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NMAC

Transmittal Form



Volume: Issue: Publication date: Number of pages: (ALD Use Only) Sequence No. C

Issuing agency name and address: Agency DFA code:

Contact person's name: Phone number: E-mail address:

Type of rule action: New Amendment Repeal Emergency Renumber (ALD Use) Recent filing date:

Title number: Title name:

Chapter number: Chapter name:

Part number: Part name:

Amendment description (If filing an amendment):

Amendment's NMAC citation (If filing an amendment):

Are there any materials incorporated by reference? Yes No Please list attachments or Internet sites if applicable. Sections of the California Code of Regulations, Title 13 – Motor Vehicles, Division 3 – Air Resources Board, incorporated by reference in 20.2.91 NMAC

If materials are attached, has copyright permission been received? Yes No Public domain

Specific statutory or other authority authorizing rulemaking:
The Environmental Improvement Act, Paragraph (4) of Subsection A of Section 74-1-8 NMSA 1978 and the Air Quality Control Act, Sections 74-2-1 through 74-2-17 NMSA 1978.

Notice date(s): Hearing date(s): Rule adoption date: Rule effective date:

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Concise Explanatory Statement For Rulemaking Adoption:

Findings required for rulemaking adoption:

Findings MUST include:

- Reasons for adopting rule, including any findings otherwise required by law of the agency, and a summary of any independent analysis done by the agency;
- Reasons for any change between the published proposed rule and the final rule; and
- Reasons for not accepting substantive arguments made through public comment.

20.2.91 NMAC adopts certain California automobile emission standards for New Mexico, beginning with model year 2026. The rule will apply to light and medium duty motor vehicles and motor vehicle engines that are delivered for sale, offered for sale, sold, imported, delivered, rented, leased, acquired, received, or registered in the State of New Mexico.

The Clean Car Rule primarily applies to car manufacturers but also includes dealers, rental car agencies, the United States, state or local governments, or other persons. In addition to complying with the low-emission vehicle standards and zero emission vehicle performance requirements contained within the California regulations, manufacturers must comply with the reporting, warranty, labeling, and recall campaign requirements incorporated in the California clean car standards.

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

Under the proposed Clean Car Rule, manufacturers must deliver for sale and a person may register only California-certified vehicles unless they qualify for the exemptions described above. The rule includes provisions for mandatory reporting and enforcement. The manufacturers must submit annual reports to NMED to demonstrate compliance.

In compliance with NMSA 1978, Section 74-2-5.E, Part 91 is at least as stringent as federal laws relating to control of motor vehicle emissions. The Environmental Improvement Board ("Board") considered all facts and circumstances and found that the adoption of Part 91 is in the public interest when considering the social and economic value of the sources of air contaminants and the subjects of the regulation, and is both technically practicable and economically reasonable in the methods it employs to reduce air contaminants from the sources involved. The Board found that Part 91 will be more protective of public health and the environment than current New Mexico emission standards for the vehicles it regulates.

Issuing authority (If delegated, authority letter must be on file with ALD):

Name:

Check if authority has been delegated

Environmental Improvement Board

Title:

Chair

Signature: (BLACK ink only OR Digital Signature)

Date signed:

Phoebe K. Suina
 Digitally signed by Phoebe K. Suina
 Date: 2022.05.17 16:11:51 -06'00'

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TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 91 NEW MOTOR VEHICLE EMISSION STANDARDS

20.2.91.1 ISSUING AGENCY: Environmental Improvement Board.
[20.2.91.1 NMAC - N, 7/1/2022]

20.2.91.2 SCOPE: All manufacturers, dealers, rental car agencies, the United States, state and local governments, or other persons who deliver for sale, offer for sale, sell, import, deliver, purchase, rent, lease, acquire, receive, or register model year 2026 and subsequent model year passenger cars, light-duty trucks, medium-duty passenger vehicles, medium-duty vehicles, or motor vehicle engines.
[20.2.91.2 NMAC - N, 7/1/2022]

20.2.91.3 STATUTORY AUTHORITY: The Environmental Improvement Act, Paragraph (4) of Subsection A of Section 74-1-8 NMSA 1978, and the Air Quality Control Act, Sections 74-2-1 through 74-2-17 NMSA 1978.
[20.2.91.3 NMAC - N, 7/1/2022]

20.2.91.4 DURATION: Permanent.
[20.2.91.4 NMAC - N, 7/1/2022]

20.2.91.5 EFFECTIVE DATE: July 1, 2022, except where a later date is cited at the end of a section.
[20.2.91.5 NMAC - N, 7/1/2022]

20.2.91.6 OBJECTIVE: To adopt and implement the California vehicle emission standards and requirements statewide pursuant to Section 177 of the federal Clean Air Act.
[20.2.91.6 NMAC - N, 7/1/2022]

20.2.91.7 DEFINITIONS: The definitions in the Air Quality Control Act, Section 74-2-2, NMSA 1978 shall apply in 20.2.91 NMAC. If a term is defined in Section 74-2-2 NMSA 1978 and 20.2.91 NMAC, the definition in 20.2.91 NMAC shall apply. The definitions in 20.2.2.7 NMAC shall not apply in 20.2.91 NMAC. When a term in a provision of the California code of regulations (CCR), Title 13, or the California health and safety code (CHSC) incorporated by reference is given a different meaning than the term defined for general purposes in 20.2.91 NMAC, the specific CCR or CHSC section's meaning and application of the term shall control, except that all references in the incorporated sections of the CCR and CHSC to "California" shall, whenever appropriate, mean "New Mexico"; all references in the incorporated sections of the CCR and CHSC to the "California Air Resources Board," "CARB," "state board", or "board" shall, whenever appropriate, mean the environmental improvement board or department, depending on the context; and all references in the incorporated sections of the CCR and CHSC to "Executive Officer" shall, whenever appropriate, mean the secretary; provided, however, the terms in the CCR and CHSC definitions incorporated by reference in 20.2.91.7 NMAC shall not be changed. For registration of a motor vehicle, when a term defined herein is also defined in the Motor Vehicle Code, Articles 1 through 8 of Chapter 66 NMSA 1978, and is given a different meaning than the term defined for general purposes in 20.2.91 NMAC, the Motor Vehicle Code meaning, and application of the term shall control.

A. "Certification" means the same in 20.2.91 NMAC as it is defined in CHSC, Section 39018.
B. "Dealer" means the same in 20.2.91 NMAC as it is defined in Subsection B of Section 57-16-3 NMSA 1978.

C. "Emission standards" means the same in 20.2.91 NMAC as it is defined in CHSC, Section 39027, which New Mexico is authorized to adopt pursuant to 42 U.S.C. § 7507.

D. "Emergency vehicle" means the same in 20.2.91 NMAC as it is defined in CCR, Title 13, Section 1961.3(10).

E. "Environmental improvement board" means the same in 20.2.91 NMAC as it is defined in Subsection A of Section 74-1-3 NMSA 1978.

F. "Greenhouse gas" means the same in 20.2.91 NMAC as it is defined in CCR, Title 13, Section 1961.3(18).

G. "Independent low volume manufacturer" means the same in 20.2.91 NMAC as it is defined in CCR, Title 13, Section 1900(b)(8).

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- H.** “**Intermediate volume manufacturer**” means the same in 20.2.91 NMAC as it is defined in CCR, Title 13, Section 1900(b)(9).
- I.** “**Large volume manufacturer**” means the same in 20.2.91 NMAC as it is defined in CCR, Title 13, Section 1900(b)(10).
- J.** “**Light-duty truck**” means the same in 20.2.91 NMAC as it is defined in CCR, Title 13, Section 1900(b)(11).
- K.** “**Manufacturer**” means the same in 20.2.91 NMAC as it is defined in Subsection J of Section 57-16-3 NMSA 1978, and shall include small, independent low, intermediate, or large volume manufacturers as defined herein.
- L.** “**Medium-duty**” means the same in 20.2.91 NMAC as it is defined in CHSC, Section 39037.5.
- M.** “**Medium-duty passenger vehicle**” means the same in 20.2.91 NMAC as it is defined in CCR, Title 13, Section 1900(b)(12).
- N.** “**Medium-duty vehicle**” means the same in 20.2.91 NMAC as it is defined in CCR, Title 13, Section 1900(b)(13).
- O.** “**Methane**” means the chemical compound containing one atom of carbon and four atoms of hydrogen.
- P.** “**Model year**” means the same in 20.2.91 NMAC as it is defined in CHSC, Section 39038.
- Q.** “**Motor vehicle**” means the same in 20.2.91 NMAC as it is defined in CHSC, Section 39039.
- R.** “**Motor vehicle engine**” means the same in 20.2.91 NMAC as it is defined in CHSC, Section 39042.5.
- S.** “**Non-methane organic gas**” means the same in 20.2.91 NMAC as it is defined in CCR, Title 13, Section 1961.2.
- T.** “**Particulate matter**” means the same in 20.2.91 NMAC as it is defined in CCR, Title 13, Section 1961.2.
- U.** “**Passenger car**” means the same in 20.2.91 NMAC as it is defined in CCR, Title 13, Section 1900(b)(17).
- V.** “**Passenger vehicle**” means the same in 20.2.91 NMAC as it is defined in CHSC, Section 39046.
- W.** “**Recall**” means the same in 20.2.91 NMAC as it is defined in CCR, Title 13, Section 1900(b)(19).
- X.** “**Register**” means to register a motor vehicle with the New Mexico motor vehicle division.
- Y.** “**Sale**” or “**sell**” means the transfer of equitable or legal title to a motor vehicle or motor vehicle engine to the ultimate purchaser.
- Z.** “**Small volume manufacturer**” means the same in 20.2.91 NMAC as it is defined in CCR, Title 13, Section 1900(b)(22).
- AA.** “**Truck**” means the same in 20.2.91 NMAC as it is defined in CHSC, Section 39054.
- BB.** “**Ultimate Purchaser**” means the same in 20.2.91 NMAC as it is defined in CHSC, Section 39055.5.
- CC.** “**Vehicle**” means the same in 20.2.91 NMAC as it is defined in CHSC, Section 39059.
- DD.** “**Zero emission vehicle**” means the same in 20.2.91 NMAC as it is defined in CCR, Title 13, Section 1962.2(a).
- EE.** “**ZEV credit bank**” means a zero-emission vehicle credit bank set up by the California air resources board or the department that records and tracks the generation, verification, transfer, voluntary retirement, use, and invalidation of zero emission vehicle credits.
[20.2.91.7 NMAC - N, 7/1/2022]

20.2.91.8 DOCUMENTS: Documents incorporated and cited in 20.2.91 NMAC may be viewed on the department’s website and at the New Mexico environment department air quality bureau.

[20.2.91.8 NMAC - N, 7/1/2022]

[As of April 2013, the Air Quality Bureau is located at 525 Camino de los Marquez, Suite 1, Santa Fe, New Mexico 87505.]

20.2.91.9 SEVERABILITY: If any provision of 20.2.91 NMAC, or the application of such provision to any person or circumstance, is held invalid, the remainder of 20.2.91 NMAC, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[20.2.91.9 NMAC - N, 7/1/2022]

20.2.91.10 CONSTRUCTION: 20.2.91 NMAC shall be liberally construed to carry out its purpose.

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[20.2.91.10 NMAC - N, 7/1/2022]

20.2.91.11 SAVINGS CLAUSE: Repeal or supersession of prior versions of 20.2.91 NMAC shall not affect any administrative or judicial action initiated under those prior versions.

[20.2.91.11 NMAC - N, 7/1/2022]

20.2.91.12 COMPLIANCE WITH OTHER REGULATIONS: Compliance with 20.2.91 NMAC does not relieve a person from the responsibility to comply with any other applicable federal, state, or local regulations.

[20.2.91.12 NMAC - N, 7/1/2022]

20.2.91.13 LIMITATION OF DEFENSE: The existence of a valid registration or certification under 20.2.91 NMAC shall not constitute a defense to a violation of 20.2.91 NMAC, except the requirement for obtaining a registration or certification.

[20.2.91.13 NMAC - N, 7/1/2022]

20.2.91.14 to 20.2.91.99 [RESERVED]

20.2.91.100 APPLICABILITY:

A. Except as provided in 20.2.91.103 NMAC (Exemptions) and in compliance with the Motor Vehicle Dealers Franchising Act, Subsections 1-16 of Section 57-16-1 NMSA 1978, no manufacturer, dealer, rental car agency, the United States, state or local government, or other person shall deliver for sale, offer for sale, sell, import, deliver, purchase, rent, lease, acquire, receive, or register a model year 2026 or subsequent model year passenger car, light-duty truck, medium-duty passenger vehicle, medium-duty vehicle, or motor vehicle engine unless the motor vehicle or motor vehicle engine has been certified by CARB and received a CARB executive order.

B. In 20.2.91 NMAC, New Mexico is inclusive of the city of Albuquerque and Bernalillo county, which allows for compliance on a statewide basis.

[20.2.91.100 NMAC - N, 7/1/2022]

20.2.91.101 GENERAL REQUIREMENTS:

A. Except as otherwise required, 20.2.91 NMAC shall apply to new motor vehicles, including passenger cars, light-duty trucks, medium-duty passenger vehicles, and medium-duty vehicles, where “new” means a model year 2026 or subsequent motor vehicle with 7,500 miles or fewer on the odometer, and for dealers the mileage at the time of sale is determined by the odometer statement when the dealer acquired the motor vehicle.

B. A manufacturer, dealer, rental car agency, the United States, state or local government, or other person shall not deliver for sale, offer for sale, sell, import, deliver, purchase, rent, lease, acquire, receive, or register passenger cars, light-duty trucks, medium-duty passenger vehicles, medium-duty vehicles, or motor vehicle engines unless such motor vehicle or motor vehicle engine is certified to the California vehicle emission standards, as incorporated by reference pursuant to 20.2.91 NMAC.

C. Each manufacturer shall comply with the motor vehicle emission standards, zero-emission motor vehicle requirements, reporting, warranty, labeling, recall campaign, and other applicable requirements contained in 20.2.91 NMAC.

D. Each manufacturer, dealer, rental car agency, the United States, state and local government, and other person shall comply with the department’s inspection and information requests issued pursuant to 20.2.91.114 NMAC (Inspections and Information Requests).

E. Each person registering a motor vehicle in New Mexico shall comply with the registration requirements in 20.2.91 NMAC.

F. The requirements in 20.2.91 NMAC shall not be applicable if an exemption, as provided in 20.2.91.103 NMAC (Exemptions), applies.

[20.2.91.101 NMAC - N, 7/1/2022]

20.2.91.102 INCORPORATION BY REFERENCE:

A. Sections of the CCR and the CHSC incorporated by reference herein include the regulations as they existed on the effective date in 20.2.91.5 NMAC (Effective Date); incorporated sections of the CCR and the CHSC do not incorporate a later adoption or amendment of the regulation.

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B. Each manufacturer of a passenger car, light-duty truck, medium-duty passenger vehicle, medium-duty vehicle, or motor vehicle engine shall comply with each applicable standard in Title 13 of the CCR as incorporated by reference herein.

C. The CCR sections incorporated by reference include:

- (1) Section 1900: Definitions. As amended, 12/22/2021.
- (2) Section 1956.8: Exhaust Emission Standards and Test Procedures - 1985 and Subsequent Model Heavy Duty Engines and Vehicles, 2021 and Subsequent Zero-Emission Powertrains, and 2022 and Subsequent Model Heavy-Duty Hybrid Powertrains (medium-duty vehicle greenhouse gas emission standards at 1956.8(h) only). As amended, 12/22/2021.
- (3) Section 1961.2: Exhaust Emission Standards and Test Procedures - 2015 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles. As amended, 12/22/2021.
- (4) Section 1961.3: Greenhouse Gas Exhaust Emission Standards and Test Procedures - 2017 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Passenger Vehicles. As amended, 12/12/2018.
- (5) Section 1962.2: Zero-Emission Vehicle Standards for 2018 and Subsequent Model Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles. As amended, 1/1/2016.
- (6) Section 1962.3: Electric Vehicle Charging Requirements. As amended, 8/7/2012.
- (7) Section 1965: Emission Control, Smog Index, and Environmental Performance Labels - 1979 and Subsequent Model Year Vehicles. As amended, 12/22/2021.
- (8) Section 1968.2: Malfunction and Diagnostic System Requirements - 2004 and Subsequent Model-Year Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles and Engines. As amended, 12/22/2021.
- (9) Section 1976: Standards and Test Procedures for Motor Vehicle Fuel Evaporative Emissions. As amended, 10/8/2015.
- (10) Section 1978: Standards and Test Procedures for Vehicle Refueling Emissions. As amended, 10/8/2015.
- (11) Section 2035: Purpose, Applicability, and Definitions. As amended, 12/22/2021.
- (12) Section 2037: Defects Warranty Requirements for 1990 and Subsequent Model Passenger Cars, Light-Duty Trucks, Medium-Duty Vehicles, and Motor Vehicle Engines Used in Such Vehicles. As amended, 4/1/2019.
- (13) Section 2038: Performance Warranty Requirements for 1990 and Subsequent Model Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, and Motor Vehicle Engines Used in Such Vehicles. As amended, 8/7/2012.
- (14) Section 2039: Emission Control System Warranty Statement. As amended, 12/26/1990.
- (15) Section 2040: Vehicle Owner Obligations. As amended, 10/1/2019.
- (16) Section 2041: Mediation; Finding of Warrantable Condition. As amended, 12/26/1990.
- (17) Section 2046: Defective Catalyst. As amended, 2/15/1979.
- (18) Section 2062: Assembly-line Test Procedures - 1998 and Subsequent Model Years. As amended, 8/7/2012.
- (19) Section 2109: New Vehicle Recall Provisions. As amended, 12/30/1983.
- (20) Section 2111: Applicability. As amended, 12/22/2021.
- (21) Section 2112: Definitions. As amended, 12/22/2021.
- (22) Section 2113: Initiation and Approval of Voluntary and Influenced Emission-Related Recalls. As amended, 12/22/2021.
- (23) Section 2114: Voluntary and Influenced Recall Plans. As amended, 12/22/2021.
- (24) Section 2115: Eligibility for Repair. As amended, 12/22/2021.
- (25) Section 2116: Repair Label. As amended, 12/22/2021.
- (26) Section 2117: Proof of Correction Certificate. As amended, 12/22/2021.
- (27) Section 2118: Notification. As amended, 12/22/2021.
- (28) Section 2119: Recordkeeping and Reporting Requirements. As amended, 12/22/2021.
- (29) Section 2120: Other Requirements Not Waived. As amended, 1/26/1995.
- (30) Section 2121: Penalties. As amended, 12/22/2021.
- (31) Section 2122: General Provisions. As amended, 12/8/2010.
- (32) Section 2123: Initiation and Notification of Ordered Emission-Related Recalls. As amended, 12/22/2021.
- (33) Section 2124: Availability of Public Hearing. As amended, 1/26/1995.

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- (34) Section 2125: Ordered Recall Plan. As amended, 12/22/2021.
- (35) Section 2126: Approval and Implementation of Recall Plan. As amended, 12/22/2021.
- (36) Section 2127: Notification of Owners. As amended, 12/22/2021.
- (37) Section 2128: Repair Label. As amended, 12/22/2021.
- (38) Section 2129: Proof of Correction Certificate. As amended, 12/22/2021.
- (39) Section 2130: Capture Rates and Alternative Measures. As amended, 12/22/2021.
- (40) Section 2131: Preliminary Tests. As amended, 12/22/2021.
- (41) Section 2132: Communication with Repair Personnel. As amended, 1/26/1995.
- (42) Section 2133: Recordkeeping and Reporting Requirements. As amended, 12/22/2021.
- (43) Section 2135: Extension of Time. As amended, 1/26/1995.
- (44) Section 2139: Testing. As amended, 12/22/2021.
- (45) Section 2141: General Provisions. As amended, 12/22/2021.
- (46) Section 2142: Alternative Procedures. As amended, 12/22/2021.
- (47) Section 2143: Failure Levels Triggering Recall and Corrective Action. As amended, 12/22/2021.
- (48) Section 2144: Emission Warranty Information Report. As amended, 12/22/2021.
- (49) Section 2145: Field Information Report. As amended, 12/22/2021.
- (50) Section 2146: Emissions Information Report. As amended, 12/22/2021.
- (51) Section 2147: Demonstration of Compliance with Emission Standards. As amended, 12/22/2021.
- (52) Section 2148: Evaluation of Need for Recall. As amended, 12/22/2021.
- (53) Section 2149: Notification and Subsequent Action. As amended, 12/22/2021.
- (54) Section 2235: Requirements. As amended, 10/1/2019.

[20.2.91.102 NMAC - N, 7/1/2022]

20.2.91.103 EXEMPTIONS: The following motor vehicles shall not be subject to 20.2.91 NMAC.

- A.** Military tactical vehicles, which shall mean the same in this section as in CCR, Title 13, Section 1905.
- B.** Motor vehicles sold for registration in a state that is not New Mexico.
- C.** Motor vehicles that have greater than 7,500 miles on the odometer.
- D.** Motor vehicles available for rent to a final destination outside of New Mexico.
- E.** Motor vehicles transferred from one person to another person due to: death, inheritance, devise or bequest; divorce, dissolution, annulment or legal separation; merger or consolidation; bankruptcy; court judgment or decree; or possessory lien, seizure or foreclosure.
- F.** Emergency vehicles when demonstrated to the department's satisfaction that an appropriate vehicle is not otherwise reasonably available.
- G.** A motor vehicle acquired by a resident of New Mexico to replace a motor vehicle registered to such resident that was stolen, damaged, or failed beyond reasonable repair while out of state, provided that such replacement motor vehicle is acquired out of state when the previously owned motor vehicle was stolen, damaged, or failed beyond reasonable repair.
- H.** A motor vehicle with a right-hand drive configuration that is not available in a California-certified model, purchased by a rural route postal carrier and used primarily for work.
- I.** Motor vehicles purchased by a nonresident before establishing residency in New Mexico, regardless of the mileage on the odometer.
- J.** Motor vehicles purchased by a resident of New Mexico while assigned to active government service outside New Mexico.
- K.** Custom and assembled motor vehicles that:
 - (1) are maintained for occasional transportation, exhibitions, club activities, parades, tours, testing of operation, repair, maintenance, and similar uses; and
 - (2) are not used for general daily transportation.
- L.** A vehicle sold for the purpose of being wrecked or dismantled.
- M.** Motor vehicles used exclusively in the conduct of agricultural operations, like implements of husbandry not including a vehicle whose existing design is primarily for the transportation of persons or property on a highway, or road machinery not regularly operated on public streets and highways.

[20.2.91.103 NMAC - N, 7/1/2022]

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20.2.91.104 FLEET AVERAGE NON-METHANE ORGANIC GAS PLUS OXIDES OF NITROGEN EXHAUST EMISSION STANDARDS, REPORTING AND COMPLIANCE:

A. Each manufacturer subject to 20.2.91 NMAC shall comply with fleet average non-methane organic gas plus oxides of nitrogen exhaust emission standards for passenger cars, light-duty trucks, and medium-duty vehicles, and other requirements set forth in CCR, Title 13, Section 1961.2. Compliance shall be based on the motor vehicles subject to 20.2.91.104 NMAC (Fleet Average Non-methane Organic Gas Plus Oxides of Nitrogen Exhaust Emission Standards, Reporting and Compliance) and 20.11.104.104 NMAC (Fleet Average Non-methane Organic Gas Plus Oxides of Nitrogen Exhaust Emission Standards, Reporting and Compliance) that each manufacturer delivers for sale, offers for sale, sells, imports, delivers, or leases in New Mexico, and shall be determined on a statewide basis.

B. Each manufacturer subject to Subsection A of 20.2.91.104 NMAC (Fleet Average Non-methane Organic Gas Plus Oxides of Nitrogen Exhaust Emission Standards, Reporting and Compliance) shall accrue fleet average non-methane organic gas plus oxides of nitrogen exhaust emission standard credits and debits and may use credits in accordance with CCR, Title 13, Section 1961.2. Each manufacturer shall accrue and use debits and credits based on the number of motor vehicles subject to Subsection A of 20.2.91.104 NMAC (Fleet Average Non-methane Organic Gas Plus Oxides of Nitrogen Exhaust Emission Standards, Reporting and Compliance) and Subsection A of 20.11.104.104 NMAC (Fleet Average Non-methane Organic Gas Plus Oxides of Nitrogen Exhaust Emission Standards, Reporting and Compliance). Accounting for the use of debits and credits shall be on a statewide basis.

C. Each manufacturer subject to Subsection A of 20.2.91.104 NMAC (Fleet Average Non-methane Organic Gas Plus Oxides of Nitrogen Exhaust Emission Standards, Reporting and Compliance) shall submit a report by March 1 of each year to the department that includes the statewide fleet average non-methane organic gas plus oxides of nitrogen exhaust emission data for the model year just ended. The report shall be in accordance with the procedures in CCR, Title 13, Section 1961.2 and be in the same format used to report such information to CARB. If a manufacturer elects to report the information required pursuant to Subsection A of 20.2.91.104 NMAC (Fleet Average Non-methane Organic Gas Plus Oxides of Nitrogen Exhaust Emission Standards, Reporting and Compliance) and Subsection A of 20.11.104.104 NMAC (Fleet Average Non-methane Organic Gas Plus Oxides of Nitrogen Exhaust Emission Standards, Reporting and Compliance) using the pooling provision set forth in CCR, Title 13, Section 1961.2, the manufacturer shall report to the department the information for the entire pool as well as for the portion specific to New Mexico.

[20.2.91.104 NMAC - N, 7/1/2022]

20.2.91.105 PARTICULATE MATTER EXHAUST EMISSION STANDARDS, REPORTING AND COMPLIANCE:

Each manufacturer subject to 20.2.91 NMAC shall comply with particulate exhaust emission standards for passenger cars, light-duty trucks, medium-duty passenger vehicles, and medium-duty vehicles, and other requirements set forth in CCR, Title 13, Section 1961.2. Compliance shall be based on the motor vehicles subject to 20.2.91.105 NMAC (Particulate Matter Exhaust Emission Standards, Reporting and Compliance) and 20.11.104.105 NMAC (Particulate Matter Exhaust Emission Standards, Reporting and Compliance) that each manufacturer delivers for sale, offers for sale, sells, imports, delivers, or leases in New Mexico, and shall be determined on a statewide basis.

[20.2.91.105 NMAC - N, 7/1/2022]

20.2.91.106 FLEET AVERAGE GREENHOUSE GAS EXHAUST EMISSION STANDARDS, REPORTING AND COMPLIANCE:

A. Each manufacturer subject to 20.2.91 NMAC shall comply with fleet average greenhouse gas exhaust emission standards for passenger cars, light-duty trucks, and medium-duty passenger vehicles, and other requirements set forth in CCR, Title 13, Section 1961.3. Compliance shall be based on the motor vehicles subject to 20.2.91.106 NMAC (Fleet Average Greenhouse Gas Exhaust Emission Standards, Reporting and Compliance) and 20.11.104.106 NMAC (Fleet Average Greenhouse Gas Exhaust Emission Standards, Reporting and Compliance) that each manufacturer delivers for sale, offers for sale, sells, imports, delivers, or leases in New Mexico, and shall be determined on a statewide basis.

B. Each manufacturer subject to Subsection A of 20.2.91.106 NMAC (Fleet Average Greenhouse Gas Exhaust Emission Standards, Reporting and Compliance) shall accrue fleet average greenhouse gas exhaust emission standard credits and debits and may use credits in accordance with CCR, Title 13, Section 1961.3. Each manufacturer shall accrue and use debits and credits based on the number of motor vehicles subject to Subsection A of 20.2.91.106 NMAC (Fleet Average Greenhouse Gas Exhaust Emission Standards, Reporting and Compliance)

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and Subsection A of 20.11.104.106 NMAC (Fleet Average Greenhouse Gas Exhaust Emission Standards, Reporting and Compliance). Accounting for the use of debits and credits shall be on a statewide basis.

C. Each manufacturer subject to Subsection A of 20.2.91.106 NMAC (Fleet Average Greenhouse Gas Exhaust Emission Standards, Reporting and Compliance) shall submit a report by March 1 of each year to the department that includes the statewide fleet average greenhouse gas exhaust emission standard data for the model year just ended. The report shall include the number of motor vehicles in each test group, delineated by model type certified pursuant to CCR, Title 13, Section 1961.3, be in accordance with the procedures in CCR, Title 13, Section 1961.3, and be in the same format used to report such information to CARB. If a manufacturer reports the information required pursuant to Subsection A of 20.2.91.105 NMAC (Fleet Average Greenhouse Gas Exhaust Emission Standards, Reporting and Compliance) and Subsection A of 20.11.104.106 NMAC (Fleet Average Greenhouse Gas Exhaust Emission Standards, Reporting and Compliance) using option number 2 for the "Calculation of fleet average carbon dioxide value" set forth in CCR, Title 13, Section 1961.3(a)(5)(D), the manufacturer shall report the information for the entire pool as well as for the portion specific to New Mexico. [20.2.91.106 NMAC - N, 7/1/2022]

20.2.91.107 REMEDIATION REPORT:

A. If the department determines that a report submitted by a manufacturer pursuant to 20.2.91.104 NMAC (Fleet Average Non-methane Organic Gas Plus Oxides of Nitrogen Exhaust Emission Standards, Reporting and Compliance) or 20.2.91.106 NMAC (Fleet Average Greenhouse Gas Exhaust Emission Standards, Reporting and Compliance) demonstrates that the manufacturer is not in compliance with the fleet average non-methane organic gas plus oxides of nitrogen exhaust emission standards or the fleet average greenhouse gas exhaust emission standards, respectively, the department shall require the manufacturer to submit a fleet average remediation report to the department.

B. A fleet average remediation report shall be submitted to the department within 60 calendar days after notice from the department.

C. The fleet average remediation report shall, at a minimum:

- (1) describe how the manufacturer intends to equalize any accrued debits;
- (2) identify all motor vehicle models and the percentage of each model delivered for sale, offered for sale, sold, imported, delivered, or leased in New Mexico with their corresponding certification standards for New Mexico and California in relation to total fleet sales in each respective state; and
- (3) describe how the manufacturer intends to achieve compliance with the fleet average non-methane organic gas plus oxides of nitrogen exhaust emission standards or the fleet average greenhouse gas exhaust emission standards, as applicable, in future model years.

[20.2.91.107 NMAC - N, 7/1/2022]

20.2.91.108 ZERO EMISSION VEHICLE CREDIT REQUIREMENT, REPORTING, AND COMPLIANCE:

A. Each manufacturer subject to 20.2.91 NMAC shall deliver for sale, offer for sale, sell, import, deliver, or lease motor vehicles certified as zero emission vehicles in accordance with CCR, Title 13, Section 1962.2(a) in New Mexico.

B. Each manufacturer subject to 20.2.91 NMAC shall comply with the ZEV credit percentage requirement set forth in CCR, Title 13, Section 1962.2(b). Compliance shall be based on the motor vehicles subject to 20.2.91 NMAC and 20.11.104 NMAC that each manufacturer delivers for sale, offers for sale, sells, imports, delivers, or leases in New Mexico, and shall be determined on a statewide basis.

C. Before May 1 of each year, each manufacturer subject to 20.2.91 NMAC shall submit to the department a report detailing the credits generated or credits transferred to or from any manufacturer for each qualifying motor vehicle delivered for sale, offered for sale, sold, imported, delivered, or leased in New Mexico during the previous model year in accordance with CCR, Title 13, Sections 1962.2(c), (d) and (g). ZEV credit accounting shall be on a statewide basis. The report shall be prepared in the same format used to report credit history to CARB. If the manufacturer intends to use credits for future compliance with the ZEV credit percentage requirement at CCR, Title 13, Section 1962.2(b), the manufacturer shall record and certify the transaction in the ZEV credit bank.

D. Each intermediate volume manufacturer and large volume manufacturer shall open an account in the ZEV credit bank and submit information to the department for banking credits generated in New Mexico. Small volume manufacturers and independent low volume manufacturers may open an account in the ZEV credit bank and submit information to the department for banking credits generated in New Mexico but are not required to do so. A

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manufacturer may deposit and earn ZEV credits for each qualifying motor vehicle delivered for sale, offered for sale, sold, imported, delivered, or leased in New Mexico in accordance with 20.2.91.108 NMAC (Zero Emission Vehicle Credit Requirement, Reporting, and Compliance), 20.11.104.108 NMAC (Zero-Emission Vehicle Credit Requirement, Reporting, and Compliance), and CCR, Title 13, Sections 1962.2(c), (d) and (g).

E. A manufacturer that fails to meet the credit obligation for delivery of zero emission motor vehicles in New Mexico in a given model year shall make up the credit deficit by submitting a commensurate amount of ZEV credits to the secretary in accordance with CCR, Title 13, Section 1962.2(g)(7).
[20.2.91.108 NMAC - N, 7/1/2022]

20.2.91.109 ZERO EMISSION VEHICLE EARLY ACTION AND ONETIME CREDITS:

A. A manufacturer may earn early action credits for any model year 2023, 2024, and 2025 motor vehicles that qualify towards the ZEV credit percentage requirement set forth in CCR, Title 13, Section 1962.2(b) that the manufacturer delivers for sale, offers for sale, sells, imports, delivers, or leases in New Mexico on or after July 1, 2022, by reporting the total delivery of such motor vehicles to the department before May 1 of the calendar year subsequent to the end of the model year.

B. For use for compliance beginning with model year 2026, the department shall deposit into the manufacturer's account in the ZEV credit bank any early action credits earned by the manufacturer pursuant to Subsection A of 20.2.91.109 NMAC (Zero Emission Vehicle Early Action and Onetime Credits) and Subsection A of 20.11.104.109 NMAC (Zero-Emission Vehicle Early Action and Onetime Credits). The department shall follow CARB's procedures for reporting, tracking and recording ZEV sales and credits.

C. For use for compliance beginning with model year 2027, once the manufacturer has satisfied all credit obligations for model years 2025 and earlier in California as confirmed by CARB, the department shall deposit into the manufacturer's account in the ZEV credit bank a number of onetime credits equal to the manufacturer's model year 2025 starting California credit balance multiplied by the number of passenger cars and light-duty trucks the manufacturer delivered for sale in New Mexico in model year 2025 and divided by the number of passenger cars and light-duty trucks that the manufacturer produced and delivered for sale in California in model year 2025 as confirmed by CARB :

Manufacturer's MY2027 onetime credit	=	Manufacturer's starting MY2025 California ZEV credit balance	X	$\frac{\text{Manufacturer's MY2025 total New Mexico motor vehicle sales}}{\text{Manufacturer's MY2025 total California motor vehicle sales}}$
<i>where MY means model year</i>				

D. Credits issued pursuant to 20.2.91.109 NMAC (Zero Emission Vehicle Early Action and Onetime Credits) and 20.11.104.109 NMAC (Zero-Emission Vehicle Early Action and Onetime Credits) may only be used in New Mexico for compliance with the ZEV credit percentage requirements subject to the same requirements and limitations on credit use set forth in CCR, Title 13, Section 1962.2.

E. A motor vehicle equivalent credit shall not constitute or convey a property right.
[20.2.91.109 NMAC - N, 7/1/2022]

20.2.91.110 ADDITIONAL REPORTING:

A. Within 30 calendar days of a request from the department, a manufacturer shall submit to the department:

- (1) A copy of the applicable CARB executive order.
- (2) Any documentation the department determines necessary for the effective administration and enforcement of 20.2.91 NMAC, including without limitation certification materials submitted to CARB and documentation regarding the sale of each motor vehicle subject to 20.2.91 NMAC.
- (3) Any emission warranty information reports prepared in accordance with CCR, Title 13, Section 2144.

B. If these records are available electronically, the manufacturer shall submit the records in an electronic format approved by the department.

[20.2.91.110 NMAC - N, 7/1/2022]

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20.2.91.111 WARRANTIES:

A. Each manufacturer of a motor vehicle subject to 20.2.91 NMAC shall warrant to the ultimate purchaser and each subsequent purchaser that the motor vehicle shall comply over its period of warranty coverage with all requirements of CCR, Title 13, Sections 2035 through 2038, 2040, and 2046. Subsection C of 20.2.91.103 NMAC shall not apply to this section.

B. Except as otherwise provided in Subsection B of 20.2.91.111 NMAC (Warranties), each manufacturer subject to 20.2.91 NMAC shall include with each motor vehicle or motor vehicle engine, the emission control systems warranty statement that complies with the requirements of CCR, Title 13, Section 2039, except:

(1) A manufacturer shall modify the emission control systems warranty statement as necessary to inform motor vehicle owners of the applicability of the warranty in New Mexico.

(2) For the purpose of the documents required pursuant to CCR, Title 13, Section 2039(c), a manufacturer is only required to submit such documents upon request of the department.

C. Upon the department's request, a manufacturer of a motor vehicle subject to 20.2.91 NMAC shall submit to the department within 30 calendar days any emission warranty information report submitted to CARB, as required in CCR, Title 13, Section 2144.

[20.2.91.111 NMAC - N, 7/1/2022]

20.2.91.112 LABELS: A manufacturer, dealer, rental car agency, the United States, state or local government, or other persons shall not deliver for sale, offer for sale, sell, import, deliver, purchase, rent, lease, acquire, receive, or register passenger cars, light-duty trucks, medium-duty passenger vehicles, medium-duty vehicles, or motor vehicle engines in New Mexico if emission control labels and environmental performance labels have not been affixed in accordance with CCR, Title 13, Section 1965.

[20.2.91.112 NMAC - N, 7/1/2022]

20.2.91.113 RECALL CAMPAIGNS:

A. Any order issued or enforcement action taken by CARB to correct noncompliance that results in a recall campaign of a motor vehicle pursuant to CCR, Title 13, Sections 2111 through 2135 shall be prima facie evidence concerning noncompliance for a motor vehicle registered in New Mexico. If the manufacturer demonstrates to the department's satisfaction that the order or action is not applicable to a motor vehicle registered in New Mexico, the department shall not pursue a recall campaign of that motor vehicle.

B. If a manufacturer initiates a voluntary or influenced emission-related recall campaign pursuant to CCR, Title 13, Sections 2113 through 2121, the recall campaign shall include all affected motor vehicles registered in New Mexico.

C. For a motor vehicle subject to an order or action under Subsection A of 20.2.91.113 NMAC (Recall Campaigns), each manufacturer shall send to each owner of an affected motor vehicle registered in New Mexico a notice that complies with the requirements in CCR, Title 13, Sections 2118 and 2127, as applicable, including a telephone number for owners to obtain answers to questions regarding the recall.

[20.2.91.113 NMAC - N, 7/1/2022]

20.2.91.114 REGISTRATION AND FEES:

A. Effective January 1, 2025, each large-volume or intermediate-volume manufacturer delivering for sale, offering for sale, selling, importing, delivering, or leasing passenger cars, light-duty trucks, medium-duty passenger vehicles, or medium-duty vehicles subject to 20.2.91 NMAC shall obtain a registration from the department. The department shall issue a registration for a period of 10 years subject to an annual fee. It shall be a violation of 20.2.91 NMAC for a large-volume or intermediate-volume manufacturer to not obtain a registration in accordance with Subsection A of 20.2.91.114 NMAC.

B. Effective January 1, 2025, each large-volume or intermediate-volume manufacturer subject to 20.2.91 NMAC shall report to the department the number of passenger cars, light-duty trucks, medium-duty passenger vehicles, and medium-duty vehicles delivered for sale, offered for sale, sold, imported, delivered, or leased in New Mexico during the previous model year. The manufacturer shall submit the report to the department by March 1 of each year. Failure to timely submit the report shall be a violation of Subsection B of 20.2.91.114 NMAC (Registration and Fees) and cause for the department to revoke the manufacturer's registration.

C. The department shall assess an annual registration fee for the period beginning July 1 and ending June 30 of the subsequent year. Failure to timely pay the annual registration fee shall be a violation of Subsection C

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of 20.2.91.114 NMAC (Registration and Fees) and cause for the department to revoke the manufacturer's registration.

D. The department shall assess annual registration fees by apportioning the total registration fee among all registrants according to each manufacturer's reported market share for the previous model year.

E. Within 60 calendar days after the report required by 20.2.91.114 NMAC (Registration and Fees) is due, the department shall notify each registrant of the registration fee required for the next registration period. Within 30 calendar days of the department's notice of the required registration fee, each registrant shall remit the specified amount payable to the New Mexico environment department.

F. The total registration fee is \$200,000 and shall increase annually by the consumer price index.

G. Large-volume or intermediate-volume motor vehicle manufacturers seeking to earn ZEV early action credits under 20.2.91.109 NMAC (Zero Emission Vehicle Early Action and Onetime Credits) shall request a registration by October 1 during the first calendar year of each early action model year and shall pay a \$10,000 registration fee that is separate and apart from the annual registration fee.

[20.2.91.114 NMAC - N, 7/1/2022]

20.2.91.115 INSPECTIONS AND INFORMATION REQUESTS:

A. The department may inspect motor vehicles, and may inspect and copy relevant, non-financial records, including records documenting motor vehicle origin, certification, delivery, or sales, and any record of emission-related part repairs performed under warranty.

B. The department may require a manufacturer, dealer, rental car agency, the United States, state or local government, or other person to submit or may inspect and copy itself, relevant, non-financial records related to a motor vehicle subject or potentially subject to 20.2.91 NMAC, except that Subsection B of 20.2.91.115 NMAC (Inspections and Information Requests) shall not be construed to require the creation of a new record.

[20.2.91.115 NMAC - N, 7/1/2022]

20.2.91.116 RECORDKEEPING: All manufacturers, dealers, rental car agencies, the United States, state and local governments, or other persons shall retain records pertaining to compliance under 20.2.91 NMAC.

[20.2.91.116 NMAC - N, 7/1/2022]

20.2.91.117 PROHIBITED: Failure to comply with the emission standards, recordkeeping, reporting, or other requirements of 20.2.91 NMAC within the timeframes specified shall constitute a violation of 20.2.91 NMAC subject to enforcement action under Section 74-2-12 NMSA 1978.

[20.2.91.117 NMAC - N, 7/1/2022]

HISTORY OF 20.2.91 NMAC [RESERVED]

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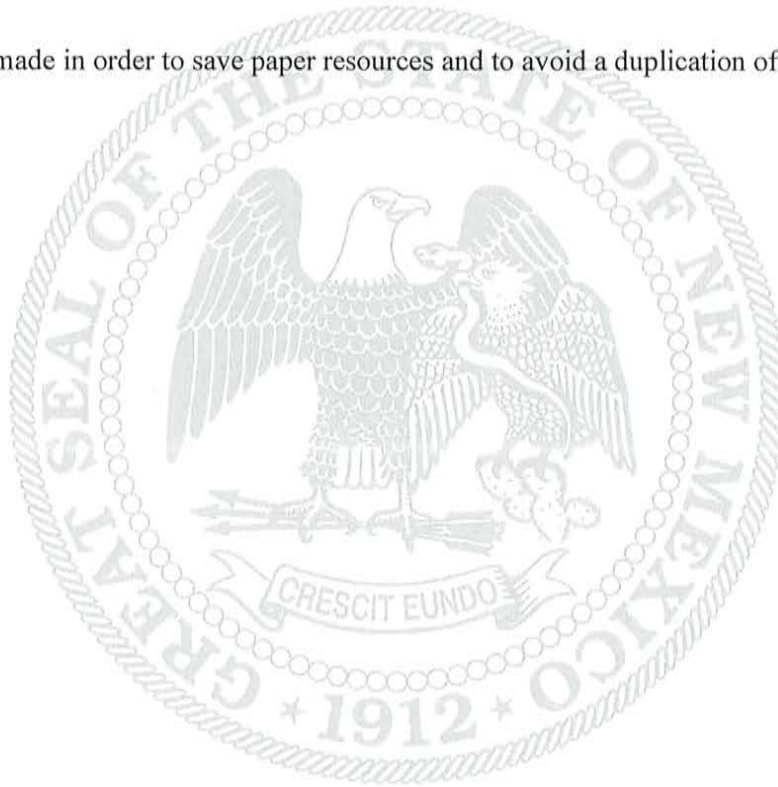
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Filer Note:

Please consider this Note as substitute for a full and complete copy of the New Mexico Environment Improvement Board [“EIB”]’s incorporated materials to its new rule, 20.2.91 NMAC New Motor Vehicle Emission Standards (305 pages) [hereinafter collectively referred to as “CA statutes”]. The CA statutes can be found appended to the new rule, 20.11.104 NMAC New Motor Vehicles Emission Standards, filed on May 17, 2022, by the Albuquerque-Bernalillo County Air Quality Control Board [Albuquerque-Bernalillo County AQCB”]. The EIB and the Albuquerque-Bernalillo County AQCB jointly approved their respective new rules on May 5, 2022.

This Filer Note is being made in order to save paper resources and to avoid a duplication of filing efforts.



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