

# New Mexico Clean Fuel Standard Act

The Clean Fuel Standard (CFS) is a cost-effective way to invest in our economy, create jobs and reach our ambitious climate goals.



## How does it work?

In 2018, 14% of New Mexico's greenhouse gas emissions were attributed to transportation - second only to emissions from the oil and gas industry. Reducing emissions from the transportation sector is achievable by focusing on fuels.

The CFS Act reduces the carbon intensity of the fuels used in transportation. *Carbon intensity* is a measurement of a fuel's emissions profile that includes its production, shipping, and use.

The CFS Act reduces the carbon intensity of transit fuels as follows: at least 20% by 2030 and at least 30% by 2040. A CFS will reduce transportation emissions by an estimated 18.5 million metric tons of CO<sub>2</sub> equivalent - that's like taking over 570,000 cars off the road for one year!

The CFS Act applies to those who refine, blend, make or import fuel - not fuel retailers like gas stations. There are multiple ways to meet such a standard:

- Blending high carbon-intensity fuel with renewable options, like biodiesel and ethanol.
- Offsetting high carbon-intensity fuel with credits purchased from generators of low-carbon-intensity fuels, like electricity, hydrogen, renewable natural gas.
- Reducing emissions in the production, processing and delivery of transportation fuels.

The CFS Act is technology-neutral and harnesses market forces to spur investment in the clean economy and creates jobs in New Mexico.

## How will it benefit New Mexico?



### Public Health

- ✓ Healthier children and seniors - our most vulnerable New Mexicans
- ✓ Less sick days for employees and employers
- ✓ Fewer asthma attacks, heart attacks and decreased lung cancer rates
- ✓ Avoided premature deaths from cardiovascular and pulmonary complications



### Economy

- ✓ Diversifies the fuel market to keep the price impact at the pump negligible
- ✓ New clean energy jobs to expand our tax base
- ✓ Incentivizes businesses that transform dairy/forest waste streams into hydrogen and renewable natural gas
- ✓ Benefits farmers who produce feedstock crops for biofuels
- ✓ Stabilizes our "boom or bust" economy



### Environment

- ✓ Improves air quality without over-regulating our industries
- ✓ Reduces greenhouse gas emissions to meet net zero emissions by 2050 climate goals
- ✓ Promotes electric, hydrogen and alternative fuel vehicles
- ✓ Protects our outdoor recreational economy



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SENATE BILL X  
SECOND SESSION OF THE 55TH LEGISLATURE - STATE OF NEW MEXICO -  
FIRST SESSION, 2022

INTRODUCED BY

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.

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 board;

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Email your comments by 5 pm on Friday, 12/10 to:  
cleanfuel.standard@state.nm.us

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

3 C. "clean fuel standard" means a standard applicable to transportation fuels that reduces  
4 greenhouse gas emissions, on average, per unit of fuel energy;

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

8 E. "deficit" means a unit of measure assigned to the provider of a transportation fuel that  
9 has a carbon intensity greater than the applicable standard, such that one deficit is equal to one  
10 metric ton of carbon equivalent;

11 F. "department" means the department of environment;

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

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

21 I. "greenhouse gas" means carbon dioxide, methane, nitrous oxide, hydrofluorocarbons,  
22 perfluorocarbons and sulfur hexafluoride;

1 J. "motor vehicle" means "motor vehicle" as defined in the Motor Vehicle Code;

2 K. "provider" means a person that produces in New Mexico or imports into New Mexico  
3 transportation fuel; and

4 L. "transportation fuel" means electricity or a liquid or gaseous fuel that is blended, sold,  
5 supplied, offered for sale or used only for the propulsion of a motor vehicle, or that is intended  
6 for use in a motor vehicle, in New Mexico and that meets applicable standards, specifications  
7 and testing requirements for motor vehicle fuel quality.

8 **SECTION 3. [NEW MATERIAL] CLEAN FUEL STANDARD--ESTABLISHED--**  
9 **RULEMAKING.--**

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

11 B. The Clean Fuel Standard Act shall apply to providers.

12 C. In adopting rules, the board shall take into consideration equivalent programs adopted  
13 by other jurisdictions and may coordinate with other jurisdictions to promote regional reductions  
14 in greenhouse gas emissions.

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

18 (1) establish the clean fuel standard based on a schedule for annually decreasing the  
19 carbon intensity of transportation fuels used in New Mexico. The schedule shall reduce the  
20 average amount of greenhouse gas emissions per unit of fuel energy by a minimum of twenty  
21 percent below 2018 levels by 2030 and by a minimum of thirty percent below 2018 levels by

- 1 2040. For years after 2040, the board shall determine additional reductions and the time frames  
2 for achieving the reductions;
- 3 (2) establish a process to determine carbon intensity values for transportation fuels;
- 4 (3) require the use of nationally or regionally recognized models or protocols for  
5 determining fuel lifecycle emissions and indirect land use changes in establishing the carbon  
6 intensity value for transportation fuels;
- 7 (4) establish a process for providers to comply with the Clean Fuel Standard Act by  
8 obtaining and retiring credits;
- 9 (5) establish a mechanism for a person to generate credits, including persons involved  
10 in agricultural, aviation, chemical, carbon sequestration, dairy, direct air capture, energy, film,  
11 forestry, manufacturing, methane capture and use, mining, oil and gas, transportation, waste  
12 management or wastewater treatment sectors. Greenhouse gas emission reductions eligible for  
13 the generation of credits pursuant to this paragraph shall be additional, quantifiable, verifiable,  
14 permanent and enforceable;
- 15 (6) require the annual registration of providers and any person generating credits;
- 16 (7) require the assessment of annual registration fees for providers and any person  
17 generating credits sufficient to cover the reasonable costs of the department's administration and  
18 enforcement of the Clean Fuel Standard Act and implementation of rules. Fees collected  
19 pursuant to this paragraph shall be deposited in the clean fuel standard fund;
- 20 (8) require providers to demonstrate compliance with the clean fuel standard by  
21 balancing credits and deficits on an annual basis and submitting fuel pathway applications, fuel  
22 transactions and carbon intensity data to the department;

1 (9) establish a fair market for credit transactions that is administered by the department  
2 or a third party. The board shall adopt rules for market management, including transaction fees, a  
3 credit price cap or other mechanisms that enable credits to be traded or to be banked for future  
4 compliance periods and procedures for verifying the validity of credits and deficits generated  
5 under the Clean Fuel Standard Act;

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

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

12 (12) prioritize mechanisms for credit generation that benefit disproportionately  
13 impacted, environmental justice and rural community and reduce cumulative impacts; and

14 (13) require that electric utilities that generate credits from electricity used as  
15 transportation fuel to use at least fifty percent of the revenues generated from the credits for  
16 transportation electrification projects, rebates for electric vehicle purchases or the provision of  
17 direct benefits for current electric vehicle customers; provided that of the fifty percent, at least  
18 thirty percent in year one, forty percent in year two and fifty percent in subsequent years shall be  
19 used to support transportation electrification that primarily benefits disproportionately impacted,  
20 environmental justice or rural community.

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

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

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

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

20 "74-1-8. BOARD--DUTIES.--

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

- 1 (1) food protection;
- 2 (2) water supply, including a capacity development program to assist water systems in
- 3 acquiring and maintaining technical, managerial and financial capacity in accordance with
- 4 Section 1420 of the federal Safe Drinking Water Act of 1974 and rules authorizing imposition of
- 5 administrative penalties for enforcement;
- 6 (3) liquid waste, including exclusive authority to establish on-site liquid waste system
- 7 fees that are no more than the average charged by the contiguous states to New Mexico for
- 8 similar permits and services and to implement and administer an inspection and permitting
- 9 program for on-site liquid waste systems;
- 10 (4) air quality management as provided in the Air Quality Control Act;
- 11 (5) radiation control and establishment of license and registration and other related fees
- 12 not to exceed fees charged by the United States nuclear regulatory commission for similar
- 13 licenses as provided in the Radiation Protection Act;
- 14 (6) noise control;
- 15 (7) nuisance abatement;
- 16 (8) vector control;
- 17 (9) occupational health and safety as provided in the Occupational Health and Safety
- 18 Act;
- 19 (10) sanitation of public swimming pools and public baths;
- 20 (11) plumbing, drainage, ventilation and sanitation of public buildings in the interest of
- 21 public health;

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

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

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

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

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

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

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

13 E. Radiation license and registration and other related fees shall be deposited in the  
14 radiation protection fund."

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