ORTH: Yes. Ms. Sona.

13 MS. SONA: Can I just limit the answer to vehicle
14 emissions since that's what we're here to talk about
15 today?

16 HEARING OFFICER ORTH: Right. So, Member
17 Richards, the hearing is about, obviously, the petition
18 around automobile emissions, really. So I'm wondering if
19 we can direct it that way.

20 BOARD MEMBER RICHARDS: Uh-huh, sure. So if I
21 may?

22 HEARING OFFICER ORTH: Yes.

23 BOARD MEMBER RICHARDS: Thank you, Madam Hearing
24 Officer.

25 Can we speak to vehicle emissions regarding

1 diesel? It looks like your chart referred to on-road and
2 off-road, that we need to, I guess, limit it to that.

3 MR. MILLER: Yes, well, the chart was only
4 on-road emissions.

5 BOARD MEMBER RICHARDS: Oh, maybe I --

6 MR. MILLER: Unless it was mislabeled. I hope
7 not.

8 BOARD MEMBER RICHARDS: It's hard to read so I
9 may have misread it. I was looking at the gray area.

10 MR. MILLER: Oh, okay. Yeah, I believe --

11 BOARD MEMBER RICHARDS: But I don't have my
12 computer up, so...

13 MR. MILLER: Yeah, I believe it's only on-road
14 emissions. As far as, you know, diesel emissions, that is
15 something, I mentioned that we're looking at potentially
16 some changes to our inspections and -- inspection and
17 maintenance program. Currently, diesels are not required
18 to be tested as part of that program. There's some
19 interesting history on that, which I'm -- you know, it all
20 predates me, but I believe it was actually included at one
21 point in time before we discovered that we didn't have the
22 legal authority to require testing of diesels.

23 There was subsequently a change in state law that
24 explicitly allows for the testing of vehicles. And so
25 that's something we're looking at as a potential change to

1 our INM program.

2 BOARD MEMBER RICHARDS: Okay. Thank you very
3 much. That's all.

4 HEARING OFFICER ORTH: Thank you, Member
5 Richards.

6 Member Calman.

7 BOARD MEMBER CALMAN: Thank you. I was going to
8 ask Mr. Miller to elaborate a little bit on what the City
9 would need to do if it was designated nonattainment, but
10 you sort of just answered that, unless you want to add
11 anything about that process.

12 MR. MILLER: Member Calman, I don't know that I
13 have anything to add beyond what I already stated.

14 BOARD MEMBER CALMAN: Okay. Thank you.

15 HEARING OFFICER ORTH: Member Reitzel, on the
16 platform, do you have questions of this panel?

17 BOARD MEMBER REITZEL: No, Madam Hearing Officer,
18 I do not have any questions at this time.

19 HEARING OFFICER ORTH: All right. Thank you very
20 much.

21 So, members of the public in the room, if you
22 have a question, please raise your hand. I see nothing.
23 And I don't have any questions in the Chat from anyone in
24 the public.

25 Is there any reason, then, Mr. Knight and

1 Ms. Sona, not to excuse this panel?

2 MR. KNIGHT: Madam Hearing Officer, unless the
3 members of the EIB have questions that were brought up in
4 their mind by questions from the City Board.

5 HEARING OFFICER ORTH: Certainly. Members of the
6 EIB, anything further?

7 MS. SONA: I do have one follow-up, if I may.

8 HEARING OFFICER ORTH: All right. Go ahead,
9 Ms. Sona.

10 MS. SONA: Mr. Miller, you talked a little bit
11 about when EPA decides to make a designation for
12 attainment or nonattainment. Can you describe a bit about
13 when that decision happens?

14 MR. MILLER: Sure. So it can happen at a couple
15 of different points in time. Most commonly, it occurs
16 after a revision to a NAAQS. So, for example, I talked
17 about how EPA is currently reevaluating or reconsidering
18 the previous administration's decision to retain the
19 current ozone standards, which were established in 2015.
20 If the EPA, through that process, decides to revise that
21 standard, then it will be required by federal law to issue
22 designations for the entire country. Basically, they'd
23 say, okay, we have a new standard, we now need to go back
24 and determine whether or not all areas in the country are
25 meeting that new standard. That's when it most frequently

1 occurs.

2 EPA can make designations at any time based on
3 air quality and related information. That's discretionary
4 and that's a little bit of a byproduct, I would say, as
5 to, you know, what might cause them to do that, when they
6 might do that. So I can't really say too much more about
7 that.

8 MS. SONA: Thank you. That's all.

9 HEARING OFFICER ORTH: All right. Thank you,
10 Ms. Sona.

11 Anything further from anyone? I'll check the
12 Chat one more time. There's nothing there. Anything
13 further from anyone from this panel? No.

14 MR. KNIGHT: Madam Hearing Officer.

15 HEARING OFFICER ORTH: Oh, Mr. Knight.

16 MR. KNIGHT: I would just like to note that
17 Exhibit 12, which is associated with my witness's
18 testimony that she just gave, is -- it goes into quite a
19 bit more detail particularly about the Ozone Advanced that
20 Mr. Miller was talking about. And if Board members are
21 interested in more detail, it can be found in Exhibit 12.

22 HEARING OFFICER ORTH: Thank you very much for
23 that, Mr. Knight.

24 Anything else at all? No? All right. Thank
25 you, Ms. Bisbey-Kuehn and Mr. Miller, and you are excused.

1 I want to leave plenty of time for lunch because
2 we will be walking to it, I think most of us. And I don't
3 know what we could do in the next, you know, 12 minutes or
4 so. I would like to start the 1:00 public comment period
5 right at 1. We have a number of folks who requested an
6 opportunity to comment in that session in particular. So
7 let's return at 1. And thank you all very much.

8 (Recess taken from 11:47 a.m. to 12:59 p.m.)

9 HEARING OFFICER ORTH: Good afternoon. My name
10 is Felicia Orth; I'm the Hearing Officer appointed by the
11 Environmental Improvement Board and the Bernalillo
12 County-Albuquerque Air Quality Board to conduct a hearing
13 in this matter, which relates to emissions standards for
14 new motor vehicles.

15 We have come to 1 p.m., which is the first of the
16 four public comment sessions, in which we'll accept public
17 comment. Just a few things about public comment. One, I
18 will call on you to offer public comment just once. So
19 please collect your thoughts before beginning. Two, in
20 the event you offer, again, oral comment, I have to limit
21 it to five minutes. As you approach five minutes, I will
22 ask you to wrap up. And in the event you have more public
23 comment than there is that could be given in five minutes,
24 please write it out before tomorrow at 1:00 p.m., and
25 submit it to either Board administrator: the City Board,

1 Stephanie Apodaca, or for the State Board, Pam Jones. All
2 of it becomes part of the same larger record.

3 So, for the 1 p.m. -- oh, finally, all comment,
4 all testimony, including public comment is taken under
5 oath and is subject to cross-examination. Now, those
6 counsel who have been with me at hearings before, know
7 that I discourage cross-examination of members of the
8 public; however, it is your right. So I'm not going to
9 call on you and ask you if you have cross-examination. If
10 you do, you're going to have to get my attention.

11 The same with the Board members: in the event
12 you actually have a question of a commenter, please get my
13 attention. I'm not going to call on you each time.

14 Okay. So we had three folks reach out to be
15 called on during this session. They were Commissioner --

16 MS. SOLORIA: Madam Hearing Officer?

17 HEARING OFFICER ORTH: Yes, ma'am.

18 MS. SOLORIA: Could we hit record on the WebEx?

19 HEARING OFFICER ORTH: Oh, yes.

20 Thank you, Counsel.

21 So we had three folks reach out to be called on
22 for this comment session. The first two who reached out
23 were Commissioner Anna Hansen and Athena Christodoulou,
24 and then we have -- they, I believe, would be joining us
25 on the virtual platform. And then we have June Parsons in

1 the room. So let me look among the attendees for
2 Commissioner Hansen. Let me see. Call-in user 9, is this
3 you, Commissioner? You are unmuted, call-in user 9. It
4 is not letting me unmute call-in user 9.

5 Commissioner Hansen, if you are on the platform,
6 would you please reach out through Chat, if you would?
7 All right. I'm not seeing Commissioner Hansen on the
8 line. As with anyone, regardless of whether you've asked
9 to speak during a particular session, I'm happy to take
10 your comment at a subsequent session.

11 Athena Christodoulou. I don't see
12 Ms. Christodoulou among the attendees. Let's see here.
13 Ms. Christodoulou, if you're on the platform please reach
14 out through Chat.

15 One thing: for those who might be on as callers,
16 and for some reason I'm unable to mute you, please reach
17 out to Pam Jones, the State Board administrator at
18 (505)660-4305 and we'll get you taken care of that way.
19 I'm not sure how else to work this otherwise.

20 All right. Let me move to Ms. Parsons, who is
21 here with us in person. I do have a few more requests
22 through Chat, and let me give you their names. I'll call
23 on you next. Let's see. Tom Van Heeke, Tammy Fiebelkorn
24 and Stephen Douglas. But let's hear from Ms. Parsons
25 first.

1 Ms. Parsons, if you would -- either you can sit
2 or stand; podium or table, as you wish.

3 And if you would please raise your right hand.
4 Do you swear or affirm to tell the truth?

5 MS. PARSONS: Absolutely.

6 HEARING OFFICER ORTH: And if you would state and
7 spell your name for the transcript.

8 MS. PARSONS: June Parsons, J-U-N-E, Parsons,
9 P-like-purple, A-R-S-O-N-S.

10 JUNE PARSONS,
11 having been first duly sworn or affirmed, gave public
12 comment as follows:

13 PUBLIC COMMENT OF JUNE PARSONS

14 MS. PARSONS: Honorable New Mexico EIB members
15 and representatives, thank you for this opportunity to
16 share information. I get a little nervous on facts and
17 I'm an engineer, so I did write down. I won't read
18 everything, but I'll use notes. I made the decision in
19 2010 to purchase a hybrid vehicle. At that time there was
20 an eight among lag time on the Chevrolet Volt, which was
21 really the first American electric car that was being
22 introduced. And I needed a vehicle quickly so I chose a
23 hybrid. Primarily, to significantly reduce my greenhouse
24 gas emissions due to the climate crisis, but also because
25 it made economic sense.

1 I did a quick little math cost/benefit at that
2 time, which is just add, subtract, multiply and divide;
3 fancy words, cost/benefit: and found that the initial
4 extra cost for a hybrid would be completely paid for in
5 two-and-a-half years. After which, I have saved \$1,500 a
6 year for the last almost ten years. This has resulted in
7 a personal savings to me of almost \$12,000 to date.

8 I have every gas receipt since I bought the car
9 because I was documenting whether these hybrids really did
10 what they said they do. That was money not spent on gas
11 at the pump. And my 2010 hybrid vehicle is still running
12 perfectly.

13 Now, to give you an idea of what that really
14 translates to, let me use an example. And it's a
15 relatively modest example. If we assume combustion
16 engines on average get 18 miles a gallon. I guarantee you
17 those big pickups don't, so I'm being generous; and let's
18 assume a hybrid gets about 36 miles a gallon, which is
19 what mine does, that means I'm saving half my fuel
20 purchase.

21 Now, at 120,000 miles, which is what I've got on
22 my car, that is 3,000 gallons of gasoline I have not
23 purchased and not put in the atmosphere in ten years.
24 Now, let's just use today's gasoline prices. It's gone up
25 and down over the years, but at \$4 a gallon, that's

1 definitely \$12,000.

2 The people who most need to benefit from not
3 spending money on gasoline are the people least able to
4 afford a vehicle that is not contributing to our climate
5 crisis, but they're still driving those vehicles and
6 they're still emitting into the air. The only way to
7 seriously address our climate crisis related to
8 transportation is clean, clean fuel standards that will
9 bring fair competition to everyone to drive clean energy
10 vehicles.

11 I will caveat that: nonhydrogen. And I'm
12 caveating that because blue hydrogen uses 120 percent of
13 natural gas to produce the same amount of energy as just
14 burning the natural gas directly.

15 I strongly implore you to formulate and institute
16 strong clean car standards for New Mexico this year,
17 please. Thank you.

18 HEARING OFFICER ORTH: Thank you very much,
19 Ms. Parsons.

20 Let's move to Councilor Tammy Fiebelkorn. Are
21 you able to unmute yourself, Councilor Fiebelkorn?

22 MS. FIEBELKORN: Can you hear me now?

23 HEARING OFFICER ORTH: Yes. Yes, thank you.

24 So, apparently, it's a two-step thing. I have
25 to press unmute and I also have to request that you

1 unmute, at which point you have to unmute. I'm not sure
2 why the settings are quite this way, so I apologize for
3 that.

4 Councilor Fiebelkorn, if you would, please: Do
5 you swear or affirm that you will tell the truth?

6 MS. FIEBELKORN: Yes.

7 HEARING OFFICER ORTH: Thank you very much. And
8 if you would speak up.

9 TAMMY FIEBELKORN

10 having been first duly sworn or affirmed, gave public
11 comment as follows:

12 PUBLIC COMMENT OF TAMMY FIEBELKORN

13 MS. FIEBELKORN: All right. Good afternoon,
14 Madam Chairs, Board members and Hearing Officer Orth. I'm
15 Tammy Fiebelkorn, Albuquerque City Councilor for District
16 7. I appreciate this opportunity to speak in strong
17 support of clean car standards that you're considering
18 today. I drive an electric vehicle. I bought a used car
19 and had to pay an out-of-state delivery fee to get my car
20 because I couldn't find one in New Mexico. I love driving
21 my Nissan Leaf. It was cheap to purchase, my insurance is
22 very reasonable. Over the past five years I've had very
23 minimal maintenance costs: specifically, I've spent about
24 \$40 on new windshield wipers, that's it. No oil changes,
25 no moving parts. It's really that simple.

1 Most impactfully, I now spend about \$6 per month
2 charging my vehicle at home. I very rarely charge in
3 public. I don't have to stop at gas stations anymore.
4 It's much easier to simply plug in at night from the
5 safety and comfort of my home. And I don't have to worry
6 about fluctuating fuel costs.

7 Given recent world events, it's been great to
8 know that I'm not being subject to the frenetic cost
9 changes that folks have been experiencing at the pumps.
10 All of these benefits of driving a Leaf are incredibly
11 important, and I want them to be very available for every
12 New Mexican, but right now, they simply aren't.

13 Given the great experience of having and driving
14 an EV, my partner became interested in purchasing a new
15 one last year. We spent several days visiting every
16 automobile dealer in Albuquerque, looking for EVs. There
17 were none to be found; literally, none. We asked each
18 dealer about the possibility of ordering one. Most just
19 said no. Some said it was possible, but they couldn't
20 guarantee that we would receive it within a year.

21 It was explained by several dealers in states
22 that already have the clean car standards, these states
23 get priority in terms of delivery of EVs. There are so
24 many problems with this. Most people, including me, would
25 like to sit in and maybe test drive a vehicle before you

1 purchase it. And most people can't wait over a year to
2 receive their new vehicle.

3 I'll point out that this recent shopping outing
4 was last year during COVID; however, the same situation
5 was in place preCOVID when I purchased my first EV. To
6 offer the choice of electric vehicles to all New Mexicans
7 it's imperative that clean car standards be put in place
8 in our state. New Mexicans deserve to have the choice to
9 purchase EVs and partake in the environmental, public
10 health, safety, convenience and financial benefits
11 associated with EVs. I'd ask you to please adopt the
12 clean car standards for New Mexico.

13 And thanks again for allowing me to speak today.

14 HEARING OFFICER ORTH: Thank you very much,
15 Councilor.

16 Ms. Christodoulou has joined the platform, so
17 let's return to her. Ms. Christodoulou, if you can unmute
18 yourself. Can you hear me?

19 MS. CHRISTODOULOU: I can hear you. Can you hear
20 me now?

21 HEARING OFFICER ORTH: You're very quiet. Can
22 you speak up?

23 MS. CHRISTODOULOU: I can. Is that better?

24 HEARING OFFICER ORTH: That's much better. Thank
25 you. Do you swear or affirm to tell the truth?

1 MS. CHRISTODOULOU: Yes, I do.

2 HEARING OFFICER ORTH: Thank you. And if you
3 would, spell your name first for the transcript and then
4 begin your statement.

5 ATHENA CHRISTODOULOU,
6 having been first duly sworn or affirmed, gave public
7 comment as follows:

8 PUBLIC COMMENT OF ATHENA CHRISTODOULOU

9 MS. CHRISTODOULOU: Athena, A-T-H-E-N-A.
10 Christodoulou, C-H-R-I-S-T-O-D-O-U-L-O-U.

11 HEARING OFFICER ORTH: Go ahead.

12 MS. CHRISTODOULOU: Chair, Council -- Chair,
13 Council members, my name's Athena Christodoulou; I'm a
14 retired Navy energy and environmental engineer. I have
15 been trying to drive energy efficient cars since 2004. My
16 first outing for a car was to try and buy a hybrid Prius
17 in 2004. I had to put down \$2,500 down payment and wait
18 four months to get a car that maybe I would like.

19 Fast-forward ten years later, and I chose to go
20 for a Leaf, a 2014 Leaf, that was much easier. I drove it
21 off the lot. However, in the ensuing years, it became
22 harder and harder to get energy efficient cars. And, in
23 fact, in 2018, I chose to get another Leaf. That was
24 probably the last time that it was easy.

25 In 2019, because of my issues with charging stations

1 and the fact that I wanted to be able to drive across
2 country with an electric vehicle, I got a Tesla. Believe
3 me, it was the best purchase I ever made, because here it
4 is: gasoline, if I burn it, it's me, but it's not also
5 that. If I'm driving a gas vehicle, I am also
6 contributing to the fact that in order to extract and
7 produce that gas, there are leaks and emissions of methane
8 as well as the emissions due to transporting that gasoline
9 and it's a home health hazard.

10 My air is cleaner. We should wish that on
11 everybody. And ask yourselves what's the most important
12 thing these days. Thank you.

13 HEARING OFFICER ORTH: Thank you,
14 Ms. Christodoulou.

15 I see Commissioner Anna Hansen on the platform
16 now. Commissioner Hansen, I'm going to ask you to unmute
17 yourself. Can you hear me?

18 MS. HANSEN: I'm here.

19 HEARING OFFICER ORTH: Commissioner?

20 MS. HANSEN: Can you hear me now?

21 HEARING OFFICER ORTH: Yes, I can now. Thank
22 you. Do you swear or affirm to tell the truth?

23 MS. HANSEN: I do.

24 HEARING OFFICER ORTH: Thank you. If you would
25 spell your name and then begin your statement.

1 MS. HANSEN: Thank you.

2 ANNA HANSEN,

3 having been first duly sworn or affirmed, gave public
4 comment as follows:

5 PUBLIC COMMENT OF ANNA HANSEN

6 MS. HANSEN: Santa Fe County Commissioner Anna,
7 A-N-N-A, Hansen, last name, H-A-N-S-E-N.

8 Chair and Board members, good to see you. Thank
9 you for allowing me to speak on behalf of Santa Fe County.
10 Santa Fe county has committed to adopting and supporting
11 the goals of the Paris Agreement, net-zero emissions by
12 2050. We have joined the race to zero, which I believe we
13 reached in January of 2022. The Board of County
14 Commissioners voted unanimously to adopt the greenhouse
15 gas emissions reduction plan for county operations, which
16 aim to accelerate the meeting -- the meeting of this goal.

17 Presently, the county is creating the emissions
18 inventory and report community-wide and finding that it
19 shows that transportation contributes to 46 percent of
20 Santa Fe County's greenhouse gas emissions. On-road
21 gasoline passenger vehicles are the largest source of
22 emissions, contributing to the 29 percent of all of the
23 inventory greenhouse gas emissions in Santa Fe County.

24 Sixty percent of all the -- (unintelligible
25 and/or inaudible) travel within the county due to

1 commuting into and throughout the county for work,
2 according to the 2018 Affordable Housing Study. And the
3 County and the City of Santa Fe's 2015 greenhouse gas
4 emissions study shows that 75 percent of all cars driven
5 in the County are only carrying one passenger, the driver
6 themselves. While housing, public transportation access,
7 and the affordability of the region are major factors in
8 complex challenges, it will take time to resolve.

9 Increasing the standards for reduction of vehicle
10 emissions is a doable and common sense approach that will
11 create a positive impact. And while reducing harmful
12 emissions and moving us in the right direction toward
13 cleaner commutes and transportation, cleaner air and
14 cleaner planet. I want us to be a leader in the State of
15 New Mexico. I believe that the clean car standards are
16 really important to enact as soon as possible.

17 Since people have been speaking about EVs, I
18 would love to purchase an EV -- (unintelligible and/or
19 inaudible.) At the moment, I drive a 1993 wagon, and I
20 have been driving that for years. So I want us to have
21 clean air and I want to be able to buy an electric vehicle
22 as soon as possible.

23 Thank you very, very much for your attention.

24 HEARING OFFICER ORTH: Thanks very much,
25 Commissioner Hansen.

1 Let's return to the next gentleman. Mr. Van
2 Heeke, Mr. Douglas and Ms. Segovia, if you are on the
3 platform and you would like to offer public comment during
4 this session, please reach out through Chat, if I haven't
5 read your name.

6 Mr. Van Heeke, I'm going to ask that you unmute.
7 Just give me a second. Can you unmute yourself? Mr. Van
8 Heeke?

9 MR. VAN HEEKE: Good afternoon. Can you hear me?

10 HEARING OFFICER ORTH: Yes, I can. If you would
11 please, do you swear or affirm to tell the truth?

12 MR. VAN HEEKE: Yes, I do.

13 HEARING OFFICER ORTH: Thank you. And if you
14 would spell your name and then begin your statement.

15 MR. VAN HEEKE: Sure. Tom Van Heeke, spelled
16 T-O-M. Last name is two words: V-A-N and then the second
17 word, H-E-E-K-E.

18 TOM VAN HEEKE,
19 having been first duly sworn or affirmed, gave public
20 comment as follows:

21 PUBLIC COMMENT OF TOM VAN HEEKE

22 MR. VAN HEEKE: Members of the Board, thank you
23 for the opportunity to speak today. I'm talking as a
24 senior environmental policy advisor at Rivian Automotive
25 where our mission is to keep the world adventurous

1 forever. Founded in 2009, Rivian is an American
2 manufacturer of all electric adventure vehicles, including
3 our R1T pickup, the R0S SUV, and commercial delivery van
4 for Amazon.

5 Rivian has begun the production and sale and
6 delivery of our vehicles from our manufacturing facility
7 in Illinois. We are also building a nationwide charging
8 network thousands of fast chargers and Level 2 chargers
9 planned, including sites in New Mexico.

10 Rivian's mission is a manifest in our commitment
11 to the environment and addressing climate change. We have
12 been strong supporters of the Advanced Clean Cars Rule
13 across the country. Our vehicles are proof that now is
14 the time to adopt ambitious eco regulations that continue
15 driving the industry forward. And we applaud New Mexico
16 for its thoughtful consideration of such regulations. All
17 of our vehicles -- (unintelligible and or inaudible) like
18 to use our credits and other details of the enhancement of
19 cars program.

20 Consistent with our position and values, we
21 support adoption of both the LEV and ZEV standards in 2022
22 by the Environmental Improvement Board. Through Board
23 action, New Mexico can join the ranks of states leading
24 the charge to accelerate the transition to ZEV, with
25 important benefit for public health and climate. The

1 early credit provision in the proposed regulatory language
2 is particularly valuable, by allowing EV makers to begin
3 earning credits for exempt sales beginning in model year
4 2023, early action credits incentivize accelerated
5 deployment of EVs. Since the greatest gas and air
6 pollution benefits of EVs are cumulative, states should
7 make every attempt to increase EV sales under these
8 standards as quickly as possible.

9 Once again, Rivian applauds New Mexico's
10 commitment to electrifying transportation. And thanks to
11 the Environment Department for its hard work in bringing
12 forth this petition for regulatory change. We support
13 adoption of the rule, and the Board's and working
14 policymakers and all stakeholders on the important next
15 steps that must follow to ensure New Mexico continues its
16 leadership on said issues. Thank you.

17 HEARING OFFICER ORTH: Thank you, Mr. Van Heeke.

18 Mr. Douglas, I'm going to -- I'm going to press
19 unmute and ask you to unmute.

20 Mr. Douglas, can you unmute yourself?

21 He may have stepped away. Let me turn then --
22 I'll come back to him.

23 Benjamin Segovia. Mr. Segovia, can you hear me?
24 And can you unmute yourself? Okay. I'm doing what I can
25 from here with the controls. Let's see here. He's saying

1 it still has the lock symbol. I'm pressing "request
2 unmute" on your -- on your name, Mr. Douglas.

3 MR. SEGOVIA: I'm unmuted.

4 HEARING OFFICER ORTH: Oh, there you are. Is
5 that you?

6 MR. SEGOVIA: This is Mr. Segovia, ma'am.

7 HEARING OFFICER ORTH: Oh, this is Mr. Segovia.
8 All right. I'm glad that worked. We'll take your comment
9 and I'll continue to try with Mr. Douglas, but let's take
10 your comment first.

11 Do you swear or affirm to tell the truth?

12 MR. SEGOVIA: Yes, I do.

13 HEARING OFFICER ORTH: Thank you. If you would
14 please spell your name and then begin your statement.

15 MR. SEGOVIA: B-E-N-J-A-M-I-N, Benjamin.
16 Segovia, S-E-G-O-V-I-A.

17 BENJAMIN SEGOVIA,
18 having been first duly sworn or affirmed, gave public
19 comment as follows:

20 PUBLIC COMMENT OF BENJAMIN SEGOVIA

21 MR. SEGOVIA: Good afternoon and thank you for
22 the opportunity to comment on the Environment Department's
23 Clean Car Rule. I am the regional director for the New
24 Mexico Farm and Livestock Bureau. And I represent the
25 following comments that we have of the New Mexico Farm and

1 Livestock Bureau's 20,000-plus members. The agriculture
2 community works diligently to care for the land, air and
3 water. Our state producers are some of the most effective
4 and advanced stewards of our natural resources, and
5 through utilization practices such as planting cover crops
6 and no fuel farming are actively reducing greenhouse
7 gases.

8 According to the EPA, farmers have reduced their
9 greenhouse gas emissions by 24 percent since 1990. We
10 appreciate the agriculture exemptions provided in the
11 draft rule at 20.2.190.13.M and would like to thank the
12 Environment Department for that consideration. However,
13 we would like to voice a few concerns and respectfully
14 oppose the draft rule.

15 Our concerns include the following: through the
16 adoption of this rule in this context means policy change
17 has a potential for economic harm to low income and rural
18 New Mexico farmers, ranchers and citizens. The
19 affordability of a new and likely higher-priced vehicle is
20 a constraint to less established individuals, many who
21 live in communities with struggling economies.

22 We oppose the adoption of this rule which mirrors
23 the California standards, and instead urge the
24 Environmental Improvement Board to continue to allow New
25 Mexico to follow the guidance set by the federal

1 standards. New Mexico is vastly different compared to a
2 state like California. And the California standards is
3 not the right fit for a poor state like New Mexico, where
4 many struggle to find affordable means of transportation.

5 Additionally, California recently announced a
6 proposal to entirely prohibit new gasoline or diesel cars
7 by 2035 in order to meet its climate change and emission
8 reduction goals. New Mexico cannot afford to follow in
9 these steps. Lastly, the lingering effect of COVID,
10 accompanied by the highest rate of inflation experienced
11 since 1980 is impacting consumers and placing additional
12 pressures on their wallet.

13 A global shortage of supplies required to
14 manufacture new vehicles; for example, microchips, and
15 their supporting infrastructure as well as other supply
16 chain and labor challenges makes purchasing a new vehicle
17 almost impossible. The proposal before you will further
18 reduce consumer choices in an already constrained market.

19 New Mexico can work to meet our climate and
20 emission goals by continuing to support voluntary consumer
21 changes. This can be done through operating additional
22 incentives and rebates. At New Mexico Farm and Livestock
23 Bureau, we support innovative, market-based and incentive
24 driven approaches to accomplishing -- accomplishing our
25 goals, instead of imposing additional mandates and more

1 regulations on the citizens of New Mexico.

2 Thank you for this opportunity.

3 HEARING OFFICER ORTH: Thank you, Mr. Segovia.

4 Let's see. I believe Mr. Douglas figured it out.

5 MR. DOUGLAS: Yes, I'm on now. I'm really sorry
6 about that.

7 HEARING OFFICER ORTH: Thank you very much. Hold
8 on, Mr. Douglas. Do you swear or affirm to tell the
9 truth?

10 MR. DOUGLAS: I do.

11 HEARING OFFICER ORTH: And if you would spell
12 your name please and then begin your statement.

13 STEVEN DOUGLAS

14 having been first duly sworn or affirmed, gave public
15 comment as follows:

16 PUBLIC COMMENT OF STEVEN DOUGLAS

17 MR. DOUGLAS: Certainly. It's Steven Douglas,
18 S-T-E-V-E-N. Douglas, D-O-U-G-L-A-S.

19 And I'm the vice president of Energy and
20 Environment for the Alliance for Automotive Innovation,
21 representing car companies that produce about 99 percent
22 of the new vehicles sold in the U.S.

23 Just by way of background on myself, I've spent
24 the last 27 years working in California for the car
25 companies on virtually every vehicle emission regulation

1 developed, from tailpipe exhaust, to the check engine
2 light on your car, to every iteration of the zero-emission
3 vehicle mandate.

4 Auto innovators and our members, we have and
5 continue to work cooperatively and constructively with
6 California Resources Board, the states that are -- the
7 states that follow CARB's regulations and with the U.S.
8 EPA. While we have never supported mandates, we certainly
9 don't oppose adoption of these rules.

10 In fact, we have worked very closely with the New
11 Mexico Environment Department, the City of Albuquerque,
12 the New Mexico Automotive Dealers Association and the NGO
13 community to develop the proposed regulations. We
14 sincerely appreciate their work and we support the
15 regulatory language as it's written.

16 Today, just so you're aware -- today, you're
17 considering three regulations, the criteria on the
18 greenhouse gas. Three weeks ago, California formally
19 proposed to sunset two of these: the ZEV and the
20 criteria, before you can implement them. And the third,
21 the greenhouse gas regulation, that's less stringent than
22 the U.S. EPA standards that were adopted just this past
23 December. Nonetheless, CARBs new standards, they haven't
24 been adopted and they are certainly not the subject of
25 this rulemaking.

1 Our members, for our part, are committed to a
2 net-zero carbon and electrifying vehicle fleet on a global
3 scale. Automakers are planning to spend 515 billion
4 dollars on electrification by the end of the decade. Last
5 year we had a little more than 70 electrified models
6 available and that's expected to double in the next few
7 years.

8 Finally, we're starting to see EVs, and what is
9 undoubtedly the most important vehicle sector for our
10 industry and for New Mexico, and that's pickup trucks. So
11 this is a new world in every respect. We're moving beyond
12 discussions of technology feasibility, where the engineers
13 of the car companies, the California Resources Board, the
14 EPA, determine whether the requirements are feasible based
15 on the rather complex set of technology that was needed to
16 meet it.

17 So, and just to be clear, let me simply say that
18 electric vehicles are feasible. They're reliable, they're
19 efficient, they're safe, they're fun to drive. They come
20 in every shape and size, they're feasible. But the issue
21 is market feasibility, and that's decidedly a local
22 analysis.

23 And I think it's important to put the same kind
24 of robust analysis in that, and it has to be analyzed on a
25 state level. And when you think of just the simple things

1 like affordability when you're looking through market
2 feasibility, you ask yourself, what is affordable. Is
3 \$20,000 for a new car or a used car, is that affordable?
4 Well, not if you can't fuel it, or if you have to spend an
5 hour to wait at home to wait for it to do so.

6 So, just to be clear, the market that we have
7 today, in the last month and the most of the months prior
8 to that, Kelley Blue Book reported that the average
9 transaction price for a new electric vehicle was \$65,977.
10 So that suggests that the current market is predominantly,
11 certainly not exclusively, driven by affluent buyers with
12 ready access to, say, low-cost reliable home charging.

13 That's where 89 percent of the charging takes
14 place. So ready access to affordable, reliable charging
15 at home, at work, at play, for all communities is critical
16 as we look at market feasibility. Hydrogen fuel also
17 helps expand the availability, so I think that we have a
18 lot of work to do on that.

19 So I'd just like to leave you with a few
20 additional points, and I appreciate the Board's
21 indulgence. First, President Biden, his Executive Order
22 earlier -- or I guess last year, set a nationwide goal of
23 50 percent of all electric -- all new passenger cars and
24 light trucks sold in 2030, to be zero-emission vehicles,
25 and that includes battery, electric, plug-in fuel cell

1 vehicles.

2 Our members have accepted that challenge of
3 driving EV purchases to somewhere between 40 and 50
4 percent nationwide by the end of the decade. And with the
5 right complimentary measures in place, the market
6 feasibility. Just four months ago, the U.S. EPA adopted
7 the most aggressive greenhouse gas emissions reduction
8 standards in history for the '23 to '26 model years. And
9 as I mentioned, these standards are even more stringent
10 than California standards in 2026.

11 We auto innovators and our member companies, we
12 supported EPA's greenhouse gas standards and the
13 appropriate and necessary flexibility that will encourage
14 higher production of EVs. In doing this, we know that
15 policy actions are needed today to help grow the EV market
16 significantly through '26 and beyond. Again, market
17 feasibility.

18 And then, I would note that when litigation was
19 brought against this EPA rule, we intervened in support of
20 EPA, in support of its final rule. Finally, just last
21 month, the U.S. Department of Transportation or the
22 federal EPA, they adopted fuel economy rules for '24 to
23 '26. So, this is just the beginning. Both U.S. EPA and
24 the Department of Transportation -- U.S. DOT, are
25 currently working on regulations for 2027 model year and

1 beyond.

2 And we will continue working cooperatively and
3 constructively with EPA, DOT, California, New Mexico and
4 other stakeholders to reach our common goals. Again, our
5 focus is electrification. And that's -- that's where
6 we're going. And I think it's imperative that all
7 sectors, that we take a comprehensive approach to this,
8 and include all of the different sectors for making sure
9 we get there.

10 It's important to us, it's important to the
11 future, it's important to the environment. So, on behalf
12 of the auto -- auto innovators and our member companies,
13 I'd just like to really appreciate you and thank you for
14 the time you've given us, and the work on the Department's
15 side. And we look forward to working with you.

16 HEARING OFFICER ORTH: Thank you very much,
17 Mr. Douglas.

18 We've reached the end of the narrative of those
19 reaching out either through email or Chat. On the
20 platform we have no additional public comment sought in
21 the room. I'll pause for just a moment in the event
22 someone else on the platform would like to reach out
23 through Chat right now. Otherwise, there are three more
24 public comment opportunities: tonight at 7, tomorrow
25 morning at 9 and tomorrow afternoon at 1.

1 I'm seeing no one reaching out through Chat, so
2 at this point I will thank all of you who gave comment.
3 It's very much appreciated. And we will return to the
4 technical case.

5 Mr. Knight.

6 MR. KNIGHT: Madam Hearing Officer, I would like
7 to call my next witness, if I may.

8 HEARING OFFICER ORTH: You're a little quiet.
9 Move the mic a little closer.

10 MR. KNIGHT: I would like to call my next
11 witness. It's Claudia Borchert

12 HEARING OFFICER ORTH: Okay. Ms. Borchert, do
13 you swear or affirm to tell the truth?

14 MS. BORCHERT: I do.

15 HEARING OFFICER ORTH: And I've been asked by the
16 interpreters, who, along with the court reporter, are
17 trying to catch every word, to remind the speakers to keep
18 the pace slow.

19 CLAUDIA BORCHERT,
20 having been first duly sworn, was examined and
21 testified as follows:

22 DIRECT EXAMINATION

23 BY MR. KNIGHT:

24 Q. Please state your full name and spell it for the
25 court reporter.

1 A. Claudia Borchert. C-L-A-U-D-I-A,
2 B-O-R-C-H-E-R-T.

3 Q. Thank you. How long have you been with the New
4 Mexico Environment Department?

5 A. I've been working for the Environment Department
6 for a year-and-a-half.

7 Q. And what is your current position there?

8 A. I am the Climate Change Policy Coordinator.

9 Q. And where did you work before taking this
10 position with NMED?

11 A. I worked for Santa Fe County for three years as
12 their sustainability manager and I was their water and
13 wastewater utility director for the three previous years.

14 Q. Did you submit written testimony in this matter?

15 A. Yes, I did.

16 Q. Is it -- is that Exhibit 13 in our Notice of
17 Intent?

18 A. Yes, it is.

19 Q. Do you have any changes or corrections that you
20 would like to make to that written testimony?

21 A. No.

22 Q. And then, do you adopt that written testimony as
23 your testimony here today?

24 A. Yes, I do.

25 Q. Thank you. Could you provide us with a summary

1 of your written testimony?

2 A. Yes, I would be happy to. My testimony today
3 will cover the following: The actions NMED took to meet
4 the statutory requirement to provide public notice of this
5 meeting; NMED's public outreach activities, most often
6 conducted with the City of Albuquerque's Environmental
7 Health Department; a summary of the proposed final Clean
8 Car Rule, Part 91, which is nearly identical to EHD's Part
9 104. And when I speak of the Clean Car Rule, I am
10 including them both.

11 Specifically, I will describe what the proposed
12 rule does and how it changed from the version in NMED's
13 petition to EIB on December 1, 2021.

14 NMED met the statutory public notice requirement
15 of this Clean Car Rule hearing. We had the notice
16 published in English and in Spanish in three newspapers of
17 wide circulation -- let's see. I'm sorry. Throughout New
18 Mexico and in the New Mexico Register.

19 We posted notices, again in English and in
20 Spanish on EIB's docket, the New Mexico Sunshine Portal,
21 NMED's Clean Car Rule web page and at NMED field offices.
22 We sent email notices to the New Mexico Legislative
23 Council, the Land Grant Council, tribal governments and
24 over 1,800 list serve subscribers, including all of those
25 from whom we received comments throughout the process.

1 We sent a notification letter to the Small
2 Business Regulatory Advisory Council, who concluded that,
3 "No findings were found on the proposed bill."

4 Next slide, please. NMED, in partnership with
5 EHD, developed the proposed Clean Car Rule over the past
6 year, which included extensive public and stakeholder
7 engagement with three virtual public meetings.

8 Is my volume okay, or do I need to go more?
9 Closer is better? It's so loud right here. Okay.

10 Seven press releases, ten E-bulletins and the
11 notice of hearing previously mentioned. Our team had over
12 three dozen meetings with various stakeholders, many of
13 whom commented on the discussion draft rule NMED released
14 in November of last year.

15 Auto dealers, auto manufacturers, the agriculture
16 industry, community advocates, environmental
17 organizations, investor-owned and cooperative utilities,
18 local government representatives, and over 100 individual
19 New Mexicans provided feedback during the public comment
20 periods, public meetings, individual stakeholder meetings.

21 My written testimony details specific
22 improvements that our team made to the rule as a result of
23 the input we received. Additionally, NMED has maintained
24 a dedicated web page with links that have been updated
25 with relevant documents throughout the process.

1 Now, I'd like to cover the clean rule -- the
2 Clean Car Rule itself. "Clean cars" is a term used to
3 describe motor vehicles, like passenger cars, light-duty
4 and medium-duty trucks, sport utility vehicles, vans and
5 minivans that emit less pollutions than vehicles with
6 conventional internal combustion engines.

7 Next slide, please. The Clean Car Rule addresses
8 two groups of passenger cars: Low-emission vehicles with
9 cleaner internal combustion engines and zero-emission
10 tailpipe vehicles or ZEVs. The zero-emission vehicles
11 considered in this rule include transitional zero-emission
12 vehicles, TZEVs, like plug-in hybrid electric vehicles,
13 and vehicles with no tailpipe emissions, including battery
14 electric vehicles and fuel cell electric vehicles.

15 Going forward, I will try not to use too many
16 clean car-related acronyms. However, in case I or other
17 witnesses slip, I believe you've been given a list to help
18 you decode the acronyms.

19 Next slide, please. Per Exhibit 19, over 186
20 plug-in hybrids and electric vehicle models have been
21 available in the U.S. since 2010, with 47 different, all
22 electric vehicles available for model years 2021 and 2022
23 alone, which is the market -- the model year that is
24 current for us.

25 This electrification of the car market is playing

1 out in New Mexico, too, where electric vehicle sales are
2 on the rise; at 1.7 percent in 2021, electrical vehicle
3 sales in New Mexico more than doubled from the previous
4 year.

5 Next slide, please. However, one of the reasons
6 we don't see higher penetration of electric vehicles in
7 New Mexico -- in the New Mexico market is because
8 manufacturers preferentially deliver plug-in hybrids and
9 electric vehicles to California and the other states that
10 have adopted the clean car standards, the so-called
11 Section 177 states, which are shown in solid blue and
12 green striped on this slide. Those states with the green
13 stripes adopted the rule in 2021 and are in their
14 mandatory two-year waiting period before their first
15 compliance year begins.

16 Next slide, please. NMED and EHD are before you
17 today to seek approval of our petition for the proposed
18 Clean Car Rule. The nearly identical Part 91 and Part
19 104, which would add New Mexico to the group of Section
20 177 states in the previous slide. Exhibit 20 in the final
21 Clean Car Rule -- no, I'm sorry. Exhibit 20 is the final
22 Clean Car Rule or Part 91 that NMED is proposing in both
23 redlines and clean versions. The proposed changes allows
24 Part 91 to work seamlessly together with the final
25 proposed Part 104, Exhibits 47 and 48, as presented

1 earlier by Ken Miller, to achieve statewide application of
2 the Clean Car Rule.

3 The changes that NMED is proposing to the Clean
4 Car Rule in Exhibit 20 ensure that the regulated community
5 have only one agency to whom they report. Applicability
6 and occurrence occurs on a statewide basis per Section 177
7 of the Clean Air Act. NMED has primary responsibility.
8 EHD retains appropriate compliance and enforcement powers.
9 The effective date of the rule, for July 1, 2022, and the
10 final rule has the updated citations, including the
11 recently revised dates of the California regulations
12 incorporated therein.

13 The proposed Clean Car Rule requires that all new
14 passenger cars, light-duty trucks, medium-duty passenger
15 vehicles, medium-duty vehicles and new motor vehicle
16 engines that are delivered for sale, offered for sale,
17 sold, imported, delivered, rented, leased, acquired,
18 received or registered in New Mexico meet the California
19 Clean Car Standards. In the rest of my testimony I will
20 use "delivered for sale" or "sold" as shorthand for the
21 vehicles to which the language applies.

22 "New" in the rule is defined as "beginning with
23 model year 2026 and with 7,500 miles or fewer on the
24 vehicle odometer." The Clean Car Rule primarily applies
25 to car manufacturers, but also include dealers, car rental

1 agencies, federal, state or local government and other
2 persons. The Clean Car Rule also applies to each person
3 registering a motor vehicle in New Mexico.

4 Liz Bisbey-Kuehn previously described the
5 statutory authority that allows these proposed rules to be
6 adopted under the Clean Air Act, the Environmental
7 Improvement Act and the Air Quality Control Act.

8 Next slide, please. The proposed effective date
9 of the Clean Car Rule is July 1, 2022. The first year of
10 compliance, because of the mandatory two-year waiting
11 period in the Clean Air Act, is model year 2026, which
12 begins on January 2nd, 2025, and extends through December
13 1, 2026.

14 The slide shows the timeline of various aspects
15 of the rule, including how manufacturers may begin earning
16 early-action credits for delivering vehicles for model
17 years 2022 through 2024 beginning July 1 of 2022. The
18 timeline also shows vendor proposed Clean Car Rule,
19 one-time credits will be awarded to the manufacturers in
20 model year 2027, based on their model year 2025 sales.

21 To ensure identicality with those portions of the
22 California Clean Car Rules that apply, the two Departments
23 propose to adopt most of the definitions in the Clean Car
24 Rule from the California Code of Regulations and the
25 California Health and Safety Code. And incorporate

1 California's Clean Car Rules by reference in Section 102
2 of Part 91 and Part 104.

3 Two important items of note on incorporating
4 these code provisions: First, doing so does not cede New
5 Mexico's authority to California; second, it does not mean
6 that future changes in the California provisions are
7 automatically updated in the proposed final Clean Car Rule
8 before you. In fact, if California changes its Advanced
9 Clean Car regulations, as they are currently considering,
10 additional rulemaking proceedings would be required in New
11 Mexico, including a public hearing for the Boards, as
12 required by the Air Quality Control Act.

13 The Clean Car Rule does not apply to all
14 motorized vehicles. As detailed in Section 103 of the
15 Clean Car Rule, the rule does not apply to used vehicles,
16 heavy-duty vehicles, such as long-haul trucks, military
17 tactical vehicles, construction equipment, buses, custom
18 vehicles and farm equipment. The Clean Car Rule also
19 includes exceptions for a vehicle that will be registered
20 out of the U.S. -- outside of New Mexico, and for
21 passenger cars that are acquired under extenuating
22 circumstances.

23 Now, more detail into the proposed emissions
24 standards. Next slide, please. The proposed Clean Car
25 Rule regulates three different aspects of new, light- and

1 medium-duty vehicle emissions. The criteria pollutants,
2 like exhaust cinders, the greenhouse gas, tailpipe exhaust
3 standards and the zero-emission vehicles requirement.

4 All of the tailpipe emission standards apply to
5 all passenger cars with internal combustion engines. That
6 means, that manufacturers must deliver to New Mexico
7 vehicles that are low-emission, California certified, as
8 indicated on a label in the engine compartment of every
9 vehicle. Right now, all light- and medium-duty vehicles
10 manufactured in the U.S. are 50-state compliance, because
11 the federal and the California tailpipe emission standards
12 are the same. Thus, compliance with this aspect of the
13 low-emission vehicle standard will be easy for the
14 manufacturers and for New Mexico.

15 I'm sorry. The fleet standards for nonmethane
16 organic gases plus oxides of nitrogen, particulate matter
17 and greenhouse gases in Section 104, 105 and 106
18 respectively, manufacturers are already meeting this
19 requirement in California, and other Section 177 states
20 are poised to do so in the upcoming years. Thus, if the
21 Clean Car Rule is adopted, the manufacturers will add New
22 Mexico to the list of states in which they meet this
23 requirement.

24 Next slide, please. Oops, I forgot this one.
25 We'll just skip this one and go on to one more. Thank

1 you. Okay.

2 Now, I will describe the third component of the
3 emissions standard: the zero-emission vehicle
4 requirements. Section 108 requires that each manufacturer
5 must deliver a percentage of zero-emission vehicles to New
6 Mexico based on their total new light-duty New Mexico
7 sales. This 22 zero-emission vehicle credit requirement
8 does not mean that 22 percent of the new cars delivered
9 must be qualifying zero-emission vehicles. Rather, the 22
10 percent vehicle -- zero-vehicle emission credit
11 requirement translates to about 7 percent new
12 zero-emission vehicles delivered for sale.

13 The requirement can be met with a combination of
14 battery electric vehicles, fuel cell electric vehicles,
15 and transitional electric vehicles, each of which earns a
16 credit ranging from one to four, depending on the distance
17 the car can travel without producing tailpipe emissions or
18 needing to be recharged.

19 Estimating that approximately 80,500 new vehicles
20 will be sold in New Mexico in 2025, the requirement would
21 bring approximately 3,800 additional zero-emission
22 vehicles to New Mexico beyond the approximately 1,800
23 zero-emission vehicles projected to be delivered to New
24 Mexico without the Clean Car Rule.

25 In addition to reducing air pollutants, the

1 increased availability of zero-emission vehicles in New
2 Mexico will give consumers more choice and is anticipated
3 to reduce the lifetime cost of owning and operating a
4 vehicle, as we heard from some of the public commenters
5 earlier.

6 Manufacturers have multiple ways of meeting the
7 requirements, including delivering the needed qualifying
8 vehicles, delivering extra vehicles in one year; and
9 banking credits for future or past years; and three,
10 purchasing credits for manufacturers that have delivered
11 more than their required number of vehicles to New Mexico.

12 To report and track zero-emission vehicles
13 credits, each of the Section 177 states has a separate
14 state -- state-specific zero-emission vehicle credit bank
15 in the software platform developed by the staff of the
16 California Air Resources Board.

17 In response to the concern that New Mexico
18 doesn't have enough charging infrastructure to support the
19 zero-emission vehicle credit requirement, it's important
20 to note that 80 percent of electric vehicle charging
21 occurs at home. For those who cannot charge at home, as
22 of April 1st, 2022, when I looked up station information
23 on the Department of Energy's alternative fuels data
24 center website, New Mexico is home to 180 charging
25 stations, with 437 individual charging points. Of the 180

1 charging stations, 33 are fast chargers, which allow a
2 vehicle to charge their batteries in approximately 20 to
3 40 minutes.

4 Next slide. This map from the website PlugShare,
5 identifies over 200 charging stations up and running in
6 New Mexico, with an additional 17 in the works. Other
7 efforts are under way to continue to build-out the
8 public's EV charging infrastructure in New Mexico, with
9 these dedicated funding streams: 4.6 million dollars from
10 the Volkswagen settlement fund from NMED; 10 million
11 dollars from the American Rescue Plan Act; 38 million from
12 the Infrastructure Investment and Jobs Act; 8 million
13 within the transportation and electrification plans of the
14 three investor-owned utilities.

15 With a better sense of the current and future
16 electric future charging landscape, I'd like to return to
17 the proposed rule. Section 109 of the Clean Car Rule
18 proposes to allow manufacturers to receive early action
19 credits for delivering qualifying zero-emission vehicles
20 beginning July 1 for model year 2022 through 2025, before
21 the first compliance period of model year 2026. This
22 incentivizes manufacturers to deliver zero-emission
23 vehicles to New Mexico sooner and eases their path toward
24 compliance from the current sales rate of almost 2
25 percent, to be about 7 percent in the proposed rule.

1 Under Section 109, manufacturers will report
2 their statewide deliveries to New Mexico, to NMED. And
3 after verification, NMED will credit each manufacturer --
4 manufacturers in New Mexico, early-action credit bank.

5 As was adopted in Nevada in their rulemaking
6 process last year, the proposed one-time credit within
7 Section 109, allow manufacturers to earn credits in New
8 Mexico for model years 2027 based on their zero-emission
9 vehicle credit balance in California, in model year 2025,
10 scaled to their total sales in New Mexico.

11 The proposed Clean Car Rule contains compliance
12 and enforcement provisions to allow NMED and EHD to
13 successfully implement the proposed rule, with the primary
14 responsibilities lying with NMED. The proposed provisions
15 have been successfully implemented in 12 states that are
16 already -- that have already adopted the California clean
17 car standards.

18 The rule includes protections to ensure the
19 vehicles delivered to New Mexico perform as anticipated
20 and may alleviate consumer concerns, as they choose to
21 invest in an electric vehicle. Sections 111, 112 and 113
22 require that manufacturers that deliver vehicles to New
23 Mexico, subject to the rule, may contain the same
24 warranties, labels and recall provisions included in the
25 California clean car regulations. Per the proposed rule,

1 NMED and EHD may inspect motor vehicles and copy relevant
2 records as needed to administer and enforce the Clean Car
3 Rule.

4 The proposed Clean Car Rule requires the
5 approximate 18 intermediate and large-volume manufacturers
6 subject to the rule to obtain registration from NMED.
7 Under Section 114, the registration is valid for ten years
8 and subject to an annual fee. NMED would apportion the
9 total annual \$200,000 registration fee among the
10 registered manufacturers based on sales reported from the
11 previous year.

12 NMED will use the annual registration fee to fund
13 the administration of the program, which is estimated to
14 require two full-time staff and contractual resources, to
15 build reporting, tracking and compliance systems. Thus,
16 the program will not place any direct fee on the consumers
17 of the clean cars. Additionally, those manufacturers
18 seeking early action credit will pay an annual fee in the
19 years before the first compliance year of model year 2026.

20 In conclusion, I'd like to recap for the Boards,
21 that NMED and EHD met all public notice of requirements
22 for the public -- for the proposed rule, conducted
23 thorough outreach to the stakeholders and interested
24 public, and improved the Clean Car Rule based on comments
25 received.

1 The proposed Clean Car Rule is a measured and
2 doable step that New Mexico can take now to increase
3 vehicle choices for New Mexicans, to improve our air
4 quality, and to reduce the environmental impacts of light-
5 and medium-duty passenger cars.

6 Thank you.

7 HEARING OFFICER ORTH: Thank you, Ms. Borchert.

8 Mr. Knight, before you call -- I assume you are
9 going to call Mr. Shulock to join Ms. Borchert. Before
10 you do that, I have a request that we just take a short
11 break. Can we take ten minutes. Mr. Shulock can
12 certainly get settled and when we come back we'll hear
13 from him.

14 MR. KNIGHT: That sounds great.

15 HEARING OFFICER ORTH: Ten minutes, which will be
16 2:15.

17 (Recess taken from 2:06 p.m. to 2:15 p.m.)

18 HEARING OFFICER ORTH: All right. We're back
19 after a short break. Mr. Knight, if you would.

20 MR. KNIGHT: Thank you, Madam Hearing Officer.

21 I just had one question. I know that the Clean
22 Air Advocates had one witness that they wanted to get in
23 today. It looks like we're going to be just fine on time.
24 I just wanted to confirm with you that we could proceed
25 with our next witness.

1 HEARING OFFICER ORTH: I was paying attention to
2 that, actually. Thank you, Mr. Knight. Yes, I believe
3 we're going to have plenty of time for Ms. Strother.

4 MR. KNIGHT: Great. Okay. I would like to call
5 my next witness, Mr. Chuck Shulock, if he could be sworn.

6 HEARING OFFICER ORTH: Do you swear or affirm to
7 tell the truth?

8 MR. SHULOCK: I do.

9 HEARING OFFICER ORTH: Thank you.

10 CHARLES M. SHULOCK,
11 having been first duly sworn, was examined and
12 testified as follows:

13 DIRECT EXAMINATION

14 BY MR. KNIGHT:

15 Q. Please state and spell your name for the record.

16 A. My name is Chuck Shulock. C-H-U-C-K,
17 S-H-U-L-O-C-K.

18 Q. And Mr. Shulock, what is it that you do for a
19 living?

20 A. I'm an environmental and climate policy
21 consultant.

22 Q. And before you became a consultant, what was your
23 career?

24 A. Before becoming a consultant I worked for about
25 20 years at the California Air Resources Board. While

1 there, I led the staff teams that prepared the 2001 and
2 2003 amendments to the zero-emission vehicle regulation
3 before you today. And then served as the project leader
4 for the Board's 2004 adoption of the first greenhouse gas
5 tailpipe standards for light-duty vehicles.

6 After I retired from the Air Resources Board
7 staff, I became a consultant and for the past several
8 years I've been working on Advanced Clean Cars rulemakings
9 in California and also in a number of other states.

10 Q. Mr. Shulock, your services as a consultant on
11 this rulemaking, can you talk a little bit about how your
12 work is being funded?

13 A. Yes. My client for this work is an entity known
14 as the U.S. Climate Alliance. And that's a bipartisan
15 coalition of governors committed to reducing greenhouse
16 gas emissions, consistent with the goals of the Paris
17 Climate Agreement.

18 And the Climate Alliance reached an agreement
19 with New Mexico, to fund me to provide technical
20 assistance to the New Mexico Environment Department and to
21 Albuquerque-Bernalillo County for this rulemaking.

22 Q. Thank you for that.

23 So, did you file written testimony in this
24 matter?

25 A. Yes, I did.

1 Q. And do you have any changes or corrections or
2 additions that you would like to make to that written
3 testimony at this time?

4 A. No, I do not.

5 Q. And, therefore, do you adopt that written
6 testimony as your testimony here today?

7 A. Yes, I do. It's Exhibit 24 is my understanding.

8 Q. Great. Well, go ahead and, if you would, provide
9 us with a summary of your written testimony.

10 A. Thank you. And Madam Hearing Officer, Madam
11 Chairs, and members of your Boards in person and virtual,
12 good afternoon. And thank you for the opportunity to
13 speak regarding the rule before you today.

14 My primary task for the Department and the City
15 and County has been to project the impacts of this Clean
16 Car Rule. I have prepared a report outlining my findings,
17 which is included in your record as NMED/EHD Exhibit 26.
18 Before summarizing those impacts, however, I've been asked
19 to walk you through the current federal and state
20 regulatory landscape.

21 There's been a lot of recent activity and there's
22 a lot of moving parts here, and an understanding of how
23 your Clean Car Rule fits into that broader picture would
24 be helpful in your deliberations. The first thing to note
25 is that although vehicle pollution control is the

1 responsibility of the federal government, as you've heard
2 earlier, the federal Clean Air Act gives California the
3 authority to adopt its own more stringent motor vehicle
4 emissions standards if the U.S. EPA finds them to be
5 necessary to meet California's unique air quality
6 problems.

7 Such EPA approval is granted via what's known as
8 a waiver, which allows California to enforce its own
9 regulations. The Clean Air Act then also gives other
10 states the authority to adopt the California standards if
11 they so choose. Other states cannot adopt their own
12 standards, your own standards; instead, you must choose
13 between the federal and California rules. This was done
14 to simplify compliance on the part of the automakers to
15 avoid them having to build a different car to meet the
16 requirements of each state.

17 States that have adopted the California
18 regulation are known as the Section 177 states, after that
19 section of the Clean Air Act that granted them the
20 authority. There's a long history of state and federal
21 interaction on vehicle emission standards, but I'll start
22 in 2012. In that year, California adopted an updated
23 package of the tailpipe standards and zero-emission
24 vehicle sales requirements. This package of standards was
25 granted a waiver by the EPA, and then shortly thereafter,

1 the automakers, EPA and California reached an agreement on
2 what was called the Unified National Program.

3 This agreement covered tailpipe standards for
4 GHGs and for other pollutants, but it did not include any
5 ZEV requirement at the federal level. So the unified
6 portion with the tailpipe standards, the zero-emission
7 portion is unique to California.

8 My understanding is that EPA has concluded it
9 does not have the authority under the Clean Air Act to
10 directly require ZEVs. So fast-forward again to 2019. In
11 that year, the Trump administration revoked California's
12 waiver, which meant that California and the Section 177
13 states could no longer enforce those California
14 regulations. And in 2020 the Trump administration adopted
15 what was known as the "SAFE Rule," which relaxed the
16 greenhouse gas tailpipe standards for model years 2021
17 through 2026.

18 So those relaxed standards remained in place
19 until last year, when the Biden administration adopted
20 stricter greenhouse gas standard for model years 2023
21 through 2026. So the Biden administration came in and
22 undid what the Trump administration had done to those
23 tailpipe standards. And then, earlier this year, the
24 Biden administration reinstated California's waiver.

25 So that's a lot of -- like I said, a lot of

1 moving parts, but the bottom line, there are now two sets
2 of regulations in play: the newly adopted Biden standards
3 and the California standards. They are largely similar,
4 but not identical. And the differences are what will
5 determine the impacts of the rule before you today. The
6 bottom line is, whichever regulation achieves the greatest
7 reduction on each individual aspect of the program is what
8 will take effect in New Mexico.

9 I will discuss each of these several pieces and
10 outline how they relate. Both the federal and the
11 California rules establish limits on tailpipe emissions.
12 For greenhouse gases, the federal standards for model year
13 2026, which as has been noted, will be the first effective
14 year of advanced clean cars in New Mexico, those federal
15 standards are stricter than California's requirements --
16 are more stringent than -- I'm sorry -- stricter than
17 California's requirements for that year, and under both
18 federal law and New Mexico law, federal standards take
19 priority. Therefore, this rule does not change the GHG
20 tailpipe limit.

21 You should be aware, however, that the federal
22 GHG rules have been challenged in Court. If those rules
23 are overturned, this Clean Car Rule would then be stricter
24 and would set the GHG standards. So this Clean Car Rule
25 provides a backstop against Court challenges or potential

1 rollbacks by a future federal administration.

2 For particulate matter, the California
3 regulations just put in place more protective tailpipe
4 standards than federal law. Therefore, the California
5 particulate matter limits in this Clean Car Rule will be
6 operative, and that will result in particulate matter
7 reductions and health improvements as compared to the
8 federal standards.

9 For the remaining pollutant, such as smog-forming
10 pollutants and carbon monoxide, the federal and California
11 tailpipe standards are basically the same. Therefore,
12 adopting this Clean Car Rule will not affect the tailpipe
13 emissions of those pollutants.

14 Last, but not least, this Clean Car Rule puts in
15 place a requirement for manufacturers to offer for sale in
16 New Mexico, specified numbers of zero-emission vehicles.
17 This requirement has no counterpart in federal law, and,
18 therefore, will govern New Mexico sales. Introducing more
19 ZEVs into the fleet will also lead to emission reductions,
20 which I will speak to in a moment.

21 Both EPA and California have started updates to
22 their regulations, which would take affect in future model
23 years. You may wish to address those updated requirements
24 in a future rulemaking, but they have no impact, they're
25 not relevant for the decision before you here.

1 I should also note that the impacts analysis that
2 I prepared for the staff for the original petition to your
3 Boards, was completed before the now federal standards
4 were approved. And the adoption of those standards
5 changed the context within which this Clean Car Rule will
6 be implemented. My presentation today updates that
7 original analysis to take into account the recent federal
8 action.

9 So, with all of that as background, I will now
10 address the projected New Mexico impacts of this Clean Car
11 Rule. I will present summary findings on emissions,
12 public health, and cost and savings. My full report,
13 which is in your record as Exhibit NMED/EHD 26, and it's
14 called "The New Mexico Clean Car Rule: An Analysis of
15 Feasibility and Impact on Consumers and the Environment."

16 So, in that report, I look at two additional
17 scenarios beyond the rule that you're adopting. Those
18 scenarios are one in which the federal rule is overturned,
19 so what happens then. And the second one models the
20 impact of the more aggressive ZEV requirements that are
21 under consideration in California. Those were provided
22 for background for, you know, for those that were
23 interested, but I will not discuss those scenarios today.

24 I will be happy to answer any questions you may
25 have. And then one other note just for the record, on

1 that report, the report includes a number of drafts in the
2 main text, and then there is supporting or detailed tables
3 in the appendix that provide the numbers behind the
4 drafts. I updated it -- you know, I did a final update of
5 the report, and noticed later that one of the graphs,
6 which is Figure 4, the graph in the report is correct; the
7 supporting table was not updated, so it's a little bit low
8 on all of the numbers. It doesn't substantially change
9 anything, but just for the record, I wanted to note that.

10 So, turning first to emissions. There are three
11 components to the impact of the rule. The first is
12 reduction in tailpipe emissions from the vehicle. The
13 second is reductions in what are known as upstream
14 emissions from the internal combustion vehicles. These
15 are the emissions associated with the production and
16 distribution of the fuel used by those engines. And then
17 third are upstream emissions from ZEVs; and these are the
18 emissions from the power plants that are generating the
19 electricity used to charge the vehicles.

20 So these three factors, in combination, result in
21 a net decrease in emissions in New Mexico statewide and
22 also in Bernalillo County. These emissions are driven
23 primarily by reductions in emissions from the fossil fuel
24 production and distribution, and also by the more
25 stringent tailpipe standards for particulate matter.

1 For GHGs, cumulative emissions are substantially
2 reduced by 2050. And because the climate altering impacts
3 of GHGs are really driven by cumulative emissions over
4 time, this Clean Car Rule will achieve positive climate
5 benefits.

6 For other pollutants, such as those that
7 contribute to smog, as well as hazardous air pollutants,
8 the rule reduces annual and cumulative emissions
9 immediately. While upstream emissions from electricity
10 generation typically occur in remote others -- more remote
11 areas, these tailpipe particulate matter emissions from
12 the internal combustion vehicles are concentrated in urban
13 areas and near highways, which often impact low income or
14 disproportionately impacted communities. Thus, in
15 addition to achieving statewide reductions, this Clean Car
16 Rule will reduce health impacts in these impacted areas.

17 Looking more specifically at public health, from
18 my report, I conducted what they call a screening analysis
19 of these rules impacts using an EPA model referred to as
20 COBRA. And COBRA projects the impacts of emissions
21 reductions -- it takes emissions reductions, projects what
22 does that do to ambient air concentrations of particulate
23 matter, and then provides high and low estimates of the
24 health impacts of that reduced particulate matter, and
25 then monetizes the results.

1 It calls it a screening analysis, because it's at
2 a fairly high level compared to, you know, really
3 detailed, you know, really detailed analyses, but it's
4 state of the art for analyzing the health impacts.

5 Health impacts from particulate matter exposure
6 include mortality, heart attacks, chronic lung disease,
7 bronchitis and asthma. And that screening analysis
8 projects that this Clean Car Rule will provide health
9 benefits to New Mexico citizens.

10 One important finding of the health analysis is
11 that Bernalillo County accounts for about 76 percent of
12 the monetized health benefits in 2028, which is the year
13 that this tool gives you; much larger than its 21 percent
14 share of the emission reductions. This difference is due
15 to the fact that population density is a key factor in
16 COBRA's health impact estimates.

17 And as you might imagine, a given reduction in
18 ambient particulate matters levels has more significant
19 health impacts in an area with greater population density.
20 So that's why the County accounts for a large fraction of
21 the overall health benefits.

22 Looking next at cost and benefits, this Clean Car
23 Rule will lead to cost savings for individual vehicle
24 purchasers and for the State as a whole. The rule affects
25 three aspects of consumers cost, which, like the emission

1 side, together will result in a net savings over the life
2 of the vehicle. These three things are, first, the
3 upfront cost of the vehicle, including tax; second,
4 insurance and maintenance costs over the life of the
5 vehicle, and then third, lifetime fuel savings because
6 these vehicles are substantially more efficient than the
7 internal combustion vehicles they replace.

8 So my analysis concludes that over the lifetime
9 of newly purchased vehicles, this rule will result in net
10 savings for individual consumers and for the State as a
11 whole. Low income purchasers will also benefit from cost
12 savings under the Clean Car Rule. Fuel cost savings
13 provide a greater benefit to low income consumers because
14 they tend to spend a larger portion of their income on
15 fuel than do higher income consumers.

16 Moreover, lower income consumers
17 disproportionately buy used vehicles. And for used
18 vehicles, most of the incremental costs for improved
19 technology get absorbed by the first owner, but the fuel
20 savings for that improved technology persist for the life
21 of the vehicle. So, as clean new cars become clean used
22 cars, those operational costs savings will be passed on to
23 subsequent owners and continue to yield benefits to
24 drivers.

25 The savings to purchasers of individual vehicles,

1 when multiplied across the vehicles sold in New Mexico
2 each year, will result in statewide savings. These
3 societal savings increase over time as larger numbers of
4 the more efficient vehicles are added to the fleet. And I
5 guess I couldn't leave you without using some numbers, so
6 my analysis projects cumulative statewide savings of about
7 14 million dollars in 2030; 125 million in 2040; 237
8 million in 2050.

9 It's also worth mentioning that those savings are
10 based on assumed gasoline prices from national sources,
11 you know, speaking to New Mexico, about 3 dollars per
12 gallon in 2026, increasing to 3.70 in 2050. So they're
13 pretty conservative, given what's happening today.

14 Finally, I also looked at the feasibility of
15 manufacturers meeting these requirements. In short, the
16 requirements are feasible now and will become more so as
17 costs decline and technology improves. Vehicle purchasers
18 will have a wider array of ZEV available, including pickup
19 truck and SUVs. Recent announcements foreshadow an influx
20 of models that will be available in advance of model year
21 2026, the first model year under this rule.

22 Current and soon to be released EV truck models
23 include the Rivian R1T, the Ford F150, Chevy Silverado,
24 and GMC Hummer and Tesla Cybertruck.

25 Thank you for the opportunity to testify, and I'm

1 available to respond to any questions.

2 HEARING OFFICER ORTH: Thank you, Mr. Shulock.

3 MR. KNIGHT: Thank you. And, yes, my panel will
4 stand for questions now.

5 HEARING OFFICER ORTH: Thank you very much.

6 Mr. de Saillan or Mr. Baake, do you have
7 questions?

8 MS. SONA: Madam Hearing Officer?

9 HEARING OFFICER ORTH: Yes.

10 MS. SONA: We would like to offer that Mr. Miller
11 could also sit with this panel since there is some overlap
12 of his testimony. If the Board may have questions, he
13 might also have some relevant answers as well.

14 HEARING OFFICER ORTH: All right. That sounds
15 helpful. Yes, that sound helpful. Mr. Miller, back in
16 the hot seat. All right. Let's see.

17 I see Mr. Baake on screen. Mr. Baake, do you
18 have questions of this panel?

19 MR. BAAKE: I do not. I'm not sure if my
20 co-counsel does, but I want to appreciate everyone for
21 their detailed and good analysis.

22 HEARING OFFICER ORTH: Thank you.

23 Mr. De Saillan.

24 MR. DE SAILLAN: Thank you, Madam Hearing
25 Officer. I have no questions.

1 HEARING OFFICER ORTH: All right. Thank you.

2 EXAMINATION BY THE BOARDS

3 HEARING OFFICER ORTH: We turn to the City Board
4 first this time. Chair Meiklejohn, any questions?

5 CHAIRPERSON MEIKLEJOHN: Thank you, Madam. I do
6 have questions. In -- Mr. Shulock, in your analysis, were
7 you able to get a feeling of whether or not there's enough
8 momentum in the overall cooperation in the auto
9 manufacturing industry that would be able to override any
10 rollback at the federal level? Meaning, that if, say,
11 something similar that happened during the Trump
12 administration happens again, that there will be enough
13 momentum in the market and also popular demand and
14 consumer interest, that the federal -- that even if they
15 did rollback the standards at a federal level, that the
16 momentum and drive among the cooperation to bring clean
17 car rules across the country would simply override that,
18 and it wouldn't make as much of a difference if that were
19 to happen?

20 MR. SHULOCK: I don't want to speculate on that,
21 but I will make one observation, which is, you know, in
22 California, throughout the history of the regulation, we
23 thought of the ZEV rule as a floor to ensure investment
24 and manufacturer research and development if everything
25 else went wrong. And I think that's still true today.

1 It's a good question, and I understand where it's coming
2 from, but I don't feel qualified to give you an answer.

3 CHAIRPERSON MEIKLEJOHN: That's very helpful.
4 That's a very helpful thing to point out in terms of your
5 understanding of how this is put together. Thank you so
6 much.

7 HEARING OFFICER ORTH: Thank you.

8 Vice-Chair Paul, do you have questions of this
9 panel?

10 VICE-CHAIR PAUL: Thank you very much. I'll just
11 try to be quick. I think that Mr. Shulock, you may have
12 addressed some of these, so I apologize if we're repeating
13 ourselves.

14 But Ms. Borchert, I thought you might
15 demonstrate, if you have this data, it wasn't in your
16 testimony directly, but I think there was a good sort of
17 range there about if you know generally, off the top of
18 your head, including a tax incentive, what's the price of
19 the least expensive battery electric vehicle or the EV?
20 Available today? Sorry.

21 MS. BORCHERT: Madam Hearing Officer, Chairs,
22 Member Paul, I think the Leaf is one of the least
23 expensive. And I think it comes in at the lowest model,
24 around 26,000, but I don't know. I have not checked it
25 out recently. I don't know if the supply issues now are

1 changing the price.

2 VICE-CHAIR PAUL: Sure. Thank you. Yeah, I'm
3 trying to get at the concern from the farmers
4 association -- I don't think I have that right, but about
5 affordability of electric vehicles going forward.

6 MS. BORCHERT: Sorry. If I may follow up and
7 say --

8 VICE-CHAIR PAUL: Sure.

9 MS. BORCHERT: -- I'm happy to look at that
10 tonight and come back with an answer for you tomorrow.

11 VICE-CHAIR PAUL: That would be great.

12 MS. BORCHERT: After the break.

13 VICE-CHAIR PAUL: And including the federal tax
14 incentives, if they haven't run out.

15 MS. BORCHERT: Okay.

16 VICE-CHAIR PAUL: But I think -- I think that,
17 you know, that concern may be better addressed by
18 noting -- what I'm asking you to do is correct me if I'm
19 wrong here -- noting that this rule doesn't really change
20 most vehicle sales; that most vehicle sales are going to
21 continue with the same standards that they already
22 manufacture, too, in terms of tailpipe emissions and
23 combustion engines. So, if somebody is worried about not
24 being able to find a new vehicle, but not all new vehicles
25 are going to suddenly be electric, from this. You know,

1 that there is still a portion, so someone -- if someone's
2 worried about not being able to -- the affordability of a
3 new vehicle, that it's going to remain the way it is
4 currently.

5 MS. BORCHERT: Madam Hearing Officer, Madam
6 Chair, and Member Paul, that's absolutely right and that's
7 a very important point. Yes, so all of those choices that
8 are available today, because the cars are 50-state
9 vehicles, will still be there as long as the manufacturer
10 is still making them.

11 By adopting this rule what we will be doing
12 is broadening the choices beyond what's available today.

13 VICE-CHAIR PAUL: Thank you so much.

14 Moving on. So, I think we're probably going to
15 get a bunch of questions on this because I think it's one
16 of the more complicated elements of this rule, is the
17 credits for working early on this, for delivering the
18 vehicles early. How do they impact total national
19 electric vehicle sales? Are they -- I think it's just
20 unclear to me, if they're -- if they essentially don't add
21 to the total or not. Sorry. Does that -- is that
22 question clear?

23 MS. BORCHERT: Madam Hearing Officer, Madam Chair
24 and Member Paul.

25 VICE-CHAIR PAUL: It's actually Vice-Chair Paul.

1 MS. BORCHERT: Oh, thank you. Vice-Chair Paul, I
2 appreciate that. So I think -- I think what you're asking
3 about is how will a manufacturer decide where to send its
4 ZEVs. Is that -- is that right? Because they're going to
5 have choices between those states where they have ZEV
6 requirements because they're Section 177 states, and
7 states like New Mexico that -- where they'll be able to
8 get early action credits. And I think that that's a
9 fairly complicated, behind the scenes calculation, that
10 every individual automaker will make, in terms of deciding
11 where -- you know, where are we going to send the cars
12 that we have produced that qualify for a ZEV credit, based
13 on all of those states where we might choose to send them.

14 I can't give you any more answer beyond that, but
15 they will be looking at their bottom lines and their sales
16 and their, you know, where they may have already
17 overcomplied, and, therefore, they can back off a little
18 bit. How many ZEV credits they want to have in the bank
19 preparing for, perhaps, ACC II. There's a lot that goes
20 into their calculations around this.

21 VICE-CHAIR PAUL: Thank you. Yeah, I think I was
22 getting at, does it incentivize a higher total number of
23 zero electric -- zero-emission electric vehicles
24 nationwide?

25 So instead of -- does adding that -- because it

1 seems like it just moves them around, right? So it says,
2 oh, you should put more in New Mexico. You need to put
3 more in New Mexico now that we have this rule, if you're
4 going to be able to do so. Is that -- am I getting
5 through?

6 MR. SHULOCK: No, I understand your question.
7 And on its face, early action time shifts vehicles, as you
8 were saying. Because placing one sooner allows a
9 manufacturer to not place one later; however, and, you
10 know, there's been research done on this, it tends to be a
11 ratchet effect. So, if early action induces additional
12 sales, that tends to establish a different bottom line.

13 And as Ms. Borchert said, this is an individual
14 decision on the part of automakers, but the experience
15 that's out there suggests that it's a rising tide that's
16 lifting the boats.

17 VICE-CHAIR PAUL: Great. Because they have --
18 because the automakers may have more requirements to fill
19 a certain percentage of ZEVs, and if they were earlier to
20 do that earlier and then get credit later. So you're
21 allowing them to sort of start at a higher baseline
22 sooner?

23 MR. SHULOCK: (Nodding head.)

24 VICE-CHAIR PAUL: Okay. Great. I have one more
25 question, which I think was sort of addressed, which is

1 that -- you know, I've heard a bit of concern about -- and
2 it's a valid concern, about the total carbon dioxide --
3 carbon dioxide equivalent from both the -- you know, the
4 manufacturing and as well as like disposal issues with
5 EVs. And I thought I just might give you guys -- "you
6 guys," I apologize; sir, ma'am -- an opportunity to talk a
7 little bit about the life cycle of carbon dioxide
8 equivalent, greenhouse gas impact. You had a little bit
9 in -- I know it's somewhat in your testimony, but I think
10 that's a really important point to focus on with this.
11 And how that could -- you know, how that makes it -- how
12 it makes a difference -- how this rule makes a difference.
13 It's addressed -- it's addressed to either of you.

14 MR. SHULOCK: I can't quote you numbers now.
15 There's been a lot of research done on that. I think with
16 a broad brush, it concludes that particularly in areas
17 with a clean grid, such as New Mexico will have going
18 forward, on net, the vehicles are cleaner. Again, we
19 could take a look at this and give you some more
20 information later.

21 VICE-CHAIR PAUL: Yeah. Yeah, if there's some
22 data that we could apply for, and maybe bring that back
23 tomorrow. That would be great to see, just like
24 something.

25 MS. BORCHERT: Vice-Chair, may I just ask; are

1 you asking cradle-to-grave, not just the emissions that
2 car will drive during its life?

3 VICE-CHAIR PAUL: Yes, the multiple scopes of the
4 greenhouse gas protocols. So, like, what, you know, the
5 manufacturing emissions and the mining emissions and the
6 recycling of batteries emissions. In comparison to a
7 combustion engine. Thank you.

8 HEARING OFFICER ORTH: Thank you, Vice-Chair
9 Paul.

10 Member Richards, do you have questions of this
11 panel?

12 BOARD MEMBER RICHARDS: Thank you. I do. Thanks
13 for your presentations. I appreciate it.

14 I just -- I'm trying to figure out the credit
15 piece. And, really, I think what comes to mind for me is,
16 will the offer of credits and sort of this incentivizing
17 the ZEV or early EV vehicles to come to New Mexico, will
18 that work, if there's not the demand that there might be
19 in other states? And I'm just thinking about, you know,
20 your map that showed, you know, like Nevada was sort of in
21 the early stages of doing the 177. Has there been -- you
22 know, the others that have already implemented this seem
23 to be all on the East Coast and the West Coast, which I
24 think is just a different geography, really, and
25 demographics. Is there any reason to believe that the

1 credits will actually work in creating the demand? That's
2 my first question.

3 And then, secondly, given our supply chain
4 shortages right now, how does that play into it? I
5 imagine a lot of states are going to be ramping up.
6 There's going to be more and more demand for these cars,
7 perhaps, here, but definitely elsewhere.

8 How does the supply meet that demand? And I
9 guess, so, you have greater demand perhaps on the coasts,
10 less demand here because we simply don't have that
11 population. It seems to me, because of that, the
12 manufacturers might favor those more populated areas
13 regardless of the credits, in terms of their bottom line.
14 So two questions; both surrounding supply and demand.

15 MS. BORCHERT: Madam Hearing Officer, Madam Chair
16 and Member Richards, I think there's several ways to think
17 about the credits that might be helpful in this case. So
18 there -- as you know there are states, you know, there's
19 California that has had the ZEV credits and ZEV credit
20 banks for a very long time and there are other states that
21 have joined at various times.

22 Colorado is one of the states that now has also
23 joined and is active and already has a ZEV program, but
24 it's only been recent, as opposed to the other states that
25 have just passed the rules. One of the reasons that a

1 manufacturer might preferentially choose to bring ZEVs to
2 New Mexico under early action is because, you know, I like
3 to -- you know, Chuck is the one who thinks of this as a
4 moving train. So the train has been moving, and it's been
5 moving for a decade. Right? And so as different states
6 have joined on, they have been able to get up to speed, to
7 have their ZEV credit banks where they want them, to
8 deliver these vehicles, and as a latecomer to that train,
9 the manufacturers are incentivized to try to ramp up
10 faster and get to that -- that moving-train speed. You
11 know, they have a shorter time in which to do it, so they
12 may choose to bring more vehicles to New Mexico right now
13 because they've kind of already figured it all out and are
14 already kind of on board with these other states. So that
15 is one reason that a manufacturer would preferentially
16 actually choose to provide ZEVs to New Mexico.

17 And then, the second part about the supply chain
18 impacts, you know, one thing, Members, that we don't have,
19 you know, the requirements don't kick in until 2026. I
20 think that the supply chain issues -- I mean, I'm just
21 going to leave it at, wow, there's a lot going on. And I
22 don't think I could tell you what's going to be happening,
23 whether the supply chain issues will slow down. I think
24 the demand, you know, maybe a year ago people would have
25 said the demand for EVs was not in New Mexico.

1 On the other hand, I know many people who put
2 their order for the F150, the light truck, and Ford is no
3 longer taking orders on the F150 because the demand has
4 overwhelmed supplies. So if the supply issues get worked
5 out, I think the demand will be there, but there's a
6 lot -- there's a lot to unpack there that I don't think I
7 have the answers for.

8 MR. SHULOCK: Madam Hearing Officer and Madam
9 Chair and Member Richards, just one thing to add. On this
10 issue of demand and supply, you've heard in previous
11 testimony that manufacturers are given a two-year lead
12 time before any state that adopts these regs can enforce
13 them. And the reason for that is because their production
14 process is lengthy. They can't just turn a dial all of a
15 sudden and have more vehicles. But the manufacturers pay
16 attention to what's happening in every state.

17 So, if New Mexico adopts, your demand will be
18 baked in to a manufacturer's production estimate for 2026.
19 So I don't think it's correct to think of it that, you
20 know, you have a defined production level, and then this
21 somehow makes it -- adds demand to a constraining supply.
22 You know, they can fix the supply in light of the demand.
23 And so that's the whole reason for this lead time.

24 And that's independent of the supply chain issues
25 and all those sorts of things, but, you know, they're

1 investing billions of dollars to meet what they're seeing
2 as emerging national and global demand, and this will
3 become part of their calculation.

4 BOARD MEMBER RICHARDS: Thank you very much. I
5 think that the other question I had has to do with
6 affordability. And I know the public comment mentioned
7 \$65,000 for a ZEV. And that it goes mostly to affluent
8 households. And I'm just wondering, you know,
9 Mr. Shulock, you mentioned that the low income communities
10 would benefit because they're typically the ones who are
11 residing close to major roads.

12 But I'm thinking also they may not benefit
13 because their neighborhoods at a local level, would be
14 less likely to have those types of vehicles because of the
15 affordability issue. And I understand that over time the
16 affordability issue, you know, works itself out, but the
17 initial investment is certainly much higher.

18 So I'm just wondering, in terms of health
19 impacts, how that dynamic might play out with
20 neighborhoods -- you know, lower-income neighborhoods not
21 able to afford these zero-emission or low-emission
22 vehicles, even though they may be living near major
23 roadways. How that might balance out, right, because they
24 don't have that vehicle pool.

25 MR. SHULOCK: Two -- two points on that. One is

1 that I expect -- and I don't know specifically for New
2 Mexico conditions -- but I expect that the vast majority
3 of the particulate emissions in a community adjacent to a
4 highway come from vehicles not owned by people that live
5 there. These are vehicles passing through. So if you add
6 ZEVs to the fleet, and they're driven, that will have an
7 impact in that community, independent of where those
8 vehicles were purchased. So that's sort of one aspect.

9 And then the other, just on this issue of
10 affordability, and holding aside the supply chain issues
11 and things that are happening right now, International
12 Council on Clean Transportation, which is a known
13 authoritative source of information, and I think most
14 recently it was 2018, maybe a little bit later, but
15 they've looked at the cost of electric vehicles versus
16 internal combustion, and their projection is, depending on
17 the vehicle class, they will actually be cost competitive
18 in 2026 and 2027. Larger, heavier vehicles may be a
19 little bit later; smaller, lighter vehicles a little bit
20 sooner. But there's -- there's not going to be -- you
21 know, they're already competitive on a life cycle basis.
22 And I'm talking on first cost basis.

23 There won't be a substantial difference by the
24 time this rule is taking effect in New Mexico, based on
25 these projections.

1 BOARD MEMBER RICHARDS: Thank you. And I just
2 had one other question. It was more of a practical
3 question, I think. And it speaks to kind of the things
4 that are playing out between the California and the
5 federal, that you really laid out very nicely.

6 It sounds like if we -- you know, it sounds like
7 the federal government is actually more stringent now on a
8 couple of these things, outside of the PM reduction that
9 California offers. As an Air Quality Control Board, how
10 do we play catch up to the, you know, the changing
11 California regulations and the changing federal
12 regulations? And it sounds like the feds -- I know
13 earlier, somebody mentioned that it might be good to
14 follow California because, you know, the feds can change
15 their laws, as happened during the Trump administration,
16 but then they revoke California's, it sounds like. So
17 just, how do we kind of grapple with that scenario as an
18 Air Board?

19 MR. SHULOCK: I think I should defer to you guys
20 unless you want me to address it.

21 MS. BORCHERT: Madam Hearing Officer, Madam Chair
22 and Member Richards, well, I just want to -- yeah, I
23 actually don't think that I speak to that. Sorry. I
24 don't know if you want to answer, Ken.

25 MR. MILLER: I don't know if I have a good answer

1 to this question or not. It's complicated and it's
2 challenging, not just for an Air Board, but for an Air
3 Agency as well. You know, over the course of developing
4 this rule over the last, say, year or so, there have been
5 some pretty significant changes both in California and at
6 the federal level. And we've had to grapple with, how
7 does this impact what we're doing? Whether it made sense
8 to continue on, or do we hit the pause button and wait,
9 and kind of see how some of that plays out.

10 So, it's difficult. And I don't -- I mean,
11 nobody has a crystal ball and could really tell you -- if
12 they tell you they know what's going to happen, they're
13 probably not being very honest with you. So I think from
14 an Air Board perspective, you know, all you can do is look
15 at the lay of the land as it is today and say, what's the
16 best choice we can make right now based on, you know,
17 current law, whether it's, you know, California or
18 federal, you know, et cetera. You know what's the best we
19 can do, given the current set of facts?

20 The facts might change. And if the facts change,
21 then we'll figure out how to deal with that later. Right?
22 We've already talked a little bit about this. Some of the
23 folks have talked about, you know, a potential logical
24 next step is to adopt the ACC II program, assuming
25 California does that before the end of this year.

1 You know, we're here today to say, you know,
2 right now, this is what's on the table. We can't adopt
3 ACC II today because California hasn't adopted that yet.
4 And maybe they will be delayed. Maybe some crazy thing
5 will happen and they won't actually adopt that rule. Who
6 knows? And the same thing goes for the federal -- for
7 what's going on at the federal level. There's some very
8 interesting and potentially great things that are
9 happening at the federal level.

10 But there's court challenges, there's changes in
11 administration, and nobody knows how anything -- and it
12 all takes forever, you know, to play out. So, right now,
13 the best we can do is adopt what's available to adopt
14 today, and just sort of keep it in the back of the mind,
15 that there may need to be change down the record, to sort
16 of accommodate or adjust for some of these things that we
17 can anticipate are going to happen, but nobody really
18 knows.

19 BOARD MEMBER RICHARDS: Thank you very much.

20 HEARING OFFICER ORTH: Thank you.

21 Member Calman, do you have questions of this
22 panel?

23 BOARD MEMBER CALMAN: I do. Thank you. Can you
24 hear me? Can you hear me now? Okay. Sorry. Given what
25 happened when I first turned on the mic, I'm, like, scared

1 to talk into it.

2 Thank you for your testimony. And Member
3 Richards asked part of my question, actually, but I still
4 have a couple of follow-up ones and a clarification. So I
5 just want to make sure I'm understanding exactly how this
6 would work.

7 So if we adopt California's current standards and
8 then they change them, what happens at that moment to our
9 standard? Do we automatically at that point revert back
10 to the federal standards because California has changed
11 theirs, or not, because we're only talking about specific
12 model years?

13 And then I have another follow-up question after
14 that.

15 HEARING OFFICER ORTH: And this may be a question
16 for Counsel.

17 MR. KNIGHT: Well, I think we can -- we'll let
18 the witnesses take a crack at it, if they're comfortable.
19 If they are not comfortable, I'm happy to jump in.

20 MS. BORCHERT: Madam Hearing Officer, Madam Chair
21 and Member Calman. So -- so, yes, if California adopts
22 the Advanced Clean Cars II, and they get it in their code
23 by the end of this year, it will take effect in model year
24 2026, which is the same model year that this rule is
25 intended to take effect.

1 This is a little bit about what Ken talked about;
2 we've certainly thought about that a lot. However, there
3 are some certain parts of this Clean Car Rule that will --
4 that will be in effect before that time; in particular,
5 the early-action credits. Right? The early-action
6 credits that manufacturers can earn now, in the next
7 coming years should you adopt the rule, will be banked and
8 will be available for those manufacturers in the new
9 Advanced Clean Cars II.

10 Likewise, the one-time credits that are also part
11 of what we are proposing here, are explicitly meant to be
12 available for manufacturers in a year -- in a future year,
13 when Advanced Clean Cars II may be in effect. That would
14 absolutely mean we would need to come before you again,
15 and go through this hearing process, go through the entire
16 thing we've been doing for the last year in order to do
17 that.

18 And maybe one of my member panelists wants to
19 supplement that.

20 MR. MILLER: Was there a second part to the
21 question?

22 BOARD MEMBER CALMAN: Yes. Well, I guess it's an
23 additional related question. So if somebody has something
24 else to add to what she said, it can wait.

25 MR. KNIGHT: Madam Hearing Officer, if I may

1 respond in supplement?

2 HEARING OFFICER ORTH: Please.

3 MR. KNIGHT: The short answer to your question
4 is, if California changes their regulations, that will
5 have no effect because we are -- we are adopting the
6 current California regulation. And if they adopt ACC II
7 or some other change to their regulations, this Clean Car
8 Rule and the standards in it will remain in effect. And
9 we will -- you know, we will be able to -- we're adopting
10 only the -- by reference, we're adopting only the current
11 version of California regulations. So if those change,
12 then our adoption, by reference, will not be affected.

13 BOARD MEMBER CALMAN: Okay. Thank you.

14 And then my follow-up question, and I'm not
15 necessarily suggesting this right at this moment, but is
16 it legally possible for us to pass a regulation that just
17 ties our regulation to future changes in California, so
18 that we don't have to keep coming back here for
19 rulemakings every year that California updates their
20 standard or is that not possible?

21 MR. KNIGHT: And thank you for that question,
22 Board Member. We have -- it has been our experience that
23 adopting regulations by reference -- it's called -- it's
24 known as "prospective adoption," where we adopt a
25 regulation by reference, and also indicate that any

1 changes to that regulation are also adopted by reference.
2 That has really turned out to be more problematic than
3 it's worth in other fields where we've tried it. And then
4 we've got a lot of pushback from the EPA actually, on our
5 attempts to do that.

6 So, I think it is really the policy of our agency
7 now, that it's really just best to adopt by reference,
8 other regulations only in their current form. And that
9 way, if those regulations are amended or repealed, it
10 doesn't affect what we do. And also, you know, if those
11 regulations are changed and we don't like the way they're
12 changed, then we don't have to go to a hearing to prevent
13 that change from affecting us. Things can stay as they
14 are.

15 If we -- if we or if the Boards, you know, like
16 the way those regulations are changed, that we adopt by
17 reference, then they can have another hearing and, you
18 know, adopt the new version of those regulations. So it
19 leaves the control with these Boards, and we're not
20 subject to the whims of, you know, things that happen
21 outside of our state.

22 MS. SONA: Madam Hearing Officer?

23 HEARING OFFICER ORTH: Who was that?

24 MS. SONA: It's me. If I may supplement that
25 answer? This is also a consideration that's being

1 discussed nationally, on how to account for the changes
2 that California may make, since we do have quite a few
3 states now across the U.S. that have adopted the
4 California standards.

5 And I think perhaps Mr. Shulock is able to speak
6 to that a little bit, in the types of considerations that
7 they're making. That may be beyond the scope of his
8 testimony, but I'll give him an opportunity, if he can.

9 MR. SHULOCK: Thank you. Madam Hearing Officer,
10 Madam Chairs and members, this whole issue of how to deal
11 with other states that are currently part of the Advanced
12 Clean Cars program, if and when ACC II is adopted, as --
13 as she mentioned, there's a lot of discussion on that.
14 And there's a couple of different kinds of states. You
15 know, some actually have committed to adopting ACC II in
16 2022, which would mean they have a seamless transition.
17 ACC I, through 2025, and ACC II in 2026, so that part
18 works fine.

19 But there's a lot of states that don't seem to be
20 able to do it on that time frame. And so, then the
21 question is, you know, what happens for a state -- and if
22 New Mexico were in this situation and adopted ACC II in
23 2023, it becomes effective in model year 2027. You know,
24 what happens in 2026? And there are active discussions on
25 that point, centered around the issue of, you know,

1 providing the smooth ramp. This is the sort of moving
2 train analogy that Ms. Borchert mentioned. You know, how
3 do you provide that ramp?

4 You know, my best understanding is that there
5 would be a gap year, that these states would revert to the
6 federal standards for model year 2026. But, one of the
7 provisions that California is contemplating is providing
8 another flavor of early action credits for 2026 for a
9 state like that. So that, you know, for a state that's
10 adopting in 2027, manufacturers could be awarded for extra
11 things that they did in 2026.

12 So, I mean, maybe -- maybe the best way to
13 summarize is, you know, it's a complicated issue, but it's
14 on people's minds, both in California and in a number of
15 other states. But I'll go back to Ken's point, which is,
16 in terms of what's in front of you right here, right now,
17 there's not really anything you can do about that. You
18 know, other than to adopt the rule that's in force at this
19 moment.

20 BOARD MEMBER CALMAN: Thank you. That helps. I
21 don't have any further questions.

22 HEARING OFFICER ORTH: All right. Thank you,
23 Member Calman.

24 On the platform, Member Reitzel, do you have
25 questions of this panel?

1 BOARD MEMBER REITZEL: Thank you, Madam Hearing
2 Officer. I do not. I'd thank our Board. Thank you,
3 ladies. You asked all of the questions that I was
4 thinking of, so I just wanted to say thank you to my Board
5 members for participating so vigilantly. So, thank you,
6 all.

7 HEARING OFFICER ORTH: All right. Thank you.

8 Madam Chair Suina, I would like to go directly to
9 Vice-Chair Trujillo-Davis right now because her question
10 is a follow-up to the last question. Go ahead.

11 VICE-CHAIR TRUJILLO-DAVIS: Thank you. Well,
12 first, I appreciate the Albuquerque Board's questions.
13 They're really good questions and kind of went along with
14 some of my thoughts there.

15 Although I feel like this conversation about the
16 California standards, they're raising their standards, and
17 how this whole discussion might be slightly out of scope
18 for where we're at, at this moment. I can't help it, I
19 just have to ask a follow-up question to that.

20 Wouldn't it be more practical for -- to raise the
21 federal standard instead of trying to continuously follow
22 California's step? Is that -- I'm just throwing it out
23 there, since we're going down this path.

24 MR. SHULOCK: When you say "raise the federal
25 standard" -- Madam Hearing Officer, Madam Chairs, members,

1 there's not a lot that New Mexico can do to accomplish
2 that. So, you're basically needing to follow either
3 California or the feds.

4 Historically, California has been more aggressive
5 than the federal government in controlling vehicle
6 emissions. And so, I think it would be a wonderful thing
7 if the national standards were always aggressive as
8 California's, because I think that would be a better thing
9 for the climate and, you know, for the world, but that's
10 not been the case traditionally.

11 And so, you know, I think procedurally, what
12 you're saying makes sense; that, yeah, if we just had one
13 thing and it was federal, it would be a lot simpler, but
14 in terms of a state wanting to be at the aggressive end of
15 the spectrum in controlling vehicular emissions, that in
16 practical terms means keeping pace with California when --
17 when and if it makes sense from your standpoint.

18 VICE-CHAIR TRUJILLO-DAVIS: Thank you. I
19 appreciate the mental exercise in that.

20 And then to follow-up Member Richards, I believe.
21 I'm sorry, I couldn't quite see who was talking down
22 there, and we just met today, so...

23 There were some questions about communities --
24 maybe low-income communities or about how much impact
25 there was, benefit to them. There's a lot of questions

1 about, is it -- are they truly benefiting from it. And
2 from what I've seen so far, and I'm hoping you can clarify
3 the issue for me, is that the only benefit that they're
4 getting so far is, from being located near a road, the
5 benefits that they receive from the proximity to a road.
6 But has there been any proposals either by the City of
7 Albuquerque or by the State, by NMED, to have a program
8 for low-income individuals or families to purchase a
9 vehicle?

10 I know we've discussed rebate programs, but those
11 seem to be for brand-new vehicles. So I'm just kind of
12 curious if there is actually any direct benefit to
13 low-income communities.

14 MS. BORCHERT: Madam Hearing Officer, Vice-Chair
15 Trujillo-Davis, that's such an important question and I
16 appreciate it. So you may know that, I think the last --
17 at least the last three years there have been legislative
18 efforts to put an EV tax credit in place. They have not
19 passed, so that is one thing the State -- certain
20 legislators have tried to pass.

21 I would also like to point out the transportation
22 electrification plans, that all of our three
23 investor-owned utilities, have put into place, it was a
24 State law that required them to do that. And now Excel
25 and El Paso Electric and PNM all have done their first

1 two-year iteration. And those include specific incentives
2 for -- for all utility customers -- or at least I'm pretty
3 sure -- commercial, residential and has special
4 consideration for incentives for low-income qualifying
5 customers, that allow in this case right now, for charging
6 infrastructure to be installed. And they get a higher
7 rebate if they qualify.

8 I know in California, for example, utilities have
9 gone one step further, and there was a vehicle purchase
10 incentive in their, kind of, equivalent transportation
11 electrification plans. And the PRC is going to be going
12 through a rulemaking around the transportation
13 electrification plans. And I think that might be an
14 opportunity to include, not just the EV infrastructure
15 incentive, but actually EV purchase incentive, into what
16 utilities need to do in the future.

17 VICE-CHAIR TRUJILLO-DAVIS: Thank you.

18 MR. MILLER: Madam Hearing Officer, Vice-Chair
19 Trujillo-Davis, and I apologize, I have not been following
20 the correct formatting with some of the rest of you. I'm
21 a very informal person.

22 I'd just add, the sort of framing of the
23 question -- and this kind of goes back to, I think it was
24 Member Richards' question, sort of like about direct
25 health benefits. And the focus has kind of been on PM,

1 and that's largely because when it comes to PM, you know,
2 those emissions tend to sort of be most concentrated along
3 roadways. And as Mr. Shulock said, you know, oftentimes,
4 there's where you have low income minority communities, so
5 they may have, you know, greater impact for that
6 particular pollutant.

7 But, you know, ozone is a little different. You
8 know, ozone is -- you do have variations in ozone levels
9 across, you know, an airshed or throughout Albuquerque,
10 but it's in a sense a little more level than maybe what PM
11 impacts from motor vehicles would be. So, to the extent
12 that a rule like this, you know, helps to reduce ozone
13 levels, that's going to benefit people in those
14 communities.

15 A similar thing for climate; you know, I wouldn't
16 be one to claim that this -- you know, this rule is not
17 going to solve the climate crisis, globally, obviously,
18 but it's, you know, intended to have some impact there.
19 Right? And those communities are often the first and most
20 affected by, you know, the impacts of climate change. So
21 that has the potential to have some benefits, you know, to
22 those types of communities there as well.

23 But I kind of wanted to broaden the conversation
24 or the perspective beyond just PM. That's a very
25 important piece of it, but, you know, some of the other

1 potential health benefits of the rule, you know, those are
2 going to float to those communities as well. So I just
3 wanted to kind of add that.

4 MS. SONA: Madam Hearing Officer, this is
5 Ms. Sona.

6 HEARING OFFICER ORTH: Ms. Sona.

7 MS. SONA: It may be helpful -- also Vice-Chair
8 Trujillo-Davis -- to take a look at NMED/EHD Exhibit 29,
9 which is the technical testimony of Kelsey Rader, the
10 City's sustainability officer. That touches on a lot of
11 the nonregulatory approaches that the City is taking;
12 whereas, the Clean Cars Rule being proposed is the
13 regulatory approach, but the nonregulatory activities
14 supplement the activities. Thank you.

15 VICE-CHAIR TRUJILLO-DAVIS: Thank you for that.
16 I appreciate the extra citation.

17 And then I just have one last follow-up to this
18 kind of line about the low income or minority communities.
19 I believe, Mr. Shulock, you testified that the benefits
20 would still be there as somebody purchased a used vehicle.
21 So I'm wondering what -- how long does it take to phase
22 out a generation of vehicles? What's the turnover look
23 like?

24 MR. SHULOCK: The turnover is long; 15, 20 years.
25 I mean, it probably varies by state. But in California,

1 you know, if you're modeling the impact, it's called the
2 "survival rate," and that extends out for 30 years. You
3 know, you may have small numbers of vehicles over 30
4 years, but that's a different thing than ownership.

5 You know, I'm not sure what the average length of
6 ownership of a vehicle is, but it's much, much less than
7 the complete useful life of the vehicle.

8 VICE-CHAIR TRUJILLO-DAVIS: I was trying to
9 understand how long it would take, once those new vehicles
10 start to roll out, how long before that trickle-down
11 effect starts to hit those low income communities? And I
12 apologize if I am, you know, asking a question that was
13 slightly out of reach there in your testimony.

14 MR. SHULOCK: Yeah. Well, I'll -- I can refer
15 back to some discussions happening in California right
16 now, that have to do with vehicles coming off lease. You
17 know, the typical vehicle lease is three years. And some
18 of the discussions there under way are, are there ways to
19 have a greater proportion of those vehicles that are
20 coming off lease after three years of ownership, end up
21 either, you know, directly in disadvantaged communities or
22 maybe in a car-share program, or somehow providing a
23 benefit to those disadvantaged communities.

24 And it gets a little complicated because this
25 regulation applies to manufacturers and not at the dealer

1 level. And the relation, I'm told there are dealer
2 franchise attorneys, you know, that specialize in the
3 relationship between the manufacturer and a dealer.

4 But -- but -- but, as background, there are
5 substantial numbers of three-year-old vehicles entering
6 the used-car fleet as they come off of lease. So I think
7 that's -- you know, that's a pretty good starting point.
8 And, again, in California, those are big numbers. And I
9 would suspect that you have a lot of leased vehicles in
10 New Mexico as well. And so, you know, a 2022 to 2023 ZEV
11 will be coming off its lease in 2025.

12 VICE-CHAIR TRUJILLO-DAVIS: Thank you. I
13 appreciate that context. And thank you to Chair Suina for
14 letting me go first.

15 HEARING OFFICER ORTH: Thank you, Vice-Chair.
16 Madam Chair Suina.

17 CHAIRPERSON SUINA: Thank you, Madam Hearing
18 Officer. Can you hear me? Okay. I do have a few
19 questions for our technical folks here and regulatory
20 folks. From the public comments earlier, and some of the
21 discussion we've had today, it seems that there's some
22 maybe confusion about the applicability of the rule on
23 specific vehicles. For example, large diesel trucks or
24 those trucks used on farms and ranches.

25 And I was just wondering maybe what type of

1 outreach or interaction has NMED done or is planning to do
2 to address some of these concerns?

3 MS. BORCHERT: Madam Hearing Officer, Madam Chair
4 Suina, the outreach we've done -- I have talked to
5 Benjamin Segovia several times over the last year in
6 particular, and I provided to him all of the information
7 we had and have had conversations with him about the
8 impact of the Clean Car Rule. And -- and we certainly can
9 continue to have those conversations.

10 They did comment, the Farm and Livestock Bureau
11 did comment on our rules. And as Mr. Segovia mentioned,
12 we did make them -- add the explicit exemption of farm
13 equipment to Section 1 -- to the exemption section. I
14 think it's 103, to make sure that that was clear.

15 The low-emission vehicle standards do impact the
16 kinds of trucks that are often used on farms. So, in
17 other words, those truck that are medium-duty, that might
18 be an F350, an F450, a Chevy Silverado 5500, all of those
19 will still fall under the LEV requirements of this rule.
20 And it's important to remember that those standards equal
21 the federal standards right now, so there's no change in
22 what those rules would mean for that type of truck that is
23 commonly used, I think, in rural, you know, working
24 ranches and farms.

25 So I'm not sure if I'm getting at your question.

1 So I'm sorry if I haven't -- haven't. Maybe you'll want
2 to ask a follow-up question if I'm not getting at what
3 you're asking for.

4 CHAIRPERSON SUINA: Thank you so much. I
5 appreciate that response. And I apologize if my question
6 was confusing, but I think I understand, you know, what it
7 applies to, the applicability of the rule and what types
8 of vehicles.

9 But I guess I was just more concerned about the
10 general public and some of the confusion in -- in how the
11 rule is being perceived, and much like we've heard in our
12 public comments a few hours ago. And I was just wondering
13 if, like if -- I guess I'm saying is it walking through
14 the rule, or walking through those details? Or I don't
15 know if there were -- you said you talked to the contact
16 from -- that was -- that spoke earlier. But I still feel
17 like there's some of that commentary and some of the
18 sentiment that's still maybe not -- not fully
19 understanding, you know, like you said, that, currently,
20 federal standards apply to certain vehicles already.

21 And it may not be changing, but that's not how
22 it's maybe the understanding. So I was just wondering if
23 NMED had any plans to do added outreach. And thank you
24 for sharing what -- the discussion you had with some of
25 the points of contact.

1 But, going forward, if we do adopt these rules,
2 is there any plans that NMED could do for outreach or to
3 help our general public and New Mexicans understand the --
4 how the rule -- the applications of the rule?

5 MS. BORCHERT: Madam Hearing Officer, Madam
6 Chair, yes, absolutely. If these rules are approved, then
7 we will -- there are a number of various kinds of
8 education that we will need to work on. One is that if
9 somebody, you know, we need to work with the dealers to
10 make sure that -- well, both that they are equipped to
11 help their customers with what it means to buy an electric
12 vehicle. There's a great example of the City of
13 Albuquerque doing that with their EV-certified dealership
14 program.

15 We also want to work with the dealers to make
16 sure that they can understand about what it means to buy a
17 car from out-of-state, which, again, is because of the
18 fact that the federal standards are equal to the
19 California standards, has no impact. We also need to work
20 with our sister agency, the Motor Vehicle Division of the
21 Tax and Rev, because they have a role to play to make sure
22 that when people register their vehicles, that they are
23 indeed California-certified.

24 And then there's the general public, too, you
25 know, that's probably going to have a lot of questions

1 about the benefits of the increased choices they might
2 have, that they previously didn't have. And how to
3 perhaps select the appropriate electric vehicle for them.
4 And you know, it's an evolving market. And we definitely
5 want to stay on top of it and be a resource going forward
6 as -- as more electric vehicles come to New Mexico. You
7 know, which we're hoping will come as a result of your
8 adoption of this rule.

9 CHAIRPERSON SUINA: Thank you so much. Maybe
10 another slightly different line of questions. As various
11 alternatives for renewals continue to be developed, we
12 also see potential, other collateral concerns that come up
13 related to alternatives. In particular, in the EV
14 industry, some had mentioned concerns about --
15 environmental concerns about battery development and
16 disposal.

17 And I know it might be a little bit ahead of
18 the -- or premature, but I was just wondering if NMED is
19 also thinking about some of these concerns, and how to
20 address some of them in the event, again, as the State
21 moves toward our emission goals and toward various
22 alternatives that are out there in the industry. Thank
23 you.

24 MR. SHULOCK: Madam Hearing Officer and Chairs,
25 members, that issue is under active discussion in the next

1 round of California regulations. And this is one instance
2 where they actually would be relevant to what happens in
3 New Mexico, because the California regulations are looking
4 for improved recyclability of the batteries, labeling of
5 the components so that they can be separated more readily,
6 and in general, getting at some of these sustainability
7 type issues.

8 And vehicles sold in New Mexico, whether or not
9 you adopt ACC II, will be subject to that. So that's
10 probably more on the plate of the California regulators
11 than for New Mexico, but it is very much on their radar
12 screen, and they're actively working on those issues.

13 CHAIRPERSON SUINA: Thank you for that.

14 Ms. Borchert, and maybe just a follow-up
15 question: is the Department -- the New Mexico Environment
16 Department -- also considering maybe the impacts on those
17 environmental considerations for the state as well? Or
18 are we just relying on California regulators to, I guess,
19 think about that?

20 MS. BORCHERT: Madam Chair Suina, I feel like
21 that would be under the purview of the Solid Waste Bureau
22 within the Environment Department. And so, I'm afraid I
23 do not have the answer to that, but I am happy to check in
24 with their Bureau Chief and provide the answer to you
25 tomorrow as to what they are thinking about.

1 If I understand right, the question is how are we
2 thinking about electric vehicle battery -- battery
3 disposal in New Mexico and recycling. I mean, recycling
4 and disposal, if necessary; recycling optimally. Do I
5 have that question right?

6 CHAIRPERSON SUINA: Yes, yes. And I guess I just
7 want to make sure that we're comprehensive in thinking of
8 all the considerations and concerns as we move toward what
9 looks to be a good pathway forward for emissions and, you
10 know, we have to sometimes balance the, you know,
11 regulations and rules, and what they'll end up doing with
12 whatever those consequences are, or the result of the
13 rules and regulations and that movement.

14 So I was just making sure that, you know, we're
15 all thinking about that as we continue and as everyone
16 continues to figure out how we have renewable and
17 sustainable energy development, and end use, that's all.
18 Thank you.

19 HEARING OFFICER ORTH: Thank you, Chair Suina.
20 Member Garcia.

21 BOARD MEMBER GARCIA: Yes, thank you, Madam
22 Chair. And I just have one question. I guess a two-part
23 question. This is for Ms. Borchert. You mentioned -- and
24 I think in one of your slides, you showed a slide that
25 showed how many charging stations were across the state.

1 You mentioned that you got it from a particular website.

2 Could you tell me the name of that website? And
3 then the follow-up is, similar to Chair Suina's question
4 about educating the public, I was struck by one of the
5 exhibits -- I don't remember which one -- it had included
6 a survey of folks' perception of -- I think the question
7 was whether or not they would buy an EV and what their
8 perceptions were about it. And why they would or why they
9 wouldn't. And one of -- and a large number -- I don't
10 know, 70 or 80 percent of the people that answered that
11 question said they wouldn't because they didn't think
12 there were enough charging stations, and they couldn't
13 drive very far.

14 So it does seem like there's an important
15 component to this rule, if we pass this rule, is educating
16 the public about what's available in terms of charging
17 stations, and what kind of support there would be for EVs.
18 And it would help increase demand, I'm sure, if -- so, it
19 seems there needs to be some education in that regard.

20 MS. BORCHERT: Madam Hearing Officer, Chair Suina
21 and Member Garcia, thank you. I agree that there's a --
22 there's a lot of education around electric vehicles that
23 is important going forward. I think what you just --
24 well, the website is PlugShare, P-L-U-G capital
25 S-H-A-R-E.com. And together with the other sites that

1 actually is in my testimony, the Alternative Data Fuel
2 Center from the Department of Energy, those are the two
3 maps I know of that reliably have consistent information
4 on the EV charging stations, the network.

5 So, range anxiety, I think is one of the main
6 reasons people are concerned about buying electric
7 vehicles, and -- and I think it is important that we
8 address that head on. There's a couple of things that are
9 also happening: One is that, you know, I bet that survey
10 happened before our most recent Super Bowl, you know,
11 where there were -- I don't know -- at least five, if not
12 ten different electric vehicles featured. And all of the
13 newer vehicles are coming out with increased range.

14 So, together with increased range, the emerging
15 build-out of our electric vehicle network. And, also, I
16 think even the word-of-mouth, like more people are now
17 getting electric vehicles. I mean, I can say
18 word-of-mouth for me is I have a friend who bought one,
19 who thought she wasn't going to be able to travel very far
20 with her car. It turns out, she's like, it's not a
21 problem, you know. So, when people start hearing stories
22 from trusted sources, that it's all working out fine, I
23 think that will also help, but that's not to say that we
24 don't need to do more education than that.

25 And I just also want to put a plug in here, to

1 where I think that's an all-hands-on-deck approach. I
2 don't think that's something specifically that New Mexico
3 Environment Department or EHD could do alone. The City of
4 Albuquerque, local governments, a lot out of our partners
5 that are in the environmental advocacy community, I know
6 they already are doing that, and we need to continue to
7 all work together to figure out how to -- how to increase
8 the messaging around, and just the flat-out information
9 around electric vehicles.

10 BOARD MEMBER GARCIA: Thank you. That's all.

11 MS. SONA: Madam Hearing Officer? This is
12 Ms. Sona.

13 HEARING OFFICER ORTH: Ms. Sona.

14 MS. SONA: I just wanted to hopefully be helpful
15 and point to the PlugShare link in the record. In Exhibit
16 29 for NMED/EHD, on page eight there is a link to the
17 PlugShare map, in Kelsey Rader's testimony.

18 HEARING OFFICER ORTH: Thank you very much.

19 BOARD MEMBER GARCIA: Thank you. That helps.

20 HEARING OFFICER ORTH: All right. Member Bitzer,
21 do you have questions of this panel?

22 BOARD MEMBER BITZER: I guess maybe now is a good
23 time to explore the question around where California is
24 going, that we seem to be following. My recollection -- I
25 grew up back and forth between New Mexico and California,

1 I getting kicked out of one state or the other, so I know
2 them both pretty well.

3 We had zero-emission or low-emission vehicle lane
4 opportunities, a diamond lane, if you will, even though
5 you don't have passengers in your -- in your very green
6 low-emission car, you could still ride in the diamond lane
7 during rush hour, which we don't really have too much of
8 that in New Mexico, but we did a lot of that in
9 California.

10 My Honda Civic GX, which runs on natural gas, was
11 evidently rated 10 percent greener than a Prius mile per
12 mile per mile; never mind the footprint related to battery
13 manufacturing, but I don't hear anything about that now.
14 I note you-all still reference hydrogen. I remember
15 California doing the hydrogen to highway, and I guess
16 hydrogen is super green if you get it from renewable
17 sources and maybe not so much if you're converting fossil
18 fuels to it.

19 But are natural gas vehicles basically a dinosaur
20 in California now?

21 MR. SHULOCK: All internal combustion vehicles
22 will, if ACC II is adopted in its current form, be unable
23 to be certified in 2035. Short of that, there's nothing
24 going on that treats natural gas any differently than
25 gasoline. You know, as long as vehicle meets the

1 emissions standards, and you're correct that natural gas
2 vehicles are cleaner -- and I'm talking about the
3 light-duty world, by the way. There's a whole different
4 world for buses and those sort of things.

5 But, you know, natural gas vehicles are quite
6 clean, and when certified they can be sold in California
7 up until 2035. I don't know that there are a lot of
8 manufacturers pursuing that anymore for their own reasons,
9 but it's got nothing to do with the regulation.

10 BOARD MEMBER BITZER: Okay. And then Member
11 Calman stole my other question. Hi, Judy.

12 That was going to be about whether we're tied to
13 the master or not, if California further changes their
14 regs, but I think that was answered satisfactorily. So
15 that's all I have at this point.

16 HEARING OFFICER ORTH: Thank you, Member Bitzer.
17 Member Cates, do you have questions of this
18 panel?

19 BOARD MEMBER CATES: Madam Chair or Madam Hearing
20 Officer, I was wondering some of the things -- some of the
21 same things that Member Garcia and Chair Suina were
22 wondering, but they've asked my questions, so I'm -- so
23 I'm good. Thank you.

24 HEARING OFFICER ORTH: Thank you.

25 If you are a member of the public and your

1 question hasn't been answered, please put it right now in
2 the Chat. I don't see anyone new in the room. If you're
3 new in the room and I'm missing you, please wave your hand
4 if you have a question.

5 I'm sorry. Yes. Absolutely, Vice-Chair, go
6 ahead.

7 VICE-CHAIR TRUJILLO-DAVIS: Thank you. I just
8 wanted to have a follow-up question to Member Garcia's
9 question. And I know we ask a lot of you all as public
10 servants, so I just want to ask one more follow-up
11 question on your outreach. Has there been any public
12 meetings conducted on this particular rule? And you may
13 have said that at the very beginning of this hearing. And
14 then the second part of that is, is there any plans for a
15 public information campaign or something along those
16 lines, to kind of get the word out, as Ms. Borchert had
17 mentioned?

18 MS. BORCHERT: Madam Hearing Officer and
19 Vice-Chair Trujillo-Davis, yes, so we had three public
20 virtual meetings: July, September, November. And we
21 also -- you know, we also issued the draft rules in
22 November. My list serve folks of who are getting
23 E-bulletins grew from around 1,500 to close to 2,000 over
24 the course of these meetings. And, you know, we also were
25 trying to -- we did publish a lot of our press releases in

1 English and Spanish. I counted at least 17 news stories
2 on the rule, because I think that's probably the best way
3 to reach people, is, actually, for them to either see it
4 on the news or read about it in print. So that's some of
5 the outreach we did leading up to this to today.

6 Going forward, I'm going to have to -- oh, I'm so
7 new to the Department, that I don't exactly know what we
8 do next, so I don't quite know what to do with that
9 question. I mean, so I don't know what to do with that.
10 So, sorry, but, again, maybe that's one of those where I
11 take and I say, we'll get back to you after I talk to my
12 colleagues.

13 VICE-CHAIR TRUJILLO-DAVIS: That's completely
14 acceptable.

15 HEARING OFFICER ORTH: Okay. Thank you.

16 Anything further from this side of the table?
17 Member Richards?

18 BOARD MEMBER RICHARDS: Madam Hearing Officer, I
19 had one other question. This is for general counsel for
20 NMED. I understood in looking at EHD's petition to repeal
21 the emission standards previously -- previous to this new
22 emission standard, that -- it says, the Environmental
23 Improvement Board repealed 20.2.88 NMAC in 2013;
24 therefore, the Air Board's became -- rule 20.11.104 became
25 legally invalid and unenforceable. It talks about the

1 existing rule, 20.11.104 NMAC is obsolete because
2 California's adopted more stringent standard a few years
3 after the Air Board adopted this rule. This resulted in
4 the standards in existing Rule 20.11.104 no longer being
5 identical to California standards, as required by the
6 Clean Air Act.

7 And I know that you mentioned that if California
8 were to adopt the ACC 2.0 version, that we would still
9 benefit by passing the current Clean Air Act -- or I'm
10 sorry -- Clean Cars Rule.

11 It seems to me there might be a conflict there
12 and I just wanted to clarify that comment that you made.

13 MR. KNIGHT: Yes. Thank you for the opportunity
14 to clarify that. And I think the key to understanding
15 that, is that neither one of these rules, although, you
16 know, we offer early action credits, but the key to
17 understanding that is that the rule that we are proposing
18 today does not have the first compliance year until 2026.

19 So, the full answer to the earlier question was
20 that if California changes their standards, you know,
21 tomorrow or in 2025, these Boards will have until 2026 to
22 have another hearing and, you know, adjust to that.

23 If these -- and I think Mr. Shulock alluded to
24 this, that if California does change their standard,
25 this -- this Clean Cars Rule does not immediately become

1 invalid; however, if 20 -- you know, if these Boards
2 take -- if California changes their regulations and these
3 Boards take no action before 2026, then there could be a
4 gap year where we revert to federal standards. So it's
5 not that we're forever unaffected, but that we have four
6 years to do something about it.

7 BOARD MEMBER RICHARDS: Thank you for that
8 clarification.

9 HEARING OFFICER ORTH: All right. Thank you,
10 Member Richards and Mr. Knight. Anything further?

11 Vice-Chair Paul.

12 VICE-CHAIR PAUL: I'm just going to ask you to
13 state that again slightly differently. So, ACC II has
14 different stipulations in relationship to ACC I in other
15 states, as compared to ACC I in previous versions?

16 MR. KNIGHT: I guess I'm not sure what you mean
17 by "stipulations."

18 VICE-CHAIR PAUL: Well, what Member Richards was
19 getting at is, like, why is there a difference in this
20 rule in regards to this rule -- ACC I, what we're
21 potentially passing today, applying in the future,
22 compared to this last time, where -- where it was
23 overruled by California changing its regulation?

24 MR. KNIGHT: Yeah, I'm going to defer to Counsel
25 for Albuquerque on that one, if I may.

1 VICE-CHAIR PAUL: Thank you.

2 MS. SONA: Thank you. Madam Hearing Officer,
3 Board Chairs, members of the Board, so, it's definitely a
4 complicated history. The situation was a little bit
5 different back when we had the first round of the rule in
6 2007 when the Boards first adopted it. It was a different
7 rule, it wasn't ACC I.

8 And the EIB decided to repeal their rule and that
9 was the first action. And what happened there is because
10 we have to have identical rules between the State and the
11 local jurisdiction for there to be a statewide program,
12 that action itself sort of nullified the ability to have
13 Clean Cars back in 2007.

14 Then, after that, we sort of had the added step
15 that California changed its rules. The local rule was
16 already sort of nullified, if you will, by then. And so,
17 the fact that they changed it later just extra-nullified
18 it, if that helps explain the history.

19 VICE-CHAIR PAUL: That does. So the -- so the
20 reason that it wasn't -- that the rule wasn't continued
21 isn't about California, it's about New Mexico not having a
22 unified rule that would fit under the Clean Air Act of the
23 State?

24 MS. SONA: Correct. That's a great way to think
25 about it. Also, another way to think about it for ACC I

1 and ACC II is that we have the motor vehicle emission
2 standards, but we also have some administrative components
3 of the rule, which is, you can sort of think of the
4 credits as these administrative components, and so those
5 will still continue and be in effect even if California
6 adopts ACC II.

7 VICE-CHAIR PAUL: Thank you for that
8 clarification, Ms. Sona.

9 MR. SHULOCK: Madam Hearing Officer?

10 HEARING OFFICER ORTH: Yes, sir.

11 MR. SHULOCK: I have one factoid that might help
12 here.

13 HEARING OFFICER ORTH: Please.

14 MR. SHULOCK: That I'd like to share, which I
15 don't think has been stated explicitly before. But part
16 of what's going on is that ACC I currently applies to 2018
17 through 2025 and subsequent model years. And it's that
18 "and subsequent" language that says, if nothing else
19 happens, those standards continue on.

20 If ACC II is adopted, that language is going to
21 change, and it will say one set of rules for 2018 through
22 2025, and then ACC II will say 2026 through 2035 and
23 subsequent. So, you know, it's the language in ACC II
24 that reaches back and changes the applicability of ACC I,
25 that creates this kind of, you know, baton handoff like in

1 a relay race or, you know, however you want to think of
2 it. But, you know, it's that reaching back to the
3 operative years under ACC I, that's creating the issue.

4 HEARING OFFICER ORTH: Thank you, Mr. Shulock.

5 Anything further at all by way of questions for
6 this panel? No one put a question in the Chat.

7 CHAIRPERSON MEIKLEJOHN: Madam Hearing Officer?

8 HEARING OFFICER ORTH: Madam Chair.

9 CHAIRPERSON MEIKLEJOHN: I have another question.

10 HEARING OFFICER ORTH: Yes.

11 CHAIRPERSON MEIKLEJOHN: This is a question, I
12 think, maybe best directed to Mr. Shulock. And again,
13 thank you so much for fielding these questions. I can
14 imagine that it's a challenge, so we appreciate it.

15 I'm wondering if there has been any data that's
16 come out of California, I think when you were reflecting a
17 little bit, when it came from the Vice-Chair of the EIB,
18 that would indicate any of the impacts that low-income
19 communities or communities that have been overburdened by
20 air pollution, is there anything that has come back over
21 the current implementation of these rules in California to
22 demonstrate relief of their overburdened status, in terms
23 of air pollution as far as -- sorry, I'm having a hard
24 time articulating myself.

25 If there's any data that really demonstrates the

1 extent to which these rules are helping overburdened
2 communities seeking relief from the air pollution for the
3 disproportionate communities and the air pollution that
4 they're experiencing.

5 Thank you.

6 MR. SHULOCK: Thank you, Madam Hearing Officer,
7 Madam Chair, Vice-Chair, members. There's a lot of work
8 on what's happening in the impacted communities and why
9 and how the different rules have contributed to that and
10 helped alleviate impacts. That's sort of backward looking
11 in a way, because all that you've got is what's happening
12 today, or maybe what you measured two years ago and then
13 started to study.

14 This is a little bit different, when you're
15 saying, going forward and what do we think is going to be
16 going on in 2026. I know that California does a lot of
17 work on health impacts in disadvantaged communities. I
18 don't think they tease out individual rules to say, you
19 know, here's what's going on with the clean cars and
20 here's clean trucks, and, you know, I am -- I am not
21 actively familiar with that work.

22 But I suspect it's more in the aggregate level,
23 that the combined suite of regulations being adopted will
24 improve public health in those impacted communities.

25 So, yeah, I could take a look to see. You know,

1 they've done -- let's just say, looking forward, you know,
2 because -- well, I could take a look back at the ACC I
3 analysis to see if it addressed public health impacts for
4 that rule in specificity.

5 CHAIRPERSON MEIKLEJOHN: Thank you. I would
6 appreciate that.

7 MR. SHULOCK: Yeah. Thank you.

8 HEARING OFFICER ORTH: Madam Chair, I would like
9 to add one thing. We're going to have a public commenter
10 tomorrow, I believe it's in the morning, from the CARB --
11 from the California Air Resources Board, Anna Wong. And
12 I'll invite you to ask questions of her if -- if you'd
13 like to do that.

14 CHAIRPERSON MEIKLEJOHN: Thank you.

15 HEARING OFFICER ORTH: All right. Anything else
16 for this panel? Anything else at all for this panel? No?
17 I see no hands.

18 Thank you very much, Mr. Miller, Mr. Shulock and
19 Ms. Borchert. We do need a short break, but, first, I'd
20 like to -- thank you, Mr. de Saillan, I was just about to
21 ask you to show yourself on the screen. I assume
22 Ms. Strother is still on board to testify next.

23 MR. DE SAILLAN: Yes, Madam Hearing Officer, she
24 is. And we would like to take our witnesses a little bit
25 out of order here. So Ms. Strother would go first and she

1 will be testifying about a recent report, I think, that
2 came out from the American Lung Association, which is
3 where she works. And then our second witness will be
4 Dr. Matthew Campen, from the University of New Mexico, who
5 will be testifying about the health effects -- the adverse
6 health effects of automobile emissions.

7 Our third witness, who was originally going to be
8 our first witness, Ms. Kathy Harris, is on the East Coast
9 and she has some other commitments, so we would like to
10 put her on tomorrow morning. So I just wanted to let you,
11 Madam Hearing Officer and the Board and all of the Counsel
12 know that that's what our current plan is.

13 HEARING OFFICER ORTH: That's very helpful.
14 Thank you. I have made Ms. Strother and Ms. Harris
15 panelists. I don't see Mr. Campen on the platform yet,
16 but when I see him, I will make him a panelist as well.

17 So let's take a break to 4:15 and come back then.
18 Thank you. Thank you.

19 MR. BAAKE: Thank you, Madam Hearing Officer.

20 (Recess taken from 4:04 p.m. to 4:18 p.m.)

21 HEARING OFFICER ORTH: Let's come back from the
22 break, please. We are back after a short break. Let me
23 hit "record."

24 We're back after a short break and we turn now to
25 the presentation by Clean Air Advocates. Mr. de Saillan,

1 I see you on screen, and that looks like Ms. Strother on
2 the screen next to you.

3 You're muted, Charlie. Charlie, you're muted.
4 I'm sorry. Mr. de Saillan, it shows that you're not
5 muted, but we can't hear a thing that you're saying.
6 Sorry. No.

7 MR. BAAKE: I can hear you just fine. JoAnna, I
8 can hear you, too.

9 HEARING OFFICER ORTH: So from Mr. Baake's
10 message, people and the platform can hear Mr. de Saillan,
11 but those of us in the room cannot.

12 Ashley, the AV guru says we're good.

13 Mr. de Saillan, would you say a few words?

14 MR. DE SAILLAN: Yes. Can you hear me now?

15 HEARING OFFICER ORTH: Yes. Thank you very much.

16 MR. DE SAILLAN: Excellent. Thank you. Thank
17 you to the IT guru.

18 Before we get started, Madam Hearing Officer, I'd
19 like to mention that Mr. William Barrett will also be
20 appearing with Ms. Strother. He won't be giving any
21 testimony, but he will be available to answer questions;
22 particularly more technical questions that the Boards may
23 have, so I'd like to ask that he also be made a panelist.

24 HEARING OFFICER ORTH: Okay. I don't see him
25 under the name William Barrett. Is there another name he

1 would be appearing on the platform under?

2 MR. DE SAILLAN: He should be under the name
3 William Barrett. I see his name when I look at the
4 attendees.

5 HEARING OFFICER ORTH: I'm hitting refresh.

6 MR. DE SAILLAN: Well, now he's disappeared.

7 HEARING OFFICER ORTH: The last person I have in
8 the attendees list alphabetically is Travis.

9 MR. DE SAILLAN: Yeah, I had him on the screen
10 just a minute ago and now he's disappeared.

11 There he is.

12 MR. BARRETT: Hi. Good afternoon. This is Will
13 Barrett. I appear to be the beneficiary of the IT guru as
14 well.

15 HEARING OFFICER ORTH: All right. Thank you very
16 much. I'd like to swear in Ms. Strother and Mr. Barrett.
17 If you would, please, raise your right hands.

18 Do you swear or affirm to tell the truth?

19 MR. BARRETT: Yes.

20 MS. STROTHER: Yes.

21 HEARING OFFICER ORTH: That was both of them.
22 Thank you. Go ahead, Mr. de Saillan.

23 MR. DE SAILLAN: Thank you, Madam Hearing
24 Officer.

25 JOANNA STROTHER and WILLIAM BARRETT,

1 having been first duly sworn or affirmed, was examined
2 and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. DE SAILLAN:

5 Q. So Ms. Strother, could you please state your name
6 and spell if for the record and court reporter, please.

7 A. Yes. My name is JoAnna Strother, spelled J-O
8 capital A-N-N-A, S-T-R-O-T-H-E-R.

9 Q. And where do you work?

10 A. I work for the American Lung Association. I'm
11 currently located in our Phoenix office.

12 Q. And what is your position at the American Lung
13 Association?

14 A. I'm the Senior Director for Advocacy.

15 Q. Okay. And for whom are you testifying this
16 afternoon?

17 A. I am testifying on behalf of NRDC, Conservation
18 Voters New Mexico, Prosperity Works, the Sierra Club,
19 Southwest Energy Efficiency Project, Western Resource
20 Advocates, New Mexico Voices for Children, New Mexico
21 Environmental Public Health Network, and the Center for
22 Civic Policy, collectively, the Clean Air Advocates.

23 Q. Could you describe the American Lung Association
24 and what it does?

25 A. The American Lung Association is a national

1 nonprofit organization founded more than 115 years ago by
2 a group of volunteers. Our mission is to save lives by
3 improving lung health and preventing lung disease. We do
4 this through education, advocacy, and research.

5 Q. And next, could you describe your qualifications,
6 including your education and your relevant work
7 experience?

8 A. Yes. I have a Bachelor of Science in Health
9 Education focusing on community health, from the
10 University of New Mexico. I was a Robert Wood Johnson
11 fellow at the Robert Wood Johnson Foundation and Center
12 for Creative Leadership.

13 I have been with the American Lung Association
14 for 15 years, since 2007. I have had several positions at
15 the organization, including Lung Health Coordinator,
16 Director of Programs, Director for Advocacy, and my
17 current role, Senior Director for Advocacy.

18 Q. And what are your responsibilities as Senior
19 Director for Advocacy at the American Lung Association?

20 A. Sure. I direct federal, state and local lobbying
21 efforts and develop strategies for passage of laws and
22 regulations that advance the American Lung Association's
23 Public Policy Agenda. I am responsible for advocacy in
24 Arizona, Colorado, Nevada, New Mexico, Oklahoma, Texas and
25 Utah. I also draft, track and research -- (unintelligible

1 and/or inaudible.) legislation and I develop and
2 coordinate --

3 HEARING OFFICER ORTH: Hold on. Ms. Strother.
4 Ms. Strother, I'm sorry.

5 A. -- I testify before U.S. House --

6 HEARING OFFICER ORTH: Ms. Strother, I'm sorry to
7 interrupt. Your testimony broke up a little bit. So if
8 you would repeat the last couple of sentences, please.
9 And the other request I have of both you and Mr. Barrett
10 is to give your testimony at a deliberately slow pace.
11 Thank you.

12 A. Good. Can you hear me better? Maybe if I get
13 closer.

14 HEARING OFFICER ORTH: Yes, that's great.

15 A. Okay.

16 MR. DE SAILLAN: Madam Hearing Officer, why don't
17 I go back and ask the last question. And we can sort of
18 start over from there.

19 HEARING OFFICER ORTH: Great.

20 Q. (BY MR. DE SAILLAN) So, Ms. Strother, what are
21 your responsibilities as Senior Director for Advocacy at
22 the American Lung Association?

23 A. Sure. I direct federal, state and local lobbying
24 efforts and develop strategies for passage of laws and
25 regulations that advance the American Lung Association's

1 Public Policy Agenda. I'm responsible for advocacy in
2 Arizona, Colorado, Nevada, New Mexico, Oklahoma, Texas and
3 Utah.

4 I also draft, track, and research legislation,
5 and I develop and coordinate multistate strategies that
6 advance the American Lungs Association's mission. I also
7 have testified before the U.S. House and Senate
8 committees, and our state legislators.

9 Q. Is your resume a Clean Air Advocates exhibit?

10 A. Yes, it is.

11 Q. And is it accurate and up-to-date?

12 A. Yes.

13 Q. And now, Ms. Strother, are you familiar with a
14 report from the American Lung Association entitled
15 "Zeroing in on Healthy Air: A National Assessment of
16 Health and Climate Benefits of Zero-Emission
17 Transportation and Electricity"?

18 A. Yes, I am.

19 Q. And is that document marked as Clean Air
20 Advocates Exhibit 15?

21 A. Yes.

22 Q. When was that report released?

23 A. Quite recently. It was the 30th of March.

24 And the primary author is William Barrett, my
25 colleague at the American Lung Association. The report is

1 based on modeling conducted by ICF Incorporated. ICF,
2 which has its headquarters in Fairfax, Virginia, has been
3 conducting air pollution modeling since the 1980s. And it
4 is a major contractor to the U.S. Environmental Protection
5 Agency air programs.

6 Q. Okay. Well, could you describe the report,
7 please?

8 A. Yes. "Zeroing in on Healthy Air" is a report by
9 the American Lung Association illustrating the public
10 health urgency of policies and investments for --
11 (Unintelligible and/or inaudible.)

12 COURT REPORTER: I'm not getting this.

13 HEARING OFFICER ORTH: I'm sorry. We need to --
14 again, I'm sorry to interrupt --

15 A. -- transportation in the -- (unintelligible
16 and/or inaudible.)

17 HEARING OFFICER ORTH: -- Ms. Strother and Mr. de
18 Saillan. Mr. de Saillan, I'm not sure if you are hearing
19 what those of us in the room, including the Board members
20 are hearing, but there's a substantial delay between what
21 Ms. Strother is saying and what we hear. And I'm
22 wondering, although I hate to ask this, Ms. Strother, if
23 it would help for you to turn off your video. I'm just
24 wondering if that would help.

25 A. Yeah. Does this help?

1 HEARING OFFICER ORTH: Not exactly. It sounds as
2 though there might still be a delay and it also kind of
3 breaks up once in a while. Try the next -- try the next
4 question. We want to get this right because the Board
5 members are intently paying attention.

6 Q. (BY MR. DE SAILLAN) Okay. Let me start over
7 again. Ms. Strother, if you could pause just a bit after
8 my questions in case there's a delay there. So, could you
9 please describe the "Zeroing in on Healthy Air" report?

10 A. Yes. "Zeroing in on Healthy Air" is a report by
11 the American Lung Association. (unintelligible and/or
12 inaudible.)

13 HEARING OFFICER ORTH: I'm sorry, once again.

14 A. In the coming decades.

15 HEARING OFFICER ORTH: I'm sorry. Once again
16 there's just such a long delay between when Ms. Strother
17 is clearing speaking and when we're hearing it. I did,
18 just based on a suggestion in Chat, mute Mr. de Saillan in
19 case there was interference between the two microphones,
20 but that didn't help at all.

21 MR. DE SAILLAN: Madam Hearing Officer?

22 HEARING OFFICER ORTH: Yes, Mr. de Saillan.

23 Another Board member has suggested perhaps if
24 Ms. Strother could call in.

25 MR. DE SAILLAN: That's exactly what I was about

1 to suggest.

2 MS. STROTHER: Yes. If you can hear me, I am
3 calling in. It's the phone number with the 082 --
4 (Unintelligible and/or inaudible.)

5 HEARING OFFICER ORTH: So then someone else
6 suggested perhaps it's the Convention Center wifi, but we
7 haven't had this issue with anyone else on the platform.
8 Any other ideas from anyone?

9 MR. DE SAILLAN: I think the phone might work,
10 Madam Hearing Officer.

11 HEARING OFFICER ORTH: Okay. Thank you.

12 Ms. Strother would you like to try that?

13 MS. STROTHER: If you can hear me, I'm calling
14 in.

15 MR. DE SAILLAN: I can hear you. Can other
16 people hear Ms. Strother?

17 HEARING OFFICER ORTH: We're having the same
18 issue. I'm wondering, though, if, again, Ms. Strother
19 turns off her camera. And we're not trying to visually
20 match when she's speaking with what we're hearing, that
21 might -- that might improve things. So let's give it
22 another try.

23 MR. DE SAILLAN: Okay.

24 Q. (BY MR. DE SAILLAN) Again, Ms. Strother, could
25 you please describe the report entitled "Zeroing in on" --

1 (unintelligible and/or inaudible.)

2 A. Yes. Can you hear me first?

3 MR. DE SAILLAN: I can.

4 HEARING OFFICER ORTH: Yes, I can as well.

5 A. Okay. The report "Zeroing in on Healthy Air" is
6 a report by the American Lung Association illustrating the
7 public health urgency of policies and investments for
8 transitioning to zero-emission transportation in the
9 coming decades. The report also examines zero-emission
10 electricity generation, which I understand is not covered
11 in this rulemaking proceeding. So, where possible, I will
12 focus on transportation.

13 The transportation sector is a leading source of
14 unhealthy air in the United States. Today, more than four
15 in ten Americans, more than 135 million people, live in
16 communities impacted by unhealthy levels of air pollution.
17 Research demonstrates that the burdens of unhealthy air
18 include increased asthma attacks, heart attacks, and
19 strokes, lung cancer, and premature death. These serious
20 adverse health effects are not shared equitably, with many
21 communities of color and lower income communities at
22 greater risk due to increased exposure to transportation
23 pollution. The transportation sector is also the largest
24 source of greenhouse gas emissions that drive climate
25 change, which threatens clean air progress and amplifies a

1 wide range of health risks and disparities.

2 HEARING OFFICER ORTH: Member Reitzel, I see your
3 hand up.

4 BOARD MEMBER REITZEL: I'm sorry. We can't hear
5 anything, Madam Hearing Officer, on the -- on the Chat all
6 of a sudden.

7 HEARING OFFICER ORTH: Right. I agree, we
8 couldn't hear anything either. I thought perhaps she had
9 finished her answer and was waiting for the next question
10 from Mr. de Saillan. And Mr. de Saillan, we do have to
11 ask you to mute and unmute because there were some loud
12 shrieking noises coming through the system.

13 MR. DE SAILLAN: Can you hear me now?

14 HEARING OFFICER ORTH: Yes.

15 MR. DE SAILLAN: Okay. Let me try again.

16 Q. (BY MR. DE SAILLAN) So, what are some of the key
17 findings of this report?

18 A. Okay. First, can you hear me?

19 HEARING OFFICER ORTH: Yes.

20 A. Okay. The first key finding is --
21 (Unintelligible and/or inaudible.)

22 HEARING OFFICER ORTH: I'm sorry. Ms. Strother,
23 now you're breaking up again. We had a good run there,
24 but you're breaking up again now.

25 A. (Unintelligible and/or inaudible.)

1 HEARING OFFICER ORTH: Ms. Strother, can you hear
2 me?

3 A. (Unintelligible and/or inaudible.)

4 HEARING OFFICER ORTH: Okay. We weren't able to
5 hear anything from you for the last, oh, two minutes or
6 so. Would you start your answer over again and we'll try
7 this again?

8 A. Can you hear me?

9 HEARING OFFICER ORTH: I can hear you say "can
10 you hear me," but I haven't heard anything else.

11 A. Yes. I asked if my cell phone number could be
12 added to the panel so that way you can hear my audio
13 better.

14 HEARING OFFICER ORTH: Okay. I wonder if you're
15 call-in user 14. I've just asked you to unmute yourself
16 if you're call-in user 14.

17 Call-in user 14, can you hear me?

18 A. Okay. Does this work?

19 HEARING OFFICER ORTH: So now there's an echo.
20 You were, in fact, call-in user 14, but now there's an
21 echo. I'm wondering if perhaps you can mute your other
22 devices.

23 A. Yes, I did.

24 HEARING OFFICER ORTH: Okay. Let's try it again.
25 And if you would start your answer from the beginning.

1 A. The first key finding is accelerating the shift
2 to zero-emission transportation will generate major
3 reductions in harmful pollutants. Key pollutants included
4 in this research are oxides of nitrogen, NOx, volatile
5 organic compounds, VOCs, and fine particulates PM 2.5.
6 All of these pollutants can cause pulmonary and
7 cardiovascular disease. Some VOCs, such as benzene, are
8 carcinogens. NOx and VOC also contribute to the formation
9 of ground-level ozone, which is also a harmful air
10 pollutant. Another pollutant included in the report is
11 carbon dioxide, CO, which is a greenhouse gas.

12 The report also found that 2020 passenger vehicle
13 fleets represents approximately 94 percent of the nation's
14 on-road vehicle fleet, and generates over 1 million tons
15 of NOx emissions and over 33,400 tons of fine particles
16 annually. Heavy-duty vehicles represents approximately 6
17 percent of the on-road fleet in 2020, but generate 59
18 percent of the NOx emissions and 55 percent of particle
19 pollution, including brakes and tire particles.

20 The third finding from the report is shifting to
21 zero-emission transportation and noncombustion electricity
22 generation could yield major health benefits throughout
23 the nation in coming decades. Here, the report includes
24 the health benefits of shifting to both zero-emission
25 transportation and zero-emission electricity generation.

1 It does not break the benefits out by sector.

2 So, the natural benefit of transitioning toward
3 100 percent zero-emission vehicles and noncombustion
4 electricity generation could generate over 1.2 trillion in
5 health benefits across the United States between 2020 and
6 2050. These benefits include approximately 110,000 lives
7 saved, over 2.7 million asthma attacks avoided, 13.4
8 million lost work days avoided, and a wider range of other
9 negative health impacts avoided due to cleaner air. In
10 addition to these health benefits, this analysis found
11 that over 1.7 trillion in global climate benefits could be
12 achieved with the reduction of over 24 billion metric tons
13 of greenhouse gas emissions by mid-century.

14 HEARING OFFICER ORTH: Unmute yourself, Mr. de
15 Saillan.

16 Q. (BY MR. DE SAILLAN) Since I'm unmuted, can you
17 hear?

18 HEARING OFFICER ORTH: Yes.

19 Q. (BY MR. DE SAILLAN) Can you hear me?

20 HEARING OFFICER ORTH: Yes.

21 Q. (BY MR. DE SAILLAN) Can you hear me?

22 HEARING OFFICER ORTH: Yes.

23 Q. (BY MR. DE SAILLAN) Okay. Okay. I just want to
24 make a clarification on your response here. You said at
25 one point, carbon dioxide, and then you said "CO." Did

1 you mean to say CO2?

2 A. Yes, CO, carbon dioxide -- CO2, yes.

3 Q. CO2, okay. Thank you.

4 Now, you mentioned that NOx and VOCs in the
5 atmosphere lead to the formation of ground-level ozone,
6 which is another harmful pollutant. Do the health and
7 economic benefits that you just described include the
8 benefits of reduced ozone pollution?

9 A. No, they do not. The report addressed only the
10 benefits of reducing those pollutants directly emitted
11 from gasoline-powered motor vehicles, so the NOx, VOCs,
12 fine particles and CO2. The report did not look at the
13 benefits of reducing ozone pollution. If we look at
14 ozone, the benefits are greater.

15 HEARING OFFICER ORTH: Mr. de Saillan, unmute
16 yourself, please.

17 Q. (BY MR. DE SAILLAN) It says I'm unmuted. Can
18 you hear me?

19 HEARING OFFICER ORTH: Yes.

20 Q. (BY MR. DE SAILLAN) Okay. Now, Ms. Strother,
21 you've just described the national benefits of -- of
22 reducing motor vehicle emissions. What are the reports
23 findings as to New Mexico?

24 A. In New Mexico, the benefits of transitioning to
25 100 percent zero-emission vehicles and noncombustion

1 electricity generation could generate over 3 billion in
2 health benefits between 2020 and 2050. The benefits
3 include approximately 273 lives saved, 7,380 asthma
4 attacks avoided, and 32,300 lost work days avoided in New
5 Mexico.

6 HEARING OFFICER ORTH: Mr. de Saillan, I'm sorry.

7 Q. (BY MR. DE SAILLAN) Can you hear me now?

8 HEARING OFFICER ORTH: Yes.

9 Q. (BY MR. DE SAILLAN) Okay. What does the report
10 say about the harmful effects of motor vehicle emissions
11 on disadvantaged communities?

12 A. Exposure to pollution with its associated
13 negative health consequences is determined by where
14 someone lives or attends school or works. In general, the
15 higher the exposure to air pollution, the greater the risk
16 of harm. Many communities face disproportionate burdens
17 due to pollution produced from production, transportation,
18 refining, and combustion of fuels along transportation and
19 electricity generating systems. Lower income communities
20 and communities of color are often the most overburdened
21 by pollution sources today due to decades of inequitable
22 land use decisions and systemic racism. For example, a
23 person of color in the United States is up to three times
24 more likely to be breathing the most polluted air than a
25 white person.

1 The report highlights a salient quote from the
2 U.S. Environmental Protection Agency fact sheet on
3 transportation and environmental justice. EPA states,
4 "Pollution from the transportation sector has been a
5 longstanding obstacle to advancing environmental justice,
6 as many communities of color and low-income families live
7 near areas where pollution from vehicles and engines is
8 abundant, and therefore experience disproportionate
9 exposure to this pollution."

10 HEARING OFFICER ORTH: Unmute, please.

11 We can't hear what you said, Mr. de Saillan.

12 MR. DE SAILLAN: I'm unmuted. Hello. Can you
13 hear me?

14 HEARING OFFICER ORTH: Yes, but it broke up
15 before. Just repeat your question.

16 MR. DE SAILLAN: Okay. Madam Hearing Officer,
17 the system seems to be automatically muting me, and I keep
18 pressing the button to unmute and it mutes me again.

19 HEARING OFFICER ORTH: Okay. So I suspect the AV
20 folks are being forced to mute you because the noises from
21 your computer system kind of sound like a cross between a
22 beep and a shriek, and it's interfering with our ability
23 to hear Ms. Strother's testimony, so that's why you're
24 being muted while she's speaking.

25 MR. DE SAILLAN: Okay.

1 Q. (BY MR. DE SAILLAN) What are some of the
2 report's recommendations?

3 A. The report includes a list of recommendations for
4 federal, state and local government. Probably the most
5 pertinent recommendation for this proceeding is the
6 recommendation that states adopt state standards for
7 passenger vehicles and medium- and heavy-duty trucks to
8 require that 100 percent of sales of motor vehicles are
9 zero-emission vehicles.

10 HEARING OFFICER ORTH: Now you have to unmute
11 yourself for the question.

12 Q. (BY MR. DE SAILLAN) Now, the report, as you
13 noted, is based on total transition to zero-emission
14 electricity generation and it's also based on total
15 transition from fossil fuel to electric-powered vehicles.
16 So how does that bear on this rulemaking proceeding?

17 A. Every reduction in harmful air pollutants such as
18 NOx and VOC and fine particulates will reduce adverse
19 health effects. And every reduction in carbon dioxide
20 emissions will contribute to mitigation of global climate
21 change. Motor vehicles are a major source of these
22 pollutants.

23 And we see this rulemaking as a first step, but
24 it is important that New Mexico continue on this path.
25 New Mexico needs to adopt -- (Unintelligible and/or

1 inaudible) California standards for new motor vehicles.
2 New Mexico also needs to adopt the California standards
3 for heavy-duty trucks and buses.

4 Q. Now, I want to ask you about two other American
5 Lung Association reports.

6 HEARING OFFICER ORTH: Mr. de Saillan, I'm sorry
7 to interrupt. We weren't able to hear some portions of
8 Ms. Strother's last answer and I think it might be best if
9 she were to repeat it. It was just coming in and out, so
10 we got some of it, but not all of it. And once again, if
11 you'll mute yourself as soon as she starts talking and
12 then unmute yourself when it's time to ask another
13 question, that would help us be able to follow this.

14 So, Ms. Strother, if you would repeat your last
15 answer?

16 A. Okay. Sure. Every reduction in harmful air
17 pollutants, such as NOx, VOC, and fine particulates, will
18 reduce adverse health effects. And every reduction in
19 carbon dioxide emissions will contribute to mitigation of
20 global climate change. Motor vehicles are a major source
21 of these pollutants.

22 And we view this rulemaking as a critical first
23 step, but it is important that New Mexico continue on this
24 path. New Mexico also needs to adopt the advanced
25 California standards for new motor vehicles. New Mexico

1 also needs to adopt the California standards for
2 heavy-duty trucks and buses.

3 Q. (BY MR. DE SAILLAN) Okay. Now, Ms. Strother,
4 I'd like to ask you about two other American Lung
5 Association reports. The first one is entitled "Updated
6 Evaluation of the National Health Benefits from the
7 transition to Zero-Emission Transportation Technologies."
8 Are you familiar with this report?

9 A. Yes. It is the more technical background
10 document to "Zeroing in on Healthy Air," the report we
11 just discussed. It was also released in March of this
12 year.

13 Q. And is that Clean Air Advocates' Exhibit 16?

14 A. Yes, it is.

15 HEARING OFFICER ORTH: We're not hearing you,
16 Mr. de Saillan.

17 You're not muted, but we can't hear what you're
18 saying. You need five minutes; is that what you're
19 saying? All right. Let's take five. Thank you.

20 (Recess taken from 4:56 p.m. to 4:59 p.m.)

21 HEARING OFFICER ORTH: I've started the recording
22 again. Go ahead, Mr. de Saillan.

23 Q. (BY MR. DE SAILLAN) Okay. I think I just asked
24 you if that was Clean Air Advocates' Exhibit 16?

25 A. Yes, it is.

1 Q. And then the next report I'd like to mention is
2 entitled "The Road to Clean Air: Benefits of a Nationwide
3 Transition to Electric Vehicles." Are you familiar with
4 it?

5 A. Yes, that was an earlier report published in
6 2020, and Ms. Harris will discuss this in her testimony.

7 Q. Thank you. And that is Clean Air Advocates'
8 Exhibit 14?

9 A. Yes, that is correct.

10 Q. Okay. Now, Ms. Strother, have you reviewed the
11 rule that the New Mexico Environment Department is
12 proposing in this proceeding?

13 A. Yes, I have.

14 Q. And does the American Lung Association support
15 adoption of these rules?

16 A. Yes, we most certainly do, without any
17 reservation.

18 MR. DE SAILLAN: Thank you, Ms. Strother. I have
19 no further questions.

20 And I want to apologize profusely to the Hearing
21 Officer and to the Boards and to everyone else about the
22 technical issues here.

23 HEARING OFFICER ORTH: Thank you, Mr. de Saillan
24 and Ms. Strother.

25 I'm going to turn first to the other parties,

1 then to the two Boards for their questions. If you're a
2 member of the public and have a question, please put it in
3 the Chat. So, Mr. Knight, do you have questions of
4 Ms. Strother?

5 MR. KNIGHT: I have no questions for this
6 witness.

7 HEARING OFFICER ORTH: Ms. Sona?

8 MS. SONA: No, we do not have any questions.
9 Thank you.

10 HEARING OFFICER ORTH: All right. Thank you.

11 EXAMINATION BY THE BOARDS

12 HEARING OFFICER ORTH: Let's start with the State
13 Board this time.

14 Madam Chair, Chair Suina, do you have questions
15 of Ms. Strother?

16 CHAIRPERSON SUINA: Thank you, Madam Hearing
17 Officer. I don't have any questions at this time.

18 HEARING OFFICER ORTH: All right. Thank you.
19 Vice-Chair Trujillo-Davis.

20 VICE-CHAIR TRUJILLO-DAVIS: Yes, I just have one
21 question, and either Mr. de Saillan or Ms. Strother can
22 answer it. And I apologize, it has to do with the audio,
23 but at this time Clean Air Advocates isn't requesting any
24 changes to the rule as written? I just want to confirm.

25 MR. DE SAILLAN: That's correct, Madam

1 Vice-Chair.

2 VICE-CHAIR TRUJILLO-DAVIS: Okay. Thank you.

3 HEARING OFFICER ORTH: Okay. Thank you.

4 Member Garcia.

5 BOARD MEMBER GARCIA: No questions. Thank you.

6 HEARING OFFICER ORTH: Thank you.

7 Member Bitzer.

8 BOARD MEMBER BITZER: I think the health benefits
9 of clean air cars are extraordinary, so I don't have any
10 questions.

11 HEARING OFFICER ORTH: Thank you.

12 And Member Cates.

13 We didn't hear your sound, Member Cates, but I
14 believe you said you have no questions. Okay. And I see
15 a thumbs up there. All right. Thank you.

16 So let's turn to the City Board. Chair
17 Meiklejohn.

18 CHAIRPERSON MEIKLEJOHN: I'd like to thank
19 Ms. Strother for her testimony and I have no questions.
20 I'll pass the floor to my other members.

21 HEARING OFFICER ORTH: Thank you.

22 Vice-Chair Paul.

23 VICE-CHAIR PAUL: I have no questions at this
24 time.

25 HEARING OFFICER ORTH: Thank you.

1 Member Richards.

2 BOARD MEMBER RICHARDS: I just had one question.
3 Whether there's been any analysis specific to New Mexico
4 and for the percent of zero-emission vehicles that's being
5 proposed, it sounds like it's 7 percent?

6 HEARING OFFICER ORTH: Ms. Strother, did you hear
7 the question?

8 MS. STROTHER: Yes, I did. There are specific --
9 (Unintelligible and/or inaudible.).

10 HEARING OFFICER ORTH: Ms. Strother, I'm sorry.
11 Would you repeat that from the beginning, please?

12 MS. STROTHER: Ma'am, can you hear me?

13 HEARING OFFICER ORTH: Yes, it was just breaking
14 up earlier. Just repeat it from the beginning.

15 MS. STROTHER: Yes, ma'am. The American Lung
16 Association's "Zeroing in on Healthy Air Report" does cite
17 specific health benefits specifically to New Mexico. That
18 was mentioned in the report, and I'm not sure of the
19 percentage, but I can defer to my colleague, Will Barrett.

20 HEARING OFFICER ORTH: Okay. We'll hear from
21 him.

22 MR. BARRETT: Thank you very much for the
23 question. This is Will Barrett from the American Lung
24 Association. I'm a National Senior Director of the Clean
25 Air Advocacy and one of the authors of the report that

1 Ms. Strother just explained. And the quick answer is, no,
2 we did not take any analysis of the -- (Unintelligible
3 and/or inaudible.)

4 MS. SONA: Madam Hearing Officer?

5 HEARING OFFICER ORTH: I'm sorry, Mr. Barrett.

6 Ms. Sona?

7 MS. SONA: He hasn't been sworn in yet.

8 HEARING OFFICER ORTH: Yes, he was.

9 MS. SONA: Oh, I'm sorry.

10 HEARING OFFICER ORTH: Mr. Barrett, go ahead.

11 MR. BARRETT: Okay. Thank you very much. So the
12 quick answer is that our report relies on assumptions of a
13 100 percent transition to zero-emission sales by 2035. We
14 don't have a specific analysis of the rule in front of
15 you, but the analysis that we do have is directional in
16 terms of the growing health benefits of decreasing the
17 emissions of motor vehicles across the country and in your
18 state.

19 HEARING OFFICER ORTH: Thank you for that.

20 Member Richards, any follow-up?

21 BOARD MEMBER RICHARDS: No, thank you. I have no
22 further questions.

23 HEARING OFFICER ORTH: All right. Thank you.

24 Member Calman.

25 BOARD MEMBER CALMAN: I have no questions. Thank

1 you.

2 HEARING OFFICER ORTH: All right. And on the
3 platform, Member Reitzel.

4 BOARD MEMBER REITZEL: I don't have any
5 questions, Madam Hearing Officer. Thank you.

6 HEARING OFFICER ORTH: Thank you very much.
7 I'm going to check the Chat. I see no questions
8 from the public in the Chat and nothing here in the room.
9 Is there any reason not to excuse Ms. Strother and
10 Mr. Barrett?

11 No? All right. Thank you very much. Mr. de
12 Saillan, were you adding something? I'm sorry.

13 MR. DE SAILLAN: I'm sorry, Madam Hearing
14 Officer. I was just saying I see no reason not to excuse
15 them at this point.

16 HEARING OFFICER ORTH: All right. Thank you very
17 much, Ms. Strother and Mr. Barrett for your testimony.
18 You're excused.

19 MR. BARRETT: Thank you very much.

20 HEARING OFFICER ORTH: So Mr. de Saillan, was
21 there someone else we were going to hear from this
22 evening?

23 MR. DE SAILLAN: Yes, Madam Hearing Officer. Our
24 next witness is Dr. Matthew Campen.

25 HEARING OFFICER ORTH: Okay. I believe I made

1 him a panelist. There you are, Dr. Campen. If you would
2 please raise your right-hand. Do you swear or affirm to
3 tell the truth?

4 DR. CAMPEN: I do.

5 HEARING OFFICER ORTH: Thank you very much.

6 MATTHEW CAMPEN, M.D.

7 having been first duly sworn, was examined and
8 testified as follows:

9 DIRECT EXAMINATION

10 BY MR. DE SAILLAN:

11 Q. All right. Dr. Campen, could you please state
12 your name for the record and spell it for the court
13 reporter?

14 A. Sure. Matthew Campen, M-A-T-T-H-E-W, C-A-M,
15 as-in-Mary, P-E-N, as-in-Nancy.

16 Q. And where do you work?

17 A. So I work at the University of New Mexico.

18 Q. What's your position at UNM?

19 A. I'm a Regents' Professor in the College of
20 Pharmacy and Director of two National Institutes of
21 Health-funded programs: The Mentored Research Career
22 Development Program, which is a KL2 program linked to our
23 clinical translational Earth Sciences Center, and the
24 Center for Metals and Biology in Medicine.

25 Q. And for whom are you testifying today?

1 A. I'm testifying on behalf of the NRDC,
2 Conservation Voters of New Mexico, Prosperity Works, the
3 Sierra Club, Southwest Energy Efficiency Project, Western
4 Resources Advocates, New Mexico Voices for Children and
5 New Mexico Environmental Public Health Network, and the
6 Center for Civic policy, collectively the Clean Air
7 Advocates.

8 Q. And could you describe your qualifications,
9 please, including your education and relevant work
10 experience?

11 A. Sure. I hold a Bachelor's of Science from
12 Virginia Tech and a Master's of Public Health and a Doctor
13 of Philosophy from the University of North Carolina,
14 School of Public Health, Department of Environmental
15 Science and Engineering, in Chapel Hill. I completed a
16 Postdoctoral Fellowship at Johns Hopkins University School
17 of Medicine, in the Division of Pulmonary and Critical
18 Care Medicine in Baltimore, Maryland.

19 As I said, my current position is Regents'
20 Professor at UNM in Albuquerque. And I filled that
21 position since 2015. I was initially hired at UNM in 2009
22 as an Associate Professor. Prior to that I worked here in
23 town at the Lovelace Respiratory Research Institute, now
24 called the Lovelace Biomedical Research Institute. I
25 started there in 2002. I went through successive

1 promotions to the point that in 2007, when I was the
2 Director of the Cardiovascular and pulmonary physiology.

3 I've also had a number of Adjunct Professor
4 positions with other Universities. I actually previously
5 served on the Albuquerque-Bernalillo County Air Quality
6 Board. I contribute often to regulatory matters for the
7 Environmental Protection Agency, specifically contributing
8 chapters for their integrated science assessments. I've
9 contributed work on cardiovascular toxicity from carbon
10 monoxide and particulate matter as an invited scientific
11 expert. And I was also an ad hoc member of Clear Air
12 Scientific Advisory Committee for the EPA in their Clean
13 Air Act-based review of oxides of nitrogen, which went
14 from 2013 to 2016.

15 As a researcher, I've studied the toxicological
16 impact of a wide variety of air pollutants and inhaled
17 toxicants, including specifically gasoline and diesel
18 engine emissions, ozone, particulate matter from many
19 sources, including coal combustion, secondary organic
20 aerosols. I have studied sarin and VX gas, inhaled
21 botulinum, hydrogen cyanide, and many other gases. And
22 the research I work on spans from cellular and molecular
23 work, to large and small animal models and even human
24 research.

25 Q. And what are your responsibilities as Regents

1 Professor and Program Director?

2 A. So my contributions to the University include
3 teaching of toxicology and pharmacology and physiology in
4 both the Doctorate of Pharmacy professional program as
5 well as the Biomedical Sciences Graduate Program. I
6 mostly teach graduate and professional students, but also
7 deliver some lectures to undergraduates.

8 The bulk of my effort, however, at UNM is on
9 biomedical research. I am independently funded through
10 the National Institutes of Health. As a researcher, I
11 investigate the health impacts of many environmental
12 pollutants. Specifically, right now, we've got an
13 emphasis on wildland fire smoke, ozone; we're studying
14 trying microplastics and also mine site-derived
15 particulate matter, which relates to the hundreds of
16 abandoned uranium mines throughout the Navajo Nation
17 especially.

18 We examine these in terms of their neurological,
19 cardiovascular and gestational toxicity. I also
20 contribute to the administrative mission of the UNM Health
21 Science Center in terms of the leadership for committee
22 service and other academic functions.

23 Q. Okay. And is your curriculum vitae Clean Air
24 Advocates' Exhibit 11?

25 A. Yes, it is.

1 Q. And is it current and up-to-date?

2 A. Yes, it is.

3 Q. And have you prepared testimony on the health
4 effects of emissions from motor vehicles for this
5 proceeding?

6 A. Yes, I have.

7 Q. And could you please proceed with that
8 presentation?

9 A. Certainly. So emissions from vehicles have been
10 shown to be among the most toxic components of the urban
11 airshed. While much attention has been paid to diesel
12 engine sources, gasoline engine emissions has also been
13 shown to contribute to adverse health outcomes. The major
14 components of the emissions, which we've heard about
15 already, particulate matter, oxides of nitrogen, carbon
16 monoxide and volatile organic compounds are all
17 independently harmful to public health.

18 Additionally, during the summer months when the
19 sunlight is prevalent and direct, the ultraviolet light
20 from the sun can catalyze reactions with the oxides of
21 nitrogen and VOCs to form ozone, which is an additional
22 driver of heart and lung disease. Furthermore,
23 interactions between these various pollutants can cause
24 additive health effects, and many populations throughout
25 our country are exposed to multiple pollutants, not just

1 one.

2 Air pollutions arising from vehicle emissions
3 have a wide array of health impacts often determined by
4 the health of an individual. As many pollutants can
5 worsen heart and lung disease, these individuals or groups
6 with pre-existing cardiopulmonary conditions are more
7 sensitive to pollutant exposure. Other individuals may
8 have a familial or a genetic predisposition to
9 neurological disorders, such as Alzheimer's disease or
10 dementia, and that can be accelerated by pollutants.

11 The conclusion from most epidemiological or
12 population-based studies is that current air quality
13 standards are insufficient to fully protect the most
14 vulnerable populations; thus, continued efforts to reduce
15 air pollution are highly justified.

16 So we'll walk through several of the specific
17 pollutants and describe those before discussing
18 specifically gasoline engine emissions. For particulate
19 matter, we've understood that the detrimental health
20 effects of particulate matter, we've known about them for
21 over a century, going back to major smog disasters in
22 Donora, Pennsylvania, which is a small steel town south of
23 Pittsburgh, the Meuse Valley in Belgium, and, ultimately,
24 the large-scale smog episode in London, where thousands of
25 people died over a matter of a week as a result of bad air

1 back in the '50s. And those highly potential acute
2 mortality from both lung and heart disease.

3 The Clean Air Act, which was implemented in the
4 1970s, allowed for the initial response of reducing much
5 of the stationary-source pollution. As a result, over the
6 '70s, '80s and '90s, we began to have a greater insight
7 into the health contributions from global sources,
8 especially vehicular emissions. The particulates that
9 arise from gasoline engines is that they're very small,
10 less than a micron, a micrometer in diameter, and that
11 ultimately allows those particles to get very deep into
12 the lungs. And as a result of getting deep into the lung,
13 the particles stay there a longer time. Once deposited
14 there, numerous biological mechanisms are activated to
15 clean those particulates, including the activation of
16 immune cells known as macrophages.

17 One of the points I like to make to my classes on
18 this topic are the surface area of your lungs is
19 approximately that of a tennis court. And to keep that
20 tennis court clean, you don't get a hose or a broom, you
21 have about two tablespoons worth of macrophages spread out
22 evenly across that tennis court. And those are how you
23 get rid of all the dusts that you breathe in.

24 So when you're exposed to these particulates,
25 those macrophages activate, and in turn, they release

1 biomolecules like cytokines and proteases, and those can
2 cause further inflammation in the lungs, promote damage to
3 the lungs and other organs throughout the body.

4 Particulates can cause a wide variety of health
5 impacts, often depending on those preexisting conditions I
6 mentioned. Cardiovascular disease is the major health
7 concern for most of our country. Most people in the
8 United States have risk factors like high blood pressure,
9 high cholesterol, obesity, and metabolic syndrome.

10 Airborne particulates have been shown to cause
11 constriction of the major blood vessels, which can limit
12 blood flow to certain organs. And that appears consistent
13 with epidemiologically-observed elevated incidence of
14 heart attacks or myocardial infarction and stroke.

15 Particulates have also been associated with
16 electrocardiographic abnormalities and cardiac
17 arrhythmias. In other research, ambient particulates have
18 been associated with neurological conditions, such as
19 progression of Alzheimer's disease and related dementias.

20 Carbon monoxide is a colorless, odorless gas that
21 has a high affinity for the hemoglobin, the protein in our
22 blood that carries oxygen. And as such, it can completely
23 displace oxygen and impair our ability to get oxygen to
24 the various organs. Carbon monoxide has no direct impact
25 on the lungs, but is known to affect the brain. It's a

1 neurotoxicant at very high levels. But at low levels,
2 like we see in the urban airshed, carbon monoxide is
3 associated with risks of coronary artery-related events
4 like heart attacks, which has strong evidence from
5 controlled human exposures in humans and in rodents. And
6 those studies largely were recorded back in the 1980s and
7 1990s.

8 Oxides of nitrogen, especially the nitrogen
9 dioxide are highly reactive gases that can be irritating
10 to the lungs and cause oxidative damage and inflammation.
11 Asthma is the principal concern for nitrogen dioxide, and
12 the main driving issue for current National Ambient Air
13 Quality Standards. Nitrogen dioxide can also interact
14 with sunlight and other components of air pollution to
15 form ozone and secondary organic particulates.

16 In controlled human studies, my own group has
17 shown that short-term exposure to nitrogen dioxides can
18 recapitulate or reproduce the acute vascular inflammatory
19 impacts of diesel exhaust, specifically. So, as a
20 component, it is independently able to drive some of the
21 effects on blood vessels that we see. Recent studies have
22 also shown association between nitrogen dioxide levels and
23 dementia in large populations and gestational exposure
24 during -- exposure in the womb is associated with higher
25 incidents of autism spectrum disorder.

1 Now, specific research on gasoline engine exhaust
2 is limited, compared to some of the studies related to
3 particulates or ozone, for instance. But my own group has
4 done quite a lot of work on this. While the lungs are
5 obvious targets for particulates, many studies, especially
6 the ones we've done, have highlighted the potential for
7 cardiovascular and neurological disease outcomes.

8 Atherosclerosis, which is a disease of hardening of the
9 arteries, which contributes to myocardial infarction,
10 heart attack and stroke, can be worsened by exposure to
11 gasoline emissions as well as diesel engine emissions.

12 Gasoline engine emissions were also able to cause
13 significant changes to the electrocardiogram, consistent
14 with cardiac stress. Moreover, serum, derived from blood,
15 obtained from rodent studies, where they were treated with
16 gasoline emissions, there were components and molecules in
17 the serum that were able to cause vasoconstriction, or
18 narrowing of the arteries, and increase the expression of
19 inflammatory molecules. Among the notable findings when
20 gasoline and diesel engines emissions were combined, as is
21 unavoidable in these urban regions, the cardiovascular
22 toxicity was far greater.

23 Our basic assumption here is that there are a lot
24 of volatile organic compounds that come from the gasoline
25 engine emission, that combines with the particulates from

1 the soot that comes out of diesel engines, and actually
2 makes these particulates even more toxic. The overall
3 vascular inflammation, a precursor to ischemic heart
4 disease or coronary artery disease was far greater with
5 vehicular emissions than other forms of particulates, even
6 coal emissions, even resuspended road dust and things of
7 that nature.

8 Neurological effects of traffic-related emissions
9 have been identified in recent years, potentially
10 contributing to developmental issues like autism, anxiety,
11 depression, suicide rates and other mood disorders, and
12 also neurodegenerative diseases like dementia or
13 Alzheimer's. Toxicological studies have confirmed that
14 the vehicle emissions can directly or indirectly impair
15 function of the blood-brain barrier, which protects the
16 brain from many toxic components of the blood, that when
17 it's broken down, it promotes an inflammatory response in
18 the brain we call neuroinflammation. And that is a --
19 what we call a precursor or a prelude to Alzheimer's or
20 dementia.

21 Ozone inhalation has also been shown to cause
22 neuroinflammation and decrease the -- and increase the
23 plaque proteins, the amyloid beta that accumulates in the
24 brain, which is again a precursor to dementia, and that's
25 been shown in rodent models. Notably, whole vehicle

1 emissions, meaning the collective particulates and gases
2 arising from engine exhaust, were far more potent at
3 driving these neuroinflammatory outcomes than either the
4 particles or gas fractions individually.

5 Traffic-related air pollution has also been shown
6 to promote hypertensive disorders of pregnancy, such as
7 preeclampsia. Preeclampsia can occur in up to 5 percent
8 of pregnancies and leads to very high risk of high blood
9 pressure surges in pregnant women and can lead to
10 eclampsia, which includes seizures, and can be
11 life-threatening, as well as threatening the newborn.
12 Gestational hypertension and preeclampsia can lead to
13 long-term cardiovascular consequences as well for mothers,
14 including heart failure and increased stroke risk, as well
15 as lead to premature delivery and low birth weight for
16 newborns. And there's a fantastic report from the
17 National Toxicology Program about three years ago,
18 describing the relationship between traffic-related air
19 pollution and the incidence of gestational hypertension.

20 So, in summary, the scientific evidence for
21 health impacts of vehicle-derived air contaminants is very
22 clear. The evidence includes epidemiological and
23 toxicological research, highlighting both the magnitude of
24 associations seen across large populations as well as the
25 causal proof provided by controlled exposure studies.

1 While the estimates for the influence of vehicle-derived
2 air pollution indicate a low risk, the broad-based
3 population-level exposure means most people will
4 experience that risk.

5 The general finding from epidemiological studies
6 is that there is no clear threshold for a "no effect
7 level," meaning that even low levels of pollution can be
8 detrimental to sensitive populations. Taking the
9 appropriate actions to reduce emissions or reduce the
10 numbers of emitting vehicles is consistent with reduction
11 of risk, especially in urban regions of New Mexico.

12 Q. Thank you, Dr. Campen. I have no further
13 questions.

14 HEARING OFFICER ORTH: Thank you, Mr. de Saillan
15 and Dr. Campen.

16 While I'm asking the other counsel and Board
17 members for their questions, if you're a member of the
18 public and have a question for Dr. Campen, please put it
19 in the Chat.

20 Mr. Knight, do you have a question of Dr. Campen?

21 MR. KNIGHT: I do not.

22 HEARING OFFICER ORTH: Okay. Ms. Sona?

23 MS. SONA: I do not.

24 HEARING OFFICER ORTH: Thank you. We'll start
25 over here. Chair Meiklejohn.

1 EXAMINATION BY THE BOARDS

2 CHAIRPERSON MEIKLEJOHN: I would like to thank
3 Dr. Campen for his testimony. I have no questions for him
4 at this time. Thank you.

5 HEARING OFFICER ORTH: Thank you.

6 Vice-Chair Paul.

7 VICE-CHAIR PAUL: I have no questions at this
8 time. Thanks.

9 HEARING OFFICER ORTH: Thank you.

10 Member Richards.

11 BOARD MEMBER RICHARDS: I just had one question
12 for Dr. Campen. So it sounds like there is a way that,
13 through gasoline emissions or exhaust, there's a way of
14 teasing out the different components of exhaust; is that
15 correct? Am I understanding that correctly, to see what
16 the impacts are?

17 DR. CAMPEN: There are, but they are experimental
18 ways and there are statistical ways. My group is
19 largely -- well, we have done a little of both, but you
20 can filter particles, and only expose to the gas
21 emissions, and as such, see the health effects from those,
22 or you can use a denuding system to remove most of the
23 gases and only expose to the particulates. And then, of
24 course, on a population level, we do see different regions
25 experiencing different levels of gas versus particulates,

1 and those can be teased out.

2 BOARD MEMBER RICHARDS: Okay. The reason I ask
3 is just, we're looking at cumulative impacts, and it seems
4 like this is a good example of a cumulative impact, where
5 you have different -- different substances in the -- or
6 constituents in the gasoline engine exhaust.

7 DR. CAMPEN: That's absolutely right. We have
8 found that the cumulative burden is always slightly more,
9 if not synergistically worse.

10 BOARD MEMBER RICHARDS: Okay. Thank you very
11 much. Appreciate your testimony.

12 HEARING OFFICER ORTH: All right. Thank you.
13 Member Calman.

14 BOARD MEMBER CALMAN: I have no questions.

15 HEARING OFFICER ORTH: Thank you.
16 Member Reitzel.

17 BOARD MEMBER REITZEL: I don't have any
18 questions. Thank you.

19 HEARING OFFICER ORTH: All right.
20 Madam Chair, Chair Suina.

21 CHAIRPERSON SUINA: No questions, Madam Hearing
22 Officer. Thank you for your testimony, though.

23 HEARING OFFICER ORTH: Vice-Chair Trujillo-Davis.

24 VICE-CHAIR TRUJILLO-DAVIS: No questions. Thank
25 you.

1 HEARING OFFICER ORTH: Thank you.

2 Member Garcia.

3 BOARD MEMBER GARCIA: No questions. Thank you.

4 HEARING OFFICER ORTH: Member Bitzer?

5 BOARD MEMBER BITZER: Extraordinary testimony.

6 Thank you very much. Very dense, lots of information.

7 Having been down the myocardial infarction highway myself,

8 how long lasting are the negative effects that you're

9 describing here? Are there -- is there -- you know, is it

10 once damaged, always damaged, or is there -- is there a

11 longitudinal study about cleaning up your tailpipe

12 emissions and still having legacy effects, or do those

13 diminish fairly quickly?

14 DR. CAMPEN: That's a great question, and it's

15 fairly complicated, but there is absolutely acute risk

16 that happens with sort of an acute constriction of the

17 vessel, and that is not something that leads to long-term

18 risk; it's just within a day or two days of exposure.

19 There are also risks related to growth of the

20 lesion in the blood vessel that may be a seat for a

21 clotting event. That tends to be a little more

22 irreversible, and so you end up with sort of an acute risk

23 and a long-term risk when it comes to heart attack. The

24 long-term risk, yes, if you are to reduce your exposure,

25 engage in healthy behaviors: exercise, good diet, lots of

1 polyunsaturated fatty acids, you can reduce your risk and
2 even regress the size of that lesion a little bit.

3 But as far as air pollution goes, yes, it does
4 have a long-lasting effect, but mitigating it or removing
5 the exposure can help with reducing the long-term risk of
6 cardiovascular events.

7 BOARD MEMBER BITZER: That's all I have, Madam
8 Chair.

9 HEARING OFFICER ORTH: Okay. Thank you.

10 Member Cates, do you have a question of
11 Dr. Campen?

12 BOARD MEMBER CATES: I do not. No questions
13 here. Thank you.

14 HEARING OFFICER ORTH: All right. Thank you.
15 I'm checking the Chat. I see no questions posed in the
16 Chat.

17 Any reason not to excuse Dr. Campen?

18 No? All right. Thank you very much for your
19 testimony, Dr. Campen. You're excused.

20 DR. CAMPEN: Thank you.

21 HEARING OFFICER ORTH: Mr. de Saillan, do I
22 understand we'll be hearing from Ms. Harris in the
23 morning?

24 MR. DE SAILLAN: That's correct, Madam Hearing
25 Officer.

1 HEARING OFFICER ORTH: All right. So we're going
2 to adjourn the technical case for now.

3 We do have an evening public comment session at
4 7. At the moment we have no one signed up for it, but we
5 still need to be on the platform to solicit or invite
6 public comment because signing up beforehand wasn't a
7 requirement, only encouraged.

8 So, thank you all very much. In the morning --
9 so after -- after the getting on the platform at 7 to ask
10 if there's anyone to offer public comment, then we'll be
11 done for the day.

12 In the morning at 9, we have several folks,
13 including the lady from the CARB, California Air Resources
14 Board, offering comment. And then we'll hear from
15 Ms. Harris and there may be a longish break at that point,
16 until the 1:00 public comment session. We do have a few
17 folks signed up for the 1:00 public comment session. And
18 when that's over, we don't expect any more technical
19 testimony. We do expect the Boards to then deliberate.
20 So we don't believe we're going to need two days. We
21 believe we're going to be wrapping up tomorrow afternoon,
22 for anyone who was looking for our expectations.

23 Thank you all very much, and I'll see you back
24 here at 7.

25 (Recess taken from 5:32 p.m. to 7:01 p.m.)

1 HEARING OFFICER ORTH: Good evening. My name is
2 Felicia Orth; I'm a Hearing Officer appointed by the
3 Environmental Improvement Board and the
4 Albuquerque-Bernalillo County Air Quality Board to conduct
5 a hearing in the matter of the vehicle emission standards
6 for new motor vehicles.

7 We do have a couple of folks who identified
8 themselves as wanting to offer comment at the 7:00 o'clock
9 public comment session, including Senator Tallman and some
10 others. But we're going to wait just a few minutes for
11 some other folks to catch up with us, so please -- please
12 hang in there and I will accept public comment very
13 shortly. Thank you.

14 All right. Good evening. Let me hit record.
15 There we go. Good evening. Again, my name is Felicia
16 Orth; I'm the Hearing Officer in this matter of the clean
17 car emission. And we have reached the 7 p.m. public
18 comment session. We have two gentlemen who requested an
19 opportunity to comment during the session: Senator
20 William Tallman and Mr. Joseph Hernandez.

21 If you are on the platform and would like to
22 offer public comment, merely reach out through the Chat
23 and I will call on you after those two gentlemen. If you
24 have any trouble on the platform, please call our
25 Administrator Pam Jones, at (505) 660-4305.

1 Public comment is taken under oath and subject to
2 questioning. It's limited to five minutes and is taken
3 through audio, not video. So I'm going to unmute the
4 Senator first. Let's see here. Unmute. Senator, I think
5 you should find a pop-up box saying you've been asked to
6 unmute yourself. I have unmuted you from here, but you
7 also need to unmute. Do you see that?

8 Senator Tallman? Can you hear me?

9 Senator Tallman, if you're speaking I cannot hear
10 you. Can you hear me? Look for a pop-up box that says
11 there's a request for you to unmute.

12 Okay. I'm not hearing anything. Senator
13 Tallman, if you can hear me, would you please dial
14 (505)660-4305 and I'll take your comment on a speaker
15 phone.

16 Pam, are you getting anything?

17 ADMINISTRATOR JONES: No, but I do see
18 Mr. Hernandez.

19 HEARING OFFICER ORTH: All right. So, Senator,
20 I'm going to move on to Mr. Hernandez and hope that we can
21 figure out your unmuting, or that you are able to call Pam
22 Jones while I do that.

23 Mr. Hernandez, if you can hear me I have unmuted
24 you from my end, but you also need to unmute. Look for a
25 pop-up box and unmute yourself.

1 MR. HERNANDEZ: Hello.

2 HEARING OFFICER ORTH: Oh, is that you,
3 Mr. Hernandez?

4 MR. HERNANDEZ: Yes, this is Joseph Hernandez.

5 HEARING OFFICER ORTH: Terrific. If you would,
6 please, do you swear or affirm to tell the truth?

7 MR. HERNANDEZ: Yes.

8 HEARING OFFICER ORTH: Thank you. And if you
9 would spell your name for the transcript and then make
10 your comment.

11 JOSEPH HERNANDEZ,
12 having been first duly sworn or affirmed, gave public
13 comment as follows:

14 PUBLIC COMMENT OF JOSEPH HERNANDEZ

15 MR. HERNANDEZ: Yes, my name is Joseph Hernandez,
16 spelled J-O-S-E-P-H. Last name, H-E-R-N-A-N-D-E-Z.

17 HEARING OFFICER ORTH: Whenever you're ready.

18 MR. HERNANDEZ: Thank you, Madam Hearing Officer
19 and EIB Board members. Again, my name is Joseph Hernandez
20 and I am calling in from Shiprock, New Mexico, on the
21 Navajo Nation. I am a community organizer and I was
22 also -- I was awarded the 2021 Dr. Espanola Jackson's
23 Solar Justice Award for my work over here on the Navajo
24 Nation.

25 And I want to express the realities of why we

1 need rules that -- that you are now taking up on. And I'm
2 asking, you know, that the EIB do adopt these new rules
3 for classification emissions. Up here in Four Corners
4 Region, you know, we are overburdened by the oil and gas
5 industry, by the coal burning power plants, and we are now
6 dealing with the transition from fossil fuels.

7 And I also want to, you know, express that
8 although that, you know, the electric vehicle transition
9 to the electric vehicle market is going to be a challenge
10 for tribal communities and also rural communities, and
11 it's also a tough one because, you know, it's going to
12 have some impact on -- on -- on tribal communities, not in
13 New Mexico, but I do know of tribal communities in the
14 Nevada region I've heard about.

15 But I feel that if we do this responsibly, if we
16 do this transition toward electric vehicles in the right
17 way, that we can make it work for everybody. And I think
18 that's what's important, is to make sure that it works for
19 everybody, and that's not just people who are the
20 wealthiest; it's not just for people who are able to
21 afford it, but being able to have access to people who --
22 who are not able to -- to purchase an electric vehicle.
23 And I think that's the opportunity we need through a
24 program that brings equity to tribal communities.

25 And -- because right now, we have dealerships

1 that are charging premiums and it's -- especially up here
2 in the Four Corners Region, we don't have a dealership
3 that is offering electric vehicles. Because I was in the
4 market to buy a vehicle a couple of years ago and I didn't
5 have that option.

6 And when I talk to elders, when I talk to my
7 community members about electric vehicles, you know,
8 they're saying that our communities would be the last --
9 the last communities in the state to have charging
10 stations, you know, because all of the times, it always
11 goes to, like, Farmington, it goes to urban communities
12 and -- and making sure that tribal communities, you know,
13 are the first ones to get charging stations.

14 The economy, and especially with outdoor
15 recreation, when we talk about tourism money, that's money
16 that we can capture it into our -- keep it into our
17 communities. Because just last month, I saw my first
18 electric vehicle driving through Shiprock, and it was
19 driving through Shiprock and not stopping in Shiprock.

20 And so, I definitely hope that the EIB do support
21 this rule, because I want to see people in my community
22 have the opportunity to purchase an electric vehicle, as
23 well as the opportunity to expand on -- to create a new
24 economy around the electric vehicle sector.

25 And for that reason, thank you again, Madam

1 Hearing Officer. Thank you.

2 HEARING OFFICER ORTH: Thank you very much,
3 Mr. Hernandez.

4 Let me ask if there's anyone else on the platform
5 who would like to offer public comment during this comment
6 session. We have two other comment sessions: one
7 tomorrow morning at 9 a.m., and one tomorrow afternoon at
8 1, but is there anyone who would like to offer comment at
9 this time? If so, please say something in the Chat.

10 We don't have anyone else in the room to offer
11 public comment. I'll wait just one more moment for
12 someone to reach out virtually. And, again, if you have
13 any trouble with this platform, reach out to Pam Jones at
14 (505)660-4305 or pamelajones@state.nm.us.

15 Okay. I'm seeing no one on the -- no one in the
16 Chat. And it is after 7:15, so I believe we have
17 completed our day of hearing today. We'll resume at 9 in
18 the morning. At 9 in the morning we have, again, several
19 folks who would like to be heard during the public comment
20 session and then we'll hear from the Clean Air Advocates'
21 witness, Ms. Harris.

22 And we'll see if there's anything to be done
23 after that, other than the 1 p.m. public comment session
24 and the Board deliberations.

25 Anything further or are we adjourned for the

1 evening? No. All right. We're adjourned for the

2 evening. Thank you all.

3 (Hearing concluded May 4th, 2022, at 7:18 p.m.)

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STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD AND THE
ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

IN THE MATTERS OF PROPOSED 20.2.91 NMAC -
NEW MOTOR VEHICLE EMISSION STANDARDS, EIB No. 21-66(R)
AND
THE PETITION TO REPEAL EXISTING RULE
20.11.104 NMAC AND ADOPT PROPOSED AQCB No. 2022-01
REPLACEMENT RULE 20.11.104 NMAC

REPORTER'S CERTIFICATE

I, THERESA E. DUBOIS, RPR, CSR #29, DO HEREBY
CERTIFY that on May 4, 2022, the Public Hearing of the New
Mexico Environmental Improvement Board and
Albuquerque-Bernalillo County Air Quality Control Board
was taken before me, that I did report in stenographic
shorthand the Proceedings set forth herein, and the
foregoing pages are a true and correct transcription to
the best of my ability.

I FURTHER CERTIFY that I am neither employed by
nor related to nor contracted with (unless excepted by the
rules) any of the parties or attorneys in this matter, and
that I have no interest whatsoever in the final
disposition of this matter.



THERESA E. DUBOIS, RPR
New Mexico CCR #29
License Expires: 12/31/2022

STATE OF NEW MEXICO
BEFORE THE ENVIRONMENTAL IMPROVEMENT BOARD AND THE
ALBUQUERQUE-BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

EIB No. 21-66(R)
AQCB No. 2022-01

IN THE MATTERS OF
PROPOSED 20.2.91 NMAC, NEW MOTOR VEHICLE EMISSION
STANDARDS
AND
PETITION TO REPEAL EXISTING RULE 20.11.104 NMAC,
EMISSION STANDARDS FOR NEW MOTOR VEHICLES, AND ADOPT
PROPOSED REPLACEMENT RULE 20.11.104 NMAC, NEW MOTOR
VEHICLE EMISSION STANDARDS

TRANSCRIPT OF PROCEEDINGS

BE IT REMEMBERED that on the 5th day of May, 2022,
this matter came on for continued hearing before the New
Mexico Environmental Improvement Board and the
Albuquerque-Bernalillo County Air Quality Control Board,
taken at the Albuquerque Convention Center, 401 Second
Street, Northwest, Rooms 215 and 235, and virtually
through Cisco Webex Meetings video conferencing,
commencing at the hour of 9:10 a.m.

Volume 2

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E X H I B I T S

ADMITTED

NOTE: No exhibits are attached physically to this transcript. They can be found online at www.env.nm.gov/opf/docketed-matters/

CLEAN AIR ADVOCATES:

CAA Exhibit 1. Written Direct Testimony of Kathleen Harris 454

CAA Exhibit 2. Resume of Kathleen Harris 454

CAA Exhibit 3. M.J. Bradley & Associates LLC, Electric Vehicle Cost-Benefit Analysis: Plug-In Electric Vehicle Cost-Benefit Analysis: New Mexico (Jan. 2020) 454

CAA Exhibit 4. N.M. E.O. No. 2019-003, Executive Order on Addressing Climate Change and Energy Waste Prevention (Jan. 29, 2019) 454

CAA Exhibit 5. Consumer Reports, Consumer Interest and Knowledge of Electric Vehicles: 2020 Survey Results (Dec. 2020) 454

CAA Exhibit 6. Energy & Environmental Economics, Inc., New Mexico Greenhouse Gas Emissions Inventory and Forecast (prepared for the Center for New Energy Economy at Colorado State University (Oct. 27, 2020) 454

CAA Exhibit 7. Britta Gross, Rocky Mountain Institute, 1 in 5 Cars Will Need to Be Electric by 2030: What Will it Take? (Dec. 18, 2019) 454

CAA Exhibit 8. Hieu Le & Andrew Linhardt, Sierra Club, Rev Up Electric Vehicles: A Nationwide Study of the Electric Vehicle Shopping Experience (Nov. 2019) 454

CAA Exhibit 9. Jason Frost, Melissa Whited & Avi Allison, Synapse Energy Economics, Inc., Electric Vehicles Are Driving Electric Rates Down (June 2020 update) 454

E X H I B I T S (Continued)

ADMITTED

CLEAN AIR ADVOCATES (Continued):

CAA Exhibit 10. Written Direct Testimony of Dr. Matthew Campen 454

CAA Exhibit 11. Curriculum vitae of Dr. Matthew Campen 454

CAA Exhibit 12. Written Direct Testimony of JoAnna Strother 454

CAA Exhibit 13. Resume of JoAnna Strother 454

CAA Exhibit 14. American Lung Association, The Road to Clean Air: Benefits of a Nationwide Transition to Electric Vehicles (Sept. 2020) 454

CAA Exhibit 15. American Lung Association, Zeroing in on Healthy Air: A National Assessment of Health and Climate Benefits of Zero-Emission Transportation and Electricity (Mar. 2022) 454

CAA Exhibit 16. American Lung Association, Updated Evaluation of the National Health Benefits from the Transition to Zero-Emission Transportation Technologies (Mar. 4, 2022) 454

CAA Exhibit 17. Resume of William Barrett 454

1 HEARING OFFICER ORTH: Good morning.

2 My name is Felicia Orth. I'm the hearing
3 officer appointed by the Environmental Improvement Board
4 and the Albuquerque-Bernalillo County Air Quality Board
5 to conduct a hearing in this matter, which is a
6 rulemaking around emissions standards for new motor
7 vehicles.

8 We are Thursday morning, the second day of
9 hearing, for the 9:00 a.m. public comment session.

10 Just a few things about comment, really all
11 testimony in the hearing. All testimony and comment in
12 the hearing is taken under oath and subject to
13 cross-examination. Public comment can be given just
14 once. So please collect your thoughts. And public
15 comment is provided through audio, not video, and is
16 limited to five minutes. As you approach five minutes,
17 I will ask you to wrap it up.

18 In the event you have more to say than can be
19 fit into five minutes, I'll ask you to put your thoughts
20 into writing and submit them via e-mail before one
21 o'clock this afternoon to either Stephanie Apodaca, the
22 city Board administrator, or to Pamela Jones, the state
23 Board administrator.

24 We have lots of folks wanting to offer comment
25 this morning. I'm going to check -- let's see.

1 We were unsuccessful in getting Senator
2 Tallman's comment yesterday. So I'm going to keep an
3 eye on the attendee list to look for him, and we'll take
4 him when he gets on the platform, because we tried so
5 hard yesterday.

6 Let me start with Senator Carrie Hamblin.

7 Well, I'm not seeing Senator Hamblin among the
8 attendees.

9 I'm going to ask Call-in User Number 2 to
10 unmute.

11 Call-in User 2, can you hear me?

12 No. All right.

13 Let me see here.

14 Then we had Senator Harold Pope. I don't see
15 him -- oh, there's Mr. -- Senator Tallman. All right.

16 I don't see Senator Pope just yet, but here is
17 Senator Tallman.

18 Senator Tallman, if you would please unmute
19 yourself.

20 Can you hear me?

21 Senator Tallman, you're unmuted. We can't
22 hear you if you're speaking.

23 MR. TALLMAN: Can you hear me now?

24 HEARING OFFICER ORTH: Oh. Yes. Yes. Can
25 you speak up, please? I can hear you.

1 MR. TALLMAN: (Unintelligible and/or
2 inaudible).

3 THE REPORTER: I cannot understand.

4 HEARING OFFICER ORTH: Senator Tallman, this
5 is not a video comment session, this is audio, and we
6 need -- just need you to speak more loudly, but we can
7 hear you.

8 MR. TALLMAN: (Unintelligible and/or
9 inaudible).

10 HEARING OFFICER ORTH: That's better.

11 Do you swear or affirm to tell the truth?

12 MR. TALLMAN: Yes.

13 HEARING OFFICER ORTH: All right. Please make
14 your statement.

15 BILL TALLMAN

16 having been first duly sworn or affirmed, gave
17 public comment as follows:

18 PUBLIC COMMENT

19 MR. TALLMAN: Okay. Can you hear me?

20 HEARING OFFICER ORTH: Yes, we can.

21 MR. TALLMAN: (Unintelligible and/or
22 inaudible).

23 THE REPORTER: I cannot understand.

24 HEARING OFFICER ORTH: I'm sorry.

25 MR. TALLMAN: Is it sufficiently loud so

1 people don't have to strain?

2 HEARING OFFICER ORTH: Yes, it is. Just make
3 your statement if you would, please, slowly so that we
4 could pick up each word.

5 MR. TALLMAN: Okay.

6 How many minutes do you have?

7 HEARING OFFICER ORTH: Five minutes.

8 MR. TALLMAN: Oh, okay. Thank you.

9 Good morning, everyone. This is Senator Bill
10 Tallman, representing (unintelligible and/or inaudible).

11 THE REPORTER: Excuse me. I cannot
12 understand.

13 MR. TALLMAN: (Unintelligible and/or
14 inaudible). It's -- I went online and couldn't find a
15 single used Tesla in New Mexico (unintelligible and/or
16 inaudible).

17 We bought it online. (Unintelligible and/or
18 inaudible).

19 THE REPORTER: I really cannot understand
20 anything he's saying.

21 HEARING OFFICER ORTH: Okay.

22 Senator Tallman, the court reporter is having
23 difficulty making out your words. There seems to be a
24 little fuzziness on the line. So perhaps the best thing
25 to do -- I did hear you say that you had gone online to

1 look for a used Tesla and had been unable to find any
2 available for sale, and we -- we didn't -- we kind of
3 lost it right there.

4 So perhaps the best way is to just articulate
5 each word just really clearly.

6 MR. TALLMAN: (Unintelligible and/or
7 inaudible). Well, I'm (unintelligible and/or
8 inaudible). Let me -- let me -- let me try a different
9 computer. Hold on.

10 HEARING OFFICER ORTH: Okay. But if you're on
11 speakerphone, that might -- might not be the best thing.

12 MR. TALLMAN: I'm not on speaker phone. I'm
13 using my lap -- my desktop speaker.

14 All right. Now is this better?

15 HEARING OFFICER ORTH: All right. Keep
16 talking, and I'm sorry, I'll have to interrupt if we
17 still can't make it out. But keep talking.

18 MR. TALLMAN: Okay. I'm finding this
19 difficult. I never had any problems.

20 Okay. So I'm -- I bought a car in Dallas. I
21 flew to Dallas. I spent half an hour trying to find a
22 used vehicle before I got here and drove it back. It's
23 a loaded used car. It drove quiet. (Unintelligible
24 and/or inaudible). There's no carburetor. There's no
25 starter. There's no distributor. There's no

1 maintenance. It's fast. It's a car that right now has
2 20 miles, by 2025 it will be a hundred miles -- a
3 hundred miles available. And the price will continue to
4 move on. So that it's really affordable.

5 I note I've been invited to go to Nashville
6 for a conference in June, invitation only. It's 58
7 state legislators from all over the country that will be
8 discussing all (unintelligible and/or inaudible) and
9 electric vehicles, including (unintelligible and/or
10 inaudible) enhanced (unintelligible and/or inaudible) on
11 gas and (unintelligible and/or inaudible) at the pump.
12 So we're going to have to be -- states are way ahead of
13 us in (unintelligible and/or inaudible) and implementing
14 various forms (unintelligible and/or inaudible).

15 THE REPORTER: I'm not understanding.

16 MR. TALLMAN: I've sponsored bills. I've been
17 trying for three years to get a bill through the senate
18 that would provide a registration fee for -- an
19 additional registration fee for electric vehicles, and
20 also to provide a tax incentive to purchase an electric
21 vehicle.

22 Having lived in five or six different states,
23 I'm here to tell you that New Mexico is not very -- not
24 very (unintelligible and/or inaudible). Other states
25 are way ahead of us as far as electric vehicles.

1 Colorado has nine times more charging stations than --
2 than New Mexico. It has three times more --
3 (unintelligible and/or inaudible) do the math, they had
4 three times more charging stations per capita than we
5 do.

6 So we really need to hitch on board with that.
7 So obviously I'm a strong -- strong supporter of the
8 clean -- clean cars bill, the regulations that are being
9 considered. So needed.

10 So that's about it, and that is my statement,
11 and thanks for the opportunity to speak. I'm glad to
12 answer any questions. And again I'm a strong supporter
13 of the clean car regulations that are being considered.

14 Thank you.

15 HEARING OFFICER ORTH: Thank you very much,
16 Senator.

17 Let's move to Councilor Randy Ryti from Los
18 Alamos.

19 Councilor Ryti, can you unmute yourself,
20 please?

21 MR. RYTI: Can you hear me?

22 HEARING OFFICER ORTH: Yes. It's nice and
23 clear, Councilor Ryti.

24 MR. RYTI: Okay. Great.

25 HEARING OFFICER ORTH: Would you swear or

1 affirm to tell the truth?

2 MR. RYTI: Yes. I do.

3 HEARING OFFICER ORTH: All right.

4 And spell your last name for the transcript,
5 please.

6 MR. RYTI: Yeah. So it's spelled
7 R-Y-T-as-in-Tom-I.

8 HEARING OFFICER ORTH: Thank you.

9 Go ahead and make your comment.

10 RANDALL RYTI

11 having been first duly sworn or affirmed, gave
12 public comment as follows:

13 PUBLIC COMMENT

14 MR. RYTI: Okay. I thank the Environmental
15 Improvement Board for the opportunity to speak today.

16 I am Randall RytI, Chair of the Los Alamos
17 County Council.

18 The proposed New Mexico vehicle emissions
19 standards, clean car rule is right for the County of Los
20 Alamos and is right for the State of New Mexico. These
21 comments officially register our support for the
22 proposed standard. We urge you to approve the clean car
23 rule directly following the hearing and deliberation.

24 The timeline for -- the timeline incentivizes
25 the automobile manufacturers to deliver zero carbon --

1 zero emission tailpipe passenger cars as soon as July,
2 2022 and increases the availability and variety of zero
3 emissions vehicles that our citizens can buy.

4 Adopting the clean car rule will have many
5 significant benefits for the citizens of Los Alamos and
6 for the State of New Mexico. Reducing air pollution
7 from conventional automobiles will protect the
8 environment and health of New Mexico residents and keep
9 New Mexico skies clean, clear and beautiful.
10 Furthermore, reducing emissions of smog-forming
11 pollutants will contribute toward our state's climate
12 change mitigation efforts.

13 In our county and our state we have taken
14 major steps in recent years to address greenhouse gas
15 emissions from the electric TC sector and improve energy
16 efficiency of our public buildings. The clean car rule
17 represents my critical next step to reduce emissions in
18 the transportation sector.

19 In Los Alamos County we have started to
20 address the goals set forward by our Governor in the New
21 Mexico climate change Executive Order 2019. The council
22 formed a Resiliency, Energy and Sustainability Task
23 Force in December of 2020. This task force was
24 chartered to recommend ways for the county as a whole,
25 including government, businesses and residents, to

1 achieve net zero greenhouse gas emissions and advance
2 sustainable practices in the face of climate change.

3 The task force delivered in February, '22 --
4 2022 their Comprehensive Resiliency, Energy and
5 Sustainability Strategic Plan. The county has started
6 to implement the tactics and recommendations of the
7 plan, performing a comprehensive baseline greenhouse gas
8 emissions study and creating a strategic climate action
9 plan specific for Los Alamos County.

10 The county council approved a new position
11 starting in July for sustainability coordinator and
12 funding for education and outreach. Wouldn't it be
13 wonderful if the clean car rule is passed and the county
14 can help inform our citizens and employees of the
15 opportunity the standards creates for such vehicles. It
16 will also help the county acquire a clean car/truck
17 replacements for our fleet, perhaps 10 vehicles a year.

18 With surging gas prices, many of our citizens
19 are already eager to explore alternative fuel vehicles,
20 such as low emissions vehicle or zero emissions
21 vehicles, as their next passenger car or truck.
22 Likewise, they're very aware of improvements to our air
23 quality that come from such vehicles.

24 Adopting the clean car rule will require major
25 manufacturers to deliver more such vehicles to New

1 Mexico, giving consumers another personal choice on how
2 to address climate change.

3 We urge you to approve the proposed new
4 vehicle emissions standards. The steps we have taken at
5 Los Alamos County can be accelerated by adopting
6 proposed rules for clean cars New Mexico. We are doing
7 our part, and now I ask the Environmental Improvement
8 Board to take the right steps to protect the environment
9 and health of New Mexico residents by implementing the
10 clean car rule.

11 Thank you.

12 HEARING OFFICER ORTH: Thank you very much,
13 Councilor.

14 I see now Senator Carrie Hamblin on the
15 platform. So we'll return to her.

16 MS. HAMBLIN: Yes, Madam Chair. Thank you so
17 much.

18 Can you all hear me?

19 HEARING OFFICER ORTH: Oh, very clearly.
20 Thank you.

21 And would you please swear or affirm that you
22 will tell the truth?

23 MS. HAMBLIN: I do swear or affirm that I will
24 tell the truth.

25 HEARING OFFICER ORTH: Thank you.

1 You can start your comment.

2 MS. HAMBLIN: All right. Thank you.

3 CARRIE HAMBLIN

4 having been first duly sworn or affirmed, gave
5 public comment as follows:

6 PUBLIC COMMENT

7 MS. HAMBLIN: Hello, committee members, and
8 thank you for allowing me a few minutes to provide
9 testimony on the importance of expanding our electric
10 vehicles infrastructure.

11 Excuse me.

12 My name is Carrie Hamblin, and I have the
13 honor of serving the state Senate up in District 38 in
14 Southern New Mexico. Speaking to you from my hometown
15 in Las Cruces, that is located on the stolen lands of
16 the Piro, Manso and Tiwa tribes as well as the
17 Chiricahua and Mescalero Apache tribes.

18 We know that the problems with traditional
19 fuel-powered vehicles are that --

20 THE REPORTER: Can you ask her to slow down?

21 MS. HAMBLIN: -- crucial harm to our health.

22 HEARING OFFICER ORTH: Senator Hamblin, I'm
23 sorry.

24 MS. HAMBLIN: Yes.

25 HEARING OFFICER ORTH: We have both

1 interpreters and a court reporter trying to catch every
2 word. So if you would just slow down a little. You've
3 got five minutes.

4 MS. HAMBLIN: Sure thing. I am going back to
5 my days of radio and trying to speak with a lot of
6 information in two minutes. So I will slow down. Thank
7 you so much.

8 All right. If the interpreter will give me a
9 thumbs up, I can go ahead and move ahead.

10 HEARING OFFICER ORTH: We're good. Thank you.

11 MS. HAMBLIN: All right. Thank you.

12 We know that the problems with traditional
13 fuel-powered vehicles are that vehicle tailpipe
14 pollution harms our health. Vehicle tailpipe pollution
15 causes climate change. And that for the state that has
16 over 340 days of sunshine a year, burning gasoline or
17 diesel in vehicles is a waste of money, especially when
18 we should be putting more toward an electrification
19 infrastructure.

20 New Mexico is a very rural state, and the
21 conversation around electric vehicles is often centered
22 around the benefits for metropolitan regions, targeted
23 to mainly white, affluent individuals, and ignores so
24 many of our residents in the rural parts of the state.

25 In District 38, which is predominantly Latino,

1 rural and low-income, increasing the electronic vehicle
2 infrastructure could benefit them in a number of ways.
3 It could do this by reducing the amount of money they
4 spend on their vehicles so that they can pay for
5 groceries, rent and utilities that many of our residents
6 struggle to cover those costs. It would also clean up
7 the air they need to breathe, the soil they can use to
8 grow healthy food and the water they must drink to
9 survive.

10 However, rural, low-income and frontline
11 communities suffer the harshest impacts of climate
12 change in the form of extreme heat, wildfires and
13 drought.

14 In Las Cruces, only 45 minutes away from El
15 Paso via Interstate 10, we know that 6,000 cars travel
16 that road every day between the two cities because
17 people work in one place and live in another. 6,000
18 cars. According to the EPA, a typical passenger vehicle
19 emits about 4.6 metric tons of carbon dioxide per year.
20 The average passenger vehicle emits about 404 grams of
21 CO2 per mile.

22 Now, according to my math, and you're welcome
23 to check it, that's 36,360 grams for one round trip per
24 car. So for 6,000 cars that is over 218 million grams
25 of CO2 every day in Southern New Mexico.

1 High-traffic corridors and industrial
2 facilities are significant sources of air pollution, and
3 nearby low-income neighborhoods and communities of color
4 are disproportionately impacted by health ailments
5 linked to vehicle emissions.

6 In addition to just thinking of the emissions,
7 we also must look at how we get our fuel. Producing and
8 distributing the fuel used to power our vehicles also
9 creates greenhouse gases. Gasoline requires extracting
10 oil from the ground. Transporting it to a refinery,
11 refining the oil into gasoline, then transporting that
12 gasoline to service stations, each of these steps
13 produces additional greenhouse gas emissions.

14 Also, we have to recognize that not every New
15 Mexican can afford an electric vehicle. Being able to
16 do so involves complex conversations about poverty,
17 living wages, reducing the stressors that our families
18 have to navigate every day, before they can even begin
19 to consider the possibility of purchasing an electric
20 vehicle. Now, that's where my colleagues in the New
21 Mexico legislature come in with future legislation that
22 would address those issues so more New Mexicans can
23 start looking into EVs instead of worrying about putting
24 food on their tables.

25 But in the meantime, it is essential to have

1 that infrastructure to support clean car standards.
2 With clean car standards we will have cleaner air and do
3 better for all hardworking New Mexicans while
4 simultaneously paving the way for a robust used, low or
5 zero emission vehicle market. That is key. Now, this
6 market will never exist without these standards.

7 So today in my testimony to you, I am asking
8 you to understand the impact this rulemaking can have
9 for our state, our climate and our residents. I'm
10 asking you to implement rulemaking that will bring more
11 clean, zero emissions vehicles to New Mexico. I am
12 asking you to act in the best interests of our residents
13 who live in the rural parts of the state who would
14 benefit from this now and in the long run.

15 Thank you so much for your time and service.

16 And that concludes my testimony.

17 HEARING OFFICER ORTH: Thank you, Senator
18 Hamblin.

19 I see Senator --

20 MS. HAMBLIN: (Unintelligible and/or
21 inaudible).

22 HEARING OFFICER ORTH: Yes. Thank you.

23 I see Senator Pope on the platform.

24 Senator Pope, I have sent you a request to
25 unmute yourself. If you would, please, unmute yourself.

1 MR. POPE: Can you hear me?

2 HEARING OFFICER ORTH: Yes. Thank you.

3 Would you please swear or affirm to tell the
4 truth?

5 MR. POPE: I swear to tell the truth.

6 HEARING OFFICER ORTH: Thank you very much.
7 You have five minutes.

8 MR. POPE: Sure. Thank you.

9 HAROLD POPE, JR.

10 having been first duly sworn or affirmed, gave
11 public comment as follows:

12 PUBLIC COMMENT

13 MR. POPE: My name is Senator Harold Pope,
14 Junior, and I represent District 23 in Northwest
15 Bernalillo County in Albuquerque.

16 This morning I would like to speak in favor of
17 clean car rulemaking. You know, I personally own an
18 electric vehicle which I purchased in 2016. The vehicle
19 was a used vehicle, a used EV, and it was a 2011. I
20 ended up purchasing the vehicle for about a little bit
21 more than half of what the original price was from the
22 dealership. This was a vehicle that was traded in for a
23 normal car.

24 So in purchasing this vehicle, not only did I
25 save money from the purchase, but I also saved on

1 maintenance, because I no longer pay for oil changes,
2 transmission fluid flushes, things that you would have
3 to do on a conventional vehicle. I've also at this
4 point have never had to get the brakes done on the
5 vehicle, surprisingly. And it's because I drive in the
6 recharge mode to where any momentum where I'm going
7 downhill is basically recharging the battery. So I save
8 there, as well.

9 So really the vehicle costs for me is really
10 the insurance and then charging the vehicle at home and
11 at charging stations. And I think that's also an
12 important factor we need to look at. In addition to
13 reducing emissions in our state, it's really just the
14 cost of the maintenance -- maintenance to members of our
15 community in owning these types of vehicles.

16 Now, those are benefits for the individuals.
17 The fact that I have a vehicle that's zero emissions and
18 that's an EV, this is a big help in solving part of the
19 emissions that are causing climate change in our
20 climate, not only from the emissions that are coming
21 from the vehicle, but the emissions that are used for
22 extraction and also refining the fossil fuels that would
23 go into my conventional vehicle.

24 These emissions not only are causing climate
25 change, but they're also contributing to health issues,

1 like asthma, in many of our communities here in the
2 state.

3 So for me it's important that we increase the
4 usage of the EVs as well as producing clean electricity
5 that's going to be used for these EVs. So it's
6 important that we do that, as well. This could really
7 reduce the emissions that are causing climate change,
8 but also the health impact to our communities.

9 We're seeing this -- every day we're seeing
10 what's happening right now in Northern New Mexico, and
11 we've been seeing this for a while with extreme drought.
12 So we must act and do what we can, and I believe this is
13 part of the plan that would really help solve this
14 climate crisis.

15 We also have communities around the state that
16 are dealing with poor air quality in general, even here
17 in Albuquerque, where folks probably own some -- most of
18 the EVs in the state. So we really need to do all we
19 can to lower vehicle emissions. Emissions are not just
20 an issue in the urban areas, but also in our rural
21 areas, because they're the ones who many times are being
22 the most impacted by climate change and the health
23 issues, because many times this is where the extraction
24 and refining is occurring.

25 So for these communities and rural areas we

1 must ensure that they have more access to EVs as well as
2 increased access to electric charging stations for
3 infrastructure, to ensure that they can make the
4 transition.

5 We can preserve -- pursue these emission
6 standards, and we must in order to protect our
7 communities. Please enact stronger clean air emission
8 rules.

9 Thank you.

10 HEARING OFFICER ORTH: Thank you very much,
11 Senator.

12 Folks here in the room, we have one more
13 person on the platform to hear from, and then I will
14 turn to the two in the room who made the earliest
15 requests to speak at this session, Judith Smith and
16 Alaric Babej. But we're going to hear from Anna Wong
17 first, and then I'll turn to you.

18 Ms. Wong, I have requested that you unmute.

19 Can you hear me?

20 Ms. Wong?

21 Ms. Wong, if you can hear me, there should be
22 a pop-up box saying that I've asked you to unmute
23 yourself.

24 She may have stepped away.

25 Is Judith Smith in the room?

1 You are. Hi.

2 If you would come up, please. You have a
3 choice between sitting at that table or standing at that
4 podium.

5 All right.

6 MS. SMITH: Is this adjustable?

7 HEARING OFFICER ORTH: That's fine.

8 And if you would please raise your right hand.

9 Do you swear or affirm to tell the truth?

10 MS. SMITH: Yes, I do.

11 HEARING OFFICER ORTH: Thank you.

12 Go ahead. You have five minutes.

13 MS. SMITH: Thank you.

14 JUDITH SMITH

15 having been first duly sworn or affirmed, gave
16 public comment as follows:

17 PUBLIC COMMENT

18 MS. SMITH: Good morning.

19 My name is Judith Smith. I'm a resident here
20 in Albuquerque. And I'm representing from the Board New
21 Mexico InterFaith Power and Light as well as my
22 congregation, Albert Green Team, and I'm also speaking
23 for my grandchildren ages two and seven.

24 And as I've been classified under the COVID
25 guidelines, I'm speaking as one of the elderly of the

1 city, for all of those whose health is at risk now and
2 in the future. Folks I know in my age group are now
3 wearing masks outside not because of COVID, but because
4 of the health impact of the air pollution in our city.

5 Our air in New Mexico, as you all know, is now
6 a mix of emissions from oil and gas drilling, drilled
7 sites leaking methane, cars and trucks emissions, and
8 more recently smoke from fires combined with dust in an
9 unusually long period of high winds. Climate change is
10 in action.

11 I would add my voice to those who have spoken
12 on the urgency we face to act on climate now. It is our
13 moral and ethical responsibility.

14 The clean car New Mexico plan, which is
15 coordinated and synchronized to introduce and move our
16 state to clean cars, trucks and more in our state, will
17 not only keep us in sync economically, it would also
18 keep our state on a list of healthy, modern,
19 forward-thinking members of the United States and world
20 community. It will keep us on the track of a healthy
21 and thriving future. It is our responsibility.

22 I imagine a safer future when we'll have
23 vehicles that don't pollute our air, starting from the
24 oil drilling site to our trip to the store. It's time
25 to act.

1 And thank you for all the work you've been
2 doing.

3 HEARING OFFICER ORTH: Thank you very much,
4 Ms. Smith.

5 Mr. Babej, B-A-B-E-J?

6 THE REPORTER: Spell that again for me?

7 HEARING OFFICER ORTH: I'll ask him to spell
8 it.

9 THE REPORTER: Okay. Thank you.

10 MR. BABEJ: (Unintelligible and/or inaudible).

11 HEARING OFFICER ORTH: Do you swear or affirm
12 to tell the truth?

13 MR. BABEJ: I do. Thank you.

14 HEARING OFFICER ORTH: Thank you.
15 Please spell your name.

16 MR. BABEJ: My first name is Alaric,
17 A-L-A-R-I-C, my last name is Babej, B-A-B-E-J.

18 HEARING OFFICER ORTH: You have five minutes.

19 MR. BABEJ: Perfect. Thank you.

20 ALARIC BABEJ

21 having been first duly sworn or affirmed, gave
22 public comment as follows:

23 PUBLIC COMMENT

24 MR. BABEJ: Well, first of all, I just want to
25 thank everyone here at the committee, Madam Hearing

1 Examiner, our partners at the City of Albuquerque,
2 Bernalillo County and the State of New Mexico
3 Environment Department.

4 So I -- my name is Alaric Babej again. I
5 manage the customer energy solutions team at the Public
6 Service Company of New Mexico, better known as PNM.
7 This morning I'm here to offer a utility perspective on
8 this rule and talk a little bit about what we're doing
9 here at PNM.

10 First of all, PNM is a strong supporter of
11 transportation electrification. Many of you may know
12 that there was legislation passed in 2019, House Bill
13 521, and PNM subsequently filed a comprehensive
14 transportation electrification program. In December
15 of 2021, so a couple of months ago, we got final
16 approval from the New Mexico Public Regulation
17 Commission to start implementing that program, and we
18 are currently in the build-out phases.

19 Our program is focused on offering utility
20 incentives to build out charging infrastructure, to
21 offer rates to reduce the peak time or the peak
22 charging, to educate customers more about the benefits
23 of transportation electrification, and finally to
24 administer the program. This is something that's very,
25 very exciting for us, and we maintain our commitment to

1 increasing the adoption rate of electric vehicles in New
2 Mexico.

3 One of the other things that you're probably
4 aware of is the Energy Transition Act. PNM has made a
5 commitment to be carbon-free by 2040. This is
6 incredibly exciting for transportation electrification
7 because it means that as time goes on cars charged in
8 New Mexico get greener over time. There will be less
9 and less emissions attributed to transportation the
10 higher the adoption rate of electric vehicles.

11 I also want to make very clear that from a
12 utility perspective this increasing adoption rate is
13 something that we are consistent -- or that we are
14 constantly planning for and preparing for in the future.

15 Our number one goal is to provide a safe,
16 reliable and environmentally responsible energy to our
17 customers when they need it. The inclusion of electric
18 vehicles is something that is done currently throughout
19 our integrated resource planning process, and that will
20 continue to be the case as we see the adoption rate
21 change over time.

22 Finally, one of the things that we know about
23 the clean car rules in other states is that it increases
24 the availability of vehicles in that state. We know
25 that the availability of vehicles is another barrier to

1 adoption, and we think that this rule is something that
2 could help to remove one of those barriers.

3 Again we are planning for a transportation
4 electrification -- or an electrified transportation
5 sector in the future, and we will continue to provide
6 safe, reliable and environmentally responsible energy to
7 all of our customers to serve all of their needs,
8 including electric vehicles.

9 Thank you.

10 HEARING OFFICER ORTH: Thank you.

11 Oh, yes.

12 Mr. Babej, stay there for a moment. We have a
13 Board question.

14 MR. BABEJ: Yes.

15 QUESTIONS

16 BY THE BOARDS:

17 HEARING OFFICER ORTH: Vice-Chair.

18 VICE-CHAIR TRUJILLO DAVIS: Thank you for
19 taking the time to come chat with us.

20 And we did have questions that came up during
21 our hearing yesterday. So I'm just going to throw you a
22 few. If you can't answer them, cool.

23 MR. BABEJ: Okay.

24 VICE-CHAIR TRUJILLO DAVIS: So one of the
25 things that we were discussing yesterday is just

1 build-out and kind of the impact on the grid.

2 So I'm wondering kind of what steps PNM is
3 taking to address the demand and how maybe they're
4 calculating what that demand is going to look like?

5 MR. BABEJ: Yeah. Good -- a lot of good
6 questions there, and I can probably talk all day, but
7 I'll try not to for everyone's benefit.

8 So there's both short-term and long-term
9 solutions.

10 So in the short-term one of the things that
11 we're actually doing through our transportation
12 electrification program is offering new EV-specific
13 rates to try and incentivize customers to reduce the
14 peak -- I think reduce that peak demand during peak
15 times where the grid is, you know, being used by a lot
16 of people. So typically this is -- you know, you can
17 think summer months in the evening, right, when air
18 conditioners are on.

19 So we have two pilot rates that we're doing.
20 One is a residential rate that incentivizes residential
21 customers to shift their load overnight, from 10:00 p.m.
22 to 5:00 a.m. And so that should again help reduce that
23 peak. There's also a nonresidential rate which is very
24 exciting. It's a time of day rate or a time of use
25 rate, meaning that depending on the time of day of

1 charging there are different prices, again trying to
2 incentivize customers to charge when the grid is not
3 experiencing a peak.

4 So I think those are short-term solutions.

5 We're also looking at longer-term solutions.

6 There's something called managed charging, which is
7 where utilities can interact with vehicles or charging
8 infrastructure, very similar to a demand response
9 program, so that there -- if there is a capacity
10 constraint of any kind you can actually actively
11 communicate just like you would in a typical demand
12 response program.

13 So that's one of the things we're doing, and
14 then also in the longer term, as I said, through our
15 integrative resource planning process, that's something
16 that we do every three years. Electric vehicles are
17 already a part of that planning process, and then as we
18 see those adoption rates change, we adjust our plans
19 accordingly, whether that's investment in
20 infrastructure, generation resources, all of the above.

21 VICE-CHAIR TRUJILLO DAVIS: Thank you.

22 And as you talk about shifting the demand
23 time, one of the things I think is super interesting
24 about EVs is that you can charge them at home.

25 So I'm wondering if PNM is seeing an increase

1 in requests for adding that type of power at their
2 homes, and approximately do you know how much that
3 costs?

4 MR. BABEJ: It -- the quick -- the short
5 answer is it depends. So we are definitely seeing an
6 increase in interest in installing charging
7 infrastructure, both at people's homes and at businesses
8 or public spaces. So that is definitely something
9 that's going on. I can speak to it anecdotally. I
10 don't have the numbers in front of me.

11 One of the things, as you mentioned, you can
12 charge at home. What I like to say is your car sits
13 95 percent of the time. That's the time to fuel it.
14 Right? The paradigm is going to be gone where we only
15 pull into a gas station on our way home. You're either
16 going to be charging your car while it sits at work, or
17 you're going to be charging your car at home, and then
18 possibly sometimes if you need an opportunity charge,
19 you would charge it on your way somewhere.

20 As far as the costs, again it really, really
21 depends. Charging stations are, you know, for
22 residential use anywhere from 500 to 800 approximately
23 for the cost of the charging station. The installation
24 really depends. Some people have an extra 240-volt
25 socket, and they're super lucky because they can just

1 plug it in and they're off to the races. Other people,
2 if their service panel is located, you know, around the
3 back of their house, let's say, and they park in the
4 front, that might be a significant cost to actually
5 running wires and conduit.

6 But those are things actually that your
7 trusted electrician will be able to help you with. The
8 utility doesn't go out and install things behind the
9 meter. What we're trying to do through our
10 transportation electrification program is provide funds
11 to customers that need help getting over that cost
12 barrier.

13 VICE-CHAIR TRUJILLO DAVIS: Okay. Thank you.
14 And I'm good with questions. I'll pass it
15 down there.

16 HEARING OFFICER ORTH: All right.
17 Yes, Vice-Chair Paul.

18 VICE-CHAIR PAUL: Thank you, Madam Hearing
19 Officer.

20 Mr. Babej, was it?

21 MR. BABEJ: Um-hum.

22 VICE-CHAIR PAUL: Thank you for being here. I
23 appreciate the time you're taking to inform us a little
24 bit about PNM's work.

25 I have two questions mostly related to -- you

1 know, I think one of the great things about this act is
2 it's impacting climate change and it's incentivizing
3 that, and I think with -- you know, I think it's
4 understood that there's going to be a lot more need from
5 the grid. And two sort of questions in terms of ETA and
6 getting carbon-free by 2040.

7 The first is just how PNM is addressing
8 bottlenecks in terms of getting renewable energy out
9 there, to really build that up. We've sort of heard
10 that tangentially, and I think it's important for this
11 rule, since we want to, you know -- since the purpose
12 has a connection there.

13 And then the second question is how is PNM
14 addressing -- and I may be wrong, you might -- you might
15 correct me about it. My understanding is nighttime
16 loads can be sometimes battery storage generated, but
17 currently have a lot of natural gas fossil fuels going
18 to nighttime loads.

19 How is PNM planning to include renewable
20 resources in nighttime loads, as well?

21 MR. BABEJ: Yeah. So two good questions.

22 I'm going to caveat my question by saying
23 they're a bit above my pay grade. So, you know,
24 please -- please take this with the understanding that
25 my role is the design implementation of customer

1 programs.

2 You know, as far as getting renewable capacity
3 on the grid, it's no secret there are supply chain
4 issues around the globe right now that are delaying some
5 shipments. I know, you know, we have a whole team, our
6 generation team, which is a very large wing of the
7 company, is working really diligently to try and get
8 those resources online as quickly as possible. So --

9 As far as nighttime capacity, yeah, you're
10 right. One of the -- one of the great things is -- is
11 that, you know, the sun shines during the day and then
12 wind picks up at night. Right? So that's sort of nice.
13 But both of those are what we call intermittent
14 resources, because it's hard to plan for.

15 So I don't think we have all the answers, to
16 be perfectly honest. Battery storage is going to play a
17 very large part. But there are other technologies out
18 there that we are investigating. Right? There's --
19 there's gravity energy storage. You know, there are --
20 you could -- you know, when you have excess -- excess
21 generation from solar, wind, for example, there's
22 technology where you raise concrete blocks, and then
23 when -- you know, when you don't have those resources,
24 you can draw from them and spin a generator.

25 So there's -- there's lots of ways to store

1 energy, and all that's sort of part of the plan. So I
2 think we have a very clear path to -- I want to say
3 80 percent, I believe. The last 20 percent, you know,
4 we're really -- we're continuing to look for solutions
5 as we move into the future towards that 2040 mark to
6 make sure again we're delivering that safe, reliable and
7 environmentally responsible energy.

8 VICE-CHAIR PAUL: Thank you.

9 HEARING OFFICER ORTH: All right. Thank you.

10 Other questions from for Mr. Babej?

11 Member Calman.

12 MEMBER CALMAN: It's not exactly a question,
13 but correct me if I'm wrong. I just wanted to clarify
14 something about the cost of at-home charging, because
15 the costs that you mentioned was for installation of a
16 Level 2 faster charging --

17 MR. BABEJ: Um-hum.

18 MEMBER CALMAN: -- station in your house, but
19 you can just plug an EV into your regular outlet. It's
20 just slower charging. So I don't want that to be
21 thought of as necessarily you're required as part of the
22 purchasing of an electric vehicle. It's -- I mean, it
23 makes it easier, but it's not an automatic cost that you
24 have.

25 MR. BABEJ: Yeah. That's a -- that's a very

1 good point. Cars need 5-volt conduct --

2 MEMBER CALMAN: (Unintelligible and/or
3 inaudible).

4 MR. BABEJ: Yeah. So -- thank you. Yeah.
5 They --

6 HEARING OFFICER ORTH: One at a time.

7 MR. BABEJ: You can do Level 1 charging for
8 sure. A lot depends on the amount you drive per day,
9 capacity of your battery, all of those things. For a
10 lot of people that makes a small commute, Level 1
11 charging is fine.

12 The way that I -- I think that there's lots of
13 unfortunate technical jargon in this industry. So
14 there's different levels of charging, there are names
15 for different charging ports which I won't bore anyone
16 with here today.

17 The way I think about it, Level 1 is sort of
18 like sipping through a straw. You can do that for a
19 long time at a low level. It can be very useful. And a
20 lot of people do that for a long time. Level 2 is a
21 little bit more like a garden hose, if you need to fill
22 up in a reasonable amount of time. Most people, if you
23 have a longer commute, they use those for overnight
24 charging. And then, you know, what we call DC fast
25 charging -- I wish they would say Level 3 or something,

1 but DC fast charging is like a fire hose. That will
2 fill it up, you know, 30, 45 minutes. Really cool.
3 So --

4 HEARING OFFICER ORTH: Member Richards.

5 MEMBER RICHARDS: Good morning.

6 Thank you for coming and providing your public
7 comment.

8 I was wondering in terms of PNM's strategy, is
9 it there any kind of assistance for low-income
10 populations or rural populations that are disadvantaged
11 in terms of affordability and access?

12 MR. BABEJ: Yeah. Very good question.

13 So as part of our transportation
14 electrification program, we dedicated -- I believe it's
15 28 percent of the overall budget to low- and
16 moderate-income customers. We don't have any specific
17 definition between urban or rural areas, but we do make
18 that designation and that commitment to spend that much
19 money on our LMI customers.

20 So that could either be individual customers,
21 so there is an increased incentive on the residential
22 side for low-income customers to install charging
23 stations, but then there are also incentives set aside
24 for low- to moderate-income communities for things like
25 public charging. And so that's -- that's how we divide

1 that up.

2 We've proposed to use the Environmental
3 Protection Agency's environmental justice screening
4 tool, their EJScreen, to denote those communities.

5 MEMBER RICHARDS: Great. Thank you very much.

6 HEARING OFFICER ORTH: Thank you.

7 Madam Chair Meiklejohn.

8 CHAIR MEIKLEJOHN: Thank you so much for
9 providing testimony today. We really appreciate it. I
10 have two questions. One is kind of a very basic
11 question of logistics that perhaps you can answer.

12 Are EV charging plugs universal?

13 MR. BABEJ: No.

14 CHAIR MEIKLEJOHN: That's not the answer I was
15 hoping for.

16 So how are to -- how are the consumers then to
17 select the correct charging station in public if they --
18 you know, how does that match up?

19 MR. BABEJ: So that gives me a chance to give
20 my longer answer.

21 So there's -- there are different charging
22 port types. So there's -- and I'll just start with
23 this. Tesla has their own proprietary port and charging
24 network. Those are not open standards. That is
25 proprietary. So Tesla does sort of their own thing.

1 The rest of the industry is experiencing
2 standardization.

3 So there's the -- the standard Level 2 port is
4 called a J1772. I told you there's terrible jargon in
5 this industry. And so that's pretty standard across
6 every other manufacturer. Teslas can also use that with
7 an adapter that comes with the vehicle. So for the
8 Level 2 that is relatively standardized.

9 The difference comes in then at the DC fast
10 charging level. There's what's called a CCS combo
11 charger. That was a North American standard. That is
12 by far the most ubiquitous in the industry, and it's
13 where I think that we're all going to converge to.

14 There is another Japanese standard that was
15 adopted originally by Nissan and Mitsubishi called
16 CHAdeMO, C-H-A-D-E-M-O. That standard is used -- you
17 see it a lot on some Leafs for fast charging, but I will
18 say some of the newer Nissans are actually converging to
19 CCS combo charger.

20 So I do think that, thankfully, the industry
21 is starting to adopt a single standard, which will make
22 it easier for consumers in the near future.

23 CHAIR MEIKLEJOHN: Excellent. Thank you.

24 And my second and unrelated question is does
25 PNM have really anything in place in terms of planning

1 education for the public or any kind of public relations
2 campaign to really help us make both a -- sort or a
3 cultural shift and a mind set shift?

4 Because you guys already have really
5 established lines of communication with all of the
6 ratepayers across your area, you really have probably
7 one of the most immediate and direct lines of really
8 being able to help everyone both learn about EVs and
9 learn about how -- you know, what's being available --
10 what will become available hopefully in the near future.

11 MR. BABEJ: Yeah, absolutely. So as I
12 mentioned, as part of the transportation electrification
13 program, one of the core tenets of that is customer
14 education and outreach. So we do have a set aside
15 budget specifically for that.

16 I think what we're going to do there is sort
17 of twofold. One is just talk about the benefits of
18 electrification, offer some other education like these
19 charger types and where to find them and all of those
20 sort of things. And then the other side is, of course,
21 educating customers about the programs that are
22 available for them to again help reduce that barrier to
23 adoption.

24 So we do have a budget set aside for that.

25 I will also make a shameless plug today. You

1 can go to pnm.com/ev. We have a lot of information
2 there to get people started. If you would like to
3 receive e-mail updates from me, you can join the EV
4 community. You don't have to own one to join. You just
5 put in your name, e-mail address, and really what we use
6 that for is ever few months I send out updates. And we
7 can talk about the program in these e-mail updates, or I
8 talk about other fun things going on in the industry.

9 And you can also find some -- some videos of
10 yours truly on there if you -- if you dig hard enough on
11 the web site and really talking about some of the
12 minutes about barriers to transportation
13 electrification. I like to think of it as like EV real
14 talk, not trying to say that there aren't challenges,
15 but let's address them head-on because we do believe
16 it's the future.

17 CHAIR MEIKLEJOHN: Excellent. Thank you so
18 much.

19 HEARING OFFICER ORTH: Thank you.

20 Vice-Chair Trujillo Davis.

21 VICE-CHAIR TRUJILLO DAVIS: Thank you.

22 I bet you didn't know you were going to be
23 answering so many additional question.

24 MR. BABEJ: That's what I'm here for.

25 VICE-CHAIR TRUJILLO DAVIS: But I appreciate

1 it.

2 Okay. So my question is really more just
3 general. You know, the EIB is -- oversees the entirety
4 of the state, and PNM is only going to oversee a portion
5 of it. So -- there's also El Paso Electric and Xcel.
6 So I was wondering if you could speak to maybe the
7 coordination that is possibly going on with these other
8 utility companies and making sure that rural places in
9 New Mexico are -- you know, so we're not leaving any
10 section out that is maybe not under PNM's area or under
11 El Paso Electric's area.

12 MR. BABEJ: Um-hum. Yeah. I'll say,
13 thankfully, I'm not in charge of everything, which is
14 great.

15 So there's a lot of coordination between the
16 utilities. So the other two utilities, both El Paso
17 Electric and XE, I think, have also filed transportation
18 electrification programs. They all look a little bit
19 different when we serve the unique service areas of
20 our -- of our customer bases. So there -- there are
21 some commonalities, but there are some differences just
22 based on different adoption rates and different makeups
23 of customers.

24 But I will say outside of the coordination
25 that we all have in finaling these programs and talking,

1 there are other statewide efforts. So I know that the
2 environment minerals -- no -- Energy, Minerals and
3 Natural Resources Department, EMNRD, sponsors a
4 statewide EV working group which we're all a part of.
5 We just had a meeting about that, I believe, last week.

6 So that we had utility stakeholders,
7 government municipality -- there's, you know, all sorts
8 of customer groups, and there's a lot of people in that
9 really just talking about what are some of the
10 challenges and how do we overcome them.

11 I'll also give kudos to the New Mexico
12 Department of Transportation. They are receiving
13 funding from the Infrastructure Investment and Jobs Act
14 and have reached out to utilities, you know, as we are
15 in more urban areas, as well as co-ops and other
16 utilities across the state, to start planning a
17 build-out of infrastructure.

18 So we are all working together to increase the
19 availability of infrastructure and -- and make sure that
20 this is a good experience as -- as people transition to
21 electric vehicles.

22 VICE-CHAIR TRUJILLO DAVIS: Thank you very
23 much.

24 HEARING OFFICER ORTH: Okay. Thank you.

25 Any other questions?

1 Member Richards.

2 MEMBER RICHARDS: So the only reason I'm
3 asking this is because nobody from New Mexico Energy
4 Department -- Resources Department is present.

5 MR. BABEJ: Um-hum.

6 MEMBER RICHARDS: But I heard a program on NPR
7 yesterday morning that was talking about lithium and the
8 mining of lithium, so upstream waste as part of this
9 sector, this economic sector. And I don't know in your
10 work group with EMNRD whether that topic has come up,
11 you know, because we're already talking about waste from
12 oil and gas production.

13 Just curious to learn anything or whether you
14 might bring that topic up at your next meeting. This is
15 really a big concern, I think.

16 MR. BABEJ: Yeah, absolutely. I don't know if
17 it's been discussed at the statewide working group at
18 this point, but I know it's a very common concern.

19 What I can say, I'm by no means an expert in
20 mining technology, but I do know that the lithium --
21 that the lithium concern is real and it's -- right? And
22 the way that I always like to think about it is what
23 we're always trying to do -- or come up with those
24 incremental improvements in technology. I don't think
25 that anything is perfect especially right off the bat,

1 but EVs do represent a significant improvement in terms
2 of their environmental impact over internal combustion
3 engines.

4 That said, you know, some of the mining, there
5 are -- there are other concerns around where it's being
6 sourced and how it's being sourced. That is not lost on
7 Auto manufacturers either. I know that there are
8 national groups that are very involved in the
9 sustainable sourcing of rare earth materials and making
10 sure that the supply chains are -- yeah, as responsibly
11 sourced as possible. Because people don't want to
12 purchase anything. Right?

13 You can trace this -- you can trace this
14 across a number of products over time. As things come
15 to light, manufacturers step up and try and ensure that
16 their products are free from any of that controversy.

17 So there's a lot of development in that area,
18 and we're also trying to just reduce the usage of some
19 of the rare earth materials in coming up with new
20 battery technologies. So that's something that's
21 constantly improving. It's something that, yeah, I
22 think we can talk about in a statewide working group,
23 but I know that there are larger national efforts
24 already trying to tackle the issue.

25 MEMBER RICHARDS: Thank you.

1 That's all I had.

2 HEARING OFFICER ORTH: Thank you.

3 Other questions?

4 No?

5 All right. Thank you very much.

6 MR. BABEJ: Perfect. Thank you, all.

7 HEARING OFFICER ORTH: Oh. I'm sorry. Chair
8 Suina, I didn't see your hand.

9 Stay right there.

10 MR. BABEJ: No worries.

11 HEARING OFFICER ORTH: Go ahead, Chair Suina.

12 CHAIR SUINA: I apologize, Madam Hearing
13 Officer.

14 And thank you for your testimony.

15 And I just wanted to follow up on some
16 questions from Vice-Chair in terms of looking at the
17 rural infrastructure that we have going into rural New
18 Mexico that does -- that PNM does supply energy and
19 electricity to. I know many of that infrastructure is
20 kind of outdated and needs some upgrades.

21 Is that also being considered as we continue
22 to look at, you know, the applicability and the ability
23 to, you know, with this rule passing possibly looking at
24 that transition and also looking at the infrastructure,
25 especially for our rural communities and tribal

1 communities that PNM serves?

2 MR. BABEJ: If I can ask a clarifying
3 question. Do you mean the standard of grid
4 infrastructure or charging infrastructure specifically?

5 CHAIR SUINA: Both. Both. I know just
6 working on a number of right-of-ways and easements and
7 having reviewed a number of those ready -- ready reports
8 that we do see some deficiencies in the grid
9 infrastructure in general --

10 MR. BABEJ: Um-hum.

11 CHAIR SUINA: -- going across rural and tribal
12 lands, in addition to, you know, the other -- you know,
13 the infrastructure needed for electrical car hookups.

14 Thank you.

15 MR. BABEJ: Yeah. Definitely good questions.

16 And again I'll caveat with that's really
17 outside of my realm of expertise, to be perfectly
18 honest.

19 I do know that we have, you know, entire, you
20 know, transition and distribution teams that are
21 evaluating infrastructure, looking to make upgrades
22 where necessary. However, you know, I do also
23 understand that as we deploy more charging
24 infrastructure to areas all across the state, that might
25 require upgrades to the grid, as well. Right?

1 As we put on more -- more charging capacity,
2 those -- those sections of the grid will -- will need to
3 be looked at again to make sure that we're safely and
4 reliably serving that load.

5 CHAIR SUINA: Thank you.

6 Thank you, Madam Hearing Officer.

7 That's all the questions I have.

8 HEARING OFFICER ORTH: Thank you, Madam Chair.

9 Any other questions, or can we release
10 Mr. Babej?

11 All right. Thank you very much.

12 MR. BABEJ: Cool. Thank you, all, very much.

13 HEARING OFFICER ORTH: All right. So we do
14 have Ms. Wong, I think, back on the platform, and I
15 wanted to mention I do have three more folks who I
16 believe are in the room indicating a desire to give
17 testimony.

18 Let's see. I'm not sure Ms. Wong is there.

19 It would be Clifton Horace, I believe, Ken
20 Ortiz and Ruth Striegel.

21 Oh. All right. Sorry. I have Ms. Wong
22 first.

23 Can the rest of you hang in there while I do
24 that?

25 I'm seeing heads. Thank you.

1 Ms. Wong, you should see a request that you
2 unmute.

3 Can you hear me?

4 MS. WONG: I can hear you.

5 Can you hear me?

6 HEARING OFFICER ORTH: Yes, very clearly.

7 Thank you.

8 MS. WONG: Okay.

9 HEARING OFFICER ORTH: Do you swear --

10 MS. WONG: I'm so sorry about earlier. I
11 stepped away from my computer because I thought I was on
12 at 9:00, and then I saw a little note. So I apologize.

13 HEARING OFFICER ORTH: No. It's all right.

14 Do you swear or affirm to tell the truth?

15 MS. WONG: Yes.

16 HEARING OFFICER ORTH: And if you would spell
17 your name and then begin your statement.

18 MS. WONG: Okay. My name is Anna Wong,
19 A-N-N-A W-O-N-G.

20 ANNA WONG

21 having been first duly sworn or affirmed, gave
22 public comment as follows:

23 PUBLIC COMMENT

24 MS. WONG: So good morning.

25 I am a manager with the Advanced Clean Cars

1 branch at the California Air Resources Board, which I'll
2 refer to in my testimony as CARB.

3 CARB supports New Mexico's proposal to adopt
4 California's low-emission vehicle, or LEV, program, and
5 zero-emission vehicle standards, or ZEV standards.

6 As the New Mexico Environment Department
7 recognizes, California standards are critically
8 important to protecting public health, stabilizing our
9 climate and saving consumers money. The Advanced Clean
10 Cars standards reduce emissions in a way that helps
11 drivers keep more money in their pockets and reduce the
12 overall cost of protecting public health.

13 These standards reduce criteria and toxic
14 pollutants that cause asthma, heart disease and cancer.
15 They also reduce greenhouse gas, or GHG, emissions,
16 20 percent of which nationally are from passenger
17 vehicles, that are harming our planet, undermining the
18 ecosystems of which they depend and threatening our
19 quality of life.

20 These standards are actually working in
21 California, and the New Mexico Environment Department
22 has shown they will work in New Mexico, too. With this
23 rule there will be more zero-emission vehicles on New
24 Mexico roads, vehicles that will not have emissions that
25 increase over time from fuel systems, engines and

1 emission controls that seep vapors and leak and
2 deteriorate over time.

3 The people living and working near congested
4 roadways or disproportionately in low-income communities
5 and communities of color have the most to gain from the
6 cleaner air that will result from these standards.

7 CARB thanks New Mexico for its leadership in
8 our nation's system of cooperative federalism. The
9 federal government recognizes and supports the authority
10 of states to protect their citizens. Specifically, the
11 federal Clean Air Act establishes minimum standards for
12 healthy air and gives states the chance to develop the
13 programs and policies necessary to meet those standards
14 while considering their own needs. That includes the
15 authority to choose California standards when they offer
16 a better alternative than federal emission standards as
17 New Mexico is proposing here.

18 The Advanced Clean Cars standards have not
19 prevented new car dealerships in California from meeting
20 the demands of their customers. When CARB adopted its
21 greenhouse gas emissions standards for model years 2017
22 and beyond, it examined the economic impacts of
23 regulation, including on dealers. CARB expected no
24 change in dealer profitability and has not seen any
25 significant impacts due to the adoption of those

1 standards to date.

2 Additionally, even with the current
3 disruptions in the new car production and sales, more
4 and more zero-emission vehicles have been sold in
5 California in recent years.

6 Furthermore, as shown by California's ongoing
7 Advanced Clean Cars II rulemaking, which will establish
8 new standards for 2026 and beyond, the actual costs of
9 these standards have proven to be less than previously
10 estimated in the original rulemaking process.

11 Manufacturers have exceeded the standards in
12 California and are preparing to meet greater
13 requirements for cleaner technology over the next decade
14 and beyond. Nearly every manufacturer has a significant
15 electrification plan with zero-emission technology that
16 will be built across all vehicle platforms in an
17 ever-increasing range of options and performance
18 capabilities.

19 Additionally, states adopting our standards
20 such as New Mexico will increase the scale of
21 manufacturing and reach a broader, more diverse customer
22 base that will help automakers further reduce costs of
23 consumers.

24 We applaud New Mexico for this proposal.

25 And at this time I'm happy to answer any

1 questions you may have.

2 HEARING OFFICER ORTH: Thank you very much,
3 Ms. Wong.

4 Let me just peruse the Board here.

5 QUESTIONS

6 BY THE BOARDS:

7 HEARING OFFICER ORTH: Yes?

8 VICE-CHAIR TRUJILLO DAVIS: I'll --

9 HEARING OFFICER ORTH: All right. Vice-Chair
10 Trujillo Davis.

11 VICE-CHAIR TRUJILLO DAVIS: Ms. Wong, thank
12 you for taking the time to talk to the Board today.

13 I'm wondering in the tenure that this rule has
14 been implemented in California, what kind of programs
15 have been utilized to reach out to low-income or
16 minority communities?

17 MS. WONG: That is such a good question.

18 In California we have learned so much. We
19 have really changed our approach over time.

20 And this has changed from our fleet
21 modernization program, which is our scrap and replace
22 program, that has really been focused -- it was first
23 focused on getting low-income consumers into maybe a
24 hybrid, and now is offering, you know, up to, I think,
25 \$9,000 or \$10,000 for an electric vehicle, for a

1 low-income person to take in their older vehicle and
2 switch it out for a newer, even if it's used, electric
3 vehicle.

4 That's one of our kind of incentive perhaps.

5 We also do a clean vehicle assistance program,
6 which offers better kind of loan terms for those that
7 have maybe more challenging credit histories or that may
8 not have otherwise qualified for better loan terms.

9 And then we also have some community programs,
10 community electric local level programs that use some of
11 our cap and trade funds to start pilot projects, and
12 have started -- there's all sorts of things going on in
13 communities, and I'm not going to represent them well in
14 terms of getting all of the information to you right
15 now. But one example is a community can qualify for
16 funding to use zero-emission vehicles in a community car
17 share program, things like that.

18 So more of like on the very, very local level
19 on a -- on a city-by-city basis they can apply to get
20 these funds annually.

21 So I would say that there's so many more
22 efforts than what I just represented, but that's just to
23 give you a flavor of the things that we're trying out
24 here in California and continue to evolve over time as
25 we think about better incentive structure and really

1 targeting those and more specific ways to our most
2 burdened communities in California.

3 VICE-CHAIR TRUJILLO DAVIS: Thank you.

4 And just one more question.

5 There's been some really great questions about
6 the lithium battery disposal issue, and since you do
7 have more cars on the road and you have had them for a
8 while, I'm curious if -- just kind of what that
9 situation looks like for California and how you might be
10 dealing with it.

11 MS. WONG: Um-hum. That's another really,
12 really good question.

13 The California Air Resources Board, actually
14 that's not necessarily where we have our jurisdiction in
15 terms of the kind of rules that we set, but are working
16 with a kind of interagency panel to think through
17 battery recycling in the long-term.

18 But I would say that, you know, we actually
19 have rules in place that there's -- lithium recycling is
20 not occurring a lot inside of California, and we're just
21 now thinking through the implications of our latest set
22 of clean car rules and thinking about what labeling and
23 better processes that we can put in place going forward.

24 So I would say that we're actually grappling
25 with probably the same issues that a lot of folks are in

1 terms of the coming ways of lithium recycling, but that
2 our sister agency, CalRecycle, is leading up an effort
3 on that interagency panel on battery recycling.

4 And I'm not sure I can provide you -- I don't
5 have the documents right here with me, but I -- and I
6 can send them in to the Board, but we do have white
7 papers that are being developed on that very issue right
8 now. That's all.

9 VICE-CHAIR TRUJILLO DAVIS: Thank you.

10 And I appreciate you taking the time to answer
11 my questions.

12 HEARING OFFICER ORTH: Thank you.

13 Chair Meiklejohn.

14 CHAIR MEIKLEJOHN: Thank you, Madam Hearing
15 Officer.

16 Good morning, Mrs. Wong.

17 Thank you so much for attending today and
18 providing us with all of this very important
19 information.

20 I was wondering if you could speak to a little
21 bit about what California's experience was when the
22 Trump Administration revoked your waiver of preemption
23 and how it impacted the public and how it -- maybe both
24 from like an enforcement level but also, you know, it
25 did take away a lot of -- what kind of momentum did it

1 take away from your guys' statement of the clean cars
2 rule that you guys have.

3 Thank you.

4 MS. WONG: I will -- I'm going to be fully
5 transparent that I do have an attorney on this call from
6 California in case this sort of issue came up.

7 But I would say that it -- what we were able
8 to do is work together with the -- the car companies
9 that were willing to come alongside of us in our efforts
10 to implement our programs over time, over the last --
11 how many years now, four years. And so we -- we -- I
12 would say we didn't really lose momentum.

13 And on top of that, you know, what really has
14 helped is that there's a global drumbeat for
15 electrification right now. California is not the only
16 state doing something about electrification, and so many
17 of those manufacturers continued on in their plans to do
18 so.

19 So I would say that we -- really it has
20 propelled us into the Advanced Clean Cars II rulemaking
21 and to ensure that we stay on track and meeting the
22 goals that we -- that we were going to meet. And
23 ultimately we prevailed in that, and that in --
24 retaining our waiver for that program. And
25 manufacturers, you know, just four days ago owed us

1 their greenhouse gas compliance numbers for -- for
2 the -- for the 2020 model year, 2021 model year.

3 So I just -- I would say that we -- we
4 continued on forward in a belief that we had standing to
5 implement our programs and issued -- issued some
6 advisories that, you know, manufacturers still could
7 continue to comply with our programs during the time of
8 uncertainty that we were experiencing over those years.

9 CHAIR MEIKLEJOHN: Wonderful. Thank you so
10 much. That was very insightful.

11 That's all I have.

12 HEARING OFFICER ORTH: Thank you.

13 Other Board Member questions?

14 Oh. Member Garcia.

15 MEMBER GARCIA: Thank you, Madam Chair.

16 The previous question made me think of a
17 question for you, Ms. Wong.

18 Thank you so much for being with us today.

19 You mentioned that the cost of the program
20 turned out to be less than anticipated, and I'm
21 wondering if you meant in terms of enforcement, or in
22 what -- in what way did it turn out to be less costly
23 than anticipated.

24 MS. WONG: Oh. Thanks for that clarifying
25 question. I can see if I -- I thought it caused some

1 confusion.

2 So almost always over the last, you know, 40
3 years of light duty regulations, we have projected costs
4 for manufacturers to comply with the programs, and, I
5 mean, if not -- if it's not a hundred percent of the
6 time, it's 98 percent of the time manufacturers have
7 managed to comply with the programs in terms of the
8 way -- the kind of technology that they put on their
9 vehicles, and the rollout of those vehicles in meeting
10 those standards ends up being cheaper than we had ever
11 imagined.

12 And that's because, you know, manufacturers --
13 the kind of data that we can get, any -- any regulatory
14 agency can get is current at best, if not a little bit
15 old, in terms of what is public and is available and
16 that we can use to build a rulemaking case.

17 And manufacturers are two or three years ahead
18 of us in what they know and how they know how to comply.
19 So I would say that that's -- that's what I meant in
20 terms of it -- it turned out that manufacturers could
21 comply with less cost with the standards that we ended
22 up setting compared to what we projected out in our --
23 in our costs during the rulemaking.

24 MEMBER GARCIA: Thank you for that
25 clarification. I appreciate that.

1 And one other follow-up question is what are
2 you finding in California is the biggest enforcement
3 issue that you have to face with this rule?

4 MS. WONG: Hmm. That's a really good
5 question. I'd have to think about it.

6 Enforcement is not -- you know, we haven't --
7 haven't had very many difficulties yet in terms of
8 enforcement for dealers and manufacturers tending to
9 overcomply with the standard and amass ZEV credits. So
10 on the -- that's on the ZEV program.

11 On the LEV program, in terms of, you know, the
12 kind of compliance with the -- well, the low-emission
13 vehicles that are equipped with the correct, you know --
14 correct number of vehicles that are certified to the
15 lower standard than meeting the fuel -- the
16 (unintelligible and/or inaudible) standard, that didn't
17 seem to be a problem either.

18 And then in terms of greenhouse gas, like I
19 just said, we really have not -- you know, we're just
20 getting that data. Maybe if I talk to the folks that
21 are counting numbers right now, maybe not all the
22 manufacturers have submitted their data yet. Maybe
23 that's the biggest in terms of compliance but, you know,
24 four days late is not terrible.

25 So, I guess, get me back in a couple of years,

1 and I'll tell you what the biggest problems are. It's
2 more of a question of compliance. It's -- in terms of
3 the manufacturers, because that's when -- this rule
4 really is affecting new car sales, and so we think about
5 the cars before they even hit the roads. It's not
6 really a matter of enforcement. In terms of what's, you
7 know, 10, 13, 15 years down the road. We're just not
8 there yet.

9 MEMBER GARCIA: Thank you so much.

10 That's all I have.

11 HEARING OFFICER ORTH: Thank you.

12 Other questions?

13 Member Calman. Oh, Reitzel. Excuse me.

14 MEMBER REITZEL: Hi, Ms. Wong.

15 Thank you for being on the call today.

16 We had a couple of follow-up questions
17 actually, and I was wondering if you could repeat the
18 name of the program for your scrap and replace program,
19 as well as provide the web site for that program?

20 MS. WONG: Yeah. I'd love to. It's called
21 Clean Cars for All, and I don't -- I guess I need a
22 little bit of direction on where to send you the web
23 site.

24 Do I put it in the chat, or how can I be
25 helpful to you?

1 MEMBER REITZEL: That -- that would be great.

2 MS. WONG: Okay. I will do it right now while
3 we're talking.

4 MEMBER REITZEL: Thank you.

5 And then I also had a follow-up question.
6 Earlier you -- and I don't want to misphrase how you
7 stated it earlier, but it sounded like you were saying
8 California isn't handling the lithium battery recycling
9 directly or -- or you made some comment about how
10 California is handling lithium battery recycling.

11 And I was wondering if you could clarify that
12 or give a little bit more information, or if you have to
13 refer us to someone else, I understand. I'm putting you
14 on the spot here.

15 MS. WONG: Yeah. I am so -- I am so far from
16 being the expert on lithium recycling at this point, but
17 I can -- I can provide you with the contact of somebody
18 that would be more helpful to you on this subject.

19 I -- I am looking at it more from the newer
20 rules that we are starting to put in place, with our --
21 our Board is considering a month from now, Advanced
22 Clean Cars II, which it only -- which affects, you know,
23 way into the future model years, 2026 and beyond. We're
24 thinking about labeling requirements that would help
25 sort batteries into the correct kind of bins.

1 But in terms of the actual policies,
2 CalRecycle, which is the lead agency on California's --
3 all of California's recycling policy, is developing an
4 MOU. So I am going to send you -- I'll also drop it
5 into the chat, a link to that effort. And follow
6 that -- that process.

7 MEMBER REITZEL: Thank you.

8 MS. WONG: That information. Okay.

9 HEARING OFFICER ORTH: Other questions?

10 CHAIR SUINA: Madam Hearing Officer?

11 HEARING OFFICER ORTH: I'm sorry. Who is --
12 oh, Madam Chair Suina.

13 CHAIR SUINA: Thank you, Madam Hearing
14 Officer.

15 And thank you, Ms. Wong, for your testimony
16 and the information that you're sharing with us.

17 I was just wondering. This came up yesterday
18 in the hearing -- in the discussion yesterday. We had
19 a -- I was wondering in California how did the rollout
20 of the rules and regulations related to clean cars -- in
21 that rollout in California, was there an effort, you
22 know, to educate or do outreach to the public as to any
23 confusion regarding the benefits and the applicability
24 of the rules, and how -- and if so, how was that
25 received, or -- I don't know if you would be the right

1 person to ask that question, but I just thought I'd
2 throw it out there.

3 MS. WONG: That's an excellent question.

4 We have had the opportunity and the pleasure
5 of being able to not only develop the rules within our
6 branch, but also communicate about the benefits of -- of
7 them. So during the process of the rulemaking, this
8 is -- and you're really testing my memory, because this
9 was in 2011. So that's before I had my two children,
10 and as -- I don't know if anybody else is a parent, but
11 they -- you know, half of my brain left when I had those
12 girls.

13 Anyway, we -- when we were developing those
14 rules, we had -- we were under the rules of one of the
15 California rollout laws that said you need to have this
16 very public process and ensure that you hold public
17 meetings within four environmental justice communities
18 and solicit input.

19 So during the rulemaking process we were
20 really able to go into the communities and -- and talk
21 about the benefits of the rule and hold kind of these
22 public -- they weren't officially workshops. They were
23 more like listening sessions and -- but this is kind of
24 before we knew what we know now about community
25 engagement. So this is, you know, 10 years ago. So

1 that we had the opportunity of doing that in a first.

2 And on top of that, you know, we were able
3 to -- in all of our incentive programs and rollout, we
4 kind of have more of an integrated approach about how we
5 talk to the public about electric vehicles. So we have,
6 you know, our public facing web site which is called
7 driveclean.ca.gov. And I can put the link into the
8 chat. But that is a way that -- it's a consumer facing
9 web site that talks about electric vehicles broadly,
10 about the benefits of electric vehicles. You can look
11 for an electric vehicle, and you can say "I live in
12 Riverside, California, and which incentives are near me
13 that I can qualify for."

14 So there is a lot of -- there's a lot of work
15 in outreach, but it's very integrated with all of our
16 programs, all of our incentive programs, and our web
17 sites, and now we have this kind of California-based
18 NGO, Veloz, which has also taken on that message.

19 So I would say that it's gone from, you know,
20 count -- our staff, staff being, you know, our State
21 Fair booth for weeks at a time and getting that message
22 to bigger campaigns that we can partner with, getting
23 the message out generally about electric vehicles and
24 going electric and making it cool and approachable, and
25 maybe less education campaign around -- you know, this

1 is the rule that we adopted.

2 It's more about getting people excited and
3 then getting them the right resources to find a car that
4 suits their lifestyle and broaden their awareness of the
5 incentives that are available to them.

6 So that's -- I think that's probably -- I
7 don't know if that answers your question, but that's
8 kind of all integrated now, and we have so many efforts
9 going on in this space.

10 CHAIR SUINA: Thank you so much.

11 And I guess a follow-up question to that is so
12 from all those efforts have you seen that shift in the,
13 I guess, embracing of electric vehicles? Have there
14 been good data to show that shift?

15 MS. WONG: I think our strongest data point is
16 that even with the current environment of new car
17 sales -- I'm not sure if New Mexico is experiencing
18 this, as well, but in California it's very hard to buy
19 any kind of new car and used car at this point. There's
20 a lot of disruptions. Even in that environment there's
21 an increase of electric vehicles sales over time.

22 So, you know, we have jumped from 8 percent to
23 12 percent new vehicle sales in -- you know, over the
24 course of basically one year, and what you see is
25 people's growing awareness of that technology over time.

1 And I -- I don't -- I don't want to distract
2 from this Advanced Clean Cars 1 kind of rulemaking
3 effort, which is fantastic, but in our development of
4 our next rule, we have really taken time to study
5 consumers and consumer attitudes and trends over time,
6 and in that rulemaking, which all those documents are
7 actually -- they were released on April 15th, they also
8 point to a growing consumer base and interest of -- in
9 electric vehicles over time, and people's -- not only
10 electric vehicles, but in doing and increasing efforts
11 to protect their environment, especially here in
12 California that's been so devastated by the effects of
13 climate change.

14 CHAIR SUINA: Thank you, Ms. Wong.

15 And, Madam Hearing Officer, that's all the
16 questions I have on that.

17 HEARING OFFICER ORTH: Thank you.

18 Chair Meiklejohn.

19 CHAIR MEIKLEJOHN: Thank you, Madam Hearing
20 Officer.

21 And thank you again, Ms. Wong.

22 Actually, I just wanted to follow up just a
23 little bit. Ms. Suina actually -- Chair Suina was able
24 to get to the thrust of my question, but to add on a
25 little bit.

1 I'm wondering if that data that you guys are
2 planning on collecting is going to be able to determine
3 the adoption across demographics of EVs, you know,
4 between rural and urban communities and also income
5 level, in order to be able to see -- I'm so sorry -- I
6 have a frog in my throat -- in order to be able to
7 determine how effective the public education outreach
8 and also the incentive programs are.

9 That's all. Thank you.

10 MS. WONG: Did you -- is that -- and I -- was
11 there a question or -- how we're doing that? I'm happy
12 to answer that.

13 CHAIR MEIKLEJOHN: Yeah. Sorry. I'll follow
14 up. I was distracted by my --

15 MS. WONG: Yeah. Okay.

16 CHAIR MEIKLEJOHN: -- by clearing my throat.

17 MS. WONG: Okay.

18 CHAIR MEIKLEJOHN: Is the data that you guys
19 are planning to adopt moving forward with regards to the
20 adoption of EVs -- are you guys tracking --

21 MS. WONG: Um-hum.

22 CHAIR MEIKLEJOHN: -- are you guys going to be
23 looking at adoption in rural -- you know, in rural
24 areas, urban areas, and also at different income levels
25 to be able to better understand how well these incentive

1 programs are working and also just the public education
2 and access?

3 MS. WONG: Yeah. That's such a good question.

4 I'll put -- I'll -- I don't know how these
5 chat links are getting to you, but I -- I'm going to put
6 another chat link in here to our -- our current
7 incentive program.

8 The folks that run it for us actually do an
9 incredible job of statistics of adoption rate of, you
10 know, be -- you can look at air basin, which is how
11 California is divided. It's divided into a bunch of
12 different air basins. You can look at it even more
13 randomly in terms of where people are adopting our
14 incentives.

15 And I would say that that -- what did we
16 call -- the clean vehicle rebate project is -- which is
17 our incentive program -- it has really taught us a lot
18 about the use of power of data and understanding the
19 folks that are -- are taking up our incentives. So I
20 would say going forward that's -- that's what we
21 probably will continue to do.

22 Also, the low carbon fuel standard, which is a
23 regulation that over time reduces the carbon impact of
24 fuel, transportation, all sorts of fuel. Also tracks --
25 they have a very -- a smaller incentive, but they also

1 track the data around who is taking up that incentive.

2 So there -- I would say that a lot of things
3 are data driven and being watched closely, because even
4 in California, you know, we've been at this a very long
5 time, and we are constantly learning from what works and
6 what doesn't, and because every -- you know, every two
7 years we adopt a new funding plan, that is all informed
8 by the data of who is taking up our incentives.

9 So I'm going to put that link into -- just to
10 give you a flavor of the kind of statistics that are
11 coming out of those programs to show -- to -- you can --
12 it's kind of interactive in terms of you can play with
13 the things that you want to look at in terms of income
14 or location or ethnicity. You can look at those data
15 and see the uptake of the incentives over time and the
16 kind of vehicles that they're buying.

17 CHAIR MEIKLEJOHN: Wonderful. Thank you so
18 much for the answers. I think we'll put them to good
19 use.

20 MS. WONG: Okay.

21 HEARING OFFICER ORTH: Other Board questions?
22 Other questions at all?

23 All right. Thank you very, very much,
24 Ms. Wong.

25 I have, by the way, put the links that came to

1 me as the host into the chat to everyone so anyone on
2 the platform should be able to access them and forward
3 them to the two Board administrators so that they can
4 include them in an e-mail and they'll be part of the
5 record.

6 So thank you very much.

7 All right. We are going to turn now to the
8 folks in the room, and I will call on you in the order
9 in which you signed in.

10 We'll start with Clifton Horace, move to Ken
11 Ortiz, Ruth Striegel, and then Bob Cockerham.

12 So Clifton Horace. Oh, there you are.
13 Terrific.

14 If you would please raise your right hand.

15 Do you swear or affirm to tell the truth?

16 MR. HORACE: Yes, ma'am.

17 HEARING OFFICER ORTH: Thank you.

18 You have five minutes once you begin, and you
19 do want to turn on the green light.

20 MR. HORACE: Madam Hearing Officer, Chairs, I
21 wondered if I might combine -- we have two other people
22 here from our association, with the New Mexico Auto
23 Dealers Association, and --

24 VICE-CHAIR PAUL: Could you say that again?

25 MR. HORACE: We have two other people here

1 from our association, and I wondered if we might combine
2 our time. My comments would make a lot more sense after
3 our chairman gets a chance to read our statement.

4 HEARING OFFICER ORTH: Yes. That's perfectly
5 fine.

6 MR. HORACE: And if I can invite them up, Bob
7 Cockerham and Ken Ortiz.

8 Let me -- while they're coming up, let me
9 introduce myself a little bit.

10 My name is Clifton Horace. It's all right.
11 And I'm a new car automobile dealer here in the State of
12 New Mexico for, you know, a long time, 40 years. I've
13 been in the business for 45 years. I'm a little unusual
14 in that I'm also a mechanical engineer. So if I get a
15 little geeky, I apologize in advance. I can answer some
16 of the questions that were answered -- asked previously.

17 And I also do a three-hour live radio call-in
18 show every Saturday morning, for the last 15 years or
19 so. So --

20 HEARING OFFICER ORTH: All right.

21 Gentlemen, Mr. Ortiz and Mr. Cockerham, if you
22 would please raise your right hands.

23 Do you swear or affirm to tell the truth?

24 MR. ORTIZ: I do.

25 MR. COCKERHAM: I do.

1 HEARING OFFICER ORTH: All right.

2 And before each of you begins, if you would
3 please spell your -- at least your last name.

4 CLIFTON HORACE, KEN ORTIZ and BOB COCKERHAM
5 having been first duly sworn or affirmed, gave
6 public comment as follows:

7 PUBLIC COMMENT

8 MR. HORACE: Let me just steal it back for a
9 second.

10 I also -- from a personal point of view, and I
11 think I can speak for every auto dealer in the state --
12 we share the enthusiasm that we've heard from all your
13 speakers today. I mean, it's -- EVs are fun, they're
14 fast, they're quiet, and we are excited. I mean, it --
15 once you've driven one, you go, oh, my gosh, we have
16 been living in the stone age. They are the future.

17 But with all regulations, the devil's always
18 in the details. So that's what we're here to discuss.

19 And my last name is Horace, H-O-R-A-C-E.

20 MR. ORTIZ: Dear Hearing Officer and Chairs,
21 Members of the Board, my name is Ken Ortiz. I'm the
22 executive director of the New Mexico Automotive Dealers
23 Association. My last name is spelled O-R-T-I-Z.

24 So, first of all, thank you for the
25 opportunity to provide comments for your consideration.

1 Today with me is -- are two dealers, Mr. Cliff
2 Horace and Mr. Bob Cockerham.

3 The New Mexico Automotive Dealers Association
4 welcomes the opportunity to submit comments to the
5 proposed New Mexico vehicle emission standard rules that
6 are currently under your consideration.

7 We also want to acknowledge and thank the New
8 Mexico Environment Department along with the City of
9 Albuquerque for their work and also for including us
10 during their open meetings and discussions.

11 The New Mexico Automotive Dealers Association
12 represents over 110 franchise auto dealers in the state,
13 directly employing 14,000 New Mexicans.

14 HEARING OFFICER ORTH: Mr. Ortiz, this is just
15 a reminder for everyone. Because the court reporter and
16 the interpreters are trying to catch every word, if you
17 would just slow down.

18 MR. ORTIZ: Thank you. Okay.

19 New Mexico car -- I'm sorry. Okay.

20 New Mexico car dealers have been a key part in
21 the progress towards cleaner air. Due to the dramatic
22 technical advances in emission control systems, the
23 vehicles we sell today are meeting or exceeding the
24 current California emission requirements for traditional
25 vehicles. In fact, today's vehicles are 99 percent

1 cleaner than those built before the Clean Air Act.

2 Over the past several years, our franchised
3 new dealers have been making great strides in investing
4 in the infrastructure, the tools and the training to
5 sell and service zero-emission vehicles. Electric
6 vehicles have been available through the New Mexico
7 franchised dealership network for more than 20 years,
8 with products like Toyota Prius, Chevrolet Bolt and
9 Volt, Nissan Leaf, Ford Mach-E Mustang and others.

10 In addition, our manufacturers are investing
11 over \$500 billion in electrification by the end of the
12 decade, and the number of electrified vehicles are
13 expected to double in the next few years, including the
14 most important vehicle segment in New Mexico, the
15 electrified pickup truck, which is going to be available
16 in 2022.

17 Our dealerships are incredibly excited for the
18 future of selling and servicing zero-emission vehicles.
19 Although we agree with the intent of adopting the
20 California clean car rules, we oppose adopting the rules
21 as drafted where it requires a mandate of the percentage
22 of zero-emission vehicles in dealerships beginning in
23 2026.

24 California's current Code of Regulations
25 require that beginning in model year 2026, 7 and 9

1 percent of the vehicles sold by New Mexico dealers shall
2 be ZEVs, or zero-emission vehicles. This requirement
3 may be a goal that can be achieved in New Mexico.
4 However, our real concern is New Mexico is considering
5 adopting a rule that will be obsolete or sunsetted
6 before its effective date due to California's plan to
7 sunset this rule while moving forward to adopt what is
8 commonly known as Advanced Clean Cars II.

9 Of the three regulations you are considering
10 adopting, criteria, zero-emission vehicles and
11 greenhouse gases, the California Resources Board
12 formally proposes to sunset two of these, the ZEVs and
13 the criteria, before you can implement them, and the
14 third, greenhouse gas, is slightly less stringent than
15 the U -- than the USEPA standards that were adopted this
16 past December.

17 On April 15th, as mentioned before, CARB
18 published draft regulations for ACC II. The proposed
19 regulations modify the current regulations in place to
20 apply only to model year 2025. The new ZEV regulations,
21 which are not subject to this rulemaking, are -- are --
22 place much greater percentages than are currently in
23 place now.

24 Please note that California has been working
25 towards achieving these percentages since 1998, where

1 the first milestone was 2 percent of the vehicles sold
2 in California by 1988 was gradually increased to what we
3 are seeing today. Moreover, adopting out-of-state
4 regulations will link New Mexico to the California clean
5 car standards, where our state's policies and our
6 citizens' car buying decisions will be determined by
7 unelected regulators in California.

8 We feel that imposing a mandate on New Mexico
9 consumers into ZEVs is not the best approach as we build
10 allowing the market to determine what vehicles are best
11 suited for New Mexico in every corner of the state.
12 Adopting these policies may limit choices and increase
13 costs for New Mexicans.

14 I'm going to provide some observations,
15 concerns and possibly some unintended consequences that
16 should be considered before moving forward to adopt
17 these rules as drafted.

18 First of all, as previously mentioned in the
19 testimony before, we are seeing a lack of electric
20 charging infrastructure in New Mexico. The most recent
21 statistics for public EV charging stations in New Mexico
22 states that there are just under 250 publicly available
23 charging stations in New Mexico, and as of December,
24 2021, there are just under 12,000 ZEVs registered in New
25 Mexico.

1 Recently the California Energy Commission and
2 the National Renewable Energy Lab completed a study of
3 charging stations needed in California and found that
4 California needs 1.2 million chargers to support 8
5 million ZEVs. Using this study, New Mexico currently
6 needs 800 rather than the 250 electric charging stations
7 in place to satisfy the ZEVs that are currently on the
8 road.

9 We appreciate both the federal and the state's
10 efforts to install additional charging stations, but
11 without any mandate New Mexico currently only has
12 30 percent of the total number of charging stations
13 needed.

14 Vehicle affordability in New Mexico. Studies
15 show that on average a ZEV costs about 10,000 more than
16 a traditional vehicle with Kelley Blue Book reporting
17 that the average new EV costing on average just under
18 \$66,000. This suggests that current market is
19 predominantly driven by affluent buyers with ready
20 access to safe, low-cost, reliable home charging, where
21 80 to 90 percent of the charging takes place.

22 In addition, there are no state incentives for
23 New Mexicans to purchase a ZEV in New Mexico. By
24 contrast, California offers incentives that range from
25 \$1,000 to \$7,000 for the purchase or lease of a new ZEV,

1 and low-income residents in California can receive
2 almost \$18,000 in rebates. When the State of Colorado
3 adopted these rules, Coloradoans were provided a \$5,000
4 state tax credit to purchase a ZEV, while Nevada
5 provides a \$25,000 tax credit.

6 Senator Bill Tallman earlier today had a --
7 stated that he has tried for three successive
8 legislative sessions to pass a bill to provide a tax
9 credit, rebate, incentive, but still today we are not
10 seeing those.

11 We must also note that the medium household
12 income discrepancy between California in comparison to
13 New Mexico. The 2021 median household income in
14 California was 80,440 compared to New Mexico's median
15 household income of 49,754. This equates to an average
16 New Mexico house -- New Mexican household making
17 38 percent less than a California household. Mandating
18 New Mexicans to purchase vehicles that cost 20 percent
19 more with 38 percent less income is difficult at best.

20 Next item is electricity supply constraints.
21 New Mexico utility company -- do New Mexico utility
22 companies have adequate power supply for increased EV
23 load?

24 Just a couple of months ago PNM, which is the
25 largest utility company in New Mexico, began issuing

1 warnings to New Mexicans of potential blackouts in New
2 Mexico this summer. These power constraint issues are
3 already facing New Mexicans without the additional EV
4 charging load. We are pleased to hear PNM and other
5 power companies are making great strides in implementing
6 additional solar and wind farms to accommodate these
7 increased demands.

8 Another item is the tax equity to build and
9 maintain roads and bridges in New Mexico. New Mexico
10 currently has a 17 cents per gallon tax that is
11 appropriated to the New Mexico Department of
12 Transportation to build and maintain roads and bridges
13 and infrastructure in New Mexico.

14 Currently ZEV vehicle owners are not paying
15 their fair share of taxes to help and maintain our aging
16 infrastructure. Other states have addressed this issue
17 by either charging an additional registration fee for
18 ZEVs, as Senator Tallman indicated this morning, or have
19 implemented a surcharge for the amount of miles driven
20 by ZEVs in New Mexico. This must be addressed soon to
21 ensure that all vehicle owners are contributing to
22 keeping our roads safe.

23 Consumer choice over mandates. The vehicle
24 fleet in New Mexico reflects the car-buying decisions of
25 New Mexicans based on their specific needs. New Mexico

1 should have a choice on the vehicles they purchase based
2 on New Mexico's topography, climate and consumer needs.
3 New Mexico's driving conditions include diverse weather
4 conditions, not always suitable for electric vehicles.
5 New Mexicans also often travel great distances in some
6 communities for their basic necessities as most New
7 Mexico is considered a rural state.

8 For example, the number one, two, and three
9 best selling vehicles in New Mexico are the Ford pickup
10 truck, a Dodge pickup truck and a Chevrolet pickup
11 truck. In California, the top three selling vehicles in
12 order are a Honda Civic, a Toyota RAV4 and a Tesla Model
13 3. Clearly we have different demographics.

14 We fear that the unintended consequences of
15 adopting these rules as drafted will force New Mexicans
16 to purchase their vehicles of choice out of state which
17 will result in lost tax revenue to the state and a
18 potential loss of jobs throughout New Mexico.

19 In summary, we are opposed to the approach New
20 Mexico is taking and believe that the regulation of fuel
21 economy and emissions should be done at the federal
22 level for the entire country. One national standard
23 creates regular -- regulatory certainty for the entire
24 industry.

25 The New Mexico franchised new car dealers

1 fully support continuous improvements in emissions
2 control as well as fuel economy, but we feel -- we feel
3 that the approach should be focused on consumer choice
4 and affordability. If we lose affordability, we lose
5 vehicles. If we lose vehicles, we end up keeping older,
6 less safe and less fuel efficient vehicles on the road,
7 shifting environmental goals into neutral or reverse.

8 We agree that the ozone issue is real but
9 should not be addressed by mandates. Instead New Mexico
10 should put in place policies that are designed to
11 enhance fleet emissions performance by maximizing fleet
12 turnover and scrapping high emitters. Getting today's
13 cleaner, greener and safer vehicles into customer hands
14 is the key by letting the market work naturally, not by
15 adopting arbitrary standards which will likely push ZEVs
16 on consumers who may be not ready or who cannot afford
17 them.

18 New Mexico should focus on infrastructure and
19 cash-on-the-hood incentives. If these incentives work
20 well, as they have in other states like California,
21 Colorado, Nevada, the air quality issues will improve
22 without a ZEV mandate.

23 We urge the respective Boards to consider not
24 adopting a rule that will be obsolete before it becomes
25 in effect in New Mexico, but rather work with the

1 industry, both manufacturers and dealerships, to make
2 the successful transition to zero-emission vehicles here
3 in New Mexico. We all have worked together, from
4 government to automakers, dealership, utility companies,
5 hydrogen providers, EV charging companies and battery
6 makers. We are all making progress and will get there
7 when we are ready to ensure a smooth transition that
8 will not disrupt the everyday lives of New Mexicans.

9 We are ready to be at the table to assist the
10 transition but oppose forcing New Mexicans to purchase a
11 commodity out of state rather than letting New Mexico
12 businesses supply customers with vehicles that meet
13 their specific needs and financial situation.

14 Thank you so much for your time and service.

15 This concludes my testimony, and I'll turn it
16 over to Mr. Bob Cockerham with University Volkswagen
17 Mazda.

18 HEARING OFFICER ORTH: Thank you, Mr. Ortiz.

19 Mr. Cockerham.

20 MR. COCKERHAM: Thank you, Board Members, for
21 allowing us to come before you and testify.

22 My name is Bob Cockerham, C-O-C-K-E-R-H-A-M.
23 I'm the general manager and partner of University
24 Volkswagen Mazda here in Albuquerque, New Mexico, and
25 I'm also the president of the Albuquerque Auto Dealers

1 Association.

2 We as dealers are very excited about electric
3 cars. I know for ourselves we've got over 40 unfilled
4 orders currently. We're delivering these cars every
5 month to very excited buyers.

6 They are not for everyone, though. Depends on
7 charging. Depends on how many miles they're going to
8 drive and what they're using the vehicles for. Level 1
9 chargers, which most customers that buy these cars start
10 with, can take over a day, sometimes day-and-a-half to
11 actually charge their car. Level 2, depending on where
12 you live, may not be available.

13 We're -- we're excited to be part of this. I
14 think there isn't a dealer in Albuquerque that isn't on
15 Board with selling electric vehicles. We are concerned
16 about the mandates for the amount of electric vehicles.

17 Having said that, I'll yield my time over to
18 Clifton Horace.

19 HEARING OFFICER ORTH: Thank you,
20 Mr. Cockerham.

21 MR. HORACE: Clifton Horace.

22 Just a few things that weren't in the letter,
23 and maybe I can add a little.

24 When people go out to make -- this is the
25 second largest purchase that they make in their lives.

1 And they're going to live with this purchase -- a lot of
2 people are financing these vehicles for 80 to 84 months.
3 It's kind of crazy to us, but -- so they're king for the
4 day. They want what they want. And if they can't get
5 it from us, they'll get it wherever they need to get it.

6 And I can't tell you -- a hundred times or
7 maybe thousands of times I've had customers come to me
8 and say "This is the car I want. It's right here."

9 And I said "But I have the same car, and it's
10 red."

11 And they said "But I want a light interior, I
12 don't want a black interior."

13 And I don't -- and it's not unusual for them
14 to drive out of state. Now, I'm in the Four Corners so
15 they drive out of state going any direction, right?

16 But it is -- I'm concerned that by mandating
17 that we're not really creating -- we're not changing the
18 consumers' behavior towards a low-emission vehicle.
19 We're just simply exporting -- you know, much like a lot
20 of times we export lithium production or cobalt or the
21 things that go into batteries. So that's a concern.

22 In fact, Senator Tallman when he was speaking,
23 he said he just drove -- he just went out -- he went to
24 Dallas to buy what he wanted, because it's such a big
25 purchase.

1 So I think we want to change behavior. That
2 takes incentives. You won't be a car dealer out there
3 that won't say "Yeah, we want incentives," because
4 that's what we are. The taxpayer side of me says I'm
5 not in a -- I'm not a big fan of giving well-to-do
6 people incentives to buy a vehicle that they probably
7 would have bought anyway, because they wanted to make a
8 statement or they simply -- they like all the
9 performance characteristics of the vehicle.

10 So the other thing the letter did not address
11 is there's a certain point in time, you know -- when we
12 look at California's mandates coming up, they are
13 extremely aggressive. They start at 35 percent in 2026.
14 They go up 8 percent a year. There is -- there is an
15 unknown in here whether the manufacturers would even be
16 producing -- 43 percent of their vehicles would be EVs
17 in the year 2027.

18 So you may have a -- you may have in place a
19 regulation that's -- that they can't meet simply because
20 of production.

21 So -- and I'm -- we're here to answer
22 questions. I -- there's -- it's a very difficult,
23 complex regulation that you're -- that you're attempting
24 to do, and it's always -- the devil's always in the
25 details. So --

1 HEARING OFFICER ORTH: Thank you very much,
2 Mr. Horace.

3 Are there Board Member questions?

4 QUESTIONS

5 BY THE BOARDS:

6 HEARING OFFICER ORTH: Vice-Chair Paul.

7 VICE-CHAIR PAUL: Thank you, all, so much for
8 your time, coming to testify before us.

9 I have a couple clarifying questions, first
10 for Mr. Ortiz.

11 You spoke a lot about, you know, the market
12 and regulations and mandates.

13 You know, I agree with you that like the --
14 sometimes it can be difficult if a mandate is far ahead
15 of where the market is today. Our understanding from
16 other testimony is that the market's pretty ahead of
17 where New Mexico is in terms of EVs and ZEVs, and
18 there's lot more demand than we actually have any supply
19 for, and that this regulation allows us to create that
20 supply.

21 Could you speak a little bit to that expected
22 to double number that you mentioned? You said ZEV sales
23 are expected to double annually. I'm sort of -- I guess
24 I'm sort of confused how this regulation doesn't follow
25 where the market is going currently.

1 MR. ORTIZ: Sure. Madam Hearing Officer,
2 Board Member, the -- a couple thoughts.

3 The doubling is the -- our manufacturers are
4 doubling the number of different models currently
5 available. So right now I believe there is -- in 2021
6 there is about 47 different types of ZEVs, whether
7 plug-in hybrid or pure battery electric. And with the
8 investment our manufacturers are making, that the number
9 of models available are expected to double in the next
10 year.

11 Now, as far as limited supply, if you will,
12 and -- or lack of availability, there is lots of factors
13 that -- that factor into that. Primarily it's the
14 supply chain demand, and as we all hear about the
15 microchips. If -- if that was not an issue due to the
16 pandemic, we would have much more vehicles available in
17 our lots basically to sell. So right now there is a
18 demand. We don't have enough vehicles. But primarily
19 we see that due to the limited -- or the supply chain
20 demand.

21 If -- if you don't mind, I'd like to turn it
22 over to our dealers that are a lot closer to the ground
23 on that, if they have any other clarifying or comments
24 on that.

25 MR. COCKERHAM: Yeah. Clearly there's demand

1 for electric cars. There really is. We've got
2 customers daily that show up for them, and our people
3 are excited to sell them. I think it's the way it's
4 going to be. I think it's only going to grow.

5 The truth of it is it doesn't fit for
6 everybody. We understand it would be either financially
7 it doesn't fit. Not everybody can afford a \$40,000 or
8 \$50,000 car. And quite frankly, not everybody can have
9 charging. You know, if you live in an apartment, a
10 Level 2 charger is just not an option in most cases.
11 And to rely on public charging, if you've got an
12 electric car and you've got to get to work every day,
13 and it depends on how many miles you're driving -- it's
14 just not for everybody at this point.

15 I think it will at some point, but we just
16 don't have the infrastructure. And we're concerned that
17 if we put ourselves in this spot that our customers that
18 desperately need this reliable transportation to carry
19 on with their lives are going to simply go someplace
20 else. There's nothing in this regulation that prevents
21 a customer to go into a border state and buying that
22 car.

23 VICE-CHAIR PAUL: Absolutely. And that's an
24 important point about, you know, reliability and the
25 fact that EVs really aren't currently like available for

1 everyone or what everyone wants, and I think it's --
2 it's encouraging to see all the work that's being done
3 on the state level and city level to work on that
4 problem.

5 I am -- I do think that the way that -- I'm
6 hearing, you know, concerns about folks being forced to
7 buy EVs.

8 According to the rule, do you know how much
9 percent of ZEVs are required to be sold for a dealership
10 or manufacturer?

11 MR. ORTIZ: The current rule as it -- as it
12 stands today is 7 to 9 percent of vehicles sold have to
13 be ZEVs.

14 VICE-CHAIR PAUL: By 2026?

15 MR. ORTIZ: And that's -- by 2026. And that's
16 ACC I.

17 VICE-CHAIR PAUL: Right.

18 MR. ORTIZ: Prior --

19 VICE-CHAIR PAUL: Which is what we're
20 discussing today. We're not discussing ACC II.

21 MR. ORTIZ: Yes.

22 Prior to the State of California planning to
23 sunset that and move to ACC II, which requires, I
24 believe, 38 percent -- before that occurred, California
25 was looking at amending that rule of the ACC I from 7 to

1 9 percent, which we feel is achievable in 2026, to
2 26 percent, which is difficult at best, especially some
3 of our rural dealers.

4 VICE-CHAIR PAUL: My understanding is the rule
5 that we are considering before us today is that 7 to
6 9 percent. So I hope that alleviates some of your
7 concern --

8 MR. ORTIZ: Yeah.

9 VICE-CHAIR PAUL: -- in terms of what's on the
10 board right now --

11 MR. ORTIZ: It --

12 VICE-CHAIR PAUL: -- in front of us.

13 MR. ORTIZ: It is. And thank you for that.
14 So it is 7 to 9 -- 7 to 9 percent today.

15 Before California moved to II, they were
16 planning to adjust that up to 26 percent by model year
17 '26. So we're talking 7 to 9 today. The plan --
18 California's plan before they decide to sunset I and
19 move to II was to amend the 7 to 9 percent to 26
20 percent. So once -- if New Mexico -- my understanding,
21 if New Mexico adopts it, we're linked to what California
22 would do in the future.

23 VICE-CHAIR PAUL: Yes. I believe that's
24 incorrect. I don't know if any of the lawyers want to
25 speak up, but I think that -- we went through a long

1 conversation yesterday about this rule is the current
2 standard in California, this rule is not a future
3 standard in California --

4 MR. ORTIZ: That's right.

5 VICE-CHAIR PAUL: -- or any changes.

6 So, you know, while I do believe that the
7 energy transition has to happen pretty fast, I think
8 that some of the concerns you're expressing really are
9 anticipating future rules rather than what's currently
10 being discussed.

11 I -- I hope that helps alleviate that. I --
12 even though I understand that concern, I just think that
13 this idea of forcing people to buy ZEVs when you're
14 talking about 90 percent of the market still being
15 exactly what's on the ground today, what you're selling
16 today -- all those trucks, right --

17 MR. ORTIZ: Yeah.

18 VICE-CHAIR PAUL: -- that are already
19 fulfilling that national standard, it's actually above
20 the standard.

21 MR. ORTIZ: Yeah.

22 VICE-CHAIR PAUL: Really, I see -- I see that
23 the burden on the manufacturers is purporting, because
24 you're going to be getting these numbers anyway, based
25 on that demand, in the next couple of years. And in the

1 next couple years, there's no requirement, not until
2 2026.

3 So I just -- I recognize your concerns, and I
4 think they're valid, and I think they need to be
5 addressed in terms of ACC II, to make sure that this is
6 something that -- that these EVs are rolled out in such
7 a way that everyone can get an EV, you know, that it
8 makes sense for many consumers, both in terms of
9 fairness and in terms of climate, in terms of having a
10 fun car. I mean, my husband really wants an EV
11 motorcycle. So if you're selling those.

12 But -- but I think that in terms of this rule
13 today, I don't see how, you know, 7 percent to 9 percent
14 is something that in the next couple of years is a
15 difficult task considering the health.

16 MR. ORTIZ: Yeah.

17 MR. HORACE: But Clean Car I goes to
18 26 percent in 2026.

19 VICE-CHAIR PAUL: Right.

20 MR. HORACE: Correct?

21 VICE-CHAIR PAUL: Right, right, but we're
22 talking about before then, in the next couple of years,
23 and that we're not tied to the California rules past
24 2026 right now.

25 MR. ORTIZ: Madam Hearing Officer, so are

1 manufacturers and other states that have adopted these
2 rules -- because we've had a lot of these discussions in
3 these national association meetings, and particularly
4 with the other states, is what -- how it's explained to
5 our -- our association executives is these states, once
6 they've adopted California's rule -- let's say ACC I is
7 7 to 9 percent, and let's say California amends that
8 rule from 7 to 9 percent to 26 percent by '26, the
9 states that have adopted that follows California's rule,
10 because we're adopting California's rule, is how it has
11 been explained to our association executives at the
12 national level.

13 VICE-CHAIR PAUL: That's interesting. I --
14 then I may be misunderstanding. But I -- my
15 understanding was that we are adopting the rule as it
16 stands today and that it doesn't change in the future.
17 But getting us off -- getting us off on a little bit of
18 tangent.

19 I really appreciate --

20 MR. ORTIZ: It's a good discussion.

21 VICE-CHAIR PAUL: Yeah. I appreciate your
22 contributions and your excitement about electric
23 vehicles, and I think that -- you know, I'm hopeful from
24 what I've heard in this panel and our testimony from
25 expert witnesses in the past couple years that the

1 industry and the market really won't have much of a
2 burden going forward with EVs. So I hope that's what
3 ends up happening.

4 HEARING OFFICER ORTH: Thank you, Vice-Chair
5 Paul.

6 Gentlemen, let me ask you. I have Chair Suina
7 who wants to ask you questions and Vice-Chair Trujillo
8 Davis and I imagine others.

9 Are you going to be able to stick around for a
10 little bit?

11 MR. ORTIZ: Yes.

12 HEARING OFFICER ORTH: Yes. All right.

13 So here's where we are, Boards. We've been
14 going a little more than two hours. The court reporter
15 and the interpreters definitely need a break. We have a
16 very brief comment from Ruth Striegel who has been
17 waiting patiently since nine o'clock.

18 So what I'd like to do is hear from
19 Ms. Striegel -- I always enjoy comment from New Mexico
20 InterFaith Power and Light -- and then take a break, and
21 then come back with your -- with your questioning.

22 MR. ORTIZ: Of course.

23 HEARING OFFICER ORTH: Thank you very much.

24 Ms. Striegel, if you would come up.

25 Do you swear or affirm to tell the truth?

1 MS. STRIEGEL: I do.

2 HEARING OFFICER ORTH: Please spell your last
3 name.

4 MS. STRIEGEL: My last name is Striegel,
5 S-T-R-I-E-G-E-L.

6 HEARING OFFICER ORTH: Go ahead.

7 RUTH STRIEGEL

8 having been first duly sworn or affirmed, gave
9 public comment as follows:

10 PUBLIC COMMENT

11 MS. STRIEGEL: Thank you, all, for the work
12 that you do. I so much appreciate it.

13 My name is Ruth Striegel. I am the co-chair
14 of the Board of Directors of the New Mexico Chapter of
15 Interfaith Power and Light.

16 I'm very concerned about our poor air quality
17 and how it impacts vulnerable people like my
18 daughter-in-law who has asthma. A large proportion of
19 Albuquerque residents live, work or attend school near
20 one or more of our major roads or freeways. So we're
21 breathing in carbon monoxide, VOCs and nitrogen oxide on
22 a daily basis. This pollution is also increasing our
23 ground level ozone, putting even more of us in danger.

24 Gas-engine cars are bad for our health and
25 terrible for our climate. Our extreme drought, high

1 temperatures and out-of-control wildfire seasons are
2 ample evidence of human-caused climate chaos. We need
3 to use all the tools available to us to stop putting
4 greenhouse gases into the air.

5 Moving to electric cars is a great tool in
6 this effort. The auto industry has made huge strides in
7 manufacturing practical electrical cars. Please adopt
8 clean car standards that require car dealers to make
9 electric cars an increasing percentage of their
10 inventory.

11 I love my Nissan Leaf, but I had to buy it --
12 yeah. I had to buy it from CarMax and get it shipped in
13 from another state. And I only paid \$16,000 for it. It
14 was a year old. The local inventory here at that time
15 was minimal, and still today one of the dealers that
16 sells Nissans won't service my car because none of their
17 folks know how to deal with it.

18 This is unacceptable. We need to make it easy
19 for people to purchase electric cars, and we need to do
20 it as soon as possible. Moving to electric
21 transportation will save millions of dollars in improved
22 health outcomes. At the same time, gas-engine vehicles
23 should be held to stricter emission standards. Please
24 adopt the California clean car standards. Please help
25 us move back to clean air and a more stable climate.

1 Thank you.

2 HEARING OFFICER ORTH: Thank you very much,
3 Ms. Striegel, for your patience and for your comment.

4 Let's take a 15-minute break, which brings us
5 back at 11 -- let's see -- sorry -- 11:25.

6 (Proceedings in recess from 11:09 a.m. to
7 11:27 a.m.)

8 HEARING OFFICER ORTH: Okay. We are back
9 after a break.

10 And, gentlemen, if you would retake the
11 witness table there.

12 We are currently hearing from the auto dealers
13 in New Mexico here. We need to finish their
14 questioning. I did see Chair Suina and Member Bitzer
15 with the state Board with their hands up, and I believe
16 the Vice-Chair also has questions. They'll be -- I see
17 Member Calman has a question, and she has a time
18 constraint. I see Mr. Baake with his hand up.

19 Mr. Baake, is your hand up because you have a
20 question to pose to the panel at some point?

21 MR. BAAKE: No, Madam Hearing Officer. We
22 just wanted to brief the hearing on scheduling for this
23 afternoon.

24 Our witness does have a hard stop at 4:00, and
25 we expect her to go on for about an hour and want to

1 leave plenty of time for questioning. So, you know,
2 while we -- this discussion is -- is certainly fruitful
3 and we don't want to cut it off, you know, surely I do
4 think, you know, we don't want to shortchange either --
5 especially since we did intervene in the case, and right
6 now I think we're -- we're still technically in the
7 public comment and not hearing from the parties
8 entering.

9 HEARING OFFICER ORTH: That's correct. Thank
10 you for that, Mr. Baake.

11 I'm going to pay attention so that we leave
12 plenty of time for Ms. Harris and her questioning by
13 everyone, including the Board Members. So thank you for
14 that.

15 MR. BAAKE: Thank you.

16 HEARING OFFICER ORTH: We're going to return
17 now to questions of the auto dealership panel, and I'm
18 going to go to Member Calman who has a time constraint
19 of her own here.

20 CLIFTON HORACE, KEN ORTIZ and BOB COCKERHAM
21 having been previously duly sworn or affirmed, gave
22 further public comment as follows:

23 QUESTIONS (Continued)

24 BY THE BOARDS:

25 HEARING OFFICER ORTH: Member Calman.

1 MEMBER CALMAN: Thank you. And I can be
2 quick.

3 And thanks for your testimony.

4 I guess I want to start by just sharing my own
5 story, which is that I just ordered a Hyundai IONIQ 5
6 about a month-and-a-half ago. So it's going to be here
7 in six weeks, because it's going to take 12 weeks to get
8 here. And my experience doing that was probably similar
9 to a lot of other people who are in the process of
10 buying an electric vehicle, which is that I spoke to
11 dealerships for probably two months on a weekly basis
12 before I could even go test drive one.

13 And the reason that that happened, they told
14 me, is that most of the time when vehicles come in
15 they're already sold. So they're bringing in vehicles
16 that people have ordered, and then you can't test drive
17 those because they're someone else's vehicle. And so
18 it's pretty hard to even just go sit in one to see if
19 you want to order one.

20 I know you guys know this already, but I'm
21 sharing my story for everyone. So it was hard to get an
22 electric vehicle. And I know a lot of other people
23 share that experience.

24 So as you guys acknowledged, like the demand
25 is there, which I assume would mean you would sell the

1 extra vehicles were you to get them. So there's not
2 going to be a problem selling the vehicles you bring in.

3 And like member Paul was saying -- excuse me.
4 Now I have a frog in my throat -- we're talking about
5 approximately an 8 percent increase, and so it seems
6 like the demand is there for that increase, and not that
7 this is all about money, but I would assume as auto
8 dealerships you make more money when you sell more
9 expensive cars.

10 And so given that you're not being asked to
11 bring in cars that you won't sell right away, because it
12 seems like you will sell them right away, I'm just
13 having trouble totally understanding what the issue is.

14 So if you could expand on that, that would be
15 great.

16 Thank you.

17 MR. HORACE: A couple quick points.

18 It's not just EVs that are difficult to AI.

19 MR. COCKERHAM: Everything.

20 MR. HORACE: I'm a Hyundai dealer, and I have
21 sold down to zero for the last three months in a row.
22 So I've got literally nothing on the ground, everything
23 is -- and I have a giant wall with everything coming in.
24 So the problem -- normally we sell 17 million cars in
25 the United States. We're only -- we only produce 13

1 million. And in 2022, they're only looking at
2 13.8 million. So there is a shortage across the board.
3 That's one thought.

4 I forget -- what was the second question?

5 MEMBER CALMAN: Well, my question is just that
6 there's no indication you wouldn't sell the extra cars.
7 And so if you make more money selling more expensive
8 cars, then you're generally going to sell --

9 MR. HORACE: That's true.

10 MEMBER CALMAN: -- more cars because of the
11 demand.

12 MR. HORACE: I think --

13 MEMBER CALMAN: And I just --

14 MR. HORACE: I think we're very reasonable
15 with the 8 or 9 percent, or whatever that is, and the
16 26 percent, and then what California is looking at,
17 which is jumping right to 35, then 43, and by 2028
18 they're at 51 percent.

19 Now, we visited with the attorney on the
20 break, and we understand that this rule is just class I,
21 that you're not adopting anything else going forward
22 with California. So --

23 Another issue that came up, and I think it's
24 very important, is -- and we talk about this on the
25 radio show all the time, 4 Corners Car Talk, which is

1 really the perfect vehicle in the Four Corners is the
2 hybrid, but it's not so -- you know, our fear is that,
3 well, no, no, you got to sell that -- that 100 percent
4 pure EV and you can't sell a hybrid, whereas really the
5 hybrid solves the problem. You can literally have zero
6 emissions.

7 You know, the perfect example is Jay Leno
8 drove his Chevrolet Volt for two years. He put two
9 tanks of gas in it. That solves the issue both ways.
10 But that's not being discussed. And I really feel like
11 that that -- plus because it has such a smaller battery
12 to it, instead of a \$10,000 price increase over a nice
13 internal combustion engine, we've only got about --
14 three grand, would you say?

15 MR. COCKERHAM: Yeah. Yeah, three or four
16 grand.

17 MR. HORACE: Yeah, three or four grand.

18 So the hybrids are -- they really solve the
19 problems for New Mexicans.

20 MR. ORTIZ: If I might add one other item.

21 Cliff is actually correct, and our urban
22 dealers, like in the Albuquerque area, they can sell all
23 the electric vehicles they can get their hands on. The
24 other part of New Mexico with our rural dealers -- I
25 have a dealer who has five either hybrid or electric

1 vehicles, and those vehicles have been sitting on his
2 lot. This was a month or so ago that he told me, or
3 about four months. No one has even test drove one just
4 because the interest is not there.

5 So it's diverse in New Mexico depending on the
6 urban and rural dealerships.

7 And I don't know if Bob has anything.

8 MR. COCKERHAM: Yeah. Here in Albuquerque, I
9 mean, there's -- clearly there's a demand for it, but
10 there are other complexities with this, as well.

11 I can't get those batteries serviced. If I
12 have a car currently that has a problem with a battery,
13 I have to ship that car to Arizona or Oklahoma or some
14 other state. I just -- the infrastructure is not there
15 for me to be able to repair it. I want to sell them.
16 Like I said, I've got 40-plus orders right now unfilled.
17 I'm just like you, they're waiting to come in.

18 We're not opposed to selling electric. We
19 would sell whatever the customer wants, and -- and
20 electric solves so many problems for so many things.
21 We're just concerned the infrastructure is not there,
22 not just in the state level, but from the manufacturer
23 and even the dealer level, as well. Just getting
24 technicians trained for this, I've got to send those
25 technicians out of state. There isn't a local place to

1 train those technicians to get that -- those cars
2 serviced.

3 MEMBER CALMAN: Just one quick follow-up.

4 HEARING OFFICER ORTH: Go ahead.

5 MEMBER CALMAN: Two quick follow-ups.

6 Just that -- just I totally hear you about the
7 dealerships in rural areas having electric cars that
8 they aren't at least in demand in those communities.

9 But I was just wondering if dealerships sell
10 cars to each other ever and how that works if they do.

11 And then my second follow-up is just for the
12 attorneys, because I think the current rule that we're
13 discussing has credits for hybrids, and so maybe they
14 could just clarify that after you guys answer the
15 question about dealerships selling to each other. And
16 then --

17 MR. COCKERHAM: And dealerships can sell cars
18 back and forth to each other. It's -- it's -- you don't
19 buy them as -- as -- the least amount of expensive
20 buying is straight from the manufacturer. So you're
21 going to -- if you buy it from a dealer, you're going to
22 be paying that dealer a markup on that car. So it
23 just -- it affects it. And it depends on what the
24 transaction is. It could mean that you can trade for it
25 or you can't trade for it.

1 HEARING OFFICER ORTH: Is that all, Member
2 Calman?

3 MEMBER CALMAN: Yes, except if they could
4 clarify what the current rule says about hybrids just
5 to try to get --

6 HEARING OFFICER ORTH: You don't mean the
7 petitioners.

8 MEMBER CALMAN: No. I mean the counsel.

9 HEARING OFFICER ORTH: No, no. I'm sorry.
10 We're going to hear from the petitioners after this.

11 MEMBER CALMAN: Okay. Thank you.

12 HEARING OFFICER ORTH: Okay?

13 MEMBER CALMAN: Well, that question is out
14 there, then.

15 Thank you.

16 HEARING OFFICER ORTH: All right. Thank you.

17 I'm going to turn to Chair Suina and then
18 Member Bitzer.

19 Go ahead, Chair Suina.

20 CHAIR SUINA: Thank you, Madam Hearing
21 Officer.

22 Can you hear me okay?

23 HEARING OFFICER ORTH: Yes, ma'am.

24 CHAIR SUINA: Okay. Thank you so much.

25 I apologize. I have a little bit of a

1 scratchy throat so I'm going to try to power through
2 this.

3 But to follow up on all the questions we just
4 have been discussing from Vice-Chair Paul's question and
5 to the other members from the Albuquerque Quality
6 Control Board, I just was wondering if the industry
7 participated or interacted with NMED on these specific
8 regulations.

9 MR. ORTIZ: Madam Chair, this is Ken Ortiz.

10 Yes, we have. I want to thank and acknowledge
11 both the New Mexico Environment Department as well as
12 the City of Albuquerque. We held -- we attended a
13 couple of open meeting opportunities with them, and then
14 in addition to that, they made themselves available
15 at -- at least a couple of times for all of our dealers
16 and myself to discuss these rules, provide our
17 observations, a couple of Zoom meetings.

18 And then on top of that, I've had several
19 discussions or Zoom meetings with both the City of
20 Albuquerque Environment Department, and we've -- late
21 last year we provided some recommendations on the rules
22 itself, the wording, and my understanding is some of our
23 recommendations were incorporated.

24 So yeah. We had plenty of opportunities, and
25 I just want to really thank them for making themselves

1 so available to -- to listen to us and engage in the
2 discussions.

3 CHAIR SUINA: Thank you so much, Mr. Ortiz.

4 I guess so to follow up just so I can clarify
5 for myself, I'm trying to track the conversations and
6 the back and forth. So as part of this rulemaking
7 process, the hearing today and this particular process
8 for this particular rule, it sounds like from your
9 public comment that you still have some maybe areas that
10 maybe are still confusing or where you want
11 clarification on language.

12 And if so, did your organizations or entities
13 provide alternative language for this particular hearing
14 process?

15 MR. ORTIZ: Chair Suina, this is Ken Ortiz
16 again.

17 During our discussions, we provided some --
18 some recommendations as far as the rules. Like for
19 example, there was a definition of a new -- a new car,
20 and that was any vehicle has 7,500 miles or less. So we
21 provided our -- our concerns on that, because there
22 could be a vehicle that just doesn't fit that
23 description.

24 As far as the confusion on -- at least on our
25 part and -- and we're -- we attend and I attend -- or I

1 belong to an association where every state has a dealers
2 association, and these associations being on a national
3 level, that also include representatives from the
4 Automotive Alliance that represents 90-some percent of
5 the manufacturers.

6 What they had told us, as far as information
7 on this, is that if the state adopts the California
8 emissions standards, and -- and at that point it was
9 ACC I, and if the State of California amends the wording
10 in ACC I, those states that have adopted the
11 California's follow along with them.

12 I -- I think that there may be a different
13 interpretation, and maybe the -- as Mr. Horace indicated
14 at the beginning, sometimes, you know, the devil is in
15 the -- in the details or the wording of the rules. But
16 that was the overlying message.

17 So in summary, 7 to 9 percent is achievable by
18 most of the dealers, especially the urban dealers in New
19 Mexico. We have some dealers in the Northwest, for
20 example. A lot of their customers -- one dealership
21 indicated about 60 percent of his sales are for
22 customers on the Navajo Nation, and his concern was that
23 some of those households there, you know, may not have
24 the infrastructure as far as water and electricity, and,
25 as mentioned before, 80 to 90 percent of the charging

1 should be being done at home.

2 So that's a concern.

3 On the opposite corner of the state, the
4 Southeast side of the state, I had a dealership that
5 primary -- primarily sells pickup trucks, and his
6 customers are the oil field industry. And what he
7 indicated is those pickup trucks often drive 200 to 300
8 miles a day in the middle of the oil fields, if you
9 will, the middle of nowhere, if you -- without the
10 infrastructure, that those vehicles at least at this
11 time won't work.

12 So in summary, 7 to 9 percent is achievable by
13 most, but the concern is somewhere in the 26 percent to
14 35 percent by '26, they're just not -- no way we can do
15 that.

16 In my testimony earlier, I mentioned the State
17 of California began this process in 1998 at a 2 percent
18 threshold and has gradually increased to what we're
19 seeing today. In New Mexico, you all are considering,
20 you know, moving the deal at a far greater pace than
21 California did.

22 CHAIR SUINA: Thank you, Mr. Ortiz.

23 And I think similar to some of the discussion
24 yesterday and the back and forth with the Department,
25 some of the questions by my fellow Board Members, is

1 that it seems like there's, you know, confusion about
2 these milestones, what I does and what II does and what
3 we're talking about.

4 And I just want to have clarity that we're
5 just talking about what's before us, and they're -- from
6 your response, your organizations did not provide any
7 additional proposed language for this rulemaking process
8 other than the outreach with NMED and those sessions you
9 described; is that correct?

10 MR. ORTIZ: Mainly it is correct. During
11 our -- our discussions with both the City of Albuquerque
12 and the Environment Department, you know, we indicated
13 that 7 to 9 percent may be achievable, but our concerns
14 about California moving that needle.

15 The other part of my testimony -- and I'm
16 relying on attorneys at the Automotive Alliance, and
17 those are -- the alliance that represents the
18 manufacturers. So their -- their response -- and I
19 think you might have heard from Mr. Steve Douglas from
20 the Automotive Alliance yesterday. But anyway, what
21 they have provided the dealer associations and their
22 respective manufacturers is this rule that you all are
23 considering imposing has going -- is planned to be
24 sunsetted before our implementation date in 2026.

25 So their -- their analysis or their

1 interpretation is right now, based on the April 15th of
2 last month's car announcement of sunseting ACC I and
3 moving to ACC II, is New Mexico would be adopting a rule
4 that is no longer in effect or obsolete by the time the
5 effective date comes down the road in model year 2026.

6 So as I say, some of my testimony is relying
7 on the attorneys in the Automotive Alliance that
8 provided that information, both to the alliance and our
9 association.

10 CHAIR SUINA: Thank you for that, Mr. Ortiz.

11 So just to further clarify, and I want to put
12 it on record, ACC I -- your organization does not have
13 concerns about just ACC I milestones; is that correct?

14 MR. ORTIZ: We believe it's achievable.
15 However, we don't feel that a mandate is necessary. We
16 feel that the market should work naturally based on an
17 individual driver or consumer's needs. We're here. We
18 have the models, if the supply chain were to fix itself.
19 We're doing the training.

20 And I also want to also give credit, you know,
21 and a shout-out to the City of Albuquerque. They have
22 an electrified dealer program where their staff and
23 their consultants provide training to our dealerships on
24 everything electrification.

25 In fact, Mr. Bob Cockerham recently enrolled

1 and his whole staff went through the program, and
2 they're certified by the city as being a certified
3 electrified dealer, along with a couple of other
4 dealers. We're encouraging more and more dealers to get
5 their staff and to be trained there, so that way
6 we're -- we're -- we have the ability, the knowledge to
7 provide the consumers the vehicle that they ultimately
8 need.

9 CHAIR SUINA: Thank you, Mr. Ortiz, for your
10 responses to clarify for myself. So I think I'll leave
11 it there for now. I appreciate your response.

12 MR. ORTIZ: Thank you.

13 HEARING OFFICER ORTH: Thank you, Madam Chair.
14 Member Bitzer?

15 MEMBER BITZER: Sorry about that. I locked
16 myself out of my hotel room. I hope I didn't miss too
17 much when I got back into the line. There's some missed
18 supply chain of my key on the desk and -- to let me in.

19 But I -- and I sort of heard some references
20 to my question, but I want to put the Attorney General's
21 Office on the spot here, if I could.

22 Counsel, is it your understanding that we are
23 adopting more or less what I would call a static basis,
24 the current California car produced regs and not a
25 dynamic attachment to what they ultimately might adopt

1 going forward?

2 MS. SEDILLO LOPEZ: Madam Hearing Officer
3 Orth, I'd be happy to read the section of the provision
4 that clarifies that for the member.

5 HEARING OFFICER ORTH: Okay. Thank you very
6 much.

7 MEMBER BITZER: I just want to hear from our
8 Attorney General, make sure that she -- she understands
9 that.

10 HEARING OFFICER ORTH: Right. So we'll hear
11 from both Board counsel.

12 MS. SEDILLO LOPEZ: Okay.

13 HEARING OFFICER ORTH: Please go ahead.

14 MS. SEDILLO LOPEZ: Sure.

15 I -- I'll just read the provision sections of
16 the CCR and the CHSC incorporated by reference herein
17 include the regulations as they existed on the effective
18 date in 20.11.104.5. That's the effective date of this.
19 Incorporating sections of the CCR and CHSC do not
20 incorporate the later adoption or amendment of the
21 regulation.

22 So we're just dealing with the -- the
23 California regulations as they exist on the effective
24 date, which would be the date that we -- that the Board
25 votes. So there is no -- you know, in the language,

1 it's very, very clear that we're not adopting anything
2 else except what exists today, which is ACR, one rule.

3 HEARING OFFICER ORTH: Thank you, Ms. Sedillo
4 Lopez.

5 Member Bitzer, that was Ms. Sedillo Lopez who
6 is counsel to the city Board.

7 I'm going to turn now back to Ms. Soloria to
8 ask if she has anything to add.

9 MS. SOLORIA: Thank you, Madam -- thank you,
10 Madam Hearing Officer.

11 And as articulated by my co-counsel, she
12 has -- I fully endorse her analysis and what she read
13 into the record, and I hope that that satisfies your
14 inquiry, Member Bitzer.

15 MEMBER BITZER: It does. Thank you.

16 HEARING OFFICER ORTH: Thank you.

17 Let's see. Vice-Chair Trujillo Davis, I
18 believe you had a question.

19 VICE-CHAIR TRUJILLO DAVIS: Yes. Thank you.

20 And actually most of my questions have been
21 addressed in some form by the other members on either
22 Board.

23 So I believe that it is important to have an
24 opposition voice in any issue that we -- that comes
25 before us, just to make sure that we are indeed looking

1 at it from all aspects. I'm a little cautious when
2 everybody is quick to agree.

3 But in saying that -- and I think you all
4 brought some very important points to light. But I'm
5 curious as to why you may -- didn't file as a party to
6 this hearing and to be able to present some of this
7 information as a party. And maybe the answer to that
8 isn't necessarily important, but I do encourage you in
9 the future that if -- if we find ourselves in this seat
10 again, that perhaps it would be best if you filed as a
11 party and we were able to hear your side of things,
12 opposition in a more formal setting.

13 That's my only point at this time.

14 HEARING OFFICER ORTH: Okay. Thank you,
15 Vice-Chair.

16 Other questions? Other questions?

17 Oh, Member Garcia.

18 MEMBER GARCIA: Thank you, Madam Hearing
19 Officer.

20 Thank you, gentlemen, for being here today.

21 I just want to -- many of the questions that
22 were already asked are some of the questions that I had,
23 but just for further clarification, I understand that it
24 sounds like your main concern was that New Mexico would
25 move forward with ACC II, and that you -- while you

1 don't like mandates, you -- would you support the
2 current rule as it is?

3 MR. ORTIZ: In order to answer that question,
4 Member, may I ask a question to the two counsels based
5 on their response to the Board Member's question?

6 HEARING OFFICER ORTH: Okay. So -- excuse me.
7 What would your question be? What's --

8 MR. ORTIZ: So -- so the question, you know,
9 is if California's plan to sunset ACC I in -- I believe
10 in 2025 for model year 2026 becomes the effective date
11 for New Mexico -- if -- if you all adopt the rule that
12 is going to be sunsetted, no longer in effect, obsolete,
13 whatever -- those are all the words that the alliance
14 provided to us -- in essence, is -- will there be a rule
15 that New Mexico follows because you're adopting
16 something that's sunsetted from the originating state?

17 HEARING OFFICER ORTH: So please correct me if
18 I'm wrong, petitioner's counsel.

19 We heard from petitioner's counsel yesterday
20 on this question, that what New Mexico is adopting is
21 the current rule, which becomes New Mexico's rule, and
22 what California does after that does not change our rule
23 at all. This Board would have to act -- these two
24 Boards, excuse me, would have to take action for the
25 petition -- the current petition becoming a rule for

1 that to change.

2 I -- that's what I heard counsel say
3 yesterday.

4 MR. KNIGHT: Madam Hearing Officer and Board
5 Members. Yes. That is -- that is correct.

6 And, you know, I can understand there being
7 some confusion around this issue, because different
8 states have put different language in their clean car
9 rules. For instance, New Jersey has taken a different
10 approach, and they -- you know, they have different
11 rulemaking rules, they have different state statutes
12 that interact differently and that give -- you know,
13 they have a different rulemaking process entirely.

14 And so in other states -- you know, what's
15 true in other states is not necessarily true, and in
16 this case, it's not true in New Mexico. The rule we are
17 proposing adopts the California -- the relevant
18 California regulations as they were on December 1st, I
19 believe, of 2021, and it is a static rule that would
20 require a new joint hearing to make any changes to.

21 HEARING OFFICER ORTH: All right. Thank you,
22 Mr. Knight.

23 So if you would please answer Member Garcia's
24 question.

25 MR. ORTIZ: Sure.

1 So here's kind of where our thought is, is,
2 you know, that a mandate -- you know, requiring a
3 mandate is difficult at best. The traditional vehicles,
4 that's not an issue, because that's as of 2017 all the
5 vehicles manufactured for sale, the traditional
6 vehicles, meet or exceed the California emissions
7 standards. So that's not an issue.

8 It's the mandate of 7 to 9 percent. New
9 Mexico is a -- is a diverse state, urban and rural. Our
10 urban dealers, you know, when I visit with them
11 individually, you know, I kind of get a shrug of the
12 shoulders and says "We feel that we can meet it by
13 2026." However, the rural dealers is like "There's no
14 way that we can do that."

15 So if I were to answer your question
16 holistically for the state, I have to say that we oppose
17 it because there's 40 percent roughly of our dealers
18 that have indicated that there's no way that they could
19 meet the 75 percent mandate.

20 MEMBER GARCIA: Okay. Thank you.

21 HEARING OFFICER ORTH: All right.

22 Madam Chair Suina, I see your hand.

23 Madam Chair, you're not muting -- I mean you
24 are muted.

25 CHAIR SUINA: Sorry about that.

1 Can you hear me now?

2 HEARING OFFICER ORTH: Yes.

3 CHAIR SUINA: Thank you, Madam Hearing Officer
4 and our -- our public speakers, our guests here.

5 I just wanted to follow up.

6 Again it seems even in our discussion on this
7 particular item there's a lot of, for lack of a better
8 word, confusion as to when -- what -- what rule, what
9 applicability.

10 And just like our Vice-Chair Trujillo Davis
11 mentioned, I would just encourage, you know, the groups,
12 the organizations that may have opposing views, and be
13 able to then propose alternative language and be part of
14 the rulemaking process formally. That would allow us to
15 have that input as we're going through these formal
16 rulemaking hearings and deliberations.

17 And I sincerely appreciate your perspective
18 and your -- some of the information you're bringing to
19 the table, but again I -- I just want to clarify, too,
20 that I think that would have been helpful in our
21 process, and -- but for lack -- lack thereof, I
22 sincerely appreciate your perspective.

23 And so my follow-up question is -- I don't
24 know if you answered Vice-Chair Trujillo Davis' question
25 about -- was there a reason why you didn't want to -- or

1 why there was no participation in this rulemaking
2 process, this hearing process?

3 MR. ORTIZ: Madam Chair, you know, there --
4 there has been a lot of dialogue, and in our dialogue
5 with them initially before this opportunity here, you
6 know, we did provide language. We expressed our
7 concerns over a mandate and the reasons why that we've
8 discussed today.

9 However, you know, we -- we definitely want to
10 leave you all with a message, is that, you know, we care
11 about our climate, we're concerned about what we're
12 seeing out there, you know, as recently as the wildfires
13 here in New Mexico. You know, we understand that.
14 We're -- we're excited for the electric vehicles.
15 They're making great strides. They're installing
16 charging stations at their dealerships. They're
17 investing in the tools.

18 As Mr. Cockerham said, they're doing the
19 training, although they have -- right now they have to
20 send their technicians out of state.

21 So, you know, we're -- we're not opposing what
22 the State of New Mexico is considering as far as moving
23 the needle forward for electric vehicles, but there are
24 some concerns. So in our discussions, you know, we
25 provided that information and some of the concerns.

1 Some of the Zoom meetings, we had 20-plus dealers, you
2 know, expressing -- at least attending and expressing
3 their concerns.

4 The response that we received back is that
5 the -- there is no opportunity to adjust those
6 percentages because that's what California had in place,
7 and that's what New Mexico is planning on doing.

8 So, you know, we've expressed it both
9 informally in phone discussions, in Zoom meetings. We
10 provided written comments to the draft late last year,
11 like in December. And we're here today basically
12 understanding that we need to do something, but a
13 mandate may not be the best solution for, you know, all
14 the reasons that we express here today.

15 HEARING OFFICER ORTH: Anything else?

16 CHAIR SUINA: Thank you, Mr. Ortiz.
17 Appreciate that.

18 I don't know if it totally answered the
19 question, but I just want to encourage industry to
20 continue to work toward working with NMED and toward
21 those initiatives. While we do have confusion, it also
22 is a barrier and a challenge for all of us to move
23 toward these milestones and goals. So if there is
24 confusion, I hope that we can work toward addressing
25 those points. And if there's the need to clarify that

1 formally in a process, I think that that would be
2 important, as well.

3 So thank you.

4 MR. ORTIZ: Madam Chair, thank you so much for
5 your comments.

6 Obviously, there is some confusion. The --
7 the alliance that represents 98 percent of the
8 manufacturers are -- have the same type of understanding
9 that we do, and we represent all the franchise dealers
10 in New Mexico. So there is some confusion, and
11 hopefully through -- through public engagement, public
12 notice, information, you know, that we could get out to
13 consumers and our respective dealers, maybe we -- that
14 would help, you know, bridge that gap, as well.

15 HEARING OFFICER ORTH: Thank you.

16 First Member Reitzel and then Vice-Chair
17 Trujillo Davis.

18 MEMBER REITZEL: Thank you, Madam Hearing
19 Officer.

20 Can you -- do I have the microphone close
21 enough? Little closer?

22 I -- I want to, I guess, talk with our counsel
23 on the record because I want to make sure that I'm
24 understanding our rules correctly. And what I
25 understand is that here today we're adopting the text

1 from California. So we're not adopting their rulemaking
2 process, we're not adopting their implementation of the
3 current law. We're just adopting the text as it is on
4 the books for us to move forward with and for us to
5 amend as we see fit here in New Mexico.

6 Is that correct, Counsel?

7 MS. SEDILLO LOPEZ: Yes. That's absolutely
8 correct. That's why I read the text from what you were
9 considering adopting, which makes that absolutely clear.

10 MEMBER REITZEL: Okay.

11 And so I just want to ask our association
12 here, is that still -- is there still confusion around
13 that as you sit here today? I understand you're hearing
14 something different from the alliance, which is looking
15 at what is going on nationally rather than just what is
16 exactly happening here in New Mexico. But as we're
17 sitting here today, is it clear that we're -- we're just
18 adopting the text and moving it forward here in New
19 Mexico?

20 So should we choose to increase it or decrease
21 it depending on what happens with future boards and what
22 our climate is like or our economic situation is like
23 here in New Mexico moving forward, we would have -- New
24 Mexico has the independence to do that. Is that clear,
25 or is that still -- do we need to clarify that further?

1 MR. ORTIZ: Thank you for that question.

2 And, Counsel Sedillo Lopez, I appreciated that
3 the wording that -- how you read it is -- it is really
4 clear.

5 However, you know, in our analysis and
6 visiting with the alliance and hearing from the National
7 Auto Dealers Association's counsel, all of that, they're
8 telling us something different. So until today when she
9 read that, we all collectively -- you know, all the
10 dealers associations throughout the state, the 14 other
11 states, the Auto Manufacturers Alliance, had a --
12 have -- currently have a different interpretation.

13 So all -- I can go back with them and check on
14 that. You know, that -- that was our concern.

15 And I think there's been confusion. It's 7 to
16 9 percent. We understand California was proposing
17 amending that to 26 percent. Now they're sunseting it.
18 And when we get to ACC II, that has 35 percent. There's
19 a lot of moving parts.

20 So I -- I think collectively maybe and through
21 the room we may be a little bit confused with that. But
22 I'll continue to dialogue with the National Auto Dealers
23 Association and the Automotive Alliance based on what
24 you read.

25 And, Senator, if I could just maybe get that

1 statute so I could look at that, as well, it would be
2 helpful. Okay?

3 MEMBER REITZEL: Thank you.

4 And I have some other questions, and I do
5 encourage you to meet with your national alliance and
6 really press them to look at our specific rulemaking
7 here today, and whatever the outcome is that they look
8 at it specifically rather than generalizing what is --
9 what is happening, because I could see where the
10 understanding is once we adopt these -- once we adopt
11 the text from California, that if they change their
12 text, then we would maybe adopt their new text down the
13 road.

14 But that is not required, and I hope that
15 that's something you all can discuss with a counsel that
16 you trust.

17 MR. ORTIZ: If I may, Member. If you all are
18 considering adopting the text --

19 MEMBER REITZEL: Um-hum.

20 MR. ORTIZ: -- why are -- why is the reference
21 going back to the California with those citations,
22 et cetera? You know, if you're just getting the text
23 and implementing it in New Mexico, why not just do that
24 instead of referring to the California proposed? So
25 that's another question that I'm going to ask.

1 MEMBER REITZEL: I think that's a question for
2 our counsel.

3 MR. ORTIZ: Yeah.

4 MEMBER REITZEL: But my understanding would
5 be -- and please correct me if I'm wrong -- that we
6 would include those -- those citations simply because
7 we're required to either adopt the federal -- the
8 federal requirements or adopt requirements from
9 California, because we can only adopt something as
10 stringent as -- well, I actually think I'm repeating the
11 rule incorrectly. It's been updated. But we have to
12 either go with federal -- federal requirements for the
13 clean car act or -- or California.

14 And so we're referencing California because
15 that's what we're adopting. And if we were adopting
16 federal, from what the federal US government has
17 provided, then we would be referencing the federal
18 regulations.

19 Counsel, is that -- is that correct?

20 MS. SEDILLO LOPEZ: That's a perfect answer --
21 that's absolutely correct, perfect answer.

22 MEMBER REITZEL: Okay.

23 And so then I have follow-up questions, just
24 because I have trouble with the percentages, and I just
25 want to understand a little bit more about what we're

1 looking at between these smaller dealerships in rural
2 areas or even maybe some of our smaller dealerships here
3 in Albuquerque versus our large dealerships and what's
4 happening in more metropolitan areas.

5 But what -- when we say 7 to 9 percent,
6 what -- can you give us an example of what that looks
7 like for a rural dealer in terms of concrete numbers
8 versus what 7 to 9 percent of vehicles on the -- on the
9 lot would look like for a larger dealership maybe here
10 in the metro area in Albuquerque or Santa Fe, Las
11 Cruces, but we're, obviously, concerned with Albuquerque
12 on this side of the table?

13 MR. ORTIZ: As far as the numbers, Madam
14 Hearing Officer, Board Member, I don't have the numbers
15 on the top of my head. My -- my guesstimate is we
16 are -- urban dealers make up about 60 percent of the
17 total vehicle sales in New Mexico, while our rural
18 brings up the other 40.

19 However, I do have two dealers, one from a
20 rural area in Farmington and one from Albuquerque. So
21 I -- let me turn it to them to as far as maybe get an
22 estimate as far as their dealerships of what that may
23 look like.

24 MR. HORACE: So with the supply chain
25 disruptions, it's zero right now. I mean, literally.

1 We sell everything that we get. In normal times, I
2 would stock up -- and I have two franchises so I would
3 stock 160 to 200.

4 MR. COCKERHAM: Are you looking for how much
5 we're stocking or how much we're selling?

6 MEMBER REITZEL: I'm looking at how much
7 you're stocking. So what would 7 -- so 7 percent or
8 9 percent --

9 MR. COCKERHAM: Well, right now --

10 MEMBER REITZEL: -- and that's 160 to 200.

11 MR. COCKERHAM: Most of our stocking currently
12 is at -- at or near zero. Normally we would stock 150
13 cars, 150, maybe 200 cars, but currently we're -- we're
14 single digits in both brands, and most of the time it's
15 zero.

16 MEMBER REITZEL: And so there's not much
17 difference in what you're stocking in -- because -- so
18 you're in Farmington, correct, or Four Corners area, and
19 you're here in Albuquerque. So there's not much
20 difference, it sounds like, in what you're stocking and
21 what that percentage would be.

22 So maybe -- are you -- as a Farmington dealer,
23 are you representative of what other maybe more rural
24 dealerships would be stocking? Because that sounds
25 exactly --

1 MR. HORACE: I -- I always carry probably too
2 much inventory. He might stock a 60-day supply because
3 he's selling 150 a month, whereas I'm only selling 30 or
4 40. But I need to compete with him so I carry more
5 inventory so I have a better selection for my customers.
6 But the most expensive vehicle we have is the one that
7 doesn't sell.

8 And there's invariably that issue, and that's
9 our fear, is that we would get mandated in a rural
10 area -- let's say I stocked 100 and nine of them need to
11 be EVs, when I would really like to have a lot more
12 hybrids. But I've got these that I can't sell, and then
13 I go to try to sell to him, it adds to his cost, and a
14 lot of times it's just a vehicle he doesn't want.

15 They're in -- with all franchises -- for
16 instance, the IONIQ 5 is -- I think is the -- probably
17 the best example of a company EV, state-of-the-art
18 stuff. It will sell anywhere. But there's also a
19 vehicle called a Mitsubishi ME, you know, 2, that's
20 completely unsellable.

21 MR. COCKERHAM: And -- and part of the concern
22 in -- in Albuquerque I -- I'm convinced that, you know,
23 we can do those -- and particularly in our brands we can
24 do that. Where the real concern is is if the outlying
25 rural dealers don't. The supplier, the manufacturer is

1 going to force those cars on us to be able to hit those
2 standards.

3 So despite the fact that I may hit the -- the
4 standards that you're advocating, - and I'm convinced
5 that we can given our brands and where we are, but --
6 but if the rural dealer can't sell it, then I won't get
7 resupplied with the cars that I need in order to sell.

8 In essence, my -- you know, a metro
9 dealer's -- instead of 7 to 9, in order to make this
10 work, it may have to be 20 or 25 percent, depending on
11 what those rural dealers are. So yeah. I've got to
12 sell his cars that -- that he doesn't sell or the other
13 dealer can't sell.

14 MEMBER REITZEL: Oh, so -- can I -- can I
15 clarify just so that it's clear?

16 So are you saying that your manufacturer would
17 require you to take on vehicles from other franchisees?

18 MR. COCKERHAM: No. What I'm saying --

19 MEMBER REITZEL: (Unintelligible and/or
20 inaudible).

21 MR. COCKERHAM: -- is the manufacturer would
22 be mandated to sell a certain amount of EVs in the
23 state, and if the rural dealer can't sell them, and
24 they -- the metro dealer is going to sell to the level
25 that you're looking at, and combined those percentages

1 don't equal, the manufacturer is simply not going to
2 send the gas cars.

3 And so what -- what you're effectively doing
4 or -- or can happen in this case is that the metro
5 dealer -- it doesn't have a set percent mandate. He is
6 going to have a 20 percent mandate. I don't have the
7 infrastructure in place to do that, to hit those
8 numbers. 7 percent, yeah, I can probably do that. I
9 might even be able to do 10 percent. I mean, we sell a
10 hundred cars a month. That's 10 EVs. If I could get
11 them, I could certainly sell them.

12 Can I do 20? Which I'm probably going to have
13 to do if the rural dealers can't sell those cars.

14 MEMBER REITZEL: Thank you for that answer.

15 And I just wanted to follow up, too. You
16 mentioned the favorite vehicle is the Ford -- the Ford,
17 Dodge and Chevy trucks. I understand that those --
18 those companies are coming out with electric or hybrid
19 trucks.

20 Can you tell us the cost comparison between
21 what those hybrid or electric trucks look like compared
22 to just diesel?

23 MR. HORACE: So interestingly, it's almost the
24 same premium that you pay for EV. It's \$10,000. It
25 always comes back to the battery. The battery, the

1 battery.

2 The difficulty with the pickup truck is that
3 as soon as you hook it up to something -- and there
4 probably is realistically 10, 15 percent of their life
5 towing. As soon as you're towing anything, your range
6 is cut in half. So if they advertise 250 miles, now you
7 can go 125 miles if you're towing. So --

8 And it's that flexibility that all of our
9 small business people that buy these trucks, and
10 certainly people that are in our industries up in Four
11 Corners, and -- and so I'm surrounded by reservations.
12 I've got Apaches and Southern Ute, Northern Ute, Navajo
13 Nation, which is gigantic, Hopi. They haul water.
14 They're still 25 -- I think they've got it down to
15 25 percent of the reservation still doesn't have
16 electricity, which is a huge improvement from when I
17 moved there, you know, oh, 30 years ago, when it was
18 35 percent. So --

19 MEMBER REITZEL: Thank you. I appreciate your
20 responses.

21 HEARING OFFICER ORTH: All right. Thank you.
22 Vice-Chair Trujillo Davis, and then Member
23 Richards.

24 VICE-CHAIR TRUJILLO DAVIS: Thank you.
25 I'm going to kind of take a step away from the

1 current direction of the conversation. So I wanted to
2 go back to something I heard you -- Mr. Ortiz state --
3 say in his statement that you read, and it was about the
4 infrastructure. And I know it's been mentioned a few
5 times about catching up with infrastructure in order to
6 be able to charge these vehicles.

7 And so I'm curious if one of your core issues
8 is that do we -- do we build the stations and wait for
9 the cars, or do we sell the cars and wait for the
10 stations? Am I --

11 MR. ORTIZ: Madam Hearing Officer, Board
12 Member Trujillo Davis, that's an excellent question.

13 It's the chicken before the egg, right? We
14 feel that, you know, our -- our manufacturers have been
15 investing and plan to produce many more electric
16 zero-emission vehicles coming down the pike, you know,
17 subject to supply chain limitations.

18 But we feel that the infrastructure, the
19 public availability of infrastructure should be
20 following that same route. In -- in discussions with
21 the Department of Transportation, they're receiving an
22 enormous investment, and I attended a legislative
23 hearing last week where Department of Transportation
24 officials' ultimate goal is to have an electric vehicle
25 charging station every 50 miles through the major

1 roadways in New Mexico.

2 One of the legislators asked that question,
3 how long do you think it will take you to achieve that
4 goal. And the answer that I heard is approximately five
5 to seven years down the road to achieve that goal.

6 So they're making strides. We support it.
7 We're happy to hear that. But will it be there in 2026?
8 Based on the testimony I heard last week, I -- I don't
9 think they'll be able to achieve that.

10 So I think collectively both of -- everything
11 being built up, from dealership infrastructure to tools
12 to training, public availability, infrastructure, all of
13 that, everybody is working towards that goal. Are we
14 there yet? Not -- not yet. Will we be there by 2026?
15 I'm not sure.

16 VICE-CHAIR TRUJILLO DAVIS: And I
17 understand -- I completely understand the perspective
18 that you're coming from on that. And I also understand
19 what you're saying about not liking mandates. I don't
20 like to be mandated too much either.

21 But I -- when I look at this problem as a
22 whole, you know, we're -- we see that the power
23 companies are also being mandated to do things, and
24 I'm -- and I'm open to, you know, your comments on this,
25 but what I -- I'm looking at right now is that you're

1 part of this piece, and, you know, everybody is being
2 mandated to do something to reach this goal.

3 And so I'm kind of curious what maybe your
4 thoughts are on that. But that's essentially the way
5 that I'm approaching this right now.

6 MR. ORTIZ: And before I turn it over to
7 Mr. Horace, because he has -- he has a question, you
8 know, the mandate concern is that, you know, what has
9 been talked about today. In addition to that, you know,
10 the current available charging stations being about
11 30 percent of the need right now with only 12,000
12 vehicles.

13 So there's a lot of work from the respective
14 state, city, local governments to provide those electric
15 vehicle charging stations and -- and to -- you know, I
16 think all of that has to work naturally rather than
17 proposing a mandate of X percent wherever and not the
18 infrastructure to support it. That's one -- that's one
19 of our concerns.

20 I'll turn it over to Mr. Horace.

21 MR. HORACE: So in -- we are being mandated,
22 though. The manufacturers are coming to us. And so the
23 special tool package to service an EV, which come up
24 later, is about \$25,000. There's about another \$50,000,
25 \$60,000 in training of technicians that is involved

1 there.

2 MR. COCKERHAM: Yeah. We're over a hundred
3 thousand.

4 MR. HORACE: He's over -- Bob's over a hundred
5 thousand in the training of technicians.

6 And it is a -- it's a separate animal. Well,
7 so they come to me, and they say "We want you to put two
8 of these class -- these Level 3 chargers in." They're
9 \$27,000 each, on top of what I just described.

10 And so then I ask them "How many cars can you
11 supply me with?"

12 "Oh, we don't know," you know. "But we know
13 you'll get one. And then maybe you'll get one next
14 year."

15 So it's a -- it's a terrible investment. In
16 fact, it's horrific. But it's being mandated, and we're
17 stepping up, we're doing our part to be -- to move along
18 with the expectation -- and again this is a chicken or
19 egg thing, but I think -- I would -- I would argue that
20 the dealers by and large are ahead of the curve.

21 MR. COCKERHAM: Yeah. There's a whole --

22 MR. ORTIZ: We're putting this infrastructure,
23 we're spending the money on the training, when we really
24 have no vehicles out there and no customers at this
25 point in time, expecting that -- that they will come

1 along. So it's a chicken or an egg.

2 You know, and I -- I guess my one thought here
3 is if we could just take a deep breath with some
4 patience, the market will sort this out by itself. I
5 mean, it will -- we will get there. But our concern
6 again is the affordability issue and our own
7 infrastructures.

8 MR. COCKERHAM: Um-hum.

9 MR. HORACE: I mean, it's just not there, and
10 it's extremely expensive to do, especially when you're
11 not going to get the cars to sell to try to recover your
12 expenses. It's just lost.

13 MR. COCKERHAM: Yeah.

14 MR. ORTIZ: It's wasted capital at this point
15 in time.

16 VICE-CHAIR TRUJILLO DAVIS: Thank you. And I
17 appreciate you answering the question the best you can.
18 I realize that sometimes we -- or I'm definitely
19 throwing some things out there that -- that I just
20 really want to know about. So thank you very much.

21 HEARING OFFICER ORTH: Thank you.

22 Member Richards.

23 MEMBER RICHARDS: First I just wanted to thank
24 you for coming and providing your public comment. I
25 appreciate it, just getting a different perspective.

1 I think what comes across for me is we're in
2 such a weird space right now in terms of supply chain.
3 And I understand, you know, having a rule like this when
4 there is limitations on supply chain and everything is
5 sort of in upheaval. It's just -- I mean, it's not the
6 perfect storm for sure.

7 What I imagine happens between now and 2026 is
8 there's going to be so much -- it's going to be a
9 different -- different reality, I think. And so the
10 only thing I think we can do at this point in time is
11 assure you that it would be 7 percent EV -- or
12 zero-emission vehicles.

13 For me, I see it as being a progression. It's
14 like dipping your toe in a pond and just seeing how it
15 feels and then going forward and, you know, eventually
16 hopefully maybe swimming.

17 But I feel like this is a way to kind of
18 increase -- again given the limitations of what we are
19 currently experiencing, this is a way of slowly
20 incrementally increasing the opportunity for those who
21 want to buy zero-emission vehicles to buy them and
22 really to kind of jar the supply chain, to get more and
23 more of the zero-emission vehicles on the -- on the
24 floor, so that people have the opportunity to purchase
25 those, and all in an effort to really reduce emissions

1 and improve public health.

2 And hopefully once the supply chain fixes
3 itself and there's more cars available, the cost, of
4 course, the affordability -- the costs would go down and
5 therefore the affordability would go up.

6 So I just -- I just say that because I
7 think -- I think we're dealing -- we're just -- you
8 know, we're in a weird space right now, that probably is
9 unprecedented, but I feel like it's important to at
10 least attempt. And I absolutely recognize the
11 limitations that you all are confronted with, and I also
12 understand the capital that you're putting into this for
13 something that's not -- not a for sure thing in the
14 immediate future. So I do respect that and understand
15 it.

16 And I also am curious to know in terms of the
17 batteries, the inability to service batteries, whether
18 the technical assistance that you're getting covers
19 that, so that you actually have the staffing expertise
20 to be able to do that rather than sending it out of
21 state, because you -- you know, sending a customer out
22 of state because your service people can't -- can't
23 assist in terms of batteries.

24 So I think that's -- that's a question I had,
25 but I also just wanted to set the context, and

1 completely understand where you all are.

2 MR. COCKERHAM: Currently the manufacturer is
3 mandating that the batteries be sent out. Battery
4 repair in itself is very dangerous and -- and very
5 extremely complicated. There's a fire hazard. The one
6 time we did do -- actually do a battery repair,
7 Volkswagen flew an engineer out, and I cleared out not
8 half of my shop, but probably a third of my shop to
9 create a fire zone, so that in the event that if
10 something went wrong, that we could -- that we'd be
11 okay.

12 It's complicated. The tools that are required
13 for it are -- are expensive, and quite frankly, a lot of
14 them are hard or if not impossible to get. And there's
15 no plans that we are aware of that that manufacturer or
16 that battery either disposal or repair is going to be
17 brought to the state level.

18 MEMBER RICHARDS: Thank you for that.

19 Madam Hearing Officer, am I allowed to ask a
20 question of our counsel? I don't know whether we should
21 do that during deliberations or whether I can do that
22 now.

23 HEARING OFFICER ORTH: Well, it seems to me it
24 might be better during deliberations unless it's going
25 to prompt a new line of questioning of these gentlemen.

1 MEMBER RICHARDS: Thank you. I'll go ahead
2 and hold it for deliberation.

3 HEARING OFFICER ORTH: All right.

4 Other Board -- wait. Member Reitzel?

5 MEMBER REITZEL: I just have a follow-up
6 question.

7 Oh, my gosh. Now in the time that I pressed
8 the button and turned towards you my follow-up question
9 might have left my mind.

10 Oh. I was wondering. So in talking about the
11 repairs that you all do, if -- if you all aren't able to
12 bring in those -- or get the training for your
13 technicians and build infrastructure within your shops
14 to be able to do those repairs, and we see a huge
15 increase in electric vehicles or in zero-emission
16 vehicles, what -- what percentage of your business are
17 you looking at losing if your -- if you lose that repair
18 kind of aspect?

19 Because I would imagine that you do a lot of
20 repairs at this point or service a lot of vehicles at
21 this point.

22 MR. COCKERHAM: We do. We quite -- service
23 quite a few vehicles. And it's hard to tell right now.
24 The numbers are so small, it's -- it's difficult to be
25 able to tell.

1 The process currently is that the vehicles are
2 loaded on a flatbed or transport and carried out of
3 state to a repair facility, and the batteries are -- are
4 repaired or replaced at that facility. And then the
5 vehicle is brought back. The last one we did, it was
6 two-and-a-half months repair time for the vehicle.

7 MEMBER REITZEL: So would that be a concern
8 for your dealerships, then, that you would lose that
9 business down the road --

10 MR. COCKERHAM: It --

11 MEMBER REITZEL: -- if this grows, if you're
12 not able to --

13 MR. COCKERHAM: It creates a lot of problems.
14 I mean, first of which is that I -- I provide my
15 customer an alternate transportation. So that's
16 two-and-a-half months I've got a customer in a loaner
17 car, that we pay for, we actually bear the expense of
18 it.

19 In addition to that, time of staff to follow
20 up and -- and the inconvenience of the customer. You
21 know, I -- I really question if you go through and
22 experience where you've got to send your car out and it
23 takes a month-and-a-half or two months to get it
24 repairs, do you go back and do that again?

25 MEMBER REITZEL: Thank you.

1 Thank you, Madam Hearing Officer.

2 HEARING OFFICER ORTH: Thank you.

3 Other Board questions, or can we excuse this
4 panel?

5 No?

6 MR. HORACE: I --

7 HEARING OFFICER ORTH: Okay.

8 Oh. Mr. Horace.

9 MR. HORACE: Yeah. I just have one last
10 comment or thought or something, since there's been all
11 this confusion about CARB and federal, and, obviously,
12 we favor federal because it's easier for us for trading
13 purposes, et cetera, in a lot of different ways.

14 But my understanding was -- is that -- that
15 California is allowed to promulgate their own
16 regulations, and then they have these 14 other states
17 that have signed on with their -- with California Air
18 Resource Board's rules, if you will.

19 If New Mexico is just adopting the text, then
20 does that mean that New Mexico is kind of out on its
21 own, that it's not working -- I mean, I don't know.
22 That's for a lawyer. I'm not a lawyer. But I just have
23 a concern that -- I know there's been -- always been
24 this debate between -- well, I mean, it's between
25 federal government and state government. It's been

1 going on since we formed the union.

2 But I'm concerned that the federal government
3 came forward a long time ago and said "No. We don't
4 want 50 states promulgating 50 different regulations.
5 We will give that power to California, and whatever
6 California says, if you want to adopt what they did,"
7 they said "then -- then we will allow it to work through
8 the system."

9 Because the federal government regulates
10 interstate commerce. That's their -- that's their --
11 not standing, but purview or whatever. You know what
12 I'm trying to say here, is that -- is that -- well, I'll
13 shut up.

14 HEARING OFFICER ORTH: All right. Thank you,
15 Mr. Horace, thank you, Mr. Ortiz, thank you, Mr. --

16 MS. SONA: Madam Hearing Officer, this is
17 Ms. Sona.

18 HEARING OFFICER ORTH: Oh, yes.

19 MS. SONA: I'm wondering if I could just ask a
20 yes or no question of each of the public commenters?

21 HEARING OFFICER ORTH: Absolutely.

22 THE REPORTER: Who is speaking, please?

23 HEARING OFFICER ORTH: I'm sorry. It's Kelsey
24 Sona --

25 THE REPORTER: Oh.

1 HEARING OFFICER ORTH: -- the city attorney.

2 MS. SONA: Thank you.

3 If each of you could answer just a quick yes
4 or no. Did you file a notice of intent to present
5 technical testimony in the hearing?

6 MR. ORTIZ: No.

7 MS. SONA: For the other two, if you wouldn't
8 mind.

9 MR. HORACE: No.

10 MR. COCKERHAM: No.

11 MS. SONA: Okay. Thank you.

12 HEARING OFFICER ORTH: Thank you.

13 Any other questions of this panel?

14 No?

15 All right. Thank you very much,
16 Mr. Cockerham, Mr. Ortiz and Mr. Horace.

17 MR. ORTIZ: Thank you.

18 HEARING OFFICER ORTH: We have one public
19 comment to take before we break for lunch. This is Beth
20 Beloff.

21 Ms. Beloff, I have asked you to unmute. So if
22 you can hear my voice, you will see a pop-up box.
23 Please unmute yourself.

24 Are you speaking?

25 Ms. Beloff?

1 MS. BELOFF: Hello?

2 HEARING OFFICER ORTH: Oh, terrific. Thank
3 you very much, Ms. Beloff.

4 MS. BELOFF: You can hear me. Okay. Great.
5 Thank you.

6 HEARING OFFICER ORTH: Yes. Hold on one
7 second.

8 Would you swear or affirm to tell the truth?

9 MS. BELOFF: I certainly do.

10 HEARING OFFICER ORTH: And if you would please
11 spell your last name and then begin your statement. You
12 have five minutes.

13 MS. BELOFF: Thank you.

14 It's B-as-in-boy-E-L-O-F-F. Beth Beloff.

15 May I -- may I proceed?

16 HEARING OFFICER ORTH: Yes. Please proceed
17 with your statement. You have five minutes.

18 BETH BELOFF

19 having been first duly sworn or affirmed, gave
20 public comment as follows:

21 PUBLIC COMMENT

22 MS. BELOFF: Thank you for this opportunity to
23 add yet another voice of support for the New Motor
24 Vehicle Emission Standards.

25 My name is Beth Beloff. I serve as executive

1 director of the Coalition of Sustainable Communities New
2 Mexico.

3 Our coalition is comprised of elected mayors,
4 commissioners and councilors and staff of the
5 municipalities of Las Cruces, Albuquerque, Santa Fe and
6 Taos and the counties of Los Alamos, Santa Fe and Taos.
7 We are dedicated as a coalition and as individual
8 members to advancing resilient, equitable and
9 sustainable practices for the citizens in our
10 communities. All told, our elected officials lead
11 cities and counties representing over 40 percent of the
12 population of the state.

13 An important and common feature of our members
14 is the climate action plans for sustainability goals
15 they've adopted in recent years. The new standards you
16 are considering today are an important statewide step
17 which can advance the individual goals of cities and
18 counties to reduce greenhouse gas emissions for
19 transportation.

20 Let me share just two examples.

21 In greenhouse gas inventories, the City of Las
22 Cruces has noted that 53 percent of its emissions come
23 from the transportation sector, and in the City of
24 Albuquerque, a third is attributed to transportation.
25 Both these cities, like other cities and counties, have

1 ambitious goals of driving down these emissions in the
2 coming years.

3 Speaking candidly, we know that new motor
4 vehicle standards won't address this challenge by
5 itself, but it is one action in the state's arsenal of
6 actions which can contribute to reduce emissions and
7 improve the health of New Mexicans.

8 But it's not all about emissions. It's also
9 about economics and local business. Kelley's Blue Book
10 recently reported that in the first quarter of this year
11 EV sales rose in the US by 76 percent while overall new
12 car and truck sales were down by almost 16 percent.

13 We have heard about the EV demand in New
14 Mexico. In the absence of the New Motor Vehicle
15 Emission Standards, manufacturers will first supply
16 their dealers in states which have already enacted such
17 standards, leaving dealers in New Mexico in a much lower
18 priority. And we're not just talking about Teslas here,
19 considered the future market for electric Ford F-150s
20 and Chevy Silverados among others.

21 I believe there are profitable sales and
22 service opportunities that have been discussed here
23 today which will be bypassed if adequate numbers of
24 vehicles are not available here in New Mexico.

25 Let me close on a personal note. Last

1 November I had the privilege of leading our coalition's
2 delegation to Glasgow, Scotland to take part in the UN
3 Climate Change Conference -- pardon me -- COP26.
4 Frankly, it was a life-changing experience.

5 This decade was being described as the decade
6 of delivery. If nations, states and communities have
7 any hope of slowing the advance of climate change and
8 its impacts that we are experiencing today, drought,
9 wildfires, which is causing my voice to be hoarse, and
10 human health effects, it was made crystal clear that
11 states and cities are key as laboratories of policy in
12 action.

13 The regulations you consider today are part of
14 the action needed for our collective future. On behalf
15 of our coalition, I urge you to approve the New Motor
16 Vehicle Emission Standards.

17 Thank you very much.

18 HEARING OFFICER ORTH: Thank you very much,
19 Ms. Beloff, and thank you for your patience. I know you
20 were waiting to make your comment. Thank you.

21 MS. BELOFF: My pleasure.

22 HEARING OFFICER ORTH: Board Members and
23 Chairs, Vice-Chairs, this would be when we would take a
24 lunch break. We do have a 1:00 p.m. public comment
25 session noticed up. However, the administrator tells me

1 that no one has signed up ahead of time for it, which
2 doesn't mean that someone might not appear on the
3 platform or in person to make comment for that session.
4 But 9:00 a.m. was, obviously, a popular slot this
5 morning.

6 So I'm guessing you need a little bit of time
7 to go for lunch. And Pam or I can certainly get on the
8 platform at 1:00 just to reassure people that we will
9 accept their comment a little late. So I don't think
10 that's a problem.

11 But let me ask you, how much time do you want
12 for lunch?

13 VICE-CHAIR PAUL: I'm suggesting 1:30.

14 HEARING OFFICER ORTH: 1:30?

15 VICE-CHAIR PAUL: Extra five minutes?

16 Need a little longer?

17 (Unintelligible and/or inaudible).

18 VICE-CHAIR PAUL: Okay. 1:45 or 2:00.

19 HEARING OFFICER ORTH: I'm sorry?

20 VICE-CHAIR PAUL: One of our members needs a
21 little bit longer than that.

22 HEARING OFFICER ORTH: Okay.

23 So 1:35? It's an hour here.

24 I'm seeing nodding from Chair Suina. 1:35.

25 Okay. So let's return from a lunch break at

1 1:35, and one of us will get on the platform at 1:00 to
2 reassure folks who may or may not appear at 1:00 p.m. to
3 offer comment.

4 Thank you, all.

5 (Proceedings in recess from 12:36 p.m. to
6 1:48 p.m.)

7 HEARING OFFICER ORTH: I'm hitting the record
8 button.

9 Good afternoon.

10 My name is Felicia Orth. I'm the Hearing
11 Officer appointed by the Environmental Improvement Board
12 and the Albuquerque-Bernalillo County Air Quality
13 Control Board to conduct a hearing in this matter
14 related to emissions standards for new motor vehicles.

15 We have reached the afternoon public comment
16 session, and this is the final public comment session
17 for this hearing. It's the fourth and final.

18 I have one public commenter, Mrs. Antoinette
19 Reyes.

20 Ms. Reyes, I'm going to ask you to unmute
21 yourself. You should see a pop-up box.

22 MS. REYES: Hi.

23 Thank you for allowing me to comment. Thank
24 you for your time.

25 HEARING OFFICER ORTH: Hold on one second.

1 Do you swear or affirm that you will tell the
2 truth?

3 MS. REYES: Yes.

4 HEARING OFFICER ORTH: Thank you very much.

5 If you would, please. You have five minutes.

6 MS. REYES: Oh, awesome. Okay. Thank you.

7 ANTOINETTE REYES

8 having been first duly sworn or affirmed, gave
9 public comment as follows:

10 PUBLIC COMMENT

11 MS. REYES: Hello.

12 My name is Antoinette Reyes. I'm a mother of
13 two young children in Las Cruces. I'm in support of the
14 proposed Clean Cars standard.

15 I live near the highway, and I'm hopeful that
16 this can help improve the air quality here. This is a
17 huge concern. As you may know, the Las Cruces-El Paso
18 area is regularly ranked high for ozone and particulate
19 matter year after year by the American Lung Association.

20 Lastly, I would like to highlight another item
21 from the American Lung Association's newest report last
22 month. They found that beginning to transition to zero
23 emission transportation and electricity would provide
24 New Mexico savings of almost \$3 billion in health care
25 by 2050 and save nearly 300 lives.

1 This rule has the potential to do so many good
2 things.

3 Thank you for your time.

4 HEARING OFFICER ORTH: Thank you very much,
5 Ms. Reyes.

6 Going once, going twice, final call for public
7 comment in this matter.

8 All right. I am not seeing anyone else
9 reaching out through the chat.

10 And, Pam, you haven't had anyone try to reach
11 you?

12 MS. JONES: No.

13 HEARING OFFICER ORTH: All right. Thank you,
14 all, very much.

15 We're going to return to the technical case at
16 this point, and we return to the presentation by Clean
17 Air Advocates.

18 Let's see. Do we have Mr. Baake?

19 There you are, Mr. Baake.

20 I understand that we'll be hearing from
21 Ms. Harris. I see Ms. Harris on the screen. Oops. She
22 disappeared.

23 Ms. Harris, would you turn your video back on,
24 please.

25 There you are.

1 If you would please raise your right hand.

2 Do you swear or affirm to tell the truth?

3 MS. HARRIS: I do.

4 HEARING OFFICER ORTH: Thank you.

5 And your voice is coming through nice and
6 clearly.

7 Mr. Baake.

8 MR. BAAKE: Thank you, Madam Hearing Officer.

9 And thank you, everyone, members of the Board.

10 Sorry we couldn't be there in person with you today.

11 Ms. Harris is based in New York, and public airing is
12 back on the rise, so, you know, it's still something we
13 have to be vigilant about.

14 KATHLEEN HARRIS

15 having been first duly sworn or affirmed, was
16 examined and testified as follows:

17 DIRECT EXAMINATION

18 BY MR. BAAKE:

19 Q. Ms. Harris, would you state your full name and
20 spell it for the court reporter.

21 A. Sure. My name is Kathleen Harris,
22 K-A-T-H-L-E-E-N, Harris, H-A-R-R-I-S.

23 Q. And, Ms. Harris, what is your current
24 position?

25 A. I am a clean vehicles and fuels advocate for

1 the Natural Resources Defense Council, or NRDC.

2 Q. And did you submit written testimony in this
3 matter?

4 A. Yes, I did.

5 Q. Is that Clean Air Advocates Exhibit 1?

6 A. Yes.

7 Q. And do you adopt that written testimony today?

8 A. I do.

9 Q. Perfect.

10 Would you now summarize that with the help of
11 your PowerPoint.

12 A. Absolutely.

13 And just to confirm, I'm going to share my
14 screen now with my slides to walk through that; is that
15 correct?

16 HEARING OFFICER ORTH: Yes. And I'm giving
17 you screen sharing privileges.

18 MS. HARRIS: Wonderful.

19 HEARING OFFICER ORTH: Let's see. Hold on.
20 You should have them now.

21 MS. HARRIS: Yes. It appears I do. Okay.

22 Let me --

23 Okay. Can everybody see those slides?

24 Wonderful. Thank you so much.

25 So this afternoon on behalf of the Clean Air

1 Advocates I'll be presenting on the benefits that New
2 Mexico can anticipate from the adoption of the Advanced
3 Clean Cars rule.

4 I first want to thank the Boards for the
5 opportunity to present on this important matter. We've
6 heard many comments and testimonies over the last few
7 days, and I hope that my presentation this afternoon
8 will help to summarize what we've heard thus far. Also
9 to the extent possible intended to respond to a few
10 questions that have been raised over the last two days,
11 as well.

12 But because of the benefits that I'll discuss
13 today, as well as additional benefits that were included
14 in my prefiled testimony, and as the other witnesses
15 today and yesterday have expressed, we believe that the
16 Boards should adopt the Advanced Clean Cars rule for New
17 Mexico.

18 So I'm first going to start by walking through
19 the significant benefits that New Mexico can anticipate
20 by adopting these standards.

21 As has been discussed over the last couple of
22 days, the transportation sector is the largest source of
23 greenhouse gas emissions in United States and is the
24 second largest source of emissions here in New Mexico.
25 Zero-emission vehicles emit zero tailpipe emissions and

1 therefore are a key strategy to reduce greenhouse gas
2 emissions in the state and to help the state achieve its
3 climate goals.

4 Today electric vehicles are cleaner than
5 conventional vehicles. Even with the current
6 electricity grid mix, for example, driving a Chevy Bolt
7 in Albuquerque emits approximately 7 -- or 66 percent
8 less carbon pollution per mile than the average
9 conventional vehicle.

10 Of note, the emissions associated with
11 electric vehicles, which is based on the electricity
12 grid that they are using to recharge the vehicle, will
13 further be reduced as more renewable energy sources are
14 added to the electric grid, and additional managed
15 charging can be implemented to further support the
16 integration of renewable energy sources onto the grid.

17 So for example, if a driver has solar panels
18 on their home, they're charging their vehicle in a
19 manner that is truly zero emissions, and we can
20 anticipate those additional emission benefits as more of
21 these resources are added to the larger grid, as well.

22 Additionally, a reasonably updated study by
23 the Union of Concerned Scientists also shows that even
24 with today's electricity grid mix electric vehicles are
25 more efficient and cleaner than the average gasoline

1 vehicle. In New Mexico, for example, driving a typical
2 electric vehicle available today produces global warming
3 pollution equivalent to a gasoline vehicle that gets
4 67 miles per gallon fuel economy, and that's based on
5 power plant data from 2019.

6 And as others have mentioned, and you have
7 heard from an expert from the American Lung Association
8 yesterday, you know, gasoline vehicles also emit air
9 quality-harming pollutants, including ozone, nitrogen
10 oxides and particulate matter. Statewide mobile sources
11 were responsible for substantial amounts of ozone
12 precursor pollution, including over 700 and -- 75,000
13 tons of NOx emissions in 2014, or 23 percent of the
14 state's total.

15 HEARING OFFICER ORTH: Ms. Harris? Excuse
16 me --

17 MS. HARRIS: Yes.

18 HEARING OFFICER ORTH: -- for interrupting.

19 If you would please slow down. The
20 interpreters --

21 MS. HARRIS: Sorry.

22 HEARING OFFICER ORTH: -- and the court
23 reporter are trying to catch every word.

24 MS. HARRIS: Sure, of course.

25 By transitioning to electric vehicles, these

1 air quality issues can be alleviated and will continue
2 to increase these benefits over the long term.

3 The negative air quality emissions from
4 gasoline vehicles also have detrimental effects on human
5 health, as well, including through asthma attacks, lung
6 cancer, premature death, preterm births, et cetera.

7 In a recent study, Harvard researchers found
8 that in 2018, nearly one in five deaths globally
9 resulted from exposure to outdoor air pollution from
10 burning fossil fuels. Further, another study -- another
11 Harvard study found that long-term exposure to fine
12 particulate matter, including from fuel combustion of
13 vehicles, increased the risk of death from COVID-19.

14 And as we heard yesterday, a recent report
15 from the American Lung Association found that 40 percent
16 of Americans who live close enough to roadways to
17 experience health impacts, and people of color were
18 62 percent more likely than white people to live in a
19 county with a failing State of the Air grade.

20 And again as was reiterated yesterday during
21 the presentation from the American Lung Association,
22 there are significant health benefits associated with
23 the transition to zero-emission vehicles, but from a
24 recent report from the American Lung Association, it was
25 found that nationally a widespread transition to

1 electric vehicles is expected to save over 100,000
2 lives, avoid 2.7 million asthma attacks, avoid
3 13.4 million workdays annual leave by mid-century and
4 avoid \$1.2 trillion in health harms.

5 In addition to the air quality, health and
6 climate benefits, zero-emission vehicles and electric
7 vehicles also provide many economic benefits to drivers
8 and to New Mexico.

9 First, they provide reduced fueling and
10 maintenance costs as compared to gasoline vehicles.
11 Today the total cost of ownership of electric vehicles
12 is already low, and this does not take into account the
13 recent spike in gasoline prices.

14 A recent survey by consumer reports found a
15 battery of electric vehicles and plug-in electric
16 vehicle owners pay around half as much to maintain and
17 repair their vehicles compared to owners of conventional
18 cars. The same consumer report study found that the
19 fuel savings alone for an EV or an electric vehicle
20 compared to a gasoline-powered vehicle can be \$4,700 or
21 more per year over the first seven years.

22 A US Department of Energy study found the
23 estimated scheduled maintenance costs for a light duty
24 battery-electric vehicle totals about 6.1 cents per
25 mile, while a conventional gasoline-powered vehicle is

1 around 10.1 cents per mile, which amounts to roughly
2 40 percent cost savings on maintenance on a per mile
3 basis.

4 Another analysis by Atlas Public Policy found
5 the total cost of owning the forthcoming electric
6 version of the Ford F-150, called the F-150 Lightning,
7 is 17 percent lower than the gas-powered version, the
8 costs of the electric Volkswagen ID.4, an SUV, is
9 14 percent less than a comparable Honda CR-V, and a
10 Tesla Model 3 costs almost 5 percent less than a similar
11 Lexus. And as shown in the graph here -- or in the
12 chart here, the Chevy Bolt costs approximately 6 percent
13 less than a Toyota Corolla.

14 To answer a question that was posed during a
15 previous panel, my quick research shows that the Nissan
16 Leaf MSRP starts at about 20,000 -- approximately
17 \$20,000, which is after the federal tax credit, and the
18 MINI Cooper, the Hyundai IONIQ and the Mazda NX20 as
19 well as the Hyundai Kona electric are all under \$28,000.
20 This is a pretty phenomenal change even from a few years
21 ago, where there were very few electric vehicles
22 available at this price range, and it's reasonable to
23 expect more affordables -- more affordable electric
24 vehicles entering the market by 2026.

25 And it's important to note by increasing the

1 number of new EV sales these vehicles will ultimately
2 trickle down into the used vehicle market, but that only
3 will happen if there are new vehicles available to
4 purchase in New Mexico.

5 The price of gasoline is also volatile, and
6 with gasoline prices surging, more Americans are
7 considering purchasing electric vehicles, which provide
8 a cleaner, cheaper and more stable alternative to the
9 oil market and wildly fluctuating gas prices. Charging
10 at home is roughly the equivalent of fueling up on a
11 dollar a gallon gasoline.

12 If EV -- electric vehicle drivers are able to
13 access time-of-use rates, like the rate 1B offered by
14 the Public Service Company of New Mexico, PNM, which
15 offers discounted charging during nighttime off-peak
16 hours, the savings can be even more.

17 According to Choose EV's EV Savings
18 Calculator, an EV driver using PNM's off-peak pricing
19 for its charging needs could get 217 miles for the
20 average cost of gasoline -- of a gallon of gasoline in
21 New Mexico. The average fuel car in the United States
22 in comparison gets 25.3 miles per gallon as of 2020,
23 indicating that an average gasoline-powered car is
24 paying over eight times the price per mile of an
25 electric vehicle driver being charged using the off-peak

1 1B rate from PNM.

2 And unlike gasoline, which varies widely in
3 price, which is seen in the chart here on the right, the
4 average price of residential electricity, adjusted for
5 inflation, has stayed close to the dollar a gallon
6 equivalent mark for over 26 years. Switching to
7 electric vehicles provides New Mexicans with
8 predictable, stable and cheaper fueling costs.

9 Automakers will prioritize electric vehicles
10 to the jurisdictions that require them. So having New
11 Mexico adopt the Advanced Clean Cars standards will
12 ensure that the types of clean vehicles that drivers
13 want will be available to them.

14 In prior surveys of dealership inventories,
15 most -- many of the models of electric vehicles were not
16 offered -- were not available in non-Advanced Clean Cars
17 states.

18 You can also see proof of this if you do a
19 little online shopping. For example, if you pull up
20 Honda's web page to the research buying the electric
21 IONIQ, you will see a message that says currently 2021
22 IONIQ Electric is only sold in California, Colorado,
23 Connecticut, Maine, Massachusetts, Maryland, New Jersey,
24 New York, Oregon, Rhode Island and Vermont. And if --
25 you will note that those are all states that have

1 adopted the Advanced Clean Cars rule.

2 And so therefore, currently many drivers in
3 New Mexico have to go out of state to get the electric
4 vehicles that they desire. Advanced Clean Cars will
5 help to keep vehicles sales in New Mexico, while also
6 providing drivers with customer choice to purchase the
7 vehicles they want.

8 This morning during the public comment session
9 some of the representatives from dealerships noted that
10 the dealers will sell the electric vehicles that they
11 have, indicating that there is a demand here in New
12 Mexico currently for these vehicles. However, they also
13 indicated that EV drivers could go out of state to
14 purchase the vehicles they want, commenting on the fact
15 that one of the early commenters went to Texas to
16 purchase their vehicle of choice.

17 One of the main benefits of this rule is to
18 help keep all vehicle sales in New Mexico and for
19 allow -- and to allow drivers to purchase the vehicles
20 that fit their lifestyle needs here in the state. And
21 as we heard from public commenters, it's clear that they
22 are currently not able to purchase the makes and models
23 of electric vehicles that they desire here in New
24 Mexico. Adoption of this rule would increase that
25 customer flexibility and choice.

1 Electric vehicles do not only benefit just the
2 drivers. In addition to the benefits that I've outlined
3 thus far, electric vehicles can also benefit all utility
4 customers.

5 Increased electric vehicle adoption has the
6 potential to benefit all New Mexicans by improving grid
7 utilization and reducing electric rates. Because
8 electric vehicles remain parked most of the time and
9 have ample time to charge when not in use, electric
10 vehicle load is a highly flexible resource.

11 That resource can be managed to improve the
12 electricity system load factor and increase or decrease
13 load in a manner consistent with grid conditions, that
14 is, ramping up nighttime charging when wind generation
15 is plentiful or decreasing charging when solar output
16 fails -- or when solar output falls. Excuse me.

17 They can also serve as a grid resource through
18 vehicle to grid technology, which is smart charging
19 technology that allows car batteries to give power back
20 to the grid, and as such it treats these high-capacity
21 batteries not only as a tool to power electric vehicles,
22 but also backup storage cells for the electric grid.

23 Charging electric vehicles during off-peak
24 overnight hours, when the electric grid is underutilized
25 and there's spare capacity on generation transmission

1 and distribution systems, allows utilities to avoid new
2 capital investments while capturing additional revenues.
3 The increased electric load from electric vehicle --
4 electric vehicles puts downward pressure on rates by
5 threading the utility's fixed costs over a greater
6 amount of kilowatt-hour fails.

7 Although electric vehicle drivers will do some
8 charging at the workplace or on road trips, the vast
9 majority of electric vehicle charging happens at home
10 and can be shifted to overnight hours to maximize these
11 benefits.

12 A recent analysis by Synapse Energy Economics
13 analyzed real world data from the two utility service
14 territories with the highest number of electric vehicles
15 in the country, Pacific Gas and Electric and Southern
16 California Edison, and they found that electric vehicles
17 today are already putting downward pressure on rates,
18 noting that EV -- electric vehicles offer a key
19 opportunity to reduce harmful emissions and saving
20 customers money at the same time.

21 They also compared the new revenue that
22 utility collected from electric vehicle drivers to the
23 cost of the energy required to charge these vehicles,
24 plus the costs of any associated upgrades to the
25 distribution and transmission grid and the costs of

1 utility programs that are deploying charging stations
2 for all types of electric vehicles.

3 In total, electric vehicle drivers contributed
4 an estimated \$806 million more than the associated
5 costs.

6 Another study completed by M.J. Bradley and
7 Associates demonstrates similar benefits in New Mexico
8 by adopting the Advanced Clean Cars standards. The 2020
9 study found that widespread electric vehicle adoption
10 would provide more than \$5.3 billion in net benefits by
11 2050, including \$0.4 billion in reduced utility bills
12 for all utility customers stemming from the same real
13 world effect already observed in California by the
14 Synapse study. The New Mexico analysis also estimates
15 that drivers in the state could realize \$3.8 billion in
16 reduced fuel and maintenance costs.

17 People living in rural areas are more likely
18 to drive longer than average distances and have larger
19 vehicles such as pickup trucks, making their fuel cost
20 savings even greater when driving these low- or
21 zero-emission vehicles.

22 Additionally, there is an increasing number of
23 larger and diverse models of electric vehicles, such as
24 SUVs, crossovers and pickup trucks. This allows for
25 customers who drive larger vehicles to choose clean,

1 electrified versions of these cars and trucks. However,
2 these vehicles will likely be harder to purchase in New
3 Mexico unless it adopts the Clean Cars standards, as
4 discussed previously.

5 And a few things to note.

6 The costs of electric vehicles are coming down
7 and are expected to reach up-front cost parity across
8 the same segments when this rule is implemented, which
9 will benefit all customers, both high- and low-income.

10 Two, lower operating costs will benefit
11 customers who finance, which is about 85 percent of new
12 vehicle purchasers, on day one in most cases.

13 Three, low-income customers spend a large
14 proportion of their income on fuel. So this rule will
15 yield disproportional benefits to its customers.

16 And four, many low-income families purchase
17 used vehicles, and typically any increased technology
18 costs are depreciated and paid for by the first owner.
19 So future owners have a win/win in terms of the vehicle
20 that is moderately priced but retains the enormous fuel
21 savings.

22 And as I previously mentioned, while most --
23 many low-income families are more likely to purchase a
24 used vehicle than a new vehicle, once New Mexico adopts
25 these Clean Cars standards, more clean vehicle options

1 will become available on the used car market, expanding
2 access to those benefits for all residents.

3 And this isn't just a prediction. If you
4 search a web site like Carvana or CarMax, you can see
5 that electric vehicles are for sale for as low as
6 \$12,000, but almost all of these are being sold in Clean
7 Cars states. You can pay to have them shipped to you,
8 but that, of course, will add cost. And, of course,
9 many people are not going to be comfortable driving --
10 buying a car without first test driving it.

11 If New Mexico adopts Clean Cars standards,
12 especially with the early action credit that has been
13 proposed as part of this regulation, we will start to
14 see more and more used EVs here. Especially with a \$4 a
15 gallon of gas currently, this will be a real benefit to
16 low- and moderate-income families.

17 Now that I've talked about the benefits of
18 zero-emission vehicles and the Advanced Clean Cars rule,
19 I'd like to talk a little bit briefly about the
20 specifics of the Advanced Clean Cars Program,
21 highlighting its feasibility.

22 It's important first to reiterate the point of
23 regulation on -- for this regulation is on the vehicle
24 makers and not on dealerships. But as you can see on
25 the chart on the left, there is an increasing number of

1 electric vehicle models available for customers to
2 purchase, and these are expected to continue to
3 increase.

4 Almost every major vehicle manufacturer in the
5 United States has committed to increasing the number of
6 electric vehicles in their model lineup, with some
7 manufacturers committing towards 100 percent
8 electrification of their fleets within the next two
9 decades.

10 In January, 2021, General Motors announced it
11 would strive to phase out its sales of gasoline-powered
12 cars and trucks entirely by 2035. Ford Motor Company,
13 already the most forward thinking of US traditional
14 automakers with regards to supporting stricter emission
15 standards, followed with its own announcement in
16 February, doubling investment in electric vehicles to
17 \$22 billion through 2025. And finally, in early March,
18 Volvo pushed the envelope a bit further by declaring its
19 intention to phase out sales of any vehicles with an
20 internal combustion engine by 2030 and only sell fully
21 electric cars.

22 And it's clear that the customers want these
23 vehicles. In fact, the Ford F-150 Lightning, the
24 electric version of the company's popular pickup truck,
25 the gasoline version of which is one of the best selling

1 cars in the United States, has received so many
2 reservations, over 200,000, that the company ultimately
3 had to halt the reservation process in order to fulfill
4 orders.

5 HEARING OFFICER ORTH: Ms. Harris, you've sped
6 up again.

7 MS. HARRIS: Yes.

8 HEARING OFFICER ORTH: Slow down.

9 MS. HARRIS: Oh, I'm sorry. Thank you.

10 Do you need me to go back and repeat anything?

11 HEARING OFFICER ORTH: No. That's fine. Just
12 go ahead.

13 MS. HARRIS: Okay. Thank you.

14 The COVID-19 pandemic presented challenges
15 across the transportation industry, as the vehicle
16 production ground to a halt and auto purchases fell
17 considerably in 2020. However, the US electric vehicle
18 market has shown signs of resilience and is expected to
19 emerge stronger on the other side of the global health
20 crisis.

21 While overall auto sales fell by 14.6 percent
22 in 2020 relative to 2019, electric vehicle sales only
23 fell by 4.6 percent relative to electric vehicle sales
24 in 2019. Electric vehicle sales in January and February
25 of 2021 resulted in all-time records for those months,

1 exceeding the respective monthly totals from 2020 by
2 43 percent and 100 percent. And these trends are not
3 just domestic. In December, 2021, electric vehicle
4 sales in Germany reached 36 percent.

5 And to answer a question from a previous panel
6 that was asked regarding supply, I will also just note
7 that these requirements are on -- set on percentage of
8 sales. So overall sales of vehicles decrease the number
9 of sales that will be required as part of this
10 regulation. The number of vehicles that we will strive
11 to meet those sales percentages will also go down.

12 Seventeen other states have adopted the
13 California Clean Cars standards, as indicated in this
14 chart. There is both a mix of states that have adopted
15 the rules several years ago, such as New York and
16 Maryland, as well as states that have adopted them more
17 recently, such as Nevada, Colorado, Minnesota and
18 Virginia. And this includes both rural states, like
19 Vermont and Colorado, and more urban states, like
20 Massachusetts.

21 Therefore, New Mexico does not need to
22 recreate the wheel on the implementation of these
23 standards and can look instead on the best practices
24 from other states.

25 Adopting the currently proposed Advanced Clean

1 Cars rule standards are an important step forward for
2 New Mexico, but ultimately won't be sufficient for fully
3 decarbonizing the state's transportation sector. There
4 is a broad swath of actions that the state will need to
5 take in order to decarbonize its transportation sector,
6 but there is not necessarily one clear identifying
7 pathway to reaching this critical goal.

8 Bold and strategic action will be needed from
9 private industry, regulated utilities, municipal
10 governments and the New Mexico legislature. However,
11 these Boards are some of the key governmental bodies
12 that will need to enact additional important rules and
13 regulations to achieve New Mexico's decarbonization
14 goals. These rules include the Advanced Clean Truck and
15 Heavy-Duty Omnibus rules, collectively known as the
16 Clean Car -- Clean Truck rules, and the forthcoming
17 Advanced Clean Cars II rule, and potentially others.
18 And we urge the state to move forward with these
19 regulations as soon as possible.

20 And one other thing that I will conclude with
21 is the issue of battery recycling has been brought up
22 both today and yesterday, and I just wanted to highlight
23 that, you know, this is why it's important that we help
24 to develop better recycling -- recycling operations to
25 ensure that we're minimizing the amount of rare minerals

1 that are being extracted, while also considering
2 opportunities to extend battery life or battery reuse.

3 I'll also just note that actually this week
4 the Biden administration announced plans for a
5 \$60 million program to help expand and spur battery
6 recycling here in the United States, and the private
7 market and companies such as Redwood Materials are
8 working with car companies like Ford to kickstart
9 recycling, as well.

10 So thank you again to the Boards for your time
11 today, and an additional thanks to the court reporters
12 and the interpreters for their important work and for
13 dealing with my fast talking. I really appreciate it.

14 MR. BAAKE: Thank you, Ms. Harris.

15 And it's likely we'll open it up for, I
16 suppose, first cross-examination from the parties, and
17 if not, to the Boards.

18 HEARING OFFICER ORTH: Thank you very much.

19 Mr. Knight, do you have questions of
20 Ms. Harris?

21 MR. KNIGHT: I do not.

22 HEARING OFFICER ORTH: Thank you.

23 Ms. Sona?

24 MS. SONA: I do not.

25 HEARING OFFICER ORTH: All right.

1 Let me turn to the city Board first.

2 EXAMINATION

3 BY THE BOARDS:

4 HEARING OFFICER ORTH: Chair Meiklejohn, do
5 you have questions of Ms. Harris?

6 CHAIR MEIKLEJOHN: I do not at this time.
7 Thank you.

8 HEARING OFFICER ORTH: Vice-Chair Paul?

9 VICE-CHAIR PAUL: No questions. Thanks.

10 HEARING OFFICER ORTH: Member Richards?

11 MEMBER RICHARDS: No questions.

12 HEARING OFFICER ORTH: All right.

13 Member Reitzel?

14 MEMBER REITZEL: I have a quick question or
15 really clarification.

16 There was a slide earlier that you showed, and
17 I was not looking at the screen so I just -- I think I
18 just missed your chart, but I just wanted to see it
19 again and maybe if you could go over it. You were
20 saying that the electric vehicles and the -- the current
21 gasoline vehicles or regular vehicles all -- they have
22 equal mileage, and I -- did I catch that correctly?

23 Or I --

24 MS. HARRIS: I'm sorry. I'm not --

25 MEMBER REITZEL: -- (unintelligible and/or

1 inaudible) caught that. It was earlier on in your
2 presentation.

3 MS. HARRIS: Maybe you can help me figure out
4 which slide it was.

5 MEMBER REITZEL: Yeah.

6 MS. HARRIS: Was it this one?

7 MEMBER REITZEL: Oh. You're not sharing your
8 screen at this point.

9 MS. HARRIS: Oh.

10 MEMBER REITZEL: (Unintelligible and/or
11 inaudible). Okay.

12 MS. HARRIS: Okay. Can you see it now?

13 MEMBER REITZEL: IT is working on it. Just a
14 moment.

15 MS. HARRIS: Okay. Great. Sure.

16 MEMBER REITZEL: Okay. We can see it.

17 MS. HARRIS: Okay. Great.
18 Was it this one?

19 MEMBER REITZEL: It was earlier. You said
20 something about them being equal in mileage or -- I
21 think it was this one.

22 Sorry. We --

23 MS. HARRIS: I may have --

24 MEMBER REITZEL: -- our screens -- our screens
25 here in the --

1 MS. HARRIS: Oh.

2 MEMBER REITZEL: -- convention center are to
3 the sides of us so --

4 MS. HARRIS: Oh, sure.

5 MEMBER REITZEL: (Unintelligible and/or
6 inaudible).

7 MS. HARRIS: Sure.

8 MEMBER REITZEL: It had to do with mileage.

9 MR. BAAKE: I'm wondering, there was a
10 statement about costs being -- that would be basically
11 cost -- there would be equal costs by 2026.

12 Is that --

13 MEMBER REITZEL: Maybe -- yeah. Maybe that's
14 what I heard and I just missed --

15 MS. HARRIS: Oh. Yes. That -- I -- yes. So
16 my point there was that, yes, while the upfront costs of
17 electric vehicles may be higher currently due to
18 following -- falling battery prices, there are some
19 estimates that the upfront purchase costs will actually
20 reach price parity by around 2026, 2027.

21 MEMBER REITZEL: Who are those studies by, or
22 can you share those with us?

23 MS. HARRIS: Yes. I don't have the resources
24 right in front of me, but I'm happy to follow up right
25 after this with those links to that analysis.

1 MEMBER REITZEL: Okay. Thank you. I
2 appreciate it.

3 MR. BAAKE: Some of that may also be in our --
4 in the record. We may be able to point to our exhibits.
5 But we'll certainly check.

6 MEMBER REITZEL: Thank you.

7 HEARING OFFICER ORTH: Thank you.

8 Member Calman on the platform, do you have
9 questions of Ms. Harris?

10 MEMBER CALMAN: I don't have questions right
11 now. Thank you.

12 HEARING OFFICER ORTH: Thank you.

13 Madam Chair, Chair Suina?

14 CHAIR SUINA: Thank you, Madam Hearing
15 Officer.

16 Can you hear me okay?

17 HEARING OFFICER ORTH: Yes.

18 CHAIR SUINA: Okay. Great.

19 Thank you, Ms. Harris, for your presentation.

20 And I know it sounds like you listened in
21 yesterday for a little bit and this morning in our
22 conversation and discussions. And since you presented
23 us some data, national data from other states that
24 passed the California rule, and you had mentioned an
25 aspect about rural -- or rural states, some rural states

1 versus some more urban-based states.

2 How does -- if you guys have data or
3 information about how those states after passing the
4 rule have -- have -- you know, for how these ZEVs, or
5 ZEVs, have increased in terms of selling in those
6 states, and also looking at the rural states?

7 I'm pretty familiar with some of those states,
8 and I know their electrical grid sometimes is, you know,
9 at the end of the grid, and, you know, similar concerns
10 we have in rural New Mexico here, also how maybe
11 electrical companies have -- have either also installed
12 charging stations in those areas, and if there's been
13 kind of a collateral movement, migration to having that
14 infrastructure built up.

15 MS. HARRIS: Yeah. Great questions.

16 So your first point, I don't have any data
17 specifically on -- right -- right in front of me on
18 how -- how vehicle sales have increased in -- in those
19 other states. But as -- you know, as we've seen at
20 least through the example of the Hyundai IONIQ, it's at
21 least clear that, you know, the vehicles are being
22 delivered there. So the -- my speculation would be that
23 that's an indication that the sales are increasing. But
24 I don't have the specific percentage numbers in front of
25 you -- or in front of me.

1 To your question on the utility grid, you
2 know, I think that -- as we heard from PNM this morning,
3 I think that this is a question that utilities around
4 the country are really grappling with and trying to
5 figure out the best ways to integrate electric vehicles
6 into these systems.

7 So I know that, you know, the -- Virginia, for
8 example, they just wrapped up a major stakeholder
9 process to talk about, you know, clean transportation
10 plan and integrating electric vehicles into -- into the
11 electric grid, which was a robust stakeholder process,
12 including conversations with utilities and environmental
13 organizations, as well.

14 So this is something that I think a lot of
15 utilities are starting to think about, and as we heard
16 from PNM this morning, it's something that New Mexico is
17 also starting to grapple with. So the utilities
18 involvement in this -- this space is going to be very
19 key, in my opinion, and so I'm glad to hear that there's
20 continued conversations with the utilities and
21 engagement on how to properly not only integrate the
22 vehicles into the electric grid, but help to maximize
23 the potential benefits of (unintelligible and/or
24 inaudible).

25 CHAIR SUINA: Thank you, Ms. Harris.

1 Madam Hearing Officer, I think those are all
2 the questions I have for now. I may have some after the
3 fellow Board Members have asked theirs. Thanks.

4 HEARING OFFICER ORTH: Thank you.
5 Vice-Chair Trujillo Davis.

6 VICE-CHAIR TRUJILLO DAVIS: Thank you. I
7 don't have any questions at this time.

8 HEARING OFFICER ORTH: Member Garcia.

9 MEMBER GARCIA: No questions. Thank you.

10 HEARING OFFICER ORTH: Thank you.

11 Member Bitzer.

12 MEMBER BITZER: A very thorough presentation,
13 great graphics.

14 I have no questions. Thank you.

15 HEARING OFFICER ORTH: All right. Thank you.

16 Member Honker.

17 He may have stepped away.

18 If you are a member of the public and have a
19 question of Ms. Harris, please put it in the chat.

20 Please put it in the chat.

21 Let me just double-check if there are any
22 other Board questions.

23 No?

24 Oh, Member Richards.

25 MEMBER RICHARDS: I was wondering since

1 Ms. Harris is on the -- on the podium here, I'm curious.
2 We had representatives from the auto industry, and they
3 had talked about the capital outlay required to prepare
4 for the -- this rule in particular. And I'm just
5 wondering if you can comment on that and how -- how
6 other states have defrayed those costs if they have
7 defrayed those costs.

8 MS. HARRIS: Sure. Well, you know, with this
9 regulation there is the two-year lead time which allows
10 for not only dealers to prepare for the regulation, but
11 also for the manufacturers to allow them to ensure that
12 the infrastructure is in place to help to support the
13 regulation.

14 And I think that this also plays to -- into
15 the question of infrastructure development. You know,
16 we're anticipating within the next couple of years,
17 within that two-year lead time, a huge amount of
18 infrastructure development to come into New Mexico and
19 across the country. And so I think that with the
20 two-year lead time that we're anticipating with these
21 regulations, you know, in other states I believe that
22 that has been a sufficient amount of time to get the
23 dealerships up -- up to speed on the necessary upgrades
24 that will be needed.

25 But, you know, obviously, I think that

1 increasing converse -- having conversations with the
2 needs of dealers is going to be important, but I think
3 with the two-year lead time that will be important --
4 you know, an important time frame to be able to ensure
5 that everything is in place.

6 MEMBER RICHARDS: Thank you.

7 HEARING OFFICER ORTH: All right. Any other
8 Board questions?

9 No?

10 Any questions?

11 I see none in the chat.

12 Mr. Baake, any follow-up?

13 MR. BAAKE: Yes, Madam Hearing Officer. Just
14 a couple of very quick things.

15 Let me see if I can share my screen here.

16 FURTHER DIRECT EXAMINATION

17 BY MR. BAAKE:

18 Q. I wanted to -- the Chair to -- go back to
19 Chair Suina's question here. Really -- really this is
20 more of a comment than a question, but I can certainly
21 phrase it as a question for the witness.

22 So I just wanted to point out that it does
23 appear that all these states have some really
24 motivational programs. So I was able to find some data
25 from Vermont. Their zero emission program has some

1 information about the -- the plug-in hybrid and battery
2 electric sales they've seen as a result of their
3 program.

4 So I guess to put that in the form of a
5 question, Ms. Harris, would this be the type of
6 endorsement you would consider to be reliable to show
7 that at least Vermont does appear to be having an EV
8 effect?

9 A. I'm no longer able to see your screen, but
10 based -- I did see it for a second, and based on my
11 quick view of it, it appears that it was from the
12 Vermont Department of Environment, which, yes, I would
13 consider to be a reliable source on the number of
14 electric vehicle sales increasing in the state.

15 Q. Great.

16 And we can provide that link to the Board, as
17 well. I just kind of want to, you know, point
18 Ms. Harris in the right direction. So I think it's a
19 real interesting question to see, you know, where states
20 are going.

21 I think that's all I have on redirect.

22 HEARING OFFICER ORTH: All right. Thank you,
23 Mr. Baake and Ms. Harris.

24 Any reason not to excuse Ms. Harris?

25 No?

1 All right. Thank you very much, Ms. Harris,
2 for your testimony.

3 MS. HARRIS: Thank you very much, Hearing
4 Officer and the Boards.

5 HEARING OFFICER ORTH: Mr. Baake, would this
6 be a good time to offer your exhibits?

7 MR. BAAKE: It would indeed, Madam Hearing
8 Officer.

9 So we would move for admission of -- it's
10 Exhibits -- which are -- we have 17 of them, and --
11 yeah. We move for admission of them.

12 HEARING OFFICER ORTH: All right.

13 Did counsel stipulate to this, or shall I ask
14 for objections?

15 MR. KNIGHT: I believe we did so stipulate.

16 HEARING OFFICER ORTH: All right.

17 MS. SONA: That's correct.

18 HEARING OFFICER ORTH: All right. Thank you.

19 Clean Air Advocates Exhibits 1 through 17 are
20 admitted.

21 (Exhibits CAA 1 through 17 admitted into
22 evidence.)

23 HEARING OFFICER ORTH: Mr. Baake, is there
24 anything further from Clean Air Advocates?

25 MR. BAAKE: You know, I think we had a couple

1 sort of procedural --

2 Charlie, are you -- are you there?

3 HEARING OFFICER ORTH: Do you mean Karla
4 Soloria?

5 MR. BAAKE: No.

6 HEARING OFFICER ORTH: Oh, Charlie.

7 MR. BAAKE: Charlie de Saillan.

8 HEARING OFFICER ORTH: Sorry. Sorry.

9 Mr. de Saillan, I see you on the screen.

10 MR. DE SAILLAN: Thank you, Madam Hearing
11 Officer.

12 And good afternoon, Madam -- I'm sorry --
13 Chair Suina and Madam Chair Meiklejohn and Members of
14 the Board.

15 This is a minor thing that I want to mention
16 here right now.

17 Yesterday Tammy Fiebelkorn gave comment, and
18 she -- she mentioned that she is a City Councilor for
19 the City of Albuquerque. She is also a representative
20 of one of the parties. She's a New Mexico
21 representative of the Southwest Energy Efficiency
22 Project, which is one of the organizations that makes up
23 the Clean Air Advocates.

24 And I want to emphasize that this -- that
25 there's no conflict of interest here at all, but we just

1 thought it was -- would be a good idea in the interest
2 of open government just to point that out, to make sure
3 it's noted that she is in that position.

4 Thank you. I think that's all I have.

5 I want -- might want to mention, though, this
6 is a somewhat different topic, that there are a number
7 of things that our witnesses cited as references in
8 their -- in their written testimony, and I want to be
9 careful that the -- that the Board -- and Board counsel
10 may want to chime in here -- but they're limited to
11 reviewing things that are part of the record, and so if
12 there's anything that is cited but is not an exhibit
13 that you'd like to review, if you could let us know,
14 we'll submit it formally without objection, and that way
15 it is part of the record.

16 Thank you. That's all I wanted to say.

17 HEARING OFFICER ORTH: Thank you,
18 Mr. de Saillan.

19 Anything further, Mr. Baake?

20 MR. BAAKE: Madam Hearing Officer, I think we
21 did want to reserve -- I think the Department and the
22 City may be sort of making a statement about public
23 comment we heard this morning. We would like to chime
24 in on that, as well, as sort of the difference between
25 noticed technical testimony and public comment and, you

1 know, briefly hear on that and when the -- when you
2 decide to address that.

3 Other than that, we are -- we are done.

4 HEARING OFFICER ORTH: All right. Thank you
5 very much.

6 Let me go back just a moment to the one
7 o'clock public comment session. As I was turning to
8 Ms. Harris and Mr. Baake, I did have someone reaching
9 out through chat, Lillian Castillo.

10 Ms. Castillo, if you're still on the platform,
11 I have -- you should see a pop-up box asking you to
12 unmute.

13 Do you see that?

14 MS. CASTILLO: Hi.

15 Can you hear me?

16 HEARING OFFICER ORTH: Oh, yes, I can.

17 If you would, please, do you swear or affirm
18 to tell the truth?

19 MS. CASTILLO: I do.

20 HEARING OFFICER ORTH: Thank you.

21 And if you would spell your name and then
22 begin your statement. And you have five minutes.

23 MS. CASTILLO: Great. Thank you.

24 My name is Liliana Castillo, that's spelled
25 L-I-L-I-A-N-A C-A-S-T-I-L-L-O.

1 LILIANA CASTILLO

2 having been first duly sworn or affirmed, gave
3 public comment as follows:

4 PUBLIC COMMENT

5 MS. CASTILLO: And I am the deputy director at
6 CAVU, which stands for Climate Advocates Voces Unidas.
7 We inspire locally-led solutions for the climate problem
8 through community engagement and visual storytelling.

9 And we stand in support of the clean car
10 rules, and we urge your adoption as soon as possible.
11 The clean car rules will open new doors to cleaner air
12 and health -- healthier communities in New Mexico by
13 reducing dirty vehicle pollution and addressing climate
14 change. We applaud the Governor and Mayor Keller for
15 continuing to move New Mexico forward for this rising
16 and resilient climate and economy for all of our
17 communities.

18 There are real challenges that have been
19 raised, you know, over the course of this public
20 hearing, and I think that it's really important from our
21 perspective for us to look forward and long-term, and
22 electric vehicles are a path forward, and it is really
23 important for us to address those challenges head-on and
24 make vehicles that don't harm our climate and our health
25 a real choice for all New Mexicans.

1 Thank you.

2 HEARING OFFICER ORTH: Thank you very much,
3 Ms. Castillo.

4 I've had no one else reach out. So our public
5 comment is finished.

6 We have finished with the technical case that
7 we saw in the three notices of intent to present
8 technical testimony.

9 At this point, any of the parties may offer
10 rebuttal if they would choose to do that.

11 Mr. Knight, I'll start with you.

12 MR. KNIGHT: Thank you, Madam Hearing Officer
13 and Madam Chairs, Members of the Board.

14 I would like to begin, if I may, by just
15 saying that while I definitely respect and even welcome
16 the rights of the auto dealers to make a public comment,
17 in this case I feel like I need to enter an objection to
18 the content of the comment this morning because it -- it
19 ventured into the territory of technical testimony that
20 under our procedural rules needed to be filed in a
21 notice of intent, deadline for which was April 14th. By
22 choosing not to file that notice of intent, they
23 forfeited their right to submit technical testimony for
24 this hearing.

25 And I think it's important to note that the

1 public comment that was given is not testimony, it is
2 comment, and I would urge that it be given only the
3 weight of public comment in the deliberations in this
4 matter.

5 And I think that's all I need to say on that.

6 And I would like to call our witness, Claudia
7 Borchert, to the witness table for brief rebuttal.

8 HEARING OFFICER ORTH: Okay. Thank you.

9 Ms. Borchert, you're still under oath.

10 CLAUDIA BORCHERT

11 having been previously duly sworn or affirmed, was
12 examined and testified in rebuttal as follows:

13 DIRECT EXAMINATION

14 BY MR. KNIGHT:

15 Q. Ms. Borchert, you are -- my understanding is
16 you are still under oath, and so I don't think there's
17 any need to be sworn again, and with that, I just have
18 about just a few brief questions for you.

19 A. I'm ready.

20 Q. Okay.

21 The rule we are proposing, if it -- if it is
22 adopted, that rule would not require individual
23 consumers to purchase any particular vehicle or type of
24 vehicle; is that correct?

25 A. Yes. That is correct.

1 Q. And the rule would also not restrict any
2 individual's ability to purchase any type of vehicle
3 that they wanted provided that vehicle complied with the
4 California emissions standards or was a so-called
5 50-state vehicle; is that correct?

6 A. Yes, that is correct.

7 Q. And the 7 to 9 percent EV delivery requirement
8 is a statewide requirement and only applies to auto
9 manufacturers and not to individual dealerships.

10 Would you say that is correct?

11 A. Yes. That requirement falls on the
12 manufacturers.

13 Q. So because of that, a manufacturer could send
14 a completely different mix of cars to a dealer, say, in
15 the southeast or northwest corner of the state than they
16 would send to a dealer in, say, Santa Fe or Albuquerque,
17 as long as they meet the statewide total; is that
18 accurate?

19 A. Yes. The requirement is the statewide total
20 on the manufacturer.

21 Q. So -- and the rule would not require an
22 individual dealer to either stock or to sell any minimum
23 percentage or minimum number of electric vehicles; is
24 that correct?

25 A. Yes, that is correct.

1 Q. Now, the clean cars rule doesn't do anything
2 to either reduce or limit the availability of hybrids;
3 is that right?

4 A. Yes. That is correct, also.

5 Q. You heard the public commenter earlier
6 today -- I think he said words to the effect that
7 hybrids were the perfect solution or the perfect car for
8 someone in the Four Corners region.

9 Do hybrids count towards the ZEV credit
10 requirement in the rule?

11 A. As long as they are plug-in hybrids, yes, they
12 do.

13 Q. Okay.

14 And you had communications with Steven Douglas
15 from the Alliance for Automotive Innovation, the person
16 Mr. Ortiz said that he was relying on for information.

17 And did you hear Mr. Douglas say yesterday in
18 his public comment that he and his organization fully
19 support the rule being proposed?

20 A. Yes. I believe Steve Douglas said that he --
21 he and his organization don't support a mandate per se,
22 but they did feel like the rules we have proposed
23 reflect the language well of ACC, and they feel like the
24 rules were what reflected that language.

25 Q. How many times did the -- did he or you or

1 someone from the Department meet with representatives of
2 the auto dealers before this hearing?

3 A. I went back and looked at my calendar, and we
4 had eight meetings with Ken Ortiz, and then of those
5 eight another five included Steve Douglas, and two or
6 three of them included representatives from the auto
7 dealers themselves. We made two specific presentations
8 to the auto dealers.

9 Q. And did they request changes to the language
10 of the rule during some of those meetings?

11 A. Yes. They did. I went back, and in
12 Exhibit 17 are some of the changes they requested.

13 Q. And did we make changes to the rule based on
14 the discussions with them?

15 A. Yes. We did change to clarify the definition
16 of a new vehicle to make sure it included model year
17 2026. They also wanted to make sure that we clarified
18 who could sell vehicles in the state, and so we changed
19 the language in our rule to refer to the New Mexico
20 franchise act, which is the part of the New Mexico law
21 that deals with -- with auto dealers.

22 MR. KNIGHT: That's all the questions I have
23 for the witness, and she's available for questions from
24 other parties or the Boards at this time.

25 HEARING OFFICER ORTH: Thank you, Mr. Knight

1 and Ms. Borchert.

2 Ms. Sona, do you have questions of

3 Ms. Borchert?

4 MS. SONA: I do not have any questions.

5 And I might briefly just say that on behalf of
6 EHD we concur with the objection that Mr. Knight made
7 earlier.

8 HEARING OFFICER ORTH: Okay. Thank you.

9 Mr. Baake, do you have questions of
10 Ms. Borchert?

11 CROSS-EXAMINATION

12 BY MR. BAAKE:

13 Q. I -- I'll ask one question, which is my --
14 from all of these hearings, it sounded to me that
15 everyone who made a comment and all the parties have had
16 the opportunity to consult with the Department and you,
17 Claudia, before the hearing.

18 Do you feel that is accurate?

19 A. Mr. Baake, could -- I just didn't quite hear
20 you for part of it. Could you just repeat it, please?

21 Q. Oh, yes.

22 Do you agree with the statement that every
23 public commenter who opposed the rule also stated that
24 they had had the opportunity to consult with you before
25 the rulemaking?

1 A. Yes, Mr. Baake. I mean, my name and number
2 and e-mail is on the web page, and through all of the
3 outreach that we did, we had an open door policy, and
4 anybody who wanted to consult with us, and who did reach
5 out to us, was given an opportunity and multiple
6 opportunities to meet with us.

7 Q. And that public outreach process lasted almost
8 a year, didn't it?

9 A. Yes, Mr. Baake, it did.

10 Q. Well, I -- on behalf of our stakeholder group,
11 we'd just like to say we really appreciate what we have
12 seen is an extraordinarily open process. So thank you
13 very much for that.

14 The other thing I'd like to say is we agree
15 and would also join the objection that was raised by the
16 Department. You know, I think it's really valuable, and
17 we certainly feel that public comment is extremely
18 valuable to this process, and hearing people's
19 perspectives is very important.

20 At the same time, to the extent folks are
21 going to present technical evidence, you know, we do
22 think it's also very important that that be granted the
23 proper weight, and certainly anything that the Board
24 feels like it wants to consider that was kind of outside
25 what was in the notices of intent we would request the

1 opportunity to further -- opportunity to respond to
2 that.

3 But we think the proper response is just to
4 limit it to what's in the record as well as the views
5 that were expressed.

6 So I think that's all that we have.

7 HEARING OFFICER ORTH: Okay. Thank you.

8 Members of the public, while I am turning to
9 the Board -- Boards for their questions, if you have a
10 question, please put it in the chat.

11 I'll turn to the state Board first this time.

12 EXAMINATION

13 BY THE BOARDS:

14 HEARING OFFICER ORTH: Chair Suina, do you
15 have a question of Ms. Borchert?

16 CHAIR SUINA: Yes, Madam Hearing Officer.

17 Thank you again, Ms. Borchert, for coming back
18 on the hot seat here.

19 And I appreciate your response and it sounds
20 like taking in or refining some individual information
21 regarding the conversation this morning.

22 So I was just wondering if there was any other
23 group or entity or individuals that you -- you worked
24 with over the development of the rule before we got to
25 this hearing process that also had objections, and if

1 so -- or comments. If so, would you identify those
2 and -- if you recall and some of their comments or their
3 concerns.

4 Thank you.

5 MS. BORCHERT: One moment, please. I'm going
6 to get my written testimony where I outlined the various
7 parts.

8 CHAIR SUINA: While Ms. Borchert is doing
9 that, I want to apologize. I think I got two frogs in
10 my throat. So I apologize if you can't hear me well.

11 MS. BORCHERT: All right. Hearing Officer,
12 Chair Suina, on page 6 of Exhibit 13, which is my
13 written testimony, I mentioned the kinds of changes we
14 made.

15 And so the first one is what I already talked
16 about with the New Mexico Auto Dealers Association.

17 Then we met -- I think previously it also come
18 up the fact that we added the exception for farm
19 equipment in response to comments that we got from the
20 New Mexico Farm and Livestock Bureau.

21 I know that there was also a reporting
22 requirement that the Clean Air Advocates -- some of the
23 Clean Air Advocates and also Sierra Club in particular
24 wanted to see made to clarify some of what the -- what
25 the compliance reporting requirement was.

1 I have to think about who else we talked to.

2 That's what comes to mind to me right now.

3 CHAIR SUINA: Thank you, Ms. Borchert. I just
4 wanted to get it on our public verbal record here.

5 And also just to ask for all of those parties
6 that you interacted -- I know Clean Air Advocates is one
7 of the petitioners or parties represented today. Was
8 that also discussed in the outreach about the potential
9 to become, you know, a party as part of these rule
10 proceedings? Do you recall?

11 MS. BORCHERT: Madam Hearing Officer and Chair
12 Suina, yes. And -- and I also remember explicitly
13 getting questions from both David Baake with Clean Air
14 Advocates, as well as Ken Ortiz with the New Mexico
15 Dealers Association, asking how the rulemaking process
16 works, and where I provided the deadline that -- I told
17 them about the process, what the deadlines were.

18 In addition, our web site had a very clear
19 layout of the different deadlines and the different ways
20 that people can participate, the distinction between
21 technical testimony and public comments. And also, our
22 notice also clearly laid out those different deadlines
23 and the different ways in which people can participate
24 in the rulemaking process.

25 CHAIR SUINA: Thank you for that,

1 Ms. Borchert.

2 Those are all the questions I have.

3 HEARING OFFICER ORTH: Thank you.

4 Vice-Chair Trujillo Davis.

5 VICE-CHAIR TRUJILLO DAVIS: I don't have any
6 questions at this point.

7 HEARING OFFICER ORTH: Member Garcia.

8 MEMBER GARCIA: No questions. Thank you very
9 much.

10 HEARING OFFICER ORTH: Thank you.

11 Member Bitzer?

12 MEMBER BITZER: I have no questions. Thank
13 you.

14 HEARING OFFICER ORTH: And I think we may have
15 lost Member Honker.

16 Member Honker, if you're on?

17 All right. Chair Meiklejohn.

18 CHAIR MEIKLEJOHN: No questions at this time.

19 Oh, sorry.

20 No questions at this time. Thank you.

21 HEARING OFFICER ORTH: All right.

22 Vice-Chair Paul.

23 VICE-CHAIR PAUL: No further questions from
24 me.

25 HEARING OFFICER ORTH: Member Richards.

1 MEMBER RICHARDS: I just had one question.
2 There was mention by Ms. Wong about
3 California's efforts to reach out to EJ communities, and
4 I was wondering if -- I can't recall. I know you had a
5 list of people that you -- or groups that you reached
6 out to, but I can't recall whether that was incorporated
7 in your outreach, and if so, what the response was.

8 MS. BORCHERT: Madam Hearing Officer, Madam
9 Chair and Member Richards, we -- we included outreach
10 to -- we followed a process that we do -- we follow at
11 NMED.

12 First we do EJScreen, using the EPA tool to
13 identify about the -- the language proficiency of the
14 public that we're reaching. And in that we found that
15 4 percent of the populations in New Mexico have limited
16 English proficiency. So that drove our decision to
17 advertise the notice and to put out materials in English
18 and Spanish. So that was part of our outreach.

19 The other part is that we worked -- we worked
20 with tribal governments, you know, as part of our notice
21 for this -- for the hearing. We sent 23 individualized
22 letters to each of the tribal government leaders. That
23 happened in March. And then back in -- I think it was
24 more like in October, we sent a letter to all of the
25 tribal environmental directors, letting them know about

1 this hearing.

2 And then two other occasions we -- we --
3 partly at the urging of Vice-Chair Paul, we reached out
4 to NRAC. And you're probably going to have to tell me
5 what NRAC stands for.

6 VICE-CHAIR PAUL: IRAC. Almost.

7 MS. BORCHERT: IRAC. Okay. IRAC.

8 VICE-CHAIR PAUL: The Intertribal Resource
9 Advisory Committee, which is made up of environmental
10 professionals at tribes in New Mexico, most pueblos.

11 MS. BORCHERT: So we presented to IRAC, let
12 them know about the ruling.

13 We also worked with Center for Civic Policy.
14 We worked -- you know, Joseph Hernandez, who gave
15 comment yesterday, he's part of our technical advisory
16 group. So I have spoken to him.

17 So, you know, because of the pandemic we
18 weren't going into communities, but I have used all
19 resources I know of in terms of networks of people who
20 are active. We worked with Somos, we worked with Voices
21 for Children, we worked with -- I can't think of --
22 anyway, at least letting them know of the rulemaking and
23 encouraging them to let their memberships know.

24 MEMBER RICHARDS: Great. Thank you for that.

25 The other question I had was -- let me look it

1 up here. Oh. It sounds like California -- and I know
2 they're -- they have more funds than New Mexico, of
3 course, but it sounds like they have a pretty extensive
4 incentive program whereby the Clean Cars for All I
5 thought was really interesting, because it recognized
6 some of the inaccuracies that might occur with this
7 rule.

8 Is NMED considering anything like that?

9 MS. BORCHERT: Madam Hearing Officer, Madam
10 Chair and Madam Richards, we have not thought about
11 that. I know that we have in general thought about
12 market mechanisms. Anna Wong also mentioned what they
13 call cap and trade, which is oftentimes called cap and
14 invest. The value of a cap and invest program, which is
15 what California has had in place for, you know, 15-ish
16 years, is that it is a huge source of money that can be
17 re-invested based on, you know, what that state feels
18 like is important.

19 It's important to mention that is part of the
20 funding source for the Clean Cars for All program.

21 So to be -- we in New Mexico have been
22 thinking about a cap and invest program partly so that
23 we can fund any number of programs that we think will be
24 able to address inequities.

25 That's -- that's all I've got for you on that.

1 MEMBER RICHARDS: Thank you very much.

2 HEARING OFFICER ORTH: Member Reitzel?

3 MEMBER REITZEL: Yes. I just have a brief
4 follow-up question to Member Richards' question, and
5 that was did you receive much response from the tribal
6 communities or any of the other EJ communities when you
7 reached out to them?

8 MS. BORCHERT: Let's see. We had some
9 conversations with San Ildefonso Pueblo where there's
10 a -- you know, it kind of speaks to what you guys have
11 been asking me, which is there is a lot of interest in
12 figuring out how does one convert, you know, their own
13 fleet, for example, to cleaner cars, or how can I
14 install an EV charging station in my community so that
15 both my community members and potentially tourists can
16 stop while they are driving around.

17 And since that's not exactly the purview of
18 our clean car rule, we were not able to give them a lot
19 of -- it was outside the scope of what we're -- of these
20 rules. We certainly continue to stay open to talking to
21 them, and as money becomes available and as we recognize
22 a place of intersection, that's where we will continue
23 to work with them on that.

24 MEMBER REITZEL: So there wasn't any
25 opposition from those communities, though, in terms of

1 looking at this rule, that you were made aware of.

2 MS. BORCHERT: No. I was not aware of any
3 opposition from all the interaction I had with any of
4 these groups. Yes. You know -- yes.

5 MEMBER REITZEL: And I guess -- I thought that
6 I heard you the other -- yesterday -- not the other day,
7 yesterday -- say that you reached out to the land
8 grants; is that correct?

9 MS. BORCHERT: Yeah. We sent an e-mail to
10 land grants notifying them of the rule.

11 MEMBER REITZEL: So did you send them to each
12 land grant or just to the -- is it the Consejo or --

13 MS. BORCHERT: To the Land Grant Council.
14 Yes.

15 MEMBER REITZEL: Okay.
16 So just to the council?

17 MS. BORCHERT: Yes.

18 MEMBER REITZEL: Okay. Thank you.
19 And those are my only questions.

20 HEARING OFFICER ORTH: Thank you.

21 Member Calman on the platform, do you have
22 questions of Ms. Borchert?

23 MEMBER CALMAN: No questions. Thank you.

24 HEARING OFFICER ORTH: All right. Thank you.
25 Anything further from the Board?

1 No?

2 Or the parties?

3 No.

4 Mr. Knight, no follow-up?

5 MR. KNIGHT: Madam Hearing Officer, no
6 follow-up.

7 HEARING OFFICER ORTH: Thank you.

8 Thank you very much, Ms. Borchert.

9 Will there be anything further from NMED,
10 Mr. Knight?

11 MR. KNIGHT: Madam Hearing Officer -- Madam
12 Hearing Officer, I would like to make a short closing
13 statement at the appropriate time.

14 HEARING OFFICER ORTH: Okay.

15 Ms. Sona, any more evidence?

16 MS. SONA: No more evidence. Thank you.

17 HEARING OFFICER ORTH: All right.

18 And, Mr. Baake, any more evidence to present?

19 MR. BAAKE: No, Madam Hearing Officer.

20 HEARING OFFICER ORTH: All right. Thank you.

21 And I haven't had anyone else reach out for
22 public comment.

23 We could turn to closing statements. I'm not
24 sure, though, if the Boards would like to have my
25 opinion about the objection. Obviously, it came in from

1 the dealership panel.

2 I saw some nodding heads. I'm happy to tell
3 you how I would have ruled, for example, if it was a
4 question of letting it in or not.

5 I think looking at certainly the EIB rules,
6 which are very close to the City Board rules when it
7 comes to distinguishing technical testimony from public
8 comment, the definition of technical testimony will be
9 focused on the EIB rule here is -- I know I had it. It
10 was scientific, economic or specialized testimony. Here
11 we go. Scientific, engineering, economic or other
12 specialized testimony must be noticed up, you know, 20
13 days before the hearing.

14 I don't believe it was scientific, engineering
15 or even economic really. And I tend to think of the
16 distinction between technical testimony and public
17 comment as the distinction between testimony that relies
18 upon expertise in particularly a scientific field and
19 testimony that is more factual in nature and is not
20 opinions offered based on expertise, education,
21 experience.

22 My impression of what the dealership panel was
23 offering was that it was -- it was factual rather than
24 based on some area of scientific expertise. Now, it was
25 obviously based on their experience in auto sales.

1 That's not a scientific field. The word "specialized"
2 is not defined, and you may decide that it was
3 specialized.

4 Having said that, their urging of you to not
5 adopt the rule is a policy position they're allowed to
6 take. They're allowed to say that to you without having
7 filed an NOI. Certainly if they were proposing language
8 changes to the rule, they definitely do not meet that
9 deadline. So if they were proposing a change in the
10 definition of new, for example, at this point that
11 wouldn't even be something I don't think your counsel
12 would say you could consider. But a simple exhortation
13 not to adopt the rule they're allowed to present during
14 public comment.

15 So I personally don't feel that it was
16 technical testimony, at least the way I've construed it
17 over the years, meaning I would have just urged you to
18 take it at face value. They certainly acknowledged that
19 they misunderstood the relationship between the New
20 Mexico rule and California rule. Take that at face
21 value, as well, and give it the weight it's due.

22 That would have been my recommendation if
23 things had happened in a way that I would have had to
24 have ruled on the objection to either let them continue
25 speaking or not. So -- but I imagine you will have your

1 questions of your own counsel during deliberations.

2 Okay. Closing statements, then.

3 We'll start with you, Mr. Knight, and we'll go
4 to the other petitioner and then Mr. Baake.

5 Mr. Knight.

6 MR. KNIGHT: Thank you, Madam Hearing Officer.

7 I would just like to begin by thanking both
8 Boards for your active engagement and attention during
9 this long hearing and your insightful questions.

10 And I would also like to thank the Board
11 administrators, Pam Jones and Stephanie Apodaca, who are
12 extremely some of the hardest working government
13 employees that I've ever met, not just in this hearing,
14 but in every other one, as well.

15 I would also like to thank the court reporter,
16 both today and yesterday, for their -- their dedication,
17 and I -- that's a hard job, and especially yesterday, I
18 think, and so --

19 With that, I'd also like to thank my team here
20 and the city for hosting us. They are extremely
21 gracious hosts, and Tess and also the staff here at the
22 convention center have been very helpful to us.

23 With that, I just want to say a few words to
24 the Boards that I hope will be helpful in your
25 deliberations.

1 In most cases, the Boards have a certain
2 amount of discretion, and the Boards certainly have the
3 authority and the ability to modify or amend rules as
4 they are proposed and as they feel the evidence warrants
5 and supports. They can make changes to the text of
6 rules during the course of their deliberation and
7 adoption.

8 That being said, in this particular case, the
9 legal framework of the Clean Air Act Section 177 and its
10 interaction with our state statutes lead to a situation
11 where if the Boards were to change, let's say, an
12 emissions standard for a particular pollutant to make it
13 more stringent, or if they were to change the time frame
14 during which the rule became effective, or if they were
15 to attempt to couple this rule to what may or may not
16 happen with future rulemakings in the State of
17 California, any attempt to modify our proposal in this
18 particular case runs a grave and substantial risk of
19 resulting in a rule that would be invalid, and, you
20 know, we would have to go back to square one
21 potentially.

22 And so while the Boards -- while again I
23 certainly respect the Boards' authority to make changes
24 to rules in almost any other case, I strongly urge that
25 you limit yourselves to basically an up or down vote on

1 the rule as we've proposed it here. And again that's
2 not something I -- those of you who know me from other
3 rulemakings know that I wouldn't normally say anything
4 like that to a Board, but that is my -- my request to
5 the Boards in this particular instance.

6 And we -- again we thank you for your time and
7 attention on this.

8 HEARING OFFICER ORTH: Thank you, Mr. Knight.
9 Ms. Sona?

10 MS. SONA: Thank you.

11 Madam Hearing Officer, Board Chair and Members
12 of the Board, thank you very much for your attention to
13 all of this and handling a very unique history-making
14 event we've had with this rulemaking being a hybrid,
15 being back as a joint rulemaking.

16 I will add my thanks of everyone else. I
17 won't list them in the interest of time. But the
18 city -- we definitely appreciate everyone that's gone
19 into this rulemaking.

20 I'd like to echo the statements made by
21 Mr. Knight on behalf of the Department with the
22 uniqueness of this rule. It's been a very choreographed
23 dance, if you will, that the city has worked very
24 closely with the state to ensure we can get the
25 statewide program operational and in compliance with the

1 many layers of law that are at issue here.

2 And then for the local Board, I'd just like to
3 restate that you have a two-step decision here to first
4 decide to repeal the existing law that's on the books
5 that's no longer enforceable and then to replace it with
6 new proposed Part 104.

7 Thank you very much.

8 HEARING OFFICER ORTH: Thank you, Ms. Sona.

9 Mr. Baake?

10 MR. BAAKE: Thank you, Madam Hearing Officer.

11 Thank you to all of the members of both
12 Boards, the translators, court reporter, and Madam
13 Hearing Officer, everyone who participated in this very
14 important rulemaking. We really appreciate the hard
15 work, the very thoughtful questions from the Board,
16 thoughtful testimony from all the witnesses.

17 The -- I think one thing that we've come away
18 from this hearing is that the electric vehicle
19 revolution is well underway. It's -- we're not going
20 back. We heard testimony that the automobile industry's
21 investing tens of billions of dollars on electric
22 vehicle technology. Ford alone is investing 22 billion,
23 with a B, by 2025 to accelerate the transition. And
24 Volvo is committed to only selling electric vehicles by
25 2030.

1 We also heard throughout this rulemaking that
2 there is huge and growing public demand. And we heard
3 comments from many individuals in our community who
4 already have an electric vehicle or a plug-in hybrid or
5 want to purchase one. And it's all -- it's really hard
6 to find anyone who owns an electric vehicle who doesn't
7 love it. People save money. They reduce their personal
8 contribution to the climate crisis. They reduce their
9 contribution to increased air pollution.

10 As a personal note, I love my new electric
11 vehicle, and I have driven from Las Cruces all the way
12 to Arches National Park -- that's entirely in the State
13 of New Mexico -- in my Nissan Leaf. So it's really
14 something that's happening, and there's a lot of
15 upsides.

16 But the question really isn't whether we have
17 a transition. It's whether we in New Mexico are on the
18 cutting edge or whether we get left behind.

19 We already heard stories about people who were
20 flying out of state to purchase an electric vehicle and
21 driving it back here. But with this rule we could flip
22 that, and we could have people coming across the border
23 from Arizona and from Texas and other states to buy an
24 electric vehicle here.

25 We could start seeing the benefits of a used

1 electric vehicle market here sooner, where a low- or
2 moderate-income family can buy a \$12,000 electric
3 vehicle, and instead of paying \$4 a gallon for gas, they
4 go to paying -- I think there was testimony -- it's
5 effectively equivalent to a dollar a gallon for the
6 price of electricity.

7 And, you know, we will also -- if we're on the
8 cutting edge, we will also see those air quality
9 benefits and climate benefits sooner. I know that this
10 is something that has to be stressed. This is a real
11 urgent issue that affects our entire state.

12 Down here in the South and in Dona Ana County
13 we have our federally designated ozone nonattainment
14 area, and emissions from cars and trucks are one of the
15 most substantial contributors. Albuquerque also has
16 growing air quality problems, and, of course, climate
17 crisis is affecting us more and more each day.

18 So I would urge the Board to not -- not leave
19 New Mexico behind. Let's not be one of the last states
20 to see the benefits of these electric vehicles. Let's
21 be on the cutting edge. And certainly there's a lot --
22 lot to be done to make sure that this benefits our
23 entire state and particularly our low-income,
24 environmental justice communities. I think that's a
25 high, high priority, something that the legislature can

1 focus on.

2 But even -- but just this rule itself, I
3 think, will have a lot of benefits in terms of
4 driving -- you know, creating a used market for vehicles
5 and that don't require \$4 a gallon of gas. Actually
6 decreasing the demand for oil will also probably make it
7 a little cheaper for those who still have a
8 gasoline-powered engine.

9 And of course, the benefits for our
10 low-income, minority communities that live near
11 highways, that breathe polluted air is something that is
12 incredibly important, and this is a really big
13 opportunity to join a lot of other states that have
14 already done this and be on the forefront of a really
15 important transition.

16 Again thank you, everyone, for your time.
17 Really appreciate it. This is a really important issue,
18 and I really wish -- again wanted to thank everyone for
19 their really thoughtful contributions, really hard work
20 that's gone into this hearing today.

21 Thank you very much.

22 HEARING OFFICER ORTH: Thank you, Mr. Baake.

23 If there's nothing further from the parties,
24 we will close the evidentiary record.

25 I believe we've been going more than an

1 hour-and-a-half, and so I'm thinking perhaps a short
2 break would be good before the deliberations.

3 All right. Let's reconvene at 3:30 then.

4 Thank you, all.

5 (Proceedings in recess from 3:16 p.m. to
6 3:35 p.m.)

7 HEARING OFFICER ORTH: All right. I'm going
8 to hit record.

9 Chair Suina. We're ready.

10 CHAIR SUINA: Thank you, Madam Hearing
11 Officer.

12 Can you hear me? Can everybody hear me okay?

13 All right.

14 HEARING OFFICER ORTH: Yes.

15 CHAIR SUINA: Thank you so much.

16 And again thank you to everybody that
17 participated in the hearing.

18 And so as we enter the phase of deliberations,
19 I just want to start that off by just also acknowledging
20 I know that some different perspectives got brought up
21 today, and I appreciate the clarification from our legal
22 counsel and counsels for the Department and the parties
23 regarding the testimony versus public comment and so
24 forth, and I think that's really important to note and
25 understand as we enter the deliberations.

1 With that, I want to open it up to my -- the
2 Board, and I know we had a recommendation by NMED's
3 counsel about how we can proceed on -- on reviewing and
4 deliberating on these proposed rules by the Department.
5 So I just want to open it up to our Board Members and
6 see if anybody has some initial comments or thoughts, we
7 can -- we can proceed and kick it off there.

8 Go ahead and there in the -- physically there,
9 if you can raise your hand.

10 Yes, Member Bitzer.

11 MEMBER BITZER: So are we going to vote to
12 repeal first? Is that the order of consideration?

13 CHAIR SUINA: Thank you, Member Bitzer, for
14 that question.

15 And I'll look to our legal counsel,
16 Ms. Soloria, for clarification on that.

17 MS. SOLORIA: Member Bitzer, this is Karla
18 Soloria.

19 Member Bitzer, this is Karla Soloria.

20 No. In contrast to the city Board, there's no
21 agency rule to repeal at this time. So that's not a
22 procedural step that we need to concern ourselves with.

23 CHAIR SUINA: Thank you, Member Bitzer, for
24 that question and that clarification from legal counsel.

25 With that, I don't know if anybody has any --

1 yes, Vice-Chair Trujillo Davis.

2 VICE-CHAIR TRUJILLO DAVIS: Thank you, Chair
3 Suina.

4 I guess I'll kick off our deliberations here,
5 but my thoughts from watching the information that was
6 presented over the last couple of days is that we have
7 seen overwhelming support for this rule as it is written
8 right now.

9 And all -- I do appreciate the dealerships'
10 public statements this morning. And I do always support
11 hearing an opposing view to make sure having a balanced
12 outlook on things. But in this case I really do feel
13 that they should have applied to be a petitioner for
14 this hearing.

15 So at this point, I -- I just really feel that
16 we should support the rule as it's written.

17 And I would also like to make a note to NMED
18 that, you know, we have heard a lot of talk and
19 discussion about lithium battery recycling, and as the
20 agency that really oversees hazardous waste disposal and
21 things like that, I would love to see New Mexico at the
22 forefront of this issue.

23 And we've talked a lot about New Mexico being
24 on the cutting edge of these regulations and kind
25 of that realm of things. So I'd really like to see NMED

1 making progress on the lithium battery recycling portion
2 of that. And that's kind of outside of our scope issue,
3 but just a note that I wanted to make in the
4 deliberations.

5 CHAIR SUINA: Thank you, Vice-Chair Trujillo
6 Davis. Appreciate your comments.

7 Fellow Board Members?

8 Yes, Member Garcia.

9 MEMBER GARCIA: Thank you, Madam Chair.

10 And I would also like to thank the city for
11 hosting us and providing food, et cetera. It's very
12 nice of you, and we very much appreciate it.

13 I also want to acknowledge all the hard work
14 that went into the development of this rulemaking. And
15 I understand it's been a year-and-a-half, two years in
16 the making, and I know that the Department goes through
17 a lot of outreach and, as they said in their testimony,
18 spent time trying to gather information, understand what
19 all the stakeholders' concerns were and address those
20 concerns, and, in fact, made some compromises associated
21 with those concerns.

22 So I think the rule as it's drafted is
23 appropriate for New Mexico. I think that in light of,
24 as was stated, the transportation sector is the
25 largest -- second largest contributor of greenhouse gas

1 emissions, I think it's high time New Mexico do
2 something about that to the degree that we can.

3 And since we have a rule that California
4 already has in place, and we can get on that train, as
5 was said earlier, I think that it is appropriate for New
6 Mexico to adopt this rule as written.

7 Thank you.

8 CHAIR SUINA: Thank you, Member Garcia.
9 Appreciate your comments.

10 And with that, I know that we have -- looks
11 like Member Bitzer. I don't know.

12 Member Bitzer, do you have any comments to
13 share?

14 MEMBER BITZER: Yes. Chair Suina, I'd be
15 interested in hearing your perspective as someone who
16 represents the most rural part of the state.

17 I mean, I live in a metro, I've always pretty
18 much lived in a metro area, and I see the real divide
19 between rural imperatives, getting around, using your
20 vehicle as a source of warmth perhaps if you're stuck in
21 a snowdrift or something somewhere, versus the urban,
22 you're never more than 20 or 30 minutes from your
23 destination, and if you broke down or ran out of
24 electricity, you'd call someone, you know, to come pick
25 you up. Not necessarily true about -- in the -- in the

1 rural parts of the state.

2 So I'm just curious what your take is at this
3 point.

4 CHAIR SUINA: Thank you for that, Member
5 Bitzer. And I appreciate the opportunity to respond.

6 Yeah. I think for me one of the -- what's
7 coming up throughout the hearing and throughout the
8 discussion is also the education and outreach component,
9 that I think for me personally one of my hesitations
10 was -- is that, you know, I live or go out to rural
11 communities, whether in Southern New Mexico or up in
12 Cochiti Pueblo area, and kind of off the beaten path,
13 and how as the technology has evolved over time, you
14 know, again through education maybe 10 years ago that
15 would have been a big concern.

16 But through some of the materials that were
17 provided by the parties in this hearing, I've been
18 educated, and I've learned a lot in terms of the --
19 where the technology is now.

20 And so I think for rural New Mexico, just like
21 myself, through this process and I think through other
22 ways of outreach and educating and messaging and stating
23 a clear, concise guidance and message to, you know, my
24 fellow community members might have -- I guess, might
25 increase the -- the interest in EV, electronic vehicles,

1 and ZEVs.

2 And knowing that the infrastructure even as it
3 exists today could possibly still -- I guess, my
4 community members that -- you know, from Cochiti or some
5 of the rural communities can still purchase them, and it
6 would be easy to plug in. And as I think was mentioned
7 in one of the -- one of the comments earlier, you don't
8 need a specialized plug-in to, I guess, charge up your
9 vehicle, but I thought that we -- you know, before all
10 this hearing, I thought that was something that was a
11 necessity.

12 I do also want to say there is one community
13 member of Cochiti that does have an electronic vehicle,
14 and I have often wanted to ask her how she -- how it
15 works for her. And I just haven't had the opportunity
16 to do so.

17 And so I think maybe just to go a little bit
18 further, Member Bitzer, is through this hearing I do see
19 the need to move in that direction as -- as a country,
20 as a globe -- global population to try to create more
21 sustainable ways of, you know, a living, basically, you
22 know. I know -- you know, I come from a pueblo
23 background, and we really, you know, think about our
24 future generations and the decisions that we make today.
25 And whether big or small those decisions are, everyday

1 decisions versus big milestone decisions, it's really
2 thinking about those future generations that will
3 inherit what -- what we leave them, you know, as we pass
4 on.

5 So with that, I mean, I do support a movement
6 toward clean air rules and regulations.

7 And I hope I answered your question, Member
8 Bitzer.

9 Thank you, Member Bitzer.

10 With that, fellow Board Members, I think it
11 sounds like we have a -- yes, Member Garcia.

12 MEMBER GARCIA: Thank you, Madam Chair.

13 I just want to add a couple more comments
14 regarding some of the things that were said by the
15 Automobile Association, that we should just let the
16 market forces take care of everything and we'll get
17 there eventually.

18 I do think that this rule is certainly
19 economically feasible. It's clearly technically
20 practicable and also in the public interest. And I
21 think sometimes the market needs a little push in the
22 right direction, and I think this rule will provide
23 that.

24 Thank you.

25 CHAIR SUINA: Thank you, Member Garcia.

1 Yes, Member Bitzer.

2 MEMBER BITZER: I should probably also weigh
3 in on the health side of things as somebody who has
4 always struggled to breathe.

5 So I -- I very much appreciate the science
6 that we got yesterday from our professor down at UNM. I
7 was very impressed with his presentation. He gave a lot
8 of data fast, which is how I like to receive it, like a
9 big download. So it was -- it was very enlightening in
10 my mind. I've always known that diesel wasn't harmless
11 back before, even back when I was a kid, like, oh, yeah,
12 the stuff's harmless, that you see it, but it's not
13 hurting you.

14 It turns out that's not true at all. And the
15 more we learn about all the stuff that comes out of
16 gasoline tailpipes, the more I think we should do
17 everything we can that's practical, without dislocating
18 people economically, unduly, to get ourselves cleaner
19 air. Urban, rural, rich and poor, everybody deserves to
20 breathe.

21 So anyway, I'll be supporting it.

22 CHAIR SUINA: Thank you, Member Bitzer.

23 And with that, if I may, fellow Board Members,
24 I wanted to add a little bit to what Member Garcia
25 mentioned.

1 I think in all rules and regulations and, you
2 know, when -- well, all aspects have to -- it's
3 important for all aspects to be considered. And so I
4 appreciate Member Garcia's comment about the economics
5 of it and the industry part, and I think it came up in
6 discussion to -- you know, the need to see if it does --
7 if it is feasible, and it -- from the discussion it does
8 seem to be feasible.

9 And so I just wanted to add that, as well, in
10 our deliberations as we move. Thank you.

11 And with that, fellow Board Members -- yes,
12 Member -- Vice-Chair Trujillo Davis.

13 VICE-CHAIR TRUJILLO DAVIS: And I'm going to
14 go ahead and hop on that same train as Member Suina --
15 or Chair Suina and Member Garcia.

16 You know, I do always give extra consideration
17 to overburdening a small business in rural New Mexico
18 with regulations, like I like to think a little further
19 on the impact to them.

20 But in the case -- in this case, in a lot of
21 the statements made by the automotive group, there seem
22 to be room for opportunity in -- in this particular
23 situation. And I don't want to -- I don't want it to be
24 thought of that we didn't consider what they were saying
25 in the sense that they were making a public statement

1 about the impact to them.

2 But I also heard a lot of opportunity in -- in
3 meeting the requirements of this rule, providing job
4 opportunities for -- for some of their employees, maybe
5 even collaborating with other dealerships to -- to get
6 vehicles sold if need be. It just -- it seemed like
7 there were -- there were more discussions to be had in
8 that particular situation.

9 So just to kind of sum up my thoughts on that.

10 CHAIR SUINA: Thank you, Vice-Chair Trujillo
11 Davis. Appreciate your comment.

12 With that, just a sense I was feeling from my
13 fellow Board Members, it seems like we're in consensus
14 here, and I'm just looking to see if any one of the
15 Board had a motion.

16 Yes, Member Garcia.

17 MEMBER GARCIA: Yes. If we're ready for a
18 motion, I would move that we -- that we adopt 20.2.91,
19 or Part 91, as proposed by the Environment Department
20 and as supported by the record and the evidence that was
21 given in the last two days.

22 MEMBER BITZER: I would second that.

23 CHAIR SUINA: Thank you, Member Garcia.

24 Thank you, Member Bitzer, for your second.

25 I just want to double-check with Ms. Soloria

1 that that is good?

2 MS. SOLORIA: I'm not sure, but I'm giving you
3 a thumbs up, Chair Suina, if you can -- I'm not sure you
4 can see it, but I approve.

5 CHAIR SUINA: Okay. Thank you, Ms. Soloria.

6 With that, looking at no further discussion, I
7 don't know if Ms. Jones is in the room, or how we do the
8 roll call vote.

9 MS. JONES: I'm here, Chair Suina. And --

10 CHAIR SUINA: Oh, thank goodness, Ms. Jones.

11 MS. JONES: I wouldn't miss it.

12 Okay. So roll call vote. I will go through
13 the Members of the Board.

14 Member Bitzer, how do you vote?

15 MEMBER BITZER: I vote yes.

16 MS. JONES: Member Cates?

17 I believe Member Cates is absent.

18 Member Duval?

19 Member Duval is absent.

20 Member Garcia?

21 MEMBER GARCIA: Yes.

22 MS. JONES: Member Honker?

23 Member Honker is absent.

24 Vice-Chair Trujillo Davis?

25 VICE-CHAIR TRUJILLO DAVIS: Yes.

1 MS. JONES: Chair Suina?

2 CHAIR SUINA: Yes.

3 MS. JONES: Madam Chair, the motion passes.

4 CHAIR SUINA: Thank you, Ms. Jones, for your
5 roll call vote call.

6 With that, is that all we need?

7 I'm looking to Ms. Soloria and Madam Hearing
8 Officer.

9 MS. SOLORIA: If we want to be very tidy about
10 things, the Board can make a motion to direct the
11 Department to file the rules making any minor
12 nonsubstantive corrections in spelling, grammar and
13 format.

14 CHAIR SUINA: Thank you, Ms. Soloria, for
15 reminding me of that.

16 And so I look to the Board Members for a
17 motion.

18 MEMBER BITZER: I'll adopt that as my motion.

19 CHAIR SUINA: Thank you, Member Bitzer.

20 VICE-CHAIR TRUJILLO DAVIS: I'll second that.

21 CHAIR SUINA: Thank you, Vice-Chair Trujillo
22 Davis.

23 And if there's no further discussions,
24 Ms. Jones, would you mind doing another roll call vote.

25 MS. JONES: Yes, I will.

1 And to be clear, shall I call the absent names
2 again?

3 CHAIR SUINA: I don't think that's necessary.

4 MS. JONES: Okay. I didn't think so, but I
5 just wanted to clarify that.

6 Member Bitzer, how do you vote?

7 MEMBER BITZER: I vote yes.

8 MS. JONES: And Member Garcia?

9 MEMBER GARCIA: Yes.

10 MS. JONES: Vice-Chair Trujillo Davis?

11 VICE-CHAIR TRUJILLO DAVIS: Yes.

12 MS. JONES: Chair Suina?

13 CHAIR SUINA: Yes.

14 MS. JONES: The motion passes.

15 CHAIR SUINA: Thank you so much.

16 And with that, I'm looking to Ms. Soloria and
17 Ms. Orth -- or Madam Hearing Officer Orth.

18 MS. SOLORIA: That's -- nothing further from
19 me, Madam Chair.

20 CHAIR SUINA: Thank you, Ms. Soloria.

21 And Madam Hearing Officer?

22 HEARING OFFICER ORTH: Oh, no. Thank you,
23 Madam Chair. That was terrific, and I have nothing
24 further.

25 I think now we will turn the floor to the city

1 Board and specifically to Chair Meiklejohn.

2 CHAIR SUINA: Thank you, all.

3 CHAIR MEIKLEJOHN: Thank you very much, Madam
4 Hearing Officer.

5 I think the first order of business on our
6 side is to repeal the existing rule, 20.11.104 NMAC, the
7 emission standards for new motor vehicles that was
8 previously passed.

9 And I'm wondering if any of my members will
10 adopt the motion.

11 MEMBER RICHARDS: Yes. I'd like to make a
12 motion to repeal the existing rule 20.11.104 NMAC,
13 emission standards for New Mexico vehicles.

14 MEMBER REITZEL: I'll second that motion. Oh.
15 This is Member Reitzel, and I'll second that
16 motion.

17 CHAIR MEIKLEJOHN: Excellent. I'll go ahead
18 and move to roll call vote.

19 Vice-Chair Paul?

20 VICE-CHAIR PAUL: I vote yes.

21 CHAIR MEIKLEJOHN: Member Richards?

22 MEMBER RICHARDS: Yes.

23 CHAIR MEIKLEJOHN: Member Reitzel?

24 MEMBER REITZEL: Yes.

25 CHAIR MEIKLEJOHN: And Member Calman?

1 MEMBER CALMAN: Yes.

2 CHAIR MEIKLEJOHN: Excellent. Thank you very
3 much. It passes unanimously.

4 I would next like to move on to the
5 deliberations of the rule that we are currently present
6 for consideration today. I'll open the floor to my
7 members to begin the discussion with regards to the
8 rule.

9 VICE-CHAIR PAUL: Madam Chair, if I may.

10 CHAIR MEIKLEJOHN: Please.

11 VICE-CHAIR PAUL: I'll just make a brief
12 comment that I would urge other members to vote yes for
13 this rule. Protects the public health, works on
14 climate. I think that the case has been made pretty
15 clearly in technical testimony, and I think public
16 comments have been addressed simply.

17 So I'm in favor of this rule, and I'll let
18 other people state their case.

19 CHAIR MEIKLEJOHN: Thank you, Vice-Chair.

20 MEMBER RICHARDS: This is Member Richards.

21 And I just want to first appreciate the work
22 that the NMED and the City of Albuquerque did in
23 preparing for this hearing, and also thank you for
24 dinner last night.

25 And also to Stephanie. Stephanie, you're

1 great, and we really appreciate you.

2 I just wanted to ask -- or basically a note
3 also to the City of Albuquerque EHD to really also
4 address the lithium battery recycle, as well as the
5 other piece, is looking at avenues or mechanisms to be
6 able to ensure that low-income households have access to
7 cars, so perhaps reviewing the Clean Cars for All that's
8 occurring in California, and any kind of mechanism to
9 try and fund something like that, given some of the
10 constraints that we face.

11 I just wanted to also say yes, I absolutely am
12 in favor of passing the New Mexico vehicle emissions
13 standards as updated in 20.11.104 NMAC.

14 MEMBER REITZEL: Madam Chair, I just have a
15 couple of brief comments, as well. Thank you.

16 I guess first I would -- I do want to
17 acknowledge that extended public comment that we
18 received and kind of put the auto dealers group on the
19 spot, and I -- for me I think it's important to remember
20 that as the city and county Board we're looking at what
21 we need just in this area, not across the whole state.

22 And what we heard from our auto dealers was
23 that here in the metro area and in Bernalillo County
24 they have the capacity to really move forward with the 7
25 to 9 percent that we're going to require.

1 And it also makes a big difference to me that
2 we're not adopting what is done -- what California might
3 do in the future. It's really about the 7 to 9 percent
4 right now. And from my -- my own personal perspective
5 is, you know, hopefully the market just catches up with
6 it and we don't need to kind of make these rules or
7 mandates, and this really propels us forward, and this
8 is as far as we have to go before the market is just
9 mostly electric or hybrid or whatever is appropriate for
10 our state and into the future.

11 So I do just want to acknowledge what we heard
12 today are our constituents here, our auto dealers, it
13 sounds like they can really accomplish what is being
14 done, and maybe even do more than that, and they have a
15 lot of opportunity in front of them moving forward with
16 this rule.

17 So I am in support of it, and I do -- I
18 would -- just on the record, I guess, I just would
19 encourage groups with opposition to consider going --
20 going on the record or, you know, being a party to these
21 types of rulemakings, because it is kind of difficult to
22 consider, well, they weren't supposed to provide
23 technical testimony, and I don't think they did, but if
24 they really wanted to provide us with -- if they don't
25 agree with our understanding that they can move forward

1 and prosper with this rule, then they probably should
2 have provided technical testimony and given us some
3 numbers that we could bite into and really grasp onto
4 for their opposition to the rule.

5 Because at this point I don't think that
6 they've given us any -- any sign that we should oppose
7 it on their behalf or any information that we can -- or
8 evidence that we can -- we can base opposition on.

9 So for me, I'm in favor of it because from our
10 constituents we didn't really have opposition except for
11 from the livestock bureau, and they, too, could have
12 been a party to the rulemaking, and I don't think that
13 they really gave us something that we could consider for
14 the Albuquerque metro area or Bernalillo County.

15 CHAIR MEIKLEJOHN: Member Calman, is there
16 anything that you want to add?

17 MEMBER REITZEL: Madam Chair, before you move
18 on -- no. I'm sorry. I forgot.

19 I do want to make a disclosure. I know we
20 heard from PNM earlier today. I do quite a bit of legal
21 work for PNM, but I've never worked on this case for
22 them or something, you know, related to it, and I just
23 wanted to be fully transparent that while I agree with
24 this rule, it's not because of their testimony, and I
25 don't take that into consideration at all.

1 CHAIR MEIKLEJOHN: Excellent. Thank you so
2 much. Very good.

3 Member Calman. Is she --

4 MEMBER CALMAN: Thank you, Madam Chair.

5 I am home juggling a couple of very cute
6 babies, so I'm going to be very brief and just echo the
7 thanks for all the hard work and note that I also am in
8 favor of this rule.

9 Thank you.

10 CHAIR MEIKLEJOHN: Wonderful.

11 Well, I guess to wrap up in conclusion, as
12 very new Chair of this Board, I would just like to
13 remind everyone that our mandate is to prevent and abate
14 air pollution in the interest of the public health and
15 the welfare of the environment.

16 And the overwhelming evidence that we've seen
17 is that it is incumbent upon all of us to take action
18 immediately to begin to ameliorate some of the very
19 harmful health impacts that people are suffering on
20 account of internal combustion engines, and that we no
21 longer have the benefit of an indeterminate amount of
22 time with which to make these actions.

23 And so -- and although in support of this, and
24 I very much thank the EIB, it's been very nice to get a
25 chance to get to know you guys and work with you, and

1 again to thank everyone who has put in countless hours
2 to pull together the critical information that we need
3 to be able to really make a meaningful and well
4 deliberated decision. So thank you, all, very much.

5 So I think we'll go ahead and open the floor.
6 I'm going to ask if anyone would like to adopt a motion
7 to pass this rule.

8 VICE-CHAIR PAUL: Madam Chair, I would move to
9 adopt 20.11.104 NMAC, New Motor Vehicle Emission
10 Standards, as presented by EHD and NMED, but
11 specifically EHD.

12 CHAIR MEIKLEJOHN: Thank you, Member Paul.
13 Do I have a second?

14 MEMBER CALMAN: This is Member Calman.
15 I'll second.

16 CHAIR MEIKLEJOHN: Thank you.
17 Then I will put it to a roll call vote,
18 starting with Vice-Chair Paul.

19 VICE-CHAIR PAUL: Yes.

20 CHAIR MEIKLEJOHN: And Member Richards.

21 MEMBER RICHARDS: Yes.

22 CHAIR MEIKLEJOHN: And Member Reitzel.

23 MEMBER REITZEL: Yes.

24 CHAIR MEIKLEJOHN: Member Calman.

25 MEMBER CALMAN: Yes.

1 CHAIR MEIKLEJOHN: And I also vote yes.

2 The motion passes unanimously, and we vote to
3 adopt the proposed rule 20.11.104 NMAC, the New Motor
4 Vehicle Emission Standards.

5 Madam Hearing Officer?

6 HEARING OFFICER ORTH: Cool.

7 CHAIR MEIKLEJOHN: Did I forget something?

8 MS. SEDILLO LOPEZ: Madam Chair, if you could
9 just direct the Department to present a draft order for
10 your signature.

11 CHAIR MEIKLEJOHN: Would you guys kindly --
12 excuse me. Would the EHD and their counsel please
13 present me with a draft order that I can sign.

14 MS. SONA: Yes. We would be happy to do that.

15 CHAIR MEIKLEJOHN: Thank you.

16 HEARING OFFICER ORTH: Thank you.

17 Thank you very much, Chair Meiklejohn.

18 Thank you to everyone on the platform.

19 And is there anything further?

20 Ms. Sona?

21 MS. SONA: We also have to present the rule to
22 the state rules commission, and if you'd like to direct
23 us to do that, as well.

24 CHAIR MEIKLEJOHN: EHD and counsel for EHD,
25 please remind me what I was supposed to say. I was

1 momentarily distracted.

2 MS. SONA: To prepare and file the approved
3 rule with the state rules commission.

4 CHAIR MEIKLEJOHN: Okay. Would you please
5 prepare and file the rule for the state rules
6 commission. Thank you.

7 MS. SONA: Yes. We will be happy to.

8 HEARING OFFICER ORTH: If there is nothing
9 further, we'll thank everyone for their participation,
10 and we'll adjourn the hearing altogether.

11 Thank you, all.

12 (Proceedings adjourned at 4:06 p.m.)

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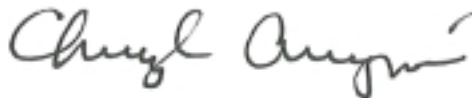
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1 STATE OF NEW MEXICO)
2) ss.
3 COUNTY OF BERNALILLO)
4
5

6 I, CHERYL ARREGUIN, the officer before whom the
7 foregoing proceeding was taken, do hereby certify that
8 the witnesses whose testimony appears in the foregoing
9 transcript were duly sworn or affirmed; that I
10 personally recorded the testimony by machine shorthand;
11 that said transcript is a true record of the testimony
12 given by said witnesses; that I am neither attorney nor
13 counsel for, nor related to or employed by any of the
14 parties to the action in which this proceeding is taken,
15 and that I am not a relative or employee of any attorney
16 or counsel employed by the parties hereto or financially
17 interested in the action.

18 

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