



November 10, 2023

New Mexico Environmental Improvement Board  
1190 St. Francis Drive  
Suite N4050  
Santa Fe, NM 87505

SUBMITTED ELECTRONICALLY AT: <https://nmed.commentinput.com/?id=TuMmsArBj>

**Re: Comments in Support of Proposed Amendments to 20.2.91 NMAC, to Adopt the Advanced Clean Cars II and Advanced Clean Trucks Standards (EIB 23-56)**

Rivian Automotive, LLC, (“Rivian”) is pleased to comment in support of the proposed rulemaking to adopt both the Advanced Clean Trucks (“ACT”) Program and the Advanced Clean Cars II (“ACCII”) Program (formally noticed as EIB 23-56, Proposed Amendments to 20.2.91 NMAC). Rivian strongly supports New Mexico’s proposed actions as part of a comprehensive strategy for addressing climate change and improving air quality in the state, building on New Mexico’s track record of leadership in this area. We supported the Environmental Improvement Board’s (“EIB’s”) previous action to implement the ACCI vehicle standards—the precursor regulatory program to ACCII. New Mexico is also a signatory to the Multi-State Medium- and Heavy-Duty Zero Emission Vehicle Memorandum of Understanding (“MOU”), a document that laid the foundation for the ACT regulation.

The proposed rules now before the EIB will build on this legacy of action and help deliver on the state’s climate goals. Executive Order 2019-03 directed the state’s Climate Change Task Force to “evaluate policies and regulatory strategies to achieve reductions in greenhouse gas pollution...across all categories of emission sources.”<sup>1</sup> The proposed vehicle emissions standards are among the most impactful regulatory tools available to New Mexico to fulfill the direction of that order.

To maximize the benefits of the rule, the EIB should carefully consider the benefits of adopting ACCII in full through Model Year (“MY”) 2035 or, at a minimum, clearly direct the New Mexico Environment Department (“NMED”) to return to the EIB with a rulemaking package at a subsequent date to implement the rules for MY2033-2035.

## Keep the World Adventurous Forever

Founded in 2009, Rivian is an independent U.S. company headquartered in California. With over 16,000 employees across the globe, Rivian’s mission is to Keep the World Adventurous Forever. Rivian’s focus is the design, development, manufacture, and distribution of all-electric adventure vehicles, specifically pickups, sport utility vehicles (“SUVs”), and commercial vans. Key to the success of our mission, these vehicles will displace some of the most polluting conventional vehicles on the road today.

Rivian brought the first modern electric pickup to market in 2021 when we launched the R1T from our manufacturing facility in Normal, Illinois, followed shortly thereafter by the R1S SUV and the EDV

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<sup>1</sup> Exec. Order No. 2019-03.

commercial van for Amazon. The R1T and R1S—both medium-duty passenger vehicles (“MDPVs”)—provide all-electric options in segments where added utility is a necessity. The R1T and R1S both have an EPA-certified range of up to 352 miles. The truck also features 11,000lbs of towing capacity, while the R1S is a seven-passenger full-sized SUV. Both are well-equipped for off-roading in a range of climates. Separately, our Class 2b and 3 commercial vans eliminate tailpipe emissions from last-mile delivery. Rivian is committed to producing 100,000 vans for our launch customer, Amazon, with more than 10,000 already in service in more than 800 U.S. cities. Beginning in January 2024, the van will be available for purchase by other fleet customers in addition to Amazon. Beyond our vehicle lineup, Rivian is also building a network of DC fast chargers across the country.

## Rivian Strongly Supports New Mexico Adopting the Most Ambitious Vehicle Emissions Regulations

Rivian’s mission to Keep the World Adventurous Forever is made manifest in its commitment to the environment and addressing climate change. We strongly support programs of ambitious emissions regulation and ZEV sales requirements as core to our values and vision for the world. Implementation of the full suite of standards proposed for 20.2.91 NMAC will drive critical reductions in greenhouse gas (“GHG”) emissions and air pollution in New Mexico, while rapidly growing the state’s ZEV market. ACCII will begin fully transitioning the New Mexico passenger vehicle market to 100 percent ZEV sales, though as currently proposed it will stop short at the Model Year (“MY”) 2032 requirement of 82 percent. The ACT rule will require manufacturers to ensure that more than half of their Class 2b-3 sales, 75 percent of Class 4-8 sales, and 40 percent of Class 7-8 tractor new sales, are ZEVs by MY2035. Rivian’s vehicles meet the requirements of both the ACCII and ACT standards and are proof that these regulations are achievable.

## The ACCII and ACT Regulations are Feasible and Necessary

Both rules were thoughtfully designed with feasibility in mind. For example, ACCII includes certain flexibilities such as allowances for credit pooling by obligated automakers. Both ACCII and ACT use averaging, banking, and trading frameworks for facilitating manufacturer compliance, a tried-and-tested approach that allows for the strictest possible rules and the lowest overall compliance costs for industry.

In the MHD sector, we see the ACT rule as a critical precondition for the market’s success. With its strong yet achievable standards and vehicle class-specific sales targets, the regulation is built to support industry’s compliance efforts while driving accelerated deployment of ZEVs by manufacturers. Adoption of ACT will help industry grow ZEV market share more quickly, which is crucial for the long-term success of the industry as well as New Mexico’s MHD transportation electrification efforts.

Ample evidence demonstrates the achievability of the ACCII and ACT requirements.

- According to CALSTART, as of the first quarter of 2023 manufacturers offered 208 MHD ZEV models for sale in the United States and Canada.<sup>2</sup>
- In California, the first ACT state to begin credit reporting, industry is already ahead of schedule in

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<sup>2</sup> Owen MacDonnell, Yin Qiu, Shuhan Song, and Xiaoyue Wang, CALSTART, *Zero-Emissions Truck and Bus Market Update*, June 2023, available at [www.globaldrivetozero.org/site/wp-content/uploads/2023/06/Final\\_ZETI-Report-June-2023\\_Final.pdf](http://www.globaldrivetozero.org/site/wp-content/uploads/2023/06/Final_ZETI-Report-June-2023_Final.pdf).

achieving the regulation's ZEV sales requirements. MHD ZEV sales to date already exceed the number required to comply with the MY2024 sales targets. In MY2022, ZEVs comprised approximately 7.5 percent of the state's MHD sales. Rivian's products contributed significantly to this success.<sup>3</sup> This reveals the emergence of a robust manufacturing infrastructure and product pipeline in the MHD industry that will only grow as more ZEV manufacturers, responding to customer demand and regulatory signals from rules like ACT, hit their manufacturing stride in the coming years.

- Modeling results included in NMED's exhibits submitted to the docket show that the ACCII regulation would require slightly less than 24,000 ZEV sales in MY2027, the first year of obligations under the regulation.<sup>4</sup> This is well within the industry's existing level of EV output. In fact, in 2022 automakers collectively sold more than 928,000 ZEVs nationwide.<sup>5</sup> Rivian alone delivered almost 25,000 EVs to customers in what was our first full year of production. We expect to more than double our output in 2023 as we continue to ramp up our manufacturing operations.
- Under the ACT rule, the state would require the sale of 874 Class 2b3 ZEVs.<sup>6</sup> The vehicles to meet this requirement already exist in the market today. As noted above, in 2022 Rivian delivered almost 25,000 vehicles, all of which—including the R1T and R1S—technically qualify as medium-duty products that can meet the Class 2b3 obligations of the ACT regulation. Amazon already operates more than 10,000 of Rivian's Class 2b EDVs across the country, while a diverse array of fleets—from fire departments to utilities to construction contractors—find that the R1T and R1S can also meet their work needs.

The Rivian product line exemplifies how EV technology can succeed in a variety of applications and settings, including New Mexico. Indeed, EVs now dominate vehicle markets in countries and regions around the world with extreme weather and demanding terrain (Norway and Iceland, for example). We look forward to seeing New Mexico's MHD ZEV market grow in similar ways in response to the promulgation of these rules.

In the light-duty market, establishing these requirements in the state will ensure New Mexicans are at the front of the line for new ZEVs. The regulation's consumer assurance measures will also provide greater confidence in the used vehicle market where many New Mexicans will buy their EVs. Moreover, just as in the MHD sector, the sales requirements spell certainty for adjacent businesses and stakeholders, supporting investments in charging infrastructure and allowing for long-term grid planning by utilities. Light-duty EV sales continue to grow year-over-year across the country, driven in part by the push of bold regulations like ACCII.

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<sup>3</sup> California Air Resources Board, *Advanced Clean Trucks Compliance and Incentives Update*, available at [www.arb.ca.gov/resources/documents/advanced-clean-trucks-compliance-and-incentives-update](http://www.arb.ca.gov/resources/documents/advanced-clean-trucks-compliance-and-incentives-update), accessed on November 6, 2023.

<sup>4</sup> New Mexico Environment Department, EIB Docket No. 23-56, Exhibit 47, available at [www.env.nm.gov/opf/wp-content/uploads/sites/13/2023/10/EIB-23-56-NMED-Exhibits-45-pg-14-48.pdf](http://www.env.nm.gov/opf/wp-content/uploads/sites/13/2023/10/EIB-23-56-NMED-Exhibits-45-pg-14-48.pdf).

<sup>5</sup> Alliance for Automotive Innovation, *Electric Vehicle Sales Dashboard*, available at [www.autosinnovate.org/EVDashboard](http://www.autosinnovate.org/EVDashboard), accessed on November 6, 2023.

<sup>6</sup> New Mexico Environment Department, EIB Docket No. 23-56, Exhibit 47, available at [www.env.nm.gov/opf/wp-content/uploads/sites/13/2023/10/EIB-23-56-NMED-Exhibits-45-pg-14-48.pdf](http://www.env.nm.gov/opf/wp-content/uploads/sites/13/2023/10/EIB-23-56-NMED-Exhibits-45-pg-14-48.pdf).

## New Mexico's ACCII Proposal Could be Stronger

While NMED's proposal to partially adopt the ACCII standards through MY2032 takes a step in the right direction, the proposal would be stronger if it adopted the full schedule of sales requirements through MY2035. ACCII was not designed with partial adoption in mind, and ending the ACCII requirements in MY2032 raises potential concerns.

- After MY2032, the state would no longer have its own enforceable ZEV sales requirement, potentially relieving automakers of the need to continue ramping up ZEV sales over time. Because of provisions in the regulation that allow for credit carryforward and averaging, beginning in MY2029 a manufacturer could conceivably begin incurring deficits to carry through without penalty to the program's expiration at the conclusion of MY2032.
- As stated previously, a central purpose of ACCII as designed is to support all stakeholders—including utilities and charging providers—in planning and sequencing their investments on a reasonable timeline. In proposing partial adoption, New Mexico risks scrambling the signal sent to the market and delaying the grid investments and other actions necessary to support a full fleet transition. Opponents of the regulation often cite concerns about charging infrastructure as a reason to reject proposals for a manufacturer EV sales requirement, but it is just such a requirement that will create the conditions for successful investment by charging providers.

For all these reasons, Rivian supports the full ACCII program. **The EIB should consider the benefits of adopting ACCII through MY2035 this year.**

If the Board moves ahead with the proposal as drafted, Rivian will nonetheless welcome the regulation as a key step forward. However, a partial rule would unavoidably raise questions about when and if the state will implement the balance of the regulation. We believe the state can head off these questions to some extent by communicating a clear intent to revisit this issue by a date certain in the future. Following the example of Colorado, we respectfully encourage the EIB to direct NMED to return to the Board with a proposal to adopt the ACCII standards for MY2033-2035 no later than 2029. This will allow time for implementation of the current set of standards before the Board decides on the final three years of the program with the lead-time required by law.

## To Enhance New Mexico's Transportation Electrification Efforts, the State Should Consider Complementary Policy Action

While not the subject of this proposal, New Mexico should consider complementary actions to strengthen its approach to reducing emissions from the transportation sector and help deliver on the goals of the regulation currently under consideration. In recent years, the state legislature has debated the merits of establishing a clean fuels standard ("CFS") but has not yet passed the requisite legislation. Rivian strongly supports CFS policies and encourages the state legislature to pass a CFS bill at the earliest available opportunity.

### Implement a CFS

CFS policies, also known as clean transportation standards or low carbon fuels standards ("LCFS"), are powerful enablers of transportation electrification in support of the requirements of the ACT and ACCII

regulations. Rivian has previously supported CFS legislation in the state legislature.

Several states already establish carbon intensity standards for transportation fuels and many more are actively considering legislation to develop their own. This is a testament to the tremendous value clean fuels policies can deliver, and not just in terms of job creation and economic activity as fuel providers innovate and invest in producing and supplying clean fuels to the market. Just as important, they reduce emissions and are responsible for tens of millions of tons of avoided GHGs and co-pollutants in the states where they are already in force, supporting climate goals as well as improving air quality and public health.<sup>7</sup> Because communities that border major highways and roadways are disproportionately affected by local air pollution caused by vehicles burning fossil fuels, they stand to benefit directly from the use of increasingly clean fuels on those same road networks.

CFS policies also serve to catalyze growth in the ZEV market. Designed correctly, CFS policies can establish incentive frameworks that encourage automakers to accelerate the development and sale of highly utilized ZEVs in the policy's territory while also creating new revenues via the trading of compliance credits that can be used to fund pro-ZEV investments. These policies also reward investments in public charging infrastructure and fleet electrification.

## Conclusion

Rivian applauds efforts to reduce emissions and improve the environment by adopting the ACCII and ACT rules in New Mexico. Our products are proof that now is the time to adopt these regulations. New Mexico should also take steps to implement important complementary policies such as a CFS to maximize the impact of the state's efforts to electrify transportation.

Please contact me with any questions. Rivian looks forward to working with you to accelerate transportation electrification in New Mexico.

Sincerely,



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<sup>7</sup> Oregon Department of Environmental Quality, Oregon Clean Fuels Program, available at [www.oregon.gov/deq/ghgp/cfp/Pages/default.aspx](http://www.oregon.gov/deq/ghgp/cfp/Pages/default.aspx); Casey Kelley and Nikita Pavlenko, The International Council on Clean Transportation, *Working Paper 2020-29: Assessing the potential for low-carbon fuel standards as a mode of electric vehicle support* (December 2020), available at [theicct.org/sites/default/files/publications/LCFS-and-EVs-dec2020.pdf](http://theicct.org/sites/default/files/publications/LCFS-and-EVs-dec2020.pdf).