

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 41

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

AN ACT

RELATING TO THE ENVIRONMENT; AUTHORIZING THE ENVIRONMENTAL
IMPROVEMENT BOARD TO ADOPT RULES TO ESTABLISH AND ASSESS FEES
FOR A CLEAN TRANSPORTATION FUEL STANDARD.

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

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

"74-1-3. DEFINITIONS.--As used in the Environmental
Improvement Act:

A. "board" means the environmental improvement
board;

B. "carbon intensity" means the quantity of fuel
lifecycle greenhouse gas emissions per unit of fuel energy,
expressed in grams of carbon dioxide equivalent per megajoule;

~~B.~~ C. "department" or "environmental improvement

1 department" means the department of environment;

2 D. "fuel lifecycle" means an assessment of the
3 aggregate greenhouse gas emissions based on science-based
4 models or protocols, including direct emissions and significant
5 indirect emissions from indirect land use change, all stages of
6 fuel and feedstock production and distribution, feedstock
7 generation or extraction through the distribution, delivery and
8 use of the finished fuel by the consumer, including
9 consideration of storage, transportation and combustion;

10 [~~G.~~] E. "on-site liquid waste system" means a
11 liquid waste system, or part thereof, serving a dwelling,
12 establishment or group, and using a liquid waste treatment unit
13 designed to receive liquid waste followed by either a soil
14 treatment or other type of disposal system. "On-site liquid
15 waste system" includes holding tanks and privies but does not
16 include systems or facilities designed to receive or treat mine
17 or mill tailings or wastes;

18 [~~D.~~] F. "person" means the state or any agency,
19 institution or political subdivision thereof, any public or
20 private corporation, individual, partnership, association or
21 other entity and includes any officer or governing or managing
22 body of any political subdivision or public or private
23 corporation;

24 [~~E.~~] G. "residential on-site liquid waste system"
25 means an on-site liquid waste system serving up to four

1 dwelling units; [~~and~~

2 ~~F.] H. "secretary" means the secretary of
3 environment; and~~

4 I. "transportation fuel" means electricity or a
5 liquid, gaseous or blended fuel, including gasoline, diesel,
6 liquefied petroleum gas, natural gas and hydrogen, sold,
7 supplied, used or offered for sale to power vehicles or
8 equipment for the purposes of transportation."

9 SECTION 2. Section 74-1-7 NMSA 1978 (being Laws 1971,
10 Chapter 277, Section 10, as amended by Laws 2000, Chapter 86,
11 Section 1 and also by Laws 2000, Chapter 96, Section 1) is
12 amended to read:

13 "74-1-7. DEPARTMENT--DUTIES.--

14 A. The department is responsible for environmental
15 management and consumer protection programs. In that respect,
16 the department shall maintain, develop and enforce rules and
17 standards in the following areas:

18 (1) food protection;

19 (2) water supply, including implementing a
20 capacity development program to assist water systems in
21 acquiring and maintaining technical, managerial and financial
22 capacity in accordance with Section 1420 of the federal Safe
23 Drinking Water Act of 1974 and establishing administrative
24 penalties for enforcement;

25 (3) liquid waste, including exclusive

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1 authority to collect on-site liquid waste system fees that are
2 no more than the average charged by the contiguous states to
3 New Mexico for similar permits and services and to implement
4 and administer an inspection and permitting program for on-site
5 liquid waste systems;

6 (4) air quality management as provided in the
7 Air Quality Control Act;

8 (5) radiation control and collection of
9 license, registration and other related fees as provided in the
10 Radiation Protection Act;

11 (6) noise control;

12 (7) nuisance abatement;

13 (8) vector control;

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

16 (10) sanitation of public swimming pools and
17 public baths;

18 (11) plumbing, drainage, ventilation and
19 sanitation of public buildings in the interest of public
20 health;

21 (12) medical radiation, health and safety
22 certification and standards for radiologic technologists as
23 provided in the Medical Imaging and Radiation Therapy Health
24 and Safety Act;

25 (13) hazardous wastes and underground storage

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1 tanks as provided in the Hazardous Waste Act; ~~and~~

2 (14) solid waste as provided in the Solid
3 Waste Act; and

4 (15) carbon intensity of transportation fuels
5 as provided in Section 4 of this 2024 act, including
6 registration and related fees.

7 B. Nothing in Subsection A of this section imposes
8 requirements for the approval of subdivision plats in addition
9 to those required elsewhere by law. Nothing in Subsection A of
10 this section preempts the authority of any political
11 subdivision to approve subdivision plats."

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

14 "74-1-8. BOARD--DUTIES.--

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

18 (1) food protection;

19 (2) water supply, including a capacity
20 development program to assist water systems in acquiring and
21 maintaining technical, managerial and financial capacity in
22 accordance with Section 1420 of the federal Safe Drinking Water
23 Act of 1974 and rules authorizing imposition of administrative
24 penalties for enforcement;

25 (3) liquid waste, including exclusive

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1 authority to establish on-site liquid waste system fees that
2 are no more than the average charged by the contiguous states
3 to New Mexico for similar permits and services and to implement
4 and administer an inspection and permitting program for on-site
5 liquid waste systems;

6 (4) air quality management as provided in the
7 Air Quality Control Act;

8 (5) radiation control and establishment of
9 license and registration and other related fees not to exceed
10 fees charged by the United States nuclear regulatory commission
11 for similar licenses as provided in the Radiation Protection
12 Act;

13 (6) noise control;

14 (7) nuisance abatement;

15 (8) vector control;

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

18 (10) sanitation of public swimming pools and
19 public baths;

20 (11) plumbing, drainage, ventilation and
21 sanitation of public buildings in the interest of public
22 health;

23 (12) medical radiation, health and safety
24 certification and standards for radiologic technologists as
25 provided in the Medical Imaging and Radiation Therapy Health

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1 and Safety Act;

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

4 (14) solid waste as provided in the Solid
5 Waste Act; and

6 (15) carbon intensity of transportation fuels
7 as provided in Section 4 of this 2024 act.

8 B. Nothing in Subsection A of this section imposes
9 requirements for the approval of subdivision plats in addition
10 to those required elsewhere by law. Nothing in Subsection A of
11 this section preempts the authority of any political
12 subdivision to approve subdivision plats.

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

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

18 E. Radiation license and registration and other
19 related fees shall be deposited in the radiation protection
20 fund."

21 SECTION 4. A new section of the Environmental Improvement
22 Act is enacted to read:

23 "[NEW MATERIAL] CLEAN TRANSPORTATION FUEL STANDARD
24 PROGRAM--RULES.--

25 A. The board shall promulgate rules to implement a

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underscored material = new
[bracketed material] = delete

1 clean transportation fuel standard program no later than July
2 1, 2026.

3 B. Prior to the board promulgating rules pursuant
4 to this section, the secretary shall convene an advisory
5 committee composed of stakeholders from in-state and out-of-
6 state producers of transportation fuels, transportation fuel
7 distributors, local governments, utilities, tribal governments,
8 environmental protection groups, environmental justice groups
9 and other individuals or entities with relevant expertise to
10 provide input and periodically review program rules.

11 C. The clean transportation fuel standard program
12 rules shall:

13 (1) establish a statewide technology-neutral
14 clean transportation fuel standard based on a schedule for
15 annually decreasing the carbon intensity of transportation
16 fuels used in the state;

17 (2) apply the clean transportation fuel
18 standard to account for the fuel lifecycle in order to reduce
19 the carbon intensity of transportation fuels used in the state
20 by at least twenty percent below 2018 carbon intensity levels
21 by 2030 and at least thirty percent below 2018 carbon intensity
22 levels by 2040;

23 (3) establish technology-neutral mechanisms
24 for generating, obtaining, trading, selling and retiring
25 credits among transportation fuel producers, fuel distributors

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1 and other individuals or entities in the transportation fuel
2 market, including additional credit opportunities from
3 activities and projects that support the reduction or removal
4 of greenhouse gas emissions associated with transportation in
5 the state;

6 (4) establish mechanisms, including cost-
7 containment measures and credit holding limits, to allow
8 credits to be banked for future compliance periods to stabilize
9 and incentivize investment in the transportation fuel credit
10 market, verify the validity of compliance obligations, maximize
11 savings and limit consumer costs, ensure program compliance,
12 trade credits and allow for market participation by persons who
13 register in the market to facilitate credit generation;

14 (5) require a utility that elects to
15 participate in the program to invest all revenues from the sale
16 of credits, not including administrative program costs, into
17 distribution, grid modernization, infrastructure and other
18 projects that support transportation decarbonization, with at
19 least fifty percent of such revenues supporting low-income and
20 underserved communities and with investor-owned utilities
21 receiving regulatory treatment consistent with Section 62-8-12
22 NMSA 1978;

23 (6) consider similar programs in other
24 jurisdictions, allow for coordination with other jurisdictions
25 to promote regional reductions or removal of greenhouse gas

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1 emissions and allow market participants to generate credits
2 under any overlapping current and future federal transportation
3 fuel regulations;

4 (7) not discriminate against fuels solely on
5 the basis of having originated in another state or
6 jurisdiction;

7 (8) establish a periodic review process that
8 includes input from the advisory committee convened pursuant to
9 Subsection B of this section to provide input on program rules
10 and performance and determine potential adjustments if deemed
11 necessary after review, including the superseding of the state
12 program by federal legislation;

13 (9) allow for a deferral of the program based
14 on emergency or forecasted conditions; and

15 (10) establish fees for the cost of the
16 department's administration and enforcement of the program;
17 provided that any fees are deposited in the state air quality
18 permit fund.

19 D. As used in this section:

20 (1) "low-income" means annual household
21 adjusted gross income, as defined in the Income Tax Act, of
22 equal to or less than two hundred percent of the federal
23 poverty level; and

24 (2) "underserved community" means an area in
25 this state, including a county, municipality or neighborhood,

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1 or subset of such area where the median income of the area is
2 low-income."

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underscored material = new
[bracketed material] = delete