



DISCUSSION DRAFT RULE

REGARDING THE

CLEAN TRANSPORTATION FUEL PROGRAM

December 19, 2024

Comments on the Discussion Draft Rules shall only be accepted through the New Mexico Environment Department's (NMED) Smart Comment Portal. You can access the portal using the direct link provided on the website below. For additional information, please visit the Climate Change Bureau's (CCB) Clean Transportation Fuel Standard (CTFS) webpage at <https://www.env.nm.gov/climate-change-bureau/clean-fuel-standard/>.

NMED is actively engaged in the development of the Clean Transportation Fuel Program and Standard. The information presented in this Discussion Draft Rule is preliminary and may be modified as research, modelling, public engagement, and input from Tribes, Pueblos, and Nations and interested parties progresses. NMED retains the right to adjust and update this content in future versions. This material is not intended to convey final information or language that shall be proposed in the rulemaking process; it is provided for educational purposes only.

TITLE 20 ENVIRONMENTAL PROTECTION
CHAPTER 2 AIR QUALITY (STATEWIDE)
PART 92 CLEAN TRANSPORTATION FUEL PROGRAM

20.2.92.1 ISSUING AGENCY: Environmental Improvement Board.
[20.2.92.1 NMAC - N, X/X/2025]

20.2.92.2 SCOPE: The provisions of this part shall apply to the use and enforcement of the clean transportation fuel standard. The provisions of this part shall also establish the administrative procedures for the department to implement and enforce the clean transportation fuel program.
[20.2.92.2 NMAC - N, X/X/2025]

20.2.92.3 STATUTORY AUTHORITY: The Environmental Improvement Act, Subsection A of Sections 74-1-5, 74-1-7, 74-1-8, and 74-1-18 NMSA 1978.
[20.2.92.3 NMAC - N, X/X/2025]

20.2.92.4 DURATION: Permanent; until later amended, repealed or replaced.
[20.2.92.4 NMAC - N, X/X/2025]

20.2.92.5 EFFECTIVE DATE: [TBD], except where a later date is cited at the end of a section.
[20.2.92.5 NMAC - N, X/X/2025]

20.2.92.6 OBJECTIVE: To implement a clean transportation fuel standard to reduce the average amount of greenhouse gas emissions per unit of fuel energy of transportation fuels used in the state by a minimum of twenty percent below 2018 levels by 2030 and by a minimum of thirty percent below 2018 levels by 2040.
[20.2.92.6 NMAC - N, X/X/2025]

20.2.92.7 DEFINITIONS: The definitions in the Environmental Improvement Act, Section 74-1-3 NMSA 1978 shall apply in 20.2.92 NMAC. The definitions in 20.2.2.7 NMAC shall not apply in 20.2.92 NMAC.

- A. Definitions beginning with the letter "A."
- (1) **"Above the rack"** means sales of transportation fuel at pipeline origin points, pipeline batches in transit and at terminal tanks before the transportation fuel has been loaded into trucks.
 - (2) **"Aggregator"** means a person who registers to participate in the CTFP per section 103 of this part on behalf of one or more credit or deficit generators to facilitate program participation.
 - (3) **"Aggregator designation form"** means a document that specifies that a credit generator has designated an aggregator to act on its behalf.
 - (4) **"Alternative fuel"** means any transportation fuel that is not gasoline or a diesel fuel, including those fuels specified in subsection B of section 101 of this part.
 - (5) **"ASTM"** means ASTM International (formerly American Society for Testing and Materials).
 - (6) **"Alternative jet fuel"** means a fuel, made from petroleum or non-petroleum sources, which can be blended and used with conventional petroleum jet fuels without the need to modify aircraft engines and existing fuel distribution infrastructure. The fuel shall have a lower carbon intensity than the applicable annual standard under Table 3 of section 701 of this part. This includes alternative jet fuel derived from co-processed feedstocks at a conventional petroleum refinery.
 - (7) **"Authorized representative"** means a person to whom the responsible official of a company has delegated the authority to represent the company.
- B. Definitions beginning with the letter "B."
- (1) **"Backstop aggregator"** means a qualified entity approved by the department to aggregate credits for electricity used as a transportation fuel, when those credits would not otherwise be generated.
 - (2) **"Base credit"** means an electricity credit that is generated by the carbon reduction between the CTFS and the carbon intensity of the grid or EDU.
 - (3) **"Battery electric vehicle" or "BEV"** means any vehicle that operates solely by use of a battery or battery pack, or that is powered primarily through the use of an electric battery

or battery pack but uses a flywheel or capacitor that stores energy produced by the electric motor or through regenerative braking to assist in vehicle operation.

- (4) **“Below the rack”** means sales of clear or blended gasoline or diesel where the fuel is being sold as a finished fuel for use in a motor vehicle.
- (5) **“Bill of lading”** means a document issued that lists goods being shipped and specifies the terms of their transport.
- (6) **“Bio-based”** means a non-fossilized fuel produced from or brought about by living organisms.
- (7) **“Biodiesel”** means a motor vehicle fuel consisting of mono-alkyl esters of long chain fatty acids derived from vegetable oils, animal fats, or other nonpetroleum resources, not including palm oil, designated as “B100” and complying with ASTM D6751.
- (8) **“Biodiesel Blend”** means a fuel comprised of a blend of biodiesel with petroleum-based diesel, designated as BXX. In the abbreviation BXX, the “XX” shall be replaced by a number that represents the percentage by volume of biodiesel in the blend. For example, “B5” or “B05” means diesel containing 5 percent biodiesel.
- (9) **“Biogas”** means gas, consisting primarily of methane and carbon dioxide, produced by the anaerobic decomposition of organic matter. Biogas cannot be directly injected into natural gas pipelines or combusted in most natural gas-fueled vehicles unless first upgraded to biomethane.
- (10) **“Biomethane” or “Renewable Natural Gas”** means refined biogas, or another synthetic stream of methane from renewable resources, that has been refined to a near-pure methane content product. Biomethane can be directly injected into natural gas pipelines or combusted in natural gas-fueled vehicles.
- (11) **“Blendstock”** means a fuel component that is either used alone or is blended with one or more other components to produce a finished fuel used in a motor vehicle. A blendstock that is used directly as a transportation fuel in a vehicle is considered a finished fuel.
- (12) **“Bulk system”** means a fuel distribution system consisting of refineries, pipelines, vessels and terminals. Fuel storage and blending facilities that are not fed by pipeline or vessel are considered outside the bulk transfer system.
- (13) **“Business partner”** means the second party that participates in a specific transaction involving the regulated party. This can either be the buyer or seller of fuel, whichever applies to the specific transaction.
- (14) **“Buy/Sell Board”** means a section of the CTFP-DMS where registered parties can post that they are interested in buying or selling credits.
- (15) **“Book-and-Claim”** means the accounting methodology where the environmental attributes of an energy source are detached from the physical molecules or electrons when they are commingled into a common transportation and distribution system for that form of energy. The detached attributes are then assigned by the owner to the same form and amount of energy when it is used. For the purposes of this part, the common transportation and distribution system shall be connected to New Mexico.

C. Definitions beginning with the letter “C.”

- (1) **“CO₂e”** means carbon dioxide equivalent.
- (2) **“Carbon intensity” or “CI”** means the same as Paragraph B. of Section 74-1-3 NMSA 1978.
- (3) **“Carrier”** means a self-propelled or towed vehicle, used to transport passengers or property.
- (4) **“Carryback credit”** means a credit that was generated during or before the prior compliance period that a regulated party acquires between January 1st and April 30th of the current compliance period to meet its compliance obligation for the prior compliance period.
- (5) **“Confidential Business Information” or “CBI”** refers broadly to information that, if made public, would harm a business’ competitive position. This includes trade secrets and may include data relating to the profits and costs of the owner or operator that have not previously been released to the public.
- (6) **“CCM”** means Credit Clearance Market.
- (7) **“Clean transportation fuel”** means a transportation fuel whose carbon intensity is lower than the applicable clean transportation fuel standard.
- (8) **“Clean transportation fuel program” or “CTFP”** means the program established under this part to implement section 74-1-18 NMSA 1978.

- (9) **“Clean transportation fuel standard,” “CTFS” or “standard”** means the annual average carbon intensity a regulated party shall comply with, which is either:
 - (a) For gasoline and gasoline substitutes and alternatives, listed in Table 1 of section 701 of this part;
 - (b) For diesel and diesel substitutes and alternatives, listed in Table 2 of section 701 of this part; or,
 - (c) For alternative jet fuel, listed in Table 3 of section 701 of this part.
- (10) **“Clear diesel”** means a light middle or middle distillate grade diesel derived from crude oil that has not been blended with any quantities of renewable fuels including biodiesel or renewable diesel.
- (11) **“Clear gasoline”** means gasoline derived from crude oil that does not contain blended quantities of renewable fuel including ethanol.
- (12) **“Compliance period”** means each calendar year(s) during which regulated parties shall demonstrate compliance.
- (13) **“Compliance report”** means a report that a regulated party produces and delivers to the department for each compliance period demonstrating the ledger balance of their credits and deficits.
- (14) **“Compressed natural gas” or “CNG”** means natural gas stored inside a pressure vessel at a pressure greater than the ambient atmospheric pressure outside of the vessel.
- (15) **“Co-processing”** means the processing and refining of renewable or alternative low-carbon feedstocks intermingled with crude oil and its derivatives at petroleum refineries.
- (16) **“Credit”** means a unit of measure generated when a transportation fuel with a carbon intensity that is less than the applicable clean transportation fuel standard is produced, imported, or dispensed for use in New Mexico, such that one credit is equal to one metric ton of carbon dioxide equivalent not emitted as a result of the use of the fuel as compared to a fuel that precisely met the clean transportation fuel standard.
- (17) **“Credit buyer”** means a registered party that wishes to acquire credits.
- (18) **“Credit facilitator”** means a person in the CTFP-DMS that a regulated party designates to initiate and complete credit transfers on behalf of the regulated party.
- (19) **“Credit generator”** means a person who generates credits in the CTFP.
- (20) **“Credit seller”** means a registered party that wishes to sell or transfer credits.
- (21) **“Crude oil”** means any naturally occurring flammable mixture of hydrocarbons found in geologic formations.
- (22) **“Clean Transportation Fuel Program Data Management System” or “CTFP-DMS” or “DMS”** means the system in which regulated parties register, report, trade credits and manage alternative fuel pathways. It consists of the CTFP-AFP and CTFP-FRS-CBTS.
 - (a) **“Clean Transportation Fuel Program Data Management System Alternative Fuel Portal” or “CTFP-DMS-AFP” or “AFP”** means the module of the CTFP-DMS in which regulated parties manage alternative fuel pathways.
 - (b) **“Clean Transportation Fuel Program Data Management System Fuel Reporting System and Credit Banking and Transferring System” or “CTFP-FRS-CBTS” or “FRS-CBTS”** means the module of the CTFP-DMS in which regulated parties submit quarterly fuel reports, submit compliance period reports, trade credits and view their credit ledger balance.

D. Definitions beginning with the letter “D.”

- (1) **“Deficit”** means a unit of measure generated when a transportation fuel with a carbon intensity that is more than the applicable clean transportation fuel standard is produced, imported, or dispensed for use in New Mexico, such that one deficit is equal to one metric ton of carbon dioxide equivalent that is emitted as a result of the use of the fuel as compared to a fuel that precisely met the clean transportation fuel standard.
- (2) **“Deficit generator”** means a transportation fuel reporting entity who generates deficits in the CTFP.
- (3) **“Denatured Fuel Ethanol” or “Ethanol”** means nominally anhydrous ethyl alcohol meeting ASTM D 4806 standards. It is intended to be blended with gasoline for use as a fuel in a spark-ignition internal combustion engine. Before it is blended with gasoline, the denatured fuel ethanol is first made unfit for drinking by the addition of substances approved by the Alcohol and Tobacco Tax and Trade Bureau.
- (4) **“Department”** means the New Mexico Environment Department.
- (5) **“Diesel”** means a light middle distillate or middle distillate fuel suitable for compression in ignition engines conforming to the specifications of ASTM D975.

- (6) **“Diesel substitute”** means a fuel, other than diesel, that displaces diesel, as typically used in medium- and heavy- duty vehicles.
 - (7) **“Dispensed for use” or “Dispense”** means the act of distributing fuel into a motor vehicle or equipment that is consumed for the purposes of transportation.
 - (8) **“Dyed fuel”** means
 - (a) Dyed fuel used in off-road vehicles, including dyed fuels;
 - (b) Dyed special fuel used in vehicles that are not designed primarily to transport persons or property, that are not designed to be primarily operated on highways, and that are used primarily for construction work including, mining and timber harvest operations; and
 - (c) Dyed special fuel used for agricultural purposes exempt from 3.2.304 NMAC.
- E. Definitions beginning with the letter “E.”
- (1) **“Energy economy ratio” or “EER”** means the dimensionless value that represents:
 - (a) The efficiency of a fuel as used in a powertrain as compared to a reference fuel; or
 - (b) The efficiency of a fuel per passenger mile, for fixed guideway transportation applications.
 - (2) **“Electric cargo handling equipment” or “eCHE”** means cargo handling equipment using electricity as the fuel.
 - (3) **“Electrical distribution utility” or “EDU”** means an entity that owns or operates a public utility or utility as defined at Section 62-3-3(G)(1) NMSA 1978 and includes a public utility, a rural electric cooperative or a municipality.
 - (4) **“Electric forklift”** means a self-propelled vehicle that uses electric batteries for propulsion and functional energy, only has electric motors, and that is used to move and lift cargo and goods by means of pronged device inserted under the load.
 - (5) **“Electric ground support equipment” or “eGSE”** means self-propelled vehicles used off-road at airports to support general aviation activities that use electric batteries for propulsion and functional energy and only has electric motors. For the purpose of this section, that includes, but is not limited to, pushbacks, belt loaders, and baggage tractors.
 - (6) **“Electric Transport Refrigeration Unit” or “eTRU”** means refrigeration systems powered by electricity designed to refrigerate or heat perishable products that are transported in various containers, but not limited to, including semi-trailers, truck vans, shipping containers, and rail cars.
 - (7) **“Electric vehicle” or “EV”** means a Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle.
 - (8) **“EN”** means a European Standard adopted by one of the three European Standardization Organizations.
 - (9) **“Environmental attribute”** means greenhouse gas emission reduction recognition in any form, including verified emission reductions, voluntary emission reductions, offsets, allowances, credits, avoided compliance costs, emission rights and authorizations under any law or regulation, or any emission reduction registry, trading system, or reporting or reduction program for greenhouse gas emissions that is established, certified, maintained, or recognized by any international, governmental, or non-governmental agency.
 - (10) **“Equipment” or “Transportation equipment”** means machinery used to move people and goods from one place to another.
 - (11) **“Export”** means to have ownership title to transportation fuel from locations within New Mexico, at the time it is delivered to locations outside New Mexico by any means of transport, other than in the fuel tank of a motor vehicle for the purpose of propelling the motor vehicle.
- F. Definitions beginning with the letter “F.”
- (1) **“Feedstock transfer document”** means a document, or combination of documents, that demonstrates the delivery of specified source feedstocks from the point of origin to the fuel production facility as required under section 506 of this part.
 - (2) **“FEIN”** means federal employer identification number.
 - (3) **“Finished fuel”** means a transportation fuel that can legally be used directly in a motor vehicle without requiring additional chemical or physical processing.
 - (4) **“Fixed guideway”** means a public transportation facility using and occupying a separate right-of-way for the exclusive use of public transportation using rail, using a fixed catenary system, using an aerial tramway, or for a bus rapid transit system.

- (5) **“Fossil”** means any naturally occurring flammable mixture of hydrocarbons found in geologic formations such as rock or strata. When used as an adjective preceding a type of fuel (e.g., “fossil gasoline,” or “fossil LNG”), it means the subset of that type of fuel that is derived from a fossil source.
 - (6) **“Fuel lifecycle”** means the same as paragraph D of Section 74-1-3 NMSA 1978.
 - (7) **“Fuel pathway”** means a detailed description of all stages of fuel production and use for any particular transportation fuel, including feedstock generation or extraction, production, distribution, and combustion of the fuel by the consumer. The fuel pathway is used to calculate the carbon intensity of each transportation fuel.
 - (8) **“Fuel pathway application”** means an application submitted to the department for a fuel pathway under the CTFP.
 - (9) **“Fuel pathway code” or “FPC”** means the unique identifier used in the CTFP-DMS that applies to a specific fuel pathway as approved or issued under section 501 of this part.
 - (10) **“Fuel pathway holder”** means the entity that has applied for and received a certified fuel pathway code from the department, or who has a certified fuel pathway code from other states’ similar programs, which the department has approved for use in New Mexico.
 - (11) **“Fuel production facility”** means the facility at which a regulated or opt-in fuel is produced. With respect to biomethane, a fuel production facility means the facility at which the fuel is upgraded, purified, or processed to meet the standards for injection to a natural gas common carrier pipeline or for use in natural gas vehicles.
 - (12) **“Fuel report”** means a report that a regulated party produces each quarter on the quantity of regulated fuels from each associated fuel pathway that are produced, imported, or dispensed for use in New Mexico for that period of time.
 - (13) **“Fuel reporting entity”** means an entity that is required to report fuel transactions in CTFP-DMS. Fuel reporting entity refers to the first fuel reporting entity and to any entity to whom the reporting entity status is passed for a given quantity of fuel.
 - (14) **“Fuel supply equipment” or “FSE”** means equipment registered in the CTFP-DMS that dispenses fuel into vehicles.
 - (15) **“Fuel supply equipment credit” or “FSE credit”** means credits generated under the CTFP based upon the operational fueling capacity of designated units at an FSE.
 - (16) **“Fuel supply equipment pathway” or “FSE pathway”** means a registered, unique ID for an FSE containing all information needed for participation and FSE credit generation under the CTFP.
 - (17) **“Fuel supply equipment fuel pathway” or “FSE fuel pathway”** means a fuel pathway with a unique ID that supplies fuel for dispensing from one or more FSE units at an FSE station.
 - (18) **“Fuel supply equipment pathway application” or “FSE pathway application”** means an application submitted to the department for an FSE pathway under the CTFP.
 - (19) **“Fuel supply equipment fuel type” or “FSE fuel type”** means a type of transportation fuel that is supplied to an FSE.
 - (20) **“Fuel supply equipment station” or “FSE station”** is a location with a single address where one or more FSE units are available for use.
 - (21) **“Fuel supply equipment unit” or “FSE unit”** is an individual FSE able to fuel a single vehicle. One or many FSE units may be located at the same FSE station. If an FSE unit can refuel more than one vehicle simultaneously, it shall be considered more than one FSE-unit, equivalent to the number of vehicles that it can refuel at one time.
- G. Definitions beginning with the letter “G.”
- (1) **“gCO₂e/MJ”** means grams of carbon dioxide equivalent per megajoule of energy.
 - (2) **“Gasoline”** means a fuel suitable for spark ignition engines and conforming to the specifications of ASTM D4814.
 - (3) **“Gasoline substitute”** means a fuel, other than gasoline, that displaces gasoline, as typically used in an LMDV.
 - (4) **“GREET”** means the Greenhouse gases, Regulated Emissions, and Energy use in Transportation model developed and maintained by the Argonne National Laboratory.
 - (5) **“Greenhouse gas”** means carbon dioxide, hydrofluorocarbons, methane, nitrous oxide, perfluorocarbons, or sulfur hexafluoride.
 - (6) **“Gross vehicle weight rating” or “GVWR”** means the same as “Gross vehicle weight rating or GVWR” in 49 Code of Federal Regulations 571.3(b). GVWR units are expressed as pounds.
- H. Definitions beginning with the letter “H.”

- (1) **“HDV-CIE”** means a heavy-duty vehicle compression ignition engine.
 - (2) **“HDV-SIE”** means a heavy-duty vehicle spark ignition engine.
 - (3) **“Hydrogen” or “H2”** means a fuel consisting of either liquified, compressed, or gaseous hydrogen for use in a fuel cell or combustion engine vehicle.
- I. Definitions beginning with the letter “I.”
- (1) **“Illegitimate credits”** means credits that were not generated in compliance with this part.
 - (2) **“Import”** means to have ownership title to transportation fuel at the time it is brought into New Mexico from outside the state by any means of transport other than in the fuel tank of a motor vehicle for the purpose of propelling that motor vehicle.
 - (3) **“Importer”** means:
 - (a) With respect to any liquid fuel, the person who imports the fuel to New Mexico; or
 - (b) With respect to any biomethane, the person who owns the biomethane when it is either physically transported into New Mexico or injected into a pipeline located outside of New Mexico and contractually delivered for use in New Mexico.
 - (4) **“Incremental credit”** means a credit that is generated by an action to further lower the carbon intensity of electricity from that of the statewide mix or an EDU-specific mix. Incremental credits are calculated from the difference between the carbon intensity of the grid electricity and the carbon intensity of renewable electricity.
 - (5) **“Indirect land use change”** means the average lifecycle greenhouse gas emissions caused by an increase in land area used to grow crops that is caused by increased use of crop-based transportation fuels and expressed as grams of carbon dioxide equivalent per megajoule of energy provided (gCO₂e/MJ). Indirect land use change values are listed in Table 10 of section 24 of this part.
 - (a) Indirect land use change for fuel made from corn feedstocks is calculated using the protocol developed by the Argonne National Laboratory.
 - (b) Indirect land use change for fuel made from sugarcane, sorghum, soybean, canola and palm feedstocks is calculated using the protocol developed by the California Air Resources Board.
 - (6) **“Invoice”** means the receipt or other record of a sale transaction, specifying the price and terms of sale, that describes an itemized list of goods shipped.
- J. Definitions beginning with the letter “J.” [RESERVED]
- K. Definitions beginning with the letter “K.” [RESERVED]
- L. Definitions beginning with the letter “L.”
- (1) **“Large importer of finished fuels”** means any person who imports into New Mexico more than 500,000 gallons of finished fuels in a given calendar year.
 - (2) **“Light-Medium-Duty Vehicle” or “LMDV”** means an on-road motor vehicle with a gross vehicle weight rating of 14,000 pounds or less.
 - (3) **“Liquefied compressed natural gas” or “L-CNG”** means natural gas that has been liquefied and transported to a dispensing station where it was then re-gasified and compressed to a pressure greater than ambient pressure.
 - (4) **“Liquefied natural gas” or “LNG”** means natural gas that has been liquefied.
 - (5) **“Liquefied petroleum gas” or “propane” or “LPG”** means a petroleum product composed predominantly of any of the hydrocarbons, or mixture thereof; propane, propylene, butanes and butylenes maintained in the liquid state.
 - (6) **“Low-CI Electricity”** means any electricity that is determined to have a carbon intensity that is less than the average grid electricity for the region.
 - (7) **“Low-Income”** means annual household adjusted gross income, as defined in the Income Tax Act at Chapter 7, Article 2 NMSA 1978, of equal to or less than two hundred percent of the federal poverty level.
- M. Definitions beginning with the letter “M.”
- (1) **“Material information”** means:
 - (a) Information that would result in a change of the carbon intensity of a fuel, expressed in a gCO₂e/MJ basis to two decimal places; or
 - (b) Information that would result in a change by any whole integer of the number of credits or deficits generated.
 - (2) **“Medium-Heavy-Duty Vehicle” or “MHDV”** means an on-road motor vehicle with a gross vehicle weight rating of greater than 14,000 pounds.
 - (3) **“Meter”** means any device that measures the amount of electricity delivered to a vehicle, including a residential charger or on-board vehicle communications and telematics.

- (4) **“Motor vehicle”** means every vehicle that is propelled by a motor.
 - (5) **“M-RETS Renewable Thermal”** means the electronic tracking and trading system for North American biomethane and other renewable thermal attributes run by the M-RETS organization. For the purposes of this section, only the biomethane or renewable natural gas certificates generated by this system are recognized.
 - (6) **“Metric Ton” or “MT”** means a common international measurement for mass, equivalent to approximately 2,204.6 pounds or 1.1 short tons.
 - (7) **“Multi-family housing”** means a structure or facility established primarily to provide housing that provides four or more living units, and where the individual parking spaces that an electric vehicle charger serves, and the FSE itself, are not deeded to or owned by a single resident.
- N. Definitions beginning with the letter “N.”
- (1) **“Nameplate fueling capacity”** means the maximum amount of fuel that an FSE can dispense assuming full use for 24 hours a day and no downtime.
 - (2) **“Nameplate production capacity”** means the maximum amount of fuel that a facility can produce assuming full use for 24 hours a day and no downtime.
 - (3) **“Natural gas” or “NG”** means a mixture of gaseous hydrocarbons and other compounds with at least 80 percent methane by volume.
 - (4) **“Natural gas common carrier pipeline”** means a natural gas pipeline that offers transportation services to any third-party under a standard set of terms. For the purpose of this section, any common carrier pipeline used for book and claim shall be part of a network directly or indirectly connected to New Mexico.
 - (5) **“NM-GREET”** means the Greenhouse gases, Regulated Emissions, and Energy in Transportation (GREET) model developed by Argonne National Laboratory and the New Mexico-specific parameters the department has adopted for use in the clean transportation fuel program. The department shall make the New Mexico-specific parameters of NM-GREET currently in use on its website. NM-GREET refers to both the full model and the fuel-specific simplified calculators that the program has adopted.
- O. Definitions beginning with the letter “O.”
- (1) **“OEM”** means original equipment manufacturer.
 - (2) **“Operational fueling capacity”** means the maximum amount of fuel that an FSE can dispense assuming routine downtime during the course of a day and/or any unplanned outages.
 - (3) **“Operational production capacity”** means the maximum amount of fuel that a facility can produce assuming routine downtime during the course of a day and/or any unplanned outages.
 - (4) **“Other states’ similar programs”** means programs administered in other states that are designed and implemented in a similar fashion and with a similar objective as the CTFP.
- P. Definitions beginning with the letter “P.”
- (1) **“Person”** means the same as “person” in NMSA 1978, Section 74-1-3(F).
 - (2) **“Physical Transport Mode”** means the applicable combination of actual fuel delivery methods, such as truck routes, rail lines, pipelines and any other fuel distribution methods through which the regulated party reasonably expects the fuel to be transported under contract from the entity that generated or produced the fuel, to any intermediate entities and ending in New Mexico.
 - (3) **“Plug-In Hybrid Electric Vehicle” or “PHEV”** means a hybrid vehicle with the capability to charge a battery from an off-vehicle electric energy source that cannot be connected or coupled to the vehicle in any manner while the vehicle is being driven.
 - (4) **“Position holder”** means any person that has an ownership interest in a specific amount of fuel in the inventory of a terminal operator. This does not include inventory held outside of a terminal, retail establishments, or other fuel suppliers not holding inventory at a fuel terminal.
 - (5) **“Producer”** means with respect to any liquid fuel, propane or methane, the person who makes refines or treats the fuel.
 - (6) **“Product transfer document” or “PTD”** means a document, or combination of documents, that authenticates the transfer of ownership of fuel between parties and shall include all information identified in section 506 of this part. A PTD may include bills of lading, invoices, contracts, meter tickets, rail inventory sheets or RFS product transfer documents.

- (7) **“Provisional pathway”** means a pathway that is conditional due to the nature of being a newly formed entity and does not have, and therefore cannot supply to the department, 24 months of operational data.
- (8) **“Public transportation”** means regular, continuing shared passenger-transport services along set routes which are available for use by the general public.
- (9) **“Public transit agency”** means an entity that operates a public transportation system.
- (10) **“Pull-through”** means the ability for an FSE unit to allow a vehicle to pull in and utilize its equipment without driving in reverse.

Q. Definitions beginning with the letter “Q.” [RESERVED]

R. Definitions beginning with the letter “R.”

- (1) **“Registered party”** means a regulated party, credit generator, or aggregator that has a department-approved registration per section 501 of this part to participate in the CTFP.
- (2) **“Registration application”** means an application a party submits to the department to participate in the CTFP.
- (3) **“Regulated fuel”** means a transportation fuel identified under subsection B of section 101 of this part.
- (4) **“Regulated party”** means any person producing, importing, or dispensing for use a regulated fuel except as specified in sections 101 and 102 of this part or any person who voluntarily registers or opts in to the CTFP.
- (5) **“Regulatory application”** means the application of the regulations in this part to any person or circumstance.
- (6) **“Related entity”** means any direct parent company, direct subsidiary, or a company with common ownership or control.
- (7) **“Renewable diesel”** means diesel that is produced from non-fossil renewable resources but is not a monoalkylester and which is registered as a motor vehicle fuel or fuel additive under Title 40, part 79 of the Code of Federal Regulations. This includes the renewable portion of diesel derived from co-processing biomass with a petroleum feedstock.
- (8) **“Renewable diesel blend”** means a fuel comprised of a blend of renewable diesel with petroleum- or fossil-based diesel or biodiesel, designated RXX. In the abbreviation RXX, the “XX” represents the percentage by volume of renewable diesel in the blend.
- (9) **“Renewable energy certificate” or “REC”** means a unique representation of the environmental, economic, and social benefits associated with the generation of electricity from renewable energy sources. One certificate is created in association with the generation of one megawatt-hour (MWh) of renewable electricity.
- (10) **“Renewable gasoline”** means a gasoline fuel that is produced from non-petroleum renewable resources and that substitutes for fossil gasoline. This includes the renewable portion of a gasoline fuel derived from co-processing biomass with a petroleum feedstock.
- (11) **“Renewable hydrogen”** means hydrogen derived from (1) electrolysis of water or aqueous solutions using renewable electricity; (2) catalytic cracking or steam methane reforming of biomethane; or (3) thermochemical conversion of biomass, including the organic portion of municipal solid waste. Renewable electricity, for the purpose of renewable hydrogen production by electrolysis, means electricity derived from sources that qualify as eligible renewable energy resources.
- (12) **“Renewable propane”** means liquefied petroleum gas (LPG or propane) that is produced from non-fossil renewable resources.
- (13) **“Renewable naphtha”** means naphtha that is produced from hydrotreated lipids and biocrudes, or from gasified biomass that is converted to liquids using the Fischer-Tropsch process. This includes the renewable portion of a naphtha fuel derived from co-processing biomass with a petroleum feedstock.
- (14) **“Renewable thermal certificate” or “RTC”** means a unique representation of the environmental, economic, and social benefits associated with the use of biomethane from renewable sources. One certificate is created in association with the generation of one dekatherm of biomethane.
- (15) **“Responsible official”** means the person holding the position with the highest executive authority within a company, such as a company’s owner, president, chief executive officer, or managing partner.
- (16) **“Retailer”** means a person who buys fuel from producers, importers or wholesalers and sells them in small quantities to the end-use consumer. Retailers are the final step in the supply chain from producers to consumers.

- (17) **“RFS”** means the Renewable Fuel Standard implemented by the US Environmental Protection Agency.
- (18) **“RIN”** means a tradable credit that is retired for compliance with the RFS.
- S. Definitions beginning with the letter “S.”
- (1) **“Secretary”** means the cabinet secretary of the New Mexico environment department.
- (2) **“SMR”** means steam methane reformation.
- (3) **“Specified source feedstocks”** are feedstocks for fuel pathways that require chain of custody evidence to be eligible for a reduced CI associated with the use of a waste, residue, by-product, or similar material under the pathway certification process per section 506 of this part.
- T. Definitions beginning with the letter “T.”
- (1) **“Tier 1 calculator”, “Simplified calculator” or “GREET-based Tier 1 calculator”** means the tools used to calculate lifecycle emissions for commonly produced fuels, including the instruction manuals on how to use the calculators. The department shall make available copies of these simplified calculators on its website.
- (2) **“Tier 2 calculator”** means the tool used to calculate lifecycle emissions for next-generation fuels, including the instruction manual on how to use the calculator. Next-generation fuels include cellulosic alcohols, hydrogen, drop-in fuels, or first-generation fuels produced using innovative production processes. The department shall make available a copy of the Tier 2 calculator on its website.
- (3) **“Third-party”** means a person participating in the CTFP except the department or regulated party.
- (4) **“Transaction date”** means the title transfer date as shown on the PTD.
- (5) **“Transaction quantity”** means the amount of fuel reported in a transaction.
- (6) **“Transaction type”** means the nature of the fuel transaction as defined below:
- (a) **“Produced in New Mexico”** means the transportation fuel was produced at a facility in New Mexico;
- (b) **“Import within the bulk system”** means the transportation fuel was imported into New Mexico and placed into the bulk system;
- (c) **“Import outside the bulk system”** means the transportation fuel was imported into New Mexico and delivered outside the bulk system;
- (d) **“Purchased with obligation”** means the transportation fuel was purchased with the compliance obligation passing to the purchaser;
- (e) **“Purchased without obligation”** means the transportation fuel was purchased with the compliance obligation retained by the seller;
- (f) **“Sold with obligation”** means the transportation fuel was sold with the compliance obligation passing to the purchaser;
- (g) **“Sold without obligation”** means the transportation fuel was sold with the compliance obligation retained by the seller;
- (h) **“Position holder sale without obligation”** means the transportation fuel was sold below the rack without a transfer of the compliance obligation;
- (i) **“Position holder sale with obligation”** means the transportation fuel was sold below the rack with a transfer of the compliance obligation;
- (j) **“Position holder sale for export”** means the transportation fuel was sold below the rack to an entity who exported the fuel;
- (k) **“Purchase below the rack for export”** means the transportation fuel was purchased below the rack and exported;
- (l) **“Export”** means a transportation fuel that was reported under the clean transportation fuel standard but was later moved from a location inside of New Mexico to a location outside of New Mexico;
- (m) **“Loss of inventory”** means the fuel exited the New Mexico fuel pool due to volume loss, such as through evaporation or due to different temperatures or pressurization, or the fuel was transferred to a new fuel pathway code;
- (n) **“Gain of inventory”** means the fuel entered the New Mexico fuel pool due to a volume gain, such as through different temperatures or pressurization, or the fuel was transferred from a different fuel pathway code;
- (o) **“Not used for transportation”** means a transportation fuel that was used in a process unrelated to the movement of goods or people, such as process heat at an industrial facility, home or commercial building heating, or electric power generation;

- (p) **“EV charging”** means providing electricity to recharge EVs including BEVs and PHEVs;
- (q) **“LPGV fueling”** means the dispensing of liquefied petroleum gas at a fueling station designed for fueling liquefied petroleum gas vehicles;
- (r) **“NGV fueling”** means the dispensing of natural gas at a fueling station designed for fueling natural gas vehicles;
- (s) **“Exempt fuel use – Aircraft”, “Exempt fuel use – Racing Activity Vehicles”, “Exempt fuel use – Military tactical and support vehicle and equipment”, “Exempt fuel use – Locomotives”, “Exempt fuel use – Watercraft”, “Exempt fuel use – Farm vehicles, tractors, implements of husbandry”, “Exempt fuel use – Motor trucks primary used to transport logs”, “Exempt fuel use – Off-highway construction vehicles”** means that the fuel was delivered or sold into the category of vehicles or fuel users that are exempt per section 102 of this part; or
- (t) **“Production for Import into New Mexico”** means the out-of-state production of a fuel that shall be imported into New Mexico.
- (7) **“Transportation”** means the removal of goods or persons from one place to another by a carrier.
- (8) **“Transportation Application”** means the type of vehicle where the fuel is consumed, shown as either LDV/MDV or HDV.
- (9) **“Transportation fuel” or “fuel”** means the same as Section 74-1-3(I) NMSA 1978.
- U. Definitions beginning with the letter “U.”
 - (1) **“ULSD”** means ultra-low sulfur diesel.
 - (2) **“Underserved community”** means an area in this state, including a county, municipality or neighborhood, or subset of such area where the median income of the area is low-income.
 - (3) **“Unit of fuel”** means fuel quantities expressed to the largest whole unit of measure, with any remainder expressed in decimal fractions of the largest whole unit.
 - (4) **“Unit of measure”** means either:
 - (a) The International System of Units defined in NIST Special Publication 811 (2008) commonly called the metric system;
 - (b) US Customary Units defined in terms of their metric conversion factors in NIST Special Publications 811 (2008); or
 - (c) Commodity Specific Units defined in the NIST Handbook 130 (2015), Method of Sale Regulation.
 - (5) **“Uptime multiplier” or “UT”** means a factor between 0 and 1 representing that portion of a day in which an FSE or production facility is operational, used to determine what portion of nameplate fueling or production capacity translates to operational fueling or production capacity.
- V. Definitions beginning with the letter “V.”
 - (1) **“Vehicle”** means every device in, upon or by which any person or property is or may be transported or drawn, including any frame, chassis, body or unitized frame and body of any vehicle or motor vehicle, except devices moved exclusively by human power.
 - (2) **“Vehicle duty type”** means either Light-Medium-Duty Vehicle or Medium-Heavy-Duty Vehicle.
 - (3) **“VIN”** means vehicle identification number as assigned by the original equipment manufacturer.
- W. Definitions beginning with the letter “W”.
 - (1) **“WREGIS”** means the Western Renewable Energy Generation Information System run by the Western Electricity Coordinating Council.
 - (2) **“WECC”** means the Western Electricity Coordinating Council.

[20.2.92.7 NMAC - N, X/X/2025]

20.2.92.8 DOCUMENTS: Documents incorporated and cited in this part may be viewed on the department’s website and at the New Mexico environment department climate change bureau.

[As of December 2024, the Climate Change Bureau is located at 525 Camino de los Marquez, Suite A1, Santa Fe, New Mexico 87505.]

[20.2.92.8 NMAC - N, X/X/2025]

20.2.92.9 SEVERABILITY: If any provision of this part, or the regulatory application of such provision to any person or circumstance, is held invalid, the remainder of this part, or the regulatory application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.
[20.2.92.9 NMAC - N, X/X/2025]

20.2.92.10 CONSTRUCTION: This part shall be liberally construed to carry out its objective.
[20.2.92.10 NMAC - N, X/X/2025]

20.2.92.11 SAVINGS CLAUSE: Repeal or supersession of prior versions of this part shall not affect any administrative or judicial action initiated under those prior versions.
[20.2.92.11 NMAC - N, X/X/2025]

20.2.92.12 COMPLIANCE WITH OTHER REGULATIONS: Compliance with this part does not relieve a person from the responsibility to comply with any other applicable federal, state, or local regulations.
[20.2.92.12 NMAC - N, X/X/2025]

20.2.92.13 LIMITATION OF DEFENSE: The existence of a valid registration or certification under this part shall not constitute a defense to an alleged violation of this part, except for the requirement for obtaining a registration or certification.
[20.2.92.13 NMAC - N, X/X/2025]

20.2.92.14 - 100 [RESERVED]

20.2.92.101 APPLICABILITY:

- A. Except as exempted in section 102, this part:
 - (1) Applies to regulated fuels, as provided in subsection B of this section, that are produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico; and
 - (2) Applies to opt-in fuels, as provided in subsection C of this section, that are produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico; and
 - (3) Establishes the applicable carbon intensity standard for fuels and their substitutes, as provided in subsection D of this section.
- B. Regulated fuels. The following types of transportation fuels are regulated fuels:
 - (1) Gasoline;
 - (2) Diesel;
 - (3) Fossil-based natural gas, including compressed, liquified, and liquefied-compressed;
 - (4) Liquefied petroleum gases;
 - (5) Denatured ethanol;
 - (6) Hydrogen;
 - (7) Biodiesel;
 - (8) Renewable Diesel;
 - (9) Renewable naphtha;
 - (10) Renewable gasoline;
 - (11) Other transportation fuels as determined by the department; and
 - (12) Blends of the fuels listed in paragraphs (1) through (11) of this subsection.
- C. Opt-in fuels.
 - (1) The following types of transportation fuels are opt-in fuels:
 - (a) Electricity;
 - (b) Bio-based natural gas, including compressed, liquified, and liquefied-compressed;
 - (c) Renewable propane or other liquefied gases not included under subparagraph (b) of this paragraph;
 - (d) Alternative jet fuel; and
 - (e) Other bio-based or renewable transportation fuels, not included in subsection B of this section, as determined by the department.
 - (2) Each fuel listed in paragraph (1) of this subsection is presumed to have a carbon intensity less than the carbon intensity standards in Tables 1 and 2 of section 701 of this part for a specific calendar year.
- D. Applicable carbon intensity standard.
 - (1) For fuels intended for use in single-fuel vehicles:

- (a) The annual carbon intensity standards in Table 1 shall be used for gasoline and gasoline substitutes;
 - (b) The annual carbon intensity standards in Table 2 shall be used for diesel and diesel substitutes; or
 - (c) The annual carbon intensity standards in Table 3 shall be used for alternative jet fuel.
- (2) For fuels intended for use in multi-fuel vehicles:
- (a) The annual carbon intensity standards in Table 1 shall be used if one of the fuels used in the multi-fuel vehicle is gasoline; or
 - (b) The annual carbon intensity standards in Table 2 shall be used if one of the fuels used in the multi-fuel vehicle is diesel.

[20.2.92.101 NMAC - N, X/X/2025]

20.2.92.102 EXEMPTIONS:

- A. Exempt fuel and fuel use.
- (1) Transportation fuels supplied for use in any of the following motor vehicles are exempt from generating deficits:
 - (a) Aircraft using petroleum-based jet fuel or aviation gasoline;
 - (b) Railroad locomotives; and
 - (c) Military tactical vehicles and tactical support equipment.
 - (2) Transportation fuels sold by a regulated party with an aggregated quantity of less than 42.6 million megajoules of energy equivalent of a fuel when converted from its applicable quantity to megajoules using the energy density ratios in Table 6 of section 701 of this part are exempt from generating deficits. This threshold is determined by the amount supplied statewide per reporting period, not the amount supplied by individual regulated parties.
 - (3) Dyed fuels are exempt from generating deficits until January 1, 2029.
 - (4) To claim an exemption under paragraphs (1) and (3) of this section, the person claiming the exemption shall document that the fuel was supplied for exempted use and report the exemption in CTFP-DMS as a registered party.
 - (a) For exempted uses, the documentation shall include:
 - (i) If the fuel is sold through a dedicated tank for a single customer, electronic or paper records that document that the customer's vehicle or vehicles being fueled are exempt and that the tank is not used to fuel any other vehicles;
 - (ii) Individual receipts or invoices for each fuel sale claimed as exempt that list the specific customer and exempt vehicle type; or
 - (iii) Other comparable documentation approved in writing by the department and before exemptions being claimed.
 - (b) The person claiming the exemption shall:
 - (i) Maintain records, per section 506 of this part;
 - (ii) Report, per section 503 of this part;
 - (iii) Attest to the accuracy of the submitted information, even if they are not the fuel end user;
 - (iv) Submit to the department, upon request, additional records demonstrating adherence to the conditions of this section.
- B. Opting into the CTFP for otherwise exempted fuel and fuel uses. A registered party providing fuel below the applicable carbon intensity standard to an exempt entity or exempt fuel use may generate credits by reporting per section 503 of this part.
- C. Exemption for retailers. Notwithstanding any other requirement of this part, a retailer is exempt from this part. This exemption does not extend to the producer, importer or wholesaler supplying fuel to the retailer who is otherwise subject to the regulation.

[20.2.92.102 NMAC - N, X/X/2025]

20.2.92.103 GENERAL REQUIREMENTS:

- A. Regulated fuel requirements. Deficits and credits associated with a given quantity of regulated fuels are created when the fuels are produced in New Mexico, imported into New Mexico or dispensed for use in New Mexico.
- B. Regulated party requirements. Regulated parties shall:
- (1) Comply with the requirements of this part;
 - (2) Register per section 501;

- (3) Pay administrative fees per section 502;
 - (4) Report to the department per sections 503, 504 and 505;
 - (5) Generate and keep records per section 506; and
 - (6) Comply with the clean fuel standard per section 507.
- C. Voluntarily opting into the CTFP.
- (1) Voluntary participation in the CTFP shall conclusively establish consent to be a regulated party and subject to the jurisdiction of the state of New Mexico, its courts, and the administrative authority of the department to implement the CTFP. Failure to consent to such jurisdiction excludes participation in the CTFP.
 - (2) Opting into the CTFP becomes effective when the opt-in entity notifies the department of such action in the CTFP-DMS. Simply creating an account in the CTFP-DMS shall not, by itself, be considered opting in. The opt-in entity may not report and generate credits and deficits based on transactions that precede the quarter in which the entity opted in.
 - (3) To opt out of the CTFP, the opt-in entity shall:
 - (a) Provide the department a 90-day written notification of intent to opt-out and a proposed effective opt-out date;
 - (b) Submit in the CTFP-DMS any outstanding quarterly fuel transactions up to the quarter in which the effective opt-out date falls and a final annual compliance period report that covers the year through the opt-out date; and
 - (c) Identify in the 90-day written notification any actions to be taken to eliminate any remaining deficits by the effective opt-out date.
 - (4) Opt-in requirements for out-of-state producers:
 - (a) An out-of-state producer of ethanol, biodiesel, renewable diesel, alternative jet fuel, bio-based natural gas, or renewable propane or other liquefied gases that is not an importer is not required to participate in the CTFP.
 - (b) If an importer does not opt-in to the CTFP, the out-of-state producer retains the ability to generate credits for the specific quantities of their imported fuel.
 - (5) Opt-in requirements for credit aggregators:
 - (a) A registered party may designate an aggregator to act on its behalf to facilitate credit generation and trade credits by submitting an aggregator designation form to the department in the CTFP-DMS.
 - (b) Aggregators may register under CTFP-DMS only if another registered party has authorized an aggregator to act on its behalf by submitting a complete and valid aggregator designation form to the department.
 - (c) Credit aggregators who choose voluntarily to participate in the CTFP may do so only if they opt-in as a regulated party and meet the requirements of this section.
 - (i) An already registered party may also serve as an aggregator for others.
 - (ii) An aggregator shall notify the department when a credit generator or regulated party has withdrawn designation of the aggregator. Aggregator withdrawals may only take effect at the end of the current full calendar quarter when the department receives such written notification.

[20.2.92.103 NMAC - N, X/X/2025]

20.2.92.104 - 200 [RESERVED]

20.2.92.201 CARBON INTENSITY GENERAL REQUIREMENTS:

- A. Department review of statewide carbon intensities. At least every three years, the department shall review the statewide carbon intensities per Table 4 of section 701 of this part and shall consider, at a minimum, changes to the following:
 - (1) The sources of crude oil and fossil natural gas and associated factors that affect emissions such as flaring rates, extraction technologies, capture of fugitive emissions, and energy sources;
 - (2) Vehicle fuel economy and energy economy ratios; and
 - (3) Methods to calculate lifecycle greenhouse gas emissions of transportation fuels including changes in established fuel lifecycle models, and methods to quantify indirect land use change.
- B. Carbon intensities for reporting in the CTFP.
 - (1) Regulated parties shall use the statewide average carbon intensities listed in Table 4 of section 701 of this part for reporting the following fuels:
 - (a) Clear gasoline or the gasoline blendstock of a blended gasoline fuel;

- (b) Clear diesel or the diesel blendstock of a blended diesel fuel;
 - (c) Fossil-based natural gas, including compressed, liquified, and liquefied-compressed; and
 - (d) Fossil liquified petroleum gasses.
- (2) For electricity suppliers, the department shall calculate EDU-specific carbon intensities annually per section 206 of this part and shall publish them to the department's website and provide a written notification of the post to all CTFP registrants. Regulated parties may use a carbon intensity different from the EDU-specific carbon intensity calculated by the department under section 206 of this part.
 - (3) For suppliers of other fuels, a supplier may use the applicable value in Table 4 of section 701 of this part or apply for a specific carbon intensity per sections 204 or 205 of this part. To report using a pathway in Table 4, the regulated party shall demonstrate to the department that fuel production occurs using feedstocks and processes substantially similar to the pathway description in Table 4.
- C. Fuels with indeterminate carbon intensities.
- (1) A regulated party that has purchased a regulated fuel with unknown origin or without a certified carbon intensity shall report the fuel using the maximum carbon intensity for that fuel type per Table 4 of section 701 of this part.
 - (2) For fuels that do not have a carbon intensity in Table 4 of section 701 of this part, regulated parties may submit a written request that the department issue a temporary fuel pathway.
 - (a) The written request shall explain and document that the production facility is unknown or that the production facility is known but there is no applicable fuel pathway code.
 - (b) The written request shall document the suggested carbon intensity for the fuel and provide evidence that the suggested carbon intensity should apply to the fuel.
 - (c) The department may approve such temporary pathways if it concludes they are technically sound and supported by appropriate evidence.
 - (d) Such temporary fuel pathway codes may be used for up to two quarters. Any newly approved temporary fuel pathway code shall be effective for use in the quarter in which it is approved. If more time is needed to obtain a certified carbon intensity, the party that obtained the temporary fuel pathway shall submit an additional written request to the department for an extension of the authorization to use a temporary fuel pathway code.
 - (e) If it is determined that the operational carbon intensity for the fuel is higher than the temporary carbon intensity, the department shall replace the temporary carbon intensity with the operational carbon intensity in the CTFP-DMS and adjust the credit balance accordingly for the whole period for which the temporary carbon intensity was used.
 - (f) If the department grants a request to use a temporary fuel pathway code, credits and deficits may be generated subject to the quarterly reporting provisions at section 504 of this part. The department may impose conditions on the use of a temporary fuel pathway code by an applicant to ensure the accuracy and proper reporting of the carbon intensity being used.
- D. Pathway applications for gaseous or liquid fuels using book-and-claim accounting. To report fuel using a CI for gaseous or liquid fuels using book-and-claim accounting, the fuel reporting entity shall:
- (1) Ensure that they have exclusive right to claim the specific environmental attributes that are being used under the CTFP.
 - (2) If the gaseous or liquid fuel is injected into the transportation pipeline of a local distribution company, the fuel reporting entity shall establish and maintain an agreement with that local distribution company along with any other purchaser of the physical gaseous or liquid fuel that only the fuel reporting entity shall make any claims on the gaseous or liquid fuel's environmental attributes reported through book-and-claim under the CTFP.
 - (3) Submit the agreement listed in paragraph (2) of this subsection at the time of the fuel pathway application or in the next annual fuel pathway report if the pathway is currently certified.

- (4) Not claim credit for environmental attributes of the gaseous or liquid fuel under any other program or jurisdiction that are determined based upon GHG emissions. This paragraph does not prevent a fuel reporting entity claiming credits under the CTFSS from also claiming credit under the federal RFS or another federal or state credit program that primarily determines credits based upon criteria that are unrelated to GHG emissions.

[20.2.92.201 NMAC - N, X/X/2025]

20.2.92.202 CARBON INTENSITY ALTERNATIVE FUEL PATHWAYS:

- A. General alternative fuel pathway requirements. Regulated parties may apply to the department for a facility or process-specific carbon intensity, except as specified in section 201 by applying to the department as specified in section 204, 205, 206 or 207 of this part. Regulated parties must also maintain alternative fuel pathways per section 203 of this part.
 - (1) The department shall accept fuel pathway applications for review for facility or process-specific carbon intensities beginning no earlier than July 1, 2026, for use in the 2027 compliance period.
 - (2) Regulated parties may use department-approved alternative fuel carbon intensities under section 204, 205, or 206 of this part to report fuel for the first full quarter following approval.
 - (3) Carbon intensities for alternative fuel pathways shall be calculated using NM-GREET or a model approved by the department. If a party wishes to use a modified or different lifecycle carbon intensity model, it must be approved by the department in advance of a fuel pathway application.
- B. Maximum carbon intensities.
 - (1) Pathway holders under the CTFP and registered parties using those carbon intensities to report in the CTFP-DMS shall ensure that the fuel sold and reported has an operational lifecycle carbon intensity equal to or less than its certified carbon intensity.
 - (2) The operational carbon intensity of a fuel using an alternative fuel pathway to report shall be calculated from the most recent production data covering 24 months of the fuel production facility's operation.
 - (3) The certified carbon intensity approved by the department under either section 204, 112 or 114 of this part may include a margin of safety to ensure that it is the maximum carbon intensity for that pathway.
 - (4) Pathway holders shall inform the department within 14 calendar days after they become aware that its operational carbon intensity shall exceed its certified carbon intensity.
- C. Data requirements for alternative fuel pathways.
 - (1) All measurement devices that log or record data for use in a fuel pathway application shall comply with the device manufacturer's use, maintenance, and calibration recommendations.
 - (2) The owner or operator of measurement devices that operate continuously with infrequent outages may submit a written request to the department to postpone calibration or inspection until the next scheduled maintenance outage.
 - (a) Postponements shall be documented in the monitoring plan required per subsection F of section 506 of this part.
 - (b) Requests for postponement shall be submitted to the department in writing not less than 30 calendar days before the required calibration, recalibration or inspection date. The written request for postponement shall include:
 - (i) A description of the measurement device, including at a minimum: the make, model, installation date, location, parameter measured by the measurement device, and the rate of data capture by the measurement device;
 - (ii) A description of how data from the measurement device is used in a fuel pathway;
 - (iii) The calibration or inspection procedure for the measurement device;
 - (iv) The date of the manufacturer-recommended calibration, recalibration, or inspection;
 - (v) The date of the last calibration or inspection;
 - (vi) The proposed date for calibration, recalibration, or inspection;
 - (vii) The date and results of the most recent field accuracy assessment, if applicable, clearly indicating a pass/fail status;
 - (viii) The proposed date for the next field accuracy assessment, if applicable;

- (ix) The reason for delaying the calibration or inspection;
 - (x) A proposed method to ensure that the precision specifications listed by the manufacturer are maintained; and
 - (xi) Contact information for an individual at the fuel production facility who can answer questions about the measurement device.
- (c) The proposed date for calibration, recalibration, or inspection shall be during the next scheduled shutdown. If the next shutdown shall not occur within three years, this shall be noted and a new request shall be received every three years until the shutdown occurs and the calibration, recalibration or inspection is completed.
 - (d) The department may request additional documentation to validate the operator's claim that the device meets the accuracy requirements of this section. The operator shall provide any additional documentation to the department within 14 calendar days of a request for documentation.
- (3) If a measurement device is not functional, not calibrated within the requirements of paragraphs (1) and (2) of this subsection, or fails a field accuracy assessment, the pathway holder shall otherwise demonstrate to a verifier or the department that the reported data are accurate within a five percent margin of error.
 - (a) If the operator can demonstrate to the verifier or the department that reported data are accurate, the data are acceptable. The entity shall then provide a detailed plan describing when the measurement device shall be brought into calibration. This plan is subject to approval by the department; and
 - (b) If the operator cannot demonstrate to the verifier or the department that reported data are accurate, the data is not acceptable, and the data shall be treated as missing data.
 - (4) If missing data exists, the pathway holder shall submit to the department a proposed alternate method of reporting the missing data. Alternate methods shall be evaluated on a case-by-case basis for reasonableness and continuity with the rest of the dataset. The department may assign a higher CI value to the missing data if it has reason to believe that the alternative method may understate actual lifecycle emissions associated with the fuel or fuels produced by the facility.
 - (5) In the event of a facility shutdown or disruption drastically affecting production attributable to a force majeure event, the fuel pathway applicant or holder shall notify the department in writing.
- D. Approval of alternative fuel pathways.
- (1) Completeness determination. The department shall determine whether the proposal is complete within 30 calendar days after receiving an application. If the department determines the proposal is complete, the department shall notify the applicant in writing of the completeness determination. If the department determines the proposal is incomplete, the department shall notify the applicant of the deficiencies in writing. The applicant shall have 30 calendar days to address the deficiencies, or the department shall deny the application. Upon written request, the department may grant an extension of up to 30 additional calendar days to address the deficiencies. If the applicant submits supplemental information, the department has 30 calendar days to determine if the supplemental submittal is complete, or to notify the party and identify the continued deficiencies. This process may repeat until the application is determined to be complete or 180 calendar days have elapsed from the date that the applicant first submitted the application. If the application is not determined to be complete within 180 calendar days, the application shall be rejected. Rejected applicants may reapply.
 - (2) After the application has been determined to be complete, the department shall review the application to ensure compliance with this part. The department shall approve or deny the application based on the requirements of this part. Denied applicants must substantially alter the application before reapplying.
 - (3) If the department has approved, denied or rejected the application, the department shall notify the applicant of its determination in writing.
 - (4) The department may impose conditions in its approval of the application. Conditions may include specific limitations, recordkeeping or reporting requirements, adherence to protocols to assure carbon reduction or sequestration claims, or operational conditions that the department determines should apply to assure the ongoing accuracy of the approved

carbon intensity. Failure to meet those conditions may result in the approval being revoked, an enforcement action being taken by the department, or both.

[20.2.92.202 NMAC - N, X/X/2025]

20.2.92.203 REQUIREMENTS FOR MAINTAINING AN ALTERNATIVE FUEL PATHWAY:

- A. General requirements. To maintain an active alternative fuel pathway and fuel pathway code in CTFP-DMS, the pathway holder shall:
- (1) Maintain an active registration with the CTFP-DMS;
 - (2) Provide proof of delivery to New Mexico in the quarter in which the fuel is first reported in the CTFP-DMS; and
 - (3) Submit an annual fuel pathway report no later than March 31st of each calendar year, per subsection B of this section.
- B. Annual fuel pathway report.
- (1) The annual fuel pathway report shall include:
 - (a) Calculation of the CI of the fuel including the most recent two calendar years of operational data. The CI shall be calculated using the most recent version of the same method as the original application:
 - (i) If the fuel pathway is novel to New Mexico, the CI shall be calculated using the most current version of the NM-GREET calculator.
 - (ii) If the fuel pathway is a recertification of another state's approved fuel pathway, the CI shall be calculated using the most current certified version of the state calculator used in the fuel pathway application, with the fuel transportation and distribution fields modified for that fuel's distribution to New Mexico.
 - (b) Any temporally variable information that was requested or required by the department to be included in the initial application, or any required data or documentation listed in the pathway's operating conditions. The information required to be submitted under this section shall cover the same time period as the CI calculation required under subparagraph (a) of this paragraph.
 - (c) If the fuel or fuel production process involves biomethane the fuel producer shall provide an attestation regarding environmental attributes or proof of non-generation or retirement of any RECs as required per section 506 of this part. For biomethane injected into a natural gas common carrier pipeline, RTCs from a recognized renewable thermal tracking system are required to be retired and used instead of an attestation and the specific quantity of biomethane claimed as being used in the fuel production process shall have been injected into the pipeline in the current or prior quarter as the fuel is being produced.
 - (d) If the fuel or fuel production process involves renewable electricity the fuel producer shall provide an attestation regarding environmental attributes or proof of non-generation or retirement of any RECs as required by section 206 of this part.
 - (e) If a pathway employs carbon capture and sequestration, the fuel pathway holder or joint applicant shall submit compliance period reports of greenhouse gas emissions reductions, project operations, and ongoing monitoring results. Reports shall include measurements of relevant parameters sufficient to ensure that the quantification and documentation of CO₂ sequestered is replicable and verifiable. The department may specify a protocol for measuring and reporting such information in its approval of such an application.
 - (f) Any additional information requested by the department after its review of the annual pathway report.
 - (2) If the verified operational CI as calculated from the operational data covering the prior two calendar years of production is found to be lower than the certified CI, and a positive verification statement is issued for this period, the fuel pathway holder may elect to keep the original certified CI or may submit a written request to replace the certified CI with the verified operational CI. If the fuel pathway holder elects to replace the certified CI:
 - (a) The pathway holder may elect to add a margin of safety to the new certified CI;
 - (b) The pathway holder shall submit an attestation that the new CI can be maintained through the next compliance period with the acknowledgement that exceeding the newly certified CI in subsequent compliance period reports or verifications is a violation of the requirements of this part; and

- (c) The new certified CI may be used to report fuels in the quarter following its approval.
 - (d) If the proposal for the carbon intensity has not met the criteria in sub-section (2), the department shall notify the applicant that the proposal is denied and identify the basis for the denial.
- (3) If the operational CI is found to be greater than the certified CI, the fuel pathway holder is in violation of this section and may be subject to recalculation of deficits and credits, enforcement by the department, or both. The department may modify an approved fuel pathway's CI or approval conditions upon receipt of a verification statement or fuel pathway report that shows that the verified operational CI is higher than the certified CI.
- (4) Failure to submit an annual fuel pathway report or a required verification statement for a facility's pathways in a timely manner shall result in the deactivation of those pathways and the department may take enforcement action or both.
- C. Recordkeeping. In addition to the requirements of section 506 of this part, to maintain the pathway the pathway holder shall meet the following recordkeeping requirements:
- (1) Maintain records of the type and quantity of feedstock obtained from each supplier, including feedstock transaction records, feedstock transfer documents, weighbridge tickets, bills of lading or other documentation for all incoming and outgoing feedstocks;
 - (2) Maintain records used for material balance and energy balance calculations; and
 - (3) Ensure the department staff and verifier access to audit feedstock suppliers to demonstrate proper accounting of attributes and conformance with certified CI data.
- D. Additional provisional pathway requirements. The department shall specify the conditions used to establish provisional pathways as follows.
- (1) To maintain an active provisional pathway eligible to generate credits, the applicant shall file the annual fuel pathway report per subsection B of this section of this part and seek third-party verification if required per section 508 of this part.
 - (2) At any point during the 24 months following the certification of a provisional pathway, the department may revise the CI score for the provisional pathway based on new information or an improved understanding of the pathway as appropriate.
 - (3) The department may remove the provisional status of the pathway after the applicant provides 24 months of operational data.
- E. Other states' fuel pathway updates. For a fuel pathway originating in another states' program that the department has approved for use in New Mexico, the following applies:
- (1) If at any time the pathway's approval is revoked by the issuing state, then:
 - (a) The fuel pathway holder shall inform the department within 14 calendar days of the revocation and provide the department with the documentation related to that decision;
 - (b) Upon the department's request, the fuel pathway holder shall provide to the department additional documentation; and
 - (c) The department may revoke its approval of the pathway's use in New Mexico at any time.
 - (2) If the issuing state modifies its approval of the pathway, then:
 - (a) The fuel pathway holder shall notify the department of the modification within 14 calendar days after the modification and shall provide any accompanying documentation the fuel pathway holder received; and
 - (b) Based on the underlying facts that led to the modification of the pathway's status, within 30 calendar days the department may modify its approval, take no action, or revoke its approval and shall provide the fuel pathway holder with written notification of its decision.

[20.2.92.203 NMAC - N, X/X/2025]

20.2.92.204 CARBON INTENSITIES FOR FUEL PATHWAYS ESTABLISHED IN OTHER STATES' SIMILAR PROGRAMS:

- A. Use of pathways from other states' similar programs. Except as provided in section 201 of this part, regulated parties can use a carbon intensity from other states' similar programs if they are certified for use in such programs, as adjusted for fuel transportation distances and indirect land use change.
- B. Application contents. Applicants applying for a New Mexico carbon intensity for a facility or process that is currently approved by other states' similar programs shall provide to the department:

- (1) The complete application package submitted to other states' similar programs;
 - (2) The most recent Tier 1 or Tier 2 calculator as submitted to and approved by the other states' similar programs.
 - (3) The most recent Tier 1 or Tier 2 calculator as submitted to and approved by the other states' similar programs with the fuel transportation and distribution calculator fields modified for that fuel's pathway to New Mexico;
 - (4) The review report from other states' similar programs for the approved fuel pathway;
 - (5) Any third-party verification reports associated with the fuel pathway in other states' similar programs.
 - (6) Any other supporting materials relating to the pathway, as requested by the department.
- C. Provisional pathways. An applicant may apply to use a provisional fuel pathway approved by other states' similar programs. To use a provisional pathway the applicant shall submit to the department:
- (1) The documentation under subsection B of this section, as applicable, as used to apply to the relevant agency.
 - (2) Any ongoing documentation it provides to the relevant agency within fourteen calendar days of providing it to that agency.
 - (3) All written notification of any changes to the status the applicant receives from the relevant agency within fourteen calendar days of receiving the written notification.
- D. Application review. Once the department determines the application to be complete, the department shall review the application and either approve the pathway or deny the application within 60 calendar days. During the review period the department may continue to request additional information from the applicant. If the department encounters delays in receiving requested information, the department may issue a written notification of delay in writing to the applicant and take up to an additional 30 calendar days for the review. Further delays in supplying the required information may be grounds for denying the pathway application.

[20.2.92.204 NMAC - N, X/X/2025]

20.2.92.205 CARBON INTENSITIES FOR FUEL PATHWAYS NOVEL TO NEW MEXICO:

- A. General requirements. If a regulated party does not have an applicable carbon intensity from Table 4 of section 701 of this part or per section 204 of this part, an applicant may apply for a certified fuel-specific carbon intensity under this section. Such fuel pathway applications fall into one of two tiers:
- (1) Tier 1 fuels are conventionally produced alternative fuels of a type that have been well-evaluated in the New Mexico or other states' equivalent programs. Tier 1 fuels are:
 - (a) Starch- and sugar-based ethanol;
 - (b) Biodiesel produced from plant oils, tallow and related animal wastes and used cooking oil;
 - (c) Renewable diesel produced from tallow and related animal wastes, plant oils and used cooking oil;
 - (d) Electricity produced from biogas; and
 - (e) Biomethane from landfills or anaerobic digestion of manure, wastewater sludge, food, vegetation, or other organic waste.
 - (2) Tier 2 fuels are fuels that are not listed as Tier 1 in paragraph (1) of this subsection and may include:
 - (a) Cellulosic alcohols;
 - (b) Biomethane from other sources;
 - (c) Hydrogen;
 - (d) Renewable hydrocarbons and renewable diesel that is produced from feedstocks other than tallow and related animal wastes, plant oils and used cooking oil;
 - (e) Biogenic feedstocks co-processed at a petroleum refinery;
 - (f) Alternative jet fuel;
 - (g) Renewable propane; and
 - (h) Tier 1 fuels using innovative methods, including carbon capture and sequestration or a process that cannot be accurately represented using the simplified calculators used to calculate tier 1 carbon intensities.
- B. Application Contents.
- (1) Applicants seeking to obtain either a Tier 1 or Tier 2 carbon intensity shall submit the following information:
 - (a) Registered party's name and full mailing address.

- (b) Contact information for the registered party's authorized representative including the name, title or position, phone number, email address, and website address.
 - (c) Contact information for the registered party's responsible official representative including the name, title or position, phone number, email address, and website address.
 - (d) For each facility covered under the application:
 - (i) Facility name;
 - (ii) Facility address;
 - (iii) Facility ID for facilities covered by the RFS program;
 - (iv) Facility geographical coordinates;
 - (v) Facility contact information including the name, title or position, phone number, and email address of a facility operator; and
 - (vi) Facility nameplate production capacity.
 - (e) If applicable, consultant's contact information including the name, title or position, phone number, and email address.
 - (f) Declaration whether the applicant is applying for a carbon intensity for a Tier 1 or Tier 2 fuel.
 - (g) Any other materials or information related to the pathway requested by the department.
- (2) In addition to the items in paragraph (1) of this subsection, applicants seeking to obtain a carbon intensity for a Tier 1 fuel using a simplified calculator shall submit the following:
- (a) The applicable simplified calculator with all necessary inputs completed, following the department's instructions for that calculator;
 - (b) A positive verification statement from an approved verification body, provided in compliance with the third-party verification requirements at section 508 of this part, stating that it has reviewed and validated all of the data used to form the inputs for the Tier 1 calculator submitted under paragraph (1) of this subsection or the invoices and receipts for all forms of energy consumed in the production process, all fuel sales, all feedstock purchases, and all co-products sold for the most recent 24 months of full commercial production, along with a summary of those invoices and receipts; and
 - (c) The most recent RFS third-party engineering report, if one has been conducted for the facility.
- (3) In addition to the items in paragraph (1) of this subsection, applicants seeking to obtain a carbon intensity for a Tier 2 fuel using the full NM-GREET model shall submit the following:
- (a) A completed Tier 2 model;
 - (b) A positive verification statement from an approved verification body, provided in compliance with the third-party verification requirements per section 508 of this part, stating that it has reviewed and validated all of the data used to form the inputs for the Tier 2 calculator submitted under subparagraph (a) of paragraph (3) of this subsection;
 - (c) Process flow diagrams that depict the complete fuel production process;
 - (d) Applicable air permits issued for the facility;
 - (e) A copy of the RFS third-party engineering report, if available;
 - (f) A copy of the RFS fuel producer co-products report; and
 - (g) A lifecycle analysis report that describes the fuel pathway and describes in detail the calculation of carbon intensity for the fuel. The report shall contain sufficient detail to allow staff to replicate the carbon intensity the applicant calculated. The applicant shall describe all inputs to, and outputs from, the fuel production process that are part of the fuel pathway.
- C. Provisional pathways. If a fuel production facility has been in full commercial production for at least 90 calendar days but less than 24 months, the affiliated registered party may apply for a provisional carbon intensity.
- (1) The applicant shall submit operating records covering all periods of full commercial operation as required under subsection B of this section of this part.
 - (2) The department may approve the provisional carbon intensity.
 - (3) At any time before the facility reaches a full 24 months of full commercial production, the department may revise the operational carbon intensity based on the required ongoing submittals or other information it learns as appropriate.

- (4) If, after a facility has been in full commercial production for more than 24 months, the facility's operational carbon intensity is higher than the provisionally certified carbon intensity, the department shall replace the certified carbon intensity with the operational carbon intensity in the CTFP-DMS and adjust the credit balance accordingly for the whole time period for which the provisional carbon intensity was used.
 - (5) If the facility's operational carbon intensity appears to be lower than the certified carbon intensity, the department shall take no action. The applicant may, however, petition the department in writing for a new carbon intensity that reflects the operational data. In support of such a petition, the applicant shall submit a revised application packet that documents the requested reduction. In such a case, the credit balances for past reporting periods shall not be altered.
- D. Applicants employing co-processing at a petroleum refinery. Applicants employing co-processing of biogenic feedstocks at a petroleum refinery shall submit all operating records covering all periods of full commercial operation as required under subsection B of this section.
- (1) For the renewable diesel or other renewable refinery product of the fuel, the applicant shall also submit:
 - (a) The planned proportions of biogenic feedstocks to be processed;
 - (b) A detailed methodology for the attribution of biogenic feedstocks to the renewable products; and
 - (c) The corresponding carbon intensities from each biogenic feedstock.
 - (2) The attribution methodology shall be subject to approval by the department and may be modified based on ongoing quarterly reporting of production data at the refinery.
 - (3) The department may adjust the carbon intensities applied for under this section as it determines to be appropriate.
- E. Application review. The department shall review the application and either grant the pathway or deny the application within 120 calendar days of the application being determined complete. During the review period the department may continue to request additional information from the applicant. If the department encounters delays in receiving requested information, the department may issue a written notification of delay in writing to the applicant and take up to an additional 30 calendar days for the review. Further delays in supplying the required information may be grounds for denying the pathway application.

[20.2.92.205 NMAC - N, X/X/2025]

20.2.92.206 CARBON INTENSITIES FOR ELECTRICITY:

- A. Carbon intensity of electricity from EDUs. The department shall calculate the carbon intensity of the electricity used in an EDU service area based on the most recently available calendar year of information for electricity generation from the mix of resources each EDU sources electricity from.
- (1) No later than December 31st of each year, the department shall:
 - (a) Publish the updated EDU-specific electricity carbon intensities for the next year on the department's website and provide a written notification of the post to all CTFP registrants;
 - (b) Publish the calculations for EDU-specific electricity carbon intensities for the next year on the department's website and provide a written notification of the post to all CTFP registrants; and
 - (c) Add the new fuel pathway codes to the CTFP-DMS effective for Q1 reporting for the next year.
 - (2) Within 30 calendar days of the written notification, an EDU may protest the carbon intensity calculated for its service area. Such protest shall be in writing and contain sufficient information to recalculate the carbon intensity for the EDU's service area. The department shall consider the information provided and determine if the carbon intensity should be recalculated. If the department determines an updated carbon intensity is appropriate for an EDU service area, it shall make information about the updated carbon intensity and underlying calculations available on its website and provide a written notification of the post to all CTFP registrants.
- B. Carbon intensity of renewable electricity. The carbon intensity of solar, wind, geothermal, and hydropower renewable electricity is deemed to be zero.
- C. Carbon intensity for off-grid generation of electricity. Except for as specified in subsection B of this section, to generate credits from off-grid electric vehicle chargers, the owner or operator shall

- file a Tier 1 or Tier 2 alternative fuel pathway application to determine the carbon intensity of its electricity generated on-site.
- D. Use of zero carbon intensity electricity fuel pathway codes. Registered entities with on-site generation of electricity using renewable generation systems shall apply to the department before they may generate credits using the fuel pathway code for zero carbon intensity electricity listed in Table 4 of section 701 of this part. Applicants shall document that:
- (1) The renewable generation system is on-site or directly connected to the electric vehicle chargers;
 - (2) The fuel pathway code listed in Table 4 of section 701 of this part, for solar-generated or wind-generated electricity shall only be used for the portion of the electricity dispensed from the charger that is generated by that dedicated renewable energy system;
 - (3) Any grid electricity dispensed from the charger shall be reported separately under the EDU-specific fuel pathway codes; and
 - (4) RECs are not generated from the renewable generation system or, if they are, then an equal number of RECs generated from that facility to the number of MWh reported in the CTFP-DMS from that facility shall be retired in a recognized REC tracking system. The applicant is allowed to utilize RECs generated for other purposes, if the RECs are more than the energy dispensed through chargers.
- E. Offsite renewable electricity. To lower the carbon intensity of electricity claimed as a fuel in the CTFP-DMS, registered parties may retire RECs that meet the following qualifications:
- (1) RECs retired to claim a carbon intensity other than an EDU-specific electricity carbon intensity shall be certified by a recognized REC tracking system, and:
 - (a) Unbundled RECs being used to claim a lower carbon intensity through book-and-claim accounting shall be certified at the wholesale level, while
 - (b) RECs used in a power purchase agreement or EDU renewable electricity product may be certified at the retail level;
 - (2) RECs shall be generated on and after the effective date of this part;
 - (3) RECs shall be generated from facilities located in the Western Electricity Coordinating Council;
 - (4) RECs shall be recorded and retired in a recognized REC tracking system; and
 - (5) RECs may not be utilized for any other programs.
- F. Utility renewable electricity products and power purchase agreements. EDUs may apply to the department to assign a carbon intensity to one or more of their renewable energy electricity products or a specific power purchase agreement, which may then be used to generate credits from charging electric vehicles attributable to the use of such products or agreements. The following requirements apply to such applications:
- (1) Applications made under this section shall include:
 - (a) A written letter describing the power purchase agreement or utility renewable electricity product, the existing or planned source, or sources, of electricity and environmental attributes, and the terms by which it is being offered to customers;
 - (b) Samples of bills, invoices, contracts, or other documentation that an entity claiming renewable energy under this product could provide to the department to prove that their electric vehicle charging is covered by the product or agreement;
 - (c) In the case of a utility renewable electricity product, any filings with, and orders by, the New Mexico Public Regulation Commission, governing boards of consumer-owned utilities or any other local governing board that approves the product; and
 - (d) An estimate of the amount of electric vehicle charging attributable to customers for the product or agreement.
 - (2) The department shall review fuel pathway applications under this section to determine if they result in a substantially similar environmental outcome to the sources of renewable energy required under subsection E of this section. In reviewing a utility product or agreement that contains multiple sources of power, the department may use the estimate under paragraph (1) of subparagraph (c) of this subsection to determine if sufficient renewable energy that is substantially similar to the requirements of subsection E of this section is included in the product to cover transportation-related charging that may be claimed under the CTFP. The department may revisit this determination annually using the annual fuel pathway report.
 - (3) If the department determines that the use of utility renewable energy products or power purchase agreements to generate credits substantially impacts the correct carbon intensity for the rest of the EDU's service area, the department may recalculate the EDU service

area carbon intensity. The department shall publish information about recalculated EDU service area carbon intensities on the department's website and provide a written notification of the post to all CTFP registrants.

- G. The annual fuel pathway report for pathways covered by this section shall include information to update the source or sources of electricity or environmental attributes that were used in the prior year and are planned for use in the year the report is submitted. That documentation shall include retirement records for any RECs used to lower the claimed carbon intensity of the electricity being used as a transportation fuel in the CTFP for the prior year. Fuel pathway reports required by this section are due by March 31st every year.

[20.2.92.206 NMAC - N, X/X/2025]

20.2.92.207 ENERGY ECONOMY RATIO ADJUSTED CARBON INTENSITY APPLICATIONS:

- A. Eligibility. The following persons are eligible to apply under this section:
- (1) Vehicle owners or operators that would be eligible to generate credits for their vehicles;
 - (2) Manufacturers of vehicles that would be eligible to generate credits may make a joint application with an owner or operator of their vehicles based in New Mexico; and
 - (3) A single, joint application may be submitted on behalf of, and combining data from, any combination of multiple vehicle owners, operators, and manufacturers;
- B. Application requirements for an energy economy ratio-adjusted CI. Applications submitted under this section are modified Tier 2 pathway applications under section 205 of this part. In addition to the application requirements for a Tier 2 pathway application, the applicant or applicants shall include:
- (1) A letter of intent to request an energy economy ratio (EER) adjusted carbon intensity and why the EER values provided in Table 7 of section 701 of this part are not applicable;
 - (2) The proposed EER and supporting calculations. EER calculations shall be supported by at least three months and at least 300 hours of operating data that represents typical usage for each individual vehicle duty type included in the application. A manufacturer may provide data from duty-cycle testing in addition to or in lieu of operating data. A manufacturer seeking to apply using duty-cycle testing data shall consult with the department prior to submitting an application and shall receive written, advanced approval from the department for the duration and test cycles it is including in the application.
 - (3) Additional information, including a detailed description of the methodology used in its calculations, all assumptions made, and provide all data and references used for the calculation of the proposed EER-adjusted CI value. The methodology used shall compare the useful output from the alternative fuel-vehicle technology under consideration to comparable conventional fuel-vehicle technology;
 - (4) If the applicant or applicants plan to use a carbon intensity value in Table 4 of section 701 of this part or a fuel pathway code issued under section 204, 205, or 206 of this part to request an EER-adjusted carbon intensity then they do not need to provide the fuel facility information required in section 205 of this part.
- C. Application review process:
- (1) The department shall review an application for completeness, soundness of the assumptions, soundness of the comparison to conventional fuel technology, and accuracy of the data. The department may deny an application if it is incomplete or unsound. The department may deny any application that it believes is adequately covered by an existing EER value in Table 4 of section 701 of this part or that it believes does not conform to the objective of the CTFP;
 - (2) The department may prioritize its review of applications for those applications that cover a greater number of vehicles;
 - (3) If the department approves an application, the department shall publish the approved EER and a summary on its website and provide a written notification of the post to all CTFP registrants for a 30-day public input period. The data published to the department's website shall be sufficient to allow external stakeholders to understand and replicate the EER value that the department is proposing to approve; and
 - (4) After the public input period ends, the department may approve the application as provided in subsection D of this section, deny the application, or request additional information from the applicant or applicants. If the EER is modified by information obtained from this process, the department shall repeat the public input period.
- D. Issuance and use of EER-adjusted carbon intensities:

- (1) Based on its review of the application materials and any input submitted under subsection C of this section, the department may issue an EER-adjusted fuel carbon intensity pathway.
 - (2) Pathways issued under this rule can only be used by the pathway applicant or applicants.
 - (3) If the department has issued an EER-adjusted carbon intensity fuel pathway under this section that includes a manufacturer, the owners or operators who begin to operate the same vehicles covered in that application in New Mexico may request in writing to be added as a joint applicant. In order to do so they shall provide the following:
 - (a) A letter from the manufacturer stating that the manufacturer supports the addition of the joint applicant;
 - (b) Any current operational data by the new joint applicant, or other data elements required to be reported under the value's pathway conditions; and
 - (c) An attestation by the new joint applicant that they understand and accept any and all pathway conditions associated with the pathway.
- E. Ongoing reporting requirements:
- (1) For any EER-adjusted fuel pathway approved by the department under this section, the applicant for such approval shall annually submit vehicle usage and energy consumption data for each individual vehicle using the value approved by the department to generate credits or deficits.
 - (2) The department may require additional data elements that shall be reported annually as part of its pathway conditions for an application that is approved under this section.
 - (3) Based on the ongoing reported data required under paragraph (1) of this subsection or additional applications for vehicles that the department determines to be in the same category, the department may modify any value issued under this section for reporting beginning with the next full calendar quarter following its written notification that the department is modifying the value. Before modifying the value, the department shall inform the applicant or applicants and may request input from them and the public before modifying the value.

[20.2.92.207 NMAC - N, X/X/2025]

20.2.92.208 – 300 [RESERVED]

20.2.92.301 FUEL CREDITS AND DEFICITS:

- A. Carbon intensities. Regulated parties shall use carbon intensities as specified in section 201 of this part to calculate credits and deficits.
- B. Credit generation. Credits originate when fuel is produced, imported, or dispensed for use in New Mexico, as applicable, and the approved carbon intensity of the fuel is less than the clean fuel standard for gasoline and gasoline substitutes in Table 1 of section 701 of this part, for diesel and diesel substitutes in Table 2 of section 701 of this part, or for alternative jet fuel in Table 3 of section 701 of this part. Credits are generated when a valid and accurate quarterly report is submitted in the CTFP-DMS. No credits may be generated or claimed for any transactions or activities occurring in a quarter for which the quarterly reporting deadline has passed, unless the credits are being generated for residential charging of electric vehicles.
- C. Deficit generation. Deficits originate when fuel is produced, imported, or dispensed for use in New Mexico, as applicable, and the carbon intensity of the fuel approved for use is more than the clean fuel standard for gasoline and gasoline substitutes in Table 1 of section 701 of this part and for diesel and diesel substitutes in Table 2 of section 701 of this part. Deficits are generated when a valid and accurate quarterly report is submitted in the CTFP-DMS.
- D. Fuel quantities. To calculate credits and deficits, regulated parties shall express fuel quantities in the unit for each fuel according to the temperature correction requirements in section 504 of this part for liquid fuels, or according to accurate metering for non-liquid fuels when they are dispensed into the vehicle or other qualifying equipment. If the fuel cannot be accurately metered at the point of dispensation, the department may approve an alternative methodology and all regulated parties reporting in that circumstance shall use that methodology.
- E. Metric tons of CO₂ equivalent. Registered parties shall express credits and deficits to the nearest tenth of one metric ton of carbon dioxide equivalent.
- F. Fuels to include in credit and deficit calculation.
 - (1) Credits and deficits shall be calculated for all transportation fuels, except that:

- (a) Credits may be generated only for B100 that complies with an oxidation stability induction period of not less than 8 hours as determined by the test method described in the European standard EN 15751;
 - (b) B100 that does not comply with subparagraph (a) of this paragraph can still be imported into New Mexico and shall be reported but cannot generate credits.
 - (2) Fuels exempted. Except as provided in paragraphs (3), (4), and (5) of this subsection, credits and deficits shall not be calculated for fuels exempted per section 102 of this part. Exempt fuel quantities shall be claimed by the end of the regular reporting period for a given quarter, otherwise the fuel is deemed to have been voluntarily included under paragraph (3) of this subsection.
 - (3) Voluntary inclusion. A registered party may choose to include in its credit and deficit calculations fuel that is exempt and fuel that is sold to an exempt fuel user in New Mexico per section 102 of this part, provided that the credit and deficit calculation includes all fuels listed on the same invoice. Voluntarily included fuels cannot be claimed as exempt once the regular reporting period for that quarter has closed.
 - (4) When fuels are exported from New Mexico:
 - (a) Any bulk quantity of fuel that is exported shall be reported by the person who holds title to the fuel when it is exported;
 - (b) If the exporter purchased the fuel with the compliance obligation, the exported fuels shall not generate deficits or credits;
 - (c) If credits or deficits are generated and separated from the fuel through a transfer without obligation, the exporter shall incur credits or deficits, as appropriate, to balance out the deficits or credits, respectively, detached from the fuel.
 - (5) Alternative jet fuel. Alternative jet fuel may be reported by the producer or importer of the fuel and any registered parties that hold title to it, so long as it can be demonstrated that the fuel is loaded into airplanes in New Mexico. If a gallon of alternative jet fuel that has been reported to the New Mexico CTFS as imported or produced is later exported, lost, or otherwise not used for transportation it shall be reported as such.
- G. Transacting credits.
- (1) Credits are a regulatory instrument and do not constitute personal property, instruments, securities or any other form of property.
 - (2) Registered parties may:
 - (a) Retain credits without expiration; and
 - (b) Acquire or transfer credits from or to other registered parties.
 - (3) Regulated parties may not:
 - (a) Use credits that have not been generated in compliance with this section.
 - (b) Borrow or use anticipated credits from future projected or planned carbon intensity reductions.
 - (4) Credit transfers between registered parties.
 - (a) "Credit seller," as used in this rule, means a registered party that wishes to sell or transfer credits.
 - (b) "Credit buyer," as used in this rule, means a registered party that wishes to acquire credits.
 - (c) A credit seller and a credit buyer may enter into an agreement to transfer credits.
 - (d) A credit seller may only transfer credits up to the number of credits in the credit seller's CTFP-DMS account on the date of the transfer.
 - (5) Credit seller requirements. When parties wish to transfer credits, the credit seller shall initiate an online "Credit Transfer Form" provided in the CTFP-DMS and shall include the following:
 - (a) The date on which the credit buyer and credit seller reached their agreement;
 - (b) The names and FEINs of the credit seller and credit buyer;
 - (c) The first and last names and contact information of the persons who performed the transaction on behalf of the credit seller and credit buyer;
 - (d) The number of credits proposed to be transferred; and
 - (e) The price or equivalent value of the consideration (in US dollars) to be paid per credit proposed for transfer, excluding any fees. If no clear dollar value can be easily arrived at for the transfer, a price of zero shall be entered and the seller shall provide the department a copy of the contract that includes the terms of the transfer, enter a qualitative description of the transaction's valuation shall be entered in the

seller's notes field, and provide any additional specific information as requested in writing by the department .

- (6) Credit buyer requirements. Within 10 calendar days of receiving the "Credit Transfer Form" from the credit seller in the CTFP-DMS, the credit buyer shall confirm the accuracy of the information therein and may accept the credit transfer by signing and dating the form using the CTFP-DMS.
- (7) If the credit buyer and credit seller have not fulfilled the requirements of sections (5) and (6) within 20 calendar days of the seller initiating the credit transfer, the transaction shall be voided. If a transaction has been voided, the credit buyer and credit seller may initiate a new credit transfer.
- (8) Aggregator. An aggregator may only act as a credit seller or credit buyer if that aggregator:
 - (a) Has an approved and active registration per section 501 of this part;
 - (b) Has an account in the CTFP-DMS; and
 - (c) Has an approved aggregator designation form from a regulated party for whom the aggregator is acting for any given transaction.
- (9) Illegitimate credits.
 - (a) A registered party shall report accurately when it submits information into the CTFP-DMS. If inaccurate information is submitted that results in the generation of one or more credits when such an assertion is inconsistent with the requirements of this section, or a party's submission otherwise causes credits to be generated in violation of the rules of this section, those credits are illegitimate and invalid. If the department determines that one or more credits that a party has generated are illegitimate credits, then:
 - (i) If the registered party that generated the illegitimate credits still holds them in its account, the department shall cancel those credits;
 - (ii) If the registered party that generated the illegitimate credits has retired those credits to meet its own compliance requirement or if it has transferred them to another party, the party that generated the illegitimate credits shall retire an approved credit to replace each illegitimate credit; and
 - (iii) The party that generated the illegitimate credits is also subject to enforcement for the violation.
 - (b) A registered party that has acquired one or more illegitimate credits, but was not the party that generated the illegitimate credits:
 - (i) When the initial generator of the illegitimate credits has not retired approved credits in place of the illegitimate credits and the department determines that that initial generator is unlikely to be able to do so, then the party that has acquired such credits may have those credits cancelled by the department if the party still holds the credits in its account, or if the party has used such illegitimate credits to meet its own compliance requirement, then the department may require the party to retire an approved credit to replace each such illegitimate credit that it retired to meet its compliance obligation;
 - (ii) May be subject to enforcement, unless the department determines that the party from whom the credits were acquired engaged in false, fraudulent, or deceptive trading practices.
- (10) Prohibited credit transfers. A credit transfer involving, related to, in service of, or associated with any of the following is prohibited:
 - (a) Fraud, or an attempt to defraud or deceive using any device, scheme or artifice;
 - (b) Either party employed any unconscionable tactic in connection with the transfer;
 - (c) Any false report, record, or untrue statement of material fact or omission of a material fact related to the transfer or conditions that would relate to the price of the credits being transferred. A fact is material if it is reasonably likely to influence a decision by another party or by the department;
 - (d) Where the intended effect of the activity is to lessen competition or tend to create a monopoly, or to injure, destroy or prevent competition;
 - (e) A conspiracy in restraint of trade or commerce; or
 - (f) An attempt to monopolize, or combine or conspire with any other person or persons to monopolize.

H. Calculating credits and deficits.

- (1) Except as provided for electricity in paragraphs (2) and (3) of this subsection, credit and deficit generation shall be calculated for all regulated transportation fuels as described in subsection F of this section:
 - (a) Using credit and deficit basics as directed in sections A through E of this section;
 - (b) Calculating energy in megajoules by multiplying the amount of fuel by the energy density of the fuel in Table 6 of section 701 of this part;
 - (c) Calculating the adjusted energy in megajoules by multiplying the energy in megajoules from subparagraph (b) of this paragraph by the energy economy ratio of the fuel listed in Table 7 of section 701 of this part, as applicable;
 - (d) Calculating the carbon intensity difference by subtracting the fuel's EER-adjusted carbon intensity from the carbon intensity standard for gasoline or gasoline substitutes listed in Table 1 of section 701 of this part or diesel and diesel substitutes listed in Table 2 of section 701 of this part, as applicable, where the fuel's EER-adjusted CI is:
 - (i) The approved CI under section 201 of this part, divided by the applicable EER in Table 7 of section 701 of this part, or
 - (ii) The approved EER-adjusted CI per section 207 of this part, except that:
 - (iii) In no case shall the EER-adjusted CI be used to generate fewer credits than the unadjusted CI would have generated in its place, unless the EER is less than one.
 - (e) Calculating the grams of carbon dioxide equivalent by multiplying the adjusted energy in megajoules in section (e) by the carbon intensity difference in section (d);
 - (f) Calculating the metric tons of carbon dioxide equivalent by dividing the grams of carbon dioxide equivalent calculated in section (e) by 1,000,000; and
 - (g) Determining under section E of this part whether credits or deficits are generated.
- (2) For electricity used to power forklifts, credit and deficit generation shall be calculated by:
 - (a) Using credit and deficit basics as directed in sections A through E of this section;
 - (b) Calculating energy in megajoules by multiplying the amount of fuel by the energy density of the fuel in Table 6 of section 701 of this part;
 - (c) Calculating the carbon intensity difference by subtracting the fuel's carbon intensity as approved per section 201 of this part, adjusted for the fuel application's energy economy ratio listed in Table 7 of section 701 of this part as applicable, from the carbon intensity standard for gasoline or gasoline substitutes listed in Table 1 of section 701 of this part or diesel and diesel substitutes listed in Table 2 of section 701 of this part, as applicable;
 - (d) Calculating the grams of carbon dioxide equivalent by multiplying the adjusted energy in megajoules in section (b) by the carbon intensity difference in section (c);
 - (e) Calculating the metric tons of carbon dioxide equivalent by dividing the grams of carbon dioxide equivalent calculated in section (d) by 1,000,000; and
 - (f) Determining under section E of this part whether credits or deficits are generated.
- (3) For electricity used in residential charging of electric vehicles, credit calculations shall be based on the total electricity dispensed (in kilowatt hours) to vehicles, measured by:
 - (a) The use of direct metering (either sub-metering or separate metering) to measure the electricity directly dispensed to all vehicles at each residence; or
 - (b) For residences where direct metering has not been installed, the department annually shall calculate the total electricity dispensed as a transportation fuel based on analysis of the total number of BEVs and PHEVs registered in an EDU's service territory based on New Mexico Motor Vehicle Division records. The department shall select one of the following methods for estimating the amount of electricity charged based on its analysis of which is more accurate and feasible at the time it is performing the analysis:
 - (i) An average amount of electricity consumed by BEVs and PHEVs at residential chargers, based on regional or national data; or
 - (ii) An analysis of the average electric vehicle miles travelled by vehicle type or make and model, which compares the total amount of estimated charging for those electric vehicle miles travelled with the total reported charging in those territories to determine the amount of unreported charging that can be attributed to residential charging. The analysis may be done on an EDU service territory-specific or statewide basis.

- (c) If the department determines after the issuance of residential electric vehicle credits that the estimate under (b) contained a significant error that led to one or more credits being incorrectly generated, the error shall be corrected by withholding an equal number of credits to the erroneous amount from the next year's generation of residential electric vehicle credits.
- (d) A registered party may propose an alternative method, subject to the approval of the department upon its determination that the alternative method is more accurate than either of the methods described in sub-section (b).
- (e) The department may use the EER listed in table 7 of section 701, or may use vehicle-specific EERs to calculate credits under this part. The department shall publish any vehicle-specific energy economy ratios used to calculate credits under this part on the department's website and provide a written notification of their post to all CTFP registrants; and
- (f) Credits generated under this paragraph shall be calculated by the department and issued once per year into the appropriate registered party CTFP-DMS account within three months of the close of that year.

[20.2.92.301 NMAC - N, X/X/2025]

20.2.91.302 FUEL SUPPLY EQUIPMENT CREDITS:

- A. FSE credits calculation. Maximum quarterly FSE credits for each FSE pathway shall be calculated as the product of:
 - (1) The EER-adjusted standard carbon intensity less the company-wide, quantity-weighted average CI, where:
 - (a) If the FSE pathway application's FSE units serve LMDVs, the EER-adjusted standard carbon intensity equals the product of the standard provided in Table 1 of section 701 of this part and the EER provided in Table 7 of section 701 of this part;
 - (b) If the FSE pathway application's FSE units serve MHDVs, the EER-adjusted standard carbon intensity equals the product of the standard provided in Table 2 of section 701 of this part and the EER provided in Table 7 of section 701 of this part;
 - (c) The company-wide, quantity-weighted average CI is calculated by the department pursuant to subsection B of this section;
 - (2) The energy density for the FSE fuel type, as listed in Table 6 of section 701 of this part;
 - (3) The FSE pathway's quarterly FSE refueling capacity less the quantity of fuel dispensed during the quarter, where:
 - (a) The FSE pathway's quarterly FSE refueling capacity is the product of the daily FSE refueling capacity as calculated under subsection C of this section and the number of days in the quarter, and;
 - (b) The quantity of fuel dispensed during the quarter is sum of the fuel quantity dispensed from all of the FSE pathway's FSE units reported for that quarter in CTFP-DMS.
 - (4) The conversion from grams of carbon dioxide equivalent to metric tons of carbon dioxide equivalent, 1×10^{-1} MT per g.
- B. FSE CI calculations. Upon receiving an FSE pathway application, the department shall use the information provided per section 303 of this part to calculate a company-wide, quantity-weighted average CI of the FSE pathway's fuel type delivered to all FSE in New Mexico. Each quarter, the department shall recalculate this value using information reported under section 304 of this part before awarding quarterly FSE credits.
- C. FSE pathway daily operational fueling capacity. The department shall calculate the estimated daily fueling capacity for each FSE pathway as the sum of the daily operational fueling capacity across all the FSE pathway's FSE units, where:
 - (1) Each FSE unit's daily operational fueling capacity equals the product of its nameplate capacity and the percentage of the day that each FSE unit is operational;
 - (2) For the calculation in paragraph (1) of this subsection the nameplate capacity for each FSE unit shall be the lessor of:
 - (a) The nameplate capacity provided by the applicant under paragraph (4) of subsection B of section 303 of this part; or
 - (b) The estimated fuel demand for all FSE units in the FSE pathway application provided by the applicant under subparagraph (b) of paragraph (9) of subsection

- B of section 303 of this part divided by the number of FSE units in the FSE pathway application.
- (c) For any demand estimates that are in hourly units provided under subparagraph (a) or subparagraph (b) of this paragraph, the department shall convert these into daily values by multiplying them by the product of 24;
- (d) The department may adjust the estimated daily fuel demand for all FSE units in the FSE pathway application that the operator provides pursuant to subparagraphs (b) and (c) of this paragraph as it deems appropriate.
- (3) For the calculation in paragraph (1) of this subsection the percentage of the day that each FSE unit is operational shall be;
 - (a) For new FSE stations, the expected operating hours that the applicant provides for each unit, per paragraph (5) of subsection B of section 303 of this part, divided by 24, or;
 - (b) For FSE stations in operation for one or more previous quarters, the total number of hours that each FSE unit was operational, as reported per paragraph (1) of subsection F of section 303 of this part, divided by the total number of hours in the quarter.

[20.2.92.302 NMAC - N, X/X/2025]

20.2.92.303 FUEL SUPPLY EQUIPMENT PATHWAY APPLICATIONS:

- A. FSE pathway credit eligibility. FSE credits are available to registered parties that have registered their FSE pursuant to section 501 of this part and hold an FSE pathway. All FSE pathways are subject to the following eligibility requirements:
 - (1) FSE pathway applications shall not be submitted to the department or reviewed by the department before January 1, 2026.
 - (2) The FSE pathway application shall be for one or more FSE units at a single FSE station that all dispense the same fuel type as identified under paragraph 3 of subsection B of this section and serve the same vehicle duty type.
 - (3) If an FSE station has FSE units that respectively dispense different fuel types as identified under paragraph 3 of subsection B of this section, or serve different vehicle duty types, regulated parties shall submit separate FSE pathway applications for units with each unique fuel type and vehicle duty type combination, so long as each FSE pathway application is for FSE units of the same fuel type-vehicle duty type combination.
 - (4) The FSE pathway is open for any FSE station that:
 - (a) For applications received on or before June 30, 2028, dispenses fuel with a quantity-weighted average CI that is less than or equal to the target CI in 2030 of:
 - (i) Gasoline, if the FSE pathway application's FSE units serve LMDVs, or;
 - (ii) Diesel, if the FSE pathway application's FSE units serve MHDVs.
 - (b) For applications received on or after July 1, 2028, dispenses fuel with a quantity-weighted average CI that is less than or equal to the target CI in 2040 of:
 - (i) Gasoline, if the FSE pathway application's FSE units serve LMDVs, or;
 - (ii) Diesel, if the FSE pathway application's FSE units serve MHDVs.
 - (5) FSE pathway applications may not include any FSE units that are operational on the date of application submittal to the department.
- B. FSE pathway application requirements. For each FSE pathway application, the applicant shall submit the following information in CTFP-DMS:
 - (1) Contact person for the applicant, including:
 - (a) Name;
 - (b) Title or position;
 - (c) Phone number;
 - (d) Email address;
 - (e) Mailing address.
 - (2) Name, address, latitude, longitude, and a location description of the FSE pathway application's proposed FSE station.
 - (3) The FSE pathway fuel type.
 - (4) Total nameplate daily capacity for each FSE unit included in the FSE pathway application.
 - (5) Expected daily hours of operation for each FSE unit included in the FSE pathway application.

- (6) Whether the FSE serves either:
 - (a) LMDVs or
 - (b) MHDVs.
- (7) If subparagraph b of paragraph 6 of this subsection applies, FSE dimensions or other evidence to demonstrate that all FSE units can serve one or more MHDVs that use the FSE fuel type identified in paragraph 3 of this subsection.
- (8) Expected dates that each FSE unit in the FSE pathway application shall be operational.
- (9) Justification for the FSE station location that includes:
 - (a) A description of the role that the FSE station's location shall play in developing a low-carbon fueling network across the state of New Mexico;
 - (b) Estimation of expected daily or hourly future demand for the fuel dispensed by the FSE units in the FSE pathway application, with supporting data if available;
 - (c) Demonstration that the FSE station location has been discussed with local authorities having jurisdiction and no early roadblocks have been identified.
- (10) The fuel pathways intended to be distributed at the FSE station and all fuel pathways for that fuel type utilized by the applicant in New Mexico.
- (11) For all fuel pathways in paragraph 10 of this subsection, projections of the applicant's fuel distribution quantities in New Mexico.
- (12) Description of the expected vehicle duty type – including the expected vehicles' powertrain and fuel type – that shall use the FSE units in the FSE pathway application to refuel.
- (13) If subparagraph b of paragraph 6 of subsection B of this section applies, the FSE station shall be accessible by the public. The FSE station shall have a public point-of-sale terminal that accepts major credit and debit cards. There may be no obstructions or obstacles to preclude vehicle operators from entering the station premises. Access cards or personal identification (PIN) codes shall not be required for the station to dispense fuel.
- (14) The FSE station uses a system that verifies its availability for refueling, is fully commissioned, and has been declared it fit to service retail drivers
- (15) A signed attestation from the applicant attesting to the veracity of the information in the application packet.

C. Application approval process.

- (1) The FSE application shall be certified as eligible by the department before the station owner may generate FSE credits.
- (2) The department shall determine if an FSE pathway application is complete within 30 calendar days of receiving the application. If the department determines that the application is complete, the department shall notify the applicant in writing of the completeness determination. If the department determines that the application is incomplete the department shall notify the applicant in writing, identifying which requirements of subsection B of this section have not been met. The applicant shall submit additional information to correct deficiencies identified by the department within 14 calendar days. This process may repeat until either the application is determined complete by the department, or 180 calendar days have elapsed from the application being received by the department. If 180 calendar days elapse and the department has not determined that the application is complete the application shall be rejected. Rejected applicants may reapply for the same FSE station in the following quarter.
- (3) Unless paragraph (4) of this subsection applies, the department shall certify an FSE pathway application as eligible for FSE credits if it determines, based upon the information submitted in the FSE pathway application and any other available information, that the FSE pathway application meets the requirements in subsections A and B of this section.
- (4) The department shall either deny or certify an FSE pathway application as eligible for credits within 60 calendar days of determining that the application is complete.
 - (a) If the department denies the application the department shall notify the applicant in writing, identifying the reason for the denial.
 - (b) If the department certifies the FSE pathway as eligible to receive FSE credits the department shall provide an approval summary to the applicant and publish the approval on the department's website and provide a written notification of the approval to all CTFP registrants including:
 - (i) The FSE station location and assigned identifier;
 - (ii) The number of FSE units;
 - (iii) The nameplate and operational refueling capacity of each FSE unit;

- (iv) The total nameplate and operational refueling capacity for the FSE pathway, calculated as the sum of these capacities for each FSE unit reported under item (iii) of this subparagraph.
 - (v) The maximum quarterly credits per section 302 of this part;
 - (vi) The date the application was determined complete; and
 - (vii) The effective date range for FSE pathway crediting.
 - (c) If the department certifies the application as eligible to receive FSE credits, the department shall add the FSE pathway to the queue used to determine quarterly FSE credit awards per section 304 of this part.
 - (5) At any point during the FSE pathway application evaluation process, the department may request in writing additional information or clarification from the applicant. The applicant shall respond to the department with the information or clarification within 14 calendar days.
- D. Applications for expanded FSE capacity. Station owners who expand the capacity of a station and that is already generating FSE credits under the CTFP may submit an application to the department to generate additional credits based on the updated capacity.
- (1) Applications shall be submitted no less than 24 months after the first month in which that FSE first generates FSE credits.
 - (2) Expanded FSE capacity can be from newly built FSE units to be included as part of the FSE pathway, increased refueling capacity at FSE units already included in the FSE pathway, or a combination of both.
 - (3) Applicants may not apply for expanded FSE capacity that is under construction or operating on or before the date when the application for expanded FSE capacity is submitted to the department.
 - (4) All additional capacity shall be for the FSE pathway's vehicle fuel type indicated under paragraph (3) of subsection B of this section and for the FSE pathway's vehicle duty type.
 - (5) The application shall provide documentation to support the following elements:
 - (a) That the requirements under paragraphs (1-4) of the subsection have been met, with evidence if possible or written attestation if not.
 - (b) That the units in the FSE pathway have utilization rates greater than or equal to 50 percent of the sum of their nameplate FSE refueling capacities as reported in paragraph (4) of subsection B of this section when calculated over the most recently available 12-month period as of the date when the application for expanded FSE capacity is submitted to the department.
 - (c) Updated nameplate refueling capacity for each unit included in the FSE pathway when accounting for the additional capacity applied for under this subsection, and the sum of the nameplate capacity of these FSE units and any new FSE units applied for under this subsection.
 - (d) If applicable, updated quantities as provided under paragraph (11) of subsection B of this section of fuel that the applicant distributes in New Mexico from each fuel pathway under paragraph (10) of subsection B of this section resulting from the expanded FSE refueling capacity applied for under this subsection.
 - (e) If applicable, any new fuel pathways of the FSE pathway's fuel type in addition to those specified under paragraph (10) of subsection B of this section that the applicant expects to deliver into New Mexico resulting from the expanded FSE refueling capacity applied for under this subsection.
 - (f) Verification that any new equipment added as a result of the expansion in capacity, including storage and fueling dispensers, meets the requirements of subsection A of this section.
 - (6) If the department certifies that the application for expanded FSE capacity for an FSE pathway is eligible to receive FSE credits, the department shall create a new FSE pathway pertaining only to the approved additional capacity.
 - (a) For each FSE vehicle duty type, the department shall add new FSE pathways approved under this paragraph to the queue for quarterly FSE credits based upon the date when their approved expansion application was determined to be complete by the department.
 - (b) For each FSE vehicle duty type, the department shall place all FSE pathways approved under this paragraph behind all FSE pathways that are original FSE pathways for an FSE station in the queue used for quarterly credit consideration,

including any original FSE pathways determined to be complete on a later date or in a later quarter than the FSE pathways approved under this paragraph.

- E. Written notification of operations beginning. The FSE pathway holder shall submit written notification to the department when the FSE is operational. The FSE station shall pass final inspection by the appropriate authority having jurisdiction and has a permit to operate, if applicable before the pathway holder may submit a written notification of operations beginning to the department. The FSE station shall be operational within 18 months of the date the application was determined complete by the department. If the applicant fails to demonstrate the operability of the FSE station within 18 months of application completeness, then the pathway shall be removed from the queue. The applicant can reapply for an FSE pathway for the same FSE units, but eligible crediting period for any units reapplied for shall be reduced by the total time that they had eligibility but were not placed into operation. The pathway shall receive a new place in the queue based on the new completeness date.
- F. Reporting and recordkeeping requirements. The pathway holder shall report per section 504 of this part. In addition, the following shall be reported or updated each quarter under the CTFP-DMS account associated with an approved FSE pathway.
- (1) The applicant shall report the total number of hours that each FSE unit was operational.
 - (2) The applicant shall provide data on the fuels delivered to all FSEs owned or operated by the applicant in New Mexico from each fuel pathway registered in the FSE pathway application.
 - (3) If subparagraph b of paragraph 6 of subsection B of this section applies, the applicant shall report fuel usage by vehicle duty type and powertrain.
 - (4) The applicant shall update the fueling capacity for each FSE unit or hours of operation in their FSE pathway application in CTFP-DMS if there are any changes to this information as declared under paragraphs (4) or (5) of subsection B of this section, and a new attestation shall be submitted pursuant to all application requirements.
 - (5) The applicant shall update the FSE pathway data if the FSE station's fuel pathways or estimated quantity supplied from each FSE fuel pathway are different from those declared under paragraphs (10) or (11) of subsection B of this section, and a new attestation shall be submitted pursuant to all application requirements.
 - (6) The following costs borne and revenues received:
 - (a) Total capital expenditures in nominal U.S. dollars;
 - (b) Total cost in nominal U.S. dollars and quantity of fuel delivered to the FSE station for distribution.
 - (c) Total FSE equipment maintenance costs in nominal U.S. dollars;
 - (d) Total land rental cost in nominal U.S. dollars;
 - (e) Total grant revenue or other external funding received towards capital expenditures in nominal U.S. dollars;
 - (f) Total grant revenue or other external funding received towards operational and maintenance expenditures in nominal U.S. dollars;
 - (g) Total quantity of fuel sold from the FSE units;
 - (h) Total revenue received from sale of the fuel from the FSE in nominal U.S. dollars;
 - (i) Total revenue received from sale of credits received from the FSE pathway; and
 - (j) Other operational expenditures in nominal U.S. dollars;

[20.2.92.303 NMAC - N, X/X/2025]

20.2.91.304 QUARTERLY AWARDS OF FUEL SUPPLY EQUIPMENT PATHWAY CREDITS:

- A. Total quarterly FSE credits. Each quarter the department shall calculate the total FSE credits available for the quarter. The total FSE credits available each quarter shall be five percent of the previous quarter's total deficits for each of the two FSE vehicle duty types.
- B. Order of FSE credit assignment. Each FSE pathway shall be assessed for credit eligibility and awarded credits on a first-come first-served basis based on the pathway's location in the queue as determined under subsection C and subsection D of section 303 of this part.
- C. Quarterly FSE credit eligibility assessment. To receive FSE credits in a given quarter an FSE pathway shall:
- (1) Not be in a zip code containing an FSE pathway of the same FSE vehicle duty type and FSE fuel source type that has already been awarded credits that quarter;
 - (2) The pathway holder shall have submitted written notification of operations beginning to the department by the final day of the previous quarter;

- (3) Be fewer than 10 years from the date that the application was determined complete by the final day of the current quarter, except as this time has been shortened under subsection E of this section.
- D. Award of quarterly FSE pathway credits. Credits awarded to each eligible FSE pathway shall be calculated as follows:
- (1) Eligible quarterly FSE credits for each FSE pathway, determined to be eligible under subsection C and subsection D of section 303 of this part, shall be calculated per section 302 of this part.
 - (2) The following information shall be used in the calculation of credits:
 - (3) If the remaining credits available for an FSE vehicle duty type in a quarter are less than the eligible credits for an FSE pathway, then the FSE pathway holder shall receive the remaining FSE pathway credits for that vehicle duty type.
 - (4) The FSE credits awarded to any FSE pathway shall not exceed one-half of one percent of the previous quarter's total deficits. If the eligible FSE credits for a pathway are greater than this, the pathway may receive up to this limit.
 - (5) The total quarterly FSE credits that are available across all FSE pathways to the same entity for the same FSE fuel type and FSE vehicle duty type shall not exceed one percent of the previous quarter's total deficits. If the entity is eligible for a greater amount than this limit, FSE pathways may receive partial credits, up to the entity limit.
 - (6) The quarterly FSE credits awarded to any FSE pathway shall not exceed the maximum lifetime monetary credit limits under subsection E of this section. If the pathway is eligible for a greater amount than this limit, the FSE pathway may receive partial credits, up to an estimate of the lifetime monetary credit limits. The estimated value of the current quarter's credits shall be based on the average CTFS credit price for the previous quarter.
- E. Maximum lifetime monetary credit limits per FSE pathway.
- (1) Except as specified in paragraph (2) of this subsection, the cumulative dollar value of FSE credits available to an FSE pathway over its lifetime shall not exceed the total capital expenditure reported per subparagraph (a) of paragraph (6) of subsection F of section 303 of this part multiplied by a factor of 1.5 less the total grant revenue or other funding reported per subparagraph (f) of paragraph (6) of subsection F of section 303 of this part.
 - (2) FSE pathways in certain areas are eligible for enhanced cumulative FSE credits. FSE pathway applicants that the department approves for an enhanced cumulative FSE credit shall have the cumulative value of their FSE credit limited to the total capital expenditure reported per subparagraph (a) of paragraph (6) of subsection F of section 303 of this part multiplied by a factor of 2.0 less the total grant revenue or other funding reported per subparagraph (f) of paragraph (6) of subsection F of section 303 of this part. To be eligible for enhanced cumulative FSE credits an FSE pathway shall:
 - (a) Have specified in its FSE pathway application that enhanced cumulative FSE credits shall be included and include supporting documentation.
 - (b) Be for an FSE station located in a zip code that:
 - (i) Has less fuel availability for the FSE pathway's fuel type per capita that is less than seventy-five percent of the state average, in terms of either the number of applicable FSE per capita or the total nameplate capacity of applicable FSE per capita. To verify this the applicant shall provide the department with a publicly available data source providing the number or nameplate capacity of FSE of the FSE pathway's fuel type for the state and the FSE pathway's FSE station zip code. Or;
 - (ii) Is part of a low-income or underserved community. a lower median income than the statewide median income level.
 - (3) Each quarter, the department shall calculate a cumulative value of FSE credits for each FSE pathway to compare with its maximum lifetime credit limit determined under paragraph (1) or paragraph (2) of this subsection.
 - (a) The department shall calculate the cumulative value of FSE credits using the sum of the estimated dollar credit received each quarter. The estimated dollar credit received each quarter equals the number of FSE credits generated each quarter multiplied by each quarter's average CTFS credit price.
 - (b) The FSE credits generated each quarter used for the calculation of estimated dollar credit received each quarter under subparagraph (a) of this paragraph is the quantity of quarterly credits for the FSE pathway calculated per section 302 of this part.

- (c) Each quarter's average CTFS credit price used for the calculation of estimated dollar credit received each quarter under subparagraph (a) of this paragraph is the quarterly credit price published on the department's CTFS website, discounted at a 10 percent compound annual rate into its constant dollar value for the year in which the FSE application was approved.
- (4) For any quarter that is fewer than 10 years from the quarter that the department determined an FSE pathway to be complete, if the estimated dollar credits calculated for that quarter pursuant to paragraph (3) of this subpart exceeds the difference between the FSE pathway's maximum lifetime credit limit determined under paragraph (1) or paragraph (2) of this subsection and the cumulative value of FSE credits claimed by the FSE for all previous quarters, the applicant may receive a dollar value equal to this difference. The applicant shall be ineligible to receive FSE credits for this FSE pathway for all future quarters.
- (5) Once an FSE pathway has reached the cumulative lifetime monetary credit limit it shall be removed from the queue for quarterly FSE credit assignment.

[20.2.92.304 NMAC - N, X/X/2025]

20.2.92.305 CREDIT REVENUE PROVISIONS:

- A. Each electrical distribution utility (EDU) subject to this rule shall use 100% percent of revenue from the sale of credits attributable to residential charging, not including associated administrative costs, to support transportation decarbonization and electrification projects.
- B. Credit revenue from a public utility shall be used to support projects listed at subsection B of section 11 of 17.9.574 NMAC and included within the approved and current three-year plan for transportation electrification pursuant to 17.9.574 NMAC. Credit revenue from a public EDU shall be used to support projects listed at subsection B of section 11 of 17.9.574 NMAC and included within the approved and current three-year plan for transportation electrification pursuant to 17.9.574 NMAC.
 - (1) At least 50% of credit revenue, less administrative costs, shall include projects to support low-income households and underserved communities.
- C. Credit revenue from distribution cooperatives organized pursuant to the Rural Electric Cooperative Act, Chapter 62, Article 15 NMSA 1978, and any other EDU not subject to Subsection A., shall support projects from within the categories listed in subsection B of section 11 of 17.9.574 NMAC.
 - (1) At least 50% of credit revenue, less administrative costs, shall include projects to support low-income household and underserved communities.
- D. Any EDU that receives credit revenue from residential charging shall report per subsection E of section 505 of this part.

[20.2.92.305 NMAC - N, X/X/2025]

20.2.92.306 - 400 [RESERVED]

20.2.92.401 LIQUID FUELS REPORTING ENTITIES:

- A. Applicability. This sub-section applies to providers of gasoline, diesel, ethanol, naphtha, and other liquid fuels used for transportation in New Mexico and determines the person who is the regulated party and generates credits or deficits. The ability to generate credits for the fuel may be transferred along with the fuel to another recipient of the fuel in the state so long as it is documented in a written contract.
- B. Responsibilities to generate credits. Any person specified in subsections (D) through (H) of this section may generate credits by dispensing a fuel that is below the annual carbon intensity benchmark and complying with the registration, recordkeeping, reporting, and attestation requirements of this part for the fuel.
- C. Regulated party. Any person specified in subsections (D) through (H) of this subsection dispensing a regulated fuel is responsible for complying with the registration, recordkeeping, reporting, attestation and compliance requirements of this section.
- D. Designation of fuel reporting entities for liquid fuels.
 - (1) The fuel reporting entity for liquid fuels is the producer or importer of the liquid fuel.
 - (2) For liquid fuels that are a blend of liquid alternative fuel components and a fossil fuel component, the fuel reporting entity is the following:
 - (a) The producer or importer of alternative fuels for the alternative fuel component; and
 - (b) The producer or importer of liquid fossil fuels for the fossil fuel component.

- E. Designation of fuel reporting entities in case of transfer of liquid fuel ownership. An entity transferring ownership of fuel is the "transferor," and an entity acquiring ownership of fuel is the "recipient."
- (1) An entity can voluntarily transfer its status as a credit generator for a given amount of liquid fuel simultaneously with the ownership of such fuel if the conditions in (E)(1)(a) through (d) of this subsection are met:
 - (a) The two entities agree by written contract that specifies the recipient accepts all the responsibilities of a fuel reporting entity and credit and/or deficit generator;
 - (b) In case of a deficit generating fuel, the two entities agree by written contract that specifies which party is responsible for accounting for the deficit in the annual credits and deficits balance calculation;
 - (c) The transferor provides the recipient a product transfer document that specifies the recipient is the credit or deficit generator; and
 - (d) Transfer of credit or deficit generator status is not the result of a downstream entity acquiring ownership of liquid fuel below the rack. The downstream entity is required to report in the CTFP-DMS if exporting the fuel.
 - (2) Upon transfer, the recipient also becomes the fuel reporting entity for the fuel, while the transferor remains still subject to reporting requirements and to any other requirement applicable to a fuel reporting entity.
- F. Retaining status as credit or deficit generator.
- (1) An entity can retain its status as a credit or deficit generator for a given amount of liquid fuel, while transferring ownership of that fuel, if the following conditions are met at the time ownership of fuel is transferred:
 - (a) The two entities agree by written contract that specifies the recipient accepts all the responsibilities of a fuel reporting entity, and the transferor retains the responsibilities as a fuel reporting entity and credit or deficit generator;
 - (b) In case of a deficit generating fuel, the two entities agree by written contract that specifies which party is responsible for accounting for the deficit in the annual credits and deficits balance calculation; and
 - (c) The transferor must provide the recipient a product transfer document that specifies the transferor is the credit or deficit generator according to 20.2.92.506 NMAC.
 - (2) Upon transfer according to (F)(1)(a) of this subsection, the recipient also becomes a fuel reporting entity for the fuel while the transferor is still subject to reporting requirements and any other requirements applicable to a fuel reporting entity under this part.
- G. Transfer period.
- (1) For all liquid fuels, the maximum period in which credit generator status can be transferred to another entity, for a given amount of fuel, is limited to three calendar quarters starting from and including the quarter in which the entity received the title.
 - (2) After this period is over, the credit and deficit generator status for that amount of fuel cannot be transferred.
- H. Designation of fuel exporter. Entities responsible for reporting exports of fuel that has been previously reported in the CTFP-DMS are identified below:
- (1) When the fuel is sold or delivered above the rack for export, the entity holding the ownership title to the fuel as it crosses the New Mexico border on its way toward the first point of sale/delivery out-of-state is responsible for reporting the export.
 - (2) When the fuel is sold across the rack for export, the entity holding title to the fuel as the fuel crosses the rack is responsible for reporting.
 - (3) When the fuel is diverted out-of-state below the rack, the entity holding title to the fuel, as it crosses the New Mexico border, is responsible for reporting the export.

[20.2.92.401 NMAC - N, X/X/2025]

20.2.92.402 NATURAL GAS FUELS REPORTING ENTITIES:

- A. Applicability. This sub-section applies to providers of compressed natural gas, liquefied natural gas, liquefied compressed natural gas, and liquefied petroleum gas for use as a transportation fuel in New Mexico and determines the person who is the regulated party and generates credits or deficits. The ability to generate credits for the fuel may be transferred along with the fuel to another recipient of the fuel in the state so long as it is documented in a written contract.

- B. Responsibilities to generate credits. Any person specified in subsections D through P of this section may generate credits by dispensing a fuel that is below the applicable annual carbon intensity benchmark and complying with the registration, recordkeeping, reporting, and attestation requirements of this part for the fuel.
- C. Regulated party. Any person specified in these subsections (D) through (G) dispensing a regulated fuel is responsible for complying with the registration, recordkeeping, reporting, attestation and compliance requirements of this section.
- D. Fossil natural gas fuels. For fossil CNG, fossil LNG, fossil L-CNG, and fossil LPG, the regulated party and generator of credits or deficits is the owner of the fueling equipment at the facility where the fuel is dispensed for use in a motor vehicle.
- E. Bio-based natural gas fuels. For bio-based CNG, bio-based LNG, bio-based L-CNG, and bio-based LPG, the regulated party and generator of credits or deficits is the producer or importer of the fuel.
- F. Blends of fossil and bio-based natural gas. For fuel that is a blend of fossil and bio-based natural gas, the regulated party and generator of credits or deficits is the following:
 - a. The owner of the fueling equipment at the facility where the fuel is dispensed for use in a motor vehicle for the fossil fuel component.
 - b. The producer or importer of the fuel for the bio-based fuel component.
- G. Natural gas used in forklifts. For natural gas fuels dispensed for use in forklifts, the regulated party and generator of credits or deficits is the forklift fleet owner or operator. The fleet owner or operator may also designate an aggregator.

[20.2.92.402 NMAC - N, X/X/2025]

20.2.92.403 ELECTRICITY FUELS REPORTING ENTITIES:

- A. Applicability. This section applies to providers of electricity used as a transportation fuel.
 - (1) To receive credits for electricity supplied as a transportation fuel, an entity subject to this section shall:
 - (a) Establish an account in the online system;
 - (b) Comply with registration, recordkeeping, and reporting requirements.
 - (2) Designating an aggregator as credit generator. A person who is eligible to generate credits as described in subsections (3) through (9) of this section may elect to designate an aggregator to be the credit generator if the two entities agree by written contract that:
 - (a) The credit generator outlined in subsections (3) through (9) of this section shall provide the electricity data to the aggregator,
 - (b) The aggregator accepts all CTFP responsibilities as the fuel reporting entity and credit generator, and
 - (c) The aggregator shall remain designated under this section unless its designator requests a change in writing to the department.
- B. Responsibilities to generate credits. Any person specified in subsections (D) through (L) of this section may generate credits by dispensing a fuel that is below the applicable annual carbon intensity benchmark and complying with the registration, recordkeeping, reporting, and attestation requirements of this part for the fuel.
- C. Designating another entity as credit generator. A person who is eligible to generate credits as described in subsections (D) through (L) of this section may elect to designate another entity to be the credit generator if the two entities agree by written contract that:
 - (1) The credit generator outlined in subsections (D) through (L) of this section shall provide the electricity data to the designated entity.
 - (2) The designated entity accepts all CFP responsibilities as the fuel reporting entity and credit generator.
- D. Residential electric vehicle charging. The following entities may generate base credits for electricity used to charge an electric vehicle at a residence, in order of priority, except as specified in (G)(1)(a):
 - (1) EDU
 - (2) Backstop Aggregator
 - (3) Electric Vehicle Manufacturer
- E. Non-residential electric vehicle charging. The following entities may generate base credits for electricity used to charge an electric vehicle at non-residential locations, such as in public, for a fleet, at a workplace, or at multi-family housing sites, in order of priority:
 - (1) FSE Owner
 - (2) EDU
 - (3) Backstop Aggregator

- F. Incremental credits. Any entity generating base credits may also generate incremental credits for the same charging activities by improving the carbon intensity of the supplied electricity beyond the EDU-specific baseline.
- (1) An EDU claiming base credits or its designated aggregator may only claim incremental credits if it notifies the department by June 15 or December 15 that it wishes to begin generating incremental credits starting with the charging covered by the next period of residential electric vehicle charging. An EDU's election remains in place until it informs the department otherwise.
- G. Competing claims.
- (1) For residential credits, only one entity may generate credits per vehicle identification number.
 - (a) If multiple entities claim residential credits for the same charging activities, any entities measuring the dispensing of electricity through direct metering take precedence over any entities for whom the department has calculated credits. Otherwise, multiple claims for residential credits for the same charging activities shall be resolved pursuant to the order of priority described in (D).
 - (2) For non-residential credits, only one entity may generate credits per FSE identification number.
 - (a) Multiple claims for non-residential credits from the same charging activities shall be resolved pursuant to the order of priority described in (E).
- H. Electric forklifts.
- (1) For electricity used as transportation fuel supplied to electric forklifts, the fleet owner is the fuel reporting entity and the credit generator. Only one entity may generate credits from each piece of equipment.
 - (2) To generate credits for fuel consumed by electric forklifts, an entity shall agree in writing to separately meter the electricity consumed by their forklifts beginning on January 1, 2027.
- I. Public Transit. For electricity used to power fixed guideway vehicles such as light rail systems, streetcars, and aerial trams, or transit buses, the transit agency operating the system is eligible to generate the credits for the electricity used to propel the system.
- J. Electric Transportation Refrigeration Units (eTRU). For electricity supplied to the eTRU, the eTRU fleet owner is the fuel reporting entity and the credit generator.
- K. Electric cargo handling equipment (eCHE).
- (1) For electricity supplied to eCHE, the electric cargo handling equipment owner is the fuel reporting entity and the credit generator. Only one entity may generate credits from each piece of equipment.
- L. Electric ground support equipment (eGSE).
- (1) The owner of the FSE for ground support equipment is eligible to generate credits. Only one entity may generate credits from each piece of equipment.
- M. Backstop aggregator. The department shall select the backstop aggregator per department policies, who may serve as the credit generator of electricity credits.
- (1) To qualify to submit a registration application to be the backstop aggregator, an organization shall:
 - (a) Be an organization exempt from federal taxation under section 501(c)(3) of the U.S. Internal Revenue Code;
 - (b) Complete annual independent financial audits.
 - (2) An entity that wishes to be the backstop aggregator shall submit a registration application to the department that includes:
 - (a) A description of the mission of the organization and how being the backstop aggregator fits into its mission;
 - (b) A description of the experience and expertise of key individuals in the organization who would be assigned to work associated with being the backstop aggregator;
 - (c) A plan describing:
 - (i) How the organization shall promote transportation electrification in New Mexico;
 - (ii) Any entities that the organization might partner with to implement its plan;
 - (iii) How the organization plans to use the revenue from the sale of credits, which may include but is not limited to, programs that provide incentives to purchase zero or low emission vehicles or install fuel supply equipment, opportunities to educate the public about zero and low emission vehicles, and anticipated costs to administer its plan; and

- (iv) The financial controls that are, or shall be put, in place to segregate funds from the sale of credits from other monies controlled by the organization.
 - (v) Its last three years of independent financial audits and I.R.S. form 990s, and proof that the I.R.S. has certified them as qualifying as an exempt organization under 501(c)(3);
- (3) Registration applications shall be evaluated by the department with the assistance of relevant experts selected by the department. The department shall evaluate registration applications based on the likelihood that the applicant shall maximize the benefits from the credits it receives to expand the use of alternative fuel vehicles and reduce greenhouse gas emissions from the transportation sector in New Mexico.
 - (4) Following the department approval of an organization to be the backstop aggregator, the department and the organization may enter into a written agreement regarding its participation in the program. A written agreement shall be in place before the backstop aggregator registering an account in the CTFP-DMS and receiving credits for the first time. The backstop aggregator shall, by March 31st of each year, submit a report that summarizes the previous year's activity including:
 - (a) How much revenue was generated from the credits it received;
 - (b) A description of activities including the status of each activity, where each activity took place, and each activity's budget, including administrative costs, and an estimate of its outcomes; and
 - (c) The results of its most recent independent financial audit.
 - (5) The backstop aggregator shall maintain records and make them available upon request by the department, including records required to be maintained per section 506 of this part, and in addition, any records relating to its registration application, the programs it operates using the proceeds from the sale of credits under this program, and any of the organization's financial records.
 - (6) If the department determines that a backstop aggregator is in violation of this section or the agreement that it enters into with the department to be the backstop aggregator, the department may rescind its designation and solicit registration applications to select a new backstop aggregator.
 - (7) If backstop aggregator wishes to terminate its agreement with the department, then the department may solicit registration applications to select a new backstop aggregator.
 - (8) After a backstop aggregator has been in place for three years, the department may hold a new selection process to appoint a backstop aggregator for future years. Unless the department has rescinded an organization as backstop aggregator, the current backstop aggregator may apply to be re-designated as the backstop aggregator for future years.

[20.2.92.403 NMAC - N, X/X/2025]

20.2.92.404 HYDROGEN FUELS REPORTING ENTITIES:

- A. Applicability. This section applies to providers of hydrogen or a hydrogen blend for use as a transportation fuel in New Mexico.
- B. Credit or deficit generation. The person who owns the hydrogen or hydrogen blend FSE is the regulated party and is eligible to generate credits or deficits.
- C. Credit or deficit generation for forklifts. For hydrogen forklifts, the fleet owner is the regulated party and is eligible to generate credits or deficits. If the fleet owner does not generate the credits, then the fleet operator may generate the credits if the two persons agree by written contract that:
 - (1) The fleet owner shall not generate credits.
 - (2) The forklift operator accepts all the CTFP responsibilities as the fuel reporting entity and credit generator.

[20.2.92.404 NMAC - N, X/X/2025]

20.2.92.405 ALTERNATIVE JET FUELS REPORTING ENTITIES:

- A. Applicability. This section applies to importers and producers of alternative jet fuel that fuels airplanes in New Mexico.
- B. Credit or Deficit Generation. The person who imports or produces the alternative jet fuel is the regulated party and is eligible to generate credits or deficits.

[20.2.92.405 NMAC - N, X/X/2025]

20.2.92.406 OTHER ALTERNATIVE FUELS REPORTING ENTITIES:

- A. Applicability. This section applies to importers and producers of other alternative fuels not included in sections 401 through 405 of this part that are imported, produced or dispensed in New Mexico.
- B. Credit or Deficit Generation. The person who imports or produces other alternative fuels is the regulated party and is eligible to generate credits or deficits.

[20.2.92.406 NMAC - N, X/X/2025]

20.2.92.407 - 500 [RESERVED]

20.2.92.501 REGISTRATION:

- A. General requirements. All regulated parties are required to register and update registration information per subsections A through E of this section. Regulated parties shall provide the following information in the registration application:
 - (1) Registered party identification, including federal employer identification number, physical and mailing addresses, federal employer identification number and EPA RFS identification numbers;
 - (2) The name of the person who shall be the primary contact for the registered party, and that person's business and mobile phone numbers, and email address;
 - (3) The transportation fuel type that the company or organization shall be producing, importing, or dispensing for use in New Mexico;
 - (4) A list of all related business entities for the registered party, and any regulated parties that share common ownership or control;
 - (5) The name of the person who shall be the CTFP-DMS account administrator and is authorized to sign on behalf of the registered party with that person's business and mobile phone numbers, and email address;
 - (6) Optionally, the name, title and contact information for one or more persons who shall have access to the regulated parties' account per subsection E; and
 - (7) Any other information requested by the department related to registration.
- B. Initial registration period. All regulated parties shall submit a registration application within 45 days of the program start date.
- C. Updating registration information. Starting in December 2026 and each December thereafter, registered parties shall update their information in subsection A of this section in the CTFP-DMS.
- D. Modifications to the registration and change of ownership. The registered party shall submit an amended registration to the department within 30 days of any change occurring in the information described in subsection A. The department may require a registrant to submit an amended registration based on new information the department receives. If a registered party undergoes a change of ownership or operational control, the previous owner or operator remains the owner of record until complete written notifications under subsections (a) and (b) have been submitted and the following requirements apply:
 - (1) The previous owner or operator shall notify the department in writing within 30 days of the ownership or operational control change and provide the following information:
 - (a) Name of the previous owner or operator;
 - (b) Name of the new owner or operator;
 - (c) Date of the ownership or operational control change;
 - (d) Name of the previous account representatives for the affected entity's account in the CTFP-DMS; and
 - (e) What the planned disposition of net credits in the previous owner's CTFP-DMS account and/or the certified fuel pathways associated with the previous owners AFP account shall be.
 - (2) The new owner or operator shall notify the department in writing in the CTFP-DMS within 30 days of the ownership or operational change, including the following information:
 - (a) Name of the previous owner or operator;
 - (b) Name of the new owner or operator;
 - (c) Date of the ownership or operational control change;
 - (d) Name of the new account representatives for the affected entity's account in the NM-DMS.
 - (3) A single report shall be submitted for an entire reporting period. Reporting data shall not be split or subdivided for a reporting period, based on registered party ownership. Both the owner or operator of record at the time of a deadline specified in this section and the actual

owner or operator at such time are responsible for complying with the reporting requirements of section 503 through 505 of this part, if the required report has not been submitted.

- (4) The new owner or operator is responsible for demonstrating compliance when filing the compliance period report under section 505 of this part.
- E. Cancellation of CTFP-DMS registration. A regulated party shall cancel its registration if the regulated party no longer meets the applicability of the program per section 101 of this part or voluntarily opts-out of the CTFP per section 103 of this part.
- (1) A regulated party that is cancelling its registration under this section shall submit any outstanding quarterly reports and compliance period reports. Any regulated party shall be in full compliance with the CTFP for the compliance period reports it submits, and the regulated party shall not have any outstanding deficits.
 - (2) Any credits that remain in an account of a regulated party that is cancelling its registrations under this section shall be forfeited to the backstop aggregator and the department shall close the applicable account in the CTFP-DMS.
 - (3) Once the department determines that the actions described in paragraphs (1) through (3) of this section are complete, the department shall notify the registrant in writing of the cancellation of its registration.
 - (4) If a registered party does not have any fuel transactions reported in four consecutive quarters, the department shall deactivate the registered party's account in the CTFP-DMS and allocate all remaining credits in the registered party's CTFP-DMS account to the backstop aggregator. The registered party may re-register and have its account reactivated after having qualifying fuel transactions in New Mexico.
- F. Registration of fuel supply equipment.
- (1) In addition to the registration requirements in subsection A-D, regulated and opt-in parties of electricity and gaseous fuels dispensing fuel through an FSE shall register FSE in the CTFP-DMS. Upon successful FSE registration, the registrant shall receive a unique FSE identification number that shall be used for reporting fuel transactions as required in Section 503 through 505 of this part. All FSE registration shall include:
 - (a) Name and address of the facility at which FSE is situated and latitude, and longitude of the FSE location;
 - (b) Name and address of the entity that owns the FSE, if different from the entity registering the FSE; and
 - (c) Date equipment became operational. All equipment being registered shall be operational at the time of registration.
 - (2) In addition to the requirements in paragraph (1), the following apply to FSE for electricity as a fuel:
 - (a) Registered entities that are also EDUs shall register whether they want to aggregate the residential electric charging credits in their service territory; or designate an aggregator to act on their behalf.
 - (b) Unless designated as the first fuel reporting entity, registered entities that are charging EVs shall provide the department with a copy of a written contractual agreement demonstrating the registered entity acquired the designation of the first fuel reporting entity.
 - (c) For residential metered EV charging location information and address is not required and EV FSE registration is optional when reporting metered electricity to generate base credits. For incremental credits, the reporting entity shall provide the following FSE information:
 - (i) For off-vehicle meters, the serial number assigned to the FSE by the OEM, the name of the equipment OEM, and the VIN for the vehicle expected to be charged at the location.
 - (ii) For vehicle telematics, the vehicle VIN.
 - (d) For non-residential EV charging, FSE refers to each piece of equipment measuring the electricity dispensed for EV charging. Fuel reporting entities for non-residential EV charging for transportation applications shall provide the serial number assigned to the FSE by the OEM and the name of the OEM. If there are multiple FSEs at the same location, each unique piece of equipment shall be registered separately.
 - (e) For electric forklifts, eCHE, eOGV or eGSE, FSE refers to the facility or location where electricity is dispensed for fueling. If multiple FSEs measure the

electricity dispensed at the facility or location, an entity may provide the serial number assigned to each individual FSE by the OEM, along with the name of the OEM.

- (f) Fuel reporting entities for fixed guideway systems are exempt from the general requirements of this subsection. CTFP-DMS shall assign FSE IDs for reporting purposes based on the information provided in CTFP-DMS account registration form.
 - (3) In addition to the requirements in paragraph (1), FSE dispensing natural gas, propane, or hydrogen shall, unless designated as a first fuel reporting entity, provide a written contractual agreement demonstrating it acquired the designation of the fuel reporting entity status and the number of dispensing facilities located in New Mexico, their locations, and the unique identifier associated with the fuel dispensing equipment in the organization's fuel or financial accounting.
 - (4) In addition to the requirements in paragraph (1), for FSE dispensing CNG, a station with multiple dispensers is considered a single FSE. Fuel reporting entities for CNG shall provide the natural gas utility meter number at the FSE location, name of the utility company, and a copy of the most recent utility bill.
 - (5) In addition to the requirements in paragraph (1), for FSE dispensing LNG and propane, FSE refers to a fueling station. An LNG or propane station with multiple dispensers is considered a single FSE. Fuel reporting entities for LNG and propane shall provide a unique identifier associated with the FSE used for their own fuel accounting or financial accounting or other purposes and copy of invoice or bill of lading for the most recent fuel delivery.
 - (6) In addition to the requirements in paragraph (1), for eTRU, FSE refers to each eTRU. Fuel reporting entities for eTRU fueling shall provide the serial number assigned to the unit by the OEM and the name of the OEM.
 - (7) In addition to the requirements in paragraph (1), for hydrogen, FSE refers to a fueling station. A hydrogen station with multiple dispensers is considered a single FSE.
 - (8) For transportation applications not covered in subparagraphs (1) through (7) of this paragraph, FSE refers to a fuel dispenser or a transportation equipment measuring the fuel dispensed.
 - (9) The department shall determine registration requirements for other fuel types or FSE not listed.
- G. Establishing and maintaining an CTFP-DMS account.
- (1) After the department reviews and approves the registration application, the department shall establish an account for the registered party in the CTFP-DMS.
 - (2) If a registered party amends its registration under this section, the registered party shall also update the registered party's account in the CTFP-DMS.
 - (3) Registered parties may assign the following account management roles within the CTFP-DMS:
 - (a) CTFP-DMS administrator is authorized to sign for the registered party, responsible for submitting quarterly and compliance period reports, may make changes to the registered party profile and may designate others to review and upload data, but not submit reports;
 - (b) CTFP-DMS contributor is authorized to submit quarterly and compliance reports, if given signature authority, but cannot make changes to the registered party profile;
 - (c) CTFP-DMS reviewer is provided read-only access to a registered party information, but cannot submit quarterly and compliance reports; and
 - (d) CTFP-DMS credit facilitator is authorized to initiate and complete credit transfers on behalf of the registered party, may add posts to the CTFP-DMS's "buy/sell board" and has read-only access to the registered party's quarterly and compliance period reports.
- H. Registration for the AFP. To register as a fuel pathway applicant or fuel pathway holder in the AFP, the fuel pathway applicant or fuel pathway holder shall provide the following information:
- (1) Entity identification, including federal employer identification number, physical and mailing addresses, federal employer identification number and EPA RFS identification numbers;
 - (2) The name of the person who shall be the primary contact for the registered party, and that person's business and mobile phone numbers, and email address;

- (3) The production company name, federal employer identification number issued by the US Internal Revenue Service, and the corporate address of the company; and
 - (4) A list of all related business entities for the registered party, and any regulated parties that share common ownership or control;
 - (5) The name of the person who shall be the AFP account administrator and is authorized to sign on behalf of the registered party and that person's business and mobile phone numbers, and email address; and
 - (6) Any other information requested by the department related to registration.
- I. Establishing and maintaining an AFP account.
 - (1) After the department reviews and approves the AFP registration application, the department shall establish an account for the registered party in the AFP.
 - (2) The AFP account administrator may designate users within the AFP registered party who can access and manage the account.
 - (3) If a registered party amends its registration under this section, the registered party shall also update the registered party's account in the AFP account.
 - (4) By registering in the AFP, the registered party shall comply with the requirements of this part and any conditions placed upon the fuel pathways that it holds.
 - J. Registration Deferral. The department may defer the registration as needed due to department capacity constraints including inadequate CTFP staffing and CTFP-DMS issues.
- [20.2.92.501 NMAC - N, X/X/2025]

20.2.92.502 PROGRAM FEES:

- A. Fee requirements. All registered parties shall pay an initial program fee and an annual CTFP fee to the department for each compliance period. The fees provide for the cost of the department's administration and enforcement of the CTFP. Alternative fuel pathway applicants shall pay an application fee for each alternative fuel pathway application. All costs of activities associated with implementing and administering the CTFP are fee eligible.
- B. Initial program fee. The initial program fee shall be \$5,000 for each deficit generator, \$1000 for each credit generator, and \$500 for all other registered parties. The department shall assess the initial program fee upon accepting the registration of the regulated party.
- C. Annual CTFP fee basis. Based on the CTFP budget, the department shall establish the registered parties' annual CTFP fee each compliance period.
 - (1) In the first compliance period, the department shall determine the fee for registered parties based on the gross deficit and gross credit generating fuel reported in the first full quarter of reporting after the effective date of this part.
 - (2) For all subsequent compliance periods, the department shall determine the fee for registered parties based on the total gross deficits and gross credits in the quarterly reports from the previous compliance period.
- D. CTFP budget. Annually the department shall develop workload analysis, an annual CTFP budget and a schedule of proposed fees to pay for the department's administration of the CTFP, which the department shall publish to the department's website and provide a written notification of the post to all CTFP registrants. Following a 30-day public review and input period the department shall finalize CTFP budget and schedule of fees, publish the information to the department's website and provide a written notification of the post to all CTFP registrants.
- E. Allocation of the annual CTFP fees. The department shall allocate the CTFP budget as annual CTFP fees among registered parties as follows:
 - (1) Deficit generators shall pay ninety-five percent of the CTFP annual budget, assigned in categories according to the percentile of gross deficit generation in metric tons of CO₂e.
 - (a) The deficit generators whose gross deficits are the top thirtieth percentile of gross deficit generators shall pay for seventy percent of the deficit generator's portion of the CTFP budget.
 - (b) The deficit generators whose gross deficits are in the fortieth through sixty-ninth percentile of gross deficit generators shall pay for twenty-five percent of the deficit generator's portion of the CTFP budget.
 - (c) The deficit generators whose gross deficits are in the eleventh through thirty-ninth percentile of gross deficit generators shall pay for five percent of the CTFP budget for deficit generators.
 - (d) The deficit generators whose gross deficits are in the bottom ten percentile of deficit generators shall pay a fixed annual CTFP fee each compliance period. For the first compliance period, the annual CTFP fee shall be \$700.

- (2) Credit generators shall pay five percent of the CTFP annual budget, assigned in categories according to the percentile of gross credit generation in metric tons of CO₂e.
 - (a) The credit generators whose gross credits are the top thirtieth percentile of gross credit generators shall pay for seventy percent of the credit generator's portion of the CTFP budget.
 - (b) The credit generators whose gross credits are in the fortieth through sixty-ninth percentile of gross credit generators shall pay for twenty-five percent of credit generator's portion of the CTFP budget.
 - (c) The credit generators whose gross deficits are in the bottom thirty-ninth percentile of gross credit generators shall pay for five percent of the credit generator's portion of the CTFP budget.
- (3) Registered parties that generate both gross deficits and gross credits are responsible for the annual CTFP fee under both paragraph (1) and paragraph (2) of this subsection.
- (4) The annual CTFP fee for registered parties that are neither deficit nor credit generators is \$700 in the first compliance period.
- (5) The department shall issue invoices for annual CTFP fees no later than March 1 of each calendar year.
- F. Alternative fuel pathway application fees. The department shall assess a CTFP alternative fuel pathway application fee at the time of application.
 - (1) The application fee equals \$1,200 for all applications seeking:
 - (a) a carbon intensity for fuel pathways established in other states;
 - (b) a Tier 1 fuel pathway application novel to New Mexico; or
 - (c) an energy economy ratio adjusted carbon intensity application not associated with a novel fuel.
 - (2) The application fee equals \$5,500 for all applications for Tier 2 fuel pathways novel to New Mexico.
- G. Inflation adjustment. Following the first compliance period and for all subsequent compliance periods, the department may adjust all fixed annual CTFP fees for inflation using the inflation rate from the last twelve months of data from the US Bureau of Labor Statistics West Region Consumer Price Index for All Urban Consumers for All Items.
- H. Administrative Compliance Fees. The department may impose reasonable administrative compliance fees for registered parties that require additional CTFP resources by, for example, providing incorrect registration data, not providing required documentation, providing faulty submissions or failing to provide the required information in a timely manner.
- I. Fee payments. The department shall issue invoices for all fees due under this section, payable to the New Mexico Environment Department.
- J. Late fees. The department may assess a late fee surcharge of \$50 or 10 percent of the fee, whichever is more, for any fee received after 60 calendar days past the due date for fee payment.
- K. Dedicated account. The department shall deposit all CTFP income into the air quality permit fund per 74-1-18 NMSA.

[20.2.92.502 NMAC - N, X/X/2025]

20.2.92.503 GENERAL REPORTING REQUIREMENTS:

- A. Use of the CTFP DMS for reporting. Regulated parties shall use the CTFP DMS to submit all required reports, including quarterly reports and compliance period reports under this section. An administrator or a contributor authorized by the registered party to sign reports on its behalf shall sign each report to certify that the submitted information is true, accurate, and complete.
- B. Quarterly reporting. Regulated parties shall submit quarterly reports per section 504 of this part.
- C. Compliance period reporting. Regulated parties shall submit compliance period reports per section 505 of this part.
- D. Credits/deficits generated per quarter correcting a previously submitted report. A registered party may request in writing that the department re-open a previously submitted quarterly report or compliance period report for corrective edits and re-submittal. The requestor shall submit an "Unlock Report Request Form" within the CTFP- DMS. The requestor is required to provide justification for the report corrections and shall indicate the specific corrections to be made to the report. Each submitted request is subject to department approval. Department approval of a corrected report does not preclude department enforcement based on misreporting.
- E. Statements of acknowledgement and attestation. To submit a quarterly or compliance period report, a registered party's responsible official or their authorized representative shall confirm by acknowledgement, acceptance, attestation or certification in the CTFP-DMS that:

- (1) the information provided is an official submission for purposes of compliance for the CTFP and this part;
 - (2) the information contained in the report is correct;
 - (3) the administrator or a contributor authorized by the registered party to submit and sign reports on its behalf;
 - (4) the administrator or a contributor authorized by the registered party to sign reports on its behalf is bound by and authenticates the report, the record, and the statements contained therein;
 - (5) credits are regulatory instruments that do not constitute personal property, instruments, securities or any other form of property, as provided in section 301 of this part;
 - (6) submitting or attesting to false statements is prohibited under New Mexico law, and may subject me to civil enforcement, criminal enforcement, or both;
 - (7) credits and deficit calculations are subject to the provisions of section 301 of this part, under which the department may, without limitation, correct errors should a regulated party or credit generator not do so themselves, place holds on credits and/or accounts as part of an inquiry and invalidate credits or fuel pathway codes that were illegitimately generated or otherwise created in error;
 - (8) the department may place a hold on credits and accounts while the department undertakes any inquiry regarding such credits or accounts;
 - (9) suspension, revocation, and/or modification actions by the department may be contested as provided under New Mexico law; and
 - (10) other acknowledgement, acceptance, attestation or certification requested by the department
- F. If biogas or biomethane is being used that is directly delivered to a vehicle and not injected into a pipeline, the responsible official or authorized representative reporting on behalf of a registered party shall attest that:
- (1) the gas used in the fuel pathway or supplied as transportation fuel is characterized as biomethane,
 - (2) the registered party owns the exclusive rights to the corresponding environmental attributes and has not sold, transferred, or retired those environmental attributes in any program or jurisdiction other than the federal RFS.
 - (3) The administrator or a contributor authorized by the registered party to report on its behalf certifies under penalty of perjury under the laws of the State of New Mexico that based on diligent inquiry and review of contracts and attestations from our business partners, no other party has sold, transferred, or retired the environmental attributes corresponding to the biomethane for which the registered party claims credit in the New Mexico CTFS program.”

[20.2.92.503 NMAC - N, X/X/2025]

20.2.92.504 QUARTERLY REPORTING REQUIREMENTS:

- A. Initial quarterly reporting period. The initial quarterly reporting requirement for the CTFP begins in the calendar quarter in which the effective date of the rule falls. The initial quarterly reporting period begins on the effective date of the rule and ends on the last day calendar quarter in which the effective date of the rule falls. Regulated parties shall submit their initial quarterly report using the CTFP-DMS or a department-determined alternate reporting system and is due 90 calendar days after the end of the initial calendar quarter. If this reporting deadline occurs on a Saturday, Sunday, or a state holiday, the deadline is extended to the following business day.
- B. Quarterly reporting period deadlines. Following the initial quarterly reporting period, regulated parties shall submit using the CTFP-DMS the quarterly reporting requirements in the quarter following the quarterly reporting period. Regulated parties shall upload data for the quarterly reports in the CTFP-DMS within the first 45 calendar days after the end of the reporting quarter and resolve transaction discrepancies and make corrections accordingly during the subsequent 45 calendar days. The deadlines for finalizing quarterly reports are:
 - (1) By June 30 – for the January through March quarter;
 - (2) By September 30 – for the April through June quarter;
 - (3) By December 31 – for the July through September quarter; and
 - (4) By March 31 – for the October through December quarter of the previous year.
 - (5) If a reporting deadline occurs on a Saturday, Sunday, or a state holiday, the deadline is extended to the following business day.

- C. General reporting requirements for quarterly reports. All quarterly reports shall meet the following requirements and contain the information specified below for each fuel.
- (1) Company or organization name
 - (2) Reporting period
 - (3) Fuel pathway code
 - (4) Transaction type
 - (5) Transaction date
 - (6) Business partner
 - (7) Production company ID and facility ID
 - (8) Physical transport mode code
 - (9) Aggregation
 - (10) Application / EER
 - (11) Amount of fuel used as gasoline replacement
 - (12) Amount of fuel used as diesel replacement
 - (13) Credits/deficits generated per quarter (MT)
- D. Information on natural gas used for vehicle fueling. For natural gas or biomethane, inclusive of CNG, LNG and L-CNG, any registered party shall report the following as applicable:
- (1) For CNG and L-CNG, the amount of fuel in therms dispensed per reporting period for all LDV and MDV, HDV-CIE, and HDV-SIE.
 - (2) For LNG, the amount of fuel dispensed in gallons per reporting period for all LDV and MDV, HDV-CIE, and HDV-SIE.
 - (3) For CNG, L-CNG, and LNG, the carbon intensity as listed in Table 4 of section 701 of this part.
 - (4) For biomethane, the carbon intensity as approved per section 202 of this part,
 - (a) the EPA production company identification number and facility identification number;
 - (b) if using a book-and-claim methodology, records showing the sufficient retirement of renewable thermal certificates representing the biomethane environmental attributes from that facility in M-RETS Renewable Thermal system or another approved and recognized tracking system to cover the quantity of biomethane claimed as a fuel in the CTFS program; and
 - (c) records certifying that biomethane originates from the biomethane production facility to which the fuel pathway code is assigned.
- E. Information on electricity used as a transportation fuel for EV charging. For electricity, any registered party shall report the following as applicable:
- (1) For a carbon intensity other than an EDU-specific mix, or renewable electricity under Table 4 in section 701:
 - (a) Documentation that qualifying RECs were retired in the WREGIS or a recognized renewable electricity tracking system for the unique purpose of covering that specific charging concurrent to the submittal of the quarterly report; or
 - (b) Documentation at least annually via a quarterly report that the electric vehicle chargers are covered by a utility renewable electricity product or a power purchase agreement that has been approved by the department for a carbon intensity. The carbon intensity assigned to the product or agreement can only be used for reporting if the electric vehicle chargers are covered by that same product or agreement for the reporting period.
 - (2) For nonmetered residential EV charging:
 - (a) The EDU shall provide to the department information requested for the prior year in order to calculate credits generated. The department shall use the method established in section 301 to calculate credits generated for the quarter and place them into the EDU's account in CTFP-DMS;
 - (b) For claiming incremental credit for nonmetered residential charging, the EDU shall provide, upon the department's request, the VIN for each electric vehicle claimed and evidence of electric vehicle registration and low-carbon electricity supply at the same location;
 - (3) For metered residential EV charging:
 - (a) For generating base credits, the amount of electricity, provided in kWh, used for residential EV charging for each FSE;

- (b) For generating incremental credits for low-CI electricity, the amount of electricity in kWh used for residential EV charging for each FSE using a certified FPC. Upon the department's request, records shall be provided that demonstrate an EV is owned or leased by an individual dwelling at the claimed residence; and
 - (c) EV manufacturers generating credits shall provide evidence, annually via a quarterly report, that the revenues are reinvested to promote transportation decarbonization per section 505 of this part.
 - (4) For non-residential EV charging, including each public access charging facility, fleet charging facility, workplace private access charging facility, or multifamily dwelling, the amount of electricity dispensed in kilowatt hours to vehicles for each FSE;
 - (5) For each public transit agency, the amount of electricity dispensed to or consumed by vehicles used for public transportation in kilowatt-hours for each FSE. The report shall be separated by use for light rail, streetcars, aerial trams, or electric transit buses;
 - (a) For entities reporting forklift charging, the quantity of electricity dispensed to or consumed by forklifts as measured by each FSE. The report shall be separated by electricity used to charge forklifts built in or before model year 2024 and electricity used to charge forklifts built in model year 2025 and after. The reporting entity shall provide the number of electric forklifts in the above model year groups. For the initial compliance period if the quantity of electricity measured per FSE is unavailable, the reporting entity may submit a written statement to department demonstrating the reasons they are unable to provide measured electricity data. Upon approval from the department, the reporting entities for forklift charging may use the department's approved estimation method;
 - (6) For eTRU, and eCHE, the amount of electricity dispensed to or consumed by the equipment for each FSE; and
 - (7) For other electric transportation applications, the amount of electricity dispensed to or consumed by the equipment with transaction type approved by the department, as Tier 2 FPW.
- F. Renewable refinery product information. For renewable diesel, renewable gasoline, renewable naphthas, or other renewable refinery product co-processed at a petroleum refinery, any regulated party shall report the following information as applicable:
- (1) If the fuel reporting entity is also the pathway holder, they shall submit the ongoing information required per section 203 of this part.
 - (2) If the fuel reporting entity is not the pathway holder, and the pathway holder has not met its obligations per section 203 of this part, the department may require the fuel reporting entity to report the quantity of fuel under a temporary fuel pathway code or the fuel pathway code for gasoline or diesel, as applicable.
- G. Temperature adjustments for liquid fuel quantities. All liquid fuel quantities reported in the CTFP-DMS shall be adjusted to the standard conditions of 60 degrees Fahrenheit as follows:
- (1) For ethanol the standardized quantity equals the actual quantity multiplied by the sum of -0.0006301 multiplied by the actual temperature and 1.0378, where standardized quantity refers to the quantity of ethanol in gallons at 60 degrees Fahrenheit, actual quantity refers to the measured quantity in gallons, and temperature is the actual temperature of the batch in degrees Fahrenheit.
 - (2) For biodiesel, one of the following two adjustment methodologies shall be used:
 - (a) The standardized quantity equals the actual quantity multiplied by the sum of -0.00045767 multiplied by the actual temperature and 1.02746025, where standardized quantity refers to the quantity of biodiesel in gallons at 60 degrees Fahrenheit, actual quantity refers to the measured quantity in gallons, and temperature is the actual temperature of the batch in degrees Fahrenheit
 - (b) The standardized quantity in gallons of biodiesel at 60 degrees Fahrenheit, as calculated using the American Petroleum Institute Refined Products Table 6B referenced in ASTM 1250-08.
 - (3) For other liquid fuels, the quantity correction to standard conditions shall be calculated by the methods described in the American Petroleum Institute Manual of Petroleum Measurement Standards Chapter 11 – Physical Properties Data, the ASTM Standard Guide for the Use of Petroleum Measurement Tables (ASTM D1250-08) or the API Technical Data Book, Petroleum Refining Chapter 6 – Density.

- (4) If a registered party believes the methods in paragraphs (1) through (3) of this subsection are inappropriate, they may request in writing to use a different method, and the department may approve that method if it finds that it is at least as accurate as the methods in paragraphs (1) through (3).
- H. Reporting exports. Regulated parties with a deficit obligation for fuel may provide the department documentation to report a fuel quantity as exported from New Mexico and not incur a deficit obligation for the quantity of fuel exported. For blended fuel, all components shall be reported as exported. Regulated parties reporting credit generating fuels shall accurately report any credit generating fuel quantities exported from New Mexico. Credits may not be generated for fuels exported from New Mexico.
- I. Reporting exempt fuel and fuel use. If a registered party is claiming an exemption for fuel sold to exempt fuel users or uses per section 102 of this part, the registered party shall designate in the transaction description field of the CTFP-DMS the categories of exempt fuel users or uses to which the registered party delivered fuel and the number of gallons delivered. For blended fuel, all components shall be reported as exempt.
- J. Reporting commingled storage transactions. All reporting of fuels transferred in and out of commingled storage under this section shall comply with the following:
- (1) For reporting liquid fuels that are being transferred in and out of a commingled storage tank or that are commingled in production or in transport, the reporting entity shall mass balance transfers out of that commingled tank or system by fuel pathway code based on the gallons input into that tank or system:
 - (a) in the current or prior quarter; or
 - (b) for fuels that were put into comingled storage two or more quarters prior only if the reporting entity demonstrates to the department that the tank has not fully turned over by the quarter it is reporting the quantity being transferred out.
 - (2) For biomethane injected into a common carrier pipeline, the biomethane may only be reported as being fueled into vehicles if it was injected in the current or prior quarter.
- K. Reporting “not for transportation” gallons. When reporting that fuel was sold as not for transportation in the CTFP-DMS, the registered party shall report in the transaction description field of the CTFP-DMS to which stationary source or category of stationary fuel combustion the fuel was sold and the number of gallons sold. For blended fuel, all components shall be reported as not for transportation.
- L. Reporting transfers of regulated fuel between parties. In all reports under this section, all transfers of ownership of a regulated fuel above the rack and sales to below the rack by a position holder shall be reported as documented in the product transfer documents. Transfers of ownership of regulated fuel may be reported below the rack.
- M. Reporting position holder transactions. All reports of position holder transactions shall comply with the following:
- (1) Regulated parties that are position holders shall report fuel sold from above the rack to below the rack.
 - (2) Regulated parties that are position holders that sell fuel to non-regulated parties may aggregate and report all such sales in a single transaction using the “‘undefined’ business partner” transaction category in the CTFP-DMS.
 - (3) Regulated parties that are position holders that sell fuel from above the rack to below the rack for export shall identify each recipient of such fuel that is a registered party in this part.

[20.2.92.504 NMAC - N, X/X/2025]

20.2.92.505 COMPLIANCE PERIOD REPORTING REQUIREMENTS:

- A. Initial compliance period. The initial compliance period for the CTFP begins on the effective date of this part and ends on December 31, 2026. Regulated parties shall use the New Mexico CTFP-DMS to submit an initial compliance period report not later than April 30, 2027.
- B. Compliance period reporting dates. Following the initial compliance period regulated parties shall use the CTFP-DMS to submit a compliance report to the department not later than April 30 for the compliance period ending on December 31 of the previous year. If this reporting deadline occurs on a Saturday, Sunday, or a state holiday, the deadline is extended to the following business day.
- C. General reporting requirements for compliance period reports. Regulated parties shall submit compliance period reports through CTFP-DMS that meet the general and specific requirements for quarterly reports and include the following information:

- (1) The total credits and deficits generated by the regulated party in the current compliance period;
 - (2) Credits carried over from previous compliance periods, if any;
 - (3) Deficits carried over from previous compliance periods, if any;
 - (4) The total credits acquired from other regulated parties, if any;
 - (5) The total credits sold or transferred, if any; and
 - (6) The total credits retired to meet the compliance obligation, if any.
- D. Pending credit transfers. All pending credit transfers shall be completed before submittal of the compliance period report.
- E. Reporting of EDU and EV manufacturers' credit revenue. Starting in 2027, EDUs and EV manufacturers that receive credits from residential charging shall annually report the following items to the department no later than July 1. Failure to file such a report shall result in the EDU or EV manufacturers becoming ineligible to claim such credits.
- (1) Each EDU or EV manufacturer shall report the following information for the prior compliance period:
 - (a) Total gross revenue and net revenue, after accounting for administrative costs, from the sale of base and incremental credits attributable to residential vehicle charging, if applicable in the prior compliance period;
 - (b) A description of the programs or projects that were funded by CTFP revenue and the amount spent in each program or project in the prior compliance period; and
 - (c) A description of the group of individuals or listing of organizations that benefited from the programs, and areas that benefited from the programs or projects to demonstrate compliance per section 206 of this part;
 - (d) Any other data that the department may prescribe towards fulfilling the requirements per section 206 of this part.
 - (2) An EDU may choose to submit the compliance period report required under section 13 of 17.9.574 NMAC to meet the requirements of this subsection. If an EDU opts to send a report to the department other than that report required per 17.9.574 NMAC, the EDU shall submit the same information to the Public Regulatory Commission.
 - (3) An EDU may choose to submit the annual compliance report required under section 13 of 17.9.574 NMAC to meet the requirements of this subsection. If an EDU opts to send a report to the department other than that report required per 17.9.574 NMAC, the EDU shall submit the same information to the Public Regulatory Commission.

[20.2.92.505 NMAC - N, X/X/2025]

20.2.92.506 RECORDS AND RECORDKEEPING:

- A. Documenting Transactions. Registered parties shall maintain records needed to assure compliance with this part.
- (1) Fuel transactions shall be accompanied by a product transfer document. PTDs shall prominently state the information specified below:
 - (a) Transferor company name, address, and contact information;
 - (b) Recipient company name, address, and contact information;
 - (c) Transaction date;
 - (d) Fuel pathway code;
 - (e) Carbon intensity;
 - (f) Fuel quantity;
 - (g) A statement identifying whether the transferor or the recipient has the compliance obligation;
 - (h) The EPA fuel production company identification number and facility identification number as registered with the RFS program if applicable;
 - (i) Destination of the fuel; if the fuel destination is not known or the transfer is not changing the location of the fuel, the PTD shall reflect this; and
 - (j) FSE identification number if applicable.
 - (2) Feedstock transactions for alternative fuel pathways with specified source feedstocks shall be accompanied by a feedstock transfer document. A feedstock transfer document for specified source feedstocks shall prominently state the following information:
 - (a) Transferor company name, address and contact information;
 - (b) Recipient company name, address and contact information;
 - (c) Type and amount of feedstock, including units; and
 - (d) Transaction date.

- (3) For every credit transaction, the following records shall be kept:
 - (a) The contract under which the credits were transferred;
 - (b) Documentation on any other contracts agreed to or commodity trades executed between the parties to a credit transaction within 24 months of their first credit transaction under the CTFP that are related to the program; and
 - (c) Any other records relating to the credit transaction, including the records of all related financial transactions.
- B. Records retention. Regulated parties shall retain the following records for at least ten years, unless otherwise specified in this section:
- (1) Product transfer documents as described in subsection A of this section;
 - (2) Records related to each fuel transaction;
 - (3) Records related to obtaining a carbon intensity described per section 201 of this part;
 - (4) Records used for each credit transaction;
 - (5) Records used for compliance or credit calculations;
 - (6) Copies of all data and reports submitted to the department;
 - (7) Records used to establish feedstocks;
 - (8) Records related to third-party verification, if required per section 508 of this part;
 - (9) Records related to fuel supplied from an FSE;
 - (10) Chain of custody evidence for produced fuel imported into New Mexico; and
 - (11) For records related to book-and-claim transactions:
 - (a) Retired renewable thermal certificates or renewable energy certificates that embody the full environmental attributes of that fuel in an electronic tracking system approved by the department to claim that fuel.
 - (b) Attestations for holders of fuel pathways that use book-and-claim accounting from their fuel suppliers demonstrating that the holders have the exclusive right to use associated environmental attributes.
 - (c) Attestations that the environmental attributes have not been used or claimed in any other program or jurisdictions except for the federal RFS.
 - (d) Documentation of claims made under the federal RFS for the same use and quantity of biomethane or its derivatives as it is being claimed for in the New Mexico CTFP.
 - (12) For transactions of clear and blended gasoline and diesel below the rack where the fuel is not destined for export, only the records described in sub-sections A.(1), (2), (3), (6), and (7) are required to be retained.
- C. Production of records. All data, records, and calculations used by a regulated party to comply with this part are subject to inspection and verification by the department. Regulated parties shall provide records retained under this rule within 30 calendar days after the date the department requests a review of the records unless the department specifies otherwise.
- D. Initial fuel inventory. All regulated fuels held in bulk storage in the state on the effective date, are subject to the CTFP and quantities shall be reported to the department as the initial inventory of fuels by regulated parties.
- E. Information exempt from disclosure. Pursuant to the provisions of the Inspection of Public Records Act, all information submitted to the department is subject to inspection upon request by any person unless such information is determined to be exempt from disclosure under the Inspection of Public Records Act or other applicable New Mexico law.
- F. Monitoring plan for entities and fuel producers who are required to obtain third-party verification services under section 508. Each entity responsible for obtaining third-party verification of their data shall complete and retain a written Monitoring Plan for review by a verifier or the department. If a fuel production facility is required to complete and maintain a monitoring plan by the other state's similar programs, the same monitoring plan may be used to meet the requirements of this rule unless there are substantive differences between the programs' treatment of the fuel production process. A monitoring plan shall include the following, as applicable:
- (1) General information requirements for all monitoring plans to include:
 - (a) Information to allow the department and the verification team to develop a general understanding of boundaries and operations relevant to the entity, facility, or project, including participation in other markets and other third-party audit programs;
 - (b) Reference to management policies or practices applicable to reporting pursuant to this section, including recordkeeping;

- (c) Explanation of the processes and methods used to collect necessary data for reporting pursuant to this regulation.
 - (d) Explanations and queries of source data to compile summary reports of intermediate and final data necessary for reporting pursuant to this section;
 - (e) Reference to one or more simplified block diagrams that provide a clear visual representation of the relative locations and positions of measurement devices and sampling locations, as applicable, required for calculating reported data (e.g., temperature, total pressure, LHV or HHV, fuel consumption); the diagram(s) shall include storage tanks for raw material, intermediate products, and finished products, fuel sources, combustion units, and production processes, as applicable;
 - (f) Clear identification of all measurement devices supplying data necessary for reporting pursuant to this regulation including identification of low flow cutoffs as applicable, with descriptions of how data from measurement devices are incorporated into the submitted report;
 - (g) Descriptions of measurement devices used to report data within the CTFP-DMS and how acceptable accuracy is demonstrated, e.g., installation, maintenance, and calibration method and frequency for internal meters and financial transaction meters; this provision does not apply to data reported in the CTFP-DMS for generating credits for EV charging;
 - (h) Description of the procedures and methods that are used for quality assurance, maintenance, and repair of all continuous monitoring systems, flow meters, and other instrumentation used to provide data within the CTFP-DMS.
 - (i) Original equipment manufacturer (OEM) documentation or other documentation that identifies instrument accuracy and required maintenance and calibration requirements for all measurement devices used to collect necessary data for reporting pursuant to this section;
 - (j) The dates of measurement device calibration or inspection, and the dates of the next required calibration or inspection;
 - (k) Written requests for postponement of calibrations or inspections of internal meters and subsequent approvals by the department. The entity shall demonstrate that the accuracy of the measured data shall be maintained pursuant to the measurement accuracy requirements for third-party verification under Section 508.20.2.92.107 NMAC;
 - (l) A listing of the equation(s) used to calculate flows in mass, quantity, or energy units of measurement, and equations from which any non-measured parameters are obtained, including meter software, and a description of the calculation of weighted average transport distance;
 - (m) Identification of job titles and training practices for key personnel involved in data acquisition, monitoring, reporting, and report attestation, under this regulation, including reference to documented training procedures and training materials;
 - (n) Records of corrective and subsequent preventative actions taken to address verifier and the department findings of past nonconformance and material misstatements;
 - (o) Log of modifications to a fuel pathway report conducted after attestation in response to review by third-party verifier or the department staff;
 - (p) Written description of an internal audit program that includes data report review and documents ongoing efforts to improve the entity's CTFP reporting practices and procedures, if such an internal audit program exists; and
 - (q) Methodology used to allocate the produced fuel quantity to each fuel pathway code.
- (2) Any monitoring plan related to a fuel pathway carbon intensity or reporting quantities of fuels shall also include the following elements specific to fuel pathway carbon intensity calculations and produced quantities of fuels per fuel pathway code:
- (a) Explanation of the processes and methods used to collect necessary data for fuel pathway application and annual fuel pathway reports and all site-specific NM-GREET inputs, as well as references to source data;
 - (b) Description of steps taken and calculations made to aggregate data into reporting categories, for example aggregation of quarterly fuel transactions per fuel pathway code;

- (c) Methodology for assigning fuel quantities by fuel pathway code, if not using a method prescribed by the department. If using a department prescribed methodology, the methodology should be referenced;
 - (d) Methodologies for testing conformance to specifications for feedstocks and produced fuels, particularly describing physical testing standards and processes;
 - (e) Description of procedures taken to ensure measurement devices are performing per the measurement accuracy requirements for third-party verification under Section 508. 20.2.92.107 NMAC;
 - (f) Methodology for monitoring and calculating weighted average feedstock transport distance and modes, including the specific documentation records that shall be collected and retained on an ongoing basis;
 - (g) Methodology for monitoring and calculating fuel transport distance and modes, including the specific documentation records that shall be collected and retained on an ongoing basis;
 - (h) References to contracts and accounting records that confirm fuel quantities were delivered into New Mexico for transportation use in carbon intensity determination, and confirm feedstock and finished fuel transportation distance; and
- (3) The monitoring plan shall also include documentation that can be used to justify transaction types reported for fuel in the CTFP-DMS, including the production amount, sale/purchase agreements and final fuel dispensing records. Such documentation shall be specific to quarterly fuel transactions reports for importers of blendstocks, importers of finished fuels, New Mexico producers, credit generators, aggregators, and out-of-state producers.

[20.2.92.506 NMAC - N, X/X/2025]

20.2.92.507 DEMONSTRATING COMPLIANCE:

- A. Demonstrating compliance. Each regulated party shall meet its compliance obligation for the compliance period by:
 - (1) Complying with the clean fuel standard for gasoline and gasoline substitutes in Table 1 of section 701 of this part; or diesel and diesel substitutes in Table 2 of section 701 of this part, and
 - (2) Demonstrating through submission of its compliance period report that it possessed and has retired credits from its CTFP-DMS account that is equal to its compliance obligation calculated under subsection B.
- B. Calculation of compliance obligation. The department calculates the registered parties' compliance obligation as the sum of the deficits generated in the compliance period plus deficits carried over from prior compliance periods.
- C. Calculation of credit balance. The department calculates the registered parties' credit balance as the sum of credits generated, credits acquired and credits carried over minus the sum of credits retired, credits sold and credits on hold.
- D. Terms for compliance obligations and credit balance calculations. for the purpose of subsections (A) and (B) of this section:
 - (1) Deficits generated are the total deficits generated by the registered party for the current compliance period;
 - (2) Deficits carried over are the total deficits carried over by the registered party from the previous compliance period;
 - (3) Credits generated are the total credits generated by the registered party in the current compliance period;
 - (4) Credits acquired are the total credits acquired by the registered party in the current compliance period from other registered parties, including carryback credits;
 - (5) Credits carried over are the total credits carried over by the registered party from the previous compliance period;
 - (6) Credits retired are the total credits retired by the registered party within the New Mexico CTFS online system for the current compliance period;
 - (7) Credits sold are the total credits sold by, or otherwise transferred from, the registered party in the current compliance period to other registered parties; and
 - (8) Credits on hold are the total credits placed on hold due to enforcement or an administrative action. While on hold, these credits cannot be used for meeting the registered party's compliance obligation.

- E. Small deficits. At the end of a compliance period, a regulated party that has a net deficit balance may carry forward a small deficit to the next compliance period without penalty. A small deficit exists if the amount of credits the regulated party needs to meet its compliance obligation is 5 percent or less than the total amount of deficits the regulated party generated for the compliance period.
- F. Non-small deficits. Regulated parties who do not demonstrate compliance under subsection B and whose deficit is not small as defined in subsection E may demonstrate compliance through participation in the Credit Clearance Market under subsection L of this section.
- G. Extended credit acquisition period. A regulated party may acquire carryback credits between January 1st and March 31st to be used for meeting its compliance obligation for the prior compliance period. A regulated party shall complete all carryback credit transfers in the CTFP-DMS before submitting their compliance period report for them to be valid for meeting the compliance obligation for that compliance period.
- H. Mandatory retirement of credits. When filing the compliance period report, a regulated party that possesses credits shall retire a sufficient number of credits such that:
 - (1) Enough credits are retired to completely meet the regulated party's compliance obligation for that compliance period, or
 - (2) If the total number of the regulated party's credits is less than the total number of the regulated party's deficits, the registered party shall retire all of its credits.
- I. Credit retirement hierarchy. The CTFP-DMS shall retire credits to meet a compliance obligation in the order they were generated.
- J. Credit transfers. Registered parties shall use the CTFP-DMS to transfer credits.
- K. Credit transfer hierarchy. The CTFP-DMS shall transfer credits in the order that they were generated.
- L. Credit clearance market.
 - (1) If a registered party did not retire sufficient credits to meet its compliance obligation under subsection H of this section, exclusive of any small deficits carried forward to the next compliance period under subsection E, it shall enter and purchase its pro-rata share of credits in the credit clearance market under paragraph (4) of this subsection.
 - (a) The credit clearance market is separate from the normal year-round market opportunities for parties to engage in credit transactions.
 - (b) The department shall consider a registered party in compliance with this section if it acquires its pro-rata obligation in the credit clearance market and retires that number of credits within 30 calendar days of the end of the credit clearance market.
 - (2) The maximum price for the credit clearance market shall be:
 - (a) Two hundred and seventy U.S. dollars per credit adjusted for inflation at the end of each January using the inflation rate as provided by the last twelve months of data from the US Bureau of Labor Statistics West Region Consumer Price Index for All Urban Consumers for All Items. The maximum price is equal to the previous year's maximum price multiplied by the ratio of the current year's CPI-U West divided by the CPI-U West for the previous year.
 - (b) The department shall publish the result of the calculation on its website each year and provide a written notification to all CTFP registrants.
 - (3) If the department decides to hold the CCM, the department shall publish the CCM information on its website and provide a written notification to all CTFP registrants by May 15 or the first business day thereafter if May 15 falls on a weekend or holiday.
 - (4) The credit clearance market shall operate from June 1 to July 31.
 - (a) Registered parties subject to paragraph (1) of this subsection shall acquire their pro-rata share of the credits in the credit clearance market calculated in subparagraph (a) of paragraph (6) of this subsection.
 - (b) A registered party may only use credits acquired in the credit clearance market to retire them against its unmet compliance obligation from the prior year.
 - (c) To qualify for compliance through the credit clearance market, the regulated party in question shall have:
 - (i) Retired all credits in its possession; and
 - (ii) Have an unmet compliance obligation for the prior year that has been reported to the department through submission of its compliance period report in the CTFP-DMS.
 - (5) Selling credits in the clearance market.

- (a) The department may issue a call on the first Monday in April each year to all eligible registered parties in the CTFP-DMS to pledge credits into the credit clearance market. Registered parties are eligible to sell credits in the clearance market if they shall have excess credits upon the submission of their compliance period report. Parties wanting to pledge credits into the credit clearance market shall notify the department by April 30. The department shall announce if a credit clearance market shall occur by May 15.
- (b) To participate in the credit clearance market, sellers shall:
 - (i) Agree that they shall sell their credits for no higher than the maximum price as published by the department for that year;
 - (ii) Agree to withhold any pledged credits from sale in any transaction outside of the credit clearance market until the end of the credit clearance market on July 31, or if no credit clearance market is held in a given year, then on the date which the department announces it shall not be held;
 - (iii) Not reject an offer to purchase the credits at the maximum price for that year as published by the department, unless the seller has already sold or agreed to sell those pledged credits to another regulated party participating in the credit clearance market; and
 - (iv) Agree to replace any credits that the seller pledges into the credit clearance market if those credits are later found to be invalid by the department due to fraud or non-compliance by the generator of the credit, unless the buyer of the credits was a party to that fraud or non-compliance.
- (6) Operation of the credit clearance market. Before June 1, the department shall inform each registered party that failed to meet its annual compliance obligation under section K of its pro-rata share of the credits pledged into the credit clearance market.
 - (a) Each registered party's pro-rata share of the credits pledged into the credit clearance market shall be calculated by the following formula: A registered party's pro-rata share equals (registered party's total deficit / all registered parties' total deficits) multiplied by (the lesser of [pledged credits] or [all registered parties' total deficits]); where:
 - (i) "Total deficit" refers to the registered party's total obligation for the prior compliance year that has not been met under section K;
 - (ii) "All parties' total deficit" refers to the sum of all of the unmet compliance obligations for registered parties in the credit clearance market; and
 - (iii) "Pledged credits" refers to the sum of all credits pledged for sale into the credit clearance market.
 - (b) On or before June 1, the department shall publish the name of each registered party that is participating in the credit clearance market as a buyer and seller and the number of credits they have pledged into the market.
 - (c) Following the close of the credit clearance market, each registered party that was required to purchase credits in the credit clearance market shall submit an amended compliance period report in the CTFP-DMS by August 31 which shows the acquisition and retirement of its pro-rata share of credits in the credit clearance market and any remaining unmet deficits.
- (7) If a registered party has unmet deficits upon the submission of the amended compliance period report, the department shall increase the registered party's number of unmet deficits by five percent and the total unmet deficits shall be carried over into the next compliance period for that registered party.
- (8) If the same registered party has been required to participate in two consecutive credit clearance markets and carries over deficits under section 6 in both markets, the department may conduct a root cause analysis into the inability of that registered party to retire the remaining deficits.
 - (a) If multiple registered parties are subject to this section in a single year, the department may produce a single root cause analysis for those registered parties if it determines the same general set of causes contributed to those parties' inability to retire those deficits. The department may also analyse whether there were specific circumstances for the individual registered parties.
 - (b) Based on the results of the root cause analysis, the department may develop, implement and enforce a remedy that addresses the root cause or causes. The remedy cannot:

- (i) Require a registered party to purchase credits for an amount that exceeds the maximum price for credits in the most recent credit clearance market; or
- (ii) Compel a registered party to sell credits.

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20.2.92.508 THIRD-PARTY VERIFICATION

A. Third-party verification terms. The following terms are applicable to the third-party verification requirements in this section:

- (1) “Adverse verification statement” means a statement rendered by a verification body attesting that:
 - (a) It cannot say with reasonable assurance the submitted report or fuel pathway application is free of a material misstatement under this part;
 - (b) The submitted report or fuel pathway application contains correctable errors and thus is not in conformance with the requirements to fix such error under this part; or
 - (c) Both subparagraphs (a) and (b) of this paragraph apply.
- (2) “Conflict of interest” means a situation in which, because of financial or other activities or relationships with other persons, a verification body is unable or potentially unable to provide an impartial verification statement of a potential client’s report or fuel pathway application, or the verification body’s objectivity in providing verification services is or might be otherwise compromised.
- (3) “Correctable errors” means errors identified by the verification team that affect data in a submitted report or fuel pathway application, which result from a nonconformance with this part, as applicable. Differences that, in the professional judgment of the verification team, are the result of differing but reasonable methods of truncation or rounding or averaging, where a specific procedure is not prescribed by this part, are not considered correctable errors and therefore do not require correction.
- (4) “Difference in CI” means the absolute value result of the reported operational CI minus the verifier’s calculation of CI for material misstatement of carbon intensity assessments for a fuel pathway application or compliance period report. The verifier’s calculation of CI is based on site-specific data inputs modified to include discrepancies, omissions, and misreporting found during verification services.
- (5) “Full verification” means all verification services as required under this part.
- (6) “Independent reviewer” means a lead verifier within a verification body that has not participated in providing verification services for a regulated party for the current reporting period and provides an independent review of verification services provided to the regulated party.
- (7) “Less intensive verification” means the verification services provided in interim years between full verifications for fuels other than electricity; less intensive verification does not require a site visit, and only requires data checks and document reviews of a submitted report based on the analysis and risk assessment in the most current sampling plan developed as part of the most current full verification services. This level of verification may only be used if the verifier can provide findings with a reasonable level of assurance.
- (8) “Member” means any employee or subcontractor of the verification body or related entities of the verification body and includes any individual with a majority equity share in the verification body or its related entities.
- (9) “Material misstatement” means any discrepancy, omission, misreporting, or aggregation of the three, identified during verification services that lead a verification team to believe that reported data or a submitted report or fuel pathway application contains one or more errors, as described in subsection O of this section.
- (10) “Performance review” means an assessment conducted by the department of an applicant seeking to become accredited or reaccredited as a verification body or lead verifier pursuant to paragraph (8) of subsection T of this section. Such an assessment may include a review of applicable past sampling plans, verification reports, verification statements, conflict of interest submittals, and additional information or documentation regarding the applicant’s fitness for qualification.
- (11) “Positive verification statement” means a verification statement from a verification body attesting that it can say with reasonable assurance that the submitted report or fuel pathway application is free of material misstatement and that it conforms to the requirements of this part.

- (12) “Quarterly review” means a review process conducted by the verification team after quarterly data is submitted per section 504 of this part and before the compliance period report data is submitted and verified per section 505 of this part.
- (13) “Reasonable assurance” means a high degree of confidence in the accuracy and truth of a conclusion.
- (14) “Recertification” of a pathway or a “recertified pathway” means a pathway certified by other states’ similar programs and submitted to the department with all necessary inputs to the NM-GREET calculator and that is identical to the pathway approved by those states as described in subsection A of section 204 of this part except for the fuel transportation mode and distance.
- (15) “Sector-specific verifier” means a person who has met the requirements to perform such a role and has been approved by the department under subsection T of this section to act as a sector-specific verifier in providing verification services as described by this part.
- (16) “Subcontractor” means an individual or business firm contracting to perform part or all of another’s contract.
- (17) “Verification body” means a business entity that has met the requirements under subsection T of this section and has been approved by the department to provide verification services and produce verification statements.
- (18) “Verification services” means services provided during full verification or less intensive verification, including but not limited to reviewing a report or fuel pathway application submitted by a regulated party, assessing compliance with department regulations, ensuring accuracy according to the standards specified by the department, and submitting a verification statement(s) to the department.
- (19) “Verification statement” means the final statement produced by a verification body attesting whether a report o
- (20) fuel pathway application submitted by a regulated party is free of or contains material misstatement and whether it does or does not conform to the applicable requirements.
- (21) “Verification team” means all persons working for a verification body, including all subcontractors, to provide verification services.
- (22) “Verifier” means an individual person that has met the requirements and been approved by the department under subsection T of this section to provide verification services as described in this part.

B. General requirements for verification of reports and fuel pathway applications.

- (1) The annual third-party verification requirements set forth in this part apply beginning in 2027, using operational data from compliance period 2026 for fuel transactions data and operational data from compliance periods 2025 and 2026 for fuel pathway reports. Quarterly review conducted as part of annual verification services that meet the requirements of this part may begin in calendar year 2027 for reports with data for the compliance period 2026.
- (2) Regulated parties must:
 - (a) Engage the services of a third-party verification body or third-party verifier to perform verification under this part and
 - (b) Do the following before verification services begin:
 - (i) Conduct a conflict of interest evaluation in coordination with the verification body per subsection U of this section.
 - (ii) Ensure both a complete and accurate conflict of interest evaluation is submitted to the department, and receive department approval in writing to proceed with verification services per subsection U of this section;
 - (iii) Submit to the department the report that is to be verified and attest that the data and information submitted to in the report is true, accurate, and complete;
 - (iv) Ensure that a verification statement is submitted to the department from the verification body for each report identified under subsection C of this section by the deadline specified under paragraph (3) of this subsection; and
 - (v) Ensure the requirements of this part are met, including ensuring that verification services are provided in compliance with the requirements of this section and that a potential for a conflict of interest is evaluated, monitored, and mitigated according to subsection U of this section.
- (3) Verification deadlines.

- (a) Each regulated party must ensure that the department receives a positive, qualified positive, or adverse verification statement from a verification body on or before September 15 of the year a report is submitted for any CTFP report as applicable under this section.
- (b) The department may extend verification deadlines in subparagraph (a) of this paragraph and shall publish the extension to the department's website and provide a written notification of the extension to all CTFP registrants.
- (4) Requirements for full or less intensive verification for certain regulated parties.
 - (a) Full verification must be provided for all verification services required under this part, unless less intensive verification is permitted under subparagraph (b) of this paragraph.
 - (b) Responsible parties required to engage the services of a verification body to perform annual verification of CTFP quarterly reports under subsection E of this section may engage the services of a verification body to provide less intensive verification in place of full verification, for up to two years out of every three year period, if:
 - (i) There has not been a change in the verification body;
 - (ii) A positive verification statement was issued for the previous year;
 - (iii) No electricity-based transaction types are covered in the report or reports requiring verification; and
 - (iv) No change of operational control of the regulated party occurred in the previous year.
 - (c) In lieu of a less intensive verification, a verification body may choose to provide full verification if it is deemed necessary to attain reasonable assurance. Discretion, based on the professional judgment of the verification body, may account for, but is not limited to, instances where the regulated party has made changes in sources, significant changes in emissions, significant changes in data management systems occurred compared to the previous year, or any combination therein.
 - (i) The verification body must provide reasons why it opted for full verification to the regulated party and to the department.
 - (ii) The verification body must provide justification in the verification report if it did not opt for full verification in instances where the total reported emissions differ by greater than 25 percent relative to the previous year's emissions.
- (5) Verification body and verifier rotation requirements.
 - (a) A regulated party must not use the same verification body or verifier to perform verification for a period of more than six consecutive years. The six-year period begins on the execution date of the regulated party's first contract for any verification under this part and ends on the date the final verification statement is submitted. The six-year limit does not reset upon a change in ownership or operational control of the regulated party required to contract for verification services.
 - (b) A regulated party must wait at least three years before re-engaging the previous verification body or verifier to perform verification.
 - (c) If a regulated party is required to select a new verification body to verify a report or fuel pathway application that has been set aside according to paragraph (2) of subsection R of this section, the regulated party may continue to contract for verification services with its current verification body, subject to the six-year time limit, unless the verification body's approval to provide those services has been modified, suspended or revoked by the department under paragraph (10) of subsection T of this section.
- C. Requirements for verification of CTFP reports and fuel pathway applications.
 - (1) The following regulated parties must meet the requirements of this section and engage the services of a verification body for the purposes of fuel pathway carbon intensity verification, including required site visits, for each fuel pathway application submitted under this part, except as otherwise provided under paragraph (2) of this subsection:
 - (a) Fuel pathway applicants supplying site-specific CI data for fuel pathway applications that meet the requirements of this part; or

- (b) Specified source feedstock suppliers and other persons with site-specific CI data that apply for separate department recognition as a joint applicant and elect to be responsible for separate verifications.
- (2) The following verification schedule shall apply:
 - (a) Fuel pathway applicants submitting fuel pathway applications to the department that have been validated according to the requirements of this section must submit the verification statement at the same time the pathway application is submitted according to sections 201 through 207 of this part.
 - (b) Fuel pathway applications submitted to the department that have been validated under other states' similar programs must include the following:
 - (i) Documents generated during the verification for the fuel pathway application submitted to other states' similar programs, including a positive or qualified verification statement, and other fuel pathway application documents as required under subsection B. of section 204 of this part.
 - (ii) The annual fuel pathway report and verification statement of the annual fuel pathway report, if they were submitted under other states' similar programs after the latest verification statement.
 - (c) Fuel pathway applications submitted to the department that include an adverse verification statement under other states' similar programs shall not be considered by the department.
- D. Annual verification of CTFP annual fuel pathway reports.
 - (1) The following regulated parties must meet the requirements of this part and engage the services of a verification body for the purposes of annual verification, including required site visits, for each annual fuel pathway report submitted under this part, except as otherwise provided under paragraph (2) of this subsection:
 - (a) Holders of certified fuel pathways that supplied site-specific CI data for pathway certification and are required to update site-specific CI data on an annual basis; and
 - (b) Specified source feedstock suppliers and other persons with site-specific CI data that apply for separate department recognition as a joint applicant and elect to be responsible for separate verification.
 - (2) Regulated parties that are subject to paragraph (1) of this subsection must ensure a fuel pathway verification statement for each fuel pathway report is submitted to the department according to subsection B of this section.
 - (a) Verification statements are due to the department by September 15 of the year the annual fuel pathway report is submitted, beginning in 2027 for 2026 data, unless eligible to defer verification, as specified in subparagraph (b) of this paragraph.
 - (b) Fuel pathway holders producing alternative fuels may defer verification of their annual fuel pathway reports for each production facility up to two years if the quantity of fuel produced at the production facility and reported does not result in 6,000 or more credits and deficits or credits or deficits generated in CFTP-DMS during the prior calendar year and does not include a fuel pathway with gaseous or liquid fuels supplied using book-and-claim accounting pursuant to subsection D of section 201 of this part. Fuel pathway holders classified as joint applicants are not eligible to defer verification. The verification body must submit fuel pathway verification statements to the department for all prior unverified reports on or before September 15 of the year verification is required or conducted for the production facility.
 - (c) Quarterly review of operational CI data is optional and may only be included as part of annual verification services if the fuel pathway holder reports quarterly data to the department. Quarterly review may only be conducted after the fuel pathway holder submits the report and attests that the statements and information submitted are true, accurate, and complete. Quarterly review does not replace the requirements for the verification team to consider all quarterly data submitted during annual verification. Quarterly review must meet the requirements for verification under this part, but a verification statement and verification report are not submitted after quarterly reporting.
 - (d) A regulated party that must meet the requirements of this part for the purposes of annual verification for any fuel production facility that is also subject to annual or deferred verification under other states' similar programs must submit its

verification statement to the department within ten calendar days of its comparable submittal to other states' similar programs. If the regulated party received an adverse verification statement, it must also submit the log of issues as specified in subsection N of this section. at the same time it submits the verification statement to the department.

- (e) For regulated parties that operate facilities with one or more New Mexico fuel pathway codes that are a recertification of other states' fuel pathway codes, the verification statement submitted to those similar programs must be submitted to the department according to the verification deadline specified under subsection B of this section.
- (f) For regulated parties that operate facilities with one or more fuel pathway codes that are not a recertification of other states' fuel pathway codes, but have active fuel pathway codes in those similar programs, the fuel pathway holder must ensure that when verification services are provided, the inputs and annual operational carbon intensity are confirmed under NM-GREET as required under paragraph (2) of subsection O of this section and that a fuel pathway verification statement for each annual fuel pathway report is submitted to the department according to subsection B of this section.
- (g) If a fuel pathway holder is eligible for deferred verification under other state's similar programs, the fuel pathway holder must notify the department before April 30 of each year. If fuel from the facility results in 6,000 or more total credits and deficits or credits or deficits in New Mexico, then the fuel pathway holder must engage the services of a verification body to perform verification and ensure a fuel pathway verification statement for each annual fuel pathway report is submitted to the department according to subsection B .of this section.

E. Annual verification of CTFP quarterly reports.

- (1) The following regulated parties must meet the requirements of this section and engage the services of a verification body for the purposes of annual verification under this part, including required site visits, for CTFP quarterly reports submitted under section 504 of this part, except as otherwise provided under paragraph (2) of this subsection:
 - (a) Regulated parties subject to subsection B. of this section shall ensure the scope of verification services is limited to the transaction types under subparagraph (b) of this paragraph, including associated corrections submitted into CTFP quarterly and compliance period reports.
 - (b) Except as provided in paragraph (2), reporters of volumes for any of the following transaction types must engage the services of a verification body to perform verification for the following transaction types:
 - (i) All liquid fuels, including production in New Mexico; production for import; all import transactions; exports, or position holder sales for export if that transaction is used with the business partner; gain of inventory; loss of inventory; not used for transportation; and transactions used to claim exempt fuel uses under section 102 of this part.
 - (ii) Natural gas vehicle fueling;
 - (iii) Propane fueling;
 - (iv) For the following hydrogen-based transaction types: forklift hydrogen fueling and fuel cell electric vehicle fueling.
 - (v) Fuel cell electric vehicle fueling for hydrogen that is produced using book-and-claim accounting pursuant to subparagraph (c) of paragraph (1) of subsection B. of section 201 of this part or from gaseous or liquid fuel feedstocks that use book-and-claim accounting pursuant to subparagraph (c) of paragraph (1) of subsection B of section 201 of this part.
 - (vi) For the following electricity-based transaction types: eCHE fueling; eGSE fueling; eTRU fueling; EV charging, except for non-metered residential EV charging as specified under subsection E of section 504 of this part; fixed guideway electricity fueling; and forklift electricity fueling.
- (2) Regulated parties subject to paragraph (1) of this subsection required to engage the services of a verification body to perform annual verification of CTFP quarterly reports must ensure a transactions data verification statement is submitted to the department according to subsection B. of this section.

- (a) The regulated party must ensure a transactions verification statement is submitted annually by September 15 to the department for the prior calendar year of data unless specified otherwise in subparagraphs (b) or (c) of this paragraph. Quarterly review of a quarterly fuel transactions report may only be included as part of annual verification services after the regulated party submits the report and attests that the statements and information submitted are true, accurate, and complete.
- (b) Fuel reporting entities may defer annual verification of their quarterly fuel transactions reports up to two years if they do not generate 6,000 or more credits and deficits or credits or deficits in the CTFP-DMS during the prior compliance period. Any fuel quantity reported under a pathway with gaseous or liquid fuels supplied using book-and-claim accounting pursuant to subparagraph (c) of paragraph (1) of subsection B of section 201 of this part, is not eligible for deferred verification. The verification body must annually submit transactions verification statements to the department for all prior unverified reports on or before September 15 of the year verification is required or conducted for the reporting entity.
- (c) Regulated parties reporting fuel transactions as export, gain of inventory, loss of inventory, and not used for transportation, which do not result in 6,000 or more credits and deficits or credits or deficits generated in the CTFP-DMS in a compliance period, are exempt from verification of the quarterly fuel transactions reports for that compliance period if all the following conditions are met:
 - (i) The regulated party did not report any liquid fuel using the transaction types: production in New Mexico, production for import, or import; and
 - (ii) The regulated party did not report any transactions specified in items (ii) through (vi) of subparagraph (b) of paragraph (1) of this section.
- (3) Quarterly review of a CTFP quarterly report is optional and does not replace the requirements for the verification team to consider all quarterly data submitted during annual verification. Quarterly review must meet the requirements of this part, but a verification statement and verification report are not submitted after quarterly review.

F. Written notification of verification services.

- (1) Before a verification body commences any verification services for a regulated party, the regulated party must ensure the verification body submits a written notification of verification services to the department that meets the requirements of subsections B through E of this section. The written notification must be submitted to the department after the department has provided a determination that the potential for a conflict of interest is acceptable, as specified in subsection U of this section, and that verification services may proceed.
 - (a) If the conflict of interest evaluation submitted by the regulated party and the written notification of verification services submitted by the verification body are submitted at the same time, verification services may not begin until the department has determined the potential for conflict of interest is acceptable in writing.
 - (b) Except as provided in subparagraph (a) of this paragraph, the verification body may begin verification services for the regulated party after the written notification of verification services is received by the department. However, the verification body must allow a minimum of 14 calendar days advance written notification of a site visit unless an earlier date is approved by the department. The site visit may not take place prior to the applicable deadline for the reporting type to be verified, except under the conditions listed in subparagraph (a) of paragraph (2) of subsection I of this section.
- (2) The written notification of verification must include all of the following information:
 - (a) List of the staff designated to provide verification services as a verification team, including the names of each individual, the lead verifier, and all subcontractors, and a description of the roles and responsibilities each member shall have during verification. The independent reviewer must also be listed separately. The list must include any verifiers in training who shall participate on the verification team.
 - (b) Documentation that the verification team has the skills required to provide verification services for the regulated party and the type of report or fuel pathway application requiring verification. The written notification must include a

demonstration that the verification team includes at least one individual approved by the department as a sector-specific verifier that is not also the independent reviewer, but may be the lead verifier, as required under the following conditions:

- (i) Specified competency as evidenced by experience in alternative fuel production technology and process engineering when providing verification services for fuel pathway applications or verification services for fuel pathway reports; and
 - (ii) Specified competency as evidenced by accreditation in other states' similar programs as an oil and gas systems specialist pursuant to mandatory reporting requirements in such programs when providing verification services for quarterly fuel transaction reports submitted by producers, importers, or distributors of gasoline or diesel.
- (c) General information about the regulated party, including the following:
- (i) Name and list of facilities and other locations that shall be subject to verification, and contact, address, telephone number, and e-mail address for each facility;
 - (ii) The CTFP company and facility IDs for the regulated party, as required under section 501 of this part;
 - (iii) The date or dates of the site visit, if full verification is required under paragraph (4) of subsection B of this section, with physical address and contact information; and
 - (iv) A brief description of expected verification services to be provided, including expected completion date and whether quarterly review is planned in the context of an annual verification requirement.
- (3) The regulated party must ensure the verification body submits an updated written notification of verification services to the department immediately if any of the information provided under this subsection changes after the written notification of verification services is submitted to the department. When an updated written notification of verification services is submitted to the department the conflict of interest must be reevaluated, and information must be resubmitted under the provisions of subsection U of this section. Verification services must be suspended until the department approves the resubmitted conflict of interest evaluation information in writing.
- G. Scoping of verification services.
- (1) Before beginning work on a verification, the regulated party and the verification team must discuss the activities and scope of the verification services, and the regulated party must provide information and documents requested by the verification team to conduct the verification services.
 - (2) The verification team must review original documents and supporting data provided to them by the regulated party.
 - (3) Before conducting any site visits, the verification team must create a verification plan that meets the requirements of subsection H of this section and a draft sampling plan that meets the requirements of subsection J of this section.
- H. Verification plan.
- (1) The verification team must develop a verification plan that meets the requirements under subsections B through U of this section.
 - (2) All verification plans must contain information on the timing of verification services, including:
 - (a) Details of proposed meetings and interviews with personnel of the regulated party;
 - (b) Dates of proposed site visits;
 - (c) Types of proposed documents and data reviews;
 - (d) If applicable, how quarterly review is planned in the context of an annual verification requirement; and
 - (e) The expected date for completing verification services.
 - (3) The verification plan must be based on the information provided by the regulated party to the verification team, which must include all the following:
 - (a) Information to allow the verification team to develop an understanding of facility or entity boundaries, operations, accounting practices;
 - (b) Type of CTFP reports for which the regulated party is responsible;
 - (c) CTFP regulatory sections to which the entity is subject;

- (d) Other states' similar programs or the federal RFS in which the regulated party participates, and other mandatory or voluntary auditing programs to which the regulated party is subject, as applicable;
- (e) Information regarding the training or qualifications of personnel involved in developing the reports or fuel pathway applications;
- (f) Description of the specific methodologies used to quantify and report data, as required in this part, which are needed to develop the verification plan, including calibration procedures and logs for measurement devices capturing site-specific data;
- (g) Information about the data management systems and accounting procedures used to capture and track data for fuel pathway applications and each type of CTFP reports, as needed to develop the verification plan;
- (h) Information about the entities in the supply chain upstream and downstream of the fuel producer that contribute to site-specific CI data, including a list of feedstock suppliers and contact names with physical addresses;
- (i) Evidence demonstrating that any joint applicants are being separately verified;
- (j) Previous CTFP verification reports, as applicable, and other audit reports including reports from production or management system certifications and internal audits; and
- (k) For aggregators, information about the regulated parties for which the aggregator reports, including a list of regulated parties and the fuel types they report.

I. Site visits.

- (1) Verification services must include site visits that meet the requirements under this subsection and paragraph (4) of subsection B of this section.
- (2) Site visits must meet the following requirements:
 - (a) Site visits must occur after all data and CFTP reports for the previous compliance period have been attested to and submitted to the department, except that a site visit may be conducted as part of a quarterly review if:
 - (i) No aspects of the data management systems or accounting practices change following the site visit; and
 - (ii) There are no significant changes to the fuel production process or facility when the verification is for an annual fuel pathway report.
 - (b) At least one department-approved lead verifier on the verification team, including the sector-specific verifier, if applicable, must at a minimum make one site visit to each facility during each year full verification is required under subsection B of this section. If the regulated party keeps records supporting a report or fuel pathway application subject to verification under this part in a location that is different from the fuel production facility, then such verifiers must at a minimum make one site visit to the location where those records are stored;
 - (c) A separate site visit is required if a regulated party elects to engage the services of a verification body to provide verification services for a fuel pathway application; and
 - (d) For aggregators, the verifiers must make at least one site visit to the location where the aggregator's records are stored. Additional site visits to the entities using an aggregator are to be performed at the verifier's discretion and must follow the requirements for sampling outlined in subsection J of this section.
- (3) The following must be conducted during a site visit:
 - (a) Review supporting evidence used to develop CTFP reports listed in subsection C of this section submitted to the department;
 - (b) Review and understand the data management systems and accounting practices used by the responsible party to acquire, process, track, and report CTFP data and evaluate the uncertainty and effectiveness of these systems; and
 - (c) Carry out tasks that, in the professional judgment of the verification team, are needed in the verification process, including the following, at minimum:
 - (i) Conduct interviews with key personnel, such as process engineers, metering experts, accounting personnel, and project operators, as well as staff involved in compiling data and preparing the CTFP reports;
 - (ii) Make direct observations of production equipment, confirming diagrams for processes, piping, and instrumentation; measurement system equipment;

- and accounting systems for data types determined in the sampling plan to be high risk;
- (iii) Assess conformance with measurement device accuracy, data capture, temporary measurement method requirements, and the monitoring plan for consistency with the requirements of this part; and
 - (iv) Review financial transactions to confirm complete and accurate reporting.
- J. Sampling plan.
- (1) As part of validating fuel pathway applications and verifying CTFP reports the verification team must develop a sampling plan.
 - (2) The sampling plan must meet all the following requirements:
 - (a) Be developed based on a strategic analysis developed from document reviews and interviews to assess the likely nature, scale, and complexity of the verification services for a regulated party and type of report or fuel pathway application. The analysis must review the inputs for the development of the submitted reports and fuel pathway applications, the rigor and appropriateness of data management systems, and the coordination within the responsible party's organization to manage the operation and maintenance of equipment and systems used to develop submitted reports and fuel pathway applications;
 - (b) Include a ranking of individual data sources by relative contribution to the combined data type to be assessed for material misstatement and a ranking of data sources with the largest calculation uncertainty, including risk of incomplete reporting, based on type of report or fuel pathway application;
 - (c) Include a qualitative narrative of uncertainty risk assessment in the following areas:
 - (i) Data acquisition equipment;
 - (ii) Data sampling and frequency;
 - (iii) Data processing and tracking;
 - (iv) Tracking of fuel transportation into New Mexico to include modes of transportation and distances traveled, as applicable for CTFP fuel pathway applications or annual fuel pathway reports;
 - (v) CI calculations, as applicable;
 - (vi) Fuel pathway code allocation methodology, as applicable; and
 - (vii) Management policies or practices in developing CTFP reports.
 - (d) After the verification team completes the strategic analysis and risk assessment required by this subsection, the sampling plan must include a list with the information described in subparagraphs (a) through (c) of this paragraph. The sampling plan list must be updated and finalized before the completion of verification services. The final sampling plan must describe in detail how the identified risks were addressed during the verification. When quarterly reviews are conducted as part of annual verification services, the final sampling plan must describe in detail how the risks and issues identified for the annual data set were addressed during each quarterly review and final annual verification. Additionally, the sampling plan must include:
 - (i) Data sources that shall be targeted for document reviews, data checks as specified under subsection K. of this section, and an explanation of why they were chosen;
 - (ii) Methods used to conduct data checks for each data type; and
 - (iii) A summary of the information analyzed in the data checks and document reviews conducted for each data type.
 - (e) Specified source feedstocks included in CTFP fuel pathway applications and annual fuel pathway reports that require verification must be included in the scope of verification services. When verification is not required for a fuel pathway, specified source feedstocks must be included in the scope of verification of the CTFP quarterly reports. The verification team must use professional judgment and include in its risk assessment and sampling plan its analysis of the need for a review or site visit for verification of any entity in the feedstock chain of custody. This analysis must include an evaluation of the need to trace feedstock through feedstock suppliers, including aggregators, storage or pretreatment facilities, and traders or brokers, to the point of origin. If an error is detected during data checks of records maintained by the regulated party, the risk

assessment and sampling plan must be updated to assure specified source feedstock characterization and quantities to the point of origin.

- (f) Sampling plans for aggregators of credit generators must include the following:
 - (i) A ranking of credit generators by relative contribution to the data type to be assessed for material misstatement and a ranking of credit generators with the largest calculation uncertainty;
 - (ii) A qualitative narrative of uncertainty risk assessment for credit generators according to the requirements of subparagraph (c) of paragraph (2) of this subsection; and
 - (iii) An indication of whether the verification team intends to make a site visit to credit generators listed based on the risk assessments described in this subsection.
 - (g) The verification team must revise the sampling plan to describe tasks completed as information becomes available and potential issues emerge with material misstatement or nonconformance with this part.
 - (h) The verification body must retain the sampling plan and all material received, reviewed, or generated according to the recordkeeping requirements of section 506 of this part. The sampling plan shall be made available to the department, within 15 calendar days, upon request.
- K. Data checks.
- (1) Verification services must include data checks to determine the reliability of the submitted report in the fuel pathway applications and CTFP reports, as applicable. Data checks must focus on the most uncertain data and on data with the largest contributions to greenhouse gas emissions, including life cycle greenhouse gas emissions, and greenhouse gas emission reductions.
 - (2) The selection of data checks must meet all the following requirements:
 - (a) The verification team must use data checks to ensure that the appropriate methodologies and emission factors have been applied for the data submitted in applications and reports required in this part;
 - (b) The verification team must choose data checks to ensure the accuracy of the data submitted in applications and reports required in this part;
 - (c) The verification team must choose data checks based on the relative contribution to greenhouse gas emissions or reductions and the associated risks of contributing to material misstatement or nonconformance, as indicated in the sampling plan;
 - (d) The verification team must use professional judgment in establishing the extent of data checks for each data type, as indicated in the sampling plan, which are needed for the team to conclude with reasonable assurance whether the data type specified for the application or report is free of material misstatement.
 - (e) At a minimum, the data checks must include the following:
 - (i) Tracing data in the application or report to its origin;
 - (ii) Reviewing the procedure for data compilation and collection;
 - (iii) Recalculating intermediate and final data to check original calculations;
 - (iv) Reviewing calculation methodologies used by the regulated party for conformance with this part; and
 - (v) Reviewing meter and analytical instrumentation measurement accuracy and calibration for consistency with the requirements of this part.
 - (f) The verification team is responsible for determining via data checks whether there is reasonable assurance that the application or report conforms to the requirements of this part.
 - (g) The verification team must compare its own calculated results with the submitted data in order to confirm the extent and impact of any omissions or errors. Any discrepancies must be investigated. Data checks involving the comparison of reported results and results recalculated by third-party verification teams must also include:
 - (i) A narrative to indicate which data were checked;
 - (ii) The quantity of data evaluated for each data type;
 - (iii) The percentage of reported source data covered by data checks; and
 - (iv) Any separate discrepancies that were identified in the CTFP report or fuel pathway application.
- L. Documentation of differences and modifications to reports and fuel pathway applications.

- (1) While conducting verification services and data checks, the verification team must:
 - (a) Determine correctable errors using professional judgment, including whether differences are not errors but result from truncation, rounding, or averaging; and
 - (b) Document the source of any difference identified, including whether the difference results in a correctable error or whether the difference does not require further investigation because it is the result of truncation, rounding, or averaging.
 - (2) As a result of data checks conducted by the verification team and before completion of a verification statement or statements, the regulated party must fix all correctable errors that affect the data in the submitted report or fuel pathway application and submit a revised report or fuel pathway application to the department.
 - (a) Failure to fix all correctable errors identified before the completion of the verification services and submit a revised report or fuel pathway application to the department shall result in an adverse verification statement.
 - (b) Failure to fix misreported data that do not affect credit or deficit calculations in CTFP reports submitted under this part represents a nonconformance but does not, absent other errors, result in an adverse verification statement.
- M. Findings.
- (1) To verify that the application or report is free of material misstatements, the verification team shall make its own calculation of the specified data types reported by substituting the checked data from subsection K of this section.
 - (2) The verification team must determine whether there is reasonable assurance that the fuel pathway application or CTFP report does not contain a material misstatement calculated pursuant to paragraphs (2) and (3) of subsection O of this section. using the units required by the applicable sections of this part.
 - (3) To assess conformance with this part, the verification team must review the methods and factors used to develop the fuel pathway application or report for adherence to the requirements of this part and identify whether other requirements of this part are met.
- N. Log of issues.
- (1) The verification team must keep a log that documents any issues identified in the course of verification services that may affect determinations of material misstatement and nonconformance, whether identified by the verification team, the regulated party, or the department, regarding the original or subsequent application or report versions. The log of issues must:
 - (a) Identify the regulatory section related to the nonconformance or potential nonconformance, if applicable, and indicate if the issues were corrected by the regulated party required to contract for verification services prior to completing the verification services;
 - (b) Document any other concerns that the verification team has with the preparation of the application or report and communicate the concerns to the regulated party during the course of verification services; and
 - (c) Indicate whether each issue has a potential bearing on material misstatement, nonconformance, or both, and whether an adverse verification statement may result if not addressed.
 - (2) If quarterly review is conducted before an annual verification for CTFP reports, any issues identified that may affect determinations of material misstatement or nonconformance must be documented in the log of issues during the quarterly review. The log of issues for the annual verification must include the cumulative record of issues from all quarterly reviews, as well as the annual verification.
- O. Material misstatement assessments for fuel pathways and quarterly fuel transactions.
- (1) The verification team must conduct separate assessments of material misstatement on each calculated operational CI value and each quarterly fuel transaction quantity for each fuel pathway code, which shall be expressed in units from the applicable sections of this part. Material misstatement assessments are not conducted for quarterly review.
 - (2) Assessments of material misstatement of carbon intensity must meet the following requirements:
 - (a) A controlled version of the simplified CI calculator for Tier 1 pathways, a department-approved NM-GREET for Tier 2 pathways, or another substantially equivalent model approved by the department for the specific fuel pathway application under section 205 of this part, as applicable, must be populated to

- assess whether a fuel pathway application or report contains a material misstatement of carbon intensity.
- (b) Each fuel pathway CI is subject to data checks in subsection K of this section and must be assessed separately for material misstatement. The inputs and annual operational carbon intensity for fuel pathway codes that are not a recertification of other states' fuel pathway codes in similar programs but have an active fuel pathway code in other states must be assessed.
 - (c) One or more material misstatements results in a finding of material misstatement for the fuel pathway application or for the fuel pathway report.
 - (d) Material misstatement of carbon intensity includes any discrepancy as described in item (i) of this subparagraph, omission as described in item (ii) of this subparagraph, or misreporting as described in subparagraph (iii) of this item, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the reported operational CI in a CTFP fuel pathway application or report contains one or more errors that, individually or collectively, result in an overstatement or understatement more than five percent of the reported operational CI, or two gCO₂e/MJ, whichever absolute value expressed in gCO₂e/MJ is greater.
 - (i) Discrepancies include any differences between the reported site-specific CI inputs and the verifier's calculated site-specific CI inputs subject to data checks under subsection K. of this section.
 - (ii) Omissions include any site-specific CI inputs or associated source data the verifier concludes must be part of a fuel pathway application or report but were not included.
 - (iii) Misreporting includes duplicate, incomplete, or other CI input data the verifier concludes should or should not be part of a fuel pathway application or report.
 - (e) The department shall determine whether any reported operational CI value contains a material misstatement and must be included in the final verification report according to item (vii) in subparagraph (a) of in paragraph (3) of subsection Q by using the Difference in CI, Reported Operational CI, and Percent Error CI, where:
 - (i) The Difference in CI means the absolute value result of the reported operational CI minus the verifier's calculation of CI. The verifier's calculation of CI is based on site-specific data inputs modified to include discrepancies, omissions, and misreporting found during the course of verification services;
 - (ii) The Reported Operational CI Value means the absolute value of the operational CI submitted in the fuel pathway application or fuel pathway report;
 - (iii) The Percent Error CI is determined each quarter by dividing the Difference in CI by the Reported Operational CI for that quarter, and then multiplying this quotient by 100.
 - (iv) The Percent Error CI for any quarter may not exceed five percent.
 - (v) The Difference in CI for any quarter may not exceed 2.00 g CO₂e/MJ in absolute value terms.
- (3) Assessments of material misstatement of quarterly fuel quantity for each fuel pathway code must meet all the following requirements of this section:
- (a) Each aggregated quarterly fuel quantity for each fuel pathway code is subject to data checks under subsection K of this section and must be assessed separately for material misstatement of quarterly fuel quantity.
 - (b) One or more material misstatements of quarterly fuel quantity shall result in a finding of material misstatement for the annual verification of the quarterly fuel quantity for each fuel pathway code.
 - (c) Material misstatement of quarterly fuel quantity includes any discrepancy as described in item (i) of this subparagraph, omission as described in item (ii) of this subparagraph, or misreporting as described in item (iii) of this subparagraph, or aggregation of the three, identified in the course of verification services that leads a verification team to believe that the reported fuel quantity for each fuel pathway code per quarter in a CTFP quarterly report contains one or more errors

that, individually or collectively, result in an overstatement or understatement greater than five percent.

- (i) Discrepancies include any differences between the fuel quantity for the fuel pathway code reported and the verifier's review of calculation of fuel quantity subject to data checks under subsection K. of this section.
 - (ii) Omissions include any fuel quantity the verifier concludes must be part of a quarterly report but was not included.
 - (iii) Misreporting includes duplicate, incomplete, or other fuel quantity data the verifier concludes should or should not be part of a quarterly report.
 - (d) The Total Quantity Difference Percent Error in Fuel Quantity, Reported Quarterly Fuel Transaction Quantity, and Percent Error in Fuel Quantity must be used to determine whether any quarterly fuel quantity for each fuel pathway code contains a material misstatement of quarterly fuel quantity and must be included in the final verification report according to item (vii) in subparagraph (a) of in paragraph (3) of subsection Q, where:
 - (i) The Total Quantity Difference is the summation of a fuel pathway's Discrepancies, Omissions, and Misreporting values.
 - (ii) The Reported Quarterly Fuel Transaction Quantity for FPC means the total of all reported fuel quantities for each fuel pathway code for each transaction type specified in paragraph (1) of subsection E of this section for each quarter for which the verifier is conducting a material misstatement assessment.
 - (iii) The Percent Error in Fuel Quantity is determined each quarter by dividing the Total Quantity Difference by the Reported Quarterly Fuel Transaction Quantity, and then multiplying this quotient by 100.
 - (e) When evaluating material misstatement of quarterly fuel quantity, correctly substituted missing data must be deemed to be accurate, regardless of the amount of missing data.
- P. Review of missing data substitution.
- (1) If a source selected for a data check was affected by a loss of data used for the reported data in the fuel pathway application or CTFP report, then the verification team must confirm that the reported data were calculated using:
 - (a) The applicable missing data procedures in paragraph (4) of subsection C. in Section 202; or
 - (b) A department-approved alternate method.
 - (2) If a source selected for a data check was affected by a loss of data used for the reported data in the report or fuel pathway application, the verification team must note the date, time, and source of any plan substitutions discovered during the course of verification in the verification report.
- Q. Independent review and completion of verification services.
- (1) The verification body must complete a verification statement or statements upon completion of verification services, provide its statement to the regulated party, and submit its statement to the department by the applicable verification deadline specified under paragraph (3) of subsection B. of this section. Each positive, qualified positive, or adverse verification statement must describe the findings of the verification; and
 - (a) For every qualified positive verification statement, the verification body must explain the nonconformances contained within the report or fuel pathway application, if any, and if needed cite the section or sections in this part that correspond to the nonconformances. Additionally, the verification body must provide an explanation for why any nonconformances do not result in a material misstatement; and
 - (b) For every adverse verification statement, the verification body must explain all nonconformances or material misstatements leading to the adverse verification statement and cite the sections in this part that corresponds to the nonconformance and material misstatement.
 - (2) The verification body must have the verification services and findings of the verification team independently reviewed by an independent reviewer before each verification statement is completed. The independent reviewer must:

- (a) Be employed by the verification body and must be a lead verifier not involved in verification services for the regulated party during that reporting year or for that fuel pathway application period, but does not need to be a sector-specific verifier;
 - (b) Serve as a final check on the verification team's work to identify any significant concerns, including:
 - (i) Errors in planning;
 - (ii) Errors in data sampling; and
 - (iii) Errors in judgment by the verification team that are related to the draft verification statement.
 - (c) Maintain independence from the verification services by not making specific recommendations about how the verification services should be performed; and
 - (d) Review documents applicable to the verification services provided and identify any failure to comply with requirements of this part and with the verification body's internal policies and procedures for providing verification services. The independent reviewer must concur with the verification findings before the verification body issues the verification statement.
- (3) Completion of findings and verification report and statement.
- (a) The verification body must provide the regulated party with a detailed verification report, which must at a minimum include:
 - (i) A list of all verification team members that provided verification services, including identification of verifiers, lead verifiers, sector-specific verifiers, verifiers in training and the independent reviewer;
 - (ii) Detailed description of the facility or entity; a detailed description of entities in the supply chain contributing CI parameters;
 - (iii) A detailed description of the accounting procedures and data management systems, including data acquisition, tracking, and emissions calculation, as applicable;
 - (iv) The verification plan;
 - (v) The detailed comparison of the data checks conducted during verification services;
 - (vi) The log of any issues identified in the course of verification services and their resolutions;
 - (vii) Any qualifying comments on findings during verification services; and
 - (viii) Findings of omissions, discrepancies, and misreporting and the material misstatement calculations required in subsection O. of this section.
 - (b) The verification body must provide the regulated party with the verification statement at the same time as or before the final verification statement is submitted to the department. The detailed verification report must be made available to the department upon request.
 - (c) The verification team must have a final discussion with the regulated party explaining the verification team's findings and must notify the regulated party of any unresolved issues noted in the issues log before the verification statement is finalized.
 - (d) The verification statement must contain attestations as required by the department.
- (4) Procedures for potential adverse verification statement and petition process.
- (a) Prior to the verification body providing an adverse verification statement for the application or report to the department, the verification body must notify the regulated party of the potential of an adverse verification statement and provide at least 14 days to modify the application or report to correct any material misstatement or nonconformances found by the verification team. When a verification body has provided written notification to a regulated party under this subsection:
 - (i) The regulated party must make modifications to correct any material misstatements or nonconformance found by the verification team;
 - (ii) The modified report and verification statement must be submitted to the department before the applicable verification deadline specified in subsection B. of this section, even if the regulated party makes a written request to the department according to subparagraph (b) of this paragraph; and

- (iii) The verification body must provide written notification to the department of the potential for an adverse verification statement at the same time it notifies the regulated party and include in its written notification to the department the current issues log.
 - (b) When a verification body has provided written notification under subparagraph (a) of this paragraph and the regulated party and the verification body cannot reach an agreement on modifications that result in a positive or qualified verification statement because of a disagreement on the requirements of this part, the regulated party may petition the department in writing before the verification deadline and before the verification statement is submitted to make a final decision as to the verifiability of the submitted report or fuel pathway application. When the regulated party files such a petition with the department:
 - (i) The regulated party must submit all information it believes is necessary for the department to make a determination with its petition;
 - (ii) The regulated party and the verification body must submit to the department within ten calendar days any additional information requested by the department;
 - (iii) The department shall review the information submitted and based on the requirements of this part and the submitted information, shall decide on whether modifications are necessary for the verification body to issue a positive or qualified positive verification statement, or if such a statement could be issued without modifications; and
 - (iv) The department shall notify both the regulated party and the verification body of its determination.
- R. Department review and approval of verification statement and re-verification requirements.
- (1) In addition to any other enforcement authority, the department retains full authority in determining whether to approve, modify, or reject any verification statement submitted for a report or fuel pathway application by a verification body on behalf of a regulated party under this part.
 - (a) The department may issue an adverse verification statement for a report or fuel pathway application if it has information to support such a conclusion, even if it has received a positive verification statement from a verification body.
 - (b) The department may also issue an adverse verification statement for failure to submit a complete or accurate fuel pathway application or annual or quarterly report in a timely manner for failure to conduct or complete third-party verification as required by this part or any other violation of this part.
 - (c) A regulated party may file a written petition with the department to resolve a disagreement with the verification body on the requirements of this part.
 - (2) If a verification body submits a positive or qualified positive verification statement, the department may reject and set aside the submitted verification statement and require in writing that the applicable regulated party to have a CTFP report or fuel pathway application re-verified by a different verification body within 90 days of written notification by the department.
 - (a) Paragraph (2) of this subsection shall apply if:
 - (i) The department finds an unacceptable level of conflict of interest according to paragraph (4) of subsection U under this section;
 - (ii) The department finds a potential conflict of interest has arisen between the regulated party and the verification body or any verifier engaged by the regulated party to perform verification through monitoring as required under paragraph (5) of subsection U of this section;
 - (iii) The department makes a determination that any of the bases for modification, suspension, or revocation of approval under paragraph (10) of subsection T of this section for a verification body or verifier engaged by the regulated party to perform verification have occurred, and impacted the verification services provided, or impacted the verification statements submitted to the department;
 - (iv) An error is identified that affects the credit or deficit calculations in a CTFP report or fuel pathway application submitted under this part; or
 - (v) A report that received a positive or qualified positive verification statement fails department verification or audit under subsection S of this section.

- (b) If the department identifies an error and determines that the error does not affect the credit or deficit calculations in a CTFP report or fuel pathway application, a correction may be made by the regulated party without the department setting aside the positive or qualified positive verification statement.
 - (c) A verification body may not continue to provide verification services to a regulated party, and the regulated party must have any reports or fuel pathway applications verified by a different verification body, upon receiving written notification from the verification body with which it is currently engaged to provide verification services of either of the following:
 - (i) A modification to department approval of the verification body or any members of the verification team that is relevant to the verification services being performed; or
 - (ii) Suspension or revocation of department approval of the verification body or any members of the verification team.
 - (d) A regulated party that must have a report or fuel pathway application verified by a different verification body according to subparagraph (C) of this subsection of this subsection may submit a written request to the department for an extension if it believes it cannot meet the applicable verification deadline under paragraph B. of this section and it must receive written approval from the department of any extended deadline.
- S. Department data requests and audits.
- (1) Upon written request by the department, the regulated party must:
 - (a) Provide the data used to generate the application or report including all data available to the verification team in the conduct of verification services, within 14 days; and
 - (b) Make itself, its personnel, and other entities in its feed stock and finished fuel supply chain, as applicable, available for a department audit.
 - (2) Upon written request by the department, the verification body must:
 - (a) Provide the verification report given to the regulated party, as well as the sampling plan, contracts for verification services, and any other supporting documents and calculations, within 14 days.
 - (b) Make itself and its personnel available for a department audit.
- T. Applications and criteria for approval of verification bodies and verifiers.
- (1) A person seeking department approval or renewal of approval to perform verification under this part as a verification body or verifier must submit an application on or after July 1, 2027, in the CTFP-DMS that includes the following information:
 - (a) For verifier applications, a statement about whether the application is for approval as a verifier, a lead verifier, or a sector-specific verifier;
 - (b) A statement about which specific types of fuel pathway applications or specific types of CTFP reports shall be submitted under this part, or any combination therein, for which the applicant is seeking approval to perform verification;
 - (c) Documentation demonstrating that the person holds the accreditation requirements described in paragraph (2) of this subsection;
 - (d) Additional information as required by paragraphs (2) through (7) of this subsection, as applicable;
 - (e) A certification that the person agrees to comply with and be subject to the requirements of this part in relation to all verification work for regulated parties; and
 - (f) Any other information requested that the department determines is relevant to determine whether to approve the applicant.
 - (2) Any person who wants to perform verification under this part must provide documentation that the person has met all the following criteria for approval, as applicable, for the type of verification approval the applicant seeks:
 - (a) The person holds an active accreditation under other states' similar programs or the ANSI or American National Standards Institute for Greenhouse Gas Validation/Verification Bodies.
 - (b) All applicants must submit additional information in the application with details of accreditation and verification experience, including recognition or designation as a lead verifier or sector-specific verifier, and sector-specific accreditations by other states or organization-level sector accreditations by ANSI, as applicable, to

- demonstrate qualifications to provide verification services for specific types of fuel pathway applications or specific types of CTFP reports submitted under this part, or any combination therein.
- (3) To be approved as a verification body, the applicant must submit the following information to the department in the application:
 - (a) A list of all verification staff and subcontractors and a description of their duties and qualifications, including department-approved verifiers on staff. The applicant must demonstrate staff qualifications by listing each individual's education, experience, professional licenses, accreditations, status as verifier, lead verifier, or sector-specific verifier, and other relevant information. A verification body must employ or retain at least two lead verifiers, which may include retention as subcontractors. Any subcontractor used to meet minimum lead verifier requirements must be approved as a lead verifier by the department.
 - (b) A list of any judicial proceedings, enforcement actions, or administrative actions filed against the verification body within the previous five years, with an explanation as to their nature;
 - (c) Documentation that demonstrates that the body maintains a minimum of four million U.S. dollars of professional liability insurance;
 - (d) Identification of services provided by the verification body, the industries that the body serves, and the locations where those services are provided;
 - (e) A detailed organizational chart that includes the verification body, its management structure, and any related entities; and
 - (f) The verification body's internal conflict of interest policy that identifies activities and limits to monetary or non-monetary gifts that apply to all employees and procedures to monitor potential conflicts of interest.
 - (4) To be approved as a verifier, the applicant must submit the following information to the department in the application:
 - (a) Applicants must indicate their employer or affiliated verification body on the application; and
 - (b) Applicants must demonstrate verification qualifications by providing information on education, experience, professional licenses, accreditations, status as verifier, lead verifier, or sector-specific verifier, and other relevant information or other personal development activities that demonstrate communication, technical, and analytical skills necessary to perform verification. Evidence demonstrating necessary skills may include:
 - (i) A bachelor's level college degree or equivalent in engineering, science, technology, business, statistics, mathematics, environmental policy, economics, or financial auditing; or
 - (ii) Work experience in a professional role involved in emissions data management, emissions technology, emissions inventories, environmental auditing, financial auditing, life cycle analysis, transportation fuel production, or other technical skills necessary to perform verification.
 - (5) To be approved as a lead verifier for verification of CTFP reports or fuel pathway applications submitted under this part, in addition to submitting information as required by paragraph (4) of this subsection, the applicant must also submit the following documentation to the department in the application:
 - (a) Evidence that the applicant is accredited or designated as a lead verifier by other states' similar programs;
 - (b) To be approved as a lead verifier for verification of fuel pathway applications or annual fuel pathway reports, the applicant must also submit documentation to the department in the application that demonstrates experience in alternative fuel production technology and process engineering; and
 - (c) To be approved as a lead verifier for the verification of fuel transaction reports submitted by producers and importers of gasoline or diesel, the applicant must submit documentation to the department in the application that demonstrates experience with oil and gas systems. This evidence may include accreditation as an oil and gas systems sector-specific specialist.
 - (6) To be approved as a sector-specific verifier, in addition to submitting information as required by paragraph (4) of this subsection, the applicant must also submit documentation

- to the department in the application demonstrating at least two years of professional experience related to the sector in which the individual is seeking approval.
- (7) To be approved by the department, all applicants must:
 - (a) Provide evidence of completing and passing exams from other states' similar programs, based on the application submitted and for the type of approval the applicant has requested; and
 - (b) Complete and pass exams for CTFP-specific training regarding the unique or different requirements of this part compared to other states' similar programs, as provided by the department.
 - (8) The department shall maintain the application review and approval process in this paragraph and its subparagraphs for verification bodies and verifiers.
 - (a) After receipt of an application under this section, the department shall inform the applicant either that a submitted application is complete or that additional specific information is required to make the application complete. If the application is incomplete, the department shall not consider the application further until the applicant provides the additional information requested by the department.
 - (b) The department shall review submitted applications and prescreen to ensure the applicant met all applicable requirements and passes the performance review as defined in paragraph (10) of subsection A. of this section, prior to notifying an applicant in writing which other states' verification training or trainings and exams are required to be completed according to paragraph (7) of this subsection.
 - (c) The department shall not consider or issue final approval until it finds an application for approval as a verification body or verifier is complete and meets all applicable requirements under paragraph (1) of this subsection and all required verification training or trainings and exams, as deemed applicable and required by the department under paragraph 7 of this subsection, have been completed.
 - (d) Following completion of the application process and all applicable training and examination requirements, the department shall notify the applicant in writing if approval has been approved or denied.
 - (i) The department may issue approval to verification bodies, verifiers, lead verifiers, and sector-specific verifiers that apply and meet the criteria under this subsection and successfully complete verification training or trainings and exams as required under paragraph (7) of this subsection.
 - (ii) Department approval shall be limited to certain report types, data types, sources of emissions, or sectors, according to the information in the application and the qualifications of the applicant, and based on the department's determination of whether the applicant demonstrates sufficient knowledge of the relevant methods and requirements in this part, as applicable.
 - (iii) The department shall maintain a current list of approved verification bodies, verifiers, lead verifiers, and sector-specific verifiers on the department website.
 - (e) Department approval is valid for a period of three years from the date the approval is issued, provided the applicant has not been subject to department action under paragraph (10) of this subsection. The department may require accredited entities to take additional training as a condition of maintaining accreditation. The applicant may re-apply for approval as a verification body, verifier, lead verifier, or sector-specific verifier following the same application procedures according to this subsection and must satisfy all department training and exam requirements applicable at the time of re-application. The performance review requirement must be met for accreditation to be renewed.
 - (9) Requirements to maintain department approval.
 - (a) Except as provided under subparagraph (c) of this paragraph, a verification body, verifier, lead verifier, or sector-specific verifier must notify the department within 30 calendar days of when it no longer meets the requirements for approval under paragraphs (1) through (7) of this subsection as applicable.
 - (b) A verification body must notify the department of any verifier staffing changes within 30 calendar days of any such change as these changes are considered an amendment to the verification body's approval.

- (c) The department must be notified immediately if a verification body or verifier loses or withdraws from accreditation under any program specified or approved under subparagraph (a) of paragraph (2) of this subsection.
 - (d) Within 30 calendar days of being notified of any nonconformance in another voluntary or mandatory greenhouse gas emissions reporting program or fuels program, a department-approved verification body or verifier must provide written notification to the department of the non-conformance, including a copy of any written notification of nonconformance from the agency or body that administers the program, and information about any corrective actions taken by the verification body or verifier. That written notification must include reasons for the corrective action and the type of corrective action. The verification body or verifier must provide additional information to the department upon request.
 - (e) Within 30 calendar days, verification bodies and verifiers must provide all information that the department requires for the purpose of evaluating continued compliance with the requirements of this part, including the criteria for approval.
- (10) Modification, suspension, or revocation of department approval.
- (a) The department may modify, suspend, or revoke an approval to perform verification if a verification body or verifier allegedly or actually:
 - (i) Fraudulently obtained or attempted to obtain accreditation under any program specified under paragraph (2) of this subsection;
 - (ii) Fraudulently obtained or attempted to obtain approval from the department under this part;
 - (iii) Failed at any time to satisfy the eligibility criteria and requirements specified under paragraphs (1) through (7) of this subsection;
 - (iv) Does not satisfy the requirements to maintain approval according to paragraph (9) of this subsection;
 - (v) Provided verification services that failed to meet the requirements under this section;
 - (vi) Violated the conflict of interest requirements under subsection S. of this section; or
 - (vii) Knowingly or recklessly submitted false or inaccurate information or verification statements to the department.
 - (b) A verifier or verification body that is subject to a department action to modify, suspend, or revoke an approval to perform verification may contest the department's action by providing the department with a written request for reconsideration within 15 calendar days of being notified of the department's action.
 - (i) The department shall evaluate the written request and provide a written response to the verifier or verification body within 30 calendar days.
 - (ii) Any department action taken shall remain in place pending department consideration of the written request.
 - (iii) A verification body or verifier that has had approval to perform verification revoked may re-apply according to paragraphs (1) through (7) of this subsection after the applicant demonstrates to the department that the cause of the revocation has been resolved.
- (11) An approved verification body or verifier may request to voluntarily withdraw its approval by providing a written notification to the department requesting such a withdrawal.
- U. Conflict of interest requirements.
- (1) Conflict of interest evaluation. Before verification services may begin, each regulated party must coordinate with the verification body with which it has engaged to perform verification to conduct a conflict of interest evaluation between itself and any verification bodies, verifiers, lead verifiers, sector-specific verifiers, independent reviewers, and subcontractors intending to perform verification under the requirements of this part.
 - (2) The potential for a conflict of interest must be deemed to be high where:
 - (a) The regulated party and the verification body share any management staff or board of directors' membership, or any of the senior management staff of the regulated party have been employed by the verification body, or vice versa, within the previous five years;

- (b) Any employee of the verification body, or any employee of a related entity or subcontractor who is a member of the verification team, has provided to the regulated party any of the following services within the previous five years:
- (i) Designing, developing, implementing, reviewing, or maintaining an information or data management system for data submitted under this part unless the review was part of providing independent quality assurance audit services, attestation engagement services, verification services according to the federal RFS, or third-party engineering services according to the federal RFS;
 - (ii) Developing CI or fuel transaction data or other greenhouse gas-related engineering analysis that includes facility-specific information;
 - (iii) Preparing or producing fuel pathway applications or reporting manuals, handbooks, or procedures specifically for the regulated party;
 - (iv) Owning, buying, selling, trading, or retiring credits, RINs, Energy Transition Act allowances, or credits in any carbon or greenhouse gas-related markets;
 - (v) Dealing in or being a promoter of credits on behalf of the regulated party;
 - (vi) Designing or providing consultative engineering or technical services in the development and construction of a fuel production facility or energy efficiency, renewable power, or other projects which explicitly identify greenhouse gas reductions as a benefit;
 - (vii) Any service related to the development of information systems, or consulting on the development of environmental management systems, except for accounting software systems and systems that shall not be part of the verification process;
 - (viii) Verification services that are not provided in accordance with, or equivalent to, the requirements of this part, unless the systems and data reviewed during those services, as well as the result of those services, shall not be part of the verification process;
 - (ix) Reporting under this part, or uploading data for the department, on behalf of the regulated party;
 - (x) Bookkeeping and other non-attest services related to accounting records or financial statements, excluding services and results of those services that shall not be part of the verification process;
 - (xi) Designing, developing, implementing, conducting an internal audit for, consulting, or maintaining a greenhouse gas emissions reduction project;
 - (xii) Directly managing any health, environment, or safety functions for the regulated party;
 - (xiii) Appraisal services of carbon or greenhouse gas liabilities or assets;
 - (xiv) Brokering in, advising on, or assisting in any way in carbon or greenhouse gas-related markets;
 - (xv) Appraisal and valuation services, both tangible and intangible;
 - (xvi) Any actuarially oriented advisory services involving the determination of amounts recorded in financial statements and related accounts;
 - (xvii) Any internal audit service that has been outsourced by the regulated party that relates to its internal accounting controls, financial systems, or financial statements, unless the result of those services shall not be part of the verification process;
 - (xviii) Fairness opinions and contribution in-kind reports in which the verification body has provided its opinion on the adequacy of consideration in a transaction, unless the resulting services shall not be part of the verification process;
 - (xix) Acting as a broker-dealer, registered or unregistered, or promoter or underwriter on behalf of the regulated party;
 - (xx) Any legal services;
 - (xxi) Expert services to the regulated party, a trade or membership group to which the regulated party belongs, or a legal representative for the purpose of advocating the regulated party's interest in litigation, regulatory or administrative proceedings, or investigations; or

- (xxii) Any member of the verification body provides any type of incentive, monetary or otherwise, to the regulated party to secure a contract for verification contract, influence verification documentation, or influence verification findings.
- (3) Conflict of interest evaluation and submittal requirements.
 - (a) Before verification services are performed under the requirements of this part, the regulated party, verification body, and any related entities must submit to the department a conflict of interest evaluation that includes the following:
 - (i) Identification whether any of the factors specified under paragraph (2) of this subsection regarding a high conflict of interest are present;
 - (ii) Identification of whether the verification body, related entities, or any member of the verification team has previously provided verification services for the regulated party or related entities and, if so, a description of the work and years of service;
 - (iii) Identification of whether any member of the verification team, verification body, or related entity has engaged in services of any nature with the regulated party or related entities either within or outside New Mexico during the previous five years.
 - (iv) Written attestation that the information provided in the conflict of interest self-evaluation is true, accurate, and complete.
 - (b) Conflict of interest evaluations shall be accepted by the department beginning on and after January 30, 2027.
- (4) Approval of conflict of interest submittals.
 - (a) The department shall review the conflict of interest evaluation submitted by the regulated party and shall notify the regulated party in writing whether the verification body is authorized to proceed with verification services.
 - (b) If the department determines the verification body or any member of the verification team meets the criteria for a high conflict of interest pursuant to paragraph (2) of this subsection, verification services may not proceed. The department may determine that a high conflict of interest exists when a member of the verification team provided services within the previous five years, but the services were not services that result in a high conflict of interest under paragraph (2) of this subsection. If the department makes such a determination, it must explain in writing why it believes the work performed creates a high conflict of interest.
- (5) Monitoring conflict of interest situations.
 - (a) After commencement of verification services, both the verification body and the regulated party must each:
 - (i) Monitor and immediately make full disclosure in writing to the department of any potential conflict of interest situation that arises. This disclosure must include a description of actions that the verification body and the regulated party have taken or propose to take to avoid, neutralize, or mitigate the potential for a conflict of interest;
 - (ii) Notify the department within 30 days of any conflicts of interest that arise after verification services begin and until one year after verification services are completed.
 - (b) If the department determines that a disclosed potential conflict of interest is a high risk and this risk cannot be adequately mitigated, the department shall inform the verification body in writing that they may not continue to provide verification services to the regulated party and may be subject to suspension or revocation of department accreditation based on conflict of interest.

[20.2.92.508 NMAC - N, 1/1/2027]

20.2.92.509 - 600 [RESERVED]

20.2.92.601 AUTHORITY TO DEFER:

- A. General authority for the department to implement deferral of the CTFP.
 - (1) The department may issue a declaration deferring compliance with the CTFP for:
 - (a) Emergencies, as set forth in subsection B of this section;
 - (b) Forecasted fuel supply shortages, as set forth in subsection C of this section.

- (2) When invoking deferral per paragraph (1) of this subsection, the department shall:
 - (a) Select methods for deferring compliance, as set forth in subsection D of this section;
 - (b) Issue a declaration, as set forth in subsection E of this section;
 - (c) Implement select requirements during deferrals, as set forth in subsection F of this section; and
 - (d) Terminate a declaration, as set forth in subsection G of this section.
- B. Emergency deferral.
- (1) If the department determines a fuel supply shortage exists, the department shall publish the proposed emergency declaration on the department's website and provide a written notification to all CTFP registrants. The proposed emergency declaration shall announce a forthcoming fuel supply shortage emergency and describe the extent of the fuel supply shortage.
 - (2) No later than 10 calendar days after the proposed emergency declaration is issued, the department shall issue a final emergency declaration, which shall declare a fuel shortage emergency and authorize deferral of compliance with the CTFP.
 - (a) The final emergency declaration may be modified from the proposed emergency declaration if new information becomes available.
 - (b) Such modifications may be reflected in the final emergency declaration without subsequently reissuing written notification of a proposed emergency declaration.
 - (3) To determine if a fuel supply shortage exists, the department shall consider if:
 - (a) Extreme and unusual circumstances exist that prevent the distribution of an adequate supply of credit-generating fuels needed for regulated parties to comply with the CTFP;
 - (b) The extreme and unusual circumstances are the result of a natural disaster, a significant supply chain disruption or production facility equipment failure, or another event that could not reasonably have been foreseen or prevented and is not due to the regulated parties' lack of prudent planning;
 - (c) Other methods of obtaining compliance credits are unavailable to compensate for the shortage; and
 - (d) Granting deferral is in the public interest to protect public and environmental health and welfare.
 - (4) To determine the extent of the fuel supply shortage and the amount of the fuel needed for regulated parties to comply with the standard, the department shall consider factors including:
 - (a) The quantity and carbon intensity of the fuel or fuels determined to be not available;
 - (b) The estimated duration of the shortage; and
 - (c) Whether there are mitigation measures, including if:
 - (i) The same fuel is available from other sources;
 - (ii) Substitutes for the affected fuel and the carbon intensities of those substitutes are available; or
 - (iii) Banked credits are available.
 - (5) Such a temporary and extremely unusual deferral is allowed only if:
 - (a) The deferral applies only for the shortest time necessary to address the extreme and unusual circumstances; and
 - (b) The deferral is effective for the shortest practicable calendar quarter or compliance period that the department determines is necessary to permit the correction of the extreme and unusual circumstances.
- C. Forecast deferral.
- (1) The department shall make available a fuel supply forecast report annually by October 1.
 - (2) No later than December 1 annually, the department shall issue a declaration, declaring a forecast deferral for a part or all the following compliance period if the forecast projects that the amount of credits that shall be available during the forecast compliance period shall be less than 100 percent of the credits projected to be necessary for registered parties to comply with the carbon intensity standard.
- D. Methods of deferral.
- (1) For an emergency deferral, the department may defer compliance with the CTFP by implementing one or more of the following methods:
 - (a) Temporarily adjusting the scheduled applicable clean fuel standard to a standard identified that better reflects the availability of credits during the emergency deferral and requiring regulated parties to comply with the temporary standard;

- (b) Allowing for the carryover of deficits accrued during the emergency deferral into the next compliance period without penalty; or
 - (c) Suspending deficit accrual during the emergency deferral period.
 - (2) For a forecast deferral, the department may defer compliance with the CTFP by implementing one or more of the following methods:
 - (a) Temporarily adjusting the scheduled applicable clean fuel standard to a standard identified that better reflects the forecast availability of credits during the forecast compliance period and requiring regulated parties to comply with the temporary standard;
 - (b) Requiring regulated parties to comply only with the clean fuel standard applicable during the compliance period before the forecast compliance period;
 - (c) Suspending deficit accrual for part or all of the forecast deferral period; or
 - (d) Using other methods as determined to be necessary by the department, provided the requirements of subparagraph (d) of paragraph (2) of subsection E of this section are met.
- E. Contents of declarations.
 - (1) An emergency declaration, whether proposed or final, under this section shall include:
 - (a) The duration of the deferral;
 - (b) The types of fuel to which the deferral applies; and
 - (c) Which deferral methods, listed in paragraph (1) of subsection D of this section, the department selects for deferring compliance with the CTFP.
 - (2) A forecast declaration under this section shall include:
 - (a) The duration of the deferral, which may not be less than one calendar quarter or longer than one compliance period;
 - (b) The types of fuel to which the deferral applies; and
 - (c) Which deferral methods, listed in paragraph (3) of subsection D of this section, the department selects for deferring compliance with the CTFP.
 - (d) Written notification to the governor, president of the senate and speaker of the house of representatives, if the department takes an action for deferring compliance other than, or in addition to, the methods listed in paragraph (2) of subsection D of this subsection, provided that the department determines that none of those methods shall provide a sufficient mechanism for containing the costs of compliance with the carbon intensity standard during the forecast deferral. The department shall include in such order the department's determination and the action to be taken.
- F. Credit and deficit generation and reporting requirements during deferral. Unless specifically exempted in a declaration under subsection E, during an active deferral:
 - (1) Registered parties may continue to generate credits;
 - (2) Regulated parties shall continue to generate deficits;
 - (3) Any person who becomes a regulated party shall still become a registered party; and
 - (4) Regulated parties shall continue to report information as specified by this part.
- G. Termination of declarations.
 - (1) A declaration may be terminated before the expiration date if new information becomes available indicating that the basis for the deferral has ended. The department shall issue written notification to registered parties of such action within 10 calendar days.
 - (2) Termination is effective on the date set forth in the termination of declaration, but the program shall resume on the first day of the next calendar quarter.

[20.2.92.601 NMAC - N, X/X/2025]

20.2.92.602 AUTHORITY TO SUSPEND, REVOKE OR MODIFY:

- A. Corrective actions. If the department determines any basis for invalidating compliance, in addition to taking any other authorized enforcement action, the department may take any of the following actions:
 - (1) Suspend, restrict, modify, or revoke an account in the CTFP-DMS, or take a combination of two or more such actions;
 - (2) Modify or delete an approved carbon intensity;
 - (3) Restrict, suspend, or invalidate credits; and
 - (4) Recalculate the deficits in a regulated party's CTFP-DMS account or assign deficits as an administrative mechanism for requiring the replacement of invalid credits if the invalid credits cannot be directly canceled.

- B. Initial determination for corrective actions. The department may take any of the actions described in subsection (A) of this section, based on any of the following:
- (1) Fuel transaction data or other data reported into the CTFP-DMS and used to calculate credits and deficits was incorrect or omitted material information;
 - (2) Credits or deficits were generated or transferred in violation of any provision of this part or in violation of other laws, statutes, or regulations;
 - (3) Fuel reported under a given pathway was produced or transported in a manner that varies in any way from the methods set forth in the corresponding fuel pathway application documents submitted per section 201 of this part, such that the variance would meet the threshold to be material information;
 - (4) A fuel pathway holder violates a pathway condition imposed by the department;
 - (5) Any information used to generate or support the approved carbon intensity was incorrect, including if material information was omitted or the process changed following the submission of the fuel pathway application;
 - (6) Any material information submitted in connection with a credit transaction was incorrect or omitted;
 - (7) A party obligated to provide records under this part failed to provide such records or failed to do so within the required timeframe;
 - (8) Failure to submit a verification statement when it is required per section 508 of this part;
 - (9) An adverse verification statement submitted per section 508 of this part.
- C. Providing written notification of an initial determination. Upon making an initial determination that a credit calculation, deficit calculation, credit transaction, or an approved carbon intensity in subsection B may be subject to an action described in subsection A, the department shall provide written notification to all potentially affected parties.
- (1) The written notification shall state the reason for the initial determination and may also include a specific written request from any party for information relevant to any of the bases described in subsection B.
 - (2) Within 30 calendar days of the issuance of the written notification, the affected parties shall make records and personnel available to the department as it conducts its investigation.
 - (3) Any party receiving the written notification may submit any information it believes is relevant to the investigation and that it wants the department to consider in its evaluation within 30 calendar days of the issuance of the notification or by a later deadline approved by the department in writing.
- D. Interim account suspension. Once the department has provided written notification under subsection C, the department may immediately take one or both of the following actions:
- (1) Deactivate an approved carbon intensity; or
 - (2) Suspend an account in the CTFP-DMS. In cases where a discrete number of credits are being investigated, the department may place an administrative hold on a specific number of credits rather than suspending an entire account.
- E. Final determination. Within 60 calendar days after making an initial determination under subsection C, the department shall make a final determination based on the available information. The final determination should include:
- (1) Whether any of the bases for invalidation in subsection B exist;
 - (2) Identification of the affected parties; and
 - (3) What actions in subsection A the department shall impose and how many credits, deficits, or approved carbon intensities are affected. If the final determination invalidates credits or deficit calculations, the corresponding credits and deficits shall be added or subtracted from the appropriate accounts in the CTFP-DMS.
- F. Responsibility for invalidated credits or miscalculated deficits. Any party that generated, previously held, or holds invalidated credits or whose account reflects an invalid deficit calculation is responsible for returning its account to compliance without regard to its fault or role with respect to the invalidation of the credits or miscalculation of deficits.

[20.2.92.602 NMAC - N, X/X/2025]

20.2.92.603 PUBLIC INSPECTION AND DISCLOSURE:

- A. Public inspection. Any records, reports or information obtained by the department under this part shall be available to the public, except that upon a showing satisfactory to the department that records, reports or information, or a particular part thereof, if made public, would divulge information entitled to protection as trade secrets, such information or particular portion thereof

shall be considered confidential. Except that such record, report, document or information may be disclosed:

- (1) To officers, employees or authorized representatives of the department or the environmental improvement board concerned with carrying out the purposes and provisions of the Environmental Improvement Act;
 - (2) When relevant, in any proceeding under the Environmental Improvement Act or other applicable state or federal act; or
 - (3) When such records, reports or information are used in any civil or criminal action, subject to such protection as the court may give.
- B. Designation of trade secrets.
- (1) In submitting records, reports or information under this part, a person required to provide such records, reports or information shall:
 - (a) Designate the records, reports or information the person believes are entitled to protection under this subsection as “trade secrets” and “confidential”; and
 - (b) Submit such designated records, reports or information separately from other data submitted under this part.
 - (2) All information submitted as application materials in the CTFP-DMS that are not identified as trade secrets are subject to public disclosure pursuant to the Inspection of Public Records Act, Chapter 14, Article 2 NMSA 1978. If the department approves the application, the department shall publish the carbon intensity value or values and its associated fuel pathway code or codes on the department’s website, provide a written notification of their post to all CTFP registrants and incorporate the information into the CTFP-DMS for use by fuel reporting entities.
- C. List of the department-approved registered parties. The department shall maintain a current list of the department-approved registered parties and shall make that list publicly available on its website. The list shall include, at a minimum, the name of the party and whether the registered party is an importer, producer, dispenser, or aggregator notwithstanding the requirements of subsections A and B of this section.
- D. Monthly credit trading activity report. The department shall publish on its website and provide a written notification of their post to all CTFP registrants by no later than the last day of the month immediately following the month for which the calculation is completed, a credit trading activity report that:
- (1) Summarizes the aggregate credit transfer information for the:
 - (a) Most recent month,
 - (b) Previous three months,
 - (c) Previous three quarters, and
 - (d) Previous compliance periods;
 - (2) Includes, at a minimum:
 - (a) The total number of credits transferred,
 - (b) The number of transfers,
 - (c) The number of parties making transfers, and
 - (d) The quantity-weighted average price of that month’s transfers;
 - (3) Is based on the information submitted into the CTFP-DMS; and
 - (4) Presents aggregated information on all fuel transacted within the state and does not disclose individual parties’ transactions.
- E. Quarterly data summary. At least quarterly the department shall publish on its website and provide a written notification of the post to all CTFP registrants:
- (1) An aggregate data summary of credit and deficit generation for the most recent quarter and all prior quarters; and
 - (2) Information on the contribution of credit generation by different fuel types.
- F. Clean Transportation Fuel Program Annual Report. Annually, the department shall publish on its website and provide a written notification of the post to all CTFP registrants the total greenhouse gas emissions reductions from the previous year and a summary of the quarterly and monthly report data.

[20.2.92.603 NMAC - N, X/X/2025]

20.2.92.604 ADVISORY COMMITTEE:

- A. Advisory committee general requirements. Pursuant to 74-1-18 (B) and (C)(8), the secretary shall appoint an advisory committee to review the CTFP and provide input to the department.

- B. Membership. The advisory committee membership shall include interested parties as specified in NMSA 1978, Section 74-1-18(B).
- C. Advisory Committee Responsibility. On a biennial basis, the advisory committee shall review this part and public input and determine potential adjustments, if necessary, for the department to consider.

[20.2.92.604 NMAC - N, X/X/2025]

20.2.92.605 ENFORCEMENT, COMPLIANCE ORDERS AND CIVIL PENALTIES:

- A. Authority to enforce this part.
 - (1) The department shall enforce the requirements of this part to achieve the objective in section 6 of this part by:
 - (a) Inspecting, per subsection B of this section;
 - (b) Issuing written notifications of violation, per subsection C of this section;
 - (c) Issuing written compliance orders, issuing civil penalties or pursuing injunctive relief, per subsection D of this section;
 - (2) Any person may commence a civil action on their own behalf against any person alleged to be in violation of this part. The court may award costs of litigation, including reasonable attorney and expert witness fees, to any prevailing party.
- B. Authority to inspect.
 - (1) To verify compliance with or take enforcement action under this part, the department shall have the authority to:
 - (a) Conduct facility inspections of fuel producers, importers or dispensers,
 - (b) Review records, or
 - (c) Request and review additional information.
 - (2) To verify compliance with this part or to audit fuel or FSE pathways, third-party verifiers may conduct facility inspections and review records of fuel producers, importers or dispensers with whom they have a contractual relationship, notwithstanding the requirements of such a contract.
- C. Prohibited activity and credible evidence.
 - (1) Failure to comply with the monitoring, recordkeeping, reporting, third-party verification or other requirements of this Part within the timeframes specified constitute a violation of this Part subject to enforcement action under Section 74-1-10 NMSA 1978.
 - (2) If credible evidence or information obtained by the department or provided to the department by any person indicates a source is not in compliance with the provisions of this Part, that evidence or information may be used by the department for purposes of establishing whether a person has violated or is in violation of this Part.

[20.2.92.605 NMAC - N, X/X/2025]

20.2.92.606 - 700 [RESERVED]:

20.2.92.701 TABLES:

- A. Table 1 – New Mexico Clean Transportation Fuel Standard for Gasoline and Gasoline Substitutes

Compliance Period	CTFS (gCO ₂ e/MJ)	Percent Reduction
Baseline (2018)	92.41	0.0%
Initial	90.75	1.8%
2027	89.36	3.3%
2028	86.87	6.0%
2029	82.24	11.0%
2030	73.93	20.0%
2031	73.00	21.0%
2032	72.08	22.0%
2033	71.16	23.0%
2034	70.23	24.0%
2035	69.31	25.0%
2036	68.38	26.0%
2037	67.46	27.0%
2038	66.54	28.0%
2039	65.61	29.0%
2040 and beyond	64.69	30.0%

B. Table 2 – New Mexico Clean Fuel Standard for Diesel and Diesel Substitutes

Compliance Period	CTFS (gCO_{2e}/MJ)	Percent Reduction
Baseline (2018)	90.95	0.0%
Initial	89.31	1.8%
2027	87.95	3.3%
2028	85.49	6.0%
2029	80.95	11.0%
2030	72.76	20.0%
2031	71.85	21.0%
2032	70.94	22.0%
2033	70.03	23.0%
2034	69.12	24.0%
2035	68.21	25.0%
2036	67.30	26.0%
2037	66.39	27.0%
2038	65.48	28.0%
2039	64.57	29.0%
2040	63.67	30.0%

C. Table 3 – New Mexico Clean Fuel Standard for Alternative Jet Fuel

Compliance Period	CTFS (gCO_{2e}/MJ)	Percent Reduction
Baseline (2018)	81.25	0.0%
Initial	79.79	1.8%
2027	78.57	3.3%
2028	76.38	6.0%
2029	72.31	11.0%
2030	65.00	20.0%
2031	64.19	21.0%
2032	63.38	22.0%
2033	62.56	23.0%
2034	61.75	24.0%
2035	60.94	25.0%
2036	60.13	26.0%
2037	59.31	27.0%
2038	58.50	28.0%
2039	57.69	29.0%
2040 and beyond	56.88	30.0%

D. Table 4 – New Mexico Statewide Carbon Intensity Lookup Table

Fuel	Pathway Identifier Code	Pathway Description	Carbon Intensity Values (gCO_{2e}/MJ)
			Total Lifecycle Emissions
Gasoline	NMGAS001	Clear gasoline – based on a weighted average of gasoline supplied to New Mexico.	92.41
Ethanol	NMETOH001	Denatured fuel corn-based ethanol based on North American average (E100).	70.02
Diesel	NMULSD001	Clear diesel, based on a weighted average of diesel supplied to New Mexico.	90.95
	NMBD001	Neat soybean-based biodiesel based on North American average (B100).	30.93
	NMRD001	Neat soybean-based renewable diesel based on a North American average (R100).	33.20

Compressed Natural Gas	NMCNG001	North American fossil CNG delivered via pipeline; compressed in New Mexico.	74.07
	NMCNG002	North American NG derived from agricultural operations delivered via pipeline; compressed in New Mexico.	-90.38
	NMCNG003	North American NG derived from landfill gas or wastewater treatment delivered via pipeline; compressed in New Mexico.	91.83
Liquefied Natural Gas	NMLNG001	North American fossil LNG delivered via pipeline; liquefied in New Mexico using liquefaction with 80% efficiency.	87.09
	NMLNG002	North American NG derived from agricultural operations delivered via pipeline; liquefied in New Mexico using liquefaction with 80% efficiency.	-85.76
	NMLNG003	North American NG derived from landfill gas or wastewater treatment delivered via pipeline; liquefied in New Mexico using liquefaction with 80% efficiency.	82.19
Liquefied Compressed Natural Gas	NMLCNG001	North American fossil L-CNG delivered via pipeline; liquefied and compressed in New Mexico using liquefaction with 80% efficiency	92.09
	NMLCNG002	North American NG derived from agricultural operations delivered via pipeline; liquefied and compressed in New Mexico using liquefaction with 80% efficiency	-85.76
	NMLCNG003	North American NG derived from landfill gas or wastewater treatment delivered via pipeline; liquefied and compressed in New Mexico using liquefaction with 80% efficiency	87.19
Liquefied Petroleum Gas	NMLPG001	Liquefied North American petroleum gas.	82.54
Electricity	NMELEC001	Renewable power determined to have a carbon intensity of zero per section 206 of 20.2.92 NMAC.	0.00
Gaseous Compressed Hydrogen	NMHYG001	Compressed H2 delivered by truck produced in North America from central steam methane reformation of North American fossil-based NG.	86.38
	NMHYG002	Compressed H2 delivered by truck produced in North America from central steam methane reformation of biomethane from North American agricultural operations.	-156.19
	NMHYG003	Compressed H2 delivered by truck produced in North America from central steam methane reformation of biomethane from North American landfills or wastewater treatment.	31.30
	NMHYG004	Compressed H2 delivered by truck produced in North America from electrolysis using American average grid electricity.	220.19

	NMHYG005	Compressed H2 delivered by truck produced in North America from electrolysis using solar-, wind-, or geothermal - generated electricity.	17.29
Liquid Hydrogen	NMHYL001	Liquified H2 delivered by truck produced in North America from central steam methane reformation of North American fossil-based NG.	156.26
	NMHYL002	Liquified H2 delivered by truck produced in North America from central steam methane reformation of biomethane from North American agricultural operations.	-142.31
	NMHYL003	Liquified H2 delivered by truck produced in North America from central steam methane reformation of biomethane from North American landfills or wastewater treatment.	90.76
	NMHYL004	Liquified H2 delivered by truck produced in North America from electrolysis using American average grid electricity.	223.62
	NMHYL005	Liquified H2 delivered by truck produced in North America from electrolysis using solar- or wind-generated electricity delivered by truck.	4.42

E. Table 5 – Summary Checklist of Quarterly and Compliance Period Reporting Requirements

Parameters to Report	Gasoline & Diesel	Ethanol, Biodiesel & Renewable Diesel	CNG, LNG & LPG	Electricity	Hydrogen & Hydrogen Blends
Company or organization name	x	x	x	x	x
Reporting period	x	x	x	x	x
Fuel pathway code	x	x	x	x	x
Transaction type	x	x	x	x	x
Transaction date	x	x	x	x	x
Business partner	x	x	x	x	x
Production company ID and facility ID	n/a	x	n/a	n/a	x
Physical transport mode code	x	x	x	x	x
Aggregation	x	x	x	x	x
Application / EER	x	x	x	x	x
Amount of fuel used as gasoline replacement	x	x	x	x	x
Amount of fuel used as diesel replacement	x	x	x	x	x
Credits/deficits generated per quarter (MT)	x	x	x	x	x

F. Table 6 – New Mexico Energy Densities of Fuels

Fuel (unit)	MJ/Unit
Clear Gasoline (gallon)	122.48 (MJ/gallon)
Clear Diesel (gallon)	134.48 (MJ/gallon)
Compressed natural gas (therm)	105.50 (MJ/therm)
Electricity (kilowatt hour)	3.60 (MJ/kilowatt hour)
Denatured ethanol (gallon)	81.51 (MJ/gallon)
Clear biodiesel (gallon)	126.13 (MJ/gallon)

Liquefied natural gas (gallon)	78.83 (MJ/gallon)
Hydrogen (kilogram)	120.00 (MJ/kilogram)
Liquefied petroleum gas (gallon)	89.63 (MJ/gallon)
Renewable diesel (gallon)	129.65 (MJ/gallon)
Undenatured anhydrous ethanol (gallon)	80.53 (MJ/gallon)
Alternative jet fuel (gallon)	126.37 (MJ/gallon)
Renewable naphtha (gallon)	117.66 (MJ/gallon)

G. Table 7 – New Mexico Energy Economy Ratio Values

Light-Medium-Duty Vehicle Applications		Medium-Heavy-Duty Vehicle or Off-Road Applications		Aviation Applications	
Fuel/Vehicle Combination	EER Value Relative to Gasoline	Fuel/Vehicle Combination	EER Value Relative to Diesel	Fuel/Vehicle Combination	EER Value Relative to Conventional Jet
Gasoline or any gasoline-ethanol blend	1	Diesel or any blend of diesel, biodiesel and renewable diesel	1	Alternative jet fuel	1
CNG/Internal Combustion Engine Vehicle	1	CNG, LNG, or LPG/Spark-Ignition Engines	0.9		
Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle	3.4	CNG, LNG or LPG/Compression-Ignition Engines	1		
Electricity/On-Road Electric Motorcycle	4.4	Electricity/Battery Electric Vehicle or Plug-In Hybrid Electric Vehicle	5		
Hydrogen/Fuel Cell Vehicle	2.5	Electricity/Fixed Guideway Light Rail	3.3		
		Electricity/Fixed Guideway Streetcar	2.1		
		Electricity/Fixed Guideway Aerial Tram	2.6		
		Electricity/Electric Forklift	3.8		
		Electricity/eTRU	3.4		
		Hydrogen/Fuel Cell Vehicle	1.9		
		Hydrogen/Fuel Cell Forklift	2.1		
		Electricity/Cargo Handling Equipment	2.7		

H. Table 8 – Indirect Land-Use Change Values

Feedstock	ILUC Value (gCO ₂ e/MJ)
Corn Ethanol	19.8 g/MJ
Sorghum Ethanol	19.4 g/MJ
Sugarcane Ethanol	11.8 g/MJ
Soybean Biodiesel or Renewable Diesel	29.1 g/MJ
Canola Biodiesel or Renewable Diesel	14.5 g/MJ
Palm Biodiesel or Renewable Diesel	71.4 g/MJ

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