

November 10, 2023

New Mexico Environmental Department
Harold L. Runnels Buildings
1190 St. Francis Drive, Suite N4050
Santa Fe, New Mexico 87505

RE: Advanced Clean Cars and Advanced Clean Truck Rules

Greetings,

My name is Darrell Brown. I am the President of the Otero County Cattleman's Association (OCCA) in Otero County, New Mexico. I am writing on behalf of OCCA members in regards to the proposed Advanced Clean Cars and Advanced Clean Truck Rules set forth by the New Mexico Environmental Department (NMED). OCCA opposes this proposed rule.

Governor Grisham, in her July 3, 2023 press release, stated that: *"The rules only apply to automakers, not auto dealers or consumers..."*

COMMENT: Section 20.2.91.100 APPLICABILITY of the proposed rule clearly states; *"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 2027 through 2032 passenger car, light-duty truck, medium-duty passenger vehicle, medium-duty vehicle, heavy-duty vehicle, heavy-duty engine motor vehicle engine unless the motor vehicle or motor vehicle engine has been certified by CARB and received a CARB executive order."* (Emphasis added)

The above stated entities are all inclusive in the proposed rule. It is not just limited to "automakers."

Governor Grisham, in her July 3, 2023 press release, stated that: *"...The rules do not prohibit the sale or ownership of new or used gasoline-powered vehicles."*

COMMENT: As per Section 20.2.91.100 APPLICABILITY of the proposed rule; *"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 2027 through 2032 passenger car, light-duty truck, medium-duty passenger vehicle, medium-duty vehicle, heavy-duty vehicle, heavy-duty engine motor vehicle engine unless the motor vehicle or motor vehicle engine has been certified by CARB and received a CARB executive order."* According to the above section, any person, or persons, who choose to purchase a non-compliant vehicle, either within the state of New Mexico or outside of the state of New Mexico, will not be able to register the vehicle in New Mexico subsequently making the vehicle owner in violation of state traffic laws. (Emphasis added)

Governor Grisham is being disingenuous in her press release statement. As stated in the aforementioned proposed section, the proposed rule affects more than just automakers. Granted, the proposed rule may not “prohibit” the sale or ownership of new or used gasoline-powered vehicles, but the proposed rule does state that these gasoline powered motors must be California Air Resources Board (CARB) compliant. Any non-compliant vehicles will be refused registration in New Mexico. It is OCCA’s opinion that this proposed rule will negatively and detrimentally affect the majority of people and many, many businesses throughout the state of New Mexico.

Section 20.2.91.6 OBJECTIVE states: *“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, 1/1/2024]”*

COMMENT: Section 177 of the federal Clean Air Act and/or Section 7507 of United States Code (USC) Title 42 reads:

“New motor vehicle emission standards in nonattainment areas.

Notwithstanding section 7543(a) of this title, any State which has plan provisions approved under this part may adopt and enforce for any model year standards relating to control of emissions from new motor vehicles or new motor vehicle engines and take such other actions as are referred to in section 7543(a) of this title respecting such vehicles if-

(1) such standards are identical to the California standards for which a waiver has been granted for such model year, and

(2) California and such State adopt such standards at least two years before commencement of such model year (as determined by regulations of the Administrator).” (Emphasis added)

Section 7501(2) of that same Title defines nonattainment areas as:

“(2) Nonattainment area.-The term “nonattainment area” means, for any air pollutant, an area which is designated “nonattainment” with respect to that pollutant within the meaning of section 7407(d) of this title.”

Research shows from the NMED’s own website that there are only two designated areas of nonattainment in New Mexico. One of the areas that was originally designated as a nonattainment area now appears to be designated as a “marginal nonattainment area.” The other original designation was not re-designated as a “nonattainment area” by the United States Environment Protection Agency. The stated objective in the proposed rule is to adopt and implement the California vehicle emission standards and requirements statewide pursuant to Section 177 of the federal Clean Air Act. To require the entire state to adhere to the proposed rule is in direct conflict with the proposed objective as well as in violation of USC, Title 42, Chapter 85, Subchapter I in that the entire state is not classified as a “nonattainment area.”

Section 20.2.91.100(B) of the proposed rule states: *“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, 1/1/2024]”*

COMMENT: Are Albuquerque and Bernalillo County designated as nonattainment areas? If so, that does not give NMED the justification or authority to compel the remainder of the state to adhere to the requirements of this proposed rule just because Albuquerque and Bernalillo County are designated nonattainment areas. If Albuquerque and Bernalillo County are not designated as nonattainment areas, then forcing them both, as well as the rest of the state, to adhere to these

rules is in conflict with the objectives of the proposed rule and in violation of the above quoted federal law.

OCCA represents agricultural producers who are extremely dependent on the utilization of trucks, both light duty and heavy duty, to transport livestock, farm equipment and produce. A dependable and timely transportation sector is necessary to ensure food safety, animal welfare and health standards. Federal regulations limit truck and cargo weight to 80,000 lbs. It is estimated that batteries for heavy duty trucks can weigh up to 16,000 lbs. The weight of the batteries required to power semi-trucks will significantly reduce the amount of cargo each truck can legally carry. This will cause a need for additional trucks on the road to meet hauling needs resulting in more wear and tear on our already degraded and dangerous New Mexico roads.

While we appreciate the agriculture exemption for on-farm equipment, agricultural producers are dependent on reliable transportation required to transport these perishable products, livestock, and equipment. A transportation sector entirely reliant on Zero Emissions Vehicles (ZEV) could create huge bottlenecks and shortages in the transportation sector and further stress an already taxed trucking sector, not to mention that New Mexico lacks the necessary infrastructure to support this effort. The adoption of this proposed rule is an overly ambitious goal that New Mexico's power grid simply cannot support.

OCCA believes that, if implemented, this proposed rule will severely limit New Mexico consumer's choice when it comes to their vehicle purchasing options. It will disproportionately impact our rural communities who must travel extended distances to access basic services as well as in the management of everyday business activities.

OCCA feels that there has not been ample education or equitable outreach to rural areas on these proposed rules that will severely impact most all New Mexicans statewide. OCCA respectfully requests that the NMED withdraw the proposed rule or, in the very least, host more public meetings allowing rural participation in the process to adequately inform citizens STATEWIDE about these proposed rules.

Thank you for the opportunity to comment.

Sincerely,
/s/Darrell Brown
President of the Otero County Cattleman's Association
PO Box 595
Weed, New Mexico 88354

cc: Otero County Commissioner's
Representative Jim Townsend
Representative John Block
Representative Harlan Vincent
New Mexico Cattle Grower's