

SENATE FINANCE COMMITTEE SUBSTITUTE FOR
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. A new Section 74-14-1 NMSA 1978 is enacted to read:

"74-14-1. [NEW MATERIAL] SHORT TITLE.--Chapter 74, Article 14 NMSA 1978 may be cited as the "Clean Fuel Standard Act"."

SECTION 2. A new Section 74-14-2 NMSA 1978 is enacted to .222384.2

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1 read:

2 "74-14-2. [NEW MATERIAL] DEFINITIONS.--As used in the
3 Clean Fuel Standard Act:

4 A. "board" means the environmental improvement
5 board;

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

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

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

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

22 F. "deficit" means a unit of measure assigned to
23 the provider of a transportation fuel that has a carbon
24 intensity greater than the applicable standard, such that one
25 deficit is equal to one metric ton of carbon dioxide

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1 equivalent;

2 G. "department" means the department of
3 environment;

4 H. "direct air capture" means chemical or physical
5 separation of carbon dioxide directly from ambient air;

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

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

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

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1 transportation fuel;

2 L. "greenhouse gas" means carbon dioxide, methane,
3 nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur
4 hexafluoride;

5 M. "motor vehicle" means "motor vehicle" and
6 "special mobile equipment", as those terms are defined in the
7 Motor Vehicle Code;

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

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

18 SECTION 3. A new Section 74-14-3 NMSA 1978 is enacted to
19 read:

20 "74-14-3. [NEW MATERIAL] CLEAN FUEL STANDARD--
21 ESTABLISHED--RULEMAKING.--

22 A. The board shall adopt rules to implement the
23 Clean Fuel Standard Act.

24 B. The Clean Fuel Standard Act shall apply to
25 providers.

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1 C. In adopting rules, the board shall take into
2 consideration equivalent programs adopted by other
3 jurisdictions and may coordinate with other jurisdiction to
4 promote regional reductions in greenhouse gas emissions.

5 D. No later than twenty-four months after the
6 effective date of the Clean Fuel Standard Act, the department
7 shall petition the board to promulgate rules to implement the
8 Clean Fuel Standard Act. The rules shall:

9 (1) establish the clean fuel standard based on
10 a schedule for annually decreasing the carbon intensity of
11 transportation fuels used in New Mexico. The schedule shall
12 reduce the average amount of greenhouse gas emissions per unit
13 of fuel energy by a minimum of twenty percent below 2018 levels
14 by 2030 and by a minimum of thirty percent below 2018 levels by
15 2040;

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

25 (3) require the use of nationally or

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1 regionally recognized models or protocols for determining fuel
2 life cycle emissions and indirect land use changes in
3 establishing the carbon intensity value for transportation
4 fuels;

5 (4) establish a process for providers to
6 comply with the Clean Fuel Standard Act by obtaining and
7 retiring credits;

8 (5) establish a mechanism for the generation
9 of credits, which may include projects in the following
10 sectors: agricultural, aviation, chemical, dairy, energy,
11 film, forestry, manufacturing, mining, oil and gas, waste
12 management or wastewater treatment, transportation, including
13 transportation infrastructure, and utility, including projects
14 or investments consistent with Section 62-8-12 NMSA 1978 to
15 expand transportation electrification. Credits may also be
16 generated from carbon capture and sequestration, direct air
17 capture and methane capture and use projects. Credits
18 generated pursuant to this paragraph, except for those
19 generated by direct air capture, shall be generated by
20 activities that either improve the carbon intensity of
21 transportation fuels or reduce greenhouse gas emissions
22 associated with transportation in New Mexico. To generate
23 eligible credits, carbon capture and sequestration, direct air
24 capture and methane capture and use projects shall result in
25 additional, quantifiable, verifiable, permanent and enforceable

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1 greenhouse gas emission reductions;

2 (6) require the annual registration of
3 providers and any person generating credits;

4 (7) require the assessment of an annual
5 registration fee for providers and any person generating
6 credits that is sufficient to cover the reasonable costs of the
7 department's administration and enforcement of the Clean Fuel
8 Standard Act and implementation of rules. Fees collected
9 pursuant to this paragraph shall be deposited in the clean fuel
10 standard fund;

11 (8) require providers to demonstrate
12 compliance with the clean fuel standard by balancing credits
13 and deficits on an annual basis and submitting fuel pathway
14 applications, fuel transactions and carbon intensity data to
15 the department;

16 (9) establish a fair market for credit
17 transactions that is administered by the department or a third
18 party. The board shall adopt rules for market management,
19 including transaction fees, cost-containment measures or other
20 mechanisms that enable credits to be traded, sold or banked for
21 future compliance periods and procedures for verifying the
22 validity of credits and deficits generated under the Clean Fuel
23 Standard Act;

24 (10) require third-party certifications of
25 fuel pathway applications and third-party verifications of fuel

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1 transactions and carbon intensity data on an annual basis, at
2 the expense of the provider or any person generating credits;

3 (11) establish requirements and an
4 accreditation process for third-party verification, including
5 acceptance of verification entities that are accredited by
6 another state that adopts a low-carbon fuel standard and
7 establishes a third-party verification program;

8 (12) prioritize mechanisms for credit
9 generation that benefit disproportionately impacted,
10 environmental justice and rural communities and reduce
11 cumulative impacts;

12 (13) require electric utilities that generate
13 credits from electricity used as transportation fuel to track
14 and record all net revenues generated from the credits in a
15 regulatory liability solely for subsequent use for the purposes
16 of increasing transportation electrification, including
17 transportation electrification projects, rebates for electric
18 vehicle purchases, education and outreach activities or the
19 provision of direct benefits for current electric vehicle
20 customers; provided that at least thirty percent of net
21 revenues in year one, forty percent of net revenues in year two
22 and fifty percent of net revenues in subsequent years shall be
23 used to support transportation electrification that primarily
24 benefits disproportionately impacted, environmental justice or
25 rural communities. Funding for programs pursuant to this

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1 paragraph shall be in addition to funding to expand
2 transportation electrification pursuant to Section 62-8-12 NMSA
3 1978. For the purposes of this paragraph, "net revenues" means
4 revenues from the sale of credits generated by an electric
5 utility, less the reasonable transaction, administrative and
6 marketing costs associated with program administration, sale of
7 the credits and compliance with this section, which costs shall
8 be presumed to be prudent; and

9 (14) establish mechanisms to facilitate
10 compliance for providers that are not meeting the clean fuel
11 standard at the end of any compliance period. The rules shall
12 include provisions necessary for the department to hold credit
13 clearance markets.

14 E. The department is responsible for the
15 administration of the clean fuel standard and credits,
16 including implementation and enforcement of the rules adopted
17 by the board pursuant to the Clean Fuel Standard Act.

18 F. As part of the rulemaking required pursuant to
19 this section, the department, in consultation with the New
20 Mexico department of agriculture, shall develop an emergency
21 deferral process for the department, in consultation with
22 stakeholders, to temporarily suspend the implementation of a
23 clean fuel standard to address market conditions. The rules
24 shall require the department to consider a provider's request
25 for emergency deferral."

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1 SECTION 4. A new Section 74-14-4 NMSA 1978 is enacted to
2 read:

3 "74-14-4. [NEW MATERIAL] CLEAN FUEL STANDARD FUND--
4 CREATED.--The "clean fuel standard fund" is created as a
5 nonreverting fund in the state treasury. The fund consists of
6 appropriations, gifts, grants, donations, income from
7 investment of the fund and fees collected from the regulation
8 of transportation fuels pursuant to the Clean Fuel Standard
9 Act. Money in the fund is appropriated to the department and
10 shall be administered by the department for staffing and
11 resources needed for administration and enforcement of rules
12 pertaining to transportation fuels and greenhouse gas
13 emissions. Disbursements from the fund shall be by warrant
14 drawn by the secretary of finance and administration pursuant
15 to vouchers signed by the secretary of environment or the
16 secretary's designee. Any unexpended or unencumbered balance
17 in the clean fuel standard fund remaining at the end of any
18 fiscal year shall not revert to the general fund."

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

21 "74-1-8. BOARD--DUTIES.--

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

- 25 (1) food protection;

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1 (2) water supply, including a capacity
2 development program to assist water systems in acquiring and
3 maintaining technical, managerial and financial capacity in
4 accordance with Section 1420 of the federal Safe Drinking Water
5 Act of 1974 and rules authorizing imposition of administrative
6 penalties for enforcement;

7 (3) liquid waste, including exclusive
8 authority to establish on-site liquid waste system fees that
9 are no more than the average charged by the contiguous states
10 to New Mexico for similar permits and services and to implement
11 and administer an inspection and permitting program for on-site
12 liquid waste systems;

13 (4) air quality management as provided in the
14 Air Quality Control Act;

15 (5) radiation control and establishment of
16 license and registration and other related fees not to exceed
17 fees charged by the United States nuclear regulatory commission
18 for similar licenses as provided in the Radiation Protection
19 Act;

20 (6) noise control;

21 (7) nuisance abatement;

22 (8) vector control;

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

25 (10) sanitation of public swimming pools and

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1 public baths;

2 (11) plumbing, drainage, ventilation and
3 sanitation of public buildings in the interest of public
4 health;

5 (12) medical radiation, health and safety
6 certification and standards for radiologic technologists as
7 provided in the Medical Imaging and Radiation Therapy Health
8 and Safety Act;

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

11 (14) solid waste as provided in the Solid
12 Waste Act; and

13 (15) transportation fuels as provided in the
14 Clean Fuel Standard Act.

15 B. Nothing in Subsection A of this section imposes
16 requirements for the approval of subdivision plats in addition
17 to those required elsewhere by law. Nothing in Subsection A of
18 this section preempts the authority of any political
19 subdivision to approve subdivision plats.

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

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

25 E. Radiation license and registration and other

1 related fees shall be deposited in the radiation protection
2 fund."

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