

SENATE TAX, BUSINESS AND TRANSPORTATION  
COMMITTEE SUBSTITUTE FOR  
SENATE BILL 14

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE CLEAN FUEL STANDARD ACT; PROVIDING FOR THE ESTABLISHMENT OF A CLEAN FUEL STANDARD FOR TRANSPORTATION FUELS; DIRECTING THE ENVIRONMENTAL IMPROVEMENT BOARD TO PROMULGATE RULES TO IMPLEMENT THE CLEAN FUEL STANDARD ACT; IMPLEMENTING THE ASSESSMENT OF AN ANNUAL REGISTRATION FEE; CREATING THE CLEAN FUEL STANDARD FUND; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 4 of this act may be cited as the "Clean Fuel Standard Act."

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Clean Fuel Standard Act:

A. "board" means the environmental improvement

1 board;

2 B. "carbon capture and sequestration" means the  
3 process of concentrating carbon dioxide present in flue or  
4 exhaust gases, or air, via chemical or physical separation  
5 methods and permanently sequestering the captured carbon  
6 dioxide by chemical methods such as mineralization or physical  
7 methods such as injection into a subsurface geologic formation;

8 C. "carbon intensity" means the quantity of fuel  
9 life cycle emissions per unit of fuel energy, expressed in  
10 grams of carbon dioxide equivalent per megajoule;

11 D. "clean fuel standard" means a standard  
12 applicable to transportation fuels that reduces greenhouse gas  
13 emissions, on average, per unit of fuel energy;

14 E. "credit" means a unit of measure assigned to a  
15 person who generates greenhouse gas emission reductions that is  
16 used to comply with the clean fuel standard, such that one  
17 credit is equal to one metric ton of carbon dioxide equivalent;

18 F. "deficit" means a unit of measure assigned to  
19 the provider of a transportation fuel that has a carbon  
20 intensity greater than the applicable standard, such that one  
21 deficit is equal to one metric ton of carbon dioxide  
22 equivalent;

23 G. "department" means the department of  
24 environment;

25 H. "direct air capture" means chemical or physical

1 separation of carbon dioxide directly from ambient air;

2 I. "disproportionately impacted communities" means  
3 disadvantaged communities or communities or populations of  
4 people for which multiple burdens, including environmental and  
5 socioeconomic stressors, inequity, poverty, high unemployment,  
6 pollution or discrimination, may act to persistently and  
7 negatively affect the health, well-being and environment of the  
8 communities or populations;

9 J. "fuel life cycle emissions" means the aggregate  
10 quantity of direct and indirect greenhouse gas emissions across  
11 the full fuel life cycle, including all stages of fuel and  
12 feedstock production and distribution, from extraction or  
13 feedstock generation through the distribution, delivery and use  
14 of the finished fuel by the ultimate consumer, where the mass  
15 values for all greenhouse gases are adjusted to account for  
16 their relative global warming potential;

17 K. "fuel pathway" means a detailed description of  
18 all stages of production and uses for a transportation fuel,  
19 including feedstock generation or extraction, production,  
20 distribution and combustion and use of the fuel by the consumer  
21 that is used to calculate the fuel life cycle emissions of a  
22 transportation fuel;

23 L. "greenhouse gas" means carbon dioxide, methane,  
24 nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur  
25 hexafluoride;

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1 M. "motor vehicle" means "motor vehicle" and  
2 "special mobile equipment", as those terms are defined in the  
3 Motor Vehicle Code;

4 N. "provider" means a person that produces in New  
5 Mexico or imports into New Mexico transportation fuel; and

6 O. "transportation fuel" means electricity or a  
7 liquid or gaseous fuel that is blended, sold, supplied, offered  
8 for sale or used for the propulsion of a motor vehicle, or that  
9 is intended for use in a motor vehicle, in New Mexico and that  
10 meets applicable standards, specifications and testing  
11 requirements for motor vehicle fuel quality. "Transportation  
12 fuel" does not mean electricity or liquid or gaseous fuel for  
13 non-motor vehicle purposes.

14 SECTION 3. [NEW MATERIAL] CLEAN FUEL STANDARD--  
15 ESTABLISHED--RULEMAKING.--

16 A. The board shall adopt rules to implement the  
17 Clean Fuel Standard Act.

18 B. The Clean Fuel Standard Act shall apply to  
19 providers.

20 C. In adopting rules, the board shall take into  
21 consideration equivalent programs adopted by other  
22 jurisdictions and may coordinate with other jurisdiction to  
23 promote regional reductions in greenhouse gas emissions.

24 D. No later than twenty-four months after the  
25 effective date of the Clean Fuel Standard Act, the department

1 shall petition the board to promulgate rules to implement the  
2 Clean Fuel Standard Act. The rules shall:

3 (1) establish the clean fuel standard based on  
4 a schedule for annually decreasing the carbon intensity of  
5 transportation fuels used in New Mexico. The schedule shall  
6 reduce the average amount of greenhouse gas emissions per unit  
7 of fuel energy by a minimum of twenty percent below 2018 levels  
8 by 2030 and by a minimum of thirty percent below 2018 levels by  
9 2040;

10 (2) establish a process to determine carbon  
11 intensity values for transportation fuels that does not  
12 discriminate against fuels on the basis of having originated in  
13 another state or jurisdiction. Nothing in this paragraph shall  
14 be construed to prohibit the inclusion or assessment of  
15 emissions related to location-specific fuel characteristics,  
16 fuel production, storage, transportation, combustion or  
17 associated changes in land use in determining the carbon  
18 intensity of a transportation fuel;

19 (3) require the use of nationally or  
20 regionally recognized models or protocols for determining fuel  
21 life cycle emissions and indirect land use changes in  
22 establishing the carbon intensity value for transportation  
23 fuels;

24 (4) establish a process for providers to  
25 comply with the Clean Fuel Standard Act by obtaining and

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underscored material = new  
~~[bracketed material] = delete~~

1 retiring credits;

2 (5) establish a mechanism for the generation  
3 of credits, which may include projects in the following  
4 sectors: agricultural, aviation, chemical, dairy, energy,  
5 film, forestry, manufacturing, mining, oil and gas, waste  
6 management or wastewater treatment, utility and transportation,  
7 including transportation infrastructure. Credits may also be  
8 generated from carbon capture and sequestration, direct air  
9 capture and methane capture and use projects. Credits  
10 generated pursuant to this paragraph, except for those  
11 generated by direct air capture, shall be generated by  
12 activities that either improve the carbon intensity of  
13 transportation fuels or reduce greenhouse gas emissions  
14 associated with transportation in New Mexico. To generate  
15 eligible credits, carbon capture and sequestration, direct air  
16 capture and methane capture and use projects shall result in  
17 additional, quantifiable, verifiable, permanent and enforceable  
18 greenhouse gas emission reductions;

19 (6) require the annual registration of  
20 providers and any person generating credits;

21 (7) require the assessment of a reasonable  
22 annual registration fee for providers and any person generating  
23 credits that is sufficient to cover the reasonable costs of the  
24 department's administration and enforcement of the Clean Fuel  
25 Standard Act and implementation of rules. Fees collected

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1 pursuant to this paragraph shall be deposited in the clean fuel  
2 standard fund;

3 (8) require providers to demonstrate  
4 compliance with the clean fuel standard by balancing credits  
5 and deficits on an annual basis and submitting fuel pathway  
6 applications, fuel transactions and carbon intensity data to  
7 the department;

8 (9) establish a fair market for credit  
9 transactions that is administered by the department or a third  
10 party. The board shall adopt rules for market management,  
11 including transaction fees, cost-containment measures or other  
12 mechanisms that enable credits to be traded, sold or banked for  
13 future compliance periods and procedures for verifying the  
14 validity of credits and deficits generated under the Clean Fuel  
15 Standard Act;

16 (10) require third-party certifications of  
17 fuel pathway applications and third-party verifications of fuel  
18 transactions and carbon intensity data on an annual basis, at  
19 the expense of the provider or any person generating credits;

20 (11) establish requirements and an  
21 accreditation process for third-party verification, including  
22 acceptance of verification entities that are accredited by  
23 another state that adopts a low-carbon fuel standard and  
24 establishes a third-party verification program;

25 (12) prioritize mechanisms for credit

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1 generation that benefit disproportionately impacted,  
2 environmental justice and rural communities and reduce  
3 cumulative impacts;

4 (13) require electric utilities that generate  
5 credits from electricity used as transportation fuel to use all  
6 net revenues generated from the credits for the purposes of  
7 increasing transportation electrification, including  
8 transportation electrification projects, rebates for electric  
9 vehicle purchases or the provision of direct benefits for  
10 current electric vehicle customers and the costs associated  
11 with such activities; provided that at least thirty percent in  
12 year one, forty percent in year two and fifty percent in  
13 subsequent years shall be used to support transportation  
14 electrification that primarily benefits disproportionately  
15 impacted, environmental justice or rural communities. Any  
16 measures that an electric utility takes pursuant to this  
17 paragraph shall be in addition to measures included in an  
18 approved or pending application before the public regulation  
19 commission to expand transportation electrification; and

20 (14) establish mechanisms to facilitate  
21 compliance for providers that are not meeting the clean fuel  
22 standard at the end of any compliance period. The rules shall  
23 include provisions necessary for the department to hold credit  
24 clearance markets.

25 E. The department is responsible for the



1 administration of the clean fuel standard and credits,  
2 including implementation and enforcement of the rules adopted  
3 by the board pursuant to the Clean Fuel Standard Act.

4 F. As part of the rulemaking required pursuant to  
5 this section, the department, in consultation with the New  
6 Mexico department of agriculture, shall develop an emergency  
7 deferral process for the department, in consultation with  
8 stakeholders, to temporarily suspend the implementation of a  
9 clean fuel standard to address market conditions. The rules  
10 shall require the department to consider a provider's request  
11 for emergency deferral.

12 SECTION 4. [NEW MATERIAL] CLEAN FUEL STANDARD FUND--  
13 CREATED.--The "clean fuel standard fund" is created as a  
14 nonreverting fund in the state treasury. The fund consists of  
15 appropriations, gifts, grants, donations, income from  
16 investment of the fund and fees collected from the regulation  
17 of transportation fuels pursuant to the Clean Fuel Standard  
18 Act. Money in the fund is appropriated to the department and  
19 shall be administered by the department for staffing and  
20 resources needed for administration and enforcement of rules  
21 pertaining to transportation fuels and greenhouse gas  
22 emissions. Disbursements from the fund shall be by warrant  
23 drawn by the secretary of finance and administration pursuant  
24 to vouchers signed by the secretary of environment or the  
25 secretary's designee. Any unexpended or unencumbered balance

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1 in the clean fuel standard fund remaining at the end of any  
2 fiscal year shall not revert to the general fund.

3 SECTION 5. Section 74-1-8 NMSA 1978 (being Laws 1971,  
4 Chapter 277, Section 11, as amended) is amended to read:

5 "74-1-8. BOARD--DUTIES.--

6 A. The board is responsible for environmental  
7 management and consumer protection. In that respect, the board  
8 shall promulgate rules and standards in the following areas:

9 (1) food protection;

10 (2) water supply, including a capacity  
11 development program to assist water systems in acquiring and  
12 maintaining technical, managerial and financial capacity in  
13 accordance with Section 1420 of the federal Safe Drinking Water  
14 Act of 1974 and rules authorizing imposition of administrative  
15 penalties for enforcement;

16 (3) liquid waste, including exclusive  
17 authority to establish on-site liquid waste system fees that  
18 are no more than the average charged by the contiguous states  
19 to New Mexico for similar permits and services and to implement  
20 and administer an inspection and permitting program for on-site  
21 liquid waste systems;

22 (4) air quality management as provided in the  
23 Air Quality Control Act;

24 (5) radiation control and establishment of  
25 license and registration and other related fees not to exceed

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1 fees charged by the United States nuclear regulatory commission  
2 for similar licenses as provided in the Radiation Protection  
3 Act;

4 (6) noise control;

5 (7) nuisance abatement;

6 (8) vector control;

7 (9) occupational health and safety as provided  
8 in the Occupational Health and Safety Act;

9 (10) sanitation of public swimming pools and  
10 public baths;

11 (11) plumbing, drainage, ventilation and  
12 sanitation of public buildings in the interest of public  
13 health;

14 (12) medical radiation, health and safety  
15 certification and standards for radiologic technologists as  
16 provided in the Medical Imaging and Radiation Therapy Health  
17 and Safety Act;

18 (13) hazardous wastes and underground storage  
19 tanks as provided in the Hazardous Waste Act; ~~and~~

20 (14) solid waste as provided in the Solid  
21 Waste Act; and

22 (15) transportation fuels as provided in the  
23 Clean Fuel Standard Act.

24 B. Nothing in Subsection A of this section imposes  
25 requirements for the approval of subdivision plats in addition

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1 to those required elsewhere by law. Nothing in Subsection A of  
2 this section preempts the authority of any political  
3 subdivision to approve subdivision plats.

4 C. Administrative penalties collected pursuant to  
5 Paragraph (2) of Subsection A of this section shall be  
6 deposited in the water conservation fund.

7 D. On-site liquid waste system fees shall be  
8 deposited in the environmental health fund.

9 E. Radiation license and registration and other  
10 related fees shall be deposited in the radiation protection  
11 fund."