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# New Mexico Register

The official publication for all official notices of rulemaking  
and filing of proposed, adopted and emergency rules.

**Volume XXXIII - Issue 11 - June 7, 2022**

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**Volume XXXIII - Issue 11 - June 7, 2022**

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## **The New Mexico Register**

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# New Mexico Register

Volume XXXIII, Issue 11

June 7, 2022

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## Notices of Rulemaking and Proposed Rules

### HUMAN SERVICES DEPARTMENT MEDICAL ASSISTANCE DIVISION

#### NOTICE OF RULEMAKING

The Human Services Department (the Department), through the Medical Assistance Division (MAD), is proposing to repeal and replace the New Mexico Administrative Code (NMAC) rule 8.313.3, *Long Term Care Services, Intermediate Care Facilities Cost Related Reimbursement of ICF-IID*; and 8.313.2, *Long Term Care Services - Intermediate Care Facilities for the Mentally Retarded*.

Section 9-8-6 NMSA 1978, authorizes the Department Secretary to promulgate rules and regulations that may be necessary to carry out the duties of the Department and its divisions.

Notice Date: June 7, 2022  
Hearing Date: July 8, 2022  
Adoption Date: Proposed as November 1, 2022  
Technical Citations: 42 CFR 456 subpart F; 42 CFR 440.150

**The Department is proposing to amend the rules as follows:**

#### 8.313.3 NMAC

Throughout the rule - Removal of Intermediate Care Facilities for Individuals with Mental Retardation (ICF/MR) and replace with Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID).

Section 8 - Updated to include the current Human Services Department Mission Statement.

Section 11 Paragraph (2) of Subsection D - Language added to reflect the state agency, or its audit agent, will retain all cost reports submitted by providers for a period of ten years.

#### 8.313.2 NMAC

Throughout the rule  
Replacement of terminology “Intermediate Care Facilities for Individuals with Mental Retardation (ICF/MR)” with “Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)” to reflect nationwide changes.

Section 8 - Updated to include the current Human Services Mission Statement.

Section 13 - Addition of Subsection C - Eligibility Requirements from NMAC 8.281.400.

Section 13 - Addition of Subsection D - Admission. Adopted from Department of Health NMAC 7.26.9 as this rule will be rescinded.

Section 13 - Addition of Subsection E - Transfer. Adopted from Department of Health NMAC 7.26.9 as this rule will be rescinded.

Section 13 - Addition of Subsection F - Discharge. Adopted from Department of Health NMAC 7.26.9 as this rule will be rescinded.

Throughout both 8.313.2 and 8.313.3 NMAC amendments have been made to comply with formatting requirements.

The register for these proposed amendments to this rule will be available June 7, 2022 on the HSD website at: <https://www.hsd.state.nm.us/lookingforinformation/registers/> and <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment-period-open/>. If you do not have internet access, a copy of the proposed register and rule may be requested by contacting MAD at (505) 827-1337.

The Department proposes to implement these rules effective November 1, 2022. A public

hearing to receive testimony on these proposed rules will be held **via conference call on Friday, July 8, 2022, at 10 a.m. Mountain Time (MT). Conference phone number: 1-800-747-5150. Access Code: 2284263.**

Interested parties may submit written comments directly to: Human Services Department, Office of the Secretary, ATT: Medical Assistance Division Public Comments, P.O. Box 2348, Santa Fe, New Mexico 87504-2348.

Recorded comments may be left at (505) 827-1337. Interested persons may also address comments via electronic mail to: [madrules@state.nm.us](mailto:madrules@state.nm.us). Written mail, electronic mail and recorded comments must be received no later than 5 p.m. MT on July 8, 2022. Written and recorded comments will be given the same consideration as oral testimony made at the public hearing. All written comments received will be posted as they are received on the HSD website at <https://www.hsd.state.nm.us/public-information-and-communications/opportunity-for-public-comment/public-notices-proposed-waiver-changes-and-opportunities-to-comment/comment-period-open/> along with the applicable register and rule. The public posting will include the name and any contact information provided by the commenter.

If you are a person with a disability and you require this information in an alternative format or require a special accommodation to participate in the public hearing, please contact MAD in Santa Fe at 505-827-1337. The Department requests at least ten (10) days advance notice to provide requested alternative formats and special accommodations.

Copies of all comments will be made available by the MAD upon request by providing copies directly to a requestor or by making them available on the MAD website or at a location within the county of the requestor.



**PUBLIC REGULATION  
COMMISSION**

**NOTICE OF PROPOSED  
RULEMAKING  
CASE NO. 22-00099-UT**

The New Mexico Public Regulation Commission (the “commission”) gives notice of its initiation of a proposed rulemaking to repeal and replace **Rules 17.1.2 NMAC, Utility Applications, 17.3.510 NMAC, Uniform Systems of Accounts and Annual Report Forms for Electric Utilities, and 17.3.610 NMAC, Uniform Systems of Accounts and Annual Report Forms.** The rules which may be adopted as the final rules in this proceeding may include all, part, or none of the language in the proposed rules issued by the commission. The commission may also consider alternative proposals for amending or replacing the current rules.

Summary of the full text of the proposed rule and short explanation of its purpose: The commission is considering repealing and replacing Rule 17.1.2 NMAC, 17.3.510 NMAC and 17.3.610 NMAC. The commission is considering changes to multiple sections of the rules. In particular, the commission is considering changes to remove compliance filing information being included with standard new rate applications in Rule 17.1.2.10 NMAC and to require annual compliance reporting by electric utilities by April 30th of each calendar year in 17.3.510 NMAC and gas utilities by April 30th of each calendar year in 17.3.610 NMAC.

Legal authority authorizing the proposed rule and the adoption of the rule: New Mexico Constitution, Article XI, Sec. 2; Paragraph 10 of Subsection B of Section 8-8-4 NMSA 1978 (1998), Section 8-8-15 NMSA 1978 (1999, amended 2001), and Sections 8-8-4, 62-8-3 NMSA 1978.

How a copy of the full text of the proposed rule can be obtained: A

copy of the full text of the proposed rules may be obtained from the rulemaking proceedings section of the commission’s website at <https://www.nm-prc.org/rulemaking-proceedings/> under Case No. 22-00099-UT or by calling Isaac Sullivan-Leshin in the office of general counsel at (505) 670-4830.

How a person can comment on the proposed rule, where comments will be received and when comments are due:

Written initial comments and written response comments shall be filed by the deadlines below in accordance with NMPRC rules of procedure 1.2.2 NMAC. For information as to how to file at the time of filing, please contact Melanie Sandoval, the commission’s records bureau chief at (505) 470-8538 or [melanie.sandoval@state.nm.us](mailto:melanie.sandoval@state.nm.us). Written initial comments shall be filed no later than **July 8, 2022** and written response comments shall be filed no later than **July 22, 2022**. Comments shall refer to Case No. 22-00099-UT. All written comments will be posted on the commission’s website within three days of their receipt by the records bureau.

A public hearing will be held on **August 4, 2022, beginning at 2:00 p.m.** via Zoom platform. The Commission’s Office of General Counsel will email a Zoom invitation to the persons on the official service list in this matter prior to the hearing. The Zoom invitation will include a call-in number for those participants who are unable to access the Zoom platform via computer. Any member of the public who wishes to make a comment at the hearing must contact Isaac Sullivan-Leshin at (505) 670-4830 or [Isaac.Sullivan-Leshin@state.nm.us](mailto:Isaac.Sullivan-Leshin@state.nm.us) by no later than 5:00 pm on August 3, 2022 to sign up as a hearing participant. The commission’s office of general counsel will email a Zoom invitation to all hearing participants the day before the hearing. The Zoom invitation will include a call-in number for those participants who are unable to access the Zoom platform via computer.

The hearing will be held in order to receive oral comments. In the interest of administrative efficiency, commenters who have submitted written comments may be restricted from making oral comments at the discretion subject to the discretion of the commission or its designee. In addition, any commenter may be limited to five minutes to speak, subject to the discretion of the commission or its designee. The commission or its designee may also determine that a spokesperson should be designated to speak on behalf of an organization, a group, or a group of individuals that shares the same message or seeks the same goals, in order to maximize the efficiency of the public comment hearing. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding. A court reporter will prepare a transcript of the hearing for filing the rulemaking docket, Docket No. 22-00099-UT.

The record of this case will close on **August 18, 2022**. From that date through the completion of this proceeding, rulemaking participants will be forbidden from communicating with the commission or its representatives concerning substantive issues in this proceeding.

Any person with a disability requiring special assistance in order to participate in the hearing should contact Renada Peery-Galon at (505) 467-9116 at least 48 hours prior to the commencement of the hearing.

Instructions on how to access the complete rulemaking record, reports and other items filed in the commission’s e-docket system can be found at <https://www.nm-prc.org/rulemaking-proceedings/>.

**PUBLIC REGULATION  
COMMISSION**

**NOTICE OF PROPOSED  
RULEMAKING  
DOCKET NO. 20-00158-UT**



The New Mexico Public Regulation Commission (the “Commission”) hereby gives notice of its initiation of a proposed rulemaking to amend rule 17.9.572 NMAC: “**Renewable Energy for Electric Utilities.**”

Summary of the full text of the proposed rule and short explanation of its purpose: The Commission intends to amend Rule 17.9.572 NMAC to fix grammatical and technical errors that exist in the current rule language. In addition, the Commission proposes to clarify the term “average annual levelized cost” by providing a definition; address the issue relating to renewable energy certificates associated with renewable energy from the public utility’s New Mexico customers’ distributed energy resources that is produced and consumed by customers on-site and behind the meter; address an issue relating to the use of renewable energy rate riders for costs associated with complying with this Rule; and address issues relating to a public utility’s application for a financial or other incentive to produce or to acquire renewable energy.

Legal authority authorizing the proposed rule and the adoption of the rule: The Commission has the authority to promulgate and adopt the proposed rule under the New Mexico Constitution, Article XI, Sec. 2, the New Mexico Public Regulation Commission Act, NMSA 1978, Sections 8-8-15 (2001) and 8-8-4 (1998); the Public Utility Act, Section 62-31 et seq., including Section 62-6-4 (2003); and the Renewable Energy Act, NMSA 1978, Section 62-16-1 et seq.

How a copy of the full text of the proposed rule can be obtained: A copy of the full text of the proposed rule and instructions for accessing the complete rulemaking record can be obtained from the rulemaking page on the Commission’s website at <https://www.nm-prc.org/rulemaking-proceedings/> or by calling Isaac Sullivan-Leshin of the Commission’s

office of general counsel at (505) 670-4830.

How a person can comment on the proposed rule, where comments will be received and when comments are due: Any person wishing to comment on the Proposed Rules may do so by submitting written initial comments no later than **July 15, 2022**. Any person wishing to respond to initial comments may do so by submitting written response comments no later than **August 5, 2022**. Any person wishing to reply to response comments may do so by submitting written reply comments no later than **August 19, 2022**.

Comments can be electronically filed by sending them in PDF format to [prc.records@state.nm.us](mailto:prc.records@state.nm.us). Comments must refer to Docket No. 20-00158-UT. All written comments will be posted on the Commission’s website within three days of their receipt by the records bureau.

The record closure date for this proceeding is September 2, 2022. From that date through the completion of this proceeding, rulemaking participants will be forbidden from communicating with the Commission or its representatives concerning substantive issues in this proceeding.

When and where a public rule hearing will be held and how a person can participate in the hearing: A public hearing on the Proposed Rules and any additional issues to be addressed in formal comment process, to be presided over by the Commission or its designee, shall be held beginning at **1:00 p.m. on August 11, 2022**.

Any member of the public who wishes to make a comment at the hearing shall contact Isaac Sullivan-Leshin at (505) 670-4830 or [isaac.sullivan-leshin@state.nm.us](mailto:isaac.sullivan-leshin@state.nm.us) by no later than 5:00 p.m. on August 10, 2022, to sign up as a hearing participant. The Commission’s Office of General Counsel shall email a Zoom invitation to all hearing participants on August 11, 2022. The invitation shall include a call-in

number for those participants who are unable to access the hearing via computer.

The hearing will be held in order to receive oral comments. Commenters who have not submitted written comments or responses and commenters who have submitted written comments or responses will be allowed to speak. In addition, any commenter may be limited to five minutes to speak, subject to the discretion of the Commission or its designee. The Commission or its designee may also determine that a spokesperson should be designated to speak on behalf of an organization, a group, or a group of individuals that shares the same message or seeks the same goals, in order to maximize the efficiency of the public comment hearing. No testimony or other evidence will be taken at the hearing as this is a rulemaking proceeding. A court reporter will prepare a transcript of the hearing for filing the rulemaking docket, Docket No. 20-00158-UT. Any person with a disability requiring special assistance in order to participate in the hearing should contact Renada Peery-Galon at (505) 467-9116 at least 48 hours prior to the commencement of the hearing.

Technical information that served as a basis for the proposed rule and how the information can be obtained: None.

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## REGULATION AND LICENSING DEPARTMENT PHARMACY BOARD

The New Mexico Board of Pharmacy will convene on July 21st and 22nd, 2022 at 9:00 a.m. and continue until finished in the Board of Pharmacy Conference Room located at 5500 San Antonio Dr., NE, Albuquerque, NM 87109 for the purpose of conducting a regular board meeting.

The agenda is posted 72 hours prior to the scheduled meeting. You may view and download a copy of the agenda through the board’s website:

<https://www.rld.nm.gov/boards-and-commissions/individual-boards-and-commissions/pharmacy/pharmacy-board-information/pharmacy-board-meetings/>. All proposed language regarding rule hearings is linked to the *Agenda*, the *Notice to the Public* on our website and the *New Mexico Sunshine Portal*.

Individuals petitioning the board regarding requests/waivers and/or interested persons wishing to comment on proposed language regarding rule hearings must submit documentation for presentation; via fax (505) 222-9845, mail or email to the Board Administrator, Gabriella Romero, [gabriella.romero@state.nm.us](mailto:gabriella.romero@state.nm.us) at least one week in advance of the scheduled meeting. Public comment is also allowed during the rule hearing.

The board may go into Executive Session to discuss items pursuant to Section 10-15-1H(1), Section 10-15-1H(2), Section 10-15-1H(3) or Section 10-15-1H(7) of the Open Meeting Act. Agenda items may be executed at any time during the meeting to accommodate hearings.

If you are an individual with a disability who is in need of a reader, amplifier, qualified sign language interpreter, or any other form of auxiliary aid or service to attend or participate in the hearing or meeting, please contact Gabriella Romero 505-222-9835 at least one week prior to the meeting or as soon as possible. Public documents, including the agenda and minutes, can be provided in various accessible formats. Please contact Gabriella Romero, at 505-222-9835 or e-mail [gabriella.romero@state.nm.us](mailto:gabriella.romero@state.nm.us) if a summary or other type of accessible format is needed.

The Board will address:

All Board Matters:

Rule Hearings: July 21, 2022 at 9:10 a.m.

16.19.4 NMAC- PHARMACISTS - Sections 9, 16 and 17 administrative updates. Section 9, amended to exclude dispensing other opioid antagonist as authorized in Section 24-23-1 NMSA 1978 from definition of unprofessional or dishonorable conduct. Section 11, to include schedule V in drugs that may not be returned to inventory under return of patient medication package drugs. New subsections under consultant pharmacist clinic facility for Class E clinic specifying consultant pharmacist visitation frequency and activities. Section 12, clarified to specify that a licensee must appear before the board as a condition of consideration of reinstatement. Section 17, amended to include schedule III in requirement for pharmacist clinician utilization of PMP in opioid treatment programs.

STATUTORY AUTHORITY:  
Paragraph (1) of Subsection A of Section 61-11-6 NMSA, 1978 authorizes the board of pharmacy to adopt, regularly review and revise rules and regulations necessary to carry out the provisions of the Pharmacy Act. Sections 61-11-1, 61-11-2, 61-11-4 to 61-11-28 NMSA 1978.

16.19.10 NMAC- LIMITED DRUG CLINICS - Section 1, administrative update. Section 3, administrative updates and reference additional paragraphs of Subsection B of Section 61-11-14 to correspond to listed facility types. Amend facility types listed to correspond to limited drug clinic categories. Section 7, defining "Mobile Narcotic Treatment Program." Section 10, amended to include schedule V controlled substances in records that may be kept in same record as dangerous drugs with entry identification. Section 11, update statute citation, and add new subsection e - Class E Narcotic Treatment Program (NTP). Under patient counseling, specify additional allowance for use of alternative forms of patient information to supplement patient counseling when appropriate. Drug storage, Class E clinics- 96

square foot room. Disposition of unwanted or outdated drugs, added specification that controlled substance disposition shall occur in accordance with 16.19.20.38 NMAC. New section T, outlining NTP clinic requirements.

STATUTORY AUTHORITY:  
Paragraph (6) of Subsection A of Section 61-11-6 NMSA 1978, Paragraphs (6), (7), (12), and (13) of Subsection B of Section 61-11-14 NMSA 1978 and Subsection (A) of Section 26-1-16 NMSA 1978.

Disciplinary Hearing(s): note – the information below is tentative. Final hearing date and time for each case will be included in the agenda posted to the board's website at least 72 hours before the meeting. Additional hearing(s), if scheduled, will be included in the agenda.

July 21, 2022, 1:30 p.m. Carl Carothers, Pharmacy technician application, Case 2022-005  
July 21, 2022, 2:00 p.m. Aileen Arviso, Pharmacy technician application, Case 2022-020

Executive Director's Report:

Published in NM Register: June 7, 2022  
Published in Albuquerque Journal: June 7, 2022

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## End of Notices of Rulemaking and Proposed Rules

## Adopted Rules

### Effective Date and Validity of Rule Filings

Rules published in this issue of the New Mexico Register are effective on the publication date of this issue unless otherwise specified. No rule shall be valid or enforceable until it is filed with the records center and published in the New Mexico Register as provided in the State Rules Act. Unless a later date is otherwise provided by law, the effective date of the rule shall be the date of publication in the New Mexico Register. Section 14-4-5 NMSA 1978.

### ALBUQUERQUE - BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

At its hearing on 5/4/2022 and 5/5/2022, the Albuquerque-Bernalillo County Air Quality Control Board repealed its rule Emission Standards for New Motor Vehicles, 20.11.104 NMAC, filed 11/30/2007, and replaced it with a new rule entitled New Motor Vehicle Emission Standards, 20.11.104 NMAC, adopted 5/5/2022 and effective 7/1/2022.

### ALBUQUERQUE - BERNALILLO COUNTY AIR QUALITY CONTROL BOARD

#### TITLE 20 ENVIRONMENTAL PROTECTION CHAPTER 11 ALBUQUERQUE- BERNALILLO COUNTY AIR QUALITY CONTROL BOARD PART 104 NEW MOTOR VEHICLE EMISSION STANDARDS

**20.11.104.1 ISSUING AGENCY:** Albuquerque-Bernalillo County Air Quality Control Board, P.O. Box 1293, Albuquerque, New Mexico 87103. Telephone: (505) 768-1972.  
[20.11.104.1 NMAC - Rp,  
20.11.104.1 NMAC, 7/1/2022]

**20.11.104.2 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.  
[20.11.104.2 NMAC - Rp,  
20.11.104.2 NMAC, 7/1/2022]

**20.11.104.3 STATUTORY AUTHORITY:** The Air Quality Control Act, Sections 74-2-1 to -17 NMSA 1978; the Joint Air Quality Control Board Ordinance, Revised Ordinances of Albuquerque 1994, Sections 9-5-1-3, 9-5-1-4, 9-5-1-5 and 9-5-1-6; and Bernalillo County Code, Article II, Sections 30-32, 30-33, 30-34 and 30-35.  
[20.11.104.3 NMAC - Rp,  
20.11.104.3 NMAC, 7/1/2022]

**20.11.104.4 DURATION:** Permanent.  
[20.11.104.4 NMAC - Rp,  
20.11.104.4 NMAC, 7/1/2022]

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

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

**20.11.104.7 DEFINITIONS:** The definitions in Section 74-2-2 NMSA 1978 shall apply in 20.11.104 NMAC. If a term is defined in Section 74-2-2 NMSA 1978 and 20.11.104 NMAC, the definition in 20.11.104 NMAC shall apply. The definitions in 20.11.1.7 NMAC, the Revised Ordinances of Albuquerque 1994, Section 9-5-1-2, and the Bernalillo County Code, Article II, Section 30-31 shall not apply in

20.11.104 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 20.11.104 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, or Bernalillo County and the City of Albuquerque, depending on the context; 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 the environment department, or the air quality control board or the environmental health 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 or the director, depending on the context; provided, however, the terms in the CCR and CHSC definitions incorporated by reference in 20.11.104.7 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 20.11.104 NMAC, the Motor Vehicle Code meaning and application of the term shall control.

**A. "Air quality control board"** means the Albuquerque-Bernalillo county air quality control board, which is a local board, as such term is defined

in Subsection K of Section 74-2-2 NMSA 1978.

**B. “Certification”** means the same in 20.11.104 NMAC as it is defined in CHSC, Section 39018.

**C. “Dealer”** means the same in 20.11.104 NMAC as it is defined in Subsection B of Section 57-16-3 NMSA 1978.

**D. “Director”** means the director of the environmental health department, who is the director as such term is defined in Subsection D of Section 74-2-2 NMSA 1978.

**E. “Emission standards”** means the same in 20.11.104 NMAC as it is defined in CHSC, Section 39027, which New Mexico is authorized to adopt pursuant to 42 U.S.C. § 7507.

**F. “Emergency vehicle”** means the same in 20.11.104 NMAC as it is defined in CCR, Title 13, Section 1961.3(10).

**G. “Environment department”** means the New Mexico environment department.

**H. “Environmental health department”** means the environmental health department, which is a local agency as such term is defined in Subsection I of Section 74-2-2 NMSA 1978.

**I. “Environmental improvement board”** means the same in 20.11.104 NMAC as it is defined in Subsection A of Section 74-1-3 NMSA 1978.

**J. “Greenhouse gas”** means the same in 20.11.104 NMAC as it is defined in CCR, Title 13, Section 1961.3(18).

**K. “Independent low volume manufacturer”** means the same in 20.11.104 NMAC as it is defined in CCR, Title 13, Section 1900(b)(8).

**L. “Intermediate volume manufacturer”** means the same in 20.11.104 NMAC as it is defined in CCR, Title 13, Section 1900(b)(9).

**M. “Large volume manufacturer”** means the same in 20.11.104 NMAC as it is defined in CCR, Title 13, Section 1900(b)(10).

**N. “Light-duty truck”** means the same in 20.11.104 NMAC as it is defined in CCR, Title 13, Section 1900(b)(11).

**O. “Manufacturer”** means the same in 20.11.104 NMAC as it is defined in Subsection J of 57-16-3 NMSA 1978, and shall include small, independent low, intermediate, or large volume manufacturers as defined herein.

**P. “Medium-duty”** means the same in 20.11.104 NMAC as it is defined in CHSC, Section 39037.5.

**Q. “Medium-duty passenger vehicle”** means the same in 20.11.104 NMAC as it is defined in CCR, Title 13, Section 1900(b)(12).

**R. “Medium-duty vehicle”** means the same in 20.11.104 NMAC as it is defined in CCR, Title 13, Section 1900(b)(13).

**S. “Methane”** means the chemical compound containing one atom of carbon and four atoms of hydrogen.

**T. “Model year”** means the same in 20.11.104 NMAC as it is defined in CHSC, Section 39038.

**U. “Motor vehicle”** means the same in 20.11.104 NMAC as it is defined in CHSC, Section 39039.

**V. “Motor vehicle engine”** means the same in 20.11.104 NMAC as it is defined in CHSC, Section 39042.5.

**W. “Non-methane organic gas”** means the same in 20.11.104 NMAC as it is defined in CCR, Title 13, Section 1961.2.

**X. “Particulate matter”** means the same in 20.11.104 NMAC as it is defined in CCR, Title 13, Section 1961.2.

**Y. “Passenger car”** means the same in 20.11.104 NMAC as it is defined in CCR, Title 13, Section 1900(b)(17).

**Z. “Passenger vehicle”** means the same in 20.11.104 NMAC as it is defined in CHSC, Section 39046.

**AA. “Recall”** means the same in 20.11.104 NMAC as it is defined in CCR, Title 13, Section 1900(b)(19).

**BB. “Register”** means to register a motor vehicle with the New Mexico motor vehicle division.

**CC. “Sale” or “sell”** means the transfer of equitable or legal title to a motor vehicle or motor vehicle engine to the ultimate purchaser.

**DD. “Small volume manufacturer”** means the same in 20.11.104 NMAC as it is defined in CCR, Title 13, Section 1900(b)(22).

**EE. “Truck”** means the same in 20.11.104 NMAC as it is defined in CHSC, Section 39054.

**FF. “Ultimate Purchaser”** means the same in 20.11.104 NMAC as it is defined in CHSC, Section 39055.5.

**GG. “Vehicle”** means the same in 20.11.104 NMAC as it is defined in CHSC, Section 39059.

**HH. “Zero-emission vehicle” or “ZEV”** means the same in 20.11.104 NMAC as it is defined in CCR, Title 13, Section 1962.2(a).

**II. “ZEV credit bank”** means a zero-emission vehicle credit bank set up by the California air resources board or the environment department that records and tracks the generation, verification, transfer, voluntary retirement, use, and invalidation of zero-emission vehicle credits.

[20.11.104.7 NMAC - Rp,  
20.11.104.7 NMAC, 7/1/2022]

**20.11.104.8 DOCUMENTS:** Documents incorporated and cited in 20.11.104 NMAC may be viewed at the environmental health department, 1 Civic Plaza NW, Albuquerque, NM 87102. Information on internet access to these documents may be obtained by contacting the environmental health department at (505) 768-1972. [20.11.104.8 NMAC - Rp,  
20.11.104.8 NMAC, 7/1/2022]

**20.11.104.9 SEVERABILITY:** If for any reason any section, paragraph, sentence, clause, wording, or application of 20.11.104 NMAC or any standard incorporated herein is held to be unconstitutional or otherwise invalid by any court or the United States environmental



protection agency, the remainder of this part, 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. [20.11.104.9 NMAC - Rp, 20.11.104.9 NMAC, 7/1/2022]

**20.11.104.10 CONSTRUCTION:** 20.11.104 NMAC shall be liberally construed to carry out its purpose. [20.11.104.10 NMAC - Rp, 20.11.104.10 NMAC, 7/1/2022]

**20.11.104.11 SAVINGS CLAUSE:** Repeal or supersession of prior versions of 20.11.104 NMAC shall not affect any administrative or judicial action initiated under those prior versions. [20.11.104.11 NMAC - Rp, 20.11.104.11 NMAC, 7/1/2022]

**20.11.104.12 COMPLIANCE WITH OTHER REGULATIONS:** Compliance with 20.11.104 NMAC does not relieve a person from the responsibility to comply with any other applicable federal, state, or local regulations. [20.11.104.12 NMAC - Rp, 20.11.104.12 NMAC, 7/1/2022]

**20.11.104.13 LIMITATION OF DEFENSE:** The existence of a valid registration or certification under 20.11.104 NMAC shall not constitute a defense to a violation of 20.11.104 NMAC, except the requirement for obtaining a registration or certification. [20.11.104.13 NMAC - Rp, 20.11.104.13 NMAC, 7/1/2022]

**20.11.104.14 - 20.11.104.99 [RESERVED]**

**20.11.104.100 APPLICABILITY:**  
A. Except as provided in 20.11.104.103 NMAC (Exemptions) and in compliance with the Motor Vehicle Dealers Franchising Act, Sections 57-16-1 to -16 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 20.11.104 NMAC, New Mexico is inclusive of the city of Albuquerque and Bernalillo county. Compliance with the exhaust emission standards in 20.11.104 NMAC shall be based on the motor vehicles subject to the relevant sections of 20.11.104 NMAC and 20.2.91 NMAC that each manufacturer delivers for sale, offers for sale, sells, imports, delivers, or leases in New Mexico. Exhaust emission standard compliance data shall be reported to the environment department, and compliance shall be determined and the use of debits and credits accounted for on a statewide basis. [20.11.104.100 NMAC - Rp, 20.11.104.100 NMAC, 7/1/2022]

**20.11.104.101 GENERAL REQUIREMENTS:**

A. Except as otherwise required, 20.11.104 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 20.11.104 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 20.11.104 NMAC.

D. Each manufacturer, dealer, rental car agency, the United States, state and local government, and other person shall comply with the environment department's and environmental health department's inspection and information requests issued pursuant to 20.2.91.114 NMAC (Inspections and Information Requests) and 20.11.104.114 NMAC (Inspections and Information Requests), respectively.

E. Each person registering a motor vehicle in New Mexico shall comply with the registration requirements in 20.11.104 NMAC.

F. The requirements in 20.11.104 NMAC shall not be applicable if an exemption, as provided in 20.11.104.103 NMAC (Exemptions), applies. [20.11.104.101 NMAC - Rp, 20.11.104.101 NMAC, 7/1/2022]

**20.11.104.102 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 20.11.104.5 NMAC (Effective Date); incorporated sections of the CCR and the CHSC do not incorporate a later adoption or amendment of the regulation.

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.

(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.  
[20.11.104.102 NMAC - Rp,  
20.11.104.102 NMAC, 7/1/2022]

**20.11.104.103 EXEMPTIONS:**  
The following motor vehicles shall  
not be subject to 20.11.104 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  
environment 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.

[20.11.104.103 NMAC - Rp,  
20.11.104.103 NMAC, 7/1/2022]

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

**A.** Each manufacturer  
subject to 20.11.104 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 20.11.104.104 NMAC  
(Fleet Average Non-methane Organic  
Gas Plus Oxides of Nitrogen Exhaust  
Emission Standards, Reporting and  
Compliance) and 20.2.91.104 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 20.11.104.104 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 20.11.104.104  
NMAC (Fleet Average Non-methane  
Organic Gas Plus Oxides of Nitrogen  
Exhaust Emission Standards,  
Reporting and Compliance) and  
Subsection A of 20.2.91.104 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 20.11.104.104 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 environment 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 20.11.104.104 NMAC (Fleet Average Non-methane Organic Gas Plus Oxides of Nitrogen Exhaust Emission Standards, Reporting and Compliance) and Subsection A of 20.2.91.104 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 environment department the information for the entire pool as well as for the portion specific to New Mexico.

[20.11.104.104 NMAC - Rp, 20.11.104.104 NMAC, 7/1/2022]

**20.11.104.105 PARTICULATE MATTER EXHAUST EMISSION STANDARDS, REPORTING AND COMPLIANCE:** Each manufacturer subject to 20.11.104 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 20.11.104.105 NMAC (Particulate Matter Exhaust Emission Standards,

Reporting and Compliance) and 20.2.91.105 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.

[20.11.104.105 NMAC - Rp, 20.11.104.105 NMAC, 7/1/2022]

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

A. Each manufacturer subject to 20.11.104 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 20.11.104.106 NMAC (Fleet Average Greenhouse Gas Exhaust Emission Standards, Reporting and Compliance) and 20.2.91.106 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 20.11.104.106 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 20.11.104.106 NMAC (Fleet Average Greenhouse Gas Exhaust Emission Standards, Reporting and Compliance) and Subsection A of 20.2.91.106 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 20.11.104.106 NMAC (Fleet Average Greenhouse Gas Exhaust Emission Standards, Reporting and Compliance) shall submit a report by March 1 of each year to the environment 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 20.11.104.106 NMAC (Fleet Average Greenhouse Gas Exhaust Emission Standards, Reporting and Compliance) and Subsection A of 20.2.91.106 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.

[20.11.104.106 NMAC - Rp, 20.11.104.106 NMAC, 7/1/2022]

**20.11.104.107 REMEDIATION REPORT:**

A. If the environment department determines that a report submitted by a manufacturer pursuant to 20.11.104.104 NMAC (Fleet Average Non-methane Organic Gas Plus Oxides of Nitrogen Exhaust Emission Standards, Reporting and Compliance) or 20.11.104.106 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 manufacturer shall be required to submit a fleet average remediation report to the environment department.

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

[20.11.104.107 NMAC - Rp, 20.11.104.107 NMAC, 7/1/2022]

**20.11.104.108 ZERO-EMISSION VEHICLE CREDIT REQUIREMENT, REPORTING, AND COMPLIANCE:**

**A.** Each manufacturer subject to 20.11.104 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 20.11.104 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 20.11.104

NMAC and 20.2.91 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 20.11.104 NMAC shall submit to the environment 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 environment 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 environment department for banking credits generated in New Mexico but are not required to do so. A 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 20.11.104.108 NMAC (Zero-Emission Vehicle Credit Requirement, Reporting, and Compliance), 20.2.91.108 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). [20.11.104.108 NMAC - Rp, 20.11.104.108 NMAC, 7/1/2022]

**20.11.104.109 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 environment 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, any early action credits earned by the manufacturer pursuant to Subsection A of 20.11.104.109 NMAC (Zero-Emission Vehicle Early Action and Onetime Credits) and Subsection A of 20.2.91.109 NMAC (Zero-Emission Vehicle Early Action and Onetime Credits) shall be deposited by the environment department into the manufacturer's account in the ZEV credit bank. CARB's procedures for reporting, tracking and recording ZEV sales and credits shall be followed by the environment department.

**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, 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 shall be deposited by the environment department into the manufacturer’s account in the ZEV credit bank:

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 20.11.104.109 NMAC (Zero-Emission Vehicle Early Action and Onetime Credits) and 20.2.91.109 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. [20.11.104.109 NMAC - Rp, 20.11.104.109 NMAC, 7/1/2022]

**20.11.104.110 ADDITIONAL REPORTING:**

**A.** Within 30 calendar days of a request from the environment department or the environmental health department, a manufacturer shall submit to the respective department:

(1) A copy of the applicable CARB executive order.

(2) Any documentation the respective department determines necessary for the effective administration and enforcement of 20.11.104 NMAC, including without limitation certification materials submitted to CARB and documentation regarding the sale of each motor vehicle subject to 20.11.104 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 respective department. [20.11.104.110 NMAC - Rp, 20.11.104.110 NMAC, 7/1/2022]

**20.11.104.111 WARRANTIES:**

**A.** Each manufacturer of a motor vehicle subject to 20.11.104 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 20.11.104.103 NMAC shall not apply to this section.

**B.** Except as otherwise provided in Subsection B of 20.11.104.111 NMAC (Warranties), each manufacturer subject to 20.11.104 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 environment department.

**C.** Upon the environment department’s or the environmental health department’s request, a manufacturer of a motor vehicle subject to 20.11.104 NMAC shall submit to the respective

department within 30 calendar days any emission warranty information report submitted to CARB, as required in CCR, Title 13, Section 2144.

[20.11.104.111 NMAC - Rp, 20.11.104.111 NMAC, 7/1/2022]

**20.11.104.112 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 are not affixed in accordance with CCR, Title 13, Section 1965.

[20.11.104.112 NMAC - Rp, 20.11.104.112 NMAC, 7/1/2022]

**20.11.104.113 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 environment department’s satisfaction that the order or action is not applicable to a motor vehicle registered in New Mexico, a recall campaign of that motor vehicle shall not be pursued by the environment department.

**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 20.11.104.113 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.

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

#### **20.11.104.114 REGISTRATION**

**AND FEES:** 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 20.11.104 NMAC is subject to and shall comply with the requirements in 20.2.91.114 NMAC (Registration and Fees), as administered by the environment department. Large-volume or intermediate-volume motor vehicle manufacturers seeking to earn ZEV early action credits under 20.11.104.109 NMAC (Zero-Emission Vehicle Early Action and Onetime Credits) are subject to and shall comply with the requirements in Subsection G of 20.2.91.114 NMAC (Registration and Fees), as administered by the environment department. It shall be a violation of 20.11.104 NMAC for a large-volume or intermediate-volume manufacturer to not comply with 20.2.91.114 NMAC (Registration and Fees). [20.11.104.114 NMAC - N, 7/1/2022]

#### **20.11.104.115 INSPECTIONS AND INFORMATION REQUESTS:**

A. The environment department or environmental health

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 environment department or environmental health 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 20.11.104 NMAC, except that Subsection B of 20.11.104.115 NMAC (Inspections and Information Requests) shall not be construed to require the creation of a new record.

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

#### **20.11.104.116**

**RECORDKEEPING:** All manufacturers, dealers, rental car agencies, the United States, state and local governments, or other persons shall retain records pertaining to compliance under 20.11.104 NMAC. [20.11.104.116 NMAC - N, 7/1/2022]

#### **20.11.104.117 PROHIBITED:**

Failure to comply with the emission standards, recordkeeping, reporting, or other requirements of 20.11.104 NMAC within the timeframes specified shall constitute a violation of 20.11.104 NMAC subject to enforcement action under Section 74-2-12 NMSA 1978.

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

#### **HISTORY OF 20.11.104 NMAC:**

**History of Repealed Material:** 20.11.104 NMAC, Emission Standards for New Motor Vehicles, filed 11/30/2007, repealed effective 7/1/2022.

#### **Other History:**

20.11.104 NMAC, Emission Standards for New Motor Vehicles, filed 11/30/2007, was repealed and replaced by 20.11.104 NMAC, New

Motor Vehicle Emission Standards, effective 7/1/2022.

## **EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT**

**This is an Emergency Amendment to 8.15.2 NMAC, Sections 9, 12 and 14 effective 5/06/2022.**

### **8.15.2.9 PRIORITIES**

**FOR ASSISTANCE:** Any funds received by the department under the child care development fund and other sources are expended for child care assistance pursuant to the following priorities:

#### **A. Priority one:**

Clients receiving temporary assistance to needy families (TANF) benefits to include TANF diversionary payment, are considered priority one clients.

#### **(1)**

Participation exemption: The human services department (HSD) grants participation exemptions to TANF clients who cannot locate child care. The children, youth and families department is responsible for the verification of the TANF participant's inability to locate child care. Reasons for a participation exemption due to lack of child care are as follows:

#### **(a)**

the unavailability of appropriate child care within a reasonable distance from the individual's home or work site;

#### **(b)**

the unavailability or unsuitability of informal child care by a relative or under other arrangements; or

#### **(c)**

the unavailability of appropriate and affordable formal child care by a relative or under other arrangements.

#### **(2) A person**

who applies for participation exemption for any or all of the above reasons is referred to the children, youth and families department child care resource and referral. The child care resource and referral assists the client with location of child care. The final validation/verification of a client's inability to locate child care is determined by the child care services

bureau supervisor in conjunction with his/her supervisor. A client who receives a participation exemption due to lack of child care is required to re-apply for the exemption every six months. If a person disagrees with the determination of their eligibility for a participation exemption, they may apply for a fair hearing with HSD. HSD is responsible for providing notice of the approval or denial of a participation exemption.

**B.** Priority one A:  
[RESERVED]

**C.** Priority one B:  
Child care assistance for income eligible families whose income is at or below one hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. The department prioritizes child care services within priority one B for children with special needs, disabilities, homeless families, and for teen parents.

**D.** Priority two:  
Families transitioning off TANF and clients who have received a TANF diversionary payment. Clients must have received TANF for at least one month, or a diversionary payment, in the past 12 months in order to qualify for priority two. Only clients transitioning off TANF whose TANF cases are closed at least in part due to increased earnings or loss of earned income deductions or disregards are eligible for priority two. Priority two clients do not have to meet income eligibility requirements during their 12 consecutive month period of eligibility for priority two child care.

**E.** Priority three:  
[RESERVED]

**F.** Priority four: Child care assistance for families whose income is above one hundred percent of the federal poverty level but at or below two hundred percent of the federal poverty level, adjusted annually in accordance with federal guidelines. These families are certified for a 12 month block of time and will remain eligible at or below two hundred fifty percent of the federal poverty level. Exceptions to the 12 month certification period are included in 8.15.2.11 NMAC.

The department prioritizes child care services within priority four for children with special needs, disabilities, homeless families, and for teen parents.

**G.** Priority four plus:

During this period of economic recovery and subject to budgetary considerations, child care assistance for essential workers whose income is above two hundred percent of the federal poverty level but at or below ~~three~~ four hundred ~~fifty~~ percent of the federal poverty level, adjusted annually in accordance with federal guidelines. These families are certified for a 12 month block of time and will remain eligible at or below four hundred and twenty-five percent of the federal poverty level. Exceptions to the 12 month certification period are included in 8.15.2.11 NMAC. The department prioritizes child care services within priority four plus for children with special needs, disabilities, homeless families, and for teen parents.

**H.** Priority five: In addition to these priorities, the department pays for at-risk child care as approved by the department. Child care benefits are provided for a minimum of six months to support the family. Income, work and education requirements and copayments are waived for clients in this priority. [8.15.2.9 NMAC - Rp, 8.15.2.9 NMAC, 10/1/2016; A, 10/1/2019; A/E, 9/18/2020; A, 3/1/2021; A/E, 8/1/2021; A, 1/1/2022; A/E, 5/1/2022; A/E, 5/6/2022]

#### 8.15.2.12

**RECERTIFICATION:** Clients must recertify for services at the end of their eligibility period by complying with all requirements of initial certification. Clients who recertify will qualify at or below two hundred and fifty percent of the federal poverty level. Clients above two hundred and fifty percent of the federal poverty level must qualify as an essential worker as defined in Paragraph (2) of Subsection E of 8.15.2.9 NMAC. Clients designated as essential workers who recertify must be at or below four hundred and twenty-five

percent of the federal poverty level. If recertification is not completed in a timely manner, the case may be closed on the last day of the month for which assistance is provided under the previous child care placement agreement. At time of recertification, clients must provide documentation of income, or proof of school enrollment. Changes in income, household size, employment, training or educational status are noted in the client's record. Co-payment, if applicable, is re-determined at the time of recertification. A 12-month certification period will be granted in accordance with eligibility requirements outlined in Subsection B of 8.15.2.11 NMAC.

[8.15.2.12 NMAC - Rp, 8.15.2.12 NMAC, 10/1/2016; A, 10/1/2019; A/E, 9/18/2020; A, 3/1/2021; A/E, 8/1/2021; A, 1/1/2022; A/E, 5/6/2022]

#### 8.15.2.14 CASE SUSPENSIONS AND CLOSURES:

**A.** A case may be suspended by the client if child care benefits are not being utilized for a period not to exceed three months with payment being discontinued to the provider. The client will remain eligible for child care assistance through the remainder of their eligibility period.

**B.** If the client experiences a non-temporary change of activity including the loss of employment, no longer attending school, or no longer participating in a job training or education program, the child care placement agreement may close; however, the client will remain eligible for the approved 12-month eligibility period.

**C.** A case will be closed if the following conditions apply:

- (1) any non-temporary change in activity;
- (2) income in excess of two hundred and fifty percent federal poverty level or a client designated as an essential worker, as defined in Paragraph (2) of Subsection E of 8.15.2.9 NMAC, with an income in excess of four hundred and twenty-five percent of the federal poverty level;

(3) failing to recertify at the end of approved eligibility period; or  
 (4) being disqualified from participation in the program.  
 [8.15.2.14 NMAC - Rp, 8.15.2.14 NMAC, 10/1/2016; A, 3/1/2021; A/E, 7/1/2021; A, 1/1/2022; A/E, 5/1/2022; A/E, 5/6/2022]

**ENVIRONMENT DEPARTMENT**

**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).  
**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.  
[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.

**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.

(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]

**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) 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 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]

**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 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]**

**MEDICAL BOARD**

This is an emergency amendment to 16.10.2 NMAC, Sections 9, 10 and 11 effective 5/11/2022.

**16.10.2.9 MEDICAL LICENSE BY EXAMINATION:**

**A. Prerequisites for licensure:** Each applicant for a license to practice as a physician in New Mexico must be of good moral character and must possess the following qualifications:

(1) graduated and received a diploma from a board approved school, completed a program determined by the board to be substantially equivalent to a U.S. medical school, based on board review of an evaluation by a board approved credential evaluation service, or the board shall, in its sole discretion, determine if the applicant's total educational and professional

clinical experience is substantially equivalent to that which is required for licensure in New Mexico; and

(2) successfully passed one of the examinations or combinations of examinations defined in 16.10.3 NMAC; and

(3) completed two years of postgraduate training or been approved by the board in accordance with the provisions of Subsection B of Section 61-6-11 NMSA 1978;

(4) when the board has reason to believe that an applicant for licensure is not competent to practice medicine it may require the applicant to complete a special competency examination or to be evaluated for competence by other means that have been approved by the board; and

(5) a qualified applicant who has not been actively and continuously in practice for more than two years prior to application may be required to successfully complete a special examination or evaluation such as, but not limited to, the SPEX (special purpose examination), the PLAS (post-licensure assessment system of the federation of state medical boards), or specialty re-certification.

**B. Required documentation for all applicants:**

Each applicant for a license must apply online using HSC as their application processor, submit the required fees as specified in 16.10.9.8 NMAC, application processing fees to HSC, and the following documentation sent directly to HSC:

(1) a completed signed application with a passport-quality photo taken within the previous six months; applications are valid for one year from the date of receipt by HSC; [~~the board~~].

(2) verification of licensure in all states or territories where the applicant holds or has held a license to practice medicine, or other health care profession; verification must be received directly from the other state board(s), and must attest to the status, issue date,

license number, and other information requested and contained on the form; this information will be provided to the board by HSC; [~~or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board for applicants using FCVS or applying directly to the board;~~]

(3) two recommendation forms from physicians, chiefs of staff or department chairs or equivalent with whom the applicant has worked and who have personal knowledge of the applicant's character and competence to practice medicine; the recommending physicians must have personally known the applicant and have had the opportunity to personally observe the applicant's ability and performance; [~~forms must be sent directly to the board from the recommending physician;~~] this information will be provided by HSC; [~~or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board for applicants using FCVS or applying directly to the board;~~]

(4) verification of all work experience and hospital affiliations in the last two years, if applicable, not to include postgraduate training; this information will be provided by HSC; [~~or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board for applicants using FCVS or applying directly to the board;~~]

(5) a copy of all American board of medical specialties (ABMS) specialty board certifications, or American osteopathic association bureau of osteopathic specialists (AOA-BOS) if applicable; this information will be provided by HSC; and [~~or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board for applicants using FCVS or applying directly to the board;~~ and]



(6) the board may request that applicants be investigated by the biographical section of the American medical association (AMA), the drug enforcement administration (DEA), the federation of state medical boards (FSMB), the national practitioner data bank, and other sources as may be deemed appropriate by the board;

(7) applicants who are not United States citizens must provide proof that they are in compliance with the immigration laws of the United States.

**C. Additional documentation for applicants using the FCVS:** Applicants are encouraged to use the FCVS as once a credential file is created future applications for medical licensure will be streamlined. However, application through FCVS is not required. Applicants using the FCVS must submit a completed application to the FCVS, who will provide primary source documentation to the board. Only the documents required in Subsection B of 16.10.2.9 are required from HSC in addition to the FCVS report.

**D. Additional documentation for applicants using HSC [~~or another board-approved credentials verification service~~]:**

(1) status report of educational commission for foreign medical graduates (ECFMG) certification sent directly to [~~the board~~] HSC from ECFMG, if applicable;

(2) copy of ECFMG interim letter documenting additional postgraduate training for international medical graduates applying through the fifth pathway process, if applicable;

(3) certified transcripts of exam scores as required in 16.10.3 NMAC sent directly to [~~the board~~] HSC from the testing agency;

(4) proof of identity may be required; acceptable documents include birth certificate, passport, naturalization documents, and visas.

~~[E. Additional documentation for applicants~~

~~applying directly to New Mexico and not using FCVS or HSC or another board-approved credentials verification service:~~

~~(1) verification of medical education form with school seal or notarized, sent directly to the board from the school;~~

~~(2) transcripts sent directly to the board from the medical school;~~

~~(3) status report of ECFMG certification sent directly to the board from ECFMG, if applicable;~~

~~(4) copy of ECFMG interim letter documenting additional postgraduate training for international medical graduates applying through the fifth pathway process, if applicable;~~

~~(5) postgraduate training form sent to the board directly from the training program;~~

~~(6) certified transcripts of exam scores as required in 16.10.3 NMAC sent directly to the board from the testing agency; and~~

~~(7) proof of identity may be required; acceptable documents include birth certificate, passport, naturalization documents, and visas;~~

~~(8) certified copies of source documents obtained directly from another state licensing jurisdiction who has the original document on file will be accepted in lieu of original documents when the originals cannot be obtained for a valid cause.]~~

**[F] E. Licensure process:** Upon receipt of a completed application, including all required documentation and fees, the applicant may be scheduled for a personal interview before the board, a board member designated by the board, or an agent of the board and must present original documents as requested by the board. The initial license will be issued following completion of any required interview, or approval by a member or agent of the board.

**[G] F. Initial license expiration:** Medical licenses shall

be renewed on July 1 following the date of issue. Initial licenses are valid for a period of not more than thirteen months or less than one month. If New Mexico is the first state of licensure, initial licenses are valid for a period of not less than twenty-four months or more than thirty-five months and shall be renewed on July 1.

[16.10.2.9 NMAC - N, 5/1/2002; A, 1/20/2003; A, 7/1/2003; A, 4/3/2005; A, 10/7/2005; A, 7/1/2006; A, 1/10/2007; A, 1/3/2008; A, 10/11/2013; A, 01/15/2014; A, 2/8/2022; A/E, 5/11/2022]

### 16.10.2.10 MEDICAL LICENSE BY ENDORSEMENT:

**A. Prerequisites for licensure:** Each applicant for a license to practice as a physician in New Mexico by endorsement must be of good moral character, hold a full and unrestricted license to practice medicine in another state, and possess the following qualifications:

(1) have practiced medicine in the United States or Canada immediately preceding the application for at least three years;

(2) be free of disciplinary history, license restrictions, or pending investigations in all jurisdictions where a medical license is or has been held;

(3) graduated from a board approved school or hold current ECFMG certification; and

(4) current certification from a medical specialty board recognized by the ABMS or the AOA-BOS.

**B. Required documentation for all applicants:** Each applicant for a license must apply online using HSC as their application processor, submit the required fees as specified in 16.10.9.8 NMAC, application processing fee to HSC and the following documentation sent directly to HSC:

(1) a completed signed application with a passport-quality photo taken within the previous six months; applications

are valid for one year from the date of receipt by HSC; ~~[the board;]~~

(2) verification of licensure in all states or territories where the applicant holds or has held a license to practice medicine, or other health care profession; verification must be received directly from the other state board(s), and must attest to the status, issue date, license number, and other information requested and contained on the form;

(3) two recommendation forms from physicians, chiefs of staff or department chairs or equivalent with whom the applicant has worked and who have personal knowledge of the applicant's character and competence to practice medicine; the recommending physicians must have personally known the applicant and have had the opportunity to personally observe the applicant's ability and performance; forms must be sent directly to ~~[the board]~~ HSC from the recommending physician; ~~[this information will be provided by HSC or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board;]~~

(4) verification of all work experience and hospital affiliations in the last three years, if applicable, not to include postgraduate training; this information will be provided by HSC ~~[or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board;]~~

(5) a copy of all ABMS or AOA-BOS specialty board certifications, if applicable; this information will be provided by HSC ~~[or another board-approved credentials verification service for applicants using that service, or directly to the New Mexico medical board;]~~ and

(6) the board may request that applicants be investigated by the biographical section of the AMA, the DEA, the FSMB, the national practitioner data

bank, and other sources as may be deemed appropriate by the board;

(7) applicants who are not U.S. citizens must provide proof that they are in compliance with the immigration laws of the United States.

**C. Licensure process:** Upon receipt of a completed application, including all required documentation and fees, the applicant may be scheduled for a personal interview before the board, a board member designated by the board, or an agent of the board and must present original documents as requested by the board. The initial license will be issued following completion of any required interview, or approval by a member or agent of the board.

**D. Initial license expiration:** Medical licenses shall be renewed on July 1 following the date of issue. Initial licenses are valid for a period of not more than thirteen months or less than one month. [16.10.2.10 NMAC - N, 1/20/03; A, 7/1/2003; A, 4/3/05; A, 10/7/05; A, 7/1/06; A, 1/10/07; A, 10/11/13; A, 01/15/14; A, 2/8/2022; A/E, 5/11/2022]

#### 16.10.2.11 TELEMEDICINE LICENSE:

**A. Prerequisites for licensure:** Each applicant for a telemedicine license must be of good moral character and hold a full and unrestricted license to practice medicine in another state or territory of the United States.

**B. Required documentation:** Each applicant for a license must apply online using HSC as their application processor, submit the required fees as specified in 16.10.9.8 NMAC, application processing fee to HSC and the following documentation sent directly to HSC:

(1) A completed signed application, with a passport quality photo taken within six months. Applications are valid for one year from the date of receipt.

(2) Verification of licensure in all states

where the applicant holds or has held a license to practice medicine, or other health care profession. Verification must be received directly from the other state(s) board, and must attest to the status, issue date, license number, and other information requested and contained on the form.

(3) Applicants who have had previous disciplinary or other action against them may be required to meet with the entire board. The board may, in its discretion, issue a license to practice medicine across state lines if it finds that the previous disciplinary or other action does not indicate that the physician is a potential threat to the public.

**C. Licensure process:** Upon receipt of a completed application, including all required documentation and fees, board staff will request and review an AMA physician profile and FSMB board action databank search. When the application is complete a member or agent of the board will review and may approve the application. A personal interview is not required unless there is a discrepancy in the application that cannot be resolved.

**D. Initial license expiration:** Telemedicine licenses shall be renewed on July 1 following the date of issue. Initial licenses are valid for a period of not more than thirteen months or less than one month.

**E. Exemption from licensure requirements:** are defined in Section 61-6-17 NMSA 1978 of the Medical Practice Act and include a physician licensed to practice under the laws of another state who acts as a consultant to a New Mexico licensed physician on an irregular or infrequent basis not to exceed 10 patients per year.

[16.10.2.11 NMAC - Rp 16 NMAC 10.2.13, 4/18/2002; 16.10.2.11 NMAC - Rn & A, 16.10.2.10 NMAC; 1/20/2003; A, 4/3/2005; A, 7/1/2006; A, 1/3/2008; A, 10/11/2013; A/E, 5/11/2022]

**REGULATION AND  
LICENSING DEPARTMENT  
CANNABIS CONTROL DIVISION**

**This is an amendment to 16.8.2 NMAC amending Section 49 and adding Sections 50, 51, 52, 53, 54, 55 and 56, effective 06/07/2022.**

**16.8.2.49 [SEVERABILITY:**

If any part or application of this rule is held to be invalid, the remainder or its application to other situations or persons shall not be affected. Any section of this rule legally severed shall not interfere with the remaining protections and duties provided by this rule.] **CANNABIS CONSUMPTION AREA LICENSURE; GENERAL PROVISIONS:**

**A. License types:** The division may license two classes of cannabis consumption areas:

**(1) Type I permit:** A licensed cannabis consumption area where cannabis products may be consumed on the licensed premises, except for products consumed through the respiratory system.

**(2) Type II permit:** A licensed cannabis consumption area where cannabis products may be consumed, including products that are consumed through the respiratory system.

**B. Division application forms:** All applications for licensure authorized pursuant to the Cannabis Regulation Act shall be made upon current forms prescribed by the division using the online application portal. **C.**

**License required:** Unless licensed pursuant to the Cannabis Regulation Act and division rules, a person shall not sell cannabis products to qualified patients, primary caregivers or reciprocal participants, or directly to consumers.

**D. Other activities allowed:** A licensee may conduct any lawful activity or any combination of lawful activities at a licensed premises; provided that the licensee is not a licensee pursuant to the Liquor Control Act.

**E. Cannabis**

**consumption area license:**

Applicants for a cannabis consumption area must meet all qualifications for a cannabis retailer to be approved for, and authorized to conduct, a cannabis consumption area.

[16.8.2.49 NMAC – Rp, 16.8.2.49 NMAC, 06/07/2022]

**16.8.2.50 APPLICATION REQUIREMENTS FOR CANNABIS CONSUMPTION AREA LICENSE:**

**A. An initial application or renewal for cannabis consumption area licensure shall include the following:**

**(1) Contact information for the applicant and the cannabis establishment, to include:**

**(a)** applicant's full legal name;

**(b)** applicant's date of birth, if applicable;

**(c)** applicant's mailing address;

**(d)** applicant's contact telephone number;

**(e)** applicant's contact email address;

**(f)** applicant's business physical address and mailing address, if different;

**(g)** applicant's business legal name, including a DBA name if applicable;

**(h)** applicant's business web address, if applicable;

**(i)** applicant's business hours of operation;

**(j)** name and contact information for each controlling person;

**(k)** demographic data pursuant to the Cannabis Regulation Act; and

**(l)** license type sought;

**(2) proof the applicant or each controlling person is at least 21 years of age, which shall include identification issued by a federal or state government that includes the name, date of birth, and**

picture of the applicant or controlling person;

**(3)** legible and accurate diagram and description of the location of the land or facility to be used for the cannabis establishment, including a description of each consumption or retail area and all security requirements, in a portable document format (.pdf), and if requested by the division, digital photographic photos;

**(4)** fully executed and dated documentation of the applicant's ownership or legal authority to use the property, buildings, or other facilities, establishing the applicant is, or will be, entitled to possession of the premises for which the application is made;

**(5)** a copy of a current business license, fire inspection report, and zoning approval;

**(6)** if applicable, certification the applicant is in good standing with the New Mexico secretary of state, including all documents filed with the New Mexico secretary of state;

**(7)** a list of all controlling persons, a list of other current or prior licensed cannabis businesses, documentation of the applicant's or a controlling person legal name change, and criminal history screening documents as set forth in 16.8.2.9 NMAC and the Cannabis Regulation Act;

**(8)** a detailed description of any criminal convictions of the applicant and any controlling person, including the date of each conviction, dates of incarceration, probation or parole, if applicable, description of the offense, and statement of rehabilitation of each conviction;

**(9)** if applicable, a sample of the record form(s), which shall identify (among other items) the name of the wholesale purchaser, the date of the sale, the quantity, and price of cannabis purchased for retail sale;

**(10)** certification the applicant will adhere

to retail requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules:

(11) certification the applicant will adhere to cannabis transport requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules:

(12) certification the applicant will adhere to security requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules:

(13) certification the applicant will adhere to quality assurance requirements pursuant to the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules:

(14) certification the applicant will adhere to applicable federal, state and local laws governing the protection of public health and the environment, including occupational health and safety, food safety, environmental impacts, natural resource protections, air quality, solid and hazardous waste management, and wastewater discharge:

(15) certification the applicant has never been denied a license or had a license suspended or revoked by the division or any other state cannabis licensing authority or a detailed description of any administrative orders, civil judgements, denial or suspension of a cannabis license, revocation of a cannabis license, or sanctions for unlicensed cannabis activity by any state licensing authority, against the applicant, controlling person, or a business entity in which the applicant or controlling person was a controlling person within the three years immediately preceding the date of the application:

(16) certification the applicant is not licensed under the Liquor Control Act:

(17) applicant's social and economic equity plan to encourage economic and social diversity in employment, including race, ethnicity, gender, age, and residential status of licensee, controlling persons and employees of applicant and whether the applicant, controlling persons, employees or the locations where the cannabis products are produced are located in an underserved rural community, including tribal, acequia, land grant-merced, federally designated opportunity zone, or other rural historic communities:

(18) an attestation of the following statement: Under penalty of perjury, I hereby declare that the information contained within and submitted with the application is complete, true and accurate. I understand that a misrepresentation of fact or violation of these rules may result in denial of the license application or revocation of a license issued; and

(19) payment of any required fees as set forth in 16.8.11 NMAC.

**B. Verification of information:** The division may verify information contained in each application and accompanying documentation by:

(1) contacting the applicant or controlling person by telephone, mail, or electronic mail;

(2) conducting an on-site visit;

(3) requiring a face-to-face or virtual meeting and the production of additional documentation; or

(4) consulting with state or local governments. [16.8.2.50 NMAC - N, 06/07/2022]

**16.8.2.51 SUBMITTAL OF APPLICATION FOR AMENDED CANNABIS CONSUMPTION AREA LICENSE:**

**A. Application:** A licensed cannabis consumption area shall submit to the division an application form for an amended license, if applicable, pay the required fee, and obtain approval from the

division, prior to implementing any of the following:

(1) material or substantial change of the size or location of the premises;

(2) change of licensee's legal or business name;

(3) addition or elimination of a controlling person;

(4) material or substantial change to a licensee's security system; or

(5) material or substantial modification of the premises.

**B. Amended license not required:** Changes to standard operating policies and procedures may be made without providing notification to the division, provided that licensees shall maintain at each licensed premises a copy of all current and prior operating policies and procedures.

**C. Requirements and processing of application for amended license:**

The application for amended license must comply with all requirements applicable to initial applications, except that the application shall be clearly designated as one for an amended license. The division shall approve or deny an application for amended license within 90 days of receiving a completed application. Denial of an application for amendment shall be pursuant to the Uniform Licensing Act.

**D. Material or substantial change:** Material or substantial changes requiring approval include:

(1) increase or decrease in the size of the premises, including the sale of property used for the cannabis establishment, the purchase of additional property for the use of the cannabis establishment, or a change in the location of the cannabis establishment;

(2) change to a licensee's security system, including relocation or security points or installation of a new security system; or

(3) modification of the premises to



relocate cannabis activities.  
[16.8.2.51 NMAC - N, 06/07/2022]

### **16.8.2.52 PREMISES**

#### **DIAGRAM:**

**A.** An applicant must submit to the division, with the application, a complete and detailed diagram of the proposed premises. The diagram shall be used by the division to determine whether the premises meets the requirements of the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, and division rules. The division shall deny an application if the premises does not qualify for licensure pursuant to federal, state or local laws.

**B.** The diagram shall show the boundaries of the property and the proposed premises to be licensed, the dimensions of each area that cannabis will be stored and available to the public. The diagram shall also include, as applicable, any equipment to be used, entrances and exits, interior partitions, walls, rooms, windows, and doorways. The diagram shall include a brief statement or description of the principal activity to be conducted in each area on the premises.

**C.** The diagram shall show where all cameras are located and assign a number to each camera for identification purposes.

**D.** The diagram shall be to scale.

**E.** The diagram shall not contain any highlighting and the markings on the diagram shall be in black-and-white print.

**F.** If the proposed premises consists of only a portion of a property, the diagram must be labeled indicating which part of the property is the proposed premises and what the remaining property is used for.

**G.** If the proposed premises consists of only a portion of a property that will contain two or more licensed premises, then the diagram shall be supplemented with a description of how two or more licensed premises will be managed on the property.

**H.** If a proposed premise is a type II cannabis consumption area permit, the diagram shall clearly show the location of the designated smoking area or the area immediately surrounding the building to ensure smoke will not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act.

**I.** If a proposed premise is located on only a portion of a property that also includes a residence, the diagram shall clearly show the designated buildings for the premises and the residence.

[16.8.2.52 NMAC - N, 06/07/2022]

### **16.8.2.53 CANNABIS CONSUMPTION AREA POLICIES AND PROCEDURES:**

#### **A. Minimum policy and procedure requirements:**

A licensed cannabis consumption area shall develop, implement, and maintain on the licensed premises, standard policies and procedures, which shall include the following:

**(1)** cannabis handling criteria and procedures, which shall be consistent with the Cannabis Regulation Act, the Lynn and Erin Compassionate Use Act, or division rules, and shall include at a minimum, the following topics:

**(a)** employee health and safety training materials;

**(b)** training requirements for the proper use of health and safety measures and controls;

**(c)** if applicable, recordkeeping and chain of custody protocols for transportation of cannabis or cannabis product samples to a cannabis testing laboratory;

**(d)** recordkeeping and chain of custody protocols for transportation of cannabis products to another cannabis establishment for any purpose;

**(e)** protocols to ensure that cannabis products, including any samples of cannabis products, are transported

and stored in a manner that prevents degradation, contamination, tampering, or diversion;

**(g)** if applicable, protocols for testing sample collection that ensures accurate test results; and

**(h)** if applicable, procedures for remedial measures to bring cannabis products into compliance with division standards or destruction of a tested batch of cannabis products if the testing samples from the tested batch indicate noncompliance with applicable health and safety standards;

**(2)** employee policies and procedures to address the following minimum requirements:

**(a)** adherence to state and federal laws;

**(b)** responding to an emergency, including robbery or a serious accident;

**(c)** alcohol and drug-free workplace policies and procedures;

**(d)** safety and security procedures;

**(e)** occupational safety;

**(f)** crime prevention techniques; and

**(g)** confidentiality laws, including the Health Insurance Portability and Accountability Act of 1996; and

**(3)** documentation prepared for each employee and statements signed by employees indicating receipt and understanding of policies and procedures.

#### **B. Training program:**

**(1)** Licensee shall implement a training program to ensure that all personnel present at the premises are provided information and training that, at minimum, covers the following topics within 30 days of the start of employment:

**(a)** health and safety hazards;

**(b)** security procedures; and

**(c)** record keeping requirements.

(2) Prior to engaging in any cannabis consumption area process:

(a) an overview of the process and standard operating procedure(s);

(b) safe work practices applicable to an employee’s job tasks, including appropriate use of any necessary safety or sanitary equipment;

(c) cleaning and maintenance requirements;

(d) emergency operations, including shutdown; and

(e) any additional information reasonably related to an employee’s job duties.

(3) A licensee that retails unpackaged edible cannabis products shall ensure that all personnel who handle edible products successfully complete a food handler course accredited by the American national standards institute (ANSI). Such training shall be maintained while employed by a cannabis consumption area. The licensee shall obtain documentation evidencing the fulfillment of this requirement.

**C. Training documentation:**

(1) Licensee shall ensure that all personnel receive annual refresher training to cover, at minimum, the topics listed in this section. The licensee shall maintain a record which contains at minimum:

(a) a list of all personnel at the premises, including at minimum, name and job duties of each;

(b) dates of training completion for all personnel;

(c) dates of refresher training completion for all personnel;

(d) the signature of each employee verifying receipt and understanding of each training or refresher training completed by the personnel;

(e) any official documentation attesting to the successful completion of required training by personnel.

(2) Licensee may assign responsibility for ensuring compliance by individual personnel with the requirements of this section to supervisory personnel.

**D. Retention of training documentation:** Licensees shall maintain documentation of an employee’s training for a period of five years for current employees and for at least six months after the termination of an employee’s employment.

[16.8.2.53 NMAC - N, 06/07/2022]

**16.8.2.54 MINIMUM STANDARDS FOR CANNABIS CONSUMPTION AREAS:**

**A. Access to cannabis consumption area premises prior to authorization of consumption or retail sale of commercial cannabis:**

Prior to the division authorizing the consumption or retail sale of commercial cannabis, pursuant to Subsection K of Section 26-2C-6 and Paragraph (5) of Subsection B of Section 26-2C-7 of the Cannabis Regulation Act, NMSA 1978, access to the licensed premises of a retailer shall be limited to:

(1) individuals who are at least 21 years of age and possess a valid form of identification;

(2) individuals who are at least 18 years of age and possess a valid qualified patient, primary caregiver, or reciprocal participant registry identification card from the department of health medical cannabis program.

**B. Access to cannabis consumption area premises upon authorization of consumption or retail sale of commercial cannabis:**

Upon the division authorizing the retail sale of commercial cannabis, pursuant to Subsection K of Section 26-2C-6 and Paragraph (5) of Subsection B of Section 26-2C-7 of the Cannabis Regulation Act, NMSA 1978, access to the licensed premises of a retailer shall be limited to the following:

(1) individuals who are at least 21 years of age and possess a valid form of identification; and

(2) individuals who are at least 18 years of age and possess a valid qualified patient, primary caregiver, or reciprocal participant registry identification card from the department of health medical cannabis program.

**C. Customer access to the consumption area:**

(1) Individuals shall be granted access to consume or purchase cannabis goods only after the licensed cannabis consumption area or an employee of the licensed cannabis consumption area has confirmed the individual’s age and identity, and if applicable, the individual’s status as a qualified patient, primary caregiver, or reciprocal participant.

(2) The licensed cannabis consumption area or at least one employee shall be physically present in the consumption area at all times when individuals who are not employees of the licensed retailer are in the retail area.

(3) All sales of cannabis goods, with the exception of cannabis goods sold through delivery, must take place within the retail area of the retailer’s licensed premises.

(4) A licensed cannabis consumption area shall only allow cannabis consumption between the hours reported to the division as regular business hours.

(5) A licensed cannabis consumption area may allow qualified patients to bring previously purchased goods from the licensed cannabis consumption area for consumption provided the cannabis product is properly stored in the requisite resealable packaging and the qualified patient provides proof of purchase from the cannabis consumption licensee of the product to be consumed.

**D. Requirements while not open for business:** At any time the licensed premises is not open for cannabis consumption, a licensed cannabis consumption area shall ensure that:

(1) the licensed premises is securely locked with commercial-grade, nonresidential door locks;

(2) the licensed premises is equipped with an active alarm system pursuant to pursuant to Section 10 of this rule, which shall be activated when the licensed retailer or its employees are not on the licensed premises; and

(3) only employees of the licensee and other authorized individuals are allowed access to the licensed premises. For the purposes of this section, authorized individuals include individuals employed by the licensee as well as any outside vendors, contractors, or other individuals conducting business that requires access to the licensed premises.

**E. Commercial and medical cannabis consumers:**

(1) A licensed cannabis consumption area shall only sell and allow for the consumption of commercial cannabis and cannabis products to individuals who are at least 21 years of age after confirming the customer's age and identity by inspecting a valid form of identification provided by the customer as required by Subsection B of this section.

(2) A licensed cannabis consumption area shall only sell and allow for the consumption of cannabis and cannabis products to individuals who are at least 18 years of age and possess a valid qualified patient, primary caregiver, or reciprocal participant registry identification card from the department of health medical cannabis program, after confirming the customer's age, identity, and valid registry identification.

(3) Acceptable forms of identification include the following

(a) a document issued by a federal, state, county, or municipal government, or a political subdivision or agency thereof, including, but not limited to, a valid motor vehicle operator's license, that contains the name, date of birth, and photo of the person;

(b) a valid identification card issued to a member of the armed forces that

includes the person's name, date of birth, and photo; or

(c) a valid passport issued by the United States or by a foreign government.

**F. Cannabis product display:**

(1) Cannabis and cannabis products for customer inspection and sale shall only be displayed in the area where retail activities take place.

(2) Cannabis and cannabis products may be removed from their packaging and placed in containers to allow for customer inspection. The containers shall not be readily accessible to customers without assistance of cannabis consumption area personnel. A container must be provided to the customer by the licensed cannabis consumption area or its employees, who shall remain with the customer at all times that the container is being inspected by the customer.

(3) Cannabis and cannabis products removed from their packaging for display shall not be sold, shall not be consumed, and shall be destroyed, pursuant to pursuant to Section 15 of this rule, when the cannabis or cannabis products are no longer used for display.

**F. Cannabis server permit requirements:** all employees of the licensed cannabis consumption area who directly offer, sell or serve cannabis must hold a current and valid cannabis server permit according to 18.8.10 NMAC.

**G. No visible consumption of cannabis products:**

a licensed cannabis consumption area shall ensure that the display and consumption of any cannabis product is not visible from outside of its licensed premises. Licensed cannabis consumption areas may be located outdoors provided that:

(1) all cannabis product is kept out of plain sight and is not visible from a public place without the use of optical aids, such as telescopes or binoculars, or aircraft; and

(2) the licensed cannabis consumption area shall ensure that the outdoor consumption area is surrounded by a sight-obscuring wall, fence, hedge, or other opaque or translucent barrier.

Continued Next Page



**H. Required signage:** a licensed cannabis consumption area must post, at all times and in a prominent place inside the consumption area, a warning that is at minimum 12 inches high and 12 inches wide that reads as follows:

“Cannabis may only be consumed in designated areas out of public view  
No consumption of alcohol products on site  
We reserve the right to refuse entry or service for reasons including visible intoxication  
It is against the law to drive while impaired by cannabis”

[16.8.2.54 NMAC - N, 06/07/2022]

**16.8.2.55 DEE JOHNSON CLEAN INDOOR AIR ACT:** Smoking and vaping shall be allowed on the licensed premises of type II cannabis consumption area only if the cannabis consumption area is in a designated smoking area or in a standalone building from which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act.

[16.8.2.55 NMAC - N, 06/07/2022]

**16.8.2.56 SEVERABILITY:** If any part or application of this rule is held to be invalid, the remainder or its application to other situations or persons shall not be affected. Any section of this rule legally severed shall not interfere with the remaining protections and duties provided by this rule.

[16.8.2.56 NMAC – N, 16.8.2.49 NMAC, 06/07/2022]

**History of 16.8.2 NMAC: [RESERVED]**

**SUPERINTENDENT OF  
INSURANCE, OFFICE OF  
THE**

**This is an amendment to 13.2.9 NMAC, Sections 1 and 7, effective 7/1/2022.**

**13.2.9.1 ISSUING**  
**AGENCY:** [~~Public Regulation Commission, Insurance Division.~~]  
New Mexico Office of Superintendent of Insurance (“OSI”)  
 [13.2.9.1 NMAC - N, 07/30/2010, A, 7/1/2022]

**13.2.9.7 DEFINITIONS:**  
 For the purpose of this rule:  
**A. “actuarial board for counseling and discipline”** means the board established by the American academy of actuaries and related U.S. actuarial organizations to strengthen their members’ adherence to recognized standards of ethical and professional conduct;

**B. “actuarial opinion”** means the opinion of an appointed actuary regarding the adequacy of the reserves in accordance with applicable actuarial standards of practice;

**C. “actuarial report”** means a document or

other presentation, prepared as a formal means of conveying the actuary’s professional conclusions and recommendations, of recording and communicating the methods and procedures, of assuring that the parties addressed are aware of the significance of the actuary’s opinion or findings and that documents the analysis underlying the opinion;

**D. “annual statement”** means that statement required by Section 59A-5-29 NMSA 1978 to be filed by the company with the office of the superintendent annually;

**E. “appointed actuary”** means a qualified actuary who was appointed by the company’s board of directors, or its equivalent, or by a committee of the board, by December 31 of the calendar year for which the opinion is rendered;

**F. “company”** means an insurer authorized to write property or casualty insurance under the laws of any state and who files on the property and casualty blank;

**G. “qualified actuary”** means [~~a person who is either a member in good standing of the casualty actuarial society, or a member in good standing of the American academy of actuaries who~~

~~has been approved as qualified for signing casualty loss reserve opinions by the casualty practice council of the American academy of actuaries.]~~  
a person who meets the basic education, experience and continuing education requirements of the Specific Qualification Standards promulgated by the American academy of actuaries, has obtained and maintains an accepted actuarial designation specified by the National Association of Insurance Commissioners Annual Statement Instructions, and is a member of a professional actuarial association that requires adherence to the same Code of Professional Conduct and U.S. Qualification Standards promulgated by the American academy of actuaries, and participates in the actuarial board for counseling and discipline when its association members are practicing in the U.S.; or a member in good standing of the American academy of actuaries who has been approved as qualified for signing casualty loss reserve opinions by the casualty practice council of the American academy of actuaries.

[13.2.9.7 NMAC - N, 07/30/2010, A, 7/1/2022]

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**Other Material Related to Administrative Law**


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**GOVERNOR,  
OFFICE OF THE**
**EXECUTIVE ORDER 2022-067**
**RENEWING THE STATE  
OF PUBLIC HEALTH  
EMERGENCY INITIALLY  
DECLARED IN EXECUTIVE  
ORDER 2020-004, OTHER  
POWERS INVOKED IN  
THAT ORDER, AND ALL  
OTHER ORDERS AND  
DIRECTIVES CONTAINED IN  
EXECUTIVE ORDERS TIED  
TO THE ONGOING PUBLIC  
HEALTH EMERGENCY**

On December 31, 2019, several cases of pneumonia with an unknown cause were detected in Wuhan City, Hubei Province, China, and reported to the World Health Organization (“WHO”). The underlying virus giving rise to those reported instances of respiratory illness was later identified as a novel coronavirus disease which has been referred to as “COVID-19.”

By the time the first COVID-19 cases had been confirmed in New Mexico, on March 11, 2020, COVID-19 had already spread globally and throughout the United States. At that time, more than 100,000 people had been infected globally and there were more than 1,000 cases in the United States, spread out over 39 states. The President of the United States declared a national state of emergency for COVID-19 on March 13, 2020. As of May 26, 2022 the Centers for Disease Control and Prevention (“CDC”) reported over 83.5 million people have been infected in the United States, with over 1,000,000 related deaths, and the New Mexico Department of Health has reported 533,074 positive COVID-19 cases and 7,756 related deaths in New Mexico.

Public health organizations have implemented emergency

measures intended to slow the spread of COVID-19. For example, on January 20, 2020, the CDC activated its Emergency Operations Center in response to the COVID-19 outbreak. The WHO declared a Public Health Emergency of International Concern shortly thereafter. All of our sister states subsequently declared a state of emergency and implemented significant measures and deployed substantial resources to fight the spread of COVID-19; many, if not most, have kept such states of emergency in place.

New Mexico has taken aggressive measures to reduce the spread of COVID-19 and to mitigate its impacts. I have been in frequent contact with federal and state agencies and officials who are coordinating their efforts and resources to fight COVID-19. Various state agencies have been at the forefront of our State’s response to COVID-19, particularly the New Mexico Department of Health. The hard work of a variety of state employees has made a difference in our fight against COVID-19. Due to the continued spread of COVID-19, it is necessary for all branches of State government to continue taking actions to minimize transmission of COVID-19 and to reduce its attendant physical and economic harms.

Therefore, for the reasons above, I, Michelle Lujan Grisham, Governor of the State of New Mexico, by virtue of the authority vested in me by the Constitution and laws of the State of New Mexico, hereby **ORDER** and **DIRECT**:

1. In consultation with the New Mexico Department of Health, I have determined that the statewide public health emergency proclaimed in Executive Order 2020-004, and renewed in Executive Orders 2020-022, 2020-026, 2020-030, 2020-036, 2020-053, 2020-55, 2020-059, 2020-064, 2020-073, 2020-080, 2020-085,

2021-001, 2021-004, 2021-010, 2021-011, 2021-012, 2021-023, 2021-030, 2021-044, 2021-049, 2021-054, 2021-058, 2021-061, 2021-067, 2022-004, 2022-007, 2022-012, 2022-16 and 2022-024 shall be renewed and extended through June 26, 2022.

2. All other powers, directives, and orders invoked in Executive Order 2020-004 remain in effect.

3. All other Executive Orders with a duration that was tied to the COVID-19 public health emergency or that was not explicitly stated shall continue with the same effect, including any orders appropriating emergency funding as well as Executive Orders 2020-016, 2020-020, 2020-021, 2020-025, and 2020-039.

This Order supersedes any previous orders, proclamations, or directives in conflict. This Order shall take effect on May 30, 2022 and shall remain in effect until June 29, 2022 unless renewed, modified, or rescinded.

**ATTEST:  
DONE AT THE EXECUTIVE  
OFFICE  
THIS 27TH DAY OF MAY 2022**

**WITNESS MY HAND AND THE  
GREAT SEAL OF THE STATE  
OF NEW MEXICO**

/ S /  
**MAGGIE TOULOUSE OLIVER  
SECRETARY OF STATE**  
/ S /  
**MICHELLE LUJAN-GRISHAM  
GOVERNOR**

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**End Of Other Material  
Related to Administrative  
Law**

# 2022 New Mexico Register

## Submittal Deadlines and Publication Dates

### Volume XXXIII, Issues 1-24

<b>Issue</b>	<b>Submittal Deadline</b>	<b>Publication Date</b>
<b>Issue 1</b>	<b>January 4</b>	<b>January 11</b>
<b>Issue 2</b>	<b>January 13</b>	<b>January 25</b>
<b>Issue 3</b>	<b>January 27</b>	<b>February 8</b>
<b>Issue 4</b>	<b>February 10</b>	<b>February 22</b>
<b>Issue 5</b>	<b>February 24</b>	<b>March 8</b>
<b>Issue 6</b>	<b>March 10</b>	<b>March 22</b>
<b>Issue 7</b>	<b>March 24</b>	<b>April 5</b>
<b>Issue 8</b>	<b>April 7</b>	<b>April 19</b>
<b>Issue 9</b>	<b>April 21</b>	<b>May 3</b>
<b>Issue 10</b>	<b>May 5</b>	<b>May 24</b>
<b>Issue 11</b>	<b>May 26</b>	<b>June 7</b>
<b>Issue 12</b>	<b>June 9</b>	<b>June 21</b>
<b>Issue 13</b>	<b>July 1</b>	<b>July 12</b>
<b>Issue 14</b>	<b>July 14</b>	<b>July 26</b>
<b>Issue 15</b>	<b>July 28</b>	<b>August 9</b>
<b>Issue 16</b>	<b>August 11</b>	<b>August 23</b>
<b>Issue 17</b>	<b>August 25</b>	<b>September 13</b>
<b>Issue 18</b>	<b>September 15</b>	<b>September 27</b>
<b>Issue 19</b>	<b>September 29</b>	<b>October 11</b>
<b>Issue 20</b>	<b>October 13</b>	<b>October 25</b>
<b>Issue 21</b>	<b>October 27</b>	<b>November 8</b>
<b>Issue 22</b>	<b>November 17</b>	<b>November 29</b>
<b>Issue 23</b>	<b>December 1</b>	<b>December 13</b>
<b>Issue 24</b>	<b>December 15</b>	<b>December 27</b>

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