AGC NM, ABC, ACNM, MCA, SMACNA

New Mexico Environmental Improvement Board
Attn: Pamela Jones, Board Administrator
P.O. Box 5469
Santa Fe, NM 87502

Re: EIB 23-56 (R)

Dear Respective Board Members,

On behalf of Associated General Contractors ("AGC") New Mexico, Associated Builders & Contractors (ABC), Associated Contractors of New Mexico (ACNM), Mechanical Contractors Association of NM (MCA), and Sheet Metal & Air Conditioning Contractors Association of NM (SMACNA) we are submitting comments to the Environmental Improvement Board (EIB) regarding Docket Number EIB 23-56 (R).

Together, our organizations collectively represent hundreds of construction firms actively working to create opportunities that enhance and fortify our state.
Contractors and construction business owners in New Mexico are acutely aware of the environmental impact of emissions. Over the years, they have made dedicated efforts to reduce their environmental footprint. As committed stewards of the environment and champions of sustainability, our state's contractors tirelessly strive to ensure the preservation of our built environment.

EIB 23-56 (R), also known as the Advanced Car and Truck Rules, which aim to transition to zero-emission vehicles (ZEVs), present significant challenges to the construction industry and, consequently, our infrastructure. Numerous issues need to be resolved within the Advanced Car and Truck Rules.

We urge the New Mexico Environmental Improvement Board to postpone the adoption of this regulation until the below-mentioned issues are resolved.

One indirect consequence of this regulation in the construction industry and transportation sector will be supply chain disruptions. The ongoing effects of the pandemic and cost escalations continue to ripple through local, national, and global markets, leading to persistent bottlenecks within the supply chain.

For instance, if we examine the approval of light to heavy-duty vehicles in California, it becomes evident that all engines are now required to meet Tier 4 standards. Recently, the California Air Resources Board (CARB) enacted regulations phasing out Tier 1 to 4 interim engines for heavy equipment. Starting on January 1, 2024, for large and medium fleets, and January 1, 2028, for small fleets, it will be prohibited to add a vehicle with a Tier 4 interim engine to a fleet.

This means that such vehicles must meet Tier 4 final or Tier 5 standards. However, Tier 5 standards do not currently exist. Without exemptions granted to the construction industry, this impending

change will undoubtedly cause severe supply chain disruptions, exacerbating existing challenges for Tier 4 final engines. Ultimately, this will impede our state's efforts to enhance its infrastructure.

In California, the construction industry successfully secured various exemptions and extensions to accommodate circumstances beyond their control. These exemptions and extensions attempted to make the regulation more feasible, and that includes;

ZEV Infrastructure Delay: This exemption would allow our industry to apply for an extension if utility companies are unable to electrify construction sites, a delay extension would need to be for at least three years to make this extension meaningful and beneficial to contractors.
Installing charging stations on rural and temporary construction sites can take over 2 years, including plan designs, plan checks, utility company backlog in completing necessary power upgrades, and delays in getting the actual charging stations.

Vehicle Purchase Extension: Given the heavy reliance on manufacturers under New Mexico's proposed regulations, we must consider scenarios where a company purchases a significant number of vehicles, such as (50) F150s, but the manufacturer is unable to provide them for several years (a situation currently occurring). Granting an extension in such cases would mitigate reporting and compliance issues within our industry.

Daily Usage Exemption: An exemption allowing the purchase of a new internal combustion engine (ICE) of the same configuration as a replaced ICE vehicle if no battery electric vehicle (BEV) is available for purchase that can meet the demonstrated daily usage needs of existing vehicles within the fleet.

Furthermore, we hold concerns about future regulations affecting heavy equipment. Over the past year, California has witnessed CARB implementing regulations that directly impact construction equipment and trucks. Regulations of such magnitude would pose significant challenges to the construction industry.

Additional comments regarding these rules that merit consideration include:
Costs, Hazards, and Limitations of ZEVs: Zero-emission electric vehicles (ZEVs) come with significant financial implications. ZEV trucks can cost 2 to 4 times more than their non-ZEV counterparts.

The International Council on Clean Transportation (ICCT) conducted an extensive study on ZEV purchase costs and found that battery-electric tractor trucks have upfront costs ranging from approximately $200,000 to $800,000. Furthermore, these costs tend to increase with greater driving range, which is directly tied to the total battery capacity. In contrast, new trucks with internal combustion engines typically range from $99,000 to $200,000, spanning from the lower-end to the higher-end models.

Not only are the initial purchase costs higher for ZEVs, but there are also concerns about the rising battery costs in the years ahead due to resource scarcity. Projections indicate that electric vehicle (EV) battery costs are set to increase by 14% this year alone, reaching $150 per kilowatt hour. Moreover, the growing demand for ZEVs is expected to push EV battery cell prices up by more than 20% within the next four years.

Additionally, there are questions regarding the management of hazardous waste generated by EV batteries when they reach the end of their lifespan. Notably, California currently lacks EV battery recycling facilities, with only five operational facilities in the entire country, as reported by the Orange County Register.

Besides the expense of replacing vehicles and batteries, businesses will also need to invest in charging infrastructure to accommodate the mandated ZEVs. Many businesses affected by this regulation, particularly those with large fleets, face financial constraints that make it challenging to replace a substantial number of vehicles within the proposed timeframe. This financial burden not only affects these businesses but also has the potential to drive up construction costs for consumers and hinder overall business growth.

Reduced Payload Capacity: Electric heavy-duty trucks often have larger and heavier battery systems, which can reduce payload capacity compared to traditional diesel trucks. This could necessitate additional trips to transport the same amount of materials, increasing operating costs and potentially affecting project timelines.

Rural Impact: Construction projects frequently occur in rural areas with limited charging infrastructure. The scarcity of charging stations in these regions can significantly impact operations. Limited Vehicle Options: As ZEV adoption increases, manufacturers may reduce production of traditional work vehicles in favor of EVs. This could limit the availability of specific vehicles crucial to construction companies.

Operational Range: ZEVs generally have shorter operational ranges compared to traditional vehicles. This limitation may require construction companies to carefully plan and schedule operations around charging needs, potentially affecting project efficiency.

The Emissions Analytics first released information in their 2020 press release that pollution of tire wear can be 1,000 times worse than car exhaust emission. They also released a newsletter in May 2022 highlighting research that demonstrates pollution from EV tire wear can be 1,850 times worse than care exhaust emissions in real-world settings. Since CARB does not take EV tire wear emissions into consideration when evaluating the cost versus the benefit of the regulation, the proposed environmental impacts may be misleading.

Our construction coalition appreciates the New Mexico Environmental Improvement Board for affording us the opportunity to provide input. All in all, there are numerous issues that need to be resolved within the Advanced Car and Truck Rules. This coalition urges the New Mexico Environmental Improvement Board to postpone the adoption of this regulation until the above-mentioned issues are resolved. If you have any questions regarding these comments, please do not hesitate to contact Kelly Roepke-Orth at 505.842.1462 (email: kroepke@agc-nm.org), Carla Kugler at 505. 830.4222 (email: ckugler@abcnm.org), Jim Garcia at 505.344.2072 (email: jgarcia@aconm.org), or Ronda Gilliland-Lopez at 505.341.9033 (email: ronda@mcaofnm.org). We sincerely appreciate the opportunity to voice our concerns.
Respectfully,

Kelly Roepke-Orth, CEO
AGC New Mexico

Carla Kugler, President & CEO
Associated Builders & Contractors

Jim A. Garcia, Executive Director
Associated Contractors of New Mexico

Ronda Gilliland-Lopez, Executive Director
Mechanical Contractors Association of NM
Sheet Metal & Air Conditioning Contractors Association of NM

November 8, 2023

New Mexico Environmental Improvement Board
Attn: Pamela Jones, Board Administrator
P.O. Box 5469
Santa Fe, NM 87502

Albuquerque/Bernalillo County Air Quality Control Board
P.O. Box 1293
Albuquerque, NM 87103

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