

September 30, 2025

New Mexico Environment Department
Attn: EIB Administrator
Harold Runnels Building, PO Box 5469
Santa Fe, NM 87502
Submitted electronically

RE: EIB 25-23(R): In the Matter of Proposed Adoption of 20.2.92 NMAC – Clean Transportation Fuel Program

Dear Members of the New Mexico Environmental Improvement Board,

On Monday, September 22, 2025, Tesla submitted written comments to the New Mexico Environment Department and Environmental Improvement Board to support the Clean Transportation Fuel Program (CTFP) and to suggest two modifications to 20.2.92 NMAC, Sections 303 and 304.¹ Tesla is respectfully submitting this letter to raise one additional issue for Department Staff and the Board to consider. These comments were delivered verbally at the hearing public comment opportunity on September 29, 2025.

20.2.92.403 NMAC establishes which entities may claim residential base credits through the CTFP. Vehicle manufacturers may claim 35% of electricity dispensed to electric vehicles (EVs) produced by that manufacturer. Auto manufacturers are required by the rule to use the revenue generated from residential base credits to reduce upfront EV costs for potential buyers in New Mexico. Allowing OEMs to claim a portion of base credits will meaningfully make EVs more accessible to New Mexico drivers, as auto manufacturers are motivated to maximize credit value to reduce upfront EV costs and incentivize EV sales. This design takes advantage of mutual goals aligned between the state and EV manufacturers. We greatly appreciate Environment Department Staff's thoughtful inclusion of this provision in the proposed rule.

However, there is an eligibility requirement in Section 403 that would have the effect of cutting certain automotive OEMs from the ability to claim credits. Specifically, the rule requires OEMs to administer sales through a dealer licensed by the motor vehicle division of the New Mexico taxation and revenue department, which would prevent manufacturers with a direct sales model, such as Tesla, from claiming base credits.

This eligibility restriction is inconsistent with the CTFP's goal of advancing the market for clean fuels. A significant portion of the state's EV sales do not occur through licensed dealers. For example, the Tesla Model Y was the best-selling car in the world in 2023; Tesla would be ineligible to accumulate any base credits for any Tesla Model Y vehicles that charge at home under the proposed rule. Given that OEMs are required to use base credit revenues

¹ Tesla's previous written comments pertain to improving funding certainty for CTFP participants that claim fuel supply equipment (FSE) credits and ensuring fair competition for operators of EV charging stations.

to lower upfront costs of EVs they sell in the state, this restriction will have the negative impact of undercutting the program's value to potential EV buyers.

Throughout the rule hearing, the Environment Department has emphasized a technology-neutral approach to rule development. However, excluding vehicle manufacturers based on their approach to sales is not consistent with technology-neutral principles, as it would discourage fair competition. There is no reason to limit OEMs' ability to access base credits based on the method of sale that is used to get more EVs on the roads. Simply put, the program will be more effective in achieving its goals without this restriction.

Tesla respectfully requests that the Board and Environment Department review this language and strike Section 403 (C)(1)(b)(iii) from the CTFP rule before its adoption. We greatly appreciate the opportunity to participate via public comment, and thank the Board and Environment Department Staff for your efforts in reviewing the proposed rule.

Sincerely,

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